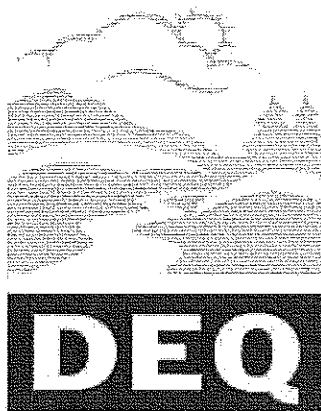


**2/24/1978**

**OREGON  
ENVIRONMENTAL QUALITY  
COMMISSION MEETING  
MATERIALS**



**State of Oregon  
Department of  
Environmental  
Quality**

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

- 9:00 am A. Minutes of January 27, 1978 EQC Meeting  
B. Monthly Activity Report for January 1978  
C. Tax Credit Applications
- PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.
- 9:10 am D. Martin Marietta, The Dalles - Request for revised compliance schedule to meet (Nichols) federal effluent standards for Best Practicable Control Technology Currently Available
- 9:15 am E. Contested Case Hearings - Motions for Commission action (McSwain)
- 9:30 am F. Noise Control Rules - Public hearing to consider adoption of permanent rule (Hector) revisions to OAR 340-35-030, pertaining to equivalency between Commission-adopted motor vehicle noise standards and standards referenced in 1977 Oregon Laws Chapter 273
- 9:40 am G. Portland General Electric, Bethel - Proposed issuance of renewed Air Contaminant Discharge Permit for PGE's Bethel turbine generating plant (St. Louis)
- 9:45 am H. Coos County Solid Waste - Request for variance extension from Solid Waste (Reiter) regulations for City of Powers and City of Myrtle Point solid waste disposal facilities
- 9:50 am I. Teledyne Wah Chang, Albany - Proposed issuance of NPDES permit modification for Teledyne Wah Chang Company (Ashbaker)
- 10:00 am J. Field Burning Rules - Public hearing to consider adoption of permanent rule (Freeburn) revisions to OAR 340-26-005 through 26-025 pertaining to agricultural burning
- 11:00 am K. GATX Oil Storage Terminal, Columbia County - Public hearing to consider (Bosserman) adoption of proposed regulations pertaining to control of emissions from crude & oil tankers calling on Oregon ports and proposed issuance of air and water (Nichols) permits to GATX Tank Storage Terminals Corp. proposed crude oil terminal at Port Westward, Columbia County.
- L. Medford Air Quality Maintenance Area - Proposed adoption of amendments to (Baker) Oregon Clean Air Act Implementation Plan involving particulate control strategy rules for the Medford Air Quality Maintenance Area
- M. Subsurface Sewage Rules - Proposed adoption of amendments to OAR 340, Sections (Osborn) 71, 72, 74 & 75 pertaining to subsurface and alternative sewage disposal
- N. Vehicle Emission Testing Rules - Proposed adoption of amendments to OAR (Jasper) 340-24-005 through 24-350 pertaining to Motor Vehicle Emission Inspection
- O. NPDES July 1, 1977 Compliance Date - Request for approval of Stipulated Consent Orders for NPDES permittees not meeting July 1, 1977 compliance date (Bolton)
- P. Groundwater, Hermiston/Boardman - Report on findings on groundwater quality (Bolton) in Hermiston/Boardman area.
- Q. Groundwater, Multnomah County - Report on status of groundwater aquifers in (Gilbert) Central Multnomah County area

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

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

Patterson

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

February 24, 1978

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

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

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

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

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

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR JANUARY 1978

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

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

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

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

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

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

#### AGENDA ITEM C - TAX CREDIT APPLICATIONS

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

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

#### PUBLIC FORUM

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DEQ v. R. RANDALL TAYLOR

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

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

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

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

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

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

DEQ v. DENNIS E. GRANDE

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

DEQ v. ARLINE LAHARTY

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

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

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

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

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

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

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

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

DEQ v. DAVID HENGSTELLER

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

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

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

DEQ v. MR. AND MRS. WILLIAM MELQUIST

Mr. and Mrs. William Melquist were not present.

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

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

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

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

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

Commissioner Phinney asked about the statement in the staff report that the Department felt that NO<sub>x</sub> controls should be required if the plant operated more than 200 hours per year, but the Department felt those controls were not available. She asked what the Department would do if operation ran over 200 hours. Mr. St. Louis said those controls would be required if operation was over 200 hours per year, and within the opinion of the Department such controls were available. If the plant operated over 200 hours, he said, and the controls were still not available, the Department would not likely require them.

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

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

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

Director's Recommendation

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

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

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

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

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

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

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

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

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

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



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

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

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

#### Summation

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

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

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

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

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

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

Director's Recommendation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This concluded Mr. Nelson's testimony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This concluded the testimony in this hearing.

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

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

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

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

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

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

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

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

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

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

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

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

Summation

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

Director's Recommendation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Director's Recommendation

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

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

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

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

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

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

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

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

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

Director's Recommendation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Director's Recommendation

"It is the Director's recommendation that:

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

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

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

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

AGENDA ITEM Q - MULTNOMAH COUNTY GROUNDWATER AQUIFIER - STATUS REPORT

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

No action of the Commission was required on these items.

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

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

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

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

Director's Recommendation

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

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

There being no further business, the meeting was adjourned.

Respectfully submitted,



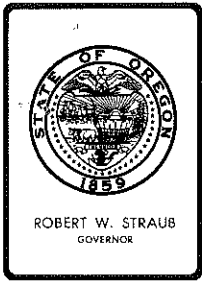
Carol A. Splettstaszer  
Recording Secretary

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
APR 06 1978

AIR QUALITY CONTROL





## *Environmental Quality Commission*

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

### MEMORANDUM

To: Environmental Quality Commission  
From: Director  
Subject: Agenda Item B, February 24, 1978, EQC Meeting  
January Program Activity Report

### Discussion

Attached is the January Program Activity Report.

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

Water and solid waste facility plans and specifications approvals or disapprovals and issuance, denials, modifications and revocations of permits are prescribed by statutes to be functions of the Department, subject to appeal to the Commission.

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

The purposes of this report are:

- 1) To provide information to the Commission regarding the status of reported program activities and a 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, which were generated outside of Oregon; and
- 4) To provide a log on the status of DEQ contested cases.

### Recommendation

It is the Director's recommendation that the Commission take notice of the reported program activities and contested cases, give confirming approval to the air contamination source plans and specifications listed on page 7 of the report, and approve for disposal the environmentally hazardous wastes listed on page 16 of the report.

*Michael Downs*  
for  
WILLIAM H. YOUNG



Contains  
Recycled  
Materials

M. Downs:eve  
229-6485  
2/16/78

Department of Environmental Quality

Monthly Activity Report

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air, Water, & Solid  
Waste Divisions  
(Reporting Unit)

January 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	16	99	26	93		1	29
Total	16	99	26	93		1	29
<u>Water</u>							
Municipal	88	797	106	891			19
Industrial	7	67	12	61			12
Total	95	864	118	952			31
<u>Solid Waste</u>							
General Refuse		19	1	15			8
Demolition		5		2			3
Industrial		15	3	11			8
Sludge	3	5	1	2			3
Total	3	44	5	30			22
<u>Hazardous Wastes</u>							
<u>GRAND TOTAL</u>	114	1007	149	1075		1	82

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division

January 1978

PLAN ACTIONS COMPLETED - 118

County	Name of Source/Project/Site and Type of Same	Date Rec'd	Date of Action	Action	Time to Complete Action
	<b>Municipal Sources - 106</b>				
34	LAKE OSWEGO LAKVIEW BLVD TR SCH I #3901V120577	V121577	010677	APPROVED	32
18	BONANZA BONANZA CH 1,2,3 & 6	V121577	010677	APPROVED	22
5	CLATSKANIE CLATSKANIE CHANGE 6	V112977	010677	APPROVED	38
34	USA DURHAM 71ST STREET EXT 678	J010978	012677	PROV APP	15
8	HARBOR MCCILLOCH RV PARK	J011078	012677	PROV APP	16
34	USA ALOHA BERRYHILL	J011078	012677	PROV APP	15
10	ROSEBURG BROOKSIDE ADD LOT 23	J011878	012677	PROV APP	08
3	WEST LINN B HIDDEN SPRINGS VILLAGE	J011878	012677	PROV APP	08
6	NORTH BEND CEDAR ST	J011678	012777	PROV APP	11
26	LAKE OSWEGO CHANDLER RD LID 187	K121277	010378	PROV APP	22
26	PORTLAND COL NE GLISAN & NE 91ST AVE	K121577	010378	PROV APP	19
26	PORTLAND COL SF MARTIN ST W OF SE 156TH PK	K121577	010378	PROV APP	19
26	PORTL COLUMB SW 27TH & 25TH AVES & PR	K121977	010378	PROV APP	15
34	LAKE OSWEGO EAGLE CREST DR EXT	K121977	010378	PROV APP	15
17	HARB-FRUIT SD COLORADO SUBD LATERAL	K121977	010578	PROV APP	17
22	FOSTER-MIDWAY FOSTER-MIDWAY ADD 2	K121577	010678	APPROVED	22
34	USA DURHAM SW LARCH ST EXT 674	J122077	010678	PROV APP	17
34	USA DURHAM SLEEPY HOLLOW 673	J122077	010678	PROV APP	17
29	TWIN ROCKS SD CHANGE ORDER B-1	V122277	010678	APPROVED	15
34	USA KOLL BUSINESS CENTER	J122277	010678	PROV APP	15
3	GOV CAMP SLUDGE TRUCK	V122277	010678	APPROVED	15
3	GLADSTONE GLENN OAKS	J122377	010678	PROV APP	14
30	ECHO ECHO CHANGE B5	V122777	010678	APPROVED	10
31	TUNYON STP CHANGE NO 9	V122977	010678	APPROVED	08
9	REDMOND STP MODIFICATION NO 3	V122977	010678	APPROVED	08
10	CANYONVILLE SUNSET SLOPE	K010678	010978	PROV APP	03
26	WOOD VILLAGE WATERSHIP DOWN	J121977	010978	PROV APP	21
4	ASTORIA 2ND ST EXT	K122077	010978	PROV APP	20
23	OREGON CITY FIELDS ADD	K122277	010978	PROV APP	18
20	EUGENE PHEASANT RUN	K010578	011078	PROV APP	05
26	PORTLAND SW 30TH AVE & PP	J122277	011078	REVISED PLANS	19
9	BEND WILLIAMSON PARK PH I	K121977	011078	PROV APP	22
20	EUGENE PHEASANT RUN	K122277	011078	PROV APP	19
36	MCMINNVILLE ANGELLA SUBD	K122277	011078	PROV APP	19
24	SALEM WILLOW CROISAN HILLS II	J010478	011178	PROV APP	07
29	ROCKAWAY ROCKAWAY IMP 1978 A	J010578	011178	PROV APP	06
10	GREEN SAN LATERAL M REVISED	K011078	011178	PROV APP	01
17	HARB-FRUIT SD EVON ACRES	J121977	011178	PROV APP	23
17	HARB-FRUIT SD TWISTED PINE	J121977	011178	PROV APP	23
24	SALEM GRASSY KNOLL EST	J122177	011178	PROV APP	21
24	SALEM 5TH AVE NW TAYBIN RD	J122777	011178	PROV APP	16
24	SALEM JEFFERSON ST-COLUMBIA ST	J122777	011178	PROV APP	16
24	SALEM WILLOW SILVERSTONE EAST	J122977	011178	PROV APP	13
10	ROSEBURG UMPQUA WEST SUBD	J122977	011178	PROV APP	13
15	BCVSA TABLE ROCK RD	J010878	011178	PROV APP	07
29	ROCKAWAY LID 1978A	J010978	011278	PROV APP	03
29	NTCSA FIRST ST	J010578	011278	PROV APP	07
3	CANBY HIDEAWAY HOMES REVISED	K122777	011278	PROV APP	16
6	COOS BAY COOS BAY 1 & 2 CHANGE ORDER	V120677	011378	MEETING	38
20	EUGENE-SPRING REDUNDANCY RELIABILITY CRIT	V111777	011378	APPROVED	60
26	PORTLAND NE TILLAMOOK ST RELOC	K010478	011878	PROV APP	14
13	HINES TJLLERS MKT HARNEY CO FSC	K122777	011878	PROV APP	22
3	CCSD #1 PARKSIDE SUBD	K011078	011878	PROV APP	08

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division

January 1978

PLAN ACTIONS COMPLETED (118) con't)

County	Name of Source/Project/Site and Type of Same	Date Rec'd	Date of Action	Action	Time to Complete Action
22	LFRANON SW 10TH ST EXT	K122977	011878	PROV APP	20
34	USA DURHAM ALLEN-HARRIS APTS	K010478	012078	PROV APP	16
20	EUGENE LINGLF PARK	K010578	012078	PROV APP	15
31	HERMISTON LINDA ESTATES SUBD PHASE I	K010478	012078	PROV APP	16
34	USA DURHAM BEAVERTON QUAD 141	K011678	012378	PROV APP	07
3	CCSD #1 SOUTHERN LTTFS	K011978	012378	PROV APP	04
5	SCAPOOSE STINKES ADD TO BELLA VISTA	K011178	012378	PROV APP	12
34	USA SHERWOOD SCHOLLS SHERWOOD RD	K011678	012378	PROV APP	07
3	WILSONVILLE STAFFORD RD E 1-5	J010978	012378	PROV APP	14
30	PENDLETON WEST SLOPE PARK ADD REVISED	K012078	012378	PROV APP	03
20	SPRINGFIELD SP304 S MP 594	K011678	012478	PROV APP	08
3	OAK LODGE SD STAHELYS SUBD REVISED	K011278	012478	PROV APP	05
24	SALEM WILLOW DANDELION ACRES IMPS	K011278	012478	PROV APP	12
20	SPRINGFIELD SP306 S MP 572	K011678	012478	PROV APP	08
30	UMATILLA UMATILLA EXPANSTON	V112577	012478	COMMENTS	60
3	CCSD #1 FAWN ACRES	J011278	012578	PROV APP	13
26	TROUTDALE NORTHRIDGE SUBD	K012378	012578	PROV APP	02
3	CANBY WFGANDTS ADD REVISED	K012378	012578	PROV APP	02
31	LA GRANDE WILLOW ST Q AND PENN AVE	K012478	012578	PROV APP	01
18	S SURUBAN SD LAT D38-17-2 TO D38-17-10	J011678	012678	PROV APP	10
3	CCSD#1 SUNNYFIELD GREEN SUBD	J011678	012678	PROV APP	10
26	GRESHAM TRACY HEIGHTS SUBD	J011678	012678	PROV APP	10
34	TUALATIN CAYUSE HILLS SUBD	J011978	012678	PROV APP	07
36	NEWBERG MIKE LOCKWOOD MAIN	J012478	012678	PROV APP	02
30	MILTON FREEW RAWLINS & REX CONSTR	K012478	012678	PROV APP	02
34	USA ALOHA ARBUTUS CT 679	K012478	012678	PROV APP	02
22	SCIO SCIO UPGRADING-SITE	V112577	012678	SITE APPROV	62
24	AUMSVILLE AUMSVILLE LAGOON EXPANSION	V112577	012678	SITE APPROV	31
15	MEDFORD BEL AIR HTS FXT 1 PHASE 1	J012478	012778	PROV APP	03
20	EUGENE OAKWAY GREENS PUD	K012478	012778	PROV APP	03
24	SILVERTON 1200 BLOCK MILL STREET	J122777	012778	PROV APP	31
10	ROSEBURG RIFLE RANGE RD HEALTH HAZ	H120877	012778	EQC APPROV	50
29	TILLAMOOK FRONT ST	K012578	013078	PROV APP	05
20	CORPS OF ENGR COTTAGE GROVE LAKE	V122977	013078	CMTS TO EPA	32
31	HERMISTON SIXTH ST WALSH APTS	K012778	013078	PROV APP	03
27	DALLAS STATE OFFICE BLDG RELOCATION	J013078	013078	PROV APP	00
18	BONANZA BONANZA CHANGE 4	V011078	013178	APPROVED	21
24	FARGO RD & 15 UNION OIL TRUCK STOP REV	V121277	013178	APPROVED	50
2	CORVALLIS CORVALLIS CH 75, 86 & 88	V012678	013178	APPROVED	05
2	CORVALLIS CORVALLIS CH 41, 79, 80	V010678	013178	APPROVED	25
9	DESCHUTES CO RIDGE VIEW PARK	K012678	013178	PROV APP	05
25	BOARDMAN BOARDMAN SEWER IMPS	V011878	013178	PROV APP	13
24	SALEM WILLOW RED BLUFF ADD	J011978	013178	PROV APP	12
2	CORVALLIS CORVALLIS CH 81	V012678	013178	APPROVED	05
18	BONANZA BONANZA CH 8	V013178	013178	APPROVED	00

## DEPARTMENT OF ENVIRONMENTAL QUALITY

## MONTHLY ACTIVITY REPORT

Water Quality  
(Reporting Unit)

January 1978  
(Month and Year)

PLAN ACTIONS COMPLETED (118 con't)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
INDUSTRIAL WASTE SOURCES (12)			
Yamhill	Champion Building Products Willamina, Chemical Containment	12-23-77	Approved
Columbia	Boise Cascade-St. Helens Modify Secondary Lagoon	12-29-77	Approved
Clatsop	Crown Zellerbach-Wauna Remove Starch & Clay Storm Sewer	12-29-77	Approved
Tillamook	Jim Hayes - Tillamook Animal Waste	1-12-78	Approved
Tillamook	Bruce Thomas - Tillamook Animal Waste	1-12-78	Approved
Tillamook	Carl Fenk - Tillamook Animal Waste	1-12-78	Approved
Linn	Teledyne Wah Chang Albany Chip Washing Equipment	1-16-78	Approved
Linn	Teledyne Wah Chang Albany Sulfuric Acid Dilution System	1-16-78	Approved
Clackamas	Crown Zellerbach-Estacada Anti-Stain Catch Basin	1-17-78	Approved
Linn	Champion Building Products Lebanon, Resin Containment	1-17-78	Approved
Clackamas	Publishers Paper-Oregon City Filter Back Wash Outfall	1-19-78	Approved
Douglas	Champion Building Products Rifle Range Road, Roseburg Oil Storage Building	1-24-78	Approved by EQC

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality  
(Reporting Unit)

January 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	0   2	1   0	2   4	1   1		
Existing	0   0	0   2	0   0	0   3	0   1		
Renewals	9   3	24   4	7   0	58   3	50   6		
Modifications	2   0	10   0	0   0	12   1	5   0		
Total	11   3	34   8	8   0	72   11	56   8	301   74	302   76
<u>Industrial</u>							
New	1   0	7   8	0   0	5   8	5   6		
Existing	0   0	0   8	0   0	1   4	0   8		
Renewals	5   2	28   8	6   1	41   9	43   4		
Modifications	1   1	9   2	0   0	15   1	6   1		
Total	7   3	44   26	6   1	62   22	54   20	437   102	442   117
<u>Agricultural (Hatcheries, Dairies, etc.)</u>							
New	1   0	2   1	0   0	1   1	2   0		
Existing	0   0	0   0	0   0	0   0	0   0		
Renewals	0   1	0   1	0   0	0   0	0   1		
Modifications	0   0	0   0	0   0	0   0	1   0		
Total	1   1	2   2	0   0	1   1	3   1	66   10	68   10
<u>GRAND TOTALS</u>	19   7	80   36	14   1	135   34	113   28	804   186	812   203

\* NPDES Permits

\*\* State Permits

DEPARTMENT OF ENVIRONMENTAL QUALITY  
TECHNICAL PROGRAMS

Water Quality  
(Reporting Unit)

January 1978  
(Month and Year)

PERMIT ACTIONS COMPLETED (15)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Douglas	City of Yoncalla Sewage Disposal	1-10-78	NPDES Permit Renewed
Coos	Peterson Seafood Inc. Charleston Plant	1-10-78	NPDES Permit Renewed
Linn	City of Harrisburg Sewage Disposal	1-10-78	NPDES Permit Renewed
Clatsop	New England Fish Warrenton Plant	1-10-78	NPDES Permit Renewed
Lane	Ocean Foods of Astoria Seafood Processing	1-10-78	NPDES Permit Renewed
Morrow	City of Heppner Sewage Disposal	1-10-78	NPDES Permit Renewed
Clatsop	Alaska Packers Assn., Inc. Pt. Adams	1-10-78	NPDES Permit Renewed
Benton	City of Corvallis Sewage Disposal	1-10-78	NPDES Permit Renewed
Douglas	Glide-Idelyld North Park Sanitary District	1-10-78	NPDES Permit Issued
Crook	City of Prineville Sewage Disposal	1-10-78	NPDES Permit Renewed
Clackamas	Eagle Creek Sand & Gravel Aggregate	1-13-78	Facility Exempt
Multnomah	Fleet Leasing dba Jubitz Truck Stop	1-25-78	Renewal Not Necessary
Multnomah	Portland Union Stockyards Sewage Disposal	1-25-78	Renewal Not Necessary
Coos	Coos Head Timber Log Handling	1-25-78	Changed to State Permit
Curry	Pacific High School Sewage Disposal	1-25-78	Renewal Not Necessary



## DEPARTMENT OF ENVIRONMENTAL QUALITY

## MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

January 1978  
(Month and Year)

PLAN ACTIONS COMPLETED (26)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources (26)</u>			
Tillamook (NC853)	Louisiana-Pacific. Wood waste fueled boiler.	11/14/77	Approved
Linn (NC984)	Teledyne Wah Chang Albany. Tankage and controls to meter caustic.	1/16/78	Approved by Water Quality
Yamhill (NC987)	Champion Building Products. Baghouse on sander cyclones.	10/12/77	Approved
Linn (NC999)	Teledyne Wah Chang Albany. Third ZrO <sub>2</sub> kiln scrubber.	10/28/77	Approved
Columbia (NC1002)	H. T. Products, Inc. Wood dust filter.	11/18/77	Approved
Portable (NC1003)	Babler Bros., Inc. Asphalt dust scrubber.	10/10/77	Approved
Columbia (NC1007)	GATX Port Westward Terminal. Petroleum terminal.	1/4/78	Approved
Portable (NC1008)	Central Pre-Mix Concrete. Ready mix concrete plant.	12/28/77	Approved
Portable (NC1009)	Hawkins Timber Co. DRIALL open pit incinerator.	10/21/77	Approved
Morrow (NC1013)	Kinzua Corporation. New sawmill.	11/8/77	Approved
Jackson (NC1019)	Kogap Manufacturing Co. Gas fired veneer dryer.	1/18/78	Approved
Linn (NC1021)	Boise Cascade Corporation, Sweet Home. Hogged fuel furnace-dryer.	12/27/77	Approved
Polk (NC1024)	Boise Cascade Corporation, Independence. Air-locks on hog fuel feeders.	11/28/77	Approved

## DEPARTMENT OF ENVIRONMENTAL QUALITY

## MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

January 1978  
(Month and Year)

PLAN ACTIONS COMPLETED (26 con't)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources (cont.)</u>			
Linn (NC1025)	Champion International Corp. Convert gas dryer to wood fuel.	1/25/78	Approved
Hood River (NC1027)	Beachman Orchards. Orchard fan.	11/17/77	Approved (Tax Credit Only)
Coos (NC1028)	Menasha Corporation. Caustic control of scrubber water.	1/19/78	Approved
Lane (NC1029)	Weyerhaeuser, Springfield. Waste transfer system.	12/20/77	Approved (Tax Credit Only)
Jackson (NC1030)	Boise Cascade Corporation, Medford. Install resaw and equipment.	11/28/77	Approved
Jackson (NC1036)	Tru-Mix Leasing Co. Yard sweeper vehicle.	1/18/78	Approved (Tax Credit Only)
Multnomah (NC1038)	Shell Oil Co. Replacement boiler.	12/14/77	Approved
Clackamas (NC1040).	Omark Industries Upgrade zinc and chrome plating facility.	12/21/77	Approved
Linn (NC1041)	Boise Cascade Corp. Recycle veneer dryer gas to furnace.	12/28/77	Approved
Multnomah (NC1042)	Quality Equipment Co. Spray paint booth.	1/23/78	Approved
Polk (NC1044)	Chevron Chemical Co. Fertilizer blending and distribution.	1/19/78	Approved
Linn (NC1045)	Teledyne Wah Chang Albany Pneumatic feed at Pure Chlorination system.	1/18/78	Approved

## DEPARTMENT OF ENVIRONMENTAL QUALITY

## MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

January 1978  
(Month and Year)

PLAN ACTIONS COMPLETED (26 con't)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources (cont.)</u>			
Clatsop (NC1048)	Crown Zellerbach. New rapper control on ESP.	1/23/78	Approved
Clatsop (NC1049)	Crown Zellerbach. Second transformer on ESP.	1/23/78	Approved
Clatsop (NC1050)	Crown Zellerbach. Enlarged lime mud filter drum.	12/23/77	Approved
Curry (NC1059)	Champion Building Products. Air curtains on veneer dryers.	1/9/78	Approved
Columbia (NC1078)	Reichold Chemicals, Inc. Expansion of urea production and emissions control.	1/23/78	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

January 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	4	33	--	17	16		
Existing	2	66	3	38	28		
Renewals	4	66	2	25	41		
Modifications	10	827	11	810	41		
Total	20	992	16	890	102*	1781	1825
<u>Indirect Sources</u>							
New	1	15	3	18	10		
Existing							
Renewals							
Modifications	0	3	0	3	0		
Total	1	18	3	21	10	69	
<u>GRAND TOTALS</u>	<u>21</u>	<u>1010</u>	<u>19</u>	<u>911</u>	<u>112</u>	<u>1850</u>	

\* EXECUTIVE SUMMARY OF PENDING APPLICATIONS

Number of Pending Permits

Comments

5	To be drafted by Portland Region
4	To be drafted by Salem Region
8	To be drafted by Midwest Region
6	To be drafted by Southwest Region
1	To be drafted by Central Region
0	To be drafted by Eastern Region
5	To be drafted by Program Operations
1	To be drafted by Program Planning & Development
<u>30</u>	Permits being drafted
17	Permits being typed
41	Permits awaiting end of 30-day public notice period
14	Permits awaiting next public notice
<u>102</u>	Permits Pending

## DEPARTMENT OF ENVIRONMENTAL QUALITY

## MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

January 1978  
(Month and Year)

PERMIT ACTIONS COMPLETED (19)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources (16)</u>			
Columbia	G & L Wood Products 05-1773, Modification	12/28/77	Permit issued
Coos	Roseburg Lumber Co. 06-0010, Modification	1/17/78	Addendum issued
Deschutes	Mid-Oregon Ready Mix 09-0061, Existing	12/28/77	Permit issued
Douglas	Roseburg Lumber Co. 10-0025, Modification	1/17/78	Addendum issued
Douglas	Roseburg Lumber Co. 10-0078, Modification	1/17/78	Addendum issued
Douglas	Roseburg Lumber Co. 10-0083, Modification	12/20/77	Permit issued
Douglas	Roseburg Lumber Co. 10-0083, Modification	1/17/78	Addendum issued
Hood River	Champion Building Products 14-0002, Modification	12/13/77	Addendum issued
Hood River	Champion Building Products 14-0009, Modification	1/10/78	Addendum issued
Linn	Oregon Metallurgical Corp. 22-0328, Renewal	1/5/78	Permit issued
Marion	BPOE #36 24-0730, Renewal	11/17/77	Permit issued
Multnomah	Reynolds Metals Co. 26-1851, Modification	1/12/78	Addendum issued

## DEPARTMENT OF ENVIRONMENTAL QUALITY

## MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

January 1978  
(Month and Year)

PERMIT ACTIONS COMPLETED (19 con't)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources (cont.)</u>			
Wasco	Columbia River Mills 33-0007, Existing	12/28/77	Permit issued
Yamhill	Osborne Rock Products 36-6025, Modification	12/13/77	Permit issued
<u>Portable Sources</u>			
Portable	Fowler Crushing 37-0159, Existing	12/28/77	Permit issued
Portable	Stadeli Pump & Construction 37-0170, Modification	12/20/77	Addendum issued
<u>Indirect Sources (3)</u>			
Marion	Front Street Temporary Parking Lots, 424 spaces File No. 24-7022	1/24/78	Final permit issued
Marion	Lipman's-Penney's Parking Lot, 540 spaces File No. 24-7023	1/24/78	Final permit issued
Marion	Capitol Towers Parking Lot, 460 spaces File No. 24-7024	1/24/78	Final permit issued

## DEPARTMENT OF ENVIRONMENTAL QUALITY

## MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

January 1978  
(Month and Year)

PERMIT ACTIONS COMPLETED (19 con't)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources (cont.)</u>			
Wasco	Columbia River Mills 33-0007, Existing	12/28/77	Permit issued
Yamhill	Osborne Rock Products 36-6025, Modification	12/13/77	Permit issued
<u>Portable Sources</u>			
Portable	Fowler Crushing 37-0159, Existing	12/28/77	Permit issued
Portable	Stadeli Pump & Construction 37-0170, Modification	12/20/77	Addendum issued
<u>Indirect Sources (3)</u>			
Marion	Front Street Temporary Parking Lots, 424 spaces File No. 24-7022	1/24/78	Final permit issued
Marion	Lipman's-Penney's Parking Lot, 540 spaces File No. 24-7023	1/24/78	Final permit issued
Marion	Capitol Towers Parking Lot, 460 spaces File No. 24-7024	1/24/78	Final permit issued

## DEPARTMENT OF ENVIRONMENTAL QUALITY

## MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

January 1978  
(Month and Year)

PLAN ACTIONS COMPLETED (5)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Hood River	Diamond Fruit Growers, existing site, operational plan.	1-3-78	Conditional Approval
Malheur	Ontario Landfill, existing site Operational Plan	1-3-78	Approved
Jackson	Medford Corporation, existing site, Operational Plan	1-24-78	Approved
Josephine	Marlsan Sludge Lagoon, existing site, Operational Plan Amendment	1-26-78	Conditional Approval
Umatilla	Jones-Normel Foods, new site, Operational Plan	1-31-78	Approved



DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

January 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		7	2	8	2		
Existing	1	4	2	7	19		
Renewals	3	26	5	22	14		
Modifications		5	3	8			
Total	14	42	12	45	35	185*	188
<u>Demolition</u>							
New				1			
Existing				1			
Renewals							
Modifications							
Total	0	0	0	2	0	18*	18
<u>Industrial</u>							
New	18	4		8	2		
Existing				2	5		
Renewals	7	11		7	9		
Modifications		2	1	3	1		
Total	8	17	1	20	17	95	97
<u>Sludge Disposal</u>							
New							
Existing	3	3			3		
Renewals		1		2			
Modifications							
Total	3	4	0	2	3	5	8
<u>Hazardous Waste</u>							
New							
Authorizations	26	104	27	126	0		
Renewals							
Modifications							
Total	26	104	27	126	0	1	1
<u>GRAND TOTALS</u>	41	167	40	195	55	304	312

\* One (1) general refuse facility permit was amended such that the site is now restricted to demolition waste only.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

January 1978  
(Month and Year)

PERMIT ACTIONS COMPLETED (40)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>General Refuse (Garbage) Facilities</u> (12)			
Wasco	Antelope Disposal Site, existing facility	1-4-78	Permit issued
Wasco	Shaniko Disposal Site, new facility	1-4-78	Permit issued
Crook	Crook County Landfill, existing facility	1-9-78	Permit amended
Coos	Powers Disposal Site, existing facility	1-13-78	Permit issued (renewal)
Coos	Myrtle Point Disposal Site, existing facility	1-13-78	Permit issued (renewal)
Curry	Brookings Disposal Site, existing facility	1-13-78	Permit issued (renewal)
Curry	Nesika Beach Disposal Site, existing facility	1-13-78	Permit issued (renewal)
Malheur	McDermitt Landfill, new facility	1-20-78	Temporary permit issued
Washington	Forest Grove Transfer Site, existing facility	1-24-78	Permit issued
Malheur	Ontario Landfill, existing facility	1-26-78	Permit issued (renewal)
Yamhill	Newberg Landfill, existing facility	1-27-78	Permit amended
Marion	Maclaren School, existing facility	1-4-78	Permit amended

Demolition Waste Facilities - none

Sludge Waste Facilities - (1)

Tillamook	Weller Pit existing facility	1-16-78	Permit amended.
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## DEPARTMENT OF ENVIRONMENTAL QUALITY

## MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

January 1978  
(Month and Year)

PERMIT ACTIONS COMPLETED (continued)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Hazardous Waste Facilities (27)</u>			
Gilliam	Chem-Nuclear Systems, existing facility	1-5-78	Disposal authorization approved. (copper sludge)
Gilliam	Chem-Nuclear Systems, existing facility	1-5-78	19 verbal authorizations confirmed in writing (small quantities of various chemical waste).
Gilliam	Chem-Nuclear Systems, existing facility	1-7-78	Disposal authorization approved (flamables).
Gilliam	Chem-Nuclear Systems, existing facility	1-11-78	Disposal authorization approved (flamables).
Gilliam	Chem-Nuclear Systems, existing facility	1-13-78	Disposal authorization approved (caustic).
Gilliam	Chem-Nuclear Systems, existing facility	1-20-78	Disposal authorization approved (wood treating sludge).
Gilliam	Chem-Nuclear Systems, existing facility	1-20-78	Disposal authorization approved (sediment with trace of pesticide).
Gilliam	Chem-Nuclear Systems, existing facility	1-23-78	Disposal authorization approved (pesticide-fertilizer mixture).
Gilliam	Chem-Nuclear Systems, existing facility	1-27-78	Disposal authorization approved (chromic acid solution).

NOTE

PAGE 16 - HAZARDOUS WASTE DISPOSAL  
AUTHORIZATION REQUESTS (OUT OF STATE)  
WILL BE DISTRIBUTED AT THE MEETING.

TOTALS

	last	this
Settlement Action	7	9
Preliminary Issues	4	5
Discovery	5	3
To be Scheduled	23	13
To be Rescheduled	4	1
Set for Hearing	3	13
Briefing	3	3
Decision Due	8	9
Decision Out	0	1*
Appeal to Comm.	7	8
Appeal to Ct.	0	0
Finished	0	-4
Totals	64	69 - 4 finished

DEQ CONTESTED CASE LOG

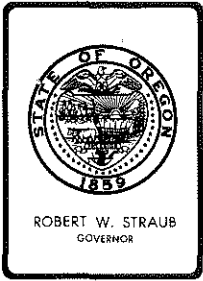
2/9/78

Key:

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

\* Two more decisions out now appealed to Commission

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	DEQ or Atty	Hrng Offcr	Hrng Date	Resp Code	Dec Date	Case Type & #	Case Status
Davis et al	5/75	5/75	Atty	McS	5/76	Prtys	1/78	12 SSD Permits	Appeal to Comm
Faydrex, Inc.	5/75	5/75	Atty	McS	11/77	Transc		64 SSD Permits	Briefing Due
Johns et al	5/75	5/75	Atty	McS		All		3 SSD Permits	Settlement Action
Hengstler	6/75	6/75	Atty	Lmb	8/76	Comm	9/77	1 SSD Permit	Appeal to Comm
Faydrex (Lt 116)	8/75	5/75	Atty	McS	5/77	Prtys	1/78	1 SSD Permit	Appeal to Comm
Laharty	1/76	1/76	Atty	McS	9/76	Comm	1/77	Rem Order SSD	Appeal to Comm
PGE (Harborton)	2/76	2/76	Atty	McS		Prtys		ACD Permit Denial	Preliminary Issues
Allen	3/76	4/76	DEQ	McS		Hrngs		SSD Permit	To be Scheduled
Melquist	8/76	8/76	DEQ	McS	3/77	Comm	9/77	\$500 SS-MWR-76-156	Appeal to Comm
Taylor, R.	9/76	9/76	Atty	Lmb	12/76	Resp	12/77	\$500 LQ-MWR-76-91	Appeal to Comm
Ellsworth	10/76	10/76	Atty	McS		Prtys		\$10,000 WQ-PR-76-48	Discovery
Silbernagel	10/76	10/77	DEQ	Cor		Hrngs		AQ-MWR-76-202 \$400	To be Scheduled
Jensen	11/76	11/76	DEQ	Cor	12/77	Hrngs		\$1500 Fld Brn AQ-SNCR-76-232	Decision Due
Mignot	11/76	11/76	Atty	McS	2/77	Dept	2/77	\$400 SW-SWR-288-76	Settlement Action
Hudspeth	12/76	12/76	Atty	McS	3/77	Hrngs		\$500 WQ-CR-76-250	Decision Due
Perry	12/76	12/76	DEQ	Cor	1/78	Hrngs		Rem Order SS-SWR-253-76	Briefing
<del>Knight</del>	<del>12/76</del>	<del>6/77</del>	<del>DEQ</del>	<del>Cor</del>	<del></del>	<del>Resp</del>	<del></del>	<del>Rem Order</del>	<del>Finished</del>
Melquist	1/77	1/77	Atty	McS	3/77	Comm	9/77	\$2000 SS-MWR-76-281	Appeal to Comm
Alexander	2/77	6/77	DEQ			Hrngs		Rem Order SS-SWR-77-23	To be Scheduled
Elving	2/77	3/77	Atty	McS	6/77	Resp	12/77	\$100 AQ-SWR-76-224	Decision Due
Wilson	2/77	3/77	Atty	Cor	9/77	Hrngs	2/78	Rem Order SS-CR-77-18	Decision Due
Grande	3/77	3/77	DEQ	Lmb	10/77	Resp	12/77	\$100 AQ-PR-77-45	Appeal to Comm
McCollum	3/77	3/77	Atty	McS	8/77	Hrngs		SSD Permit App	Decision Due
Rossier	3/77	3/77	Atty			Dept		SS Variance Request	To be Scheduled
Jones	4/77	7/77	DEQ	Cor	3/78	Hrngs		SSD Permit SS-SWR-77-57	Set for Hearing
Beaver State et al	5/77	5/77	Atty	Cor	10/77	Hrngs		\$150 AQ-SNCR-77-84	Decision Due
Middleton	5/77		DEQ			Dept		Rem Order SS-PR-77-66	Discovery
Sundown et al	5/77	6/77	Atty	McS		Prtys		\$20,000 Total SS Viol SNCR	Settlement Action
Wallace	5/77	6/77	DEQ	Cor	1/78	Hrngs		1 SSD Permit Denial	Decision Due
Wright	5/77	5/77	Atty	McS		Resp		\$250 SS-MWR-77-99	Preliminary Issues
<del>Belaino</del>	<del>6/77</del>	<del></del>	<del>DEQ</del>	<del></del>	<del></del>	<del>Dept</del>	<del></del>	<del>\$250 SS-PR-77-128</del>	<del>Finished</del>
Henderson	6/77	7/77	Atty	Cor	1/77	Hrngs		Rem Order SS-CR-77-136	Briefing Due
Exton	6/77	8/77	DEQ	Cor	2/78	Hrngs		Rem Order SS-PR-76-268	Set for Hearing
Low	7/77	7/77	DEQ	Cor		Resp		\$1500 SW-PR-77-103	To be Rescheduled
Magness	7/77	7/77	DEQ	Cor	11/77	Resp		\$1150 Total SS-SWR-77-142	Decision Due
Southern Pacific Trans	7/77	7/77	Atty	Cor		Prtys		\$500 NP-SNCR-77-154	Preliminary Issues
Suniga	7/77	7/77	DEQ	Lmb	10/77	Resp		\$500 AQ-SNCR-77-143	Decision Due
Georgia Pacific	8/77		DEQ			Dept		\$1000 WQ-SNCR-77-	Settlement Action
<del>International Paper</del>	<del>8/77</del>	<del>8/77</del>	<del>Atty</del>	<del>McS</del>	<del></del>	<del>Prtys</del>	<del></del>	<del>NPBES-(Gardiner)</del>	<del>Finished</del>
Sun Studs	8/77	9/77	DEQ			Hrngs		\$300 WQ-SWR-77-152	To be Scheduled
Taylor, D.	8/77	10/77	DEQ	McS	4/78	Hrngs		\$250 SS-PR-77-188	Set for Hearing
Brookshire	9/77	9/77	Atty	McS	4/78	Hrngs	11/77	\$1000 AQ-SNCR-76-178 Fld Brn	Set for Hearing
Grants Pass Irrig	9/77	9/77	Atty	McS		Prtys		\$10,000 WQ-SWR-77-195	Discovery
Pohl	9/77	12/77	Atty	Cor	3/78	Dept		SSD Permit App	Set for Hearing
Trussel et al	9/77	9/77	DEQ	Cor	10/77	Resp		\$150 AQ-SNCR-77-185	Decision Due
Califf	10/77	10/77	DEQ			Hrngs		Rem Order SS-PR-77-225	To be Scheduled
Mc Clincy	10/77	12/77	DEQ	McS	3/78	Hrngs		SSD Permit Denial	Set for Hearing
Zorich	10/77	10/77	DEQ	McS	3/78	Hrngs		\$100 AQ-SNCR-77-173	Set for Hearing
Clay	11/77	12/77	DEQ			Hrngs		\$200 SS-MWR-77-254	To be Scheduled
Hayes	11/77		DEQ			Dept		\$1580 AQ-MWR-77-240	Settlement Action
Jenks	11/77	12/77	DEQ			Dept		\$1000 Fld Brn AQ-MWR-77-284	Preliminary Issues
Keen	11/77		DEQ			Dept		\$3000 Fld Brn	Settlement Action
Koos	11/77	12/77	DEQ			Hrngs		\$120 Assmt Fld Brn	Settlement Action
Oak Creek Farms	11/77	12/77	DEQ	McS	4/78	Hrngs		\$4000 AQ-MWR-77-242 Fld Brn	Set for Hearing
<del>Pimm</del>	<del>11/77</del>	<del>11/77</del>	<del>DEQ</del>	<del>Cor</del>	<del>1/78</del>	<del>Hrngs</del>	<del></del>	<del>\$4000 AQ-MWR-77-242 Fld Brn</del>	<del>Finished</del>
Powell	11/77	11/77	DEQ	Cor	3/78	Hrngs		\$10,000 Fld Brn AQ-MWR-77-241	Set for Hearing
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	Settlement Action
								Unsewered Houseboat Moorage	
Helms et al	12/77	12/77	DEQ			Hrng		\$200 AQ-SNCR-77-306 Fld Brn	To be Scheduled
Carl F. Jensen	12/77	1/78	Atty	McS	4/78	Hrngs		\$18,600 AQ-MWR-77-321 Fld Brn	Set for Hearing
Carl F. Jensen/ Elmer Klopfenstein	12/77	1/78	Atty	McS	4/78	Hrngs		\$1200 AQ-SNCR-77-320 Fld Brn	Set for Hearing
Schrock, D.	12/77	1/78	DEQ	Cor	4/78	Hrngs		\$200 AQ-MWR-77-324 Fld Brn	Set for Hearing
Schrock Farms, Inc.	12/77	1/78	DEQ	Cor	4/78	Dept		\$200 AQ-MWR-77-300 Fld Brn	Set for Hearing
Steckley	12/77	12/77	DEQ			Hrng		\$200 AQ-MWR-77-298 Fld Brn	To be Scheduled
Van Leeuwen	12/77		DEQ			Dept		\$320 AQ-MWR-77-295 Fld Brn	Settlement Action
Heaton	1/78	2/78	DEQ			Hrngs		\$500 AQ-PR-77-325 Fld Brn	To be Scheduled
Towery	1/78	2/78	DEQ			Hrngs		\$375 SNCR-77-326 Fld Brn	To be Scheduled
Wah Chang	1/78					Dept		\$5500 WQ-MWR-77-334	To be Scheduled
Cook Farms	2/78					Dept		\$200 AQ-MWR-77-330 Fld Brn	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, February 24, 1978, EQC Meeting

### Tax Credit Applications

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

### Director's Recommendation

It is recommended that the Commission issue Pollution Control Facility Certificates for four applications: T-920, T-943, T-952, and T-962

*Michael Downs*  
for  
WILLIAM H. YOUNG

MJDowns:cs  
229-6485  
2/15/78

### Attachments

1. Tax Credit Summary
2. Tax Credit Application Table
3. 4 Review Reports



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Materials

Attachment 1

Proposed February 1978 Totals

Air Quality	\$ -0-
Water Quality	1,089,694
Solid Waste	-0-
	<u>\$1,089,694</u>

Calendar Year Totals to Date  
(Excluding February 1978 Totals)

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

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

Air Quality	\$112,187,115
Water Quality	80,384,833
Solid Waste	14,628,629
	<u>\$207,200,577</u>



TAX CREDIT APPLICATIONS SUMMARY

Applicant/ Plant Location	Appl. No.	Facility	Claimed Cost	% Allocable to Pollution Control	Director's Recommendation
Sunny 70 Farms, Inc. Independence	T-920	Dairy farm waste facility	16,457.80	80% or more	Issue Certificate
Gray & Company Forest Grove	T-943	Waste water disposal facility	184,600.00	80% or more	Issue Certificate
The Dalles Cherry Growers, Inc. The Dalles	T-952	Waste water disposal facility	785,083.09	80% or more	Issue Certificate
Weyerhaeuser Company Springfield	T-962	Barrow pits to receive cooling water flow	103,554.00	80% or more	Issue Certificate

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

Appl. No. T-920

Date \_\_\_\_\_

1. Applicant

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

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

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

2. Description of Claimed Facility

The claimed facilities consist of:

- A. Liquid manure storage tank (concrete pit).
- B. Concrete collection slabs in barn all draining to manure tank.
- C. Spreaders, 1 Lely LMS 1000 GAC and 1 International No. 103 manure spreader. (Self loading from manure tank)
- D. Diesel tractor - International No. 424.

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

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

Facility cost \$16,457.80 (statements were provided).

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

3. Evaluation

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

Oregon Administrative Rules, Chapter 340, Division 51, for Water Quality, regulates animal feeding or holding operations. Applicant states cows spend 8 to 9 months per year in barn and the small animals are in all year around. The regulations require proper equipment for disposal of manure as part of a waste control facility, in order to preclude any discharge to public waters.

4. Summation

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

5. Director's Recommendation

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

Charles K. Ashbaker:aes  
229-5309  
2/8/78

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

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Appl. No. T-943

Date 2/8/78

1. Applicant

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

Dayton Plant, Rt. 1, Box 232

The applicant owns and operates a plant for receiving, brining, pitting and storing cherries to be further processed to Marachino and glazed at the company's Forest Grove plant.

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

2. Description of Claimed Facility

The claimed facility consists of the following:

- A. Waste water collection tank, pump & associated piping.
- B. Solids separation - 20 mesh Dorr Oliver screen & hopper.
- C. Liquid storage tanks (2-85,000 gallon)
- D. Lime storage tank & pump (neutralization).
- E. Irrigation equipment including pump, 50,000 feet of transfer lines and 3 - 4 inch Western Wheel irrigation lines.
- F. 107 Acres of land.

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

Construction was initiated on the claimed facility in March 1973, completed and placed into operation in July 1976.

Facility Cost \$184,600. (Certified Public Accountant's statement was provided)

3. Evaluation

Prior to the installation of the claimed facility the liquid waste was discharged to the City of Forest Grove system. The Unified Sewerage Agency determined the brining and pitting portion of the liquid waste to be incompatible with the Forest Grove sewage treatment plant and could not be accepted. Thus, production operations were moved to Dayton whereby land irrigation could be implemented. According to the applicant income derived from the facility is greatly exceeded by operating expense.

4. Summation

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

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued for the facility claimed in Application T-943, such certificate to bear the actual cost of \$184,600 with 80% or more of the cost applicable to Pollution Control.

Charles K. Ashbaker:aes  
229-5309  
2/8/78

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

Appl. No. T-952

Date 1/26/78

1. Applicant

The Dalles Cherry Growers, Inc.  
Cooperative Association  
P. O. Box 439  
The Dalles, OR 97058

Plant Site - 1st and Madison, The Dalles, Oregon

The applicant owns and operates a plant for brining, freezing and packing fresh cherries in The Dalles.

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

2. Description of Claimed Facility

The claimed waste water treatment facility consists of:

- A. Collection system with pit and transfer pumps (2).
- B. Solids removal system with SWECO 60 inch sta sieve (.04 inch) hopper, 40 hp. Reitz disintegrator and loading auger.
- C. Two 2,000,000 gallon, asphalt lined aerated lagoon, each containing two 25 hp. aerators and nutrient metering systems.
- D. A 2,000,000 gallon settling and polishing pond with one 10 hp. aerator.
- E. Treatment control equipment including computer flowmeter, dissolved oxygen analyzer, and temperature recorder.
- F. Laboratory for waste water testing.

Request for Preliminary Certification for Tax Credit was made 2/19/76 and approved 3/5/76. Construction was initiated on the claimed facility 1/6/77, completed and placed into operation 8/22/77.

Facility Cost: \$785,083.09 (Certified Public Accountant's statement was provided.)

3. Evaluation

The application states that with the installation of the facility all contaminated wastes will be treated. The BOD of the effluent will be reduced 98% and the pH will be adjusted to within the acceptable range. A BOD reduction of approximately 875 pounds per day should be realized. Since completion of the facility the lagoons have been filling. Some preliminary data from samples taken recently show the system to be operating as designed. Staff confirms this.

4. Summation

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

The facility was designed for solids removal, BOD reduction and pH adjustment. No saleable products are recovered.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued for the facility claimed in Application T-952, such Certificate to bear the actual cost of \$785,083.09 with 80% or more allocable to pollution control.

Charles K. Ashbaker, Supervisor:aes  
229-5309  
1/26/78

App# T-962  
Date January 23, 1978

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

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1. Applicant

Weyerhaeuser Company  
Willamette Region - Paperboard Manufacturing  
Tacoma, Washington 98401

Plant Site - 785 N. 42nd Street  
Springfield, OR 97477

The applicant owns and operates a plant at Springfield manufacturing lumber, plywood, particleboard, ply-veneer, prestologs and paperboard.

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

2. Description of Claimed Facility

Approximately 10 acres of barrow pits were connected to receive cooling water flow (discharge 002) by:

- A. Diversion weir culvert and outlet structure
- B. Drainage ditch to barrow pit No. 1 (3.38 A)
- C. Corrugated culvert from barrow pit No. 1 outlet to Barrow Pit No. 2 (5.7 AC).
- D. Barrow pit No. 2 outlet structure, 120 ft. outlet culvert and temperature recording

Project involved excavation, fill, retaining walls, electrical and other related crafts.

Request for Preliminary Certification for Tax Credit was made on November 26, 1975, and approved December 15, 1975. Construction was initiated on the claimed facility on April 4, 1976, completed on August 1, 1976, and placed into operation on June 2, 1976.

Facility Cost: \$103,554.00 (Certified Public Accountant's statement was provided.)

3. The applicant claims that since the installation of the facility, the cooling water discharge to the McKenzie River is approximately 10 degree F. less than before construction of the facility.



Weyerhaeuser reported by letter on February 15, 1977, for the months of August, September and October 1976, actual temperature drops through the 10 acres of cooling ponds. It averaged approximately 9<sup>o</sup>F. which is 13,000 less BTU per second to the river, with the facility. Staff's review reveals the facility to be sufficient to meet heat discharge limits of Addendum I NPDES Permit No. 1727-J. Heat is not recovered by the plant but dissipated to the atmosphere.

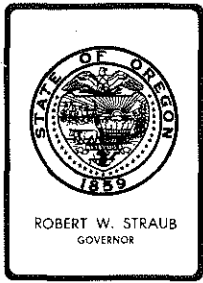
4. Summation

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

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued for the facility claimed in Application T-962, such Certificate to bear the actual cost of \$103,554.00 with 80% or more allocable to pollution control.

William D. Lesher:em  
229-5318  
January 23, 1978



## *Environmental Quality Commission*

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

### MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Addendum 1, Agenda Item No. C, February 24, 1978, EQC Meeting  
Tax Credit Applications

### Director's Recommendation

It is recommended that the Commission issue an order denying the Preliminary Certification for Tax Credit Request of Stimson Lumber Company, Forest Grove, because the substantial purpose for construction of the facility is not for prevention, control or reduction of air, water or noise pollution or solid waste (see attached review report).

*Michael Downs*  
for  
WILLIAM H. YOUNG

MJDwnis:cs  
229-6484  
2/17/78  
Attachment (1)



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State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Preliminary Certification for Tax Relief Review Report

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1. Applicant

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

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

Application was made for preliminary certification for air pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a hog fuel dryer designed to reduce the moisture content of the fuel by using waste heat from the boiler stack gases.

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

The estimated cost of the facility is \$150,000.

3. Evaluation of Application

The facility consists of a rotary dryer, exhaust gas cyclone, induced draft fan and associated air ducts and hog fuel conveyors. The facility would utilize waste heat from the boiler stacks to drive off free moisture from the fuel and thereby reduce fuel usage and improve the overall energy efficiency of the power boilers. A small increase in particulate emissions is expected from the dryer, however this should be offset some by reduced emissions from the boilers because of lowered fuel firing rates.

4. Summation

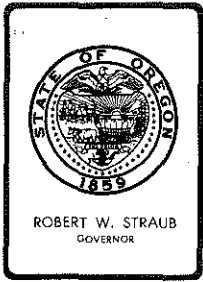
A. A substantial purpose for construction of the facility is not for prevention, control or reduction of air, water or noise pollution or solid waste.

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

5. Director's Recommendation

It is recommended that the Commission issue an order denying the applicant's request for Preliminary Certification.

Steven C. Carter:cs  
229-5297  
2/17/78



## *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. D., February 24, 1978, EQC Meeting

Martin-Marietta Aluminum Plant - The Dalles Request  
for Revised Compliance Schedule to Meet Federal  
Effluent Standards for Best Practicable Control  
Technology Currently Available

### Background

Martin-Marietta owns and operates a relatively small 250 ton per day primary aluminum smelting plant at The Dalles, Oregon. The plant started operation in 1958 and, since that time, has been periodically accused of causing orchard damage by discharging fluoride into the atmosphere. In 1972, Martin-Marietta completed installation of the best available air pollution control system, thereby reducing particulate and fluoride air emissions to levels among the lowest of any aluminum reduction plant in the world.

Unfortunately, the system employed by Martin-Marietta to remove contaminants from the air transferred the contaminants into the water resulting in a waste water discharge into the Columbia River, of 15 million gallons per day containing between two and three thousand pounds per day of fluoride and four to five thousand pounds per day of total suspended solids. Whereas the fluoride emissions into the air may have been damaging the local orchard production, the Department has no evidence that the fluoride discharges are significantly impacting the water quality of the Columbia River.

Martin-Marietta evaluated the alternatives for treating their waste water to meet Federal effluent standards for Best Practicable Control Technology Currently Available (BPCTCA) but could not devise an adequate system that would not risk the proper operation of their air quality control system. The company then requested a variance from the Environmental Protection Agency (EPA) through the Department. The variance was based on replacing the existing wet primary air scrubbers with dry scrubbers and discharging secondary scrubber water to the Columbia River after settling. With this technology,



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the company could meet Federal BPCTCA standards for suspended solids, but not fluorides.

The Department reviewed the variance request, approved it and forwarded it to the Administrator of EPA for his approval. We believed EPA had not fully evaluated Martin-Marietta's The Dalles plant when they developed their standards. The standards did not consider that certain plants like The Dalles plant, were faced with stringent air emission requirements. The technology utilized to meet these special air requirements are not adaptable to meeting waste water standards developed for less sophisticated air control equipment. Nevertheless, the Administrator of EPA denied the variance in October 1977.

Fortunately, Martin-Marietta has found technology in Japan that will allow them to modify their process and, with a dry primary scrubber system, meet EPA BPCTCA standards. In December 1977, Martin-Marietta requested that they be allowed until January 1, 1980 to meet the standards. The dry scrubbers would be installed by January 1, 1979.

#### Evaluation

Federal Law required that Martin-Marietta meet BPCTCA standards by July 1, 1977. The company's proposed time schedule would extend the deadline by two and one-half years. EPA has only accepted such extensions if the delay in meeting the standards was accompanied by an appropriate civil penalty. The Department, however, does not believe that a civil penalty is appropriate.

We believe that the delay has allowed Martin-Marietta to use technology that is environmentally better. The new system will eliminate the building of calcium sulfate sludges (none are generated) and may reduce air emissions. It will also reduce electrical use and recycle raw materials. Obviously, the company will benefit with the new technology, but so will the environment. With this consideration, we do not believe a civil penalty would be appropriate.

Other considerations for civil penalty assessment might be the lack of good faith on the company's part or the impact upon the environment (water quality, in this case) for non-compliance. We believe Martin-Marietta has acted in good faith. We do not know of anything they could have done that they did not do. They might have installed a scrubbed recycle system, but it is doubtful the Department would have approved it. The company did not apply for the variance until after they conducted pilot studies that determined that recycle would adversely affect air emission control.

We believe they tried in good faith to meet the requirements of their permit, but were unsuccessful primarily because of the conflicts of environmental trade-offs. In regard to environmental impact as a result of not meeting the standards, the Department has not found any impact on water quality resulting from the waste water discharged by Martin-Marietta.

Summation

1. Martin-Marietta has requested that the July 1, 1977 date required for meeting Federal effluent standards for Best Practicable Control Technology Currently Available be extended to January 1, 1980.
2. Martin-Marietta has agreed to a proposed Stipulation and Final Order which would require that dry primary scrubbers be installed by January 1, 1979 and Federal effluent standards be achieved by January 1, 1980. Failure to meet either of these dates would result in substantial daily penalties (\$2,500 and \$5,000) until compliance is achieved.
3. The staff does not believe a civil penalty should be assessed Martin-Marietta for failure to meet the July 1, 1977 deadline. We believe the company tried in good faith to meet its requirements, but failed primarily because of a lack of technology that can meet waste water discharge requirements and not create other less desirable environmental impacts. Suitable technology is now available and can be installed by January 1, 1980.

Director's Recommendation

It is recommended that the Environmental Quality Commission approve the proposed Stipulation and Final Order requiring Martin-Marietta to meet Federal effluent standards for Best Practical Control Technology Currently Available by January 1, 1980.

*Michael Downs*  
for  
WILLIAM H. YOUNG

CKA:em  
229-5325  
February 10, 1978

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

3 DEPARTMENT OF ENVIRONMENTAL QUALITY,     )  
4 of the STATE OF OREGON,                    )

NO. WQ-CR-78-06

5                                   Department,     )

STIPULATION AND  
FINAL ORDER

6                                   v.                                    )

7 MARTIN-MARIETTA ALUMINUM, INC.,     )

8                                   Respondent.     )

9                                   WHEREAS

10           1. On or about August 26, 1975, the Department of Environmental Quality  
11 ("Department") issued Martin-Marietta Aluminum, Inc. ("Respondent"), a California  
12 Corporation, a modification to National Pollutant Discharge Elimination System  
13 Waste Discharge Permit Number 1447-J ("Permit"). The Permit authorized Respondent  
14 to operate waste water treatment and control facilities at Respondent's Plant  
15 located in The Dalles, Oregon, and discharge adequately treated wastes therefrom  
16 into the Columbia River. The stated expiration date on the Permit is December 31,  
17 1977. On November 4, 1977, the Department received Respondent's renewal application  
18 No. OR-100170-8. The Department has prepared a draft renewal Permit which contains  
19 the same fluoride and suspended solids limitations specified in Paragraph 3 below.  
20 Pursuant to Oregon Revised Statutes ("ORS") 183.430(1), the Permit has been and is  
21 in effect until renewed by the Department.

22           2. Special Condition 1 of the Permit required Respondent to complete  
23 construction and attain operational level by June 30, 1977, of facilities to achieve  
24 the effluent limitations specified in Condition 5 of the Permit.

25           3. Condition 5 of the Permit provides that after July 1, 1977, the quantity  
26 and quality of effluent discharged directly or indirectly into the Columbia River  
shall not exceed (a) 500 pounds per day of fluoride as a monthly average and 1,000

1 pounds as a daily maximum; and (b) 750 pounds per day of suspended solids and 1,500  
2 pounds as a daily maximum.

3 4. The above effluent limitations for fluoride were based upon effluent  
4 standards of a 30-day average of 1.0 and a daily maximum of 2.0 pounds fluoride per  
5 1,000 pounds of product as promulgated by the U.S. Environmental Protection Agency  
6 ("EPA"). Those effluent standards are specified in 40 CFR, part 421.20 and were  
7 based on the technology of recirculating scrubber waters outlined in the "Develop-  
8 ment Document for Effluent Guidelines and New Source Performance Standards for the  
9 Primary Aluminum Segment of the Nonferrous Metals Manufacturing Point Source Category"  
10 EPA-440/1-74-019-d March, 1974 ("Development Document").

11 5. On January 15, 1976, the Department received Respondent's request for a  
12 variance to EPA effluent standards for fluoride to increase the fluoride effluent  
13 limits of Condition 5 to 1,700 pounds per day as a monthly average and 3,400 pounds  
14 daily maximum. Respondent contended that it would be difficult, if not impossible,  
15 to meet the July 1, 1977 deadline for meeting the fluoride limitations by recirculating  
16 the secondary air control system scrubber water. Respondent believed its secondary  
17 air scrubbing equipment was fundamentally different from that used in establishing  
18 the guidelines and therefore the fluoride effluent standards promulgated in 40 CFR,  
19 part 421.20 should be waived. Respondent proposed the replacement of Respondent's  
20 wet primary system with a dry scrubber thereby eliminating a substantial portion  
21 of the fluoride effluent and a major portion of the sludge disposal problem and  
22 proposed to continue the operation of Respondent's wet secondary scrubber on a once-  
23 through basis.

24 6. On May 11, 1976, the Department transmitted Respondent's variance request  
25 to the EPA along with the Department's findings and recommendations. After consider-  
26 ation of the total environmental aspects of air, water and solid waste disposal in



1 The Dalles area and following through review of Respondent's request, the Department  
2 recommended that EPA approve the variance.

3 7. On March 14, 1977, EPA issued a public notice and tentative determination  
4 to deny Respondent's variance request.

5 8. On April 14, 1977, the Department submitted comments to EPA regarding the  
6 tentative termination and reaffirmed its position that the best overall environmental  
7 solution for The Dalles area would be for EPA to approve the variance.

8 9. On October 3, 1977, EPA issued its final determination which denied  
9 Respondent's variance request on the basis that Respondent's facility is not funda-  
10 mentally different from those considered and described in the Development Document.

11 10. On December 16, 1977, Respondent submitted to the Department a proposal to  
12 comply with the effluent limitations set forth in Paragraph 3 above by (a) replacement  
13 of the present primary scrubber-wet electrostatic precipitator with a dry scrubber  
14 system; and (b) installation of certain cell design and operational changes proprietary  
15 in nature (technology purchased from Sumitomo Aluminum of Japan) which will increase  
16 the capture of cell gases and possibly decrease emission rate from the cell, both  
17 thus reducing the escape of fluorides into the potroom to be handled by the wet  
18 secondary system.

19 11. Respondent is presently capable of treating its effluent so as to meet  
20 the following effluent limitations, measured as specified in the Permit:

21	<u>Parameter</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
22	Fluoride	3,000 lbs/day	4,500 lbs
23	Total Suspended 24 Solids (Net*)	5,000 lbs/day	7,500 lbs

25 \*(Net suspended solids is defined herein as the total suspended solids in Respondent's  
26 effluent discharged to the Columbia River minus the total suspended solids entering

1 Respondent's plant through its raw water supply.)

2 12. Respondent will be able to treat its effluent so as to meet the following  
3 effluent limitations when the primary wet scrubber system is replaced by a dry system:

4	<u>Parameter</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
5	Fluoride	1,700 lbs/day	2,500 lbs
6	Total Suspended Solids (Net)	750 lbs/day	1,500 lbs
7			

8 13. The Department and Respondent recognize that until the wet scrubber system  
9 is replaced by a dry system and until the Sumitomo technology is fully installed,  
10 Respondent will violate the schedule in Paragraph 2 above, and will violate effluent  
11 limitations set forth in Paragraph 3 above the vast majority, if not all of the time,  
12 that any effluent is discharged. The Department and Respondent also recognize that the  
13 Environmental Quality Commission ("Commission") has the power to impose a civil penalty  
14 and to issue an abatement order for any such violation. Therefore, pursuant to ORS  
15 183.415(4), the Department and Respondent wish to resolve those violations in advance  
16 by stipulated final order requiring certain action, and waiving certain legal rights to  
17 notices, answers, hearings and judicial review on these matters.

18 14. The Department and Respondent intend to limit the violations which this  
19 stipulated final order will settle to all those violations specified in Paragraph 13  
20 above, occurring through (a) the date that compliance with all effluent limitations  
21 specified in Paragraph 3 above is achieved, or (b) the stated expiration date of the  
22 renewed Permit, whichever first occurs. This stipulated final order is not intended  
23 to settle any violation of any effluent limitations set forth in Paragraphs 11 and 12  
24 above. Furthermore, this stipulated final order is not intended to limit, in any way,  
25 the Department's right to proceed against Respondent in any forum for any past or  
26 future violation not expressly settled herein.

1 NOW THEREFORE, it is stipulated and agreed that:

2 I. The Environmental Quality Commission shall issue a final order:

3 A. Requiring Respondent to comply with the following schedule:

- 4 1. By December 31, 1978, complete the replacement of  
5 the primary scrubber-wet electrostatic precipitator  
6 with a dry scrubber system.
- 7 2. By January 1, 1980, achieve compliance with all the  
8 effluent limitations specified in Paragraph 3 above  
9 for at least 30 consecutive days at normal operating  
10 levels (at or above average production) as demonstrated  
11 by at least daily monitoring (24-hour composite samples)  
12 of each parameter, conducted by Respondent, provided  
13 however that the Department may, at its discretion,  
14 supplement or supercede the Respondent's monitoring  
15 with the Department's own monitoring.

16 B. Requiring Respondent to meet the interim effluent limitations set  
17 forth in Paragraph 11 above until December 31, 1978.

18 C. Requiring Respondent to meet the interim effluent limitations set  
19 forth in Paragraph 12 above from January 1, 1979 through December  
20 31, 1979.

21 D. Requiring Respondent to comply with all the terms, schedules and  
22 conditions of the Permit, except those modified by Paragraphs IA,  
23 IB, and IC above.

24 II. The Commission shall enter an order:

25 A. Imposing civil penalties upon Respondent in the amount of a  
26 \$2,500 per day for each day during the period commencing

1 January 1, 1979, and ending on the day that Respondent  
2 complies with the condition set forth in Paragraph IA1  
3 above. The penalties shall be due and payable monthly  
4 on the fifteenth day of each month, commencing February  
5 15, 1979 for the preceding calendar month. Pursuant to  
6 OAR, Section 340-11-136(1) and (2), the Director of the  
7 Department, on behalf of the Commission, shall enter such  
8 additional or supplemental orders as are necessary to  
9 carry out this paragraph.

10 B. Imposing civil penalties upon Respondent in the amount of  
11 \$5,000 per day for each day after December 31, 1979, until  
12 compliance with Paragraph IA2 above is achieved. The pen-  
13 alties shall be due and payable on the fifteenth day of  
14 each month, commencing on February 15, 1980, for the pre-  
15 ceding calendar month. Pursuant to OAR, Section 340-11-136(1)  
16 and (2), the Director of the Department, on behalf of the  
17 Commission, shall enter such additional or supplemental orders  
18 as are necessary to carry out this paragraph.

19 III. Regarding the violations set forth in Paragraph 13 above, which  
20 are expressly settled herein, the parties hereby waive any and  
21 all of their rights under United States and Oregon Constitutions,  
22 statutes and administrative rules and regulations to any and all  
23 notices, hearings, judicial review, and to service of a copy of  
24 the final order herein.

25 IV. Respondent acknowledges that it has actual notice of the contents and  
26 requirements of this stipulated and final order and that failure to

1 fulfill any of the requirements hereof other than those  
2 requirements for which penalties are specified herein,  
3 would constitute a violation of this stipulated final  
4 order and could subject Respondent to liability for  
5 additional and independent penalties in amounts as great  
6 as the statutory maximum and would not be limited in  
7 amount by this stipulated final order. Therefore, should  
8 Respondent commit any violation of this stipulated final  
9 order, Respondent hereby waives any rights it might then  
10 have to any and all ORS 468.125(1) advance notices prior  
11 to the assessment of civil penalties for any and all such  
12 violations.

13 DEPARTMENT OF ENVIRONMENTAL QUALITY

14 By Michael Downs for  
Date 2/15/78  
WILLIAM H. YOUNG, Director

15 RESPONDENT

16 By Bernard W. Gamson  
Date \_\_\_\_\_  
Name: Bernard W. Gamson  
17 Title: Vice President Primary Products

18 FINAL ORDER

19 IT IS TO ORDERED:

20 ENVIRONMENTAL QUALITY COMMISSION

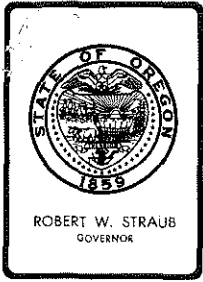
21 Joe B. Richards, Chairman

22 Al Densmore, Member

23 Grace S. Phinney, Member

24 Ronald M. Somers, Member

25 Jacklyn L. Hallock, Member



## *Environmental Quality Commission*

522 S. W. Fifth Avenue, Portland, OR 97204 | PHONE (503) 229-5696

### MEMORANDUM

TO: Environmental Quality Commission  
FROM: Hearing Officer  
SUBJECT: Agenda Item E, February 24, 1978, Commission Meeting  
Contested Case Hearings: Motions for Commission Action

Included are the Department's motions in the following contested case matters:

DEQ v. R. Randall Taylor, LQ-MWR-76-138

DEQ v. Dennis E. Grande, AQ-PR-77-45

DEQ v. Arline Laharty, LQ-MWR-75-209

DEQ v. David Hengsteller, S.S.D. Permit 15-444-74N

DEQ v. Mr. and Mrs. William Melquist, SS-MWR-76-156 and SS-MWR-76-281

The pertinent correspondence in each case is included following the motions. Typically, there is a copy of the motion and supporting argument, a copy of the Respondent's request for Commission review, a copy of any correspondence which would have notified the Respondent of the requirements of the administrative rules involved, and a copy of notice of this hearing on the motion.

Mr. and Mrs. Melquist's requests are appended to the bottom of letters sent to them and returned.

It is recommended that the Department, through its counsel, and the affected Respondent in each case be given an opportunity to be heard on each motion if they so desire.

Respectfully submitted,

Peter W. McSwain  
Hearing Officer

PWM:jas  
2/10/78  
Attachments



Contains  
Recycled  
Materials

JAMES A. REDDEN  
ATTORNEY GENERAL



DEPARTMENT OF JUSTICE

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

RECEIVED  
FEB 10 1978

DEPT. OF ENVIROMENTAL QUALITY

February 9, 1978

Environmental Quality Commission  
522 S. W. Fifth  
Yeon Building  
Portland, Oregon 97201

Re: DEQ v. Randall Taylor  
Before the Environmental Quality Commission  
No. LQ-MWR-76-138

Dear Commissioners:

Enclosed for filing in the subject case is the Department's Supplemental Motion to Dismiss for failure to prosecute, with Certificate of Service attached.

We respectfully request that this matter be placed upon the agenda of the February Environmental Quality Commission meeting.

Sincerely,

Robert L. Haskins  
Assistant Attorney General

pjv

Enclosure

cc: William H. Young - w/enc.  
T. Jack Osborne - w/enc.  
Daryl Johnson - w/enc.  
Fred Bolton - w/enc.  
Randall Taylor - w/enc.  
Roy Burns - w/enc.





1 conclusions of law and proposed order with the Commission on  
2 or before January 12, 1978, as required by OAR 340-11-132(4).  
3 Respondent's failure continues to this date. Neither has  
4 Respondent requested an extension for filing.

5 Thus Respondent is also in default for his failure to  
6 diligently prosecute his appeal in compliance with the  
7 rules of the Commission. Therefore the Commission should  
8 issue a final order dismissing Respondent's request for review  
9 and adopting and affirming the hearing officer's proposed  
10 findings of fact, conclusions of law and final order,  
11 and his opinion.

12 Dated this 9th day of February, 1978.

13 JAMES A. REDDEN  
14 Attorney General

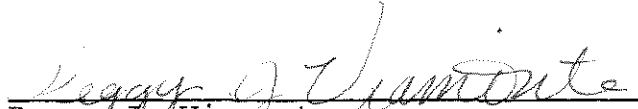
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16 ROBERT L. HASKINS  
17 Assistant Attorney General  
18 Of Attorneys for Department  
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CERTIFICATE OF SERVICE

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I hereby certify that I served the foregoing Supplemental Motion to Dismiss upon Respondent Randall Taylor, Attorney at Law, by mailing to him a copy thereof. I further certify that said copy was placed in a sealed envelope addressed to said attorney at 87968 Oak Island, Veneta, Oregon, 97487, his last known address, and deposited in the Post Office at Portland, Oregon, on the 9th day of February, 1978, and that the postage thereon was prepaid.

  
Peggy J. Viamonte  
Administrative Assistant  
Oregon Department of Justice  
Of Attorneys for Department

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

JAMES A. REDDEN  
ATTORNEY GENERAL



**DEPARTMENT OF JUSTICE**

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

January 11, 1978

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
JAN 11 1978

Environmental Quality Commission  
522 SW Fifth  
Portland, Oregon 97201

**OFFICE OF THE DIRECTOR**

Re: DEQ v. Randall Taylor  
Before the Environmental Quality Commission  
No. LQ-MWR-76-138

Dear Commissioners:

Enclosed for filing in the subject case is motion to dismiss, with certificate of service attached.

We respectfully request that this matter be placed upon the agenda of the February Environmental Quality Commission meeting.

Sincerely,

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

Robert L. Haskins  
Assistant Attorney General

RLH/sar  
Enclosure

cc: William H. Young (w/encl.) ✓  
T. Jack Osborne  
Daryl Johnson  
Fred Bolton (w/encl.)  
Randall Taylor (w/encl.)

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

3 DEPARTMENT OF ENVIRONMENTAL QUALITY           )  
4 of the STATE OF OREGON,                           )       No. LQ-MWR-76-138  
5   Department,                           )  
6   v.   )       MOTION TO DISMISS  
7 RANDALL TAYLOR,                                    )  
8   Respondent.                                    )

9           The Department moves the Commission for an order dismissing  
10 Respondent's request for Commission review of the proposed order  
11 of the presiding officer in the above-captioned matter, for the  
12 reason that it appears from the Commission's files and records in  
13 this contested case that said order was mailed by certified mail,  
14 addressed to Respondent, on December 13, 1977, and therefore  
15 the order is now final; Respondent's request for review was  
16 not timely filed with the Commission on or before December 27,  
17 1977, but was instead filed after that date.

18           Therefore, the Department further respectfully moves the  
19 Commission to issue a final order adopting and affirming the  
20 hearing officer's proposed findings of fact, conclusions of law  
21 and final order and opinion.

22   POINTS AND AUTHORITIES

23           A proposed order becomes the final order of the Commission  
24 unless a timely request for review is filed; OAR 340-11-132(3).  
25 Respondent had through December 27, 1977 (14 days from the date  
26 of mailing of the order on December 13, 1977) in which to file

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

1 a request for Commission review of the proposed order; OAR  
2 340-11-132(2). Respondent, through his attorney, filed his  
3 request for Commission review late.

4  
5 /s/ Robert L. Haskins

6 ROBERT L. HASKINS  
7 Assistant Attorney General of  
8 Attorneys for Department  
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CERTIFICATE OF MAILING

I hereby certify that I served the foregoing Motion to Dismiss on Respondent, by mailing to him a true and correct copy thereof. I further certify that said copy was placed in a sealed envelope addressed to said Respondent at Taylor and Taylor, P. O. Box 247, Veneta, Oregon, 97847, his last known address, and deposited in the Post Office at Portland, Oregon, on the 11th day of January, 1978, and that the postage thereon was prepaid.

/s/ Robert L. Haskins  
ROBERT L. HASKINS  
Assistant Attorney General

James A. Redden  
Attorney General  
500 Pacific Building  
Portland, Oregon 97204  
Telephone 239-5725

TAYLOR AND TAYLOR

ATTORNEYS AT LAW

88124 TERRITORIAL ROAD

MAILING ADDRESS: P.O. BOX 247

VENETA, OREGON 97487

TELEPHONE  
(503) 935-2246

R. RANDALL TAYLOR  
R. SCOTT TAYLOR

December 28, 1977

Peter McSwain  
Environmental Quality Commission  
1234 S.W. Morrison  
Portland, OR 97205

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

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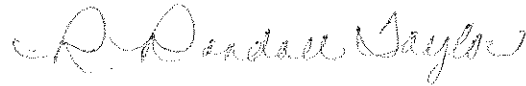
OFFICE OF THE DIRECTOR

Re: DEQ v. Randall Taylor  
LQ-MWR-76-138

Dear Mr. McSwain:

Enclosed herein please find the original  
and copy of my notice of review.

Very truly yours,



R. RANDALL TAYLOR *js.*

RRT/js

Enclosures

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Before the Environmental Quality Commission  
of the  
State of Oregon

Department of Environmental Quality,  
Department,  
v.  
R. Randall Taylor,  
Respondent.

Case No. LQ-MWR-76-138

NOTICE OF REVIEW

COMES NOW the Respondent and hereby notifies the Department that the Respondent requests the Commission to review the above entitled matter.

Respectfully submitted,

  
R. RANDALL TAYLOR

TAYLOR AND TAYLOR  
ATTORNEYS AT LAW  
P. O. BOX 247  
VENETA, OREGON 97487  
935-2246



December 12, 1977

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Randall Taylor  
Taylor and Taylor, Attorneys at Law  
P.O. Box 247  
Veneta, Oregon 97487

Re: DEQ v. Randall Taylor  
LQ-MWR-76-138

Dear Mr. Taylor:

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

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

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

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

Sincerely,

Peter McSwain

PM:mef

Enclosure

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

January 17, 1978

CERTIFIED MAIL #346696

Mr. Randall Taylor  
Taylor and Taylor, Attorneys at Law  
P. O. Box 247  
Veneta, Oregon 97487

Re: DEQ v. Randall Taylor  
LQ-MWR-76-138  
Lane County

Dear Mr. Taylor:

The Environmental Quality Commission will meet on February 24, 1978 in the Salem City Council Chambers at 555 Liberty Street S.E., Salem, Oregon. The Commission will consider the Department's motion to dismiss your request for Commission review of the Hearing Officer's proposed Findings of Fact, Conclusions of Law and Final Order in the above-referenced contested case.

The agenda item concerning motions for Commission action in contested case hearings is set for 9:15 A.M. You may be heard if you are present (in person or through counsel) at that time and remain until the Commission takes up this matter.

Please plan to limit your oral argument to 5 minutes as the Commission has a full agenda. You may file a written argument by mailing to the above address no later than February 10, 1978.

It is our understanding that the only issue to be taken up will be the motion to dismiss your appeal. The Commission is not expected to deliberate on the merits of the findings of fact and conclusions of law proposed by the Hearing Officer.

If you have questions, please write or call the undersigned.

Sincerely,

Peter W. McSwain  
EQC Hearing Officer

VAK:gcd  
cc: Joe B. Richards  
Fred Bolton  
Robb Haskins  
Midwest Region

JAMES A. REDDEN  
ATTORNEY GENERAL



**DEPARTMENT OF JUSTICE**

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

RECEIVED

FEB 10 1978

DEPT. OF ENVIRONMENTAL QUALITY

February 9, 1978

Environmental Quality Commission  
522 S. W. Fifth  
Yeon Building  
Portland, Oregon 97201

Re: DEQ v. Dennis E. Grande  
Before the Environmental Quality Commission  
No. AQ-PR-77-47

Dear Commissioners:

Enclosed for filing in the subject case is the Department's Supplemental Motion to Dismiss for failure to prosecute, with Certificate of Service attached.

We respectfully request that this matter be placed upon the agenda of the February Environmental Quality Commission meeting.

Sincerely,

Robert L. Haskins  
Assistant Attorney General

pjv  
Enclosure

cc: William H. Young w/enc.  
Daryl Johnson-w/enc.  
Fred Bolton-w/enc.  
E. J. Weathersbee-w/enc.  
Robert Gilbert-w/enc.  
Robert McKee-w/enc.




1 of law and proposed order with the Commission on or before  
2 January 12, 1978, as required by OAR 340-11-132(4). Respondent's  
3 failure continues to this date. Neither has Respondent  
4 requested an extension for filing.

5 Thus Respondent is also in default for his failure to  
6 diligently prosecute his appeal in compliance with the rules  
7 of the Commission. Therefore the Commission should issue a  
8 final order dismissing Respondent's request for review and  
9 adopting and affirming the hearing officer's proposed findings  
10 of fact, conclusions of law and final order and opinion.

11 Dated this 9th day of February, 1978.

12 JAMES A. REDDEN  
13 Attorney General


14   
15 ROBERT L. HASKINS  
16 Assistant Attorney General  
17 Of Attorneys for Department

18  
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21 James A. Redden  
22 Attorney General  
23 500 Pacific Building  
24 Portland, Oregon 97204  
25 Telephone 229-5725  
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CERTIFICATE OF SERVICE

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I hereby certify that I served the foregoing Supplemental Motion to Dismiss on Robert McKee, attorney for the Respondent, by mailing to him a copy thereof. I further certify that said copy was placed in a sealed envelope addressed to said attorney at McKee and Allen, 7318 North Leavitt Avenue, Portland, Oregon, 97203, his last known address, and deposited in the Post Office at Portland, Oregon, on the 9th day of February, 1978, and prepaying the postage thereon.

  
Peggy G. Wiamonte  
Administrative Assistant  
Oregon Department of Justice  
Of Attorneys for Department

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

JAMES A. REDDEN  
ATTORNEY GENERAL



**DEPARTMENT OF JUSTICE**

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

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**R E C E I V E D**  
JAN 11 1978

January 10, 1978

**OFFICE OF THE DIRECTOR**

Environmental Quality Commission  
522 SW Fifth  
Portland, Oregon 97201

Re: DEQ v. Dennis E. Grande  
Before the Environmental Quality Commission  
No. AQ-PR-77-47

Dear Commissioners:

Enclosed for filing in the subject case is motion to dismiss, with certificate of service attached.

We respectfully request that this matter be placed upon the agenda of the February Environmental Quality Commission meeting.

Sincerely,

Robert L. Haskins  
Assistant Attorney General

RLH/sar  
Enclosure

cc: William H. Young (w/encl.)  
E. J. Weathersbee  
Robert Gilbert  
Fred Bolton (w/encl.)

1                   BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2                                   OF THE STATE OF OREGON

3	DEPARTMENT OF ENVIRONMENTAL QUALITY	)	
4	of the STATE OF OREGON,	)	No. AQ-PR-77-45
		)	
5	Department,	)	
		)	
6	v.	)	MOTION TO DISMISS
		)	
7	DENNIS E. GRANDE,	)	
		)	
8	Respondent.	)	

9           The Department moves the Commission for an order dismissing  
10 Respondent's request for Commission review of the proposed order  
11 of the presiding officer in the above-captioned matter, for the  
12 reason that it appears from the Commission's files and records in  
13 this contested case that said order was mailed by certified mail,  
14 addressed to Respondent's attorney, on December 13, 1977, and  
15 therefore the order is now final; Respondent's request for  
16 review was not timely filed with the Commission on or before  
17 December 27, 1977, but was instead filed after that date.

18           Therefore, the Department further respectfully moves the  
19 Commission to issue a final order adopting and affirming the  
20 hearing officer's proposed findings of fact, conclusions of law  
21 and final order and opinion.

22                                   POINTS AND AUTHORITIES

23           A proposed order becomes the final order of the Commission  
24 unless a timely request for review is filed; OAR 340-11-132(3).  
25 Respondent had through December 27, 1977 (14 days from the date  
26 of mailing of the order on December 13, 1977) in which to file

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



1 a request for Commission review of the proposed order; OAR  
2 340-11-132(2). Respondent, through his attorney, filed his  
3 request for Commission review late.

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5 ROBERT L. HASKINS  
6 Assistant Attorney General of  
7 Attorneys for Department  
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James A. Redden  
Attorney General  
500 Pacific Building  
Portland, Oregon 97204  
Telephone 229-5725

1 CERTIFICATE OF MAILING

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3 I hereby certify that I served the foregoing Motion  
4 to Dismiss on Robert McKee, attorney for the Respondent,  
5 by mailing to him a true and correct copy thereof. I further  
6 certify that said copy was placed in a sealed envelope addressed  
7 to said attorney at McKee and Allen, 7318 N. Leavitt Avenue,  
8 Portland, Oregon, 97203, his last known address, and deposited  
9 in the Post Office at Portland, Oregon, on the 10<sup>th</sup> day of  
10 January, 1978, and that the postage thereon was prepaid.

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13 ROBERT L. HASKINS  
14 Assistant Attorney General  
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James A. Redden  
Attorney General  
500 Pacific Building  
Portland, Oregon 97204  
Telephone 229-5725

ROBERT L. MCKEE  
WARNER E. ALLEN

MCKEE & ALLEN  
ATTORNEYS AT LAW  
7318 N. LEAVITT  
PORTLAND, OREGON 97203  
TELEPHONE 286-5733  
AREA CODE 503

December 23, 1977

OUR FILE NO. 0377 06M

Mr. Peter W. McSwain  
Environmental Quality Commission  
1234 S.W. Morrison Street  
Portland, Oregon

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
JAN -4 1978

**OFFICE OF THE DIRECTOR**

RE: DEQ v. Dennis E. Grande  
AQ-PR-77-45

Dear Mr. McSwain:

I am hereby requesting a review of the Proposed Final Order dated the 26th day of November, 1977, in the above-entitled matter.

I am enclosing a copy of this request for the Department as stated in your letter of December 13, 1977.

Respectfully yours,

McKee & Allen

  
Robert L. McKee

RLM/11

Enclosure

c.c. Department of Environmental Quality

MCKEE & ALLEN

ATTORNEYS AT LAW

7318 N. LEAVITT

PORTLAND, OREGON 97203

TELEPHONE 286-5733

AREA CODE 503

ROBERT L. MCKEE  
WARNER E. ALLEN  
ASSOCIATE  
DANIEL L. MOODY

December 23, 1977

0377 06M

Mr. Peter W. McSwain  
Environmental Quality Commission  
1234 S.W. Morrison Street  
Portland, Oregon

RE: DEQ v. Dennis E. Grande  
AQ-PR-77-45

Dear Mr. McSwain:

I am hereby requesting a review of the Proposed Final Order dated the 26th day of November, 1977, in the above-entitled matter.

I am enclosing a copy of this request for the Department as stated in your letter of December 13, 1977.

Respectfully yours,

McKee & Allen

Robert L. McKee

RLM/11

Enclosure

c.c. Department of Environmental Quality

December 12, 1977

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Robert McKee  
McKee and Allen, Attorneys at Law  
7318 North Leavitt Avenue  
Portland, Oregon 97203

Re: DEQ v. Dennis E. Grande  
AQ-PR-77-45

Dear Mr. McKee:

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

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

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

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

Sincerely,

PM:mef

Enclosure

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

January 17, 1978

CERTIFIED MAIL #346697

Mr. Robert McKee  
McKee and Allen  
7318 N. Leavitt Avenue  
Portland, Oregon 97203

Re: DEQ v. Dennis E. Grande  
AQ-PR-77-45  
Multnomah County

Dear Mr. McKee:

The Environmental Quality Commission will meet on February 24, 1978 in the Salem City Council Chambers at 555 Liberty Street S.E., Salem, Oregon. The Commission will consider the Department's motion to dismiss your request for Commission review of the Hearing Officer's proposed Findings of Fact, Conclusions of Law and Final Order in the above-referenced contested case.

The agenda item concerning motions for Commission action in contested case hearings is set for 9:15 A.M. You may be heard if you are present at that time and remain until the Commission takes up this matter.

Please plan to limit your oral argument to 5 minutes as the Commission has a full agenda. You may file a written argument by mailing to the above address no later than February 10, 1978.

It is our understanding that the only issue to be taken up will be the motion to dismiss your appeal. The Commission is not expected to deliberate on the merits of the findings of fact and conclusions of law proposed by the Hearing Officer.

If you have questions, please write or call the undersigned.

Sincerely,

Peter W. McSwain  
EQC Hearing Officer

VAK:gcd  
cc: Joe B. Richards  
Fred Bolton  
Robb Haskins  
Portland Region

October 24, 1977

CERTIFIED MAIL  
Return Receipt RequestedMrs. Arline Laharty  
24251 Warthen Road  
Elmira, Oregon 97437Re: Department of Environmental Quality v.  
Arline Laharty - Before the Environmental  
Quality Commission - No. LQ-MWR-75-209

Dear Mrs. Laharty:

As you may remember, the proposed order of the Commission's hearing officer in this matter was served upon you by mailing to Mr. Jon D. Briggs, then your attorney of record, on January 26, 1977.

His decision was essentially that you had only the possibility of a variance as an alternative to an order to abandon your subsurface sewage disposal system.

Your Notice of Appeal of the hearing officer's Proposed Final Order was filed on February 11, 1977.

It was agreed that we would stay the process of Commission Review until such time as you could have a variance request considered. This was done because if you had been able to obtain a variance the matter would probably be resolved. We are now informed that the variance officer has denied your request.

It is appropriate, if you still wish the Commission to review the hearing officer's proposal, that we resume that process.

Please take no more than thirty days herefrom in which to file exceptions and argument regarding the hearing officer's proposal. Such should include, where appropriate, your proposal of alternative findings, conclusions, and an alternative proposed final order.

Should we not receive these exceptions and argument for filing with the Commission and the Department at the above address within thirty days, you will be construed to have abandoned your request for Commission review. In that case, if neither the Department nor the Commission has sought review of his proposal by then, the hearing officer's Proposed Findings of Fact, Conclusions of Law, and Final Order will become final and you will have the right to no further review of this matter by this agency.

January 17, 1978

CERTIFIED MAIL #346695

Mrs. Arline Laharty  
24251 Warthan Road  
Elmira, Oregon 97437

Re: DEQ v. Arline Laharty  
LQ-MWR-75-209  
Lane County

Dear Mrs. Laharty:

The Environmental Quality Commission will meet on February 24, 1978 in the Salem City Council Chambers at 555 Liberty Street S.E., Salem, Oregon. The Commission will consider the Department's motion to dismiss your request for Commission review of the Hearing Officer's proposed Findings of Fact, Conclusions of Law and Final Order in the above-referenced contested case.

The agenda item concerning motions for Commission action in contested case hearings is set for 9:15 A.M. You may be heard if you are present (in person or through counsel) at that time and remain until the Commission takes up this matter.

Please plan to limit your oral argument to 5 minutes as the Commission has a full agenda. You may file a written argument by mailing to the above address no later than February 10, 1978.

It is our understanding that the only issue to be taken up will be the motion to dismiss your appeal. The Commission is not expected to deliberate on the merits of the findings of fact and conclusions of law proposed by the Hearing Officer.

If you have questions, please write or call the undersigned.

Sincerely,

Peter W. McSwain  
EQC Hearing Officer

VAK:gcd  
cc: Joe B. Richards  
Fred Bolton  
Robb Haskins  
Midwest Region



JAMES A. REDDEN  
ATTORNEY GENERAL



**DEPARTMENT OF JUSTICE**

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

RECEIVED  
FEB 10 1978

February 9, 1978

DEPT. OF ENVIRONMENTAL QUALITY

Environmental Quality Commission  
522 S. W. Fifth  
Yeon Building  
Portland, Oregon 97201

Re: DEQ v. Arline Laharty  
Before the Environmental Quality Commission  
No. LQ-MWR-75-209

Dear Commissioners:

Enclosed for filing in the subject case is the Department's Supplemental Motion to Dismiss for failure to prosecute, with Certificate of Service attached.

We respectfully request that this matter be placed upon the agenda of the February Environmental Quality Commission meeting.

Sincerely,

Robert L. Haskins  
Assistant Attorney General

pjv

Enclosure

cc: William H. Young - w/enc.  
T. Jack Osborne - w/enc.  
Daryl Johnson - w/enc.  
Fred Bolton - w/enc.  
Arline Laharty - w/enc.  
Roy Burns - w/enc.

1                   BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2                                   OF THE STATE OF OREGON

3 DEPARTMENT OF ENVIRONMENTAL QUALITY     )  
4 of the STATE OF OREGON,                    )

5                                   Department,                             )

  No. LQ-MWR-76-209

6                                   v.   )

  SUPPLEMENTAL  
  MOTION TO DISMISS

7 ARLINE LAHARTY,                             )

8                                   Respondent.                                )

9                   This motion supplements Department's previous 1977 letter  
10 motion to dismiss.

11                   The Department moves the Commission for an order dismissing  
12 Respondent's request for Commission review of the proposed order  
13 of the hearing officer in the above captioned matter, for the  
14 reason that it appears from the Commission's files and records  
15 in this contested case that Respondent failed to file a timely  
16 request for Commission review and that Respondent has failed to  
17 diligently prosecute her appeal before the Commission. Therefore,  
18 the Department further respectfully moves the Commission to  
19 issue a final order adopting and affirming the hearing officer's  
20 proposed findings of fact, conclusions of law and final order,  
21 and his opinion.

22   POINTS AND AUTHORITIES

23                   The hearing officer's proposed order was mailed by  
24 certified mail to Respondent on December 26, 1976. A proposed  
25 order becomes the final order of the Commission unless a  
26 timely request for review is filed. OAR 340-11-132(3). In  
order to invoke Commission jurisdiction, Respondent, who

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

1 was then represented by counsel, would have had to file  
2 a request for Commission review on or before January 9, 1977.  
3 OAR 340-11-132(2). Respondent, through her counsel, filed  
4 her request for Commission review on January 11, 1977 and  
5 therefore, did not perfect her appeal. Department's prior  
6 letter motion also raised this issue.

7 After the tardy request for Commission review was filed  
8 the parties agreed to postpone briefing of the appeal until  
9 Respondent's variance application had been acted upon.

10 (See letter motion). After Respondent's variance application  
11 had been denied, the Director, by letter dated October 24,  
12 1977, granted Respondent an extension of time through November  
13 23, 1977 in which to file exceptions, alternative findings  
14 of fact, conclusions of law and proposed order, pursuant  
15 to his authority under OAR 340-11-132(4) to do so. In the same  
16 letter the Director notified Respondent that her failure to  
17 comply would constitute a waiver of her request for review,  
18 and that said proposed order would then become final.

19 Respondent failed to file any exceptions, alternative  
20 findings of fact, conclusions of law and proposed order with  
21 the Commission on or before November 23, 1977, and her  
22 failure continues to this date. Neither has Respondent requested  
23 an extension for filing. Thus Respondent has waived her untimely  
24 request for review, and furthermore, is also in default for  
25 her failure to diligently prosecute her appeal in compliance  
26 with the rules of the Commission. Therefore, the Commission

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

1 should issue a final order dismissing Respondent's request  
2 for Commission review and adopting and affirming the hearing  
3 officer's proposed findings of fact, conclusions of law and  
4 final order, and his opinion.

5 Dated this 9th day of February, 1978.

6 JAMES A. REDDEN  
7 Attorney General

8 

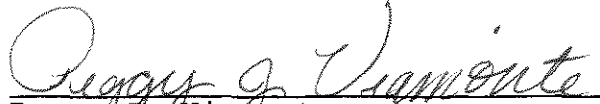
9 ROBERT L. HASKINS  
10 Assistant Attorney General  
11 Of Attorneys for Department  
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21 James A. Redden  
22 Attorney General  
23 500 Pacific Building  
24 Portland, Oregon 97204  
25 Telephone 229-5725  
26

CERTIFICATE OF SERVICE

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I hereby certify that I served the foregoing Supplemental Motion to Dismiss upon Respondent, Arline Laharty, by mailing to her a copy thereof. I further certify that said copy was placed in a sealed envelope addressed to Respondent at 24251 Warthan Road, Elmira, Oregon, 97437, her last known address, and deposited in the Post Office at Portland, Oregon on the 9th day of February, 1978, and prepaying the postage thereon.

  
Peggy J. Viamonte  
Administrative Assistant  
Oregon Department of Justice  
Of Attorneys for Department

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



State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

DEPARTMENT OF JUSTICE

RECEIVED

DEC 16 1977

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

OFFICE OF THE DIRECTOR

December 15, 1977

Environmental Quality Commission  
1234 S.W. Morrison  
Portland, Oregon 97204

Re: DEQ v. Arline Laharty, before the  
Environmental Quality Commission,  
No. LQ-MWR-75-209

Dear Commissioners:

On January 26, 1977 the Commission's hearing officer's proposed findings of fact, conclusions of law and final order were served upon Respondent. On February 11, 1977 Respondent, through her attorney, filed with the Commission a notice of appeal thereof. This notice was not timely. OAR 340-11-132(2).

Inasmuch as the hearing officer concluded that the only alternative to an order to abandon Respondent's illegally installed and failing subsurface sewage disposal system would be the possibility that a variance might be issued, the parties agreed to postpone the filing of exceptions, arguments and proposed findings regarding the hearing officer's proposal in order to allow Respondent sufficient time to file an application for a variance and receive a ruling thereon.

Respondent applied for a variance. By letter from the variance officer dated August 11, 1977, Respondent's application for a variance was denied. Respondent has not sought review of that decision. Therefore, pursuant to OAR 340-11-132(4) by letter to Respondent dated October 24, 1977, Director, William H. Young, re-established the schedule for filing exceptions, arguments and proposed findings regarding the hearing officer's proposal. The Director gave Respondent 30 days to file exceptions and arguments. In that letter he indicated that "[s]hould we not receive these exceptions and arguments for filing with the Commission and the Department at the above address within thirty days, you will be construed to have abandoned your request for Commission review ... and you will have the right to no further review of this matter by this agency." The 30 days have expired

Environmental Quality Commission  
December 15, 1977  
Page 2

and Respondent has neither filed exceptions and arguments nor requested additional time to do so.

Therefore, I respectfully move the Commission to:

- (1) Find that Respondent's notice of appeal was not timely;
- (2) find that Respondent is in default for her failure to diligently prosecute her appeal in compliance with the Commission's rule;
- (3) dismiss Respondent's appeal; and
- (4) issue a final order adopting and affirming the hearing officer's proposed findings of fact, conclusions of law and final order and opinion.

Sincerely,



Robert L. Haskins  
Assistant Attorney General

sr

cc: Mrs. Arline Laharty  
William H. Young  
T. Jack Osborne  
Fred Bolton  
Daryl Johnson  
Roy Burns

October 20, 1977

Mr. David J. Hengsteler  
Boat Route  
Lakeside, Oregon 97449

Re: DEQ v. David Hengsteler  
Before the Environmental Quality Commission  
No. 15-444-74N

Dear Mr. Hengsteler:

This letter will acknowledge our receipt of your request that the Commission review the hearing officer's Proposed Findings, Conclusions and Final Order in the above-captioned matter.

We received your notice on October 10, 1977.

Oregon Administrative Rule 340-11-132 provides you thirty days from the date of the hearing officer's proposal in which to file with the Commission and serve on the Department written exceptions and arguments accompanied by proposed alternate Findings and Conclusions.

We note that you may not now be represented by an attorney and might not have known of this rule. The thirty days will soon be up.

Therefore, with the permission of the Director, we hereby extend an additional thirty days for you and the Department to file your written exceptions, arguments, and alternate Findings and Conclusions. You may have until November 25, 1977 in which to file these materials. You may file them simply by mailing them to this office.

In case you don't understand the nature of these materials, we will discuss them briefly. Exceptions are simply designations of those parts of the proposals to which you object. For example, if you object to Proposed Finding #\_\_\_\_\_, you may wish to argue in support of your exception, stating why you feel the finding is in error.

Finally, you should let the Commission and the Department know what finding of fact you wish the Commission to enter in order to correct the error. This would be accomplished by your drafting an alternate finding.



January 17, 1978

CERTIFIED MAIL #346694

Mr. David J. Hengsteler  
Boat Route  
Lakeside, Oregon 97449

Re: DEQ v. David Hengsteler  
No. 15-444-74N  
Jackson County

Dear Mr. Hengsteler:

The Environmental Quality Commission will meet on February 24, 1978 in the Salem City Council Chambers at 555 Liberty Street S.E., Salem, Oregon. The Commission will consider the Department's motion to dismiss your request for Commission review of the Hearing Officer's proposed Findings of Fact, Conclusions of Law and Final Order in the above-referenced contested case.

The agenda item concerning motions for Commission action in contested case hearings is set for 9:15 A.M. You may be heard if you are present (in person or through counsel) at that time and remain until the Commission takes up this matter.

Please plan to limit your oral argument to 5 minutes as the Commission has a full agenda. You may file a written argument by mailing to the above address no later than February 10, 1978.

It is our understanding that the only issue to be taken up will be the motion to dismiss your appeal. The Commission is not expected to deliberate on the merits of the findings of fact and conclusions of law proposed by the Hearing Officer.

If you have questions, please write or call the undersigned.

Sincerely,

Peter W. McSwain  
EQC Hearing Officer

VAK:gcd  
cc: Joe B. Richards  
Fred Bolton  
Robb Haskins  
Southwest Region

JAMES A. REDDEN  
ATTORNEY GENERAL



**DEPARTMENT OF JUSTICE**

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

RECEIVED

FEB 10 1978

DEPT. OF ENVIRONMENTAL QUALITY

February 9, 1978

Environmental Quality Commission  
522 S. W. Fifth  
Yeon Building  
Portland, Oregon 97201

Re: DEQ v. David Hengsteler  
Before the Environmental Quality Commission  
No. 15-444-74N/Jackson County

Dear Commissioners:

Enclosed for filing in the subject case is the Department's Supplemental Motion to Dismiss for failure to prosecute, with Certificate of Service attached.

We respectfully request that this matter be placed upon the agenda of the February Environmental Quality Commission meeting.

Sincerely,

Robert L. Haskins  
Assistant Attorney General

pjv  
Enclosure

cc: William H. Young - w/enc.  
T. Jack Osborne - w/enc.  
DEQ Medford Branch - w/enc.  
Fred Bolton - w/enc.  
Kerry Lay - w/enc.  
David Hengsteler - w/enc.



1 by his letter dated October 20, 1977 granted Respondent through  
2 November 25, 1977 in which to file written exceptions,  
3 arguments, etc., pursuant to his authority under OAR 340-11-132(4)  
4 to do so.

5 Respondent failed to file any exceptions, alternative  
6 findings of fact, conclusions of law and proposed order with  
7 the Commission by November 25, 1977, and his failure continues  
8 to this date. Neither has Respondent requested any additional  
9 time to do so. Thus Respondent is in default for his failure  
10 to diligently prosecute his appeal in compliance with the  
11 Commission's rules. Therefore the Commission should issue  
12 a final order dismissing Respondent's request for Commission  
13 review and adopting and affirming the hearing officer's  
14 proposed findings of fact conclusions of law and final order,  
15 and his opinion.

16 Dated this 9th day of February, 1978.

17 JAMES A. REDDEN  
18 Attorney General


19 

20 ROBERT L. HASKINS  
21 Assistant Attorney General  
22 Of Attorneys for Department  
23  
24  
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26

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

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Supplemental Motion To Dismiss on Respondent, by mailing to him a copy thereof. I further certify that said copy was placed in a sealed envelope addressed to said Respondent at Boat Route, Lakeside, Oregon, 97449, his last known address, and deposited in the Post Office at Portland, Oregon, on the 9th day of February, 1978, and that the postage was prepaid thereon.

  
Peggy J. Viamonte  
Administrative Assistant  
Oregon Department of Justice  
of Attorneys for Department

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



DEPARTMENT OF JUSTICE

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

December 15, 1977

Environmental Quality Commission  
1234 S.W. Morrison  
Portland, Oregon 97204

Re: DEQ v. David Hengsteller, before the  
Environmental Quality Commission,  
(Jackson County Permit No. 15-444-74N)

Dear Commissioners:


On or about September 26, 1977, the Commission's hearing officer issued proposed findings of fact, conclusions of law and opinion and a proposed final order in the subject case. Pursuant to OAR 340-11-132(2), by letter dated October 6, 1976, Respondent filed a request that the Commission review the hearing officer's proposed ruling.

Pursuant to OAR 340-11-132(4) Director, William H. Young, granted Respondent through November 25, 1977 in which to file written exceptions, arguments and alternative findings of fact and conclusions of law.

To this date, Respondent has neither filed those exceptions, arguments and alternative findings of fact and conclusions of law, nor has he requested any further time within which to file them. Therefore, on behalf of the Department I respectfully move the Commission to; (1) find that Respondent is in default for his failure to diligently prosecute his appeal in compliance with the Commission's rule; (2) dismiss Respondent's appeal; and (3) issue a final order adopting and affirming the hearing officer's proposed findings of fact, conclusions of law and opinion and proposed final order.

RECEIVED  
DEC 16 1977

Sincerely,

  
Robert L. Haskins  
Assistant Attorney General

sr

cc: David Hengsteller  
~~Fred Bolton~~  
T. Jack Osborne  
Rich Reiter  
Dan Frank  
Kerry Lay

Boat Route  
Lakeside, Oregon 97449  
October 6, 1977

Mr. Franklin P. Lamb, Hearing Officer  
Environmental Quality Commission  
1234 S.W. Morrison Street  
Portland, Oregon 97205

RECEIVED  
OCT 10 1977

Dear Mr. Lamb:

DEPT. OF ENVIRONMENTAL QUALITY

Re: David J. Hengsteler, Respondent  
#15-444-74N

In response to your September 26 letter addressed to Mr. Glenn H. Munsell, this letter is our formal request that you review the proposed order based on the contested case of August 25, 1976.

In particular, we would like a review of the determination that the property did not meet the mandatory soil requirements at the times of the two prior approvals. How is hindsight used to make this determination of the condition of soil fully two years prior? Man-made forces caused many changes--the freeway construction wash-out sent unusually heavy water coursing across the property carrying away top soil and causing erosion.


How can this denial be reconciled with Option 1 in the Department of Environmental Quality letter of July 3, 1975, stating in part, "The proposed revocation will be rescinded and this Department will issue you a permit to install your proposed subsurface sewage disposal system..." with certain conditions? Can the Environmental Quality Commission say unequivocally that if the system were installed, it would not be workable?

In making the determination that the property did not meet the mandatory soil requirements, was the entire 6.3 acres checked. It is inconceivable to believe that all the acreage has the same soil characteristics. Can it be so different from the properties on either side where subsurface sewage disposal is in use and presumably causing no difficulties?

This property was bought in good faith and in conformance with Oregon law at the time, and in reliance on the word of the governmental officials in charge at the time of purchase. Is it the practice of the E.Q.C. to deprive people of their savings with no recommendations or thought as to how they will live and no suggestions as to recourse for return of their investment?

Your consideration will be appreciated.

Very truly yours,

  
David J. Hengsteler

February 10, 1978

CERTIFIED MAIL #346719

Mr. & Mrs. William Melquist  
1275 Alvadore Road  
Junction City, Oregon 97445

Re: DEQ v. Mr. & Mrs. William Melquist  
Nos. SS-MWR-76-156 & SS-MWR-76-281  
Lane County

Dear Mr. & Mrs. Melquist:

The Environmental Quality Commission will meet on February 24, 1978 in the Salem City Council Chambers at 555 Liberty Street S.E., Salem, Oregon. The Commission will consider the Department's motion to dismiss your request for Commission review of the Hearing Officer's proposed Findings of Fact, Conclusions of Law and Final Order in the above-referenced contested case.

It may be many months before the Commission again meets in Eugene so it is necessary to proceed at the time and place arranged herein.

The agenda item concerning motions for Commission action in contested case hearings is set for 9:15 A.M. You may be heard if you are present (in person or through counsel) at that time and remain until the Commission takes up this matter.

Please plan to limit your oral argument to 5 minutes as the Commission has a full agenda. You may file a written argument by mailing to the above address no later than February 20, 1978.

It is our understanding that the only issue to be taken up will be the motion to dismiss your appeal. The Commission is not expected to deliberate on the merits of the findings of fact and conclusions of law proposed by the Hearing Officer.

If you have questions, please write or call the undersigned.

Sincerely,

Peter W. McSwain  
EQC Hearing Officer

VAK:gcd  
cc: Joe B. Richards  
Fred Bolton  
Robb Haskins  
Willamette Valley  
Roy Burns, Lane County



JAMES A. REDDEN  
ATTORNEY GENERAL



**DEPARTMENT OF JUSTICE**

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

RECEIVED  
FEB 10 1978

DEPT. OF ENVIRONMENTAL QUALITY

February 9, 1978

Environmental Quality Commission  
522 S. W. Fifth  
Yeon Building  
Portland, Oregon 97201

Re: DEQ v. Mr. and Mrs. William Melquist  
Before the Environmental Quality Commission  
No. SS-MWR-76-156 and SS-MWR-76-281

Dear Commissioners:

Enclosed for filing in the subject case is the Department's Motion to Dismiss for failure to prosecute, with Certificate of Service attached.

We respectfully request that this matter be placed upon the agenda of the February Environmental Quality Commission meeting.

Sincerely,

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

Robert L. Haskins  
Assistant Attorney General

pjv  
Enclosure

cc: William H. Young - w/enc.  
T. Jack Osborne - w/enc.  
Daryl Johnson - w/enc.  
Fred Bolton - w/enc.  
Roy Burns - w/enc.  
William Melquist w/enc.

1                   BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2                                   OF THE STATE OF OREGON

3	DEPARTMENT OF ENVIRONMENTAL QUALITY	)	
	of the STATE OF OREGON,	)	No. SS-MWR-76-156 and
4		)	
	Department,	)	No. SS-MWR-76-281
5		)	
	v.	)	
6	MR. AND MRS. WILLIAM MELQUIST,	)	MOTION TO DISMISS
7		)	
	Respondents.	)	

8           The Department moves the Commission for an order  
9 dismissing Respondent's request for Commission review of  
10 the proposed order of the hearing officer in the above  
11 captioned matter, for the reason that it appears from the  
12 Commission's files and records in this contested case that  
13 Respondent has failed to diligently prosecute his appeal.  
14 before the Commission. Therefore, the Department further  
15 respectfully moves the Commission to issue a final order adopting  
16 and affirming the hearing officer's proposed findings of fact,  
17 conclusions of law and final order, and his opinion.

18                                   POINTS AND AUTHORITIES

19           The proposed order in this case was mailed by certified  
20 mail, addressed to Respondents on September 13, 1977. Although  
21 Respondent timely requested Commission review with the Commission  
22 he had not filed any written exceptions, arguments etc., within  
23 30 days (October 13, 1977) as required by OAR 340-11-132(4).  
24 Therefore, by letter of October 14, 1977 the Director granted  
25 Respondent an extension through November 13, 1977 in which to  
26 file written exceptions, arguments etc., pursuant to his

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

1 authority under OAR 340-11-132(4) to do so.

2 Respondent failed to file any written exceptions, alternative  
3 findings of fact, conclusions of law and proposed order with the  
4 Commission by November 13, 1977, and his failure continues  
5 to this date. Neither has Respondent requested any additional  
6 time to so file. Thus Respondent is in default for his failure  
7 to diligently prosecute his appeal in compliance with the  
8 Commission's rules. Therefore the Commission should issue a  
9 final order dismissing Respondent's request for Commission  
10 review and adopting and affirming the hearing officer's proposed  
11 findings of fact, conclusions of law and final order and opinion.

12 Dated this 9th day of February, 1978.

13  
14 JAMES A. REDDEN  
Attorney General


15  
16 

17 ROBERT L. HASKINS  
18 Assistant Attorney General  
Of Attorneys for Department

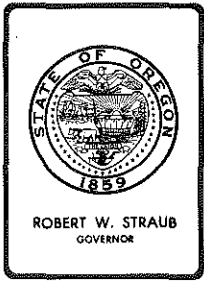
19  
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25  
26

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Motion to Dismiss on Respondent, by mailing to him a copy thereof. I further certify that said copy was placed in a sealed envelope addressed to said Respondent at 1275 Alvadore Road, Junction City, Oregon, 97445, his last known address, and deposited in the Post Office at Portland, Oregon, on the 9th day of February, 1978, and the postage thereon was prepaid.

  
Peggy J. Viamonte  
Administrative Assistant  
Oregon Department of Justice  
of Attorneys for Department

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



## *Environmental Quality Commission*

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

October 14, 1977

CERTIFIED MAIL  
Return Receipt Requested

Mr. and Mrs. William Melquist  
92717 Alvadore Road  
Junction City, Oregon 97448

Re: DEQ v. Melquist  
(SS-MWR-76-156 and  
SS-MWR-76-281)

Dear Mr. and Mrs. Melquist:

Thank you for notifying us of your request that the Commission review the hearing officer's Proposed Findings, Conclusions and Final Order in the above-captioned matters.

We received your notice on September 26, 1977.

Oregon Administrative Rule 340-11-132 provides you thirty days from the date of the hearing officer's proposal in which to file with the Commission and serve on the Department written exceptions and arguments accompanied by proposed alternate Findings and Conclusions. We'll explain this requirement further in a moment.

First, however, we note that you are not represented by an attorney and might not have known of this rule. The thirty days are up and we were unable to answer your letter sooner.

Therefore, with the permission of the Director, we hereby extend an additional thirty days for you and the Department to file your written exceptions, arguments, and alternate Findings and Conclusions. You may have until November 14, 1977 in which to file these materials. You may file them simply by mailing them to this office.

In case you don't understand the nature of these materials, we will discuss them briefly. Exceptions are simply designations of those parts of the proposals to which you object. For example, if the hearing officer proposed that a finding be entered that water pollution occurred on a given day, you might take exception to it as follows:



Contains  
Recycled  
Materials

Mr. and Mrs. William Melquist

- 2 -

October 14, 1977

Respondent(s) take(s) exception to Proposed Finding # \_\_\_\_\_ wherein the hearing officer stated "water pollution occurred..."

You may wish to argue in support of your exception, stating why you feel the finding is in error:

Finally, you should let the Commission and the Department know what finding of fact you wish the Commission to enter in order to correct the error. This would be done by your drafting an alternate finding.

The same process, (exceptions, argument and proposed alternative) should be used with regard to any conclusions of law with which you disagree and with regard to the proposed final order.

It will be necessary for you to travel to Medford, Oregon if you wish to be heard in the next few months, since Medford is the closest location of a timely Commission meeting in the near future. If you wish to delay the matter until such time as the Commission may meet closer to your home, please let this office know of your wish in writing within fifteen days hereof. We will take any such request under advisement, although it is uncertain when the Commission will next meet in the Eugene area.

You may be heard by the Commission on the morning of Friday, December 15, 1977 in Medford, Oregon. You will be notified by mail of the exact time and place several days before the hearing.

If you fail to obtain permission to appear at a later date and fail to appear at the time and place set forth above, this may be construed as your waiving your right to be heard orally. Any written materials you submit within thirty days, however, will still be considered by the Commission.

Sincerely,



Peter W. McSwain  
Hearing Officer

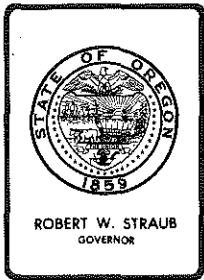
PWM:vt

cc: Robert Haskins  
Larry Schurr  
Daryl Johnson  
Carol Spletstaszer

RECEIVED  
OCT 24 1977

DEPT. OF ENVIRONMENTAL QUALITY

DEAR SIRs: UNLIKE BIG MONEY AND BIG POLITICS WE CANNOT AFFORD A LAWYER. ALSO, WE CANNOT AFFORD A LONG TRIP TO MEDFORD OREGON FOR THAT HEARING; HOWEVER, WE DO WISH AN ORAL HEARING WHEN THEY COME TO EUGENE. I AM SURE THAT THEY MUST COME TO EUGENE SOONER OR LATER AS IT IS SUCH A LARGE METROPOLITAN AREA AND MUST BE NEEDED HERE MORE THAN IN A SMALL COMMUNITY CONSTANTLY, ..W. MELQUIST  
THANK YOU.



# Environmental Quality Commission

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

September 13, 1977

CERTIFIED MAIL FOR RESPONDENTS' COPY  
RETURN RECEIPT REQUESTED

Mr. and Mrs. William Melquist  
92717 Alvadore Road  
Junction City, Oregon 97448

Mr. Larry Schurr  
Investigation & Compliance  
Department of Environmental Quality  
1234 S. W. Morrison Street  
Portland, Oregon 97205

Re: DEQ v. Melquist (SS-MWR-76-156  
and SS-MWR-76-281)

Dear Mr. & Mrs. Melquist and Mr. Schurr:

Enclosed please find the Proposed Final Orders in the above-captioned matters, preceded by Proposed Findings of Fact and Conclusions of Law.

The parties are reminded that unless review is requested by Mr. Melquist, Mrs. Melquist, the Department, or the Commission, the enclosed Proposals will become Final Orders of the Environmental Quality Commission by operation of Law. This will happen if review is not requested within fourteen days of our mailing of this letter.

Sincerely,

Peter W. McSwain  
Hearing Officer

PWM:mjb  
Enclosures

RECEIVED  
SEP 26 1977

cc: Environmental Quality Commissioners w/encl.  
Robert Haskins w/encl.

DEPT. OF ENVIRONMENTAL QUALITY

DEAR SIRs:

This is in responses to this mailing. I do REQUEST AN official review of this conclusion. I do not agree with your conclusions. Please notify me accordingly to when the review is to take place.

RESPECTFULLY

Mr. TO MELQUIST, JR.  
92717 Alvadore Rd  
Junction City, Oregon 97448 phone 998-8412



Contains  
Recycled  
Materials

STATE OF OREGON  
**ROUTE SLIP**

TO: Vi Date \_\_\_\_\_

FROM: Pete

- CHECK
- |  |   |
|--|---|
| <input type="checkbox"/> Approval                    | <input type="checkbox"/> Investigate                |
| <input checked="" type="checkbox"/> Necessary Action | <input type="checkbox"/> Confer                     |
| <input type="checkbox"/> Prepare Reply               | <input type="checkbox"/> Per Telephone Conversation |
| <input type="checkbox"/> For My Signature            | <input type="checkbox"/> For Your Information       |
| <input type="checkbox"/> Your Signature              | <input type="checkbox"/> As Requested               |
| <input type="checkbox"/> Comment                     | <input type="checkbox"/> Note and File              |
| <input type="checkbox"/> Initial and Return          | <input type="checkbox"/> Return With More Details   |

COMMENTS:  
*file with original of agenda item E*





*McSwain*

DEPARTMENT OF JUSTICE

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

February 16, 1978

Environmental Quality Commission  
522 S. W. Fifth Avenue  
Yeon Building  
Portland, Oregon 97204

- Re: DEQ v. Randall Taylor/No. LQ-MWR-76-138  
DEQ v. Dennis E. Grande/No. AQ-PR-77-47  
DEQ v. Arline Laharty/No. LQ-MWR-75-209  
DEQ v. David Hengsteler/No. 14-44-74N/Jackson County  
DEQ v. Mr. & Mrs. William Melquist  
Nos. SS-MWR-76-156 and SS-MWR-76-281

All Before the Environmental Quality Commission

Dear Commissioners:

Enclosed for filing in each of the subject cases are five originals of Memorandum in Support of Motions to Dismiss, with certificate of service attached.

Sincerely,

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

Robert L. Haskins  
Assistant Attorney General

- cc: Joe Richards - w/enc.  
Ronald Somers - w/enc.  
Jacklyn Hallock - w/enc.  
Al Densmore - w/enc.  
Grace Phinney - w/enc.  
William H. Young - w/enc.  
T. Jack Osborne - w/enc.  
E. J. Weathersbee - w/enc.  
Fred Bolton - w/enc.  
Robert Gilbert - w/enc.  
Rich Reiter - w/enc.  
Daryl Johnson - w/enc.  
Medford Branch Office - w/enc.  
Roy Burns - w/enc.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

FEB 21 1978

OFFICE OF THE DIRECTOR

Environmental Quality Commission  
February 16, 1978  
Page 2

cc: (continued from page 1)  
Kerry Lay - w/enc.  
Randall Taylor - w/enc.  
David Hengsteler - w/enc.  
Arline Laharty - w/enc.  
Robert McKee - w/enc.  
William Melquist - w/enc.

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 DEPARTMENT OF ENVIRONMENTAL QUALITY )  
4 OF THE STATE OF OREGON, )

5 Department, )

6 v. )

7 RANDALL TAYLOR, )

8 Respondent. )

MEMORANDUM IN SUPPORT OF  
MOTIONS TO DISMISS

No. LQ-MWR-76-138

9 DEPARTMENT OF ENVIRONMENTAL QUALITY )  
10 OF THE STATE OF OREGON, )

11 Department, )

12 v. )

13 DENNIS E. GRANDE, )

14 Respondent. )

No. AQ-PR-77-47

15 DEPARTMENT OF ENVIRONMENTAL QUALITY )  
16 OF THE STATE OF OREGON, )

17 Department, )

18 v. )

19 ARLINE LAHARTY, )

20 Respondent. )

No. LQ-MWR-75-209

21 DEPARTMENT OF ENVIRONMENTAL QUALITY )  
22 OF THE STATE OF OREGON, )

23 Department, )

24 v. )

25 DAVID HENGSTELER, )

26 Respondent. )

No. 15-444-74N  
Jackson County

1 DEPARTMENT OF ENVIRONMENTAL QUALITY, )  
OF THE STATE OF OREGON, )  
2 )  
3 Department, )  
4 v. )  
5 MR. AND MRS. WILLIAM MELQUIST, )  
6 Respondent. )  
7 )  
8 )  
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No. SS-MWR-76-156  
No. SS-MWR-76-281

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

1 I. STATEMENT OF THE CASES

2 These matters come before the Commission upon the Department's  
3 motions to dismiss each Respondent's request for Commission  
4 review. The facts and specific grounds for dismissal in  
5 each case are more particularly set forth in the separate  
6 motions now before the Commission. In brief, in each  
7 case the Respondent has received an adverse decision from the  
8 Commission's hearing officer following a contested case  
9 hearing on the merits. The Respondents have attempted to  
10 have their decisions reviewed by the Commission but each has  
11 failed to comply with the duly promulgated rules of this  
12 Commission regarding review procedure. The failures and  
13 omissions in each case follow two similar patterns. Therefore,  
14 for the Commission's convenience, the Department has chosen  
15 to discuss the common questions and legal issues in a single  
16 memorandum, with references to the facts set forth in the  
17 respective motions where necessary. The fact that five such  
18 cases have arisen at this time dramatically illustrates  
19 the increased number of contested cases which has occurred  
20 and the increase in appeals therefrom.

21 II. ISSUES PRESENTED

22 These cases present two basic issues regarding the  
23 consequences of a party's failure to comply with the review  
24 procedures of the Commission. Specifically these questions  
25 are:

26 1. May a Respondent who, through counsel, failed to

1 request the Commission to review a hearing officer's proposed  
2 final order before that order became final, as required by  
3 the Commission's rule OAR 340-11-132(2), nevertheless obtain  
4 Commission review of that final order by filing an untimely  
5 request for Commission review?

6       2.    May a Respondent who has filed a timely request for  
7 Commission review, but thereafter refuses to specify what portions  
8 of the hearing officer's proposed ruling he or she feels is  
9 erroneous and why, and fails to specify how the Commission  
10 could correct the alleged errors, all as required by the  
11 Commission's rule OAR 340-11-132(4), nevertheless obtain  
12 Commission review of the proposed ruling and require the  
13 Commission to search the entire record, without assistance, to  
14 assure that no error has been committed.

15       Furthermore, these cases as a group present the related  
16 questions of how the Commission shall best maintain its  
17 administrative efficiency in view of the large increase in  
18 the number of review requests, and how it shall apply its  
19 procedural rules so that it may fully consider those cases  
20 which are being seriously pursued by the parties.

### 21 III. DISCUSSION

#### 22 A. Introduction

23       These cases now before the Commission present an occasion  
24 for the Commission to give full meaning and effect to its  
25 appellate review procedures, OAR 340-11-132(1)-(4). Although  
26 substantially the same rules have been in force since 1974

1 these are the first cases to arise which pose questions as  
2 to the consequences of default and unexcused failures to comply  
3 with these rules.

4 In considering these questions of first impression  
5 the Commission now has the opportunity to exercise its  
6 mandatory authority and discretionary powers to enforce the  
7 plain meaning of these rules. Impartial enforcement of the  
8 existing rules will result in fairness for all parties  
9 seeking review. In fact, such a result will best serve  
10 the needs of other parties who have properly perfected and  
11 conscientiously pursued their rights by protecting the  
12 Commission's administrative efficiency in dealing with an ever  
13 increasing number of requests for review. This result can  
14 be reached by a full understanding of the purpose, meaning  
15 and effect of the present review procedures.

16 The procedure for invoking review of a proposed order  
17 in a contested case hearing is set forth at OAR 340-11-132(1)-(4):

18 "(1) In a contested case before the  
19 Commission, if a majority of the members  
20 of the Commission have not heard the case  
21 or considered the record, the Presiding  
22 Officer shall prepare a written proposed  
23 order including findings of fact and  
24 conclusions of law. Copies of the pro-  
25 posed order shall be filed with the Com-  
26 mission and parties in accordance with  
section 340-11-097 (regarding service of  
written notice).

"(2) The parties shall have fourteen  
(14) days from the date of mailing or per-  
sonal service in which to file with the  
Commission and serve upon the other parties  
a request that the Commission review the  
proposed order.

1           "(3) Unless a timely request for Com-  
2 mission review is filed with the Commission,  
3 or unless within the same time limit the  
4 Commission, upon the motion of its Chairman  
5 or a majority of the members, decides to  
6 review it, the proposed order of the Pre-  
7 siding Officer shall become the final order  
8 of the Commission.

9           "(4) If the Commission review is invoked,  
10 then the parties shall be given thirty days  
11 from the date of mailing or personal service  
12 of the Presiding Officer's proposed order,  
13 or such further time as the Director or Com-  
14 mission may allow, to file with the Commis-  
15 sion and serve upon the other parties written  
16 exceptions and arguments to the proposed  
17 order. Such exceptions and arguments shall  
18 include proposed alternative findings of fact,  
19 conclusions of law, and order and shall in-  
20 clude specific references to those portions  
21 of the record upon which the party relies.  
22 As to any finding of fact made by the Presid-  
23 ing Officer, the Commission may make an  
24 identical finding without any further consid-  
25 eration of the record. Further, the Commission  
26 may make a finding identical to that proposed  
by all parties other than the agency without  
any further consideration of the record."  
(Emphasis added)

16 These requirements are clear and unambiguous. In particular,  
17 subsection (2) mandates that a party has 14 days in which  
18 to file a request for review with the Commission, with no  
19 exceptions. Subsection (3) provides that the hearing officer's  
20 proposed order becomes a final order of the Commission by  
21 operation of law unless a timely request for review is filed or  
22 unless the Commission decides to review it within the same time  
23 limits. Subsection (4) further requires a party to specify  
24 what portions of the hearing officer's ruling he or she feels  
25 is erroneous and why, and how the Commission could correct  
26 the alleged errors (or request an extension of time in which to



1 do so) within 30 days, which is a reasonable amount of time.

2 A request for review which will comply with OAR 340-11-132  
3 (2) is nothing more than a statement to the effect that "I want  
4 the Commission to review the hearing officer's proposed ruling."  
5 Nothing more is required at that time. The appealing party,  
6 which of course can be the Department as well as the Respondent,  
7 then has a reasonable amount of time (30 days, expressly subject  
8 to extension) in which to apprise the Commission of its  
9 specific allegations of error and how to correct them. You  
10 should note that there are no express exceptions to the 14 day limit  
11 for filing a request for review, OAR 340-11-132(2), but there  
12 is express authority for extending the time for filing  
13 exceptions and arguments OAR 340-11-132(4). The absence of  
14 exceptions to the 14 day limit is reasonable because the burden of  
15 filing a timely request for Commission of review is very light and  
16 because after 14 days the hearing officer's proposed final order  
17 becomes the final order of the Commission by operation of law. OAR  
18 340-11-132(3). To allow an implied exception to the 14 day  
19 filing limit would dilute the finality of the order, whether  
20 the order is in favor of the Department or the Respondent.

21 In short, the filing of the request for Commission review  
22 required by OAR 340-11-132(2) perfects Respondent's right to present  
23 the Commission with Respondent's specific contentions that the  
24 hearing officer erred and Respondent's specific proposals for  
25 correcting those alleged errors. The 14 day limit is drafted as  
26 an absolute filing requirement, consistent with the policy of initial

1 filing requirements discussed below. In contrast, once the  
2 appeal has been perfected, OAR 340-11-132(4) merely requires the  
3 appealing party to file its written arguments, exceptions and  
4 alternatives within a specified period of time which can be  
5 extended as circumstances warrant. These rules are reasonable.  
6 Each serves a different function, subject to differing policy con-  
7 siderations. Similar requirements are imposed in appellate courts.  
8 Those courts require that: (1) a party perfect his appeal  
9 by the simple, unambiguous act of filing a notice of appeal  
10 by a date certain; and, (2) that thereafter he diligently  
11 prosecute his appeal by filing exceptions and briefs,  
12 as more fully explained below.

13 B. Initial Filing Requirements are Jurisdictional and Demand  
14 Strict Compliance.

15 The reasons for a mandatory initial filing requirement in  
16 general are to establish the jurisdictional requirement for  
17 perfecting an appeal to a reviewing authority, Valley Pipe Co.  
18 v. City of Albany, 215 Or 666, 671 (1959), by establishing  
19 beyond dispute the official record of a request for review,  
20 Williams v. Cody, 24 Or App 433, 545 P2d 905 (1976); In re  
21 Wagner's Estate, 182 Or 340, 342, 187 P2d 669 (1947), so that  
22 the party seeking review may perfect his right to appeal  
23 with certainty, and conversely so other parties in the matter  
24 may rely upon the finality of the judgment rendered in the  
25 absence of an official filing.

26

1 In the present cases, the Commission's rule OAR 340-11-  
2 132(2) requires as an initial filing no more from a party  
3 than a simple timely letter requesting the Commission to  
4 review the hearing officer's proposed order. Although more  
5 is subsequently required in the form of written exceptions  
6 etc., OAR 340-11-132(4), an additional amount of time is also  
7 allowed, (30 days from the date of the proposed order), and  
8 should circumstances warrant, either party may be granted an  
9 extension of time in which to prepare them. OAR 340-11-132(4).  
10 Thus the Commission's initial filing requirement does not force  
11 a party to make a hasty presentation, nor does it work  
12 discriminatorily against an appellant who has a complicated  
13 factual situation, since extensions may be granted once review  
14 is properly invoked. However, in order for a request for  
15 Commission review to be timely it must be filed before the  
16 proposed order becomes the Commission's final order, that is,  
17 within 14 days. OAR 340-11-132 (2), (3). No exceptions to this  
18 requirement have been drafted into the Commission's rules.  
19 In the interests of finality and administrative efficiency,  
20 far shorter filing periods for notices of appeal of administrative  
21 orders are required by other Oregon statutes. For example,  
22 in Williams v. Cody, supra, the Oregon Court of Appeals  
23 rejected an appeal from an order of the Fair Dismissal Appeals  
24 Board dismissing petitioner's appeal to that agency for failure  
25 to file within the five-day limit provided by statute, ORS  
26 342.905(1). In that case, petitioner's notice was received

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

1 by mail on the sixth day. As the Court of Appeals framed the issue:

2 "Petitioner contends that the date of  
3 filing for purposes of ORS 342.905(1) should  
4 be the date that the notice of appeal was  
5 deposited in the mailbox. He cites ORS 16  
6 .790(2) as authority of this proposition.  
7 That statute, however, related to service.  
8 There is a clear distinction between service  
9 and filing... [quoting from and citing, In Re  
Wagner's Estate, supra; Accord, Valley Pipe  
Co. v. City of Albany, 215 Or 666, 667-68, 300  
P2d 503 (1959) (cases collected). Therefore,  
petitioner's notice of appeal was not filed until  
May 29, after the five-day limit, and the Board  
properly dismissed it for lack of jurisdiction."  
24 Or App at 435-436.

10 Therefore, because the Commission's initial filing require-  
11 ment is so simple to comply with and has no express exceptions  
12 it should be held to be a mandatory requirement for invoking  
13 Commission review. The rule would thereby serve its intended  
14 purpose of providing a conclusive public record of the Commission's  
15 continuing jurisdiction in a case, or in the absence of such  
16 a filing a conclusive public record of the validity of the  
17 hearing officer's order, which in either case could be  
18 relied upon by the parties and the public. Otherwise the  
19 request for review requirement would serve no useful purpose,  
20 as only briefs would be necessary to frame the issues, and  
21 briefs (arguments, exceptions, and alternative findings, con-  
22 clusions and orders, OAR 340-11-132(4)) are also currently required.

23 There are few conceivable fact situations, if any, which could  
24 even arguably call for any exception to such a reasonable  
25 initial filing requirement, and certainly none are shown in  
26 any of these cases. There is therefore no judicial precedent

1 or power to waive a jurisdictional initial filing requirement.  
2 Gordon Creek Tree Farms, Inc. v. Layne, 230 Or 204, 358 P2d  
3 1062 (1961). Furthermore, Respondent Taylor is an attorney and  
4 a practicing member of the Oregon State Bar. He must have  
5 understood the requirements necessary to perfect his appeal.  
6 Additionally Respondents Grande and Laharty were represented by  
7 counsel at the relevant filing times. There can be no claim  
8 that the simple and unambiguous initial filing requirement  
9 contained in OAR 340-11-132(2) is unfair as applied to a  
10 practicing attorney or one represented by a member of the bar.

11 While this Commission could amend its rule to create  
12 discretionary exceptions to the initial filing requirement in  
13 extraordinary circumstances, the point is that the Commission  
14 has not commenced such a proceeding, and has no reason to do so.  
15 The present rule is both fair and impartial. It applies to the  
16 Department when it attempts to appeal as well as to Respondents.  
17 It provides a conclusive public record upon which the parties  
18 and the public can rely. Furthermore it serves administrative  
19 efficiency by allowing the Commission to concentrate its limited  
20 resources on consideration of other cases where the parties  
21 have been diligent in perfecting their rights before the  
22 Commission.

23 Initial filing requirements are strictly construed by  
24 reviewing authorities in order to satisfy the need for certainty  
25 which is inherent in the initial filing requirement itself.

26 U. S. v. Lombardo, 241 US 73, 76-77 (1915). Thus, a party

1 must comply exactly, both with the applicable rule and the  
2 commonly understood requirements of what constitutes an official  
3 initial filing in order to establish a reviewing authority's  
4 jurisdiction. Gordon Green Creek Farms, Inc. v. Layne, 230 Or 204,  
5 358 P2d 1062 (1961).

6 For example, the word "file" is not further defined  
7 in the rules of the Commission. Yet, in construing a similar  
8 requirement to "file" under the White Slave Traffic Act, 36  
9 Stat 825, 826, the U. S. Supreme Court considered the ordinary  
10 meaning of the word to include:

11 "Filing, it must be observed, is not  
12 complete until the document is deliv-  
13 ered and received. 'Shall file' means  
14 to deliver to the office and not send  
15 through the United States mails.  
16 Gates v. State, 128 N. Y. Court of  
17 Appeals, 221. A paper is filed when  
18 it is delivered to the proper official  
19 and by him received and filed. Bouvier  
20 Law Dictionary; White v. Stark, 134  
21 California, 178; Westcott v. Eccles,  
22 3 Utah, 258; In re Van Varcke, 94 Fed.  
23 Rep. 352; Mutual Life Ins. Co. v.  
24 Phiney, 76 Fed. Rep. 618. Anything  
25 short of delivery would leave the filing  
26 a disputable fact, and that would not be  
consistent with the spirit of the act."  
U. S. v. Lombardo, supra at 76-77.

21 Of course, one who mails a request for review apparently  
22 sufficiently prior to the filing deadline is not helplessly  
23 at the mercy of the mails. He may make a simple telephone  
24 call to the filing authority to confirm whether or not the  
25 document was received within the time anticipated, and if  
26 not, then deliver a copy in person.

Oregon courts have consistently applied the same standard

1 of strict compliance to jurisdictional filing requirements in  
2 this state. For example, In Re Wagner's Estate, supra, the  
3 Oregon Supreme Court considered whether appellant had  
4 complied with the then-applicable statute, Sec 10-803, O.C.L.A. 1

5 In that case counsel for appellant stated in an affidavit  
6 that he had placed the notice of appeal upon the desk of  
7 a deputy county clerk during the officer's absence on  
8 September 26, a date within the statutory filing period in that  
9 case. The Court held that this act was insufficient to  
10 constitute a proper filing. The court then explored the  
11 traditional rigorous application of filing requirements:

12 "It will be observed that our statute  
13 says that a notice of appeal, in order to  
14 be effective, must be served and filed  
15 within sixty days of the entry of the dec-  
16 ree or judgment. Black's Law Dictionary,  
17 3d Ed., attaches the following connotation  
18 to a requirement for filing:

19 "'A paper is said also to be filed when it  
20 is delivered to the proper officer, and by  
21 him received to be kept on file. 13 Vin.  
22 Abr. 211; 1 Litt. 113; 1 Hawk. P.C. 7, 207;  
23 Phillips v. Beene, 38 Ala. 251; Holman v.  
24 Chevallier, 14 Tex. 338. Beebe v. Morrell,  
25 76 Mich. 114, 42 N.W. 1119, 15 Am. St. Rep.  
26 288.'

"This court has several times held that a  
paper cannot be deemed to have been filed

1  
OCLA §10-803:

"An appeal to the supreme court, if  
not taken at the time of the rendition of the judgment or  
decree appealed from, or at the time of making the interlocutory  
order appealed from, shall be taken by serving and filing the  
notice of appeal, within 60 days from the entry of the judgment,  
and not otherwise; \* \* \*"

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1 unless it is not only delivered to the proper  
2 official, but also received by him. For  
instance, In re Conant's Estate, 43 Or. 530,  
3 73 P. 1018, the decision says:

4 "A paper or document is filed within  
the meaning of this statute when it is de-  
5 livered to and received by the clerk to be  
kept among the files of his office.'

6 "In Bade v. Hibberd, 50 Or. 501, 93 P. 364,  
the court said:

7 "A paper is filed in contemplation of  
8 law when it is delivered to the proper officer  
with the intention that it shall become a  
9 part of the official record, and by him received to  
be kept on file.'" 182 Or at 342-343.

10 There is no question that Respondents Taylor, Grande  
11 and Laharty have failed to satisfy the filing requirement of  
12 OAR 340-11-132(2) in their cases now before the Commission.  
13 Placing a request for review in the mail does not constitute a  
14 filing U. S. v. Lombardo, supra. Bringing a document to the proper  
15 proper office does not perfect a filing. In re Wagner's Estate,  
16 supra. Only delivery of the document to the proper officer  
17 and receipt by him will satisfy the filing requirement. In  
18 the present cases, Respondents were required to have their  
19 requests for review received and filed by the Commission on  
20 or before specific dates set forth in the respective motions in  
21 these cases and did not do so. Instead, in each the request  
22 was first received at a later date. Respondents allowed  
23 the hearing officer's proposed order to become final.  
24 Respondents have thus not satisfied this essential prerequisite  
25 for review, and the requests for review by Respondents Taylor,  
26 Grande and Laharty should be denied for the lack of jurisdiction



1 which results from their respective failures to file. Having  
2 allowed the hearing officer's proposed orders to become final,  
3 Respondents' only remaining remedy would then be to file  
4 petitions for judicial review with the Oregon Court of Appeals.

5 C. All of the Respondents Have Failed To Diligently  
6 Prosecute Their Appeals As Required By The Commission's Rule.

7 In the present cases Respondents Taylor, Grande and  
8 Laharty have not only failed to perfect their appeals, they  
9 have made no further effort whatsoever to prosecute their  
10 appeals, as required by the Commission's rule OAR 340-11-132(4).  
11 Thus in this respect they share a common fact element with  
12 Respondents Melquist and Hengsteler. In the latter two cases,  
13 Respondents Melquist and Hengsteler properly filed their  
14 requests for Commission review, but neither has made any  
15 effort to further comply with the appellate procedures of the  
16 Commission. Each is thus in default, and none has even  
17 requested the opportunity to cure his default, let alone  
18 give any reason why he should be allowed to do so.

19 Respondents' failures and omissions are not merely  
20 procedural. These are not minor defects. The requirement for  
21 a timely filing of exceptions and arguments is, of course, anal-  
22 ogous to the procedure for pursuing appellate review in the courts.  
23 The demand for a written record of exceptions is not merely  
24 procedural, but inherent in the basic proposition that error  
25 is never presumed on appeal, but instead must be affirmatively  
26 claimed and clearly shown by the record. Smith v. Brown,

1 237 Or 23, 390 P2d 364 (1964); Birks v. East Side Transfer Co.,  
2 197 Or 7, 241 P2d 120 (1952); Garrett v. Eugene Medical Center,  
3 190 Or 117, 224 P2d 563 (1950).

4 As the Oregon Supreme Court observed, "[i]n determining  
5 whether error exists we cannot resort to guesswork or speculation."  
6 Smith v. Brown, supra at 27. Similarly, the Commission  
7 cannot guess at what findings of fact or conclusions of law  
8 are being challenged by Respondent. The Commission cannot  
9 speculate as to what alternative order Respondent might wish.  
10 Neither can the Commission take the time consuming burden of  
11 searching the whole record, (that is, reading all the transcripts  
12 or listening to all the recordings, and reading all the exhibits,  
13 briefs, motions, and memoranda on file) looking for errors  
14 that might have been committed. Instead the Commission has  
15 reasonably placed the burden upon Respondents to clearly  
16 articulate what portions of the hearing officer's proposed  
17 order are erroneous and how those alleged errors could be  
18 corrected. OAR 340-11-132(4).

19 Any other allocation of the burden would result in  
20 an intolerable administrative task for the individual  
21 Commissioners. The number of requested hearings in contested  
22 cases has risen sharply. There are at present approximately  
23 50 outstanding contested cases in some stage of the hearings  
24 and review process still pending from 1977 alone. At least  
25 seven more requests for contested case hearings were filed  
26 in the first weeks of this year. It can be expected that the

1 number of contested cases and appeals therefrom will continue to  
2 escalate. The Commission cannot reasonably be expected to  
3 undertake to search through potentially dozens of case  
4 records in search of only problematic error and yet still perform  
5 other functions.

6 These defaults are particularly inexcusable where the  
7 Respondents are represented by counsel as are Respondents Taylor  
8 and Grande. In similar situations where a party is dilatory  
9 or omits acts necessary in connection with an appeal, the  
10 Supreme Court and the Court of Appeals have ample reason to  
11 dismiss an appeal for such default. ORS 19.033(3); Supreme Court  
12 and Court of Appeals Rules of Procedure, 12-05. The court's  
13 authority to relieve a party from default is discretionary,  
14 and there is little sentiment to rescue counsel from totally  
15 unexcused failure to be familiar with the governing rules and  
16 law. The court reasons that, while such a dismissal for attorney  
17 conduct may appear harsh on a client, a client with a deserving  
18 claim has recourse against his counsel. This reasoning  
19 demands accountability from members of the bar.

20 In other words, it is counsel's duty to be familiar  
21 with the requirements for prosecuting an appeal in the courts.  
22 Counsel has the same duty to be familiar with the applicable  
23 rules of this Commission, particularly when, as in all the  
24 cases now before the Commission, the requirements of the rules  
25 were outlined to them in the letters accompanying the hearing  
26 officer's proposed decisions. When an attorney chooses to

1 appear before the Commission, there is no reason why he  
2 should not be held to the standards of diligence required  
3 in court practice. The rules of the Commission, even the  
4 non-jurisdictional ones, deserve the same respect and compliance  
5 as those of the court. The time demands and the workload of  
6 the Commission should be obvious to these practitioners.  
7 In brief, there is absolutely no reason to rescue a practicing  
8 attorney from the consequences of his omissions and dilatory  
9 practices before the Commission.

10 But the requirement for making written arguments,  
11 exceptions and alternatives is so essential for efficient  
12 administrative review, and so simple for any Respondent to  
13 comply with, that there cannot be any excuse for failure  
14 to provide them in any of the cases now before the Commission.  
15 Counsel knew or should have known the requirements. Further-  
16 more these requirements were well-described in the hearing  
17 officer's letters to each of the Respondents Melquist,  
18 Hengsteler and Laharty. Nevertheless none of the Respondents  
19 has made any effort whatsoever to inform the Commission of  
20 his contentions. Neither have they requested any further  
21 guidance nor any additional time to comply.

22 In the absence of a timely (before exceptions, etc., due)  
23 request for additional time to file exceptions, etc., Respondents'  
24 appeals should be dismissed and thereby allow the Commission  
25 to concentrate its limited resources on considering other  
26 appeals where the appealing parties are diligently pursuing

1 their appeals and thereby expedite those appeals. Fairness  
2 to all parties who may come before the Commission and  
3 administrative efficiency are better achieved through impartial  
4 application of the existing rules to all parties including  
5 the Department. The only conclusion to draw from Respondents'  
6 failure to diligently prosecute their appeals is that they  
7 all have abandoned their appeals.

8  
9 IV. CONCLUSION

10 It has been the purpose of this memorandum to discuss  
11 the policy inherent in the review procedures promulgated  
12 by the Commission at OAR 340-11-132 (1) - (4). An under-  
13 standing of these reasonable, historically tested policies  
14 compels a conclusion that OAR 340-11-132(2) must be read  
15 as an absolute initial filing requirement. Thus it is incumbent  
16 upon a party seeking review to perfect his right within the  
17 terms of that rule in order that the Commission may gain  
18 jurisdiction over his appeal before the proposed order becomes  
19 final. It has been shown that Respondents Taylor, Grande  
20 and Laharty failed to file their requests for review in a  
21 timely manner. Accordingly these aforementioned Respondents  
22 have not invoked this Commission's review jurisdiction in  
23 the manner described by OAR 340-11-132(2) and their respective  
24 requests must be denied for lack of jurisdiction.

25 Moreover, it has been shown that administrative efficiency  
26 and fairness to all parties in contested cases are the

1 policies which underlie the requirement that parties file  
2 written arguments, exceptions, and alternatives, within  
3 a reasonable time. OAR 340-11-132(4). None of the Respondents  
4 in any of the cases at hand has complied with this rule.  
5 No reasons have been asserted yet, for this default.  
6 The Department believes that in light of the Commission's  
7 increased workload through its current and potential role  
8 in the review process it is necessary to impartially and  
9 consistently enforce the requirements of OAR 340-11-132(4).  
10 Furthermore, the Department urges that the Commission reserve  
11 the exercise of its discretionary power to extend the time  
12 for filing of written exceptions, etc., to only those cases  
13 in which a timely request for an extension is made for good  
14 cause. In the cases now before the Commission no requests  
15 for extensions have been made. Therefore, the Department urges  
16 the Commission to find each of these Respondents in default  
17 and to dismiss each respective request for review for failure  
18 to prosecute diligently.

19       Therefore, the Department urges that the Commission enter  
20 an order in each of these cases ordering dismissal of the  
21 respective requests for review and adopting the hearing officer's  
22 proposed findings, conclusions and order as the final order  
23  
24 of the Commission in each of the above-captioned cases where

25 / / /

26 / / /

1 such proposed order has not already become final.

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JAMES A. REDDEN  
Attorney General



ROBERT L. HASKINS  
Assistant Attorney General  
Of Attorneys for Department

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Memorandum in Support of Motions to Dismiss upon the below listed parties by mailing to them each a copy of said Memorandum on February 16, 1978. I further certify that said copies were placed in sealed envelopes addressed to those parties as follows:

William Melquist  
1275 Alvadore Road  
Junction City, Oregon 97445  
Respondent


Arline Laharty  
24251 Warthan Road  
Elmira, Oregon 97437  
Respondent

David Hengsteler  
Boat Route  
Lakeside, Oregon 97449  
Respondent

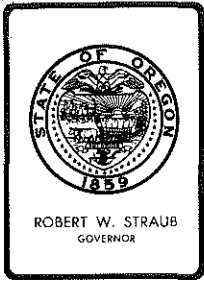
Randall Taylor  
Attorney at Law  
97968 Oak Island  
Veneta, Oregon 97487  
Respondent

Robert McKee  
Attorney at Law  
7318 North Leavitt Avenue  
Portland, Oregon 97203  
Attorney for Respondent Grande

their last known addresses, and deposited those copies in the Post Office at Portland, Oregon, prepaying the postage thereon.

  
Peggy J. Viamonte  
Administrative Assistant  
Oregon Department of Justice  
Of Attorneys for Department





## *Environmental Quality Commission*

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

### MEMORANDUM

**To:** Environmental Quality Commission  
**From:** Director  
**Subject:** Agenda Item F, February 24, 1978, EQC Meeting

Staff Report - Public Hearing and Consideration of Adoption of Permanent Rule Revisions to OAR Chapter 340, Section 35-030, Pertaining to Equivalency Between Commission-Adopted Motor Vehicle Noise Standards and Standards Referenced in 1977 Oregon Laws Chapter 273.

### Background

The Environmental Quality Commission adopted noise standards and testing procedures for in-use motor vehicles on July 19, 1974. These standards included a stationary test measured 25 feet from the vehicle and a moving test measured 50 feet from the vehicle.

The twenty-five foot stationary procedure proved inadequate to test vehicles in inspection centers and other limited space environments. In August 1976 and May 1977, procedures and standards for a "near field" twenty inch test were added to the Department's administrative rules in an effort to facilitate consistent enforcement of noise regulations. The near field procedures and standards were adopted on the strength of data developed by McDonnell Douglas Corporation under private contracts and published in three separate documents.\*

The exhaust noise standards and the kinds of motor vehicles to which they pertain are enumerated in 1977 Oregon Laws Chapter 273. This law specifies standards only for the outmoded twenty-five foot test, but provides that other standards determined by the Department to be substantially equivalent to the twenty-five foot standards may be used.

---

\*California Highway Patrol Exhaust System Certification, Pub. by McDonnell Douglas Corporation 1/1974.

Evaluation of Stationary and Moving Motorcycle Noise Test Methods for Use in Proposed Regulations, Pub. by McDonnell Douglas Corporation 12/1975.

Advance Release of Materials Relevant to the Development of the U.S. E.P.A. Motorcycle Noise Regulation, Pub. 11/1976.



Contains  
Recycled  
Materials

At the November 18, 1977 EQC meeting the Commission adopted a temporary rule that declared that the Department's motor vehicle noise emission standards are substantially equivalent to the standards referenced in the Motor Vehicle Code as specified in 1977 Oregon Laws Chapter 273.

As the temporary rule will expire on approximately March 18, 1978, a permanent rule must now be adopted. Therefore, the Department must declare that the standards it uses in the near field test are substantially equivalent to the 1977 Oregon Laws Chapter 273 twenty-five foot test standards. The Legislative mandate that Departmental rules and the statute be consistent has also necessitated the rewording of some of the vehicle classifications used by the Department for the near field and twenty-five foot tests.

The vehicle classifications and compliance schedules for the fifty foot moving test need not be amended. This test measures not only exhaust noise, but a number of other vehicle propulsion parameters, and does not fall within the purview of 1977 Oregon Laws Chapter 273.

The Department has determined that the near field standards are substantially equivalent to the twenty-five foot test standards mandated by the Legislature. This determination is the result of a consistency analysis of the pass-fail data from the above cited McDonnell Douglas reports. The previously adopted near field standards are identical to the standards adopted by the State of California with the exception of small changes considered necessary in the interests of equity and fairness.

#### Statement of Need

1. The proposed rule may be promulgated by the EQC under authority granted in ORS 467.030.
2. This rule is necessary to conform existing administrative rules of the Department with 1977 Oregon Laws Chapter 273, as required by the Oregon Legislature.
3. Principle documents relied upon in considering the need for this rule include:
  - a. California Highway Patrol Exhaust System Certification, Pub. by McDonnell Douglas Corporation 1/1974.
  - b. Evaluation of Stationary and Moving Motorcycle Noise Test Methods for Use in Proposed Regulations, Pub. by McDonnell Douglas Corporation 12/1975.
  - c. Advance Release of Materials Relevant to the Development of the U.S. E.P.A. Motorcycle Noise Regulation, Pub. 11/1976.
  - d. OAR Chapter 340 Division 35
  - e. 1977 Oregon Laws Chapter 273.

Summation

1. The 1977 Legislative Session amendments to the Motor Vehicle Code regarding excessive vehicle noise require the Commission to define noise emission standards that are "substantially equivalent" to those referenced in the statute.
2. Local police agencies are not able to administer noise tests referenced in the new statute, and a ruling that other emission standards are substantially equivalent must be promptly found to protect the public health and welfare.
3. The original rationale for adopting various in-use motor vehicle standards was to provide different enforcement options. The Department's intent was that the various standards for the 25 foot stationary test and the 20 inch near field test be substantially equivalent.
4. The temporary rule will expire in mid-March 1978, thus the adoption of a permanent rule will allow continued enforcement of Departmental motor vehicle noise standards.

Director's Recommendation

It is the Director's recommendation that the Commission adopt the proposed amendment to 340-35-030, as attached, in its entirety. This action will be consistent with the intent of the Legislature and will ensure that reduction of motor vehicle noise pollution will continue.



WILLIAM H. YOUNG

John Hector;dro  
229-5989  
2/7/78  
Attachment

1. Proposed Rule Amendment

DEPARTMENT OF ENVIRONMENTAL QUALITY  
PROPOSED AMENDMENT TO CHAPTER 340, OREGON ADMINISTRATIVE RULES

DIVISION 3

AIR POLLUTION CONTROL STANDARDS FOR AIR PURITY AND QUALITY

Subdivision 5

NOISE CONTROL REGULATIONS

January 18, 1978

Subdivision 5 is hereby proposed to be amended as follows: new material is underlined; material deleted is lined out and bracketed.

35-030 NOISE CONTROL REGULATIONS FOR IN-USE MOTOR VEHICLES

(1) Standards and Regulations:

(a) Road Vehicles

(A) No person shall operate any road vehicle which exceeds the noise level limits specified in Table B or C, except as otherwise provided in these rules.

(B) No person shall operate a road vehicle with any of the following defects:

(i) no muffler

(ii) leaks in the exhaust system

(iii) pinched outlet pipe

(C) Non-conforming "classic" and other "special interest" vehicles may be granted an exception to this rule, pursuant to Section 35-010, for the purpose of maintaining authentic equipment.

(b) Off-Road Recreational Vehicles.

(A) No person shall operate any off-road recreational vehicle which exceeds the noise level limits specified in Table D.

(B) No person shall operate an off-road recreational vehicle with any of the following defects:

- (i) no muffler
- (ii) leaks in the exhaust system
- (iii) pinched outlet pipe

(c) Trucks Engaged in Interstate Commerce. Motor vehicles with a GVWR or GCWR in excess of 10,000 pounds which are engaged in interstate commerce by trucking and are regulated by Part 202 of Title 40 of the Code of Federal Regulations, promulgated pursuant to Section 17 of the Noise Control Act of 1972, 86 Stat. 1248, Pub. L. 92-574, shall be:

- (A) free from defects which adversely affect sound reduction;
- (B) equipped with a muffler or other noise dissipative device;
- (C) not equipped with any "cut-out" devices, "by-pass" devices, or any other similar devices; and

(D) not equipped with any tire which as originally manufactured or newly retreaded has a tread pattern composed primarily of cavities in the tread, excluding sipes and local chunking, not vented by grooves to the tire shoulder or vented circumferentially to each other around the tire.

(d) Ambient Noise Limits.

(A) No person shall cause, allow, permit, or fail to control the operation of motor vehicles, including motorcycles, on property which he owns or controls, nor shall any person operate any such motor vehicle if the operation thereof increases the ambient noise level such that the appropriate noise level specified in Table E is exceeded as measured from either of the following points, if located within 1000 feet (305 meters) of the motor vehicle:

- (i) noise sensitive property, or
- (ii) the boundary of a quiet area.

(B) Exempt from the requirements of this subsection shall be:

- (i) motor vehicles operating in racing events;
- (ii) motor vehicles initially entering or leaving property which is more

than 1000 feet (305 meters) from the nearest noise sensitive property or boundary of a quiet area;

(iii) motor vehicles operating on public roads; and

(iv) motor vehicles operating off-road for non-recreational purposes.

(e) Auxiliary Equipment Noise Limits.

(A) No person shall operate any road vehicle auxiliary equipment powered by the road vehicle's primary power source which exceeds the noise limits specified in Table F, except as otherwise provided in these rules.

(B) As of June 1974, the Department does not have sufficient information to determine the maximum noise levels for road vehicle auxiliary equipment powered by a secondary source. Research on this noise source will be carried out with the goal of setting noise level limits by January 1, 1975.

(2) Measurement. Sound measurement shall conform to test procedures adopted by the Commission in Sound Measurement Procedures Manual (NPCS-1) and Motor Vehicle Sound Measurement Procedures Manual (NPCS-21) or to standard methods approved in writing by the Department.

(3) Exemptions.

(a) Motor vehicles registered as antique or historical motor vehicles licensed in accordance with ORS 481.205(4) are exempt from these regulations.

(b) Motor vehicle warning devices are exempt from these regulations.

(c) Vehicles equipped with at least two snowtread tires are exempt from the noise limits of Table C.

(d) Motor vehicles described in section (1)(c), which are demonstrated by the operator to be in compliance with the noise levels in Table C, for operation greater than 35 mph, are exempt from these regulations.

~~[(4) Substantially Equivalent:--it has been determined that the in-use road vehicle standards specified in Tables B and C are substantially equivalent to the 25-foot stationary test standards specified in 1977 Oregon Law; Chapter 273.]~~

Note: Temporary Rule--Will expire approximately March 18, 1978

(4) Equivalency

(a) The in-use motor vehicle standards specified in Table B have been determined by the Department to be substantially equivalent to the 25 foot stationary test standards set forth in 1977 Oregon Laws Chapter 273.

(b) Tests shall be conducted according to the procedures in Motor Vehicle Sound Measurement Procedures Manual (NPCS-21) or to standard methods approved in writing by the Department.

-5-

TABLE B

## In-Use Road Vehicle Standards

## Stationary Test

Vehicle Type	Model Year	Maximum Noise Level, dBA	Minimum Distance from Vehicle to Measurement Point
<u>All vehicles described in ORS 481.205(2)(a)</u>	<u>Before 1976</u>	<u>94</u>	<u>25 feet (7.6 meters)</u>
	<u>1976 and After</u>	<u>91</u>	<u>25 feet (7.6 meters)</u>
<del>[Vehicles in excess of 10,000 pounds (4536 kg) GVWR or GCWR engaged in interstate commerce as permitted by Title 40, Code of Federal Regulations, Part 202, Environmental Protection Agency (Noise Emission Standards Motor Carriers Engaged in Interstate Commerce)]</del>	<del>[All]</del>	<del>[88]</del>	<del>[50 feet (15.2 meters)]</del>
All other trucks in excess of <del>[10,000]</del> 8,000 pounds [ <del>4536</del> (3629 kg) GVWR	Before 1976	94	25 feet (7.6 meters)
	1976-1981	91	25 feet (7.6 meters)
	After 1981	88	25 feet (7.6 meters)
Motorcycles	1975 and Before	102	20 inches (1/2 meter)
	After 1975	99	20 inches (1/2 meter)
Front-engine automobiles, light trucks and all other front-engine road vehicles	All	95	20 inches (1/2 meter)
Rear-engine automobiles and light trucks and mid-engine automobiles and light trucks	All	97	20 inches (1/2 meter)
Buses as defined under ORS 481.030	Before 1976	94	25 feet (7.6 meters)
	1976 <del>[-1978]</del> and after 91		25 feet (7.6 meters)
	<del>[After-1978]</del>	<del>[88]</del>	<del>[25-feet-(7.6-meters)]</del>



TABLE C

In-Use Road Vehicle Standards

Moving Test At 50 Feet (15.2 meters) Or Greater At Vehicle Speed

<u>Vehicle Type</u>	<u>Model Year</u>	<u>Maximum Noise Level, dBA</u>	
		35 mph (56 kph) or less	Greater than 35 mph (56 kph)
Vehicles in excess of 10,000 pounds (4536 kg) GVWR or GCWR engaged in interstate commerce as permitted by Title 40, Code of Federal Regulations, Part 202, Environmental Protection Agency (Noise Emission Standards-Motor Carriers Engaged in Interstate Commerce)	All	86	90
All other trucks in excess of 10,000 pounds (4536 kg) GVWR	Before 1976	86	90
	1976-1981	85	87
	After 1981	82	84
Motorcycles	Before 1976	84	88
	1976	81	85
	1977-1982	79	83
	1983-1987	76	80
	After 1987	73	77
Automobiles, light trucks and all other road vehicles	Before 1976	81	85
	1976-1980	78	82
	After 1980	73	77
Buses as defined under ORS 481.030	Before 1976	86	90
	1976-1978	85	87
	After 1978	82	84

TABLE D  
Off-Road Recreational Vehicle Standards  
Allowable Noise Limits

<u>Vehicle Type</u>	<u>Model Year</u>	<u>Maximum Noise Level (dBA) and Distance from Vehicle to Measurement Point</u>	
		<u>Stationary Test 20 Inches (1/2 Meter)</u>	<u>Moving Test at 50 Feet (15.2 Meters)</u>
Motorcycles	1975 and Before	102	
	After 1975	99	
Snowmobiles	1971 and Before		86
	1972-1975		84
	1976-1978		80
	After 1978		77
Boats			
	Underwater Exhaust	All	84
	Atmosphere Exhaust	All	84
All Others			
	Front Engine	All	95
	Mid and Rear Engines	All	97

TABLE E

Ambient Standards for Vehicles Operated Near Noise Sensitive Property

Allowable Noise Limits

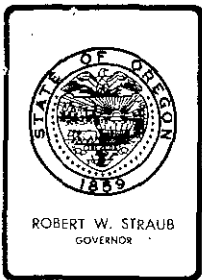
<u>Time</u>	<u>Maximum Noise Level, dBA</u>
7 a.m. - 10 p.m.	60
10 p.m. - 7 a.m.	55

TABLE F

Auxiliary Equipment Driven by Primary Engine Noise Standards

Stationary Test at 50 Feet (15.2 meters) or Greater

<u>Model Year</u>	<u>Maximum Noise Level, dBA</u>
Before 1976	88
1976-1978	85
After 1978	82



## *Environmental Quality Commission*

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

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item #G, February 24, 1978 EQC Meeting.  
Portland General Electric Company, Bethel Combustion  
Turbine Facility, Renewal of Air Contaminant Discharge  
Permit.

### INTRODUCTION

The Department held a public meeting on January 5, 1978 in Salem to obtain testimony on air quality and noise control aspects of the operation of the Portland General Electric (PGE) Bethel Turbine Generating Plant located near Salem. Condition 9 of the existing Air Contaminant Discharge Permit required holding a public hearing prior to renewal or modification of the Permit.

The existing Permit was issued by the Environmental Quality Commission on January 29, 1976. The Permit allowed emergency operation of the facility for 750 hours, or until December 31, 1977, whichever occurred first. PGE has filed a renewal application.

### BACKGROUND

During the 1976-1977 permit years, the Bethel plant operated 115 hours for emergency power generation during outages of the Trojan plant on January 25 and 26, 1977, and on March 29 through April 2, 1977. Additional operation occurred for noise testing and turbine exercise. The operation of the plant was much curtailed over previous permit periods. In 1973/1974, the plant ran 1200 hours for power generation and in 1974/1975, 320 hours for power. PGE anticipates less than 200 hours of operation per year during the upcoming two years.

The air and noise emission limits in the Permit have been met. During annual noise testing in the summer of 1976, PGE found that some degradation of the muffling unit on the 1-A engine had occurred, and the plant was marginally in compliance. The services of Bolt Beranek and Newman, Inc., a well-known acoustic consulting firm, were obtained

to study the problem and recommend solutions. By early 1977, new resonating chambers had been designed, fabricated, and installed on all four muffler units. Compliance noise testing conducted March 30 and May 16, 1977 by PGE's consultants and the Department's Noise Control Division showed that the plant could operate at base load and comply with the 76.8 dB daytime noise limit in the 31.5 Hz band. Compliance with the nighttime limit of 73.8 dB in the 31.5 Hz band could only be achieved, however, through operation of one twin-pak.

Although all present air quality limits have been met, there remains in the Permit a requirement for NOx control if the plant operates more than 200 hours per year and if the Department determines control is available. There has been some prototype work done with dry control methods on the Bethel "aircraft"-type turbine, but the developers indicate the controls won't be available for at least two more years. The Department does not believe that water injection NOx control is practicable due to the high cost of water treatment systems and effects on engine durability of the Bethel-type turbine.

Despite compliance with the air and noise limits, 56 complaints were received during 1976/1977. A breakdown of the complaints is as follows:

- 21 complaints on an audible noise during turbine operation.
- 14 complaints on a "sensation", feeling or vibration.
- 21 complaints submitted by two complainants on a throbbing, pulsing, nighttime hum during non-operation of the plant. The noise is reported to be louder inside the homes than outside, and often lasts throughout the night.

The staff has observed the plant at night a number of times to verify the complaints on the nighttime hum, but has detected only transformer noise and turbine heater noise. Although these noises may at times be audible in the Bethel neighborhood during low ambient noise periods, the levels are significantly below the levels the Commission set as protective of the public health and welfare. The turbine supporting equipment has never been measured at a level greater than 40 dBA at the nearest noise sensitive property.

Residents of the Bethel area continue to be dissatisfied with the operation of the plant. During early permit negotiations, the residents formed the East Salem Environmental Committee to coordinate opposition.

In late 1975, a "very, very big" lawsuit was suggested. Four families in the Bethel area have filed suits against PGE and are seeking several million dollars for punitive damages. Other families in the area are involved in a second suit seeking to prevent operation of

the plant. June and September 1977 trial dates were delayed at the request of the plaintiffs. A new date has been set for early April, 1978, and according to the judge will be final.

SUMMARY OF TESTIMONY RECEIVED AT JANUARY 5 PUBLIC MEETING

The following is a summary of the testimony received at the public meeting:

1. Genny Larson, 510 Hampden Lane NE, Salem, prefaced her testimony by stating that she no longer calls the Department's Salem office to register complaints. When she is free to call, the phone lines are busy and there is no way to register a complaint outside of the normal office hours of 8:00 a.m. to 5:00 p.m. on weekdays. She suggested the Department consider a different way for residents to register complaints, perhaps a phone recorder. Mrs. Larson asked that the Department consider delaying the permit renewal or issuing a short term permit for the following reasons:
  - a. The new administrator of the Bonneville Power Administration has promised an investigation of the availability of Columbia River power, which could result in an increase in the amount of power available to PGE. Consequently, the Bethel plant may no longer be needed for emergencies
  - b. The lawsuit filed by the Bethel area residents will come to trial in April 1978. Mrs. Larson stated that the courts should have the decision on whether to allow the plant to operate and continue the danger to persons, animals and crops.
  - c. The Bethel plant has not met the standards. Smoke remains a problem long after startup and loud booms during startup have broken windows in her home.
2. Malcolm Marsh, Salem attorney representing PGE, testified that the company had no objections to the proposed modifications to the renewal permit. Mr. Marsh commented that the staff report was a good summary; however, he did wish to point out that on page 3 of the report the last paragraph suggested damages had been done by operation of the Bethel plant, while actually there has been no determination of any damages whatsoever.
3. Arch Beckman, 5454 Center St. NE, Salem, was unable to attend the hearing but telephoned his comment to the Salem office on

January 4. Mr. Beckman asked that the Department consider delaying the permit renewal until the outcome of the lawsuit is known.

### DISCUSSION

In response to Genny Larson's testimony, the Department staff has reviewed statements by S. Sterling Munro, BPA's new administrator. One issue facing Mr. Munro will be whether Congress will pass a regional power bill and how such a bill would affect the distribution of Columbia River power. Although redistribution of the power is a goal, it will likely not be achieved within the time frame of the proposed renewal permit. In addition, any redistribution may not be sufficient to cover an outage of the Trojan plant.

In regard to the alleged air quality violations, the staff has observed the plant and has reviewed the air quality monitoring reports. No violations of the opacity limitation have been found. The plant sometimes produces a brief puff of smoke and water vapor upon startup. However, the emissions subside 10 or 15 seconds after startup. During operation, the plumes are easily visible but do not exceed 10% opacity.

Genny Larson was asked during the hearing when the breakage of windows occurred. She indicated it had been several years ago, and the family had concluded that the breakage was caused by a boom at the plant on startup. She indicated that DEQ personnel had been out to inspect the breakage. The staff has not found a record of such an inspection.

The Department's Noise Control Division will be conducting noise measurements on the plant during startup to assure that the impulse limits of 100 dBA during the daytime (7:00 a.m. to 10:00 p.m.) and 80 dBA during the night are being met. Plant startup has been observed a number of times and no loud noise was detected. PGE has advised that booms may have occurred on one or two occasions during malfunctions at the plant in earlier years.

### PROPOSED PERMIT CHANGES

Based on the minimal testimony presented at the public meeting and PGE's projection for less than 200 hours of operation per year, the staff has prepared a renewal Permit containing the same air and noise limits and conditions as the existing Permit. Only the following administrative changes are proposed:

1. Page 3, Condition 9, the statement "Prior to modification or renewal of this permit, a public hearing shall be held to assess the operation of the plant" has been deleted.

2. Page 4, Condition 10-d, the statement "A written report on the emergency operation including the availability and cost of power from all other sources available to PGE shall be submitted to the Department" has been added.
3. Page 4, Condition 12-a, the table heading has been changed to read "Median Sound Pressure Levels" and not "Maximum Sound Pressure Levels" to reflect a recent clarifying amendment in the Noise Control Rules.
4. Page 5, Condition 12-c, the phrase "This data submittal shall also include information sufficient to determine power load factors as required in (b) above" has been added.
5. The Permit expiration date has been changed to 12/31/79, but the original 750 hour limit has been retained. PGE estimated 1000 hours of operation on the renewal application for the previous Permit and 200 hours per year on the current application.

#### SUMMATION

1. The Bethel turbine plant has demonstrated compliance with the Department's daytime noise limit of 76.8 dB in the 31.5 Hz octave band. The nighttime limit of 73.8 dB in the 31.5 Hz octave band can only be met with one twin-pak in operation.
2. Subjective evaluations in the Bethel community indicate that the turbine noise has been reduced to near inaudibility inside the closest homes.
3. Noise generated by turbine auxiliary equipment and substation equipment is well below the maximum allowed levels. Subjective evaluations do not substantiate complaints that the substation and turbine supporting equipment constitutes a community noise problem.
4. Opposition to the turbine facility continues due to the Bethel residents' apparent high sensitivity to relatively low amplitude, nearly inaudible low frequency noise. The residents have filed lawsuits seeking several million dollars in punitive damages.
5. The Department will continue to evaluate the noise from the plant, including startup noise, to assure continual compliance with the noise limits.
6. Oxides of nitrogen emission control as deemed practicable by the Department should be installed by the Bethel facility if operation exceeds 200 hours per year. The Department's opinion is that such controls are not presently available for the Bethel-type turbine. All existing emission limits have been met.



7. Limiting Bethel operations to emergency conditions which are demonstrated to be emergencies to the satisfaction of the Department will insure minimal operation of the facility. Any change in the distribution of Columbia River hydro power will depend upon Congressional action on a regional power bill and will likely not reduce the need for emergency operation of the Bethel plant during the proposed Permit period.
8. Turbine operation for engine exercise and limited testing should be allowed.
9. The Department should review the operation annually to determine the adequacy of the Department's noise standards relative to the Bethel noise problem and need for NOx control and compliance with ACD Permit limitation provisions.

DIRECTOR'S RECOMMENDATION

The Director recommends that, given the lack of new information on the effects of plant operation and the limited need projected by PGE, the proposed renewal permit be considered for issuance.

*Bill*

WILLIAM H. YOUNG

FMB/JEB/wr  
378-8240

February 7, 1978

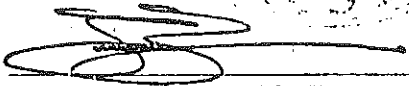
Attachments: (2)

1. Proposed Renewal Permit.
2. Staff Report Presented at Public Meeting.

# AIR CONTAMINANT DISCHARGE PERMIT

**DRAFT**

Department of Environmental Quality  
1234 S.W. Morrison Street  
Portland, Oregon 97205  
Telephone: (503) 229-5696  
Issued in accordance with the provisions of  
ORS 468.310

<p>ISSUED TO: PORTLAND GENERAL ELECTRIC COMPANY Power Resources 621 S. W. Alder Portland, OR 97205</p> <p>PLANT SITE: Bethel Plant 5765 State Street Salem, OR</p> <p>ISSUED BY DEPARTMENT OF ENVIRONMENTAL QUALITY</p> <p> LOREN KRAMER Director</p> <p>JAN 28 1976 Date</p>	<p>REFERENCE INFORMATION</p> <p>Application No. 1161</p> <p>Date Received October 25, 1977</p> <p>Other Air Contaminant Sources at this Site:</p> <table><thead><tr><th>Source</th><th>SIC</th><th>Permit No.</th></tr></thead><tbody><tr><td>(1)</td><td></td><td></td></tr><tr><td>(2)</td><td></td><td></td></tr></tbody></table>	Source	SIC	Permit No.	(1)			(2)		
Source	SIC	Permit No.								
(1)										
(2)										

**SOURCE(S) PERMITTED TO DISCHARGE AIR CONTAMINANTS:**

Name of Air Contaminant Source	Standard Industry Code as Listed
ELECTRIC POWER GENERATION	4911

Permitted Activities

Until such time as this permit expires or is modified or revoked, Portland General Electric Company is herewith permitted in conformance with the requirements, limitations and conditions of this permit to discharge treated exhaust gases containing air contaminants from its four (4) Pratt and Whitney (FT4C-1 combustion turbines) fuel burning devices located at Bethel substation, 5765 State Street, Salem, Oregon, including emissions from those processes and activities directly related or associated thereto.

Compliance with the specific requirements, limitations and conditions contained herein shall not relieve the permittee from complying with all rules and standards of the Department and the laws administered by the Department.

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Performance Standards and Emission Limits

1. The permittee shall at all times maintain and operate all air contaminant generating processes and all contaminant control equipment at full efficiency and effectiveness such that the emission of air contaminants are kept at the lowest practicable levels.
2. Emission of air contaminants shall not exceed any of the following when operating at base load except where otherwise specified:
  - A. Particulate matter restrictions:
    - (1) 6.8 kilograms (15 pounds) per hour of particulate for any single turbine when distillate fuel is burned.
    - (2) 3.2 kilograms (7 pounds) per hour of particulate for any single turbine when natural gas is burned.
  - B. Nitrogen oxides restrictions:
    - (1) 145.1 kilograms (320 pounds) per hour of nitrogen oxides (NO<sub>x</sub>) for any single turbine when distillate fuel is burned.
    - (2) 49.9 kilograms (110 pounds) per hour of nitrogen oxides (NO<sub>x</sub>) for any single turbine when natural gas is burned.
  - C. Carbon monoxide restrictions:
    - (1) 7.9 kilograms (17.5 pounds) per hour of carbon monoxide (CO) for any single turbine burning distillate fuel.
    - (2) 95.3 kilograms (210 pounds) per hour of carbon monoxide (CO) for any single turbine burning natural gas.
    - (3) 20.4 kilograms (45 pounds) per hour of carbon monoxide (CO) for any single turbine at half load burning distillate fuel.
    - (4) 81.6 kilograms (180 pounds) per hour of carbon monoxide (CO) for any single turbine at half load burning natural gas.
  - D. Visible smoke emissions from each stack shall be minimized such that Von Brand Reflectance Number 95 or better is achieved at all times and shall not exceed 10 percent opacity except for the presence of uncombined water.

Special Conditions

3. The permittee shall store the petroleum distillate having a vapor pressure of 12mm Hg (1.5 psia) or greater under actual storage conditions in pressure tanks or reservoirs or shall store in containers equipped with a floating roof or vapor recovery system or other vapor emission control device. Further, the tank loading facilities shall be equipped with submersible filling devices or other vapor emission control systems. Specifically, volatile hydrocarbon emissions from the 200,000 barrel fuel storage tanks shall not exceed 34 kilograms (75 pounds) per day under normal storage conditions.

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4. Turbines shall always be started on natural gas.
5. The permittee shall burn the lowest sulfur and ash content distillate oil available, but in no case shall a lower grade than ASTM No. 2 distillate be burned.
6. The sulfur content of the fuel burned shall not exceed 0.3 percent by weight at any time.
7. Fuel delivery by truck shall be kept to a minimum and only between the hours of 9 a.m. and 2 p.m. and 5 p.m. and 9 p.m. For specific instances with good cause shown, the Department may authorize other hours.
8. Operation of any combustion turbine at other than power output of 15 to 30 megawatts (-1.1 degrees C ambient basis) shall not exceed more than five percent of the operating time.

~~[9.] Prior to modification or renewal of this permit, a public hearing shall be held to assess the operation of the plant.]~~

9.10.] The permittee shall limit operation of the combustion turbines to emergency conditions in accordance with the following criteria.

- a. The permittee shall operate the Bethel plant only if failure to operate the plant shall result in denial of service to customers entitled to firm service. Prior to any operation PGE shall determine that:
  - (1) No other resources normally operated by PGE are available,
  - (2) Power cannot be obtained under any power exchange contracts,
  - (3) Diligent effort has been made to generate or purchase power from any other resources which may be reasonably brought on line. "Reasonably" shall not be construed to require use of units which are clearly excessive in cost to put into operation or to operate relative to the benefits expected; or which threaten the environment to a greater extent than operation of the Bethel plant.
- b. If PGE is called upon to supply power to persons outside of its service territory by virtue of any agreement it may have with others, PGE shall diligently pursue with other contract signatories all alternative sources of power covered by the contract and shall exhaust all reasonable possibilities for purchasing power for resale before using combustion turbines at Harborton or Bethel.
- c. Nothing in Paragraphs a or b above shall be construed to hamper PGE's discretion to operate Bethel in response to an unanticipated breakdown of facilities or other emergency requiring immediate generation to satisfy firm power requirements; provided that PGE shall at the first reasonable opportunity change its dispatch of generation capacity to comply with Paragraphs a and b.

Nor shall Paragraphs a and b be construed to interfere with required turbine maintenance, including periodic exercise under Special Condition 13 below.

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d. At the earliest reasonable opportunity, either prior to an anticipated emergency or immediately after startup of the Bethel units if the emergency cannot be anticipated, PGE shall advise the Department and shall demonstrate the nature and extent of such emergency to the satisfaction of the Department. A written report on the emergency operation including the availability and cost of power from all other sources available to PGE shall be submitted to the Department. PGE may be required to participate in discussion of any operation of Bethel with representatives of the Public Utility Commissioner, Department of Energy, Bonneville Power Administration or any other interested agency or utility.

10. ~~{11}~~ The permittee shall provide NO<sub>x</sub> control to meet limits prescribed by the Department when the Department determines NO<sub>x</sub> control is practicable. NO<sub>x</sub> control will not be required if the operation of the facility is less than 200 hours per year. The permittee shall submit semi-annual progress reports to the Department on the developments in practicable NO<sub>x</sub> control for turbines.

11. ~~{12}~~ The permittee shall comply with the following requirements regarding noise:

a. Sound pressure levels emitted from the turbines shall not exceed the limitations specified in Table I of this condition, when measured at any location 400 feet from the geometric center of the turbine engine installation. Sound pressure levels may be measured at a distance other than 400 feet and corrected, according to the inverse square law, to a reference distance of 400 feet.

Table I

Median [Maximum] Sound Pressure Levels at 400 Feet

<u>Octave Band Center Frequency, Hz</u>	<u>7 a.m. - 10 p.m.</u>	<u>10 p.m. - 7 a.m.</u>
31.5	76.8	73.8
63	73.8	70.8
125	69.8	64.8
250	63.8	58.8
500	60.8	54.8
1000	57.8	51.8
2000	54.8	48.8
4000	51.8	45.8
8000	48.8	42.8

b. The facility operation shall be limited to operation of both twin paks at base load during the hours of 7 a.m. to 10 p.m. and to one twin pak during the hours of 10 p.m. and 7 a.m. at a load which the Department acknowledges in writing complies with applicable noise limits in (a) above.

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- c. The permittee shall demonstrate compliance with the limits in (a) above annually and shall submit data to the Department in conformance to the applicable measurement procedures. This data submittal shall also include information sufficient to determine power load factors as required in (b) above. The Department shall be notified prior to such compliance tests.

12. ~~{13.}~~ Periodic scheduled turbine engine exercise to insure proper operation of the facility and prevent equipment damage shall be allowed in accordance with an exercise schedule approved by the Department in writing.

13. ~~{14.}~~ The permit shall expire when commercial operation of the Bethel facility exceeds 750 hours or by ~~{12/31/77}~~ <sup>\*\*\*</sup> which ever occurs first. Hours of commercial operation shall be computed from start up to shut down no matter how many engines are operated nor their load factor. Eugene exercise allowed by Condition 13 shall not be considered as commercial operation for the purposes of this condition.

\*\*\*12/31/79

Compliance Schedule

None Required.

Monitoring and Reporting

14. ~~{15.}~~ The permittee shall regularly monitor and inspect the operation of the plant to insure that it is operated in continual compliance with the conditions of this permit. In the event that any monitoring equipment becomes inoperative for any reason, the permittee shall immediately notify the Department of said occurrence. Specifically the permittee shall:
- A. Calibrate, maintain and operate in a manner approved by the Department, an emission monitoring instrument for continually monitoring and recording emissions of oxides of nitrogen.
  - B. Calibrate, maintain and operate in a manner approved by the Department an emission monitoring instrument for continually monitoring and recording emissions of carbon monoxide.
  - C. Obtain and record representative sulfur analysis and ash analysis by methods approved by the Department of fuel oils as burned for every delivery lot or whenever the source of supply is changed. In addition, the permittee shall maintain facilities for obtaining representative samples from the fuel handling system at the plant site as approved by the Department and provide with the Department analysis of periodic samples upon request.
  - D. Maintain and submit to the Department a log of operating incorporating, but not limited to, the following parameters:
    - (1) Time of operation.
    - (2) Quantities and types of fuel used relative to time of operation.
    - (3) Electrical output relative to time of operation.

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- (4) Stack emissions relative to time of operation.
  - (a) oxides of nitrogen ( $\text{NO}_x$ ) in ppm and pounds per hour
  - (b) carbon monoxide (CO) in ppm and pounds per hour
  - (c) percent oxygen ( $\text{O}_2$ )
- (5) Ambient conditions relative to time of operation.
  - (a) oxides of nitrogen ( $\text{NO}_x$ ) in ppm and micrograms per cubic meter
  - (b) sulfur dioxide ( $\text{SO}_2$ ) in ppm and micrograms per cubic meter
  - (c) particulate concentration in ppm and micrograms per cubic meter
- (6) Wind direction and velocity relative to time of operation.
- (7) Ambient temperature, pressure and humidity.
- (8) This log is to be submitted on or before the 25th of the month following the month logged and will indicate the instantaneous, hour by hour conditions existent at the plant site and ambient monitoring station. Any malfunctions occurring and the duration shall be noted in the log. Stack and ambient data will be submitted whether or not the turbines are operating.

15. ~~16.~~ Portland General Electric Company shall conduct a particulate, sulfur dioxide and oxides of nitrogen monitoring program in the vicinity of the Bethel site to determine ground level concentrations. The monitoring program shall be conducted in a manner approved by the Department. Appropriate meteorological parameters shall be determined. These data are to be incorporated in the log specified in condition 13-D.

16. ~~17.~~ In the event that the permittee is temporarily unable to comply with any of the provisions of this permit, the permittee shall notify the Department by telephone as soon as is reasonably possible, but not more than one hour, of the upset and of the steps taken to correct the problem. Operation shall not continue without approval nor shall upset operation continue during Air Pollution Alerts, Warnings, or Emergencies or at any time when the emissions present imminent and substantial danger to health.

#### Emergency Emission Reduction Plan

17. ~~18.~~ The permittee will implement an emission reduction plan during air pollution episodes when so notified by this Department.

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18. ~~{19.}~~ As a minimum, the permittee will implement the following emission reduction plan during air pollution episodes when so notified by the Department.
- A. ALERT: Prepare to shut down all turbines.
  - B. WARNING: Shut down all combustion turbines.
  - C. EMERGENCY: Continue WARNING measures.
19. ~~{20.}~~ In addition, the permittee shall cease operation of the combustion turbines upon notification from the Department that air quality at any downwind continuous monitoring site in Marion County has reached the following:
- A. 95 percent of the adopted particulate standard taken as 142 micrograms per cubic meter of air, 24 hour average. Operation shall remain curtailed until particulate air quality is below 135 micrograms per cubic meter of air, 24 hour average.
  - B. 95 percent of the adopted sulfur dioxide standard taken as 247 micrograms per cubic meter of air, 24 hour average and 123 micrograms per meter of air, 3 hour average. Operation shall remain curtailed until sulfur dioxide air quality is below 234 micrograms per cubic meter of air, 24 hour average, and 1170 micrograms per cubic meter of air, 3 hour average.
  - C. 95 percent of the adopted photochemical oxidant standard taken as 152 micrograms per cubic meter of air, 1 hour average. Operation shall remain curtailed until photochemical oxidant air quality is expected to be less than 120 micrograms per cubic meter of air, 1 hour average during the next 24 hours.



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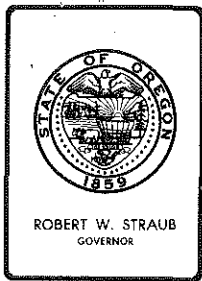
General Conditions

- G1. A copy of this permit or at least a copy of the title page and complete extraction of the operating and monitoring requirements and discharge limitations shall be posted at the facility and the contents thereof made known to operating personnel.
- G2. This issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.
- G3. The permittee is prohibited from conducting any open burning at the plant site or facility.
- G4. The permittee is prohibited from causing or allowing discharges of air contaminants from source(s) not covered by this permit so as to cause the plant site emissions to exceed the standards fixed by this permit or rules of the Department of Environmental Quality.
- G5. The permittee shall at all times conduct dust suppression measures to meet the requirements set forth in "Fugitive Emissions" and "Nuisance Conditions" in OAR, Chapter 340, Section 21-050.
- G6. (NOTICE CONDITION) The permittee shall dispose of all solid wastes or residues in manners and at locations approved by the Department of Environmental Quality.
- G7. The permittee shall allow Department of Environmental Quality representatives access to the plant site and record storage areas at all reasonable times for the purposes of making inspections, surveys, collecting samples, obtaining data, reviewing and copying air contaminant emission discharge records and otherwise conducting all necessary functions related to this permit.
- G8. The permittee, without prior notice to and written approval from the Department of Environmental Quality, is prohibited from altering, modifying or expanding the subject production facilities so as to affect emissions to the atmosphere.
- G9. The permittee shall be required to make application for a new permit if a substantial modification, alteration, addition or enlargement is proposed which would have a significant impact on air contaminant emission increases or reductions at the plant site.

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- G10. This permit is subject to revocation for cause, as provided by law, including:
- a. Misrepresentation of any material fact or lack of full disclosure in the application including any exhibits thereto, or in any other additional information requested or supplied in conjunction therewith;
  - b. Violation of any of the requirements, limitations or conditions contained herein; or
  - c. Any material change in quantity or character of air contaminants emitted to the atmosphere.
- G11. The permittee shall notify the Department by telephone or in person within one (1) hour of any scheduled maintenance, malfunction of pollution control equipment, upset or any other conditions that cause or may tend to cause a significant increase in emissions or violation of any conditions of this permit. Such notice shall include:
- a. The nature and quantity of increased emissions that have occurred or are likely to occur,
  - b. The expected length of time that any pollution control equipment will be out of service or reduced in effectiveness,
  - c. The corrective action that is proposed to be taken, and
  - d. The precautions that are proposed to be taken to prevent a future recurrence of a similar condition.
- G12. Application for a modification or renewal of this permit must be submitted not less than 60 days prior to permit expiration date. A filing fee and Application Investigation and Permit Issuing or Denying Fee must be submitted with the application.
- G13. The permittee shall submit the Annual Compliance Determination Fee to the Department of Environmental Quality according to the following schedule:

<u>Amount Due</u>	<u>Date Due</u>
\$1000.00	July 1, 1976
\$1000.00	July 1, 1977



## Department of Environmental Quality

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

To: Hearings Officer

From: Staff

Subject: January 5, 1978, Public Meeting on Portland General Electric Co., Bethel Combustion Turbine Facility; Renewal of Air Contaminant Discharge Permit.

### INTRODUCTION

The existing Air Contaminant Discharge Permit for the Portland General Electric (PGE) Bethel Turbine Plant will expire on December 31, 1977. Condition 9 of the Permit requires holding a hearing prior to renewal or modification of the permit to assess operation of the plant.

### BACKGROUND, GENERAL

The PGE Bethel Turbine Facility is located two miles east of Interstate Highway 5 at 53rd and State Streets, Salem. The land is zoned Industrial Park; however, the property immediately south of State Street and north of the plant is zoned Residential-Agricultural. There are approximately seven homes within 1200 feet of the turbines and forty homes within 2400 feet. The nearest home is approximately 800 feet; however, this property has been purchased by PGE and the Department has granted an exception to the Noise Control Rules for the property.

The Bethel facility consists of four Pratt & Whitney FT4C-1 combustion gas turbines driving two air-cooled electric generators, two 100,000 barrel fuel storage tanks, and associated equipment. The turbines operate on either natural gas or fuel oil at a base load generating capacity of approximately 110 megawatts total power, or 55 megawatts per twin-pak unit (two turbines driving one generator). With both twin-paks operating at base power load, approximately 10,000 gallons of fuel oil (or equivalent natural gas) are consumed per hour.



The existing Air Contaminant Discharge Permit was issued January 29, 1976, following a series of public hearings. The Permit expires when commercial operation of the facility exceeds 750 hours, or by December 31, 1977, whichever occurs first. During the 1976/1977 permit years, the facility operated approximately 115 hours during outages of the Trojan plant for commercial power generation. Additional operation occurred for engine exercise, testing, and noise evaluation.

The Bethel facility was constructed in 1973, and PGE originally estimated 500 hours operation per year, contingent upon the availability of hydroelectric power. Between September, 1973, and May, 1974, the plant ran approximately 1200 hours. Due to the number of noise complaints from residents of the Bethel community, the Department restricted operation to daylight hours until noise suppression equipment could be installed. During the 1974/1975 permit years, the plant operated approximately 320 hours, and was restricted to a maximum of 500 hours per year.

#### BACKGROUND, NOISE

Citizen complaints regarding noise from the PGE Bethel facility began shortly after start-up of the turbines in July, 1963. Within that year, 275 complaints about noise and vibration were received. The turbine operations have since been drastically curtailed; however, complaints are still logged during actual and alleged operation of the facility. During the permit years 1976/1977, approximately 56 noise and vibration complaints were submitted. Twenty-one complaints were on audible noise when the plant was in operation, 14 were on a "sensation" or vibration during plant operation and 21 were on a low frequency nighttime "hum" during non-operation, that is, reported to be loud within two homes, but not obvious when outside. Department measurements have shown that the nighttime noises at the plant when it is not in operation are below 40 dBA at the end of Hampden Lane, a point between the two residences and the plant.

During previous public hearings on permit issuance and renewal, some of the residents living close to the Bethel plant have claimed no problem. However, most objected vigorously to the location and operation of the turbines near their homes. Their claimed problems ranged from simple annoyance to physiological damage to themselves and their animals and structural damage to their homes.

In April, 1973, the Department specified maximum sound pressure levels at a reference distance of 400 feet from the geometric center of the turbines in two low-frequency octave bands. The turbines were found to produce their highest noise levels in the lower portion of the

frequency spectrum. After the plant became operational, testing showed that the turbine noise peaked in the 31.5 Hz octave band and the guideline of 75 dB was exceeded by 5 dB at the reference location during base load operation of both twin-paks.

The Department proposed noise control standards in early 1974 that had been revised from the previous proposal. These proposed rules were substantially those adopted by the Commission in September, 1974. The rules allowed a maximum sound pressure level at the reference location in the 31.5 Hz octave band of 76.8 dB during the daytime hours (7 a.m. to 10 p.m.), and 73.8 dB during the nighttime hours (10 p.m. to 7 a.m.).

In July, 1974, the Commission set requirements to be met by PGE to reduce noise at the Bethel turbine facility. The requirements included installation of noise suppression equipment, restriction on operation until the equipment could be installed, a maximum A-weighted sound level of 45 dBA at the closest private residence, continuous compliance once achieved and cooperation with the Department in evaluation of the noise suppression equipment.

When the original proposal was completed, PGE found that additional noise reducing measures were necessary. In mid-1975, both twin-paks were "shot-creted" to further reduce noise levels, and compliance with the daytime noise limits with both twin-paks operating was demonstrated in September, 1975. Nighttime operations, however, were limited to one twin-pak only.

During annual noise compliance testing, as required by the Permit, PGE discovered in 1976 that some degradation of one of the muffler units had occurred and the plant was found to be "marginally" in compliance with the noise limits. PGE contracted the services of Bolt Beranek & Newman, Inc., a well-known acoustical engineering firm, to study the problem and recommend additional acoustic treatment to increase the degree of compliance and offset any further muffler degradation. The consulting firm designed new resonating chambers, which were fabricated by the Boeing Aircraft Company and installed by March, 1977. Additional testing by both PGE's consultants and the Department staff has shown the plant is presently in compliance with the Permit conditions.

Residents of the Bethel area continued to be dissatisfied with the operation of the plant. During early permit negotiations, the residents formed the East Salem Environmental Committee to coordinate opposition to the plant. In late 1975, a "very, very big" lawsuit involving PGE, Marion County, Mid-Willamette Valley Air Pollution Authority and the Department was suggested. Four families in the Bethel area have filed suits against PGE for punitive damages. The exact extent of the damages is not yet known, but may exceed

several million dollars. Other families in the area are involved in a second suit seeking to prevent operation of the plant. The trials have been delayed several times at the request of the plaintiffs. The new trial date is in early April, 1978.

#### BACKGROUND, AIR QUALITY

The Department acquired air quality aspects of the PGE Bethel facility on August 1, 1975, when the Mid-Willamette Valley Air Pollution Authority was disbanded. The permit renewal process had not been completed by the Authority, and the Department conducted additional public hearings before renewing the Permit in early 1976.

The Bethel facility has been found capable of complying with all of the air contaminant emission and ambient air limitations in the current Permit. A Permit condition requires control of oxides of nitrogen emissions when operation exceeds 200 hours per year.

#### DISCUSSION, NOISE

Results of tests conducted June 12 and September 23, 1975 showed that the noise of both twin-paks operating at base load was in compliance with the daytime limit of 76.8 dB in the 31.5 Hz octave band at the reference measurement location. The nighttime limit of 73.8 dB in the 31.5 Hz band was found to be exceeded with both twin-paks in operation. Nighttime operation was thus restricted to one twin-pak.

During the summer of 1976, PGE's consultants, Bolt Beranek & Newman, Inc., and Robin M. Towne & Associates, were asked to conduct tests for the annual compliance demonstration required by the Permit. The test results showed that the muffler on engine 1-A had deteriorated somewhat. The sound level produced by that engine alone was 2 - 3 dBA higher than normal. The combined noise from the two twin-paks operating at base load was borderline with the Permit limits and the consultants could not agree on the compliance status. PGE switched the muffler and engine with spare units from the Harborton plant, but the noise was only slightly reduced. Another consultant, Turbo Power and Marine, the turbine installer, conducted tests and indicated substantial compliance with the Permit limits.

Concern that further muffler degradation might place the plant in violation of the Permit limits, PGE contracted the services of Bolt Beranek & Newman, Inc. to conduct a series of tests using a model of the Bethel plant to determine what type of additional acoustic treatment was necessary. When the final design was complete, the services of Boeing Engineering and Construction were retained to produce the final drawings and construct the necessary equipment.

Additional noise tests conducted March 30 and May 16, 1977 by PGE consultants and the Department's Noise Control Division showed that the plant can now operate at base load and comply with the daytime noise standards in the Permit. Compliance with the nighttime limits can only be achieved, however, through operation of the No. 2 (west) twin-pak at base load. Data indicate that the No. 1 twin-pak at baseload would exceed the nighttime standards.

The Department has received many complaints of noise during the late evening and early morning hours at times when the plant was not operating. Sources of noise during non-operation of the plant are associated with the substation, which existed on the site prior to the turbine installation, and the additional equipment installed with the turbines.

Noise level measurements have been taken on the equipment associated with the substation, primarily transformer hum and cooling fan noise, at a distance of 50 ft. If all of the substation equipment were operated simultaneously, the noise level would be about 70 dBA measured at 50 feet.

The additional equipment associated with the turbine installation, which includes a transformer, oil transfer pumps, heaters, and a compressor and electric motor to provide air pressure for turbine start-up, has never been found to produce noise levels greater than 66 decibels at a reference distance of 50 feet.

The Department has conducted noise surveys in the Bethel community to monitor noise levels and conduct subjective evaluations of the noise produced by the turbines and by the auxiliary and substation equipment.

The noise levels produced by the auxiliary equipment have never been found to be greater than 40 dBA at the nearest noise sensitive property. During the late night hours, when ambient noise levels are very low, a low level sound of the turbine heaters and an electrical hum can occasionally be heard. The staff has yet to document a single occurrence of the loud, rhythmic, pulsing, low-frequency noise that two residents report often lasting throughout the night.

The operation of the auxiliary equipment is infrequent, with the exception of the turbine heaters, which operate almost continually and produce a light, rushing sound. Other auxiliary equipment is the oil transfer pump and turbine compressor. The transfer pump is operated four days per year to circulate oil in the storage tanks and the turbine compressor operates one hour per day every 3 - 4 days during the summer and every 2 days during the critical load period.

Although the noises from the non-turbine items may be audible in the

community during low ambient noise periods, the levels are significantly below levels that the Commission set as protective of public health and welfare. The Department has never measured a level greater than 40 dBA during operation of the substation and turbine supporting equipment. Under existing Department standards, a continuous noise of 50 dBA during the night period would be considered unacceptable for these types of noise sources. In addition, other sources of noise in the community, such as the fans at West Foods, barking dogs, trains, and aircraft in the distance, are audible over these non-turbine noises.

Subjective noise surveys and noise level measurements have also been conducted in the Bethel community during periods of plant operation. The results of a subjective evaluation in February, 1975, with one twin-pak in operation, revealed that plant noise is more easily detected in residences closer to the plant, and generally consists of a low rumble and an occasional whine. In the closest residences, the noise could be detected without strain. However, in some parts of the homes, as well as the more distant residences, perfect quiet was required of everyone in order to detect the plant noise. In two residences, vibrations were noted (window panes rattling and surface vibrations in a glass of water) with some ear pressures seemingly being experienced in one of those residences.

A second subjective evaluation was conducted June 12, 1975, and showed noise levels in the same residences to be "subjectively" reduced from those detected during the February evaluation. Perfect quiet was required of everyone in order to detect plant noise, even in the closest residences. The noise which could be detected could best be described as a whine, rushing of air, and a rumble in the distance. In each residence, the detected plant noise was obscured by other near noise sources, such as an operating refrigerator, trees rustling in the wind, or a lawn sprinkler. A third subjective evaluation was conducted September 23, 1975, with both twin-paks in operation. The results were the same.

Noise measurements conducted in the community during turbine operation have shown the maximum noise levels to be approximately 44 dBA at the nearest privately owned residence.

During previous public hearings, several parties have testified that the turbine plant was generating high levels of infrasonic noise. Infrasound is defined as sound existing below 20 Hz and is therefore inaudible to the majority of humans. The Department conducted an analysis of data collected from the facility on June 12, 1975, to examine the energy content below 20 Hz. No significant amplitude peaks were noted between the range of 2 - 20 Hz. Actual data from



the plant and analytical calculations indicate that the noise should peak at a frequency of approximately 30 Hz. Therefore, the Department has not been able to demonstrate that this facility generates infrasonic noise.

#### DISCUSSION, AIR QUALITY

The primary air contaminants from the PGE Bethel facility are nitrogen oxides, particulates, carbon monoxide, and sulfur oxides. Nitrogen oxides are emitted in much larger quantities than the other pollutants. The previous permits have included provisions for retrofitting the plant with NO<sub>x</sub> controls; however, the limited operation of the plant has reduced the problem considerably. The existing Permit requires PGE to provide NO<sub>x</sub> control to meet the Permit limits if operation exceeds 200 hours per year and when the Department determines that NO<sub>x</sub> control is practicable for the Bethel turbine.

The Department does not believe practicable NO<sub>x</sub> control was available when the Bethel plant was built. Water injection NO<sub>x</sub> control has been used in the Bethel-type turbines over the past few years, but the effects on engine durability and the extremely high cost of water treatment systems make water injection not practicable for the Bethel-type turbine in the opinion of the Department. The PGE Beaver generating facility was recently equipped with water injection NO<sub>x</sub> control; however, the Beaver turbines are industrial turbines and not aircraft turbines, as installed at Bethel. The most promising efforts appear to be in the area of catalytic reduction of NO<sub>x</sub> and some prototype work has been done by Turbo Power and Marine; however, the dry control components are not yet available.

#### PROPOSED PERMIT MODIFICATIONS

Review of the existing Air Contaminant Discharge Permit has resulted in the following proposed modifications for renewal:

1. Page 3, Condition 9, the statement "Prior to modification or renewal of this permit, a public hearing shall be held to assess the operation of the plant" has been deleted.
2. Page 4, Condition 10-d, the statement "A written report on the emergency operation including the availability and cost of power from all other sources available to PGE shall be submitted to the Department" has been added.
3. Page 4, Condition 12-a, the table heading has been changed to read "Median Sound Pressure Levels" and not "Maximum Sound Pressure Levels" to reflect a recent clarifying amendment in the Noise Control Rules.

4. Page 5, Condition 12-c, the phrase "This data submittal shall also include information sufficient to determine power load factors as required in (b) above" has been added.
5. The permit expiration date has been changed to 12/31/79, but the original 750 hour limit has been retained. PGE estimated 1000 hours of operation on the renewal application for the previous permit and 200 hours per year on the current renewal application.

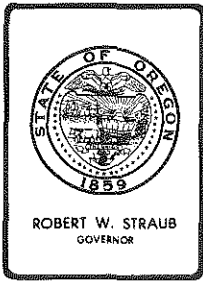
### CONCLUSIONS

1. The installed noise suppression equipment and modifications to the mufflers have brought the plant into compliance with the Department's daytime limit of 76.8 dB in the 31.5 Hz octave band. The nighttime limit of 73.8 dB in the 31.5 Hz octave band can only be satisfied with only one twin-pak in operation.
2. Noise generated by turbine auxiliary equipment and substation equipment does not exceed Department rules.
3. Subjective evaluation of community noise indicates that the noise has been reduced to near inaudibility inside the closest residences.
4. Subjective evaluation did not substantiate complaints that the substation and turbine supporting equipment constitute a community noise problem.
5. Opposition to the PGE turbine facility continues from many residents in the Bethel community due to the apparent high sensitivity to relatively low amplitude, nearly inaudible low frequency noise.
6. The Department will continue to evaluate the noise from the plant to assure continual compliance with the permit limits.
7. Oxides of nitrogen emissions control when deemed practicable by the Department should be installed on the Bethel facility if operation exceeds 200 hours per year. The Department's opinion is that such controls are not presently available for the Bethel-type turbine.
8. The proposed permit renewal contains an expiration date of 750 hours or 12/31/79, whichever occurs first.

9. Limiting Bethel operations to emergency conditions which are demonstrated to be emergencies to the satisfaction of the Department will insure minimal operation of the facility. During 1976/1977, the plant operated approximately 115 hours.
10. Turbine operation for engine exercise and limited testing should be allowed.
11. The Department should review the Bethel operation on a yearly basis to determine the adequacy of the Department's noise standards relative to the Bethel noise problem and the need for NO<sub>x</sub> control, justification of an operating hour limitation, and compliance with ACD Permit limitation provisions, so that necessary and prompt adjustments can be made in the Permit as warranted.

#### RECOMMENDATION

The staff recommends that given the lack of new information on the effects of plant operation, the proposed renewal permit be considered for issuance to PGE.



## Environmental Quality Commission

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

### MEMORANDUM

To; Environmental Quality Commission  
From; Director  
Subject: Agenda Item No. H., February 24, 1978

Coos County Solid Waste - Request for Variance Extension from  
Solid Waste Regulations for City of Powers and City of Myrtle  
Point Solid Waste Disposal Facilities.

### Background

On October 21, 1977, variances were granted to the Cities of Myrtle Point and Powers to continue to operate their open burning dumps through February 28, 1978. The staff was directed to work with the Cities to define a specific schedule for the upgrading of their disposal sites through the phase-out of the open burning disposal program. On December 6, 1977 and February 1, 1978 meetings were held with representatives of the Cities to attempt to negotiate a schedule of compliance. Before reviewing today's status, however, it might be of interest to briefly review the development of the existing programs (pictures of the sites and collection equipment will be circulated at the EQC meetings).

### Myrtle Point

According to the records we have available, the current disposal site was developed by the City in 1953. Twelve (12) acres of land were purchased about three (3) miles east of the City. An open burning dump has been operated for approximately 25 years with approximately one acre of the 12 acre site utilized to date. By franchise, the operation of the open burning dump is delegated to the franchised collector which since May 1961, has been Elvin Murray.

Although a city-owned site, the dump is open to Coos County residents also. Approximately half of the current city residents (population 2,850) are served by collection service, the rest haul their own. Current residential rates are \$4.00 a month for one can per week service. There is a 50¢ per can charge at the landfill. Mr. Murray currently operates a 1970 10 yard compactor truck with a rebuilt engine. With the exception of air pollution, and most probably rats, there have been no nuisance or other environmental problems identified at this site to date. Metal salvage is practiced at this site.



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## Powers

According to the records we have available, the current disposal site was developed by the City in 1946. In 1959 a formal lease was entered into between the City and the landowner. Approximately two (2) acres of land were leased about three (3) miles northeast of the City. An open burning dump has operated for approximately 32 years with somewhat less than an acre of the two acre site utilized to date. By franchise, the operation of the open burning dump is delegated to the franchised collector which since September 5, 1972 has been Raymond Thornsberry.

Although a city-leased site, the dump is open to Coos County residents also. Approximately one-third of the current city residents (population 910) are served by collection service, the rest haul their own. Current residential rates are \$3.00 a month for one can per week service. There is a 50¢ per can charge at the landfill. Mr. Thornsberry currently operates a one-ton pickup truck with enclosed bed as a collection vehicle.

With the exception of air pollution, and most probably rats, there has been no nuisance or other environmental problems identified at this site to date. No significant salvaging occurs at this site.

## Coos County

Since the October 21st EQC meeting, some progress is being made by Coos County to clarify their county-wide solid waste program which in turn may influence the options that Myrtle Point and Powers have:

1. Progress continues toward the adoption of a Coos County franchise ordinance which will cover all lands outside city boundaries and a comprehensive nuisance abatement ordinance. In discussions with County counsel John Bagg on February 2, 1978, he indicated that the ordinance may be formally adopted by May 1978.
2. The Consumate incinerator at Bandon began its break-in period on December 13, 1977 and now operates five (5) days per week at approximately 12 tons per day. During several inspections to date it has either been in compliance, or marginal compliance, with the Department's visual opacity standard. It is our opinion that the marginal compliance to date is due to the lack of a building over the tipping floor which results in extremely wet garbage having to be burned. The County currently has the building out on bids. Assuming the afterburner is operated, it appears the unit is capable of meeting the Department's visible emission standard. Source tests, by agreement, will be delayed until after the building is constructed over the tipping floor. The ash removal and disposal program has been adequate to date.

3. The Department and Coos County staff will be meeting during February to identify the remaining operating life in the existing disposal sites at Bandon, Joe Ney and Shinglehouse Slough. Part of this evaluation will also consider what operating standards will be in effect before and after EPA rules on landfills are adopted.
4. After a meeting December 22, 1977, it was decided to reconsider in March the merits of proceeding with Phase II of the South Coast energy recovery program under the auspices of the Coos-Curry-Douglas Economic Improvement Association.

### Evaluation

The Cities of Myrtle Point and Powers have operated open burning dumps for 25 and 32 years, respectively. With the exception of very localized air pollution, and most probably rats, no additional environmental or nuisance problems have been identified at either site. Between the two sites less than three (3) acres of land has been affected by the disposal activities for some 4,000 plus city and county residents.

Sanitary landfilling on the South Coast, as in most of Western Oregon, is a marginal activity. High rainfall, steep topography, proximity to perennial or intermittent streams, soils commonly high in clay and silt, preclude the development of year-around sanitary landfills (i.e. daily compaction and cover) in most places. The existing City sites are affected by one or more of the above described deficiencies as well as being restricted in size at this time. Although numerous properties have been examined on a preliminary basis over the last four years, no real promising alternative landfill sites have been identified for detailed examination and approval.

The only real apparent alternative to open burning or landfilling at this time seems to be direct hauling to the County's Bandon disposal site. Should the South Coast Region ever embark on a resource recovery program in the Coos Bay-North Bend area, the only significant change to a direct haul alternative would be a change in the highway travelled and the possible addition of a few extra miles.

While conversion to a direct haul program does appear a viable alternative, and one receiving at least the tacit approval of both Cities at this time, several significant details have to be attended to, to ensure successful implementation:

1. Assurance from Coos County that the Bandon disposal site is available and at what cost, if any.
2. Probable purchase of new collection equipment in both Myrtle Point and Powers that is capable of making the round trip to Bandon (or Coos Bay-North Bend) without loss of present service levels (one can per week).

3. Adjustments in the collection rate schedules to pay the hauling costs and amortize new equipment. The Myrtle Point operator estimates that the additional time ( 1 1/2 hours) and 50 mile run trip will increase his monthly cost some \$600-650. From Powers to Myrtle Point add another 1 1/2 hours and 60 miles round trip.
4. Adoption of a franchise ordinance by Coos County to cover those lands outside of incorporated cities. Identification of franchise territory and selection of franchise collectors for the County territory.
5. Closure of the existing open burning dumps in an environmentally safe manner including provisions to control any existing rat population prior to closure.

In discussion with representatives of the two Cities on February 1, 1978, an eighteen month compliance program (July 1, 1979) was discussed. Two interim dates were also discussed:

- A. July 1, 1978 - formal adoption of a control strategy by each City and its submission to DEQ for approval (i.e. direct hauling to Bandon, direct hauling to new regional site, upgrading existing sites, etc.).
- B. January 1, 1979 - start of implementation, start of construction, financial arrangements completed, new landfill sites(s) identified, etc.
- C. July 1, 1979 - alternative system fully operational and existing open burning dumps formally closed out.

#### Summation

1. The Cities of Myrtle Point and Powers in Coos County, Oregon have operated open burning dumps for at least 25 and 32 years, respectively. Since October 1975, these open burning dumps have operated under a variance granted by the Environmental Quality Commission.
2. Site limitations (i.e., topography, soils, proximity to streams, area available for landfilling) preclude these existing dumps from being upgraded to sanitary landfill status. Further, preliminary site examinations over the last four years have not identified alternative landfill sites that warranted detailed examination for possible approval.
3. No alternate is immediately available to replace the existing open burning dumps utilized by affected city and county residents. Existing, privately owned collection trucks in Myrtle Point and Powers are not capable of making the long haul to Bandon reliably and consistently.

4. The most viable alternative to the existing open burning dumps appears direct hauling to Coos County landfill at Bandon. Should the Bandon site ever be discontinued in favor of a Regional Energy Recovery Program at Coos Bay-North Bend, very little impact would be felt by Myrtle Point and Powers other than a change in route to the regional energy recovery facility.
5. An eighteen month transition period (July 1, 1979) seems reasonable to:
  - a. Secure approval from Coos County for use of the Bandon disposal site.
  - b. Adjust the collection rates to finance higher operating costs and amortize new collection equipment capable of making the longer haul to Bandon.
  - c. Plan for and close out the existing open burning dumps.

Director's Recommendation

1. Grant a variance through June 30, 1979 to the Cities of Myrtle Point and Powers during which time they are to develop the necessary programs to effect direct hauling of their wastes to a regional landfill at Bandon or to an energy recovery program in the Coos Bay-North Bend area. Open burning of putrescible material should cease no later than June 30, 1979.
2. Progress reports on achieving this variance schedule shall be forwarded to the Department on June 30, and December 31, 1978.
3. The EQC finds that the variance requests meet the intent of ORS 459.225 (3 c) in that strict compliance would result in closing of the disposal sites and no alternative facility or alternative method of solid waste management is available.

*Bill*

Director

Richard P. Reiter:mm  
672-8204

February 13, 1978

Attachments (2)

Letter from James McCulloch, City of Powers

Letter from Ervin R. Wilberger, City of Myrtle Point



CITY of POWERS

P. O. Box 250

Powers, Oregon 97466

Feb 2, 1978

Mr Tim Davidson  
Department of Environmental Quality  
490 Park Street  
Coos Bay, Oregon 97420

Dear Mr Davidson:

The City of Powers is requesting an extension of their Garbage site for open burining until July 1979.

As you know, we have been trying to get the solution solved, but have run into dificulties. We are in the progress of getting someone interested in a franchise to haul our garbage to the Bandon site.

There is alot of planning to be done to get this thing to going , but we are in hopes that this will be ready to go by July 1979. providing that we do not run into any problems, that we don't anticipate. Thank you for your help.

Yours truly

*James McCulloch*

James McCulloch  
Mayor  
City of Powers  
P.O. Box 250  
Powers, Oregon 97466

DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
FEB 7 1978

COOS BAY BRANCH OFFICE



# CITY OF MYRTLE POINT

IN THE HEART OF THE MYRTLEWOODS  
424 5th STREET  
MYRTLE POINT, OREGON 97458

February 7, 1978

Environmental Quality Commission  
1234 S. W. Morrison St.  
Portland, Oregon 97208

Gentlemen:

By virtue of official action of its City Council taken at a regular meeting held on February 6, 1978, the City of Myrtle Point respectfully requests that it be granted an extension of time for a period of one (1) year for continuation of its operation in the present manner of the municipal garbage dump situated on East Maple Street beyond the easterly city limits.

Southwest Permit No.157 transmitted to the city under letter dated January 13, 1978, now requires termination of any burning at the dump site as of February 28, 1978, and the permit, itself, expires entirely April 30, 1978.

The city realizes that federal and state regulations as now formulated, will eventually preclude any lengthy continuation of open burning or open solid waste disposal.

However, we wish to respectfully point out to you that there are a number of conditions and problems unique to our particular situation which would cause virtually insurmountable hardship to the city and its inhabitants if the termination dates expressed in the current permit are not extended and which would have minimal environmental effect if the dump is allowed to operate for a further limited time. These conditions and problems include the following:

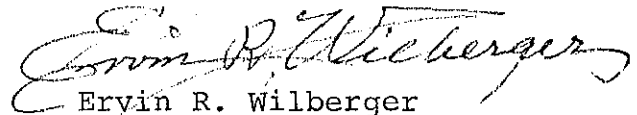
1. Operation, as it is now conducted, of the Myrtle Point dump site causes very little, if any, adverse impact on the environment or by way of air pollution, water pollution, or visual pollution.
2. The actual extent of the dump site area does not exceed approximately 1.25 acres. The dump has been operated at this site and within these confines since 1943.
3. Over the years a comprehensive and efficient maintenance program for the dump site has been conducted so that no dangerous or objectionable conditions have been allowed to exist.
4. Coos County has been attempting to work out some program for solid waste disposal which will be available to municipalities upon a county wide basis, but there is nothing definite at this time and consequently no reasonable alternatives available to the City of Myrtle Point.

5. The only alternative method for this city to dispose of its garbage now available, would involve approximately 50 miles round trip haul to the Coos County, Bandon disposal site plus an estimated cost of \$15.00 per ton, to dispose of the waste by burning.
6. If prohibitive costs such as these are involved, the city is apprehensive that many residents of the area will resort to indiscriminate dumping of trash and garbage along the numerous isolated roadways in rural areas.

Accordingly, your most earnest consideration is requested in the matter of granting the permit extension requested herein.

Yours truly,

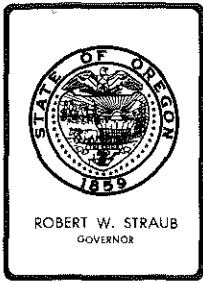
CITY OF MYRTLE POINT

  
Eryin R. Wilberger  
Mayor

CC: Coos County Board of Commissioners  
Court House  
Coquille, Oregon 97423

Mr. Richard Reiter  
Regional Manager  
Department of Environmental Quality  
1937 West Harvard  
Roseburg, Oregon 97470

Mr. Tim Davidson  
Department of Environmental Quality  
1860 Virginia  
North Bend, Oregon 97459



## *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, February 24, 1978, EQC Meeting.

### Teledyne Wah Chang Albany's Request for Permit Modification

### Background

On April 25, 1977, Teledyne Wah Chang Albany, hereinafter called Wah Chang, requested a modification of their NPDES Waste Discharge Permit limits. In addition they requested a three month extension of the compliance schedule to achieve their final limits. The following changes in limits were requested:

	<u>Permit Limits (lbs/day)</u>	<u>Requested Limits lbs/day</u>
Ammonia Nitrogen	300/400	2000/3000
Fluoride Ion	60/80	100/150
Methyl Isobutyl Ketone (MIBK)	100/200	200/500
Toxicity	L.C. 100-10%	L.C. 50-5%

Note: The number to the left of the slash (/) is the monthly average while the number to the right is the daily maximum.

It was apparent Wah Chang was not going to meet all of their final effluent limits by the federally mandated date of July 1, 1977. Therefore, the Department and Wah Chang entered into a stipulated Consent Order as an enforcement action. This order would be in effect until June 30, 1978. The order required Wah Chang to pay a minimal daily penalty (\$50) while the modification was being evaluated, with a greater penalty (\$200) for each day of violation after the final determination on the modification had been made.

Since the Environmental Protection Agency was involved with the establishment of the original permit limits, they were asked by the Department to re-evaluate the limits and their determination of what Best Practical Technology (BPT) is for Wah Chang.



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The Environmental Protection Agency's re-evaluation of Best Practicable Technology (BPT) for the ammonia discharge concluded that an increase in the ammonia limitation to 400 pounds/day was justified. Therefore the Department tentatively determined to change the ammonia limits from 300/400 to 400/800. This was agreeable to EPA. They will not concur with any greater increase. In fact we have been told by EPA that they will veto any permit modification with average ammonia limits in excess of 400 lbs/day.

After they received the draft of the proposed modification, Wah Chang revised their request. They dropped their request for an increase in MIBK limitations and reduced their request in ammonia limitations to 750/1500. They also dropped their request for relaxation of toxicity limitations. They did, however, request a change in the total organic carbon (TOC) limitations from 200/300 to 500/1000. They also asked that fluoride limits be removed altogether.

Upon reviewing their justification for an increase in TOC limitations, the Department determined that a small increase, at least during the duration of the permit, was justified. Therefore it was tentatively determined to increase the TOC from 200/300 to 250/500.

The toxicity limitation was not relaxed but was redefined in terms of a median tolerance limit (TLm).

Prior to the public hearing the Department had received no real justification for increasing the fluoride limits, it was tentatively determined to deny any increase.

With these tentative determinations made, a public hearing was advertised and held at Linn-Benton Community College at Albany on January 10, 1978. A short summary of the hearing testimony is attached along with the staff presentation.

#### Evaluation

The Department has reviewed the revised modification request and the public hearing testimony. A final determination has been made to deny the requested modification for an increase in ammonia limits to 750/1500 and the increase in TOC limits to 500/1000. At this time the request to remove fluoride limits from the permit will be denied. If Wah Chang can adequately justify the removal of the fluoride limits prior to the permit renewal in June, it will be reconsidered at that time.

Since certain effluent limitation increases are justified and other changes to the permit are desirable, the Department intends to initiate modification of the permit and make the following changes:

1. The ammonia limitations shall be raised from 300/400 to 400/800.
2. The fluoride limitations shall be raised from 60/80 to 100/150.
3. The TOC limitations shall be raised from 200/300 to 250/500.
4. The toxicity limitation shall be defined as follows: "The 96-hour TLM shall not be less than 25% effluent by volume at a pH of 7.0."
5. A statement clarifying the allowable point of discharge shall be included as follows: "The only authorized discharge location for process waste water is at the outfall weir, identified as 001 in the application. No other discharge of process waste water, either direct or indirect, is permitted".
6. The bioassay requirement shall be redefined as follows: "Using Willamette River water or equivalent as a diluent, determine the 96-hour L.C. 100 and the 96-hour TLM. Aquatic organisms used and bioassay procedures followed must be approved by the Department.
7. Additional monitoring will be added to the permit as follows:

<u>Location</u>	<u>Parameter</u>	<u>Frequency</u>
100 ft. below outfall	TOC, NH <sub>3</sub> , Flow	Weekly
100 ft. above water supply line crossing	TOC, NH <sub>3</sub> , Flow	Weekly
At road culver above confluence with Murder Creek	TOC, NH <sub>3</sub> , Flow	Weekly
Lower sludge pond at overflow point	TOC, NH <sub>3</sub>	Weekly

The Department is confident that the modified limits in the permit are fair and achievable. They will not require curtailment of production as feared by many local residents of Albany. However, it will require Wah Chang to operate the steam stripper efficiently and to be very conscientious in efforts to control the discharge of pollutants. Some additional

equipment and storage facilities may be necessary to keep the steam stripper operating efficiently for extended periods of time.

The Department is very concerned with apparent leakage from the sludge ponds and will continue to investigate unauthorized discharges. The modified permit requires Wah Chang to monitor the creek in the vicinity of the sludge ponds.

Teledyne Wah Chang Albany has indicated that unless the permit is modified as they requested any final determination by the Department would probably be appealed.

#### Summation

1. Because Wah Chang was not confident they could meet the effluent limits to go into effect July 1, 1977, they requested a modification of ammonia, MIBK, Fluoride and toxicity limitations. That request was made April 25, 1977.
2. They later revised their application by withdrawing their request for a modification of MIBK limitations and relaxation of toxicity standards. They also reduced their request for an ammonia increase. They added a request for increased TOC limitations and requested fluoride limits be removed.
3. Until the final action could be taken on the modification they entered into a stipulated consent order with a minimal daily penalty.
4. The Department has determined to deny the modification which they requested. However, a modification will be issued which (a) increases ammonia limits to a level determined by EPA to be Best Practicable Technology (BPT), (b) returns fluoride limits to pre-July 1977 levels, (c) increases TOC limits to account for unidentified constituents which show up in the TOC test, (d) redefines toxicity in terms of TLM, (e) adds a statement clarifying the permitted point of discharge, (f) redefines the bioassay results to report, and (g) adds monitoring of the creek in order to determine if pollutants are entering at points other than the authorized discharge point.
5. The Wah Chang sludge ponds appear to be leaking. The Department will continue to evaluate this and take enforcement action if necessary.
6. It is likely that this final determination will be appealed.

Director's Final Action

After due consideration of all the evidence presented, the Director intends to deny Teledyne Wah Chang Albany's request for permit modification and to issue the modification initiated by the Department as soon as final concurrence is received from EPA.

*Michael Powers*  
for  
WILLIAM H. YOUNG

Charles K. Ashbaker/em  
229-5325  
February 14, 1978



DEPARTMENT OF ENVIRONMENTAL QUALITY

HEARINGS SUMMARY

LOCATION & TIME OF HEARING: A public hearing was held on Tuesday, January 10, 1978, at 7:30 o'clock p.m., in the Forum Building - Linn-Benton Community College, Albany, Oregon.

SUBJECT MATTER: The hearing was held pursuant to a request from Teledyne Wah Chang Albany for a modification of the effluent limits of their NPDES waste discharge permit.

SUMMARY OF PARTICIPANTS: Mr. Peter McSwain acted as hearings officer. Kent Ashbaker presented the Department's tentative determination in the form of a staff report. Other staff members present were Van Kollas, John Borden, David St. Louis and Ted Groszkiewicz. Dr. Grace Phinney of the Environmental Quality Commission attended as an observer.

There were 31 witnesses who presented oral testimony. An additional 11 written responses were submitted to the Department while the hearing record was open.

SUMMARY OF TESTIMONY

Kent Ashbaker presented the staffs tentative determination regarding the requested modification. A copy of his presentation is attached as Exhibit I.

Next Tom Nelson of Wah Chang presented justification for their requested modification. His testimony is attached as Exhibit II.

Senator John Powell did not take sides on the issue but presented a good summary of weighing the employment impact against the environmental impact. See Exhibit III.

The following people who presented written or oral testimony are concerned about Wah Chang closing down if the effluent limits are too stringent: Representative Bud Byers; Ed Poteet, representing homeowners around Albany; Richard Kyrus, representing District 5 AFL-CIO; Vern Berniven, representing Wah Chang employees; Art Crosley, representing financial institutions in Albany area; Jack Hines, United Steel Workers Local 6163; David L. Brown, septic tank pumper; Donald Allbright, Albany resident; Sherman Olts, Retail Merchants Committee of Albany Chamber of Commerce; Miss Nora Crosey, Wah Chang employee; Morton L. Booth, retired clergyman; Lee King, United Steel Workers Local 6163; Robert Ball, Albany resident; Richard Mitchell, Albany businessman; Henry A. Hurlbut, Chairman Albany Planning Commission; F. L. Christensen, representing Millersburg; Mr. Novak; Russel Beck, United Way; and Robert MacVicar, Corvallis.

Mr. Alan Amoth, CH<sub>2</sub>M-Hill presented testimony for Wah Chang. He summarized how EPA developed the 400 pounds per day ammonia limit. He did not feel that the 400 lbs/day limit allowed normal expected fluctuations. He stated that the Willamette River still has enough oxygen reserve to allow the increase in ammonia Wah Chang was requesting. He also indicated that the Fluoride limit was too restrictive.

John Vlastelicia of EPA testified in support of the Department's proposed ammonia limit. He reiterated some of the history involved in the development of the ammonia limits at Wah Chang. He told that EPA has determined that Best Practicable Control Technology at Wah Chang would result in average ammonia discharges of less than 400 pounds per day. See Exhibit IV.

Ms. Bronwyn Hurd, League of Women Voters, urged that the Department not relax permit conditions. She was concerned about the water quality in the Willamette in the face of future increases in population and industrial growth. She also expressed that the consumers of the product should pay the price of cleanup, not the downstream public. See Exhibit V.

Mr. Gil Zemansky, from Seattle, represented Friends of the Earth and Corvallis Citizens for a Clean Environment. Mr. Zemansky criticized the Department in their dealings with Wah Chang. His recommendations are as follows: (1) The ammonia limits should be lowered to 200 lbs/day; (2) No change in the toxicity limits should occur until more data is available; (3) Thiocyanate limitation of 150 lbs/day should be added to the permit; (4) A monitoring requirement for COD be put back in the permit; (5) A gross alpha radiation effluent limitation of 30 picocuries per liter be added to the permit; and (6) No change in TOC limitations.

Written testimony was received from Oregon Environmental Council. They supported the Department's tentative determination for ammonia and fluoride limitations. They recommended against an increase in TOC limits. They suggested the permit contain radioactivity limits when renewed. See Exhibit VI.

Richard Olsen, member of the Albany City Council, testified that Wah Chang should be required to clean up their problems, just like the wigwam burners and the sewage treatment plants. He recommended holding Wah Chang to the original permit limits.

Others who testified or submitted written testimony that no increase in permit limits should be granted are as follows: Ron Wakefield, Salem resident; Rod Ortman; Corvallis resident; Edward Hemmingson, resident of Albany since 1955; Elmer Gatchet, Albany resident; Ms. Jean Belli, North Albany resident; Dennis Latzy, Albany resident; Eric Iseman, Corvallis resident; Robert Blickensderfer, Ph. D., professional engineer, Georgia Wier, Albany resident; Marianne Settelmeyer, Albany resident; Ms. Alette Sundance, Lebanon; Ms. Teresa, Hayes, and Jeff Rempfer.

Set forth above are the substantial contributions to the public hearing.

Respectfully Submitted  
this 15th day of February 1978



Peter McSwain



Charles K. Ashbaker

CKA:aes

Attachments:	Exhibit I	Staff Report
	Exhibit II	Teledyne Wah Chang Albany Report
	Exhibit III	Senator John Powell Testimony
	Exhibit IV	EPA testimony
	Exhibit V	League of Women Voters
	Exhibit VI	Oregon Environmental Council

# EXHIBIT I

## OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY PUBLIC HEARING REGARDING TELEDYNE WAH CHANG ALBANY'S REQUEST FOR NPDES PERMIT MODIFICATION

### Background

Pursuant to an NPDES Waste Discharge Permit issued on March 26, 1975 and modified on March 10, 1977, Teledyne Wah Chang Albany was required to achieve the following final effluent limitations by July 1, 1977:

<u>Parameter</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
Total Organic Carbon (TOC)	200 lbs/day	300 lbs.
Ammonia Nitrogen (NH <sub>3</sub> )	300 lbs/day	400 lbs.
Fluoride Ion	60 lbs/day	80 lbs.
Methylisobutyl Ketone (MIBK)	100 lbs/day	200 lbs.
Suspended Solids	300 lbs/day	450 lbs.

### Other Parameters

Flow	2.1 MGD	2.3 MGD
pH	Shall be within the range 6.0 - 8.0	
Oil and Grease	Shall not exceed 10 mg/l	
Toxicity	There shall be no toxicity to salmonid fishes after 96 hours exposure in a dilution of one part total effluent to 9 parts Willamette River water, or water of equivalent chemical quality, using approved bioassay techniques (96 hour L.C. 100-10%).	

### Permittees Performance in Meeting Final Limits

For the past few months the permittee has been unable to achieve compliance with the ammonia nitrogen limits. A comparison of a portion of the data from the monthly effluent monitoring reports is as follows:

<u>Parameter (lbs/day)</u>	<u>Reported (monthly average/daily maximum)</u>					
	<u>June</u>	<u>July</u>	<u>Aug.</u>	<u>Sept.</u>	<u>Oct.</u>	<u>Nov.</u>
Ammonia Nitrogen	767/1865	165/573	232/1326	493/1100	428/1224	300/583
Fluoride Ion	46/80	38/68	20/52	38/75	27/47	31/57
Methylisobutyl Ketone	30/35	50/360	22/88	33/60	52/180	36/77

### Request for Modification

In April 1977, Teledyne Wah Chang Albany did not feel they could achieve the final effluent limits by July 1, 1977 and requested a three-month extension of their compliance schedule. They also questioned the achievability of the ammonia nitrogen limit and requested an increase in the allowable discharge to a monthly average of 2000 lbs/day and a daily maximum of 3000 lbs. They also requested a relaxation in their fluoride limit to a monthly average of 100 lbs/day and daily maximum of 150 lbs. and a relaxation in their methylisobutyl ketone limit to a monthly average of 300 lbs/day and daily maximum of 500 lbs.

The permittee also requested that the toxicity limit be changed from 100 percent survival of the test species in a 10 percent effluent solution (L.C. 100-10%) to 50 percent survival in a 5 percent solution. They contend that the toxicity requirement imposed upon them is more stringent than that applied to other companies.

Since the initial request for modification, TWCA has determined that they can meet the MIBK limitations and toxicity standards and have withdrawn their request for modification of these items. They have also reduced their request for a modification of average ammonia limits from 2000 lbs/day to 750 lbs/day with the daily maximum reduced from 3000 lbs. to 1500 lbs.

They have, however, requested an increase in average Total Organic Carbon (TOC) limitations from 200 lbs/day to 500 lbs/day with the daily maximum increased from 300 lbs. to 1000 lbs.

### Stipulated Consent Order

Because of ammonia nitrogen and toxicity limits which would apparently be violated after July 1, 1977, the Department entered into a stipulated consent order with the permittee as an enforcement action. The stipulated consent order requires the permittee to pay a \$50 per day penalty for all ammonia nitrogen and toxicity violations which occur prior to the time action is taken on their modification request. The penalty is increased to \$200 per day for ammonia nitrogen and toxicity violations which occur between the time the requested modification action takes place and June 30, 1978. Remittance of the daily penalty is allowed whenever the permittee demonstrates compliance with the final ammonia nitrogen and toxicity limitations.

### Establishment of Ammonia Nitrogen Limit

The final ammonia nitrogen limit of 300 lbs. per day was based on two factors. First, it was determined that in order to prevent toxicity, the ammonia concentration acceptable, (when the receiving stream provides a 10:1 dilution), is 20 mg/l of ammonia. When related to the quantity of flow being discharged at that time, total pounds permitted to be discharged was 300 lbs. per day. Second, the Environmental Protection Agency (EPA) was requested to develop the discharge limits based on best practicable control technology (BPT). They arrived at 312 lbs. per day.

The permittee feels that EPA made some wrong assumptions when they developed BPT for the Albany plant and that the limits are not economically achievable. They also feel that they can meet the toxicity requirements without reducing the loadings to 300 lbs/day.

#### Evaluation of The Final Ammonia Limits

The Environmental Protection Agency was requested to re-evaluate BPT for Teledyne Wah Chang Albany with respect to ammonia nitrogen. They did this by comparing various methods of ammonia nitrogen removal employed at other comparable facilities. Since there is no other plant exactly like TWCA, no exact comparison can be made. They concluded their ammonia nitrogen treatment investigation and provided two options for reducing the ammonia discharges at TWCA in a draft report dated September 1977. Option I is defined as highly efficient single stage steam stripping. It should provide a total plant effluent of 400 lbs. per day ammonia nitrogen. Option II is defined as two steam strippers operating in series. The total load under Option II is 180 lbs. per day.

As EPA was evaluating their determination of BPT for TWCA, the Department re-evaluated the impact of the discharge on the Willamette River. It was determined that 400 lbs. per day of ammonia from TWCA would not exhibit an unacceptable impact on the River outside the mixing zone provided the toxicity could be kept under reasonable control. Therefore, the monthly average discharge of ammonia nitrogen is proposed to be changed from 300 lbs. per day to 400 lbs. per day.

The existing 400 lbs. daily maximum does not provide enough leeway for the natural variations that take place from day to day. Most effluent limitations (sugar processing, textile industry, primary aluminum, plastics, fertilizer, petrochemical, iron and steel, ferroalloy and etc.) allow a daily maximum of at least twice the monthly average limitation. Therefore, the daily maximum of ammonia nitrogen from TWCA will be raised to 800 lbs.

#### Toxicity

Teledyne Wah Chang Albany has made good progress in reducing the toxicity of their waste water. The Department feels the toxicity limit on the permit is justifiable. Statistically, basing a bioassay standard on 100 percent survival is hard to verify. Basing it on 50 percent survival, called the median tolerance limit (TLM), is a more acceptable limitation.

Data from TWCA indicates that the TLM concentration which corresponds to 100 percent survival in a 10% effluent is between 20 and 25%. We propose to require the 96 hour TLM to be 25% or greater. TWCA now agrees with that toxicity standard.

#### Modification of Other Parameters

Teledyne Wah Chang Albany has not adequately justified an increase in the fluoride limits. Therefore, the Department proposes to deny an increase in that parameter. Monitoring reports for the last few months demonstrate the permittee's ability to meet these limits.

TWCA has not adequately justified raising the TOC limits to 500 lbs/day. Therefore, the Department proposes to deny that request. However, a small increase in TOC, until the permit expires in June, is probably justified.

Theoretically, at average flows, the permitted discharge of MIBK and oil and expected discharge of thiocyanate will yield a calculated TOC of about 200 mg/l. However, measured TOC values seem to be about 25% above calculated values. Evidently there are chemicals contributing to the TOC other than thiocyanate, MIBK and oil. For that reason we are willing to allow a 25% increase in the monthly average limitation for TOC (250 lbs/day) during the duration of this permit. The daily maximum will be raised to 500 lbs/day or double the monthly average, to be more consistent with other guidelines. This will also allow some time to work the bugs out of the new thiocyanate regeneration system.

When the permit is renewed in June 1978, we will again re-evaluate the TOC limitations with respect to other environmental concerns.

#### Other Complicating Factors

Radioactivity - The State Health Division has determined that the Radium (Ra 226) concentration in the spent chlorinator sand is too high to be handled without a license from them. Also, analysis of the waste water has shown levels of Ra 226 above those allowed for discharge to an uncontrolled environment. Radioactivity in the waste sludge is also creating a disposal problem.

Because the Health Division is still gathering facts and assessing the impacts of the excessive radioactivity, the Department does not intend to address it in this permit modification. However, when the permit is renewed in June 1978, radioactivity limits, in keeping with Health Division standards, will probably be added to the permit.

Unaccounted for Ammonia Concentrations - During the extensive stream surveys conducted by the Department last summer, concentrations of ammonia nitrogen were found in Truax Creek which were greater than that being discharged by TWCA at their permitted points of discharge. Some leaking was found coming through the stop boards on the lower sludge lagoon. Many visible seeps along the perimeter of the sludge lagoons could also be contributing to this increase in ammonia.

Additional monitoring of the creek in the vicinity of the sludge lagoons will be required in order to further assess the situation.

The only authorized discharge point is at the waste effluent pond weir. All other discharges are not permitted. The 400 lbs. per day limit proposed for TWCA must account for all ammonia nitrogen discharges to public waters.



### Summary and Conclusions

The following changes are proposed in response to Teledyne Wah Chang's modified request for a permit modification:

	<u>Existing Limits</u> #/day	<u>Requested Limits</u> #/day	<u>Tentative</u> <u>Determination</u> #/day
Ammonia Nitrogen	300/400	750/1500	400/800
Fluoride Ion	60/80	100/150	60/80 (increase denied)
Total Organic Carbon (TOC)	200/300	500/1000	250/500
Toxicity L.C.	100-10%	TLm-25%	TLm-25%

Weekly monitoring for Ammonia Nitrogen and TOC will be required at three points on Truax Creek and at the sludge pond in order to determine if non-permitted quantities of pollutants are reaching the receiving stream.

CKA:em  
1/6/78

January 10, 1978

**Memo To:** FOR THE RECORD

**Subject:** Permit Modification Hearing, January 10, 1978

Teledyne Wah Chang Albany is desirous of obtaining realistic, reachable limitations. Pursuant of this, Teledyne Wah Chang Albany has requested that several parameters in the existing permit, which we feel were arbitrarily imposed in March 1975, be modified. We have decided to request modifications from a knowledge gained through experience in the use of our very complex treatment systems. The requested modifications are calculated levels within which our treatment equipment can be expected to operate. The alternatives to modifications which are realistic and reachable are: (1) Teledyne Wah Chang Albany continually finding itself in civil and criminal jeopardy and at odds with state and federal agencies; and (2) the possibility of eventual or immediate termination of some or all of the production facilities in Albany.

Teledyne Wah Chang Albany has diligently pursued the best practicable control technology in its treatment of effluents. Further, we will continue in our efforts to minimize environmental impacts by effluent recycling, removal and destruction.

The parameters which are subject of this modification request are as follows:

Ammonia Nitrogen

Teledyne Wah Chang Albany has pursued a successful course in applying the best practicable control technology in the treatment of ammonia nitrogen. Based upon the positive results obtained in the operation of the ammonia/steam stripper, ammonia nitrogen discharges have been markedly reduced. While the Environmental Protection Agency, after careful study, has recommended a modification of Special Condition 8 limitations (from 300/400 to 400/800), Teledyne Wah Chang Albany feels that the limitations as proposed in the subject addendum are inappropriate.

The current limitations (300/400) have not been reached, and it is the decided opinion of Teledyne Wah Chang Albany and CH<sub>2</sub>M-Hill that the imposed levels cannot be continuously complied with, nor are they realistic. Evidently, the EPA concurs; Re: Their findings and suggestions to increase the limitations to 400/800. In the absence of effluent guidelines for the zirconium industry, it would seem more appropriate to utilize data generated by Teledyne Wah Chang Albany rather than attempt comparison to either the fertilizer or columbium-tantalum industry. The zirconium-hafnium industry is unique; straightline correlations between industries do not exist. These data have been reviewed by personnel from the Federal and State agencies, yet industry comparison still prevails.

Teledyne Wah Chang Albany submits that a limitation of 750/1500 is a more appropriate number to be imposed. The original request of 2000/3000 is withdrawn.

#### Fluoride Ion

The control of fluoride ion to the extremely low levels of Special Condition 8 of the permit is totally unrealistic. Calcium fluoride, the compound resulting from lime treatment of fluoride wastes has an extremely low solubility. However, even with a low solubility, when one compares the allowable aqueous discharge of 2.1 MGD to the solubility product of calcium fluoride, approximately 100 pounds of fluoride ion would be soluble in the discharge. The effluent, of course, is not a simple system; there are undoubtedly other fluoride compounds which influence the concentration. The EPA suggested in 1975, during the formulation of the subject permit, that the benefits of removing fluorides would not justify the cost unless they are causing or contributing to a water quality problem. There is no evidence of any degradation to the environment due to fluoride discharge. As a consequence, a fluoride limitation is an unreasonable imposition.

At present Teledyne Wah Chang Albany is achieving the limit of 60/80 on most occasions. We are able to do this only by the application of an extraordinary temporary control strategy. Fluoride-containing waste water is being mixed with lime and is then being trucked to a sludge pond for dumping. The solids are allowed to settle and the clear supernatant is being returned to our treatment

system for discharge. This system is very labor-intensive (two men are assigned to each haul for safety reasons); it is destructive to the tank trucks; and it uses large amounts of lime. A permanent system to perform the same function would cost almost \$300,000. In addition, a very high labor and lime cost would make operation of the system expensive. Because of the high concentration of calcium in our wastewater we can reasonably expect that some fluoride will settle out in our clarifier. The expenditure of money for further removal is not justified by the small amount of removal which would result. Therefore, Teledyne Wah Chang Albany requests that the fluoride limitation be deleted from the permit.

#### Total Organic Carbon

Total Organic Carbon (TOC) in the effluent is composed primarily of three components: Oil and grease is limited in the current permit to a concentration of <10 mg/l. Methyl isobutyl ketone (MIBK) is limited to 100 lbs./day monthly average and would contribute, therefore, approximately 75 lbs./day to the TOC parameter. The third and major component is thiocyanate. While this parameter is monitored, there is no specific limitation.

If one were to assume a maximum flow of 2.1 MGD, and a maximum concentration of oil and grease (175 lbs./day) and MIBK (75 lbs./day), the permit condition of 200 lbs./day would be exceeded by 50 lbs./day without any contribution by thiocyanate. Consequently, it is the feeling that the TOC parameter should be adjusted to a realistic, reachable limitation, i.e., 500/1000. This limitation is in concert with the aforementioned parameters and would allow a thiocyanate contribution of 250 lbs./day to the TOC limit.

#### Methyl Isobutyl Ketone (MIBK)

The methyl isobutyl ketone limitation of Special Condition 8 of the subject permit has been attained. Teledyne Wah Chang Albany, therefore, withdraws its request for modification of this parameter.

#### Toxicity

The toxicity limitation as proposed in the preliminary draft, Addendum 2 to the subject permit, is acceptable as written. Teledyne Wah Chang Albany withdraws its request for further modification of this parameter.

Direct Discharge to the Willamette River

CH<sub>2</sub>M-Hill is in the process of designing an effluent disperser for the river bottom. Should the course of control strategies move in the direction of removal of effluents from the Truax-Murder Creek-Conser Slough system, Teledyne Wah Chang Albany will be prepared to discuss this project from the standpoint of costs and effectiveness for a direct discharge to the Willamette River.

Summary

Modification of the aforementioned parameters as requested would establish a realistic document with reachable limitations and is directed at the highest and best practicable treatment and control of effluents.

# EXHIBIT III

HOME ADDRESS  
JOHN POWELL  
P.O. Box 286  
HALSEY, OREGON 97348  
  
LINN, BENTON COUNTIES  
DISTRICT 19



OREGON STATE SENATE  
SALEM, OREGON  
97310

ASSISTANT MAJORITY LEADER  
COMMITTEES  
CHAIRMAN:  
AGRICULTURE AND  
NATURAL RESOURCES  
MEMBER:  
LOCAL GOVERNMENT AND  
ELECTIONS  
REVENUE AND  
SCHOOL FINANCE  
STATE AND FEDERAL AFFAIRS/  
RULES

TESTIMONY BEFORE DEQ HEARING: WAH CHANG WATER DISCHARGE PERMIT

BECAUSE OF THE HIGHLY TECHNICAL NATURE OF THE PERMIT DETAILS, I CANNOT SPEAK TO THE SCIENTIFIC ASPECTS OF THE WAH CHANG WATER DISCHARGE PERMIT REQUEST. WAH CHANG'S TECHNICAL REPORT AND DEQ OFFICIALS WILL HAVE TO DO THAT. HOWEVER, I CAN SPEAK TO PARAMETERS FACED IN DECIDING THE MERITS OF WAH CHANG'S REQUEST.

FIRST, WE FACE THE LIMITS OUR ENVIRONMENT CAN STAND BECAUSE OF MAN'S ACTIVITY. I AM NOT ASKING THAT PERMIT LEVELS BE GRANTED THAT WOULD CRITICALLY HARM THE ENVIRONMENT. THE ECONOMICAL GAINS MADE BY SUCH FOOLISH MOVES ARE FAR OUTWEIGHED BY OUR CONCERN AND NEED FOR A HEALTHY ENVIRONMENT.

SECONDLY, WE FACE THE QUESTION OF JOBS, PRESENT AND FUTURE. MAKE NO MISTAKE ABOUT IT - THE OUTCOME OF THIS PERMIT REQUEST WILL HAVE AN EFFECT ON JOB OPPORTUNITIES. FUTURE TELEDYNE PROCESSING PLANTS WILL COMPETE WITH ALBANY'S PLANT PRODUCTION. AS OTHER PLANT CAPACITIES ARE INCREASED, WAH CHANGS LABOR REQUIREMENT WILL BE LESSENERED, OR POSSIBLY CUT. WAH CHANG PROVIDES CRITICAL EMPLOYMENT OPPORTUNITIES TO THE MID\_VALLEY WORKING FORCE. ITS PAYROLL PROVIDES MILLIONS TO OUR LOCAL ECONOMY. THIS ECONOMY CONTRIBUTES SUBSTANCIALY TO LOCAL, STATE AND FEDERAL GOVERNMENTS. THE QUALITY OF LIFE WE ENJOY IN OREGON IS BASED ON BOTH A HEALTHY ENVIRONMENT AND A JOB. EACH ALONE IS NOT ENOUGH, AND

THEREIN LIES OUR DELIMMA. EQUALLY AS FOOLISH AS HARMFUL ACTS AGAINST OUR ENVIRONMENT, WOULD BE TO JEOPARDIZE THIS ECONOMY UNNECESSARILY.

IT SEEMS TO ME, THAT EACH OF THE REQUESTS, AMMONIA NITROGEN, FLUORIDE, T.O.C., AND MIBK SHOULD BE JUDGED ON ENVIRONMENTAL EFFECT AND AVAILABILITY OF TECHNOLOGY. IF EVERY EFFORT IS BEING MADE (INCLUDING AVAILABLE TECHNOLOGY) AND NO CRITICAL ENVIRONMENTAL HARM IS PRESENT AS A RESULT, REALISTIC LIMITS SHOULD BE GRANTED. THESE LIMITS SHOULD BE RECOGNIZED AS MAXIMUMS, NOT OPERATIONAL STANDARDS. WAH CHANG SHOULD BE EXPECTED TO OPERATE WELL BELOW THEM WHENEVER POSSIBLE.

I THINK IT IS POSSIBLE TO HAVE AN IMPROVING ENVIRONMENT, AND WAH CHANG. IT IS POSSIBLY THE MOST STABLE SOURCE OF GOOD PAYING EMPLOYMENT IN OREGON. TO TURN THEM LOSE WITHOUT ENVIRONMENTAL CONTROL IS LUDICROUS, BUT TO RISK ITS ECONOMIC CONTRIBUTION WITHOUT CONCRETE REASONS IS RIDICULOUS. I URGE THE D.E.Q. AND E.Q.C. TO RECOGNIZE THE CRITICAL NATURE OF THIS DECISION.

**EXHIBIT IV**

ENVIRONMENTAL PROTECTION AGENCY  
JOHN VLASTELICIA, Director  
Oregon Operations Office

STATEMENT FOR PUBLIC HEARING

TELEDYNE WAH CHANG ALBANY

January 10, 1978

The Oregon Department of Environmental Quality (DEQ), on June 13, 1977, requested the Environmental Protection Agency (EPA) to provide assistance in determining the final ammonia nitrogen limits achievable by Teledyne Wah Chang Albany. The Environmental Protection Agency in early 1975 had provided similar assistance to DEQ in evaluating the type of treatment and effluent limits representing the "best practicable control technology currently available" (BPT) for wastewater discharges by Teledyne. The Federal Water Pollution Control Act (FWPCA) requires that effluent limitations representing application of the "best practicable control technology currently available be met by July 1, 1977."

As a result of DEQ's request for assistance EPA's National Enforcement Investigation Center (NEIC) in Denver, Colorado has conducted an investigation to thoroughly evaluate conditions at Teledyne Wah Chang Albany; to determine the Company's efforts in meeting the permit requirements; and to develop currently available technology on ammonia removal and apply this to the Albany plant. A report entitled "Evaluation of Waste Treatment Technology Teledyne Wah Chang Albany, Oregon" was completed in September 1977, and provided to DEQ. A copy of this report is provided for the record. Additional information was also obtained by EPA in an October 7, 1977 response by Teledyne to a Request for Information under Section 308 of the FWPCA. A copy of this response is also provided for the record. A follow-up investigation to update technical data and to



respond to Company input was also made by NEIC on December 6 and 7, 1977. A report on this field inspection has not yet been completed, but a preliminary summary of these findings are provided for this hearing record.

Based on the above data, EPA found that the original ammonia limitation of 300 lbs/day was more stringent than the limitation representing BPT. However, the level of ammonia discharge requested by the Company was determined to exceed the BPT level. The level of treatment representing BPT was identified as Option I in the September NEIC report and results in a monthly average ammonia discharge of 400 lbs/day. This is the level proposed by DEQ in this modification. The report identified a number of operational deficiencies in Teledyne's present treatment and control systems and recommended operational changes which could improve treatment efficiency. The follow-up investigation by NEIC personnel in December 1977, shows that in the latter part of 1977 Teledyne has made many of the improvements identified in the report and the ammonia discharge has been significantly reduced. These results demonstrate that Teledyne has been meeting and is capable of continuing to meet the proposed ammonia limit of 400 lbs/day.

EPA has not as part of this investigation, evaluated in detail the modification request for fluoride, MIBK, TOC or toxicity. EPA will review DEQ's final determination for these parameters, and changes (if any) in the ammonia limitations resulting from this hearing, to determine if they are appropriate in the context of Best Practicable Treatment limitations and water quality requirements. EPA has the responsibility to object to any proposed final permit action by DEQ which is outside the guidelines and requirements of the FWPCA.

Preliminary Summary

FIELD TRIP REPORT

Teledyne Wah Chang Albany, Oregon

December 6-7, 1977

(Material for Inclusion in the Public Hearing Record, Oregon DEQ and Teledyne Wah Chang Albany, January 10, 1977)

EPA-NEIC, Denver, conducted a field inspection of the Teledyne Albany plant on December 6-7, 1977 to update technical data and develop a detailed evaluation of the various waste treatment systems at Teledyne. Emphasis was directed to the V2 ammonia steam distillation plant. The VI boildown (liquid fertilizer) system, the spill-surge system, and the lower sludge holding ponds also received special attention.

The new spill-surge system has continuing problems. Neutralized waste is passed through plate and frame filters but the filters are capable of handling only about half nominal system flows. Excess spill-surge wastes are being pumped to the old V2 earthen storage pond which was due to be abandoned in July 1977. Seepage of wastes from this pond to Truax Creek was previously found to be of serious concern. Use of this pond should be terminated to eliminate uncontrolled ammonia discharges.

The V2 raw waste flow is currently in the range of 80 to 100 gpm vs. the 130 to 150 gpm flow figures given the EPA by the Company earlier in 1977. Certain of the operational data received by the EPA in June 1977 are believed to have been on the high side. Approximately 25 gpm of river water are used for lime slaking. The limed V2 waste averages 120 gpm or less entering as feed to the V2 stripper columns. The V2 stripper column bottoms currently have a flow rate of 150 gpm or less compared to the 180 to 200 gpm flow figures reported by Teledyne to the EPA in June 1977.

Teledyne Wah Chang strives to maintain a pH level of 11.0 or higher in the wastes going to the V2 stripper columns; the objective is only infrequently being met. On December 1, 1977, the Company indicated to the EPA that the stripper feed was being preheated. During the field inspection of December 6-7, 1977, it was found that preheating is not employed. The feed enters the stripper at a relatively low temperature of around 120°F. Teledyne reported in June 1977 that the stripper columns could be operated for a maximum continuous period of about 5 days before severe clogging occurred. Substantial improvement in column performance has been experienced over the past two months. The column run previous to November 29, 1977 extended over 21 continuous days and column runs of 10 or more days have become common. Teledyne previously stated that caustic soda could not be used to improve pH levels in the V2 stripper system. However, in December 1977, it was learned that the Company is experimenting with a caustic-trimmer and a pilot design is being developed.

Teledyne Wah Chang Albany has recently emphasized there is less than 50 pounds/day ammonia coming from the entire installation over and above residual ammonia leaving the V1-V2 steam stripping/boildown treatment systems. During the field inspection, the lower Teledyne sludge storage pond was found to be discharging an estimated volume of 2 to 5 gpm of overflow into Truax Creek.

Available ammonia data from the Company has been compiled for the period of September through December 1977 and represent three independent sources including: a) NPDES permit results consisting of grab samples taken three times/week at the 001 sampling location; b) twenty-four hour composites collected daily at the 001 location called for under a recent stipulation and Final Order Compliance between the Oregon DEQ and Teledyne; and c) hourly operational data collected by Teledyne V1-V2 treatment plant personnel. The first two sources of data above for the period of October through December 1977 show the Company to be virtually in compliance with the new DEQ proposed ammonia N limitations of 400 pounds/day for the average day and 800 pounds/day for the maximum day. The ammonia loads at the 001 location have progressively decreased through November and December 1977.

Extensive Company operational data for the ammonia steam stripping treatment works over October to December 1977 clearly show the steam stripper effluent since about mid-October has been averaging considerably below 100 mg/l  $\text{NH}_3$ . Assuming a V2-stripper bottoms flow rate of 150 gpm (which is likely on the high side), the steam distillation plant would be discharging around 180 lb/day  $\text{NH}_3$  equivalent to around 148 lb/day as N. This is only 37 percent of the December 1977 DEQ proposed average daily limitation of 400 lb/day ammonia N for the Teledyne installation. The stripper system is achieving low ammonia waste loads in spite of certain operational conditions.

The pH operating curves for the V2 distillation plant show that pH for both the column feed and for the column bottoms are lower than should be the case to guarantee consistently high ammonia reduction efficiencies. The hourly sampling results at the V2 treatment plant explicitly show when the pH of the column bottoms drops into the area of 8.0 or lower, ammonia content of the stripper bottoms quickly rises often to 1,000 mg/l and higher. Stripper bottoms pH should be continuously maintained at around 10.0, which is far from the present situation. Steam wastes should be kept at a consistently high level which has not been done until the last few weeks. Unfortunately, the EPA has been earlier led to believe from previous information that waste flows and ammonia loading factors for the V2 distillation plant were higher than existing conditions would indicate. However, the Company has made noteworthy progress on control and treatment of ammonia wastes in the latter part of 1977. Recent results on ammonia, especially the fertilizer plant operational data, demonstrate that Teledyne can meet (and is already achieving), the proposed ammonia limits of 400 and 800 pounds/day.

# EXHIBIT V

## DEQ HEARING ON MODIFICATION OF THE WAH CHANG NPDES PERMIT

10 January 1978

I am Bronwyn Hurd, of 1352 NW Taylor, Corvallis. I am speaking for the League of Women Voters of Corvallis and for the Albany-Lebanon Area League of Women Voters.

We urge DEQ not to relax permit requirements for Wah Chang. There is growing concern today about whether water quality in the Willamette River can be maintained in the face of future increases in population and industrial development; if permit holders are not held to their present standards the river's prospects for future water quality are dim indeed. In addition, the fact that a number of downstream communities are considering use of the river as a source of municipal water makes the maintenance of river quality even more important.

The League of Women Voters feels strongly that effluent control to prevent environmental degradation should be considered part of the cost of doing business, and that that cost should be borne by those who benefit most from the operation -- the consumers of the product, the stockholders, and the owners. It is patently unfair that the downstream public should have to assume externalized costs in the form of lowered water quality. With the cost of pollution thus diffused, and shared by the public as a whole, the cost to society of plant operation is masked and neither producers nor consumers are able to make valid economic decisions.

We recognize the importance of Wah Chang in the economy of the area. We have no wish to see the plant shut down; we simply want assurance that it will maintain a satisfactory level of effluent quality.

Thank you for this opportunity to comment.

# EXHIBIT VI



## OREGON ENVIRONMENTAL COUNCIL

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

January 31, 1978

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**RECEIVED**

JAN 31 1978

**OFFICE OF THE DIRECTOR**

Re: Modification of NPDES  
Permit No. OR-000111-2

Bill Young  
Director  
Department of Environmental  
Quality  
Yeon Building  
PO Box 1760  
Portland, Oregon 97207

Dear Bill:

While the Oregon Environmental Council does not favor increasing the ammonia nitrogen average from a monthly average of 300 lbs./day-400 lbs./daily maximum to 400 lbs./day-800 lbs./daily maximum, we see even less justification for Teledyne Wah Chang's request for 500 lbs./day-750 lbs./daily maximum. Indeed, according to reported levels for November and December 1977, TWCA is currently capable of meeting the 400 lb./day ammonia level.

We urge the DEQ to hold TWCA to the 400 lb./day ammonia limit and if violations occur, to remind TWCA of their permit limitation with STRICT enforcement measures. It is hoped that by tightening up their internal operating procedures, TWCA can fall below the 400 lb./day suggested modification and meet the 1977 level of 300 lb./day. Furthermore, DEQ should be encouraging TWCA to bring their second steam stripper on line since this would further reduce their discharge levels to 180 lbs./day. If operation of this stripper with natural gas is not economically feasible, TWCA should be exploring other fuel alternatives, possibly wood wastes.

We support the Department's refusal to allow increases of fluoride and MIBK discharge. In light of discussion of the Willamette River as a source of drinking water for several downstream communities, the Department

**RECEIVED**

FEB 1 1978

Water Quality Division  
Department of Environmental Quality

- ALTERNATIVE FUTURES Tigard
- 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
- AUDUBON SOCIETY, Central Oregon, Corvallis,  
Portland, Salem
- BAY AREA ENVIRONMENTAL COMMITTEE  
Coos Bay
- B. R. I. N. G., Corvallis
- 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
- FURTKAKERS OF AMERICA, Canby
- GARDEN CLUBS of Cedar Mill, Corvallis,  
McMinnville, Nehalem Bay, Scappoose
- GREENPEACE OREGON  
H.E.A.L., Azalea  
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,  
Tigard, Willamette Falls
- OBSDIANS, 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,  
Many Rivers, Eugene  
Mary's Peak, Corvallis,  
Mt. Jefferson, Salem,  
Rogue Valley, Ashland  
SOIV
- STEAMBOATERS
- SURVIVAL CENTER, U. of O., Eugene
- TEAMSTERS FOOD PROCESSORS
- THE TOWN FORUM, INC.  
College Grove
- UMPUQUA WILDERNESS DEFENDERS
- WESTERN RIVER GUIDES ASSOCIATION, INC.
- WILLAMETTE RIVER GREENWAY ASSOCIATION

Bill Young  
Jan. 31, 1978

Pg. 2

should be considering requesting reduction or elimination of all flouride and MIBK discharges and be ready to make recommendations on this in June, when the permit will expire.

Since it appears from recent DEQ fines that TWCA's sludge lagoons are leaking, the OEC also supports additional monitoring of Truax Creek.

The OEC is also concerned about the presence of Ra 226 in the chlorination waste piles around the plant. The DEQ Water and Hazardous Waste Divisions and the State Health Division should be working together closely to make provision for limits and disposal procedures of this material in TWCA's new NPDES permit. We will be watching this issue closely and expect strict guidelines to be written into the new permit for the handling of this material.

We have not seen any material to justify an increase in total organic carbon. Continuing fines by the DEQ for violation of TOC levels might prove to be more of an incentive to TWCA to solve this problem than allowing an increase in TOC discharge at this time. More data should be collected on the relationship of TOC and elimination of the cat box odor and be carefully analyzed by the DEQ's Air and Water Divisions before an increase in TOC is considered.

In order to maintain current water quality standards and allow for future growth on other parts of the river, industries and municipalities must continue to reduce their effluent discharges. In addition, some cities on the river are considering drawing their drinking water from the Willamette, which may require even tighter restrictions on effluent discharges in the future.

Wah Chang has made progress in reducing their ammonia discharge, but it is the opinion of the OEC that this reduction has come with reluctance on the part of TWCA management and with much prodding on the part of the DEQ and concerned citizens. Since 1960 TWCA has continually violated permit conditions and been allowed extensions of time to clean up their problems. Given the number of competent technicians in their employment, TWCA should be able to prevent violations such as leaking sludge ponds and the dumping of radioactive materials in the Coffin Butte landfill. It is estimated that TWCA made more than \$110 million in 1977 at their Millersburg plant. Yet according to a Teledyne spokesperson, they have spent only \$2 million in the last four years on pollution control. Given TWCA's history of noncompliance, we can only conclude that TWCA's "errors" have been deliberate and display a general contempt for state pollution regulations.

Bill Young  
Jan. 31, 1978

Pg. 3

We urge the Environmental Quality Commission to hold Teledyne Wah Chang to the conditions of their permits and issue severe fines when necessary. We hope that the DEQ will continue to work closely with TWCA in developing better pollution controls for their plant. But Teledyne Wah Chang should not receive preferential treatment because of the importance of their product when they knowingly violate the terms of their permits.

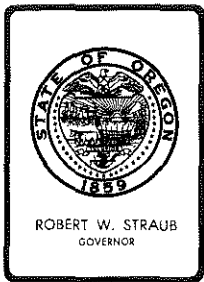
Sincerely,

*Larry Williams* <sup>AT</sup>

Larry Williams  
Executive Director

LW/eft

cc: Kent Ashbaker



## *Environmental Quality Commission*

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

### MEMORANDUM

To: Environmental Quality Commission  
From: Director  
Subject: Agenda Item J, February 24, 1978, EQC Meeting

Field Burning Rules - Public Hearing to Consider Adoption of  
Permanent Rule Revisions to OAR 340-26-005 through 26-030  
Pertaining to Agricultural Burning

### Background

Pursuant to Oregon Revised Statute 468.460, the Commission must promulgate permanent rules regarding the extent, type and amount of open field burning to be allowed during the 1978 season. Prior to the adoption of these rules, the Commission must consult with the Department and Oregon State University (OSU) and hold a public hearing to determine:

1. The status and availability of alternative methods of field sanitation and straw utilization and disposal.
2. The total acreage registered to be open burned during 1978.
3. In the event of the registration of more than the maximum allowable acres of open burning, the method of allocation.

As specified in Oregon Law, in promulgating rules for open field burning, it is the responsibility of the Commission to:

1. Hold public hearing to receive testimony on whether "other reasonable and economically feasible alternatives to the practice of annual open field burning have been developed."
2. Allocate, in the event of registration of more than 180,000 acres to be open burned in 1978, permits for acreage based on particular local air quality conditions, soil characteristics, the type or amount of field burning, crop type, the availability of alternative methods of field sanitation, the date of registration, proportional share, or any reasonable classification and to give priority to use of available alternatives to open field burning in Lane County and priority areas.



Contains  
Recycled  
Materials



3. Adopt, when alternatives are certified and based on testimony received from appropriate agencies, field burning rules for Multnomah, Washington, Clackamas, Marion, Polk, Yamhill, Linn, Benton, and Lane Counties, which provide for a more rapid phased reduction by certain permit areas, depending on particular local air quality conditions and soil characteristics, the extent, type or amount of open field burning of perennial grass seed crops, annual grass seed crops, and grain crops and the availability of alternative methods of field sanitation and straw utilization and disposal.

The passage of HB 2196 (Oregon Law, 1977, Chapter 650) mandated changes in the agricultural burning rules, OAR, Chapter 340, Sections 26-005 to 26-030. The late legislative action on this bill, July 1, 1977, did not allow 30 days public notice before the July 15, 1977, statutory deadline for rule making. For this reason the rule changes adopted by the Environmental Quality Commission (EQC) on July 15 were only those required by HB 2196 and were adopted as temporary rules under emergency rule making procedures.

The Department prepared and submitted on October 6, 1977, to the Environmental Protection Agency (EPA) an amendment to the State Implementation Plan (SIP). The amendment reflected the new law including the change in acreage that could be open burned for 1977 and 1978.

The EPA returned the Department's proposed amendment to the SIP because of "procedural" and "substantive" deficiencies. Lack of sufficient notice of public hearing before the rule adoption accounts for the procedural deficiency. Federal regulations apparently have no mechanism to respond to emergency legislative actions with stringent time requirements such as those imposed by HB 2196. Consequently, EPA deemed the Oregon public notice inadequate for SIP revision purposes.

In discussing the substantive deficiencies, EPA stated:

A fundamental requirement of the [Federal Clean Air] Act and regulations is that a state's clean air plan must provide for attainment and maintenance of the National Ambient Air Quality Standards. Oregon's current plan for control of total suspended particulate in the Willamette Valley relies, among other actions, on limiting grass seed field burning to 50,000 acres. It is our judgment that the present control requirements are adequate, but they have not been enforced, and both the primary and secondary particulate standards were exceeded at one or more sampling sites in the Eugene-Springfield area last year. Thus, instead of providing control needed to meet health and welfare related standards, Oregon is now proposing to relax controls on one source of particulates (field burning) without providing increased control on other contributing sources to offset any additional air pollution from field burning.

The DEQ recognizes that field burning has contributed to particulate loading in the Willamette Valley. However, neither the EPA or the DEQ has sufficient data to establish quantitative particulate contribution from field burning at any air quality station.

As a first step to determine the effects of field burning on suspended particulate levels, the DEQ is installing a more extensive air quality monitoring network which will provide a data base to begin to solve the "field burning effects" problem. The monitoring system is planned to be operative for the 1978 burning season. Staff believes that the reliability of any conclusions drawn on the monitoring data base will be reduced as the number of acres burned is reduced. Because of the variable and complex meteorological and agricultural factors, it is impossible to specify the minimum acreage that will insure experimental reliability. However, it is generally agreed that a meaningful study could not be conducted if burning is restricted to 50,000 acres. Preliminary conclusions from the study data are proposed to be presented to the EQC before January 1, 1979, to aid in determining the recommended acreage to be burned in 1979 and still maintain air quality standards. Conclusions drawn after completion of the data analysis will also provide a basis for further SIP revisions as required by Federal law, in early 1979. This data base is a necessary step toward assessing the relative effects of field and slash burning among other particulate contributors in the Willamette Valley airshed.

The Clean Air Act Amendments indicate that off-sets are needed on SIP regulated sources to attain and maintain air quality in areas currently exceeding standards. Relaxation of open field burning acreage limitations above the present SIP level of 50,000 acres may require that additional restrictions be placed on other sources of particulate air pollution in areas affected by field burning emissions. This determination will be based on data to be collected in the Eugene Air Quality Maintenance Area (AQMA) Study and by the Field Burning Air Quality Surveillance Network. Conclusions from these studies will be part of the control strategy to be developed by early 1979.

At this time the Lane Regional Air Pollution Authority has identified emission reductions from other sources in the Eugene-Springfield area which are scheduled to occur before the 1978 field burning season. The total reduction is estimated to be as much as 1,200 tons or the equivalent emissions from open burning of approximately 48,000 acres. These already scheduled reductions may preclude or reduce in amount other off-sets judged necessary by any increase in field burning emissions from the present SIP.

### Evaluation

The EPA has offered two alternatives to enforcement of the present SIP and 50,000 acre limitation. The first option is for the DEQ to modify the proposed SIP to include a one year control strategy to be supplanted by a longer term SIP revision by January 1, 1979. This strategy would be required to show that standards would be attained and maintained during the 1978 burning season. Data analysis to determine the effects of field burning and other sources on standards attainment will not be available until early 1979. For this reason, the Department cannot modify the proposed SIP revision prior to the 1978 field burning season to guarantee standards attainment.

The second option offered to the DEQ is to develop a one year control strategy which shows that "all reasonable measures" will be taken in 1978 to alleviate the particulate problem in the Willamette Valley. The Department is taking steps to develop a 1978 control strategy to submit to EPA prior to April 1, 1978.

Maximum Acreage to be Burned in 1978

ORS 468.475(2) as amended by HB 2196 provides that "Except as may be provided by rule under ORS 468.460, the maximum total registered acreage allowed to be open burned...shall be...during 1978, not more than 180,000 acres."

ORS 468.475(5) as amended provides that:

It is the intention of the Legislative Assembly that permits shall be used for the maximum acreage specified in Subsection (2) of this section unless the Commission finds after hearing that other reasonable and economically feasible alternatives to the practice of annual open field burning have been developed.

An Attorney General's Opinion is being sought as to whether or not the Commission has authority to alter the maximum total acreage figure of 180,000 acres.

However, since the Commission's authority to alter this number is unclear and since the Department is not aware of reasonable and economically feasible alternatives to field burning, the draft rules propose the maximum acreage allowed to be open burned as 180,000 acres.

The proposed rules as attached have to be changed if a lower maximum acreage limitation is established.

Agronomic Considerations:

In an effort to obtain support information for allocation procedures, the Department's staff requested that representatives of Oregon State University (OSU) participate in the public hearing and provide their comments regarding:

1. Availability of alternative methods.
2. Recommendation regarding acreage limitation and allocation procedures.

Written comments have been solicited from OSU but have not been received. This information is expected soon and will be forwarded to the Commission.

#### Available Alternatives:

The situation with regard to alternatives has not changed since last season. DEQ plans to operate the existing mobile field sanitizers this summer with the likelihood that a few hundred acres may be treated by this method. Studies are proposed to monitor and characterize field sanitizer emissions and to estimate through modeling techniques their relative impact on air quality compared to open burning.

DEQ, with assistance from its Advisory Committee, is initiating research and field demonstrations for some of the most promising alternatives methods of field sanitation and straw utilization. This work will continue through the 1978 season and results, for the most part, will not be available until next year (see Attachment II).

#### Smoke Management Program:

A rule revision the EQC may wish to consider in response to the EPA's suggested one year strategy is to limit permit issuance to 100 percent of the maximum burnable acres rather than the 110 percent currently allowed by OAR, Chapter 340, Section 26-013. Burning history indicates that no more than 90 percent of the maximum allowed acreage has been burned in any season. If this percentage holds true for 1978 and permits are issued for 100 percent of the maximum allowable acreage the net acreage burned may be about 162,000 acres or a reduction of 18,000 acres from the 180,000 acre limitation. It would be possible to burn 100 percent of the permitted acreage only if an allocation transfer method of 100 percent efficiency can be developed in cooperation with seed growers and fire districts. The Department believes, however, that the net effect of this allocation procedure would be to reduce the number of acres burned each year below the statutorily defined maximum.

A proposed rule requires growers to maintain radio contact with the DEQ burning quota releases. It is estimated that past smoke problems are partially related to the inefficient dissemination of the Department's "stop burning" orders. The proposed radio network rule would make this information immediately available and hold the grower responsible for complying with it. While this system will not eliminate smoke intrusions, the length and intensity of the intrusions should be diminished.

Another proposed rule change which is expected to effect reductions in smoke problems would require a 4,000 feet mixing height when burning south valley priority acreage. The previously specified minimum mixing height was 3,500 feet. Staff believes burning south priority acreage contributes noticeably to Eugene-Springfield smoke problems. This change in mixing height should reduce both the number and intensity of smoke problems.

An additional proposed rule change would give the Department the management option of requiring alternative burning techniques under certain wind speeds and fuel moisture conditions. These techniques consist of backfiring and striplighting into the wind. Recent research indicates that under conditions of high fuel moisture and low wind speeds these techniques can reduce particulate emissions from open burning by as much as one-half. However, plume ventilation heights may be reduced. These techniques used in combination with more restrictive meteorological ventilation requirements and burning cut-off times are expected to reduce impacts of burning priority and late season, high fuel-moisture fields.

#### Acreage Allocation Procedure

The proposed rules provide for acreage to be allocated on a prorata basis since inadequate information exists upon which to develop an allocation method incorporating soil, slope, and crop type as considerations. In addition, seed industry representatives indicate that the prorata scheme preserves necessary farm management flexibility. The Department is proposing studies which would evaluate and provide factual input as to the advantages and disadvantages of various allocation schemes, however, studies will not be completed until 1979.

#### Emergency Burning

ORS 463.475(6) and (7) as revised by HB 2196 provide for the Commission to act upon requests for emergency burning based on extreme hardship, disease outbreak, insect infestation, or irreparable damage to the land. The law also provides for a Commission response within 10 days upon receipt of application.

Though the rules adopted last year were, in general, adequate some minor changes are proposed to require more detailed financial accounting when extreme financial hardship is stated as the reason for the requested emergency burning.

#### Experimental Burning

Plans for experimental burning are still being made by DEQ and the Oregon Seed Council (OSC). Rapid ignition, striplighting and backfiring are topics for which experiments are being designed. Unless other concepts are considered for experimentation, the 7,500 acre amount proposed in the attached rules would provide sufficient acreage for the testing.

#### Summation

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

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

3. To provide rules to facilitate improvements in smoke management and air quality in time for the 1978 field burning season.

The attached rule changes have been modified from the January 20 and 31 mailing to reflect public, industry and EPA suggestions.

Director's Recommendation

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

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

  
WILLIAM H. YOUNG

DRW/kz  
229-5753  
2/13/78

Attachments:

- I Proposed OAR, Chapter 340, Section 26-005 to 26-030
- II Research and Monitoring Projects

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

In the Matter of the Adoption of )  
Amendments to the Agricultural Field )  
Burning Rules, OAR, Chapter 340, )        STATEMENT OF NEED  
Section 26-005 to 26-030.        )

The Environmental Quality Commission intends to adopt the Agricultural Field Burning Rules (OAR, Chapter 340, Section 26-005 to 26-030).

- a. Legal Authority: ORS 468.020 and ORS 468.460.
- b. Need for Rule:
  - 1. To provide permanent operating rules to comply with 1977 Oregon Law, Chapter 650 (HB 2196).
  - 2. To provide rules to facilitate improvements in smoke management and air quality.
  - 3. To establish acreage allocation procedures and the acreage for which permits may be issued.
- c. Documents Relied Upon:
  - 1. Letter from the U. S. Environmental Protection Agency (EPA), Region X, Regional Administrator, Donald P. Dubois, to the Department of Environmental Quality (DEQ), Director, William H. Young, January 27, 1978, including attached legal analysis.
  - 2. Carroll, John J., George E. Miller, James F. Thompson, and Ellis F. Darley, "The Dependence of Open Field Burning Emissions and Plume Concentrations on Meteorology, Field Conditions and Ignition Technique," Atmospheric Environment, Vol. 11, pp. 1037-1050, Pergamon Press, 1977.
  - 3. Communication from Lane Regional Air Pollution Authority to DEQ on January 24, 1978.
  - 4. Staff report from William H. Young, Director, Department of Environmental Quality, presented at the February 24, 1978, EQC Hearing.
  - 5. Communication from Oregon State University to the Environmental Quality Commission presented at the February 24, 1978, EQC Hearing.
  - 6. Public testimony received at the February 24, 1978, EQC Hearing.

DEPARTMENT OF ENVIRONMENTAL QUALITY

By: Richard L. Vogt

February 16, 1978

Attachment 1

DEPARTMENT OF ENVIRONMENTAL QUALITY  
Chapter 340

Subdivision 6  
Agricultural Operations  
AGRICULTURAL BURNING

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

(1) Burning seasons:

(a) "Summer Burning Season" means the four month period from July 1 through October 31.

(b) "Winter Burning Season" means the eight month period from November 1 through June 30.

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

(3) "Marginal Conditions" means conditions defined in ORS 468.450(1) under which permits for agricultural open burning may be issued in accordance with this regulation and schedule.

(4) "Northerly Winds" means winds coming from directions in the north half of the compass, at the surface and aloft.

(5) "Priority Areas" means the following areas of the Willamette Valley:

(a) Areas in or within 3 miles of the city limits of incorporated cities having populations of 10,000 or greater.

(b) Areas within 1 mile of airports serving regularly scheduled airline flights.

(c) Areas in Lane County south of the line formed by U. S. Highway 126 and Oregon Highway 126.

(d) Areas in or within 3 miles of the city limits of the City of Lebanon.

(e) Areas on the west side of and within 1/4 mile of these highways; U. S. Interstate 5, 99, 99E, and 99W. Areas on the south side of and within 1/4 mile of U. S. Highway 20 between Albany and Lebanon, Oregon Highway 34 between Lebanon and Corvallis, Oregon Oregon Highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.

(6) "Prohibition Conditions" means atmospheric conditions under which all agricultural open burning is prohibited (except where an auxiliary fuel is used such that combustion is nearly complete, or an approved sanitizer is used).



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Permits required.

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

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

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

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

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

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

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

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

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

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

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

(3) In accordance with ORS 468.450 the Department shall establish a schedule which specifies the extent and type of burning to be allowed each day. During the time of active field burning, the Department shall broadcast this schedule over the Oregon Seed Council radio network operated for this purpose, on an as needed basis, depending on atmospheric and air quality conditions.

(a) Any person open burning or preparing to open burn under these rules shall conduct the burning operation in accordance with the Department's burning schedule.

(b) Any person open burning or preparing to open burn fields under these rules shall monitor the Department's field burning schedule broadcasts and shall conduct the burning operations in accordance with the announced schedule.

(4) Any person open field burning under these rules shall actively extinguish all flames and major smoke sources when prohibition conditions are imposed by the Department. Normal after smoulder excepted.

#### 26-011 CERTIFIED ALTERNATIVE TO OPEN FIELD BURNING.

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

(2) Approved Pilot Field Sanitizers.

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

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

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

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

(b) Emission Standards for Approved Pilot Field Sanitizers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) One of the following conditions exist:

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

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

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

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

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

(a) Approval of the Department.

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

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

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

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

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

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

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

(a) [~~Buring-1977;-not-more-than-95,000-acres:-~~]

During 1978, shall not exceed 180,000 acres.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Extreme hardship documented by:

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

(B) Disease outbreak, documented by:

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

The statement must also include at least the following:

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

(C) Insect infestation, documented by:

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

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

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

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

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

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

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

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

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

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

#### 26-015 WILLAMETTE VALLEY SUMMER BURNING SEASON REGULATIONS

As provided for in Section 6 of Oregon Law 1977, Chapter 650. The Department shall conduct a smoke management program which shall include in addition to other provisions covered in these rules the following provisions:

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

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

(b) Marginal Class S conditions: Forecast southerly winds.

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

(2) Quotas.

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

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

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

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

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

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

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

(3) Burning Hours.

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

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

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

(4) Extent and Type of Burning.

(a) Prohibition. Under prohibition conditions, no fire permits or validation numbers for agricultural open burning shall be issued and no burning shall be conducted, except where an auxiliary liquid or gaseous fuel is used such that combustion is essentially complete, or an approved field sanitizer is used.

(b) Marginal Class N Conditions. Unless specifically authorized by the Department, on days classified as Marginal Class N burning may be limited to the following:

(A) North Valley: one basic quota may be issued in accordance with Table 1.

(B) South Valley: one priority area quota for priority area burning may be issued in accordance with Table 1.

(c) Marginal Class S Conditions. Unless specifically authorized by the Department on days classified as Marginal Class S conditons, burning shall be limited to the following:

(A) North Valley: One basic quota may be issued in accordance with Table 1 in the following permit jurisdictions: Aumsville, Drakes Crossing, Marion County District 1, Silverton, Stayton, Sublimity, and the Marion County portion of the Clackamas-Marion Forest Protection District. One priority area quota may be issued in accordance with Table 1 for priority area burning in all other North Valley jurisdictions.

(B) South Valley: One basic quota may be Issued in accordance with Table 1.

(d) Special Restrictions on Priority Area Burning.

(A) No [field] priority acreage may be burned on the upwind side of any city, airport, or highway within [a] the same priority area.

(B) No south priority acreage may be burned upwind of any city, airport, or highway within a priority area unless the mixing height is forecast greater than 4,000 feet..

(C) The Department shall require acreages to be burned using backing fire or into-the-wind striplighting techniques when, in the Department's judgment, use of such techniques will reduce adverse effects on air quality.

TABLE 1  
FIELD BURNING ACREAGE QUOTAS  
NORTH VALLEY AREAS

<u>County/Fire District</u>	<u>Quota</u>	
	<u>Basic</u>	<u>Priority</u>
<u>Clackamas County</u>		
Canby RFPD	50	[50] <u>0</u>
Clackamas County #54	50	0
Clackamas - Marion FPA	50	0
Estacada RFPD	75	0
Molalla RFPD	50	0
Monitor RFPD	50	0
Scotts Mills RFPD	<u>50</u>	<u>0</u>
Total	<u>375</u>	[50] <u>0</u>
<u>Marion County</u>		
Aumsville RFPD	50	0
Aurora-Donald RFPD	50	50
Drakes Crossing RFPD	50	0
Hubbard RFPD	50	0
Jefferson RFPD	225	50
Marion County #1	100	50
Marion County Unprotected	50	50
Mt. Angel RFPD	50	0



TABLE 1  
(continued)

<u>County/Fire District</u>	<u>Quota</u>	
	<u>Basic</u>	<u>Priority</u>
<u>North Valley Counties</u>		
<u>Marion County (continued)</u>		
St. Paul RFPD	125	[50] <u>0</u>
Salem City	50	50
Silverton RFPD	300	0
Stayton RFPD	150	0
Sublimity RFPD	250	0
Turner RFPD	50	50
Woodburn RFPD	<u>125</u>	<u>50</u>
Total	<u>1675</u>	[350] <u>200</u>
<u>Polk County</u>		
Polk County Non-District	50	0
Southeast Rural Polk	400	50
Southwest Rural Polk	<u>125</u>	<u>50</u>
Total	<u>575</u>	<u>100</u>
<u>Washington County</u>		
Cornelius RFPD	50	[50] <u>0</u>
Forest Grove RFPD	50	0
Forest Grove, State Forestry	50	0
Hillsboro	50	50
Washington County FPD #1	50	50
Washington County FPD #2	<u>50</u>	<u>50</u>
Total	<u>300</u>	[200] <u>150</u>

TABLE 1  
(continued)

<u>County/Fire District</u>	<u>Quota</u>	
	<u>Basic</u>	<u>Priority</u>
<u>North Valley Counties</u>		
<u>Yamhill County</u>		
Amity RFPD	125	50
Carlton RFPD	50	[50] <u>0</u>
Dayton RFPD	50	50
Dundee RFPD	50	0
McMinnville RFPD	150	75
Newberg RFPD	50	[0] <u>50</u>
Sheridan RFPD	75	50
Yamhill RFPD	<u>50</u>	<u>[0]</u> <u>50</u>
Total	<u>600</u>	[275] <u>325</u>
<u>North Valley Total</u>	<u>3575</u>	[975] <u>725</u>

Table 1  
(continued)

SOUTH VALLEY AREAS

<u>County/Fire District</u>	<u>Quota</u>	
	<u>Basic</u>	<u>Priority</u>
<u>South Valley Counties</u>		
<u>Benton County</u>		
County Non-District & Adair	350	175
Corvallis RFPD	175	125
Monroe RFPD	325	50
Philomath RFPD	125	100
Western Oregon FPD	<u>100</u>	<u>50</u>
Total	<u>1075</u>	<u>500</u>
<u>Lane County</u>		
Coburg RFPD	175	50
Creswell RFPD	75	100
Eugene RFPD		
(Zumwalt RFPD)	50	50
Junction City RFPD	325	50
Lane County Non-District	100	50
Lane County RFPD #1	350	<del>50</del> <u>150</u>
Santa Clara RFPD	50	50
Thurston-Walterville	50	50
West Lane FPD	<u>50</u>	<u>0</u>
Total	<u>1225</u>	<del>450</del> <u>550</u>
<u>Linn County</u>		
Albany RFPD (inc. N. Albany, Palestine, Co. Unprotected Areas)	625	125
Brownsville RFPD	750	<del>50</del> <u>100</u>

Table 1  
(continued)

<u>County/Fire District</u>	<u>Quota</u>	
	<u>Basic</u>	<u>Priority</u>
<u>South Valley Counties</u>		
<u>Linn County (continued)</u>		
Halsey-Shedd RFPD	2050	200
Harrisburg RFPD	1350	50
Lebanon RFPD	325	325
Lyons RFPD	50	0
Scio RFPD	175	[0] <u>50</u>
Tangent RFPD	<u>925</u>	<u>325</u>
Total	<u>6250</u>	[1125] <u>1225</u>
<u>South Valley Total</u>	<u>8550</u>	[2175] <u>2275</u>

26-020 WINTER BURNING SEASON REGULATIONS.

(1) Classification of atmospheric conditions:

(a) Atmospheric conditions resulting in computed air pollution index values in the high range, values of 90 or greater, shall constitute prohibition conditions.

(b) Atmospheric conditions resulting in computed air pollution index values in the low and moderate ranges, values less than 90, shall constitute marginal conditions.

(2) Extent and Type of Burning.

(a) Burning Hours. Burning hours for all types of burning shall be from 9:00 a.m. until 4:00 p.m., but may be reduced when deemed necessary by the fire chief or his deputy. Burning hours for stumps may be increased if found necessary to do so by the permit issuing agency. All materials for burning shall be prepared and the operation conducted, subject to local fire protection regulations, to insure that it will be completed during the allotted time.

(b) Certain Burning Allowed Under Prohibition Conditions. Under prohibition conditions no permits for agricultural open burning may be issued and no burning may be conducted, except where an auxiliary liquid or gaseous fuel is used such that combustion is essentially complete, or an approved field sanitizer is used.

(c) Priority for Burning on Marginal Days. Permits for agricultural open burning may be issued on each marginal day in each permit jurisdiction in the Willamette Valley, following the priorities set forth in ORS 468.450 which gives perennial grass seed fields used for grass seed production first priority, annual grass seed fields used for grass seed production second priority, grain fields third priority and all other burning fourth priority.

26-025 CIVIL PENALTIES. In addition to any other penalty provided by law:

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

(2) Any person planting contrary to the restrictions of subsection (1) of ORS 468.465 shall be assessed by the Department a civil penalty of \$25 for each acre planted contrary to the restrictions.

(3) Any person who violates any requirements of these rules shall be assessed a civil penalty pursuant to OAR Chapter 340, Division 1, Subdivision 2, CIVIL PENALTIES.

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

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

(2) Approved alternative facilities eligible for pollution control facility tax credit shall include:

(a) Mobile equipment including but not limited to:

(A) Straw gathering, densifying and handling equipment.

(B) Tractors and other sources of motive power.

(C) Trucks, trailers, and other transportation equipment.

(D) Mobile field sanitizers (approved models and approved pilot models)

and associated fire control equipment.

(E) Equipment for handling all forms of processed straw.

(F) Special straw incorporation equipment.

(b) Stationary equipment and structures including but not limited to:

(A) Straw loading and unloading facilities.

(B) Straw storage structures.

(C) Straw processing and in plant transport equipment.

(D) Land associated with stationary straw processing facilities.

(E) Drainage tile installations which will result in a reduction of acreage burned.

(3) Equipment and facilities included in an application for certification for tax credit under this rule will be considered at their current depreciated value and in proportion to their actual use to reduce open field burning as compared to their total farm or other use.

(4) Procedures for application and certification of approved alternative facilities for pollution control facility tax credit.

(a) Preliminary certification for pollution control facility tax credit.

(A) A written application for preliminary certification shall be made to the Department prior to installation or use of approved alternative facilities in the first harvest season for which an application for tax credit certification is to be made. Such application shall be made on a form provided by the Department and shall include but not be limited to:

(i) Name, address and nature of business of the applicant.

(ii) Name of person authorized to receive Department requests for additional information.

(iii) Description of alternative method to be used.

(iv) A complete listing of mobile equipment and stationary facilities to be used in carrying out the alternative methods and for each item listed include:

(a) Date or estimated future date of purchase.

(b) Percentage of use allocated to approved alternative methods and approved interim alternative methods as compared to their total farm or other use.

(v) Such other information as the Department may require to determine compliance with state air, water, solid waste, and noise laws and regulations and to determine eligibility for tax credit.

(B) If, upon receipt of a properly completed application for preliminary certification for tax credit for approved alternative facilities the Department finds the proposed use of the approved alternative facilities are in accordance with the provisions of ORS 468.175, it shall, within 60 days, issue a preliminary certification of approval. If the proposed use of the approved alternative facilities are not in accordance with provisions of ORS 468.175, the Commission shall, within 60 days, issue an order denying certification.

(b) Certification for pollution control facility tax credit.

(A) A written application for certification shall be made to the Department on a form provided by the Department and shall include but not be limited to the following:

(i) Name, address and nature of business of the applicant.

(ii) Name of person authorized to receive Department requests for additional information.

(iii) Description of the alternative method to be used.

(iv) For each piece of mobile equipment and/or for each stationary facility, a complete description including the following information as applicable:

(a) Type and general description of each piece of mobile equipment.

(b) Complete description and copy of proposed plans or drawings of stationary facilities including buildings and contents used for straw storage, handling or processing of straw and straw products or used for storage of mobile field sanitizers and legal description of real property involved.

(c) Date of purchase or initial operation.

(d) Cost when purchased or constructed and current value.

(e) General use as applied to approved alternative methods and approved interim alternative methods.

(f) Percentage of use allocated to approved alternative methods and approved interim alternative methods as compared to their farm or other use.

(B) Upon receipt of a properly completed application for certification for tax credit for approved alternative facilities or any subsequently requested additions to the application, the Department shall return within 120 days the decision of the Commission and certification as necessary indicating the portion of the cost of each facility allocable to pollution control.

(5) Certification for tax credits of equipment or facilities not covered in OAR Chapter 340, Section 26-030(1) through 26-030(4) shall be processed pursuant to the provisions of ORS 468.165 through 468.185.

(6) Election of type of tax credit pursuant to ORS 468.170(5).

(a) As provided in ORS 468.170(5), a person receiving the certification provided for in OAR Chapter 340, Section 26-030(4)(b) shall make an irrevocable election to take the tax credit relief under ORS 316.097, 317.072, or the ad volorem tax relief under ORS 307.405 and shall inform the Department of his election within 60 days of receipt of certification documents on the form supplied by the Department with the certification documents.



(b) As provided in ORS 468.170(5) failure to notify the Department of the election of the type of tax credit relief within 60 days shall render the certification ineffective for any tax relief under ORS 307.405, 316.097 and 317.072.

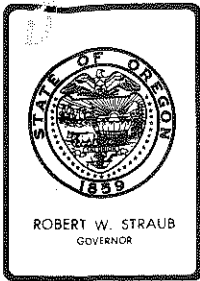
## Attachment II

Projects as Proposed for Funding  
to the January Emergency Board

## DEPARTMENT OF ENVIRONMENTAL QUALITY

PROPOSED BUDGET FOR FIELD BURNING RESEARCH AND DEVELOPMENT PROJECTS  
AS APPROVED BY THE ADVISORY COMMITTEE ON FIELD BURNING

<u>Project</u>	<u>Requested Budget</u>
1. Field Burning Air Quality Surveillance Network	\$ 487,676
2. Study: Agronomic & Economic Effects of Not Burning	60,000
3. Mobile Sanitizer	
Emission Test: Sanitizer vs. Open Field Burning	60,000
AQ Input Modeling: Sanitizer vs. Open Burning	20,000
Management of 1978 Sanitizer Test Program	30,000
Contract: Sanitizer Maintenance	35,000
Agronomic Monitoring by OSU	20,000
Materials Testing	15,000
4. Feasibility Study: Epidemiological Analysis of Health Effects of Open Field Burning	34,000
Program Development	30,000
5. Crew Cutting	
Design Construction of New Machine(s)	50,000
Agronomic Monitoring by OSU	5,000
Test of Machine's Fugitive Emissions	15,000
Disposal of Residues by Composting	10,000
6. Straw Utilization	
Market Analysis	32,500
Program Development: Straw for Fuel	20,000
Densification of Straw Bales	-0-
Demonstration: Outside Storage Feasibility	-0-
Demonstration: Bale Furnace	-0-
Demonstration: Straw as Potting Medium	-0-
Feeding Trials	
Review Existing Data	7,500
Continue Several Horse Feeding Trials	5,000
Contingency: New Feeding Program	-0-
7. Alternate Corps - Comprehensive Review	20,000
8. Alternate Disease, Pest, Weed Controls	-0-
9. Smoke Management	
Rapid Ignition	20,000
"Big Burn" Modeling Analysis	-0-
Analysis of LIRAQ Network Data	30,000
GRAND TOTAL	<u>\$1,006,676</u>



## *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. K1, February 24, 1978, EQC Meeting

Public Hearing for the Proposed Water Pollution Control Facility  
and Air Contaminant Discharge Permits to Construct and Operate  
the GATX Crude Oil Terminal at Port Westward near Clatskanie, Oregon.

### Background

GATX Port Westward Terminal Corporation proposes to construct and operate a crude oil unloading terminal at Port Westward on the Columbia River. The site is adjacent to the Portland General Electric Company Beaver turbine generating plant. The proposed GATX terminal would transfer crude oil from oil tankers to rail tank cars. The tank cars would then be transported by unit train up the Columbia River to refineries in Montana, Wyoming, and North Dakota. The terminal would have four 175,000 barrel storage tanks for short term storage during transfer operations.

### Evaluation of Water Permit

The Water Pollution Control Facilities (WPCF) permit would concern the disposal of contaminated storm runoff and the design, construction, and operation of spill control and containment facilities. Contaminated storm runoff would be contained within berms and curbing and would be treated in an oil-water separator. Treated water would be disposed of on land by an irrigation system or through a subsurface drainfield. There would be no direct discharge of any waste water to public waters from the proposed terminal.

The permit would require that the terminal be constructed and operated so that the risk of an oil spill would be reduced as much as possible. It would require that the terminal and the oil unloading dock be built and operated in accordance with Federal EPA and Coast Guard regulations. In addition, the Department would review plans for all oil spill control facilities to assure that the best available technology is provided.

The permit would require that necessary oil spill clean up and containment equipment be available close by the terminal should a spill occur. It would require that adequate manpower be available to use the cleanup equipment and would require regular practice operations on simulated oil spills to assure that the appropriate people were knowledgeable in the proper use of the equipment.



Contains  
Recycled  
Materials

We believe the permit as proposed, along with Federal EPA and Coast Guard regulations, will adequately protect Oregon's waters from oil spills at the proposed GATX terminal. The water permit does not contain any conditions concerning the operation of the ocean-going oil tankers that bring the oil into the terminal nor the operation of the unit train once it leaves the terminal. We have assessed the potential risk of oil spills due to tanker and rail traffic in an environmental assessment report which is attached.

### Evaluation of Air Permit

The Air Contaminant Discharge Permit limits the terminal to the transshipment of crude oil at the rate of 17,625,000 barrels per year. This in essence places a limit on maximum air emissions from the facility.

By using insulated, floating-roof storage tanks, GATX has complied with federal and state rules, OAR 340-25-535(8) regarding hydrocarbon loss prevention.

Hydrocarbon emissions from loading the unit trains are incinerated in two afterburners; the permit requires testing of these incinerators.

The terminal's odors must be in compliance with the Portland Region's rules, as detailed in condition 5 of the permit. There should be no significant odors released from the terminal since the process is a closed system with vents going to an afterburner. Since the major source of air contaminants from this project is the tankers, the terminal itself and its Air Permit have received, to date, no comment from reviewers other than GATX.

GATX requested that the incinerators be restricted to 98% efficiency rather than 99% for hydrocarbon destruction. Since the test method tolerances are greater than 1%, this request is reasonable. Therefore the staff recommends that this condition be amended to 98% upon permit approval.

Condition 8 in the January 1978 draft read: "Construction is not authorized until rules are adopted to adequately control emission from crude oil tankers." This prevents GATX from beginning construction until a tanker rule is passed, which they feel is a matter out of their control and could delay the project for many months. GATX wants Condition 8 deleted.

Condition 8 would be no barrier if the proposed tanker rule were passed in a short time. The Department's staff does not desire to drop this condition as this would be approving half of the project without assuring the other half would be effectively controlled. If the permit to build the terminal is approved, we believe that rules to mitigate the associated air pollution from tankers should also be approved. If it turns out that it is unsafe, or unfeasible to mitigate tanker emissions, then the terminal should either not be approved or a full air impact assessment must be made assuming worst case air emissions.

EPA has a new set of Prevention of Significant Deterioration rules which may become effective March 1, 1978. The Department's staff has sufficiently investigated this project to approve it; we see no need to subject GATX to the new EPA approval procedure which might entail lengthy and detailed modeling merely to prove what is obvious; that the project will not release air contaminants in any significant quantity.

#### Summation

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

#### Director's Recommendation

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

*Michael Downa  
for*

WILLIAM H. YOUNG  
Director

R. J. Nichols and P. B. Bosserman:lb  
229-5374 and 229-6278  
February 10, 1978

Attachments: 1. Proposed Water Permit  
2. Proposed Air Permit  
3. Environmental Assessment Report

Department of Environmental Quality  
Air Quality Control Division

AIR CONTAMINANT DISCHARGE PERMIT APPLICATION REVIEW REPORT

GATX TERMINALS CORPORATION  
Port Westward, Oregon

Background

1. GATX Terminals Corporation proposes to build a crude oil transfer terminal at Port Westward, on the Columbia River, near Clatskanie, Columbia County, Oregon.
2. The annual capacity is approximately 18,000,000 barrels of crude oil maximum.
3. Emission sources at the facility would consist of the following:
  - a. Hydrocarbon (HC) vapors from the 5 storage tanks (four 175,000 BBL, one 10,000 BBL), released by the crude oil with a true vapor pressure of 9 psia.
  - b. HC vapors from unloading crude oil tankers and from loading unit trains.
  - c. Particulates, Sulfur Oxides and Nitrogen Oxides from two HC vapor control system afterburners, and from the tankers and diesel locomotives calling at the terminal.
4. The emission control system includes two HC vapor incinerators, four floating roofs and insulation for the four large storage tanks, and a floating roof for the small slop tank.
5. The estimated annual rate of air contaminant emissions is 75 tons/year of HC, 34 tons/year of SO<sub>x</sub>, 27 tons/year of NO<sub>x</sub>, 5 tons/year of CO, and 3 tons/year of particulate.
6. The terminal is operated 24 hours per day, 7 days per week and 52 weeks per year.

Evaluation

7. The emissions from proposed terminal have been determined to be in compliance with Department of Environmental Quality emission limitations.

Recommendation

8. It is recommended that the proposed permit be approved for issuance to GATX Terminals Corporation.

PBB:mef

*Drift*

# AIR CONTAMINANT DISCHARGE PERMIT

Department of Environmental Quality  
 1234 S.W. Morrison Street  
 Portland, Oregon 97205  
 Telephone: (503) 229-5696

Issued in accordance with the provisions of  
 ORS 468.310

<p><b>ISSUED TO:</b>          GATX TERMINALS CORPORATION          120 S. Riverside Plaza          Chicago, Illinois 60606</p> <p><b>PLANT SITE:</b>          Port Westward, near Clatskanie          Columbia County, Oregon</p> <p><b>ISSUED BY DEPARTMENT OF ENVIRONMENTAL QUALITY</b></p> <p>1859</p> <p>William H. Young          Director</p> <p>Date</p>	<p><b>REFERENCE INFORMATION</b></p> <p>Application No. 1154</p> <p>Date Received October 13, 1977</p> <p>Other Air Contaminant Sources at this Site:</p> <table border="1"> <thead> <tr> <th></th> <th>Source</th> <th>SIC</th> <th>Permit No.</th> </tr> </thead> <tbody> <tr> <td>(1)</td> <td>none</td> <td></td> <td></td> </tr> <tr> <td>(2)</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>		Source	SIC	Permit No.	(1)	none			(2)			
	Source	SIC	Permit No.										
(1)	none												
(2)													

**SOURCE(S) PERMITTED TO DISCHARGE AIR CONTAMINANTS:**

Name of Air Contaminant Source

Standard Industry Code as Listed

New Source - Potential Emissions  
 greater than 10 TPY

Permitted Activities

Until such time as this permit expires or is modified or revoked, GATX Terminals Corporation is herewith permitted in accordance with the requirements, limitations and conditions of this permit to discharge air contaminants from its crude oil transfer terminal located at Port Westward on the Columbia River, Beaver, Columbia County, Oregon.

The specific listing of requirements, limitations and conditions contained herein shall not relieve the permittee from complying with all other rules and standards of the Department.

Performance Standards and Emission Limits

1. The terminal facility is limited to handling 17,625,000 barrels per year of crude oil through-put. The terminal facility is limited to crude oil; acceptance of other products is a violation of this permit; if other products are to be handled, written permission shall be requested of the Department, and a permit addendum granted, before anything other than crude oil is accepted by the terminal. The permittee shall at all times maintain and operate all air contaminant generating processes and all contaminant control equipment at full efficiency and effectiveness, such that the emissions of air contaminants are kept at the lowest practicable levels.
2. The permittee shall not allow the emission of particulate matter in excess of:
  - a. 0.050 grains per standard cubic foot corrected to 12% CO<sub>2</sub> or 50% excess air from the incinerators.
  - b. 250 microns in size if such particles will deposit upon the real property of another person.
3. The permittee shall not allow the emission of any visible air contaminant into the atmosphere from any source for a period aggregating more than thirty (30) seconds in any one (1) hour which is equal to or greater than twenty percent (20%) opacity.
4. The permittee shall not use any distillate ASTM Grade 2 fuel oil containing more than 0.5 percent sulfur by weight.
5. The permittee shall not allow the emission of odorous matter as measured off the permittee's property in excess of:
  - a. A scentometer no. 0 odor strength or equivalent dilution in residential and commercial areas.
  - b. A scentometer no. 2 odor strength or equivalent dilution in all other land use areas.

A violation of Condition 5a or 5b shall have occurred when two measurements made by the Department within a period of one hour, separated by at least 15 minutes exceed the limits.
6. The permittee shall minimize fugitive emission by:
  - a. Oiling, watering or paving or otherwise treating vehicular traffic areas of the plant site under the control of the permittee.



- b. Storing collected material from air pollution control equipment in a covered container or other method equally effective in preventing the material from becoming airborne during storage and transfer.
- c. Collected material must have a specific disposal method agreed upon by the Department.

Special Conditions

- 7. The incinerators shall be equipped with continuous reading temperature probes, which shall measure temperatures in the final combustion chambers.
- 8. Construction is not authorized until rules are adopted to adequately control emission from crude oil tankers.

Compliance Demonstration Schedule

- 9. The permittee shall demonstrate that the incinerators are capable of operating at maximum capacity in continuous compliance with Condition No. 2a by performing a source test for particulate emissions. All test data and results shall be submitted to the Department by no later than December 31, 1979. All tests shall be conducted in accordance with the testing procedures on file at the Department or in conformance with applicable standard methods approved in advance by the Department.
- 10. The permittee shall demonstrate that the incinerators are 99% efficient at destroying HC vapors. CO measurements shall also be taken. All test data and results shall be submitted to the Department by no later than December 31, 1979. All tests shall be conducted in accordance with the testing procedures on file at the Department or in conformance with applicable standard methods approved in advance by the Department.

Monitoring and Reporting

- 11. The permittee shall effectively inspect and monitor the operation and maintenance of the plant and associated air contaminant control facilities. A record of all such data shall be maintained for a period of one year and be available at the plant site at all times for inspection by the authorized representatives of the Department. At least the following parameters shall be monitored and recorded at the indicated interval.

<u>Parameter</u>	<u>Minimum Monitoring Frequency</u>
a. The amount of crude oil through-put	Monthly
b. A description of any maintenance to the air contaminant control system	As performed

AIR CONTAMINANT DISCHARGE PERMIT PROVISIONS  
Issued by the  
Department of Environmental Quality

Permit No. 05-2569  
Page 4 of 5

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12. The permittee shall report to the Department by January 15 of each year this permit is in effect the annual through-put of crude oil in barrels for the preceding calendar year.

Fee Schedule

13. The Annual Compliance Determination Fee for this permit is due on January 1 of each year this permit is in effect. An invoice indicating the amount, as determined by Department regulations, will be mailed prior to the above date.

General Conditions and Disclaimers

- G1. The permittee shall allow Department of Environmental Quality representatives access to the plant site and pertinent records at all reasonable times for the purposes of making inspections, surveys, collecting samples, obtaining data, reviewing and copying air contaminant emission discharge records and otherwise conducting all necessary functions related to this permit.
- G2. The permittee is prohibited from conducting open burning except as may be allowed by OAR Chapter 340, Sections 23-025 through 23-050.
- G3. The permittee shall:
  - a. Notify the Department in writing using a Departmental "Notice of Construction" form, and
  - b. Obtain written approvalbefore:
  - a. Constructing or installing any new source of air contaminant emissions, including air pollution control equipment, or
  - b. Modifying or altering an existing source that may significantly affect the emission of air contaminants.
- G4. The permittee shall notify the Department at least 24 hours in advance of any planned shutdown of air pollution control equipment for scheduled maintenance that may cause a violation of applicable standards.
- G5. The permittee shall notify the Department by telephone or in person within one (1) hour of any malfunction of air pollution control equipment or other upset condition that may cause a violation of the Air Quality Standards. Such notice shall include the nature and quantity of the increased emissions that have occurred and the expected duration of the breakdown.
- G6. The permittee shall at all times conduct dust suppression measures to meet the requirements set forth in "Fugitive Emissions" and "Nuisance Conditions" in OAR, Chapter 340, Sections 21-050 through 21-060.
- G7. Application for a modification of this permit must be submitted not less than 60 days prior to the source modification. A Filing Fee and an Application Processing Fee must be submitted with an application for the permit modification.
- G8. Application for renewal of this permit must be submitted not less than 60 days prior to the permit expiration date. A Filing Fee and an Annual Compliance Determination Fee must be submitted with the application for the permit renewal.
- G9. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.
- G10. This permit is subject to revocation for cause as provided by law.
- G11. Notice provision: Section 113(d)(1)(E) of the Federal Clean Air Act, as amended in 1977, requires that a major stationary source, as defined in that act, be notified herein that "it will be required to pay a non-compliance penalty under Section 120 (of that act) or by such later date as is set forth in the order (i.e., in this permit) in accordance with Section 120 in the event such source fails to achieve final compliance by July 1, 1979."

DEPARTMENT OF ENVIRONMENTAL QUALITY  
1234 S. W. Morrison Street  
Portland, Oregon 97205  
Telephone: (503) 229-5696

Permit Number: \_\_\_\_\_  
Expiration Date: 2/28/83  
File Number: 32350  
Page 1 of 8

PRELIMINARY DRAFT

# WATER POLLUTION CONTROL FACILITIES PERMIT

Issued pursuant to ORS 468.740

<p>ISSUED TO:</p> <p>GATX Port Westward Terminal Corp. 120 S. Riverside Plaza Chicago, Illinois 60606</p> <p>PLANT TYPE AND LOCATION:</p> <p>Crude Oil Terminal Port Westward near Clatskanie</p> <p>Issued in response to application number <u>2200</u> received <u>10/12/77</u></p> <p><u>William H. Young</u> Date. Director</p>	<p>SOURCES COVERED BY THIS PERMIT:</p> <table><thead><tr><th><u>Type of Waste</u></th><th><u>Method of Disposal</u></th></tr></thead><tbody><tr><td>Oil water separator effluent</td><td>Land irrigation</td></tr></tbody></table> <p>RIVER BASIN INFORMATION</p> <p>Major Basin: <u>North Coast-Lower Columbia</u> Minor Basin: <u>Lower Columbia</u> County: <u>Columbia</u></p> <p>Nearest surface stream which could be influenced by waste disposal system: <u>Columbia River</u></p>	<u>Type of Waste</u>	<u>Method of Disposal</u>	Oil water separator effluent	Land irrigation
<u>Type of Waste</u>	<u>Method of Disposal</u>				
Oil water separator effluent	Land irrigation				

## PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify or operate waste water treatment, control and disposal facilities in conformance with requirements, limitations and conditions set forth in attached schedules as follows:

Schedule A - Waste Disposal Limitations	<u>2</u>
Schedule B - Minimum Monitoring and Reporting Requirements	<u>3</u>
Schedule C - Compliance Conditions and Schedules	<u>-</u>
Schedule D - Special Conditions	<u>4-6</u>
General Conditions	<u>7-8</u>

All direct discharges to public waters are prohibited.

This permit does not relieve the permittee from responsibility for compliance with other applicable Federal, state or local laws, rules or standards.

P E R M I T C O N D I T I O N S

GATX Port Westward Terminal Corporation

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SCHEDULE A

Waste Disposal Limitations

1. No discharge to state waters is permitted. All waste waters shall be distributed on land for dissipation by evapo-transpiration and controlled seepage by following sound irrigation practices so as to prevent:
  - a. Prolonged ponding of waste on the ground surface;
  - b. Surface runoff or subsurface drainage through drainage tile;
  - c. The creation of odors, fly and mosquito breeding and other nuisance conditions; and
  - d. The overloading of land with nutrients or organics.
2. The permittee shall, during all times of disposal, provide personnel whose responsibilities are to assure the continuous performance of the disposal system within the limitations of this permit.
3. Prior to land disposal of the waste water it shall be treated in an oil-water separator. The monthly average oil and grease concentration of the separator effluent shall not exceed 10 mg/l.
4. Unless approved otherwise in writing by the Department, a deep-rooted, permanent grass cover shall be maintained on the land disposal area at all times and periodically cut to maintain it in the growth cycle to insure maximum infiltration and evapo-transpiration rate.

PERMIT CONDITIONS

GATX Port Westward Terminal Corporation

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SCHEDULE B

Minimum Monitoring and Reporting Requirements

The permittee shall monitor the operation and efficiency of all treatment and disposal facilities. Unless otherwise agreed to in writing by the Department of Environmental Quality, data collected and submitted shall include but not necessarily be limited to the following parameters and minimum frequencies:

<u>Item or Parameter</u>	<u>Minimum Frequency</u>	<u>Type of Sample</u>
Oil and Grease	Weekly during periods of disposal	Grab
Flow	Daily during periods of disposal	Totalizing recorder

Reporting Procedures

Monitoring results shall be reported on approved forms. The reporting period is the calendar month. Reports must be submitted to the Department by the 15th day of the following month.

P E R M I T   C O N D I T I O N S

GATX Port Westward Terminal Corporation

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SCHEDULE D

Special Conditions

1. Prior to constructing or modifying any waste water control facilities, detailed plans and specifications shall be approved in writing by the Department.
2. Sanitary wastes shall be disposed of to a septic tank and subsurface disposal system (or by other approved means) which is installed, operated and maintained in accordance with the requirements of the Department of Environmental Quality and the local health department and in a manner which will prevent inadequately treated waste water from entering any waters of the state or from becoming a nuisance or health hazard.
3. Tank farm areas, the rail car loading area, and all other areas of the terminal where petroleum compounds are likely to be spilled shall be surrounded by containment berms. The berms shall be sized to contain the largest expected spill consistent with national standards. These areas shall also be paved with an approved covering to assure that petroleum cannot enter the groundwater, saturate the soil, or seep to public waters. All such paved areas shall drain to a central collection system for treatment prior to land disposal.
4. Tank bottom water and sediment shall be collected and stored in a special tank and shipped back to the crude oil source.
5. No tanker ballast water shall be received, treated or disposed of in the permittee's waste disposal system.
6. Prior to a unit train departing the terminal, the valves between rail tank cars shall be visually inspected to assure they are all closed.
7. All waste outlets from the tank farm area shall have valves which shall be normally closed.
8. None of the oil-water separator facilities shall be overloaded or operated at flows in excess of design rate by either allowing surface runoff not provided for in the original design or by allowing excessive pump discharge to enter the collection system.
9. Prior to start-up of the terminal, the permittee shall prepare, submit to the Department, and implement an approved, comprehensive, detailed spill prevention and contingency plan related to terminal operations including, but not limited to, the loading and unloading facilities at the oil transfer terminals. The plan shall be approved in writing by the Department prior to implementation and shall include, but not be limited to, the following information and procedures relative to the prevention and handling of spills and unplanned discharges of oil, chemicals and other hazardous substances:

P E R M I T C O N D I T I O N S

GATX Port Westward Terminal Corporation

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SCHEDULE D (continued)

- a. A description of the reporting system which will be used to alert responsible facility management and appropriate legal authorities;
- b. A description of the facilities which prevent, contain or treat spills and unplanned discharges;
- c. The Manual of Operations as required by the U. S. Coast Guard as specified in 33 CFR, part 154, subpart B;
- d. The plan shall conform to all requirements for facilities and procedures as specified by E.P.A. and the Coast Guard in 40 CFR, parts 112.7 and 33 CFR, parts 154 and 156.
- e. Furthermore, the plan shall satisfy the following:
  - 1) A procedure is required for operations and inspections performed by vessel and shore crews prior to the start of transferring oil or tank water sediments. A check list shall be provided with itemized signature verifications for performance of activities essential to spill-free transfer.
  - 2) Procedures and check lists are required for vessel and shore crews conducting spill prevention activities during and at the completion of transfer. In addition to operational inspections, this shall include verification that the volume of material transferred has been received.
  - 3) A procedure and check list are required for inspection of oil spill control facilities at regular intervals between shipments.
  - 4) Curbs are required around oil transfer facilities on the dock, such as pumps, valves and connections, to contain possible spills or leaks. Equipment is required to collect and transfer to processing or treatment facilities any oil spilled in the curbed area.
  - 5) Adequate lighting is required for visual detection of oil spills on all sides of the vessel and around the dock. Verification of visual inspections is required at regular intervals during oil transfer operations. A high intensity handlight may be employed on the river side of the vessel to facilitate this inspection during nighttime hours.
  - 6) A study shall be conducted on the utilization of an automatic oil spill detection system utilizing oil sensors at the water surface around a vessel and at discharge points of plant drainage.



P E R M I T   C O N D I T I O N S

GATX Port Westward Terminal Corporation

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SCHEDULE D (continued)

- 7) Pressure sensors shall be located at strategic locations in transfer pipelines. If the sensor detects a pressure drop, an alarm shall be set off that will alert personnel in charge of oil transfer facilities. These personnel will be instructed to immediately cease transfer operations when an alarm is activated.
- 8) A method shall be developed for containment of oil spills that could occur during transfer operations. Such method must incorporate procedures which minimize escape of oil into state waters and provide timely and effective containment and cleanup. Development of more effective containment techniques and consistent with protection of life and property, shall be continued.
- 9) Procedures, facilities and equipment to contain and clean up any oil spills shall be provided by the permittee. These facilities and equipment shall either be provided by the permittee or provided by an oil spill cooperative of which the permittee is a member and, in either case shall be located within a reasonable distance of the refinery. (Maximum acceptable travel time to the refinery shall not exceed one hour.) A list describing the type, quantity and location of containment booms, sorbent materials, and oil-skimming and separation equipment shall be provided. In addition, the use of this equipment plus procedures and trained manpower capability for collection and transfer to treatment of recovered waste oil shall be described. The permittee shall conduct a semiannual inspection and inventory of the listed equipment and manpower capability and submit a report to the Department. The report shall include operational testing of cleanup and disposal facilities in simulated oil spills.
10. Prior to start-up of the terminal, the permittee shall submit and implement an approved plan for disposing of all solid wastes generated at the plant. This plan shall be approved in writing by the Department prior to implementation.

State of Oregon  
Department of Environmental Quality  
PERMIT CONDITIONS

Permit Number: \_\_\_\_\_  
Expiration Date: 2/28/83  
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GATX Port Westward Terminal Corporation

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GENERAL CONDITIONS

- G1. The permittee shall provide an adequate operating staff which is duly qualified to carry out the operation, maintenance and testing functions required to insure compliance with the conditions of this permit.
- G2. All waste collection, control, treatment and disposal facilities shall be operated in a manner consistent with the following:
- a. At all times all facilities shall be operated as efficiently as possible and in a manner which will prevent discharges, health hazards and nuisance conditions.
  - b. All screenings, grit and sludge shall be disposed of in a manner approved by the Department of Environmental Quality such that it does not reach any of the waters of the state or create a health hazard or nuisance condition.
  - c. Bypassing of untreated waste is generally prohibited. No bypassing shall occur without prior written permission from the Department except where unavoidable to prevent loss of life or severe property damage.
- G3. Whenever a facility expansion, production increase or process modification is anticipated which will result in a change in the character of pollutants to be discharged or which will result in a discharge to public waters, a new application must be submitted together with the necessary reports, plans and specifications for the proposed changes. No change shall be made until plans have been approved and a new permit or permit modification has been issued.
- G4. After notice and opportunity for a hearing this permit may be modified, suspended or revoked in whole or in part during its term for cause including but not limited to the following:
- a. Violation of any terms or conditions of this permit or any applicable rule, standard, or order of the Commission;
  - b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts.
- G5. The permittee shall, at all reasonable times, allow authorized representatives of the Department of Environmental Quality:
- a. To enter upon the permittee's premises where a waste source or disposal system is located or in which any records are required to be kept under the terms and conditions of this permit;
  - b. To have access to and copy any records required to be kept under the terms and conditions of this permit;
  - c. To inspect any monitoring equipment or monitoring method required by this permit; or

State of Oregon  
Department of Environmental Quality  
PERMIT CONDITIONS

Permit Number: \_\_\_\_\_  
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GATX Port Westward Terminal Corporation

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- d. To sample any discharge of pollutants.
- G6. The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit.
- G7. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.
- G8. The Department of Environmental Quality, its officers, agents and employees shall not sustain any liability on account of the issuance of this permit or on account of the construction or maintenance of facilities because of this permit.
- G9. In the event the permittee is unable to comply with all of the conditions of this permit because of a breakdown of equipment or facilities, an accident caused by human error or negligence, or any other cause such as an act of nature, the permittee shall:
- a. Immediately take action to stop, contain and clean up the unauthorized discharges and correct the problem.
  - b. Immediately notify the Department of Environmental Quality so that an investigation can be made to evaluate the impact and the corrective actions taken and determine additional action that must be taken.
  - c. Submit a detailed written report describing the breakdown, the actual quantity and quality of resulting waste discharges, corrective action taken, steps taken to prevent a recurrence and any other pertinent information.

Compliance with these requirements does not relieve the permittee from responsibility to maintain continuous compliance with the conditions of this permit or the resulting liability for failure to comply.

- G10. Definitions of terms and abbreviations used in this permit:
- a. BOD means five-day biochemical oxygen demand.
  - b. TSS means total suspended solids.
  - c. mg/l means milligrams per liter.
  - d. kg means kilograms.
  - e. m<sup>3</sup>/d means cubic meters per day.
  - f. MGD means million gallons per day.
  - g. Averages for BOD and TSS are based on arithmetic mean of samples taken.
  - h. Average coliform or fecal coliform is based on geometric mean of samples taken.
  - i. Composite sample means a combination of samples collected, generally at equal intervals over a 24-hour period, and apportioned according to the volume of flow at the time of sampling.
  - j. FC means fecal coliform bacteria.

ADDITION TO DIVISION 22

CRUDE OIL TANKERS

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

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

Fuel Oil Sulfur Content - 340-22-080

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

Tanker Ballasting - 340-22-085

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

Tanker Inerting - 340-22-090

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

ATTACHMENT 2

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

In the Matter of the Adoption )  
of New Rules Added to Emission )  
Standards and Regulations )) STATEMENT OF NEED  
OAR 340-22 )

The Environmental Quality Commission intends to adopt Crude Oil Tanker Rules OAR 340-22-075 through OAR 340-22-090 under the Administrative Procedures Act and effective October 1, 1978.

a) Legal Authority:

The tanker rule is authorized by ORS 468.295(3) where "the Commission may establish . . . emission standards . . .".

b) Need for Rule:

If the GATX terminal is built and operated, tankers arriving at the terminal could cause considerable air pollution, if their operations are not controlled by a rule. The proposed rule sets limits to the sulfur oxides and hydrocarbons emitted from tankers in Oregon waters. These limits will suffice to hold tanker emissions to minimal levels.

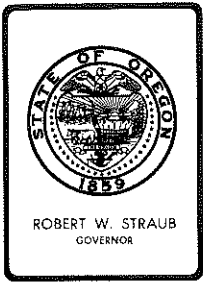
c) Documents Relied Upon:

1. Agenda Item K, January 26, 1978 EQC Meeting summary report on the need for a tanker rule.
2. Computation of Air Emissions for GATX, 10/19/77, by Peter Bosserman of the Department's Air Quality staff.
3. The Alaskan Oil Disposition Study: Air Quality Impact in the Pacific Northwest, October 1976, by David C. Bray of EPA's Region X Office.

DEPARTMENT OF ENVIRONMENTAL QUALITY

2/13/78  
Date

By: Michael Downe for  
William H. Young



# 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. K2, February 24, 1978 EQC Meeting

Public Hearing for the Proposed Crude Oil Tanker Rule

## Background

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

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

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

## Evaluation

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

	Tons Pollutant Per Year			
	<u>NOx</u>	<u>HC</u>	<u>CO</u>	<u>SOx</u>
GATX Terminal	2	7	negl.	negl.
Tugs, Locomotives at Terminal	10	1	5	1
Tankers at Terminal	15	68	negl.	34
Tankers on Lower Columbia River	5	70	negl.	12
Unit trains along Upper Columbia River	229	20	112	12



Contains Recycled Materials

Evaluation - SOx

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

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

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

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

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

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

Evaluation - HC

While the most probable HC emissions from tankers calling at Port Westward would be 68 tons/yr, there are several possibilities that could raise that number ten fold or more. Because of the hazardous navigation in the lower Columbia and crossing the bar, out-going tankers could ballast to 100% of capacity, rather than the 35% assumed in the most probable computation. Or the tankers could inert the cargo tanks, which could expel 100% of the HC vapor. Either of these actions could increase Hc emissions ten fold or more. These HC emissions are not spread out evenly over the year, but occur in the 24 hours that the tanker is in port. The next tanker would not call until 11 days later, on the average.

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

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

### Evaluation of Tanker Rules

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

To date, February 9, the only written comments on the Tanker Rule have come from GATX. They requested that ballasting be allowed to 35%, since that was the basis for the most probable emissions computation, which has been called a tolerable level by the Department in its reports. The Department concurs with this request.

The Department also believes that an additional clause in the Ballasting and inerting parts of the rule should be added to allow these practices if resulting emissions are effectively controlled to at least 90% through a process or through use of air pollution control equipment. HC fumes could be burnt in the tanker's boiler or piped to the rail car loading incinerators. The following clause could be added to 340-22-085 and 340-22-090 "This restriction may be waived if hydro-carbon emission control is provided which has a collection or destruction efficiency of at least 90%."

The legal basis for this rule, the need, and the references used by the staff are given in Attachment 2.

### Summation

1. GATX has proposed to build a crude oil transfer facility at Port Westward. Air emissions and impact could be significant from the tanker operations unless specific rules limit emissions to the most probable estimates.
2. A crude oil tanker rule has been drafted which would limit sulfur content of fuel burned in the ships power plants to a maximum 1.75%, limiting ballasting to 35% of deadweight tons, and prohibit inerting of tanks.
3. The Department believes adoption of the proposed rule is necessary if the Commission authorizes construction of the GATX project.

### DIRECTOR'S RECOMMENDATION

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

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



4.

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

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

*Michael Downs*  
for

WILLIAM H. YOUNG  
Director

P. B. Bosserman:lb

229-6278

February 10, 1978

Attachments:

1. Proposed Rule
2. Legal Basis, Need, and References Statement

ADDITION TO DIVISION 22

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BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

In the Matter of the Adoption )  
of New Rules Added to Emission )  
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c) Documents Relied Upon:

1. Agenda Item K, January 26, 1978 EQC Meeting summary report on the need for a tanker rule.
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DEPARTMENT OF ENVIRONMENTAL QUALITY

2/13/78  
Date

By: Michael Downs for  
William H. Young



State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

To: Governor Straub

Date: January 5, 1978

From: Bill Young (WD)

Subject: Staff Report Proposed GATX Crude Oil Transfer Facility at Port Westward near Clatskanie, Oregon

The attached staff report deals with the proposed GATX oil terminal on the Columbia River. This report, while it reflects on the broader issues of ship movement to and rail movement from the proposed facility is definitive only as it relates to on-site concerns addressed by air and water permits issued by the Department. We conclude that enough is known about these matters to allow us to proceed to hearing with draft air and water permits, and this is now being scheduled.

Other issues, such as the environmental concerns of traffic to and from the facility, or the long term energy impacts on Oregon of this or some other facility, are raised but not answered.

WHY:aes

Staff Report

Proposed GATX Crude Oil Transfer Facility

at Port Westward near Clatskanie, Oregon

November 16, 1977.

GATX Tank Storage Terminals Corporation has applied for an Air Contaminant Discharge Permit and a Water Pollution Control Facilities Permit to construct and operate a crude oil storage and transfer facility at Port Westward near Clatskanie, Oregon. Crude oil would be shipped by tanker to the terminal. Crude would be loaded on tank rail cars and moved by unit train up the Columbia River to points east, primarily oil refineries in Montana.

GATX claims they would have no control over the oil tankers or the oil tank rail cars. These would be leased by whomever owned the crude oil. GATX would only be providing a facility to transfer the crude from ship to rail car. The crude would usually come from Alaska, but on some occasions it could come from a foreign source.

In assessing the potential environmental impact associated with this proposal, several areas of concern have been defined. These are:

- A. Control of oil spills and contaminated waters at the terminal tank farm and rail car loading area.
- B. Control of oil spills and contaminated waters at the unloading dock during tanker unloading operations.
- C. Impact of air pollutant emissions from the oil tankers, railroad equipment, and the transfer facility.
- D. Potential noise problems associated with the GATX proposal.
- E. Risk of oil spills during rail transit in and adjacent to Oregon.

- F. Risk of oil spills during tanker transit across the Columbia River Bar and up the river to Port Westward.
- G. Oil spill containment and cleanup capabilities along the Columbia River.
- H. The impact of a large oil spill.
- I. The effect of the Magnason Amendment to the Marine Mammal Protection Act on the GATX proposal.
- J. Potential alternatives to the GATX proposal.

This staff report will address each of these areas.

The terminal proposed by GATX would consist of a tank farm, rail car loading pad, and a dock on the Columbia River for unloading tankers. The tank farm and the rail car loading pad would be surrounded by berms and curbing to contain spills caused by ruptured tanks, broken pipes, operator error, or other accidents. Contaminated waters (rainfall contaminated with oil, primarily) would be treated in a gravity separator and disposed of on land. Contaminated oil plus sediments and water removed from storage tanks would be shipped back to the crude oil source for treatment. This would be Valdez, Alaska in the case of Alaskan crude.

The Department would review the plans for the oil terminal prior to construction to assure oil spill control and containment facilities and waste water control facilities were adequate. In addition, Federal Law requires the company to prepare an SPCC (Spill Prevention, Control, and Containment) plan which the Department would also review. Requirements for the SPCC plan encompass almost all aspects of the design and construction of oil spill facilities as well as the operation of the facilities.

Based on the above information, we believe there is sufficient technology available to assure that there would be no significant, if any, pollution of state waters due to oil spills from the tank farm or the rail car loading pad. We believe that state and federal laws are adequate to assure that the technology is installed and operated in the best manner.

Though the Department would also review plans for the oil spill control facilities on the dock, the Coast Guard has regulations which cover the design, construction and operation of the oil unloading equipment. Like the regulations concerning SPCC plans, the Coast Guard regulations are very comprehensive. Further, the Coast Guard has sufficient manpower to conduct frequent on-site inspections of the unloading operations. Usually, the Coast Guard inspects each tanker unloading operation at least once, trying to be at the site either during hookup or disconnect. Oil spills are most apt to occur during hookup and disconnect activities, but the spills are generally relatively small.

If the Department issued a water pollution control facilities permit for the GATX terminal, it would require that a floating boom be placed below the ship to assure that spills would not be lost downstream. It would also specify procedures for tanker unloading operations and would require spill cleanup equipment to be on-site or closeby. Examples of the special requirements that would be in the permit can be found in the Special State Requirements section of the permit written for Charter Oil Company. This section is attached as Appendix A.

Based on the preceding discussion, we believe there is some potential for oil spills at the unloading dock, but these would, in most cases, be small and could be contained.

The Department has investigated potential air quality impacts due to air pollutant emissions from the terminal operations, tankers, and railroad activities. The company proposes to control pollutant emissions created by rail car loading activities by collecting and incinerating the pollutants. If the Department promulgates rules to control the sulfur level in the fuel used by the tankers and provided the through-put of the terminal is limited in the air contaminant discharge permit to less than 17.6 million barrels per year, there should be no measurable impact on existing air quality. No violation of air quality standards should occur. (A copy of the air quality impact analysis is attached as Appendix B.)

Rail traffic between Port Westward and St. Helens would be increased by a factor of 3.5 (at an annual through-put of 17.6 million barrels per year). This factor indicates an average increase in railroad noise by approximately 5 dBA, which is normally cited as significant and could create citizen complaints, especially if rail traffic occurs during sleeping hours. People living along the rail siding to the terminal itself may be more affected by the noise of train traffic since current use of the siding is very infrequent. Switching activities may also generate noise complaints from people living along the siding, particularly if switching occurs at night.

We do not know if any noise standards will be violated by the GATX proposal. It may be difficult to interpret the noise rules relative to noise created by train traffic because the periods of noise are intermittent and brief. Also, there is question whether such railroad activity would be exempt from state noise standards by Federal requirements.

Current plans would have the unit trains travel on Burlington Northern along the Columbia River to Pasco, Washington. From there, the trains would leave the river and the threat of an oil spill significantly impacting the Columbia River would be largely reduced. The travel route on the Columbia River would be on the Oregon side from Port Westward



to Portland and on the Washington side from Vancouver to Pasco. Obviously, the train would cross the Columbia River between Portland and Vancouver and also at Pasco.

Calculations show that at an annual through-put of 17.6 million barrels of crude oil, one to two derailments of a loaded train could occur in 10 years of operation. The chance of a significant oil spill occurring from the derailment would depend on the location and the speed of the train at the time of derailment. Recent historic records show that derailments have involved from 1 to 36 rail cars averaging 9 per incident. One incident in 1973 involved three tank cars carrying asphalt and resulted in a spill of approximately 500 gallons into the Columbia River.

If several cars did derail in a spot where they did go into the Columbia River or a tributary of the river, the cars would have to rupture before a spill would occur. The chance that a car would rupture is impossible to calculate, but GATX informs us that "tank cars are a relatively damage proof container for rail transport since the tank itself is a very strong container that can survive derailments involving extensive damage to other rolling stock without significant loss of lading."

We are unable to calculate the odds of a train derailment creating a significant oil spill. We believe, in most cases, few cars involved in a derailment will spill oil that will enter public waters. Should an oil spill occur in the Columbia River the impact would depend on the size of the spill, where it occurs, and the weather conditions at the time of the spill. Birds and fur-bearing animals in the area of the spill would probably suffer the most. Fish would probably avoid the spill. Depending on the river's current and wind conditions at the spill site, spill containment and cleanup may be easy or very difficult.

Depending on annual through-put, there could be up to 4 or 5 tankers unloading at the GATX terminal each month. GATX estimates that the typical tanker will carry about 475,000 barrels of Alaskan crude. A tanker carrying 475,000 barrels would exceed 66,000 dwt.\* A review of typical tanker specifications shows that, in general, tankers in excess of 60,000 dwt will have a draft over 40 ft. Most tankers in the 45,000 - 50,000 dwt class will have a draft of 39 feet or better.

The Columbia River channel is only maintained at a 40 foot depth. The Columbia River pilots have told us that they have discussed tanker traffic with the GATX people and that they would not pilot tankers with drafts over 38 feet. Further, tankers with drafts of 38 feet would be brought up river only during special river conditions (high tides, etc.). Based on this, we believe the tankers using the GATX terminal will either be smaller than currently projected or the tankers will be only partially loaded so that their draft does not exceed 38 feet. The Chevron Oregon is a 40,000 dwt tanker that can carry about 260,000 barrels at a 37.2 foot draft. There may be other tankers that have a wide beam that could carry more than 260,000 barrels without exceeding a 38 foot draft. If so, we do not know if they would be available for supplying the GATX terminal.

Alaskan crude would have to be carried by tankers with American registry in accordance with the Jones Act. Crude oil loaded at non-American ports would not have to be carried by American ships.

Latest reports from the U. S. Department of Energy indicate that refineries in Montana will use Alaskan crude if it becomes available to them. Foreign crude would probably not be transferred through the proposed GATX terminal unless Alaskan crude were unavailable. This could happen if the Alaskan pipeline was shutdown for one reason or another.

\*dwt: dead weight tonnage is the maximum weight in metric tons that the ship can take on. This includes cargo, fuel, crew, and supplies but not the ship itself.

Corps of Engineer records show that commercial vessels make, on the average, 80,000 trips on the lower Columbia River per year. Most of these are tow and tug boats and nonpropelled dry cargo and tanker vessels. Oil tankers made about 600 of these trips (transit up and down the river is considered as two trips). Of these 600 tanker trips, 90 trips were by foreign tankers. Foreign tankers were, in general, carrying non-petroleum cargo such as palm oil, coconut oil, cotton seed oil, tallow and anhydrous ammonia. Some foreign tankers carried ethylene dichloride, ethylene glycol, and toluene. Most of the American tankers calling on the Columbia River carried petroleum, either crude oil, Bunker C, gasoline, or other distillate.

In 1976, the largest of the tankers that called on the Portland harbor regularly was the Chevron Oregon (40,134 dwt, 37.2 ft. draft, 260,000 barrels). It made 9 calls carrying crude oil and bunker C. The Chevron Washington, slightly smaller than the Oregon in dead weight tonnage only, also made 9 calls carrying refined products (distillates like gasoline, diesel). The Sohio Intrepid (82,069 dwt) called on the Portland shipyard, but carried no cargo. The ARCO Juneau and Fairbanks also visited the shipyard. Their dead weight tonnage is 122,520 dwt. Most of the tankers that call on the Columbia River are much smaller than the Chevron Oregon.

The Columbia River pilots, Columbia River bar pilots, and the U. S. Coast Guard have responsibilities over tanker traffic using the Columbia River system. All ships with the exception of enrolled ships (American registry) must have a licensed Columbia River bar pilot on board when crossing the Columbia River bar. Most enrolled ships, however, do use bar pilots. All ships must have a Columbia River pilot on board when traveling upriver of Astoria.

The record of the bar and river pilots is exceptional. Ships have been involved in minor incidents, such as minor ship collisions, groundings (some due to equipment failure), and docking collisions. In most of these incidents, the damage to the ship was not enough so that it could not move under its own power. There has never been a major oil spill on the river due to a tanker accident. Tankers are compartmentized so that if a tanker is ruptured by collision, only a portion of the total lading should be spilled.

The Coast Guard has various responsibilities concerning ship traffic on the Columbia River including special requirements for oil tankers. A tanker must notify the Coast Guard at least 24 hours prior to its entering the Columbia River. This allows the Coast Guard to check with the Federal Maritime Commission to see that the tanker carries necessary oil spill cleanup insurance as required by law. Each tanker must be insured for \$100 per gross ton or \$14 million, whichever is less. The Chevron Oregon (approximately 40,000 dwt) would have a minimum \$4 million of insurance. It should be noted that this insurance is for oil spill cleanup costs and could not be used to pay for damages caused by the spill such as the loss of fish and wildlife or the loss of business at tourist facilities. These damages could be compensated only through legal proceedings.

The Coast Guard also inspects the operational capabilities of each ship that enters the Columbia River. This inspection occurs, however, after docking. American tankers, in addition, are inspected in dry dock every two to three years with non-dry dock inspections in between.

The Coast Guard may prohibit ship traffic in hazardous areas during certain conditions (weather, tides, etc.). This authority is applied only on a case-by-case basis.

Should a large oil spill occur at the mouth of the Columbia River, there would be no way to contain the oil to open water. It would undoubtedly wash up on either or both the Oregon and Washington beaches. Such a disaster could only be cleaned-up after months of costly, laborious effort. A spill on the Columbia River would be easier to contain, but the oil would have to be forced up on the shore for removal. Oil containment boom could not be placed across the entire river because of the current's enormous force. Effectiveness of cleanup measures would depend on the weather and river conditions.

Currently, there appears to be an adequate supply of oil spill containment boom along the Columbia River. There is a lack of oil skimming equipment that is capable of operating in the Columbia River. (The DEQ oil spill contingency plan is attached as Appendix C. This plan has more detailed information on oil spill cleanup capabilities.)

It is the spillers responsibility to cleanup any oil spill. However, if his action is inadequate the Coast Guard and the DEQ have authority to take charge of cleanup efforts and bill the spiller for the costs incurred. Since it may take time and legal action to fully recover these costs, the Coast Guard has an oil spill fund that can be drawn on to pay for cleanup costs. The Coast Guard is better equipped and staffed so the cleanup of a large spill on the Columbia River would be placed in their hands with DEQ functioning as an observer.

The environmental effect of an oil spill would depend on many factors: the size and location of spill, the time of year, weather conditions, river conditions, and type of substance spilled. Because of these variables, it would be impossible to predict specific damages. There are, however, several general observations that can be made. A large spill in the Columbia River would probably kill many of the birds and fur-bearing animals that inhabit that part of the Columbia River. The extent of the kill would depend on how small an area the spill could be contained in and how fast it was cleaned-up.

Whether an oil spill would have long or short term effects would also depend on the previous factors plus other considerations. If a certain organism is seriously impacted, it may take several years for it to reestablish itself. If the oil sinks it may take a longer time for it to be degraded by natural processes than if it floats and is removed by man. We do not know what organisms, if any, would be seriously harmed by sinking oil.

Alaskan crude oil has a high percentage of aromatic hydrocarbons by weight. This means that portions of this crude will dissolve in water easier than other heavier oils and also means that Alaskan crude will be more toxic than crudes with less aromatics. (Fortunately, these aromatics also evaporate into the air fairly fast.) What effect this toxicity would have during an oil spill would depend on how much the crude is mixed with the water during the spill. If there were a lot of wave or surf action as occurs on the Columbia River bar or on the river during a storm, the crude oil, particularly the lighter aromatics, could extend some distance below the surface. It is conceivable that, should extensive mixing occur, it could impact anadromous fish, particularly if during a major salmon run. The extent of damage to fish would also depend on their ability to avoid the spill if possible. Obviously, shrimp and crab are less mobile than other fish and could not move away from an oil spill very fast.

Though we expect that Alaskan crude oil would float when first spilled, after weathering and/or contact with suspended material in the river, it may sink or become suspended. This behavior would depend on the conditions at the time of the spill.

An oil spill may also have other, more subtle effects by killing less obvious aquatic organisms that make up the marine ecosystem and form various links of the food chain. The extent of damage in this regard would be difficult to predict and may even be difficult to measure should a spill occur.

Cleanup of an oil spill after it washed up on the beach poses some environmental problems in itself. As quoted from the Oregon DEQ Oil Spill Contingency Plan: "Disposal of oil-saturated materials such as driftwood is a difficult problem and the technology for removal of the oil from the saturated beaches has not been developed adequately so that oil can be removed without removing the sand. There are no disposal sites in Oregon equipped to handle a large quantity of oil-saturated material. Removal of driftwood from the beaches can result in serious erosion problems. The damaging effects of large coastal spills will result in compromises at the expense of the environment either at the spill site or in other areas selected for depositing these materials."

In addition to environmental damages caused by a spill, there are economic damages. Oil on Oregon or Washington beaches would certainly impact the tourist industry. The magnitude of the impact would depend on the size of the spill, how fast the oil could be removed, and whether any significant resource (clams, etc.) would have to be reestablished. Floating oil would also affect the fishing industry, both commercial and recreational.

While the question of oil spills in or on the Columbia River has been raised as a result of the GATX proposal, the risk of a large oil spill will not go away if the GATX proposal is not implemented. Relatively large tankers already use the Columbia River carrying crude oil, bunker C, plus other distillate fuels. The risk will remain. Specific answers to the question of environmental and economic risks created by oil transport on the river could be found by a detailed environmental impact assessment. Such assessment is beyond the scope of this report.

The Magnason Amendment to the Marine Mammals Protection Act is now law and prohibits expansion or construction of oil tanker unloading facilities east of Port Angeles. Though the wording of the Magnason Amendment is ambiguous, review of the Congressional Record-Senate indicates the amendment was intended to concern only the waters of Puget Sound. According to telephone conversations with officials of the Army Corps of Engineers, they also interpret the amendment to cover only waters of Puget Sound. Regardless, the amendment only applied to federal officials and does not preclude officials of the State of Oregon from issuing permits for the GATX proposal. (A copy of the Congressional Record containing the Amendment is attached as Appendix D.)

Though the Magnason Amendment does not prevent state officials from issuing permits to GATX, it does seriously restrict the ability of Washington State refineries to expand to meet Oregon's growing demand for petroleum products. Whether Oregon will go elsewhere for these products or will develop her own production facilities is a question that should be answered. The answer may affect the Columbia River as much or more than the GATX proposal.

As part of this report, we have made a cursory investigation of various alternatives to the GATX proposal. A detailed analysis of each alternative was beyond the scope of this report. Such analysis could be considered in an environmental impact assessment.

The alternatives which were considered are listed below with some discussion:

- A. Alternative I: An oil transfer facility similar to the GATX proposal at a site on the Columbia River other than the Port Westward site. We do not believe there is another site either in Oregon or Washington that would have significant environmental benefits over the Westward site. Of course, Oregon would have no control over a site in Washington. A site nearer Astoria would perhaps



have some benefit in that tanker transit along the Columbia River would be less. The Columbia River bar, however, would still have to be crossed. We believe that the bar is probably the most treacherous part of the voyage. We are also unaware of any other port along the Oregon Coast that could handle the size of tankers that would be used for hauling crude to a transfer facility.

- B. Alternative II: The GATX proposal using a pipeline instead of the railroad to carry crude east. While a pipeline would eliminate the threat of an oil spill due to a train wreck, we do not believe that that threat is serious enough to counteract the environmental impact resulting from pipeline construction. A detailed environmental impact assessment would be needed to confirm this belief.
  
- C. Alternative III: Unloading tankers off-shore. Sources in Washington State have told us that their state conducted a study of off-shore unloading facilities. This study found that such facilities were not feasible off the Washington Coast because of large swells and other conditions. If, such conditions also exist off the Oregon Coast, off-shore facilities would not be feasible either. A detailed environmental assessment would be needed to confirm this.
  
- D. Alternative IV: Off-loading large tankers onto small tankers at sea. The small tankers would then bring the crude up the Columbia River. We believe transfer at sea would have more potential for spills than the tanker traffic generated by GATX. Again a detailed assessment should be done to confirm this. The Columbia River pilots and bar pilots will assure that over-sized tankers do not enter the river.

Other alternatives such as a refinery instead of an oil transfer terminal or using Puget Sound as the transfer site are mentioned. Because of the limited scope of this report we were unable to delve into the political and economic as well as environmental issues associated with these alternatives. We do know that a refinery would generate some water, air and noise pollution as well as solid waste disposal problems. The extent of these problems would be dependent on the size and location of the refinery. The economic viability of a refinery would also depend on these variables as well as the reliability of the crude source, potential markets, plus other concerns.

## Summary

1. The potential environmental impact due to oil spills from the GATX terminal and dock should be minor.
2. Through an air contaminant discharge permit and promulgation of rules on fuels used by tankers, the Department should be able to limit air emissions such that there is no measurable impact on air quality. Air quality standards would not be violated.
3. Increased noise levels could be a problem to the residents along the rail line between the Port Westward facility and Portland.
4. Based on past records, it would not be unreasonable to expect at least two derailments of a unit train carrying crude oil in a ten year period. The extent of the spill and its impact would depend on the size and location of the spill and the weather conditions at the time of the spill.
5. The potential for a large oil spill due to an oil tanker should not be significantly increased if the GATX terminal is built. However, the impact of a large oil spill would be disastrous, particularly if it occurred at the mouth of the Columbia River. More precise assessments of potential damage could only be obtained through a comprehensive environmental assessment beyond the scope of this report.
6. The threat of an oil spill will not be eliminated if the GATX proposal is abandoned. Large tankers use the Columbia River already.

Summary Cont'd.

7. U. S. Department of Energy sources have informed us that the terminal will probably transfer Alaskan crude almost exclusively. Alaskan crude must be carried by American tankers. Though most of the recent spectacular oil tanker incidents have involved non-American vessels, we have no evidence that non-American tankers are less safe.
  
8. The Magnason Amendment to the Marine Mammal Protection Act does not prevent state officials from issuing permits for the proposed GATX terminal. It does severely restrict Washington State refineries to expand to meet Oregon's increasing demand for petroleum products. Unless the amendment is changed, Oregon may have to look at alternative sources for these products. How these alternatives would impact Oregon can only be determined through a comprehensive study.
  
9. Though the alternatives investigated in this report do not seem to have any overall environmental benefit over the GATX proposal, the investigations were cursory. More detailed investigation may be desirable.

Recommendations:

1. Draft proposed water and air permits and setup public hearing on the permits. Tanker and rail traffic have the most potential for impacting the environment, though we believe this potential is not significant. Even if it were, we do not believe we have authority to deny permits on these bases.
  
2. The State of Oregon (Energy Department) should secure preparation of an overall assessment of the potential energy supply alternatives for the state. Regardless of GATX, the state will face increased intrusions upon the economy and environment as energy demands increase. How Oregon can best meet these demands and still maintain our way of life needs to be determined. Further, we need to assess our political obligations for providing energy to interior states and how this will affect our economy and environment.

RJN:aes

*Appendix A*

SPECIAL STATE REQUIREMENTS

The following conditions, A1 through A8, are set forth pursuant to Oregon Revised Statutes 468.740 and Oregon Administrative Rules Chapter 340, Sections 14-010, 41-010, 41-015, 41-020, and 41-022. They are not conditions or limitations imposed to implement or satisfy requirements of the Federal Water Pollution Control Act or regulations or guidelines promulgated pursuant thereto.

- A1. Wastewater control and treatment facilities shall be designed to include the following features:
- a) Wastewater collection systems shall be designed such that, to the maximum practicable extent, uncontaminated waste streams are not combined with contaminated waste streams prior to treatment.
  - b) Process control systems and wastewater control facilities shall be provided which minimize, to the greatest practicable extent, the generation of contaminated or soiled wastewater.
  - c) All tank farm areas and all other areas in the refinery where petroleum compounds are likely to be spilled or could seep into the ground, shall be paved with an approved covering such that petroleum compounds cannot enter the groundwater, saturate the soil, or seep to public waters. All such paved areas shall drain to a collection system such that all storm water collected on these areas can be controlled and treated to meet the effluent limitations specified in condition 4 of this permit.
  - d) Tank water draw shall be collected and treated with other contaminated storm waters.
  - e) Process areas shall be adequately curbed to minimize the inclusion of uncontaminated runoff into the process area storm runoff collection system.
  - f) All wastewater control and treatment facilities shall be designed to minimize generation and escapement of malodorous gases.
- A2. All waste outlets from the tank farm area shall have gate valves which shall be normally closed.
- A3. None of the oil-water separator facilities shall be overloaded or operated at flows in excess of design rate by either allowing surface runoff not provided for in the original design or by allowing excessive pump discharge to enter the collection system.
- A4. Prior to start-up of production of the refinery, the permittee shall prepare, submit to the Department, and implement an approved, comprehensive, detailed spill prevention and contingency plan related to refinery operations including, but not limited to, the loading and unloading facilities at the oil transfer terminals. The plan shall be approved in writing by the Department prior to implementation and shall include, but not be limited to, the following information and procedures relative to the prevention and handling of spills and unplanned discharges of oil chemicals and other hazardous substances:

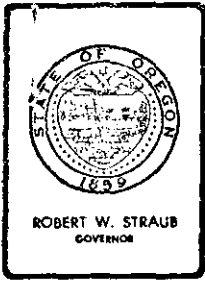
- a) A description of the reporting system which will be used to alert responsible facility management and appropriate legal authorities;
- b) A description of the facilities which prevent, contain or treat spills and unplanned discharges;
- c) A list of all oil and hazardous materials used, processed, or stored at the facility which may be spilled and could conceivably be discharged to state waters;
- d) The Manual of Operations as required by the U.S. Coast Guard as specified in 33 CFR, part 154, subpart B;
- e) The plan shall conform to all requirements for facilities and procedures as specified by E.P.A. and the Coast Guard in 40 CFR, parts 112.7 and 33 CFR, parts 154 and 156.
- f) Furthermore, the plan shall satisfy the following:
  - 1) A procedure is required for operations and inspections performed by vessel and shore crews prior to the start of transferring oil, oil products, ballast water, tank cleanings, bilge or other liquid cargo or wastes. A check list shall be provided with itemized signature verifications for performance of activities essential to spill-free transfer.
  - 2) Procedures and checklists are required for vessel and shore crews conducting spill prevention activities during and at the completion of transfer. In addition to operational inspections, this shall include verification that the volume of material transferred has been received.
  - 3) A procedure and checklist is required for inspection of oil spill control facilities at regular intervals between shipments.
  - 4) Curbs are required around oil transfer facilities on the dock, such as pumps, valves and connections, to contain possible spills or leaks. Equipment is required to collect and transfer to processing or treatment facilities any oil spilled in the curbed area.
  - 5) Adequate lighting is required for visual detection of oil spills on all sides of the vessel and around the dock. Verification of visual inspections is required at regular intervals during oil transfer operations. A high intensity handlight may be employed on the river side of the vessel to facilitate this inspection during night time hours.
  - 6) A study shall be conducted on the utilization of an automatic oil spill detection system utilizing oil sensors at the water surface around a vessel and at discharge points of plant drainage.

PERMIT CONDITIONS

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- 7) A method shall be developed for containment of oil spills that could occur during transfer operations. Such method must incorporate procedures which minimize escape of oil into State waters and provide timely and effective containment and clean-up. Development of more effective containment techniques and consistent with protection of life and property, shall be continued.
  - 8) Procedures, facilities, and equipment to contain and clean up any oil spills shall be provided by the permittee. These facilities and equipment shall either be provided by the permittee or provided by an oil spill cooperative of which the permittee is a member and, in either case shall be located within a reasonable distance of the refinery. (Maximum acceptable travel time to the refinery shall not exceed one hour.) A list describing the type, quantity and location of containment booms, sorbent materials, and oil-skimming and separation equipment shall be provided. In addition, the use of this equipment plus procedures and trained manpower capability for collection and transfer to treatment of recovered waste oil shall be described. The permittee shall conduct a semi-annual inspection and inventory of the listed equipment and manpower capability and submit a report to the Department. The report shall include operational testing of clean-up and disposal facilities in simulated oil spills.
- 
- A5. Wastewaters discharging to biological secondary treatment facilities shall contain adequate nutrients for optimum biological activity at all times.
  - A6. An environmental supervisor shall be provided to coordinate all necessary functions related to maintenance and operation of waste collection treatment, and disposal facilities. This person shall have access to all information pertaining to the generation and control of wastes in the various process areas.
  - A7. Prior to start-up of production at the refinery, the permittee shall submit and implement an approved plan for disposing of all solid wastes generated at the refinery. This plan shall be approved in writing by the Department prior to implementation.
  - A8. The use of emulsifying agents, dispersants, cleaning agents, detergents or like chemicals as cleaning agents shall be kept to a minimum.





# Department of Environmental Quality

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 Telephone (503) 229-5364

October 27, 1977

RECEIVED  
OCT 28 1977

Environmental Protection Agency-000  
1220 S. W. Morrison Street  
Room 310  
Portland, Oregon 97205

Water Quality Division  
Dept. of Environmental Quality

Re: Air Contaminant Discharge Permit  
Application 05-2569, NC 1007

Gentlemen:

The Department has completed the enclosed computation of air contaminant emissions from GATX's proposed crude oil transfer terminal on the Columbia River. Your review and comments are invited. Copies are also being transmitted to DOE and SWAPCA.

The Air Quality Division is drafting permit conditions and drafting a rule to mitigate impacts from tanker air contaminants. These actions, when completed, may allow issuance of an Air Contaminant Discharge Permit without an environmental impact analysis and modeling being requested of GATX by the Department.

Comments on GATX's applications have not yet been received by the Department from DOE and SWAPCA in response to our letter of October 14, 1977.

Sincerely,

H. M. Patterson, Manager  
Air Pollution Control  
Air Quality Division

PBB:sw

Enclosure

cc: GATX

Task Force Manager R. J. Nichols  
Portland Regional Office, DEQ  
J. L. Swenson, DEQ



Contains  
Recycled  
Materials

## EXECUTIVE SUMMARY

### a. Air Contaminants Released

The GATX terminal portion of the project will release negligible air contaminants, mostly a mere 7 tons per year of hydrocarbons. The tankers unloading crude oil can be a significant air contaminant source. They bring the total emissions up to 75 tons per year of hydrocarbons, 34 tons per year of sulfur oxides, and 25 tons per year of nitrogen oxides. Also the Department has estimated emissions from tankers serving this terminal on navigable Oregon waters and emissions from unit trains carrying the oil up the Columbia River corridor. Together with terminal emissions, the total nitrogen oxides (the greatest pollutant in quantity) come to only 259 tons per year, calculating from the most probable emission conditions.

If a number of reasonable worst case conditions are calculated, the air contaminants released increase by a factor of about ten, which would make it necessary for a comprehensive air quality impact analysis. These conditions can be mitigated by permit clauses and special rules on operation of oil tankers. The annual throughput of 11,750,000 BBL/yr of oil can be limited in an Air Contaminant Discharge Permit. The percent sulfur in the fuel oil burned by tankers can be limited by a new rule as can the methods of ballasting ships.

### b. Federal Review

The GATX terminal's storage tanks are covered by federal new source performance standards. The tanks may also be covered by the federal prevention of significant deterioration rule if construction is not started in the next few months.

The Department views the terminal as a negligible source of air pollution, providing mitigating measures and new rules can be implemented. The federal EPA could require an impact analysis if the facility is not constructed in the near future. The Department would not require an air impact analysis if emissions are restricted to the most probable estimate.

### c. Air Contaminant Estimates

The following two tables show the most probable air contaminant estimates, three existing sources for comparison, and the worst case estimates.

SUMMARY - ANNUAL EMISSIONS - MOST PROBABLE CONDITIONS

	TONS POLLUTANT PER YEAR				
	HC	SO <sub>x</sub>	NO <sub>x</sub>	Part.	CO
GATX Storage Tanks	7	0	0	0	0
Incinerators	Negl.	Negl.	2	Negl.	Negl.
Handling Loss	Negl.	0	0	0	0
Tankers at Port Westward					
Boiler	.5	34	15	3	Negl.
Ballasting	21	0	0	0	0
Venting	46	0	0	0	0
Tug at Port Westward	.2	Negl.	.4	.2	.1
Railroad at Port Westward	.6	Negl.	7.6	Negl.	3.7
Port Westward Sub-Total	75.3	34	25	3.2	3.8
Lower Columbia					
Ballasting tankers	60	0	0	0	0
Venting tankers	9.5	0	0	0	0
Tanker boilers	.2	12	5	1	0.1
Lower Columbia Sub-Total	69.7	12	5	1	.1
Upper Columbia, Unit Trains	20	Negl.	229	Negl.	112
Grand Total	165	46	259	4	116
Sources for Comparison					
C-Z Wauna Pulp Mill	8	1,075	540	485	3,713
Multnomah County					
Sea-going ships	66	200	386	40	129
Railroads	341	182	1,185	80	416

## SUMMARY - ANNUAL EMISSIONS - WORST CASE

	TONS POLLUTANT PER YEAR				
	HC	SO <sub>x</sub>	NO <sub>x</sub>	Part.	CO
GATX Storage Tanks	7	0	0	0	0
Incinerators	18.6	Negl.	2	Negl.	1.3
Handling loss	8.3	0	0	0	0
Tankers at Port Westward					
Boilers	4.4	368	141.5	31.5	2.7
Ballasting	239	0	0	0	0
Venting	430	0	0	0	0
Inerting	57.5	0	0	0	0
Tug at Port Westward	2.3	0.7	3.8	1.9	1.0
Railroad at Port Westward	6.1	Negl.	70.9	Negl.	34.5
Port Westward Sub- Total	773.2	368.7	218.2	33.4	39.5
Lower Columbia					
Ballasting tankers	543	0	0	0	0
Venting Tankers	89.3	0	0	0	0
Tanker boilers	1.5	132.3	51	11.3	1.0
Lower Columbia Sub- Total	633.8	132.3	51	11.3	1.0
Tankers on Oregon Coast	25.4	151	19.6	4.3	0.4
Upper Columbia Unit Trains	186	Negl.	2,135	Negl.	1,044
Eastern Oregon Unit Trains	11	Negl.	128	Negl.	62.4
Grand Total (rounded)	1,630	652	2,550	49	1,150

COMPUTATION OF AIR EMISSIONS FOR GATX 05-2569, NC 1007<sup>1</sup>

by P. Bosserman 10/18-19/77 for J. Kowalczyk, DEQ

1. ANNUAL EMISSIONS - Most Probable Conditions

A. Port Westward Terminal, 13 miles WNW of Rainier, Oregon in Columbia County, on the Oregon bank of the Columbia River.

1) Floating roof tanks

GATX computed these emissions by recognized methods using API (American Petroleum Institute), SCAQMD (Los Angeles agency), and EPA's (Environmental Protection Agency, federal) AP-42 emission factors and methods. They used worst case in one of the assumptions in selecting 70°F, the summer product delivery temperature, at the bottom of page 1 of their calculation submitted 10/11/77<sup>1</sup>.

First calculation, ignoring insulation effect:

$$57.13 \frac{\text{ton HC}}{\text{yr}} \text{ for 5 tanks}$$

Second calculation, phoned in 10/18/77, with insulation effect accounted for in 4 large tanks:

$$(0.23 + 1.13) 4 + 1.73 = 7.17 \frac{\text{ton HC}}{\text{yr}} \text{ for 5 tanks}$$

2) Incinerators Burning Railroad Tank Car Filling Emissions

GATX computed these emissions on pages 4 thru 6 of their calculation submitted 10/11/77<sup>1</sup>. They used emission factors for LPG combustion in industrial process furnaces from AP-42<sup>8</sup> Table 1.5-1. On 10/18/77 GATX, H. D. Kerfman, staff engineer in Chicago, phoned me that they are using a Maxon stick type afterburner; he will send details. Emissions are:

$$.06 \frac{\text{ton HC}}{\text{yr}}$$

$$2.31 \frac{\text{ton NO}_x}{\text{yr}}$$

$$.305 \frac{\text{ton CO}}{\text{yr}}$$

3) Handling Loss

HC (hydrocarbon) vapor leaks from safety relief valves, pump seals, flanges, etc. are considered negligible since the equipment is new and the product being lost is of great value. See worst case computation for this value being estimated.

#### 4) Tanker Loss at Port Westward

Crude oil tankers of various sizes and characteristics will call at Port Westward. This topic and the unit train topic were not addressed in GATX's application<sup>1</sup>. The emission of air contaminants from the tankers and unit trains must be quantified however, if the Department considers approving the application for the terminal.

For the sake of computation, a typical tanker will be identified and used. Previous studies will also be used. Tankers serving GATX's proposed terminal are limited by the Columbia River's 38 foot depth<sup>2</sup> at its mouth, known as the bar. A channel of 40 feet is maintained in the lower Columbia by the Corps of Engineers. An average tanker drawing 38' is a 49,000 DWT (dead weight tons) size; it would have no segregated ballast or inerting per Frank E. Brown<sup>3</sup>, of the Federal Energy Administration.

##### a) Boiler

Each tanker calling at Port Westward must use its own pumps to unload its own crude oil. The tanker is assumed to be residual oil fired, steam turbine driven.

First, the time to unload must be figured. GATX reports<sup>4</sup> that unloading 300,000 BBLs in 16 hours is what they plan; this includes coupling time for pipe lines once the tanker is berthed. This can be cross checked as follows:

$$49,000 \text{ DWT} \frac{2240 \text{ lb}}{\text{DWT}} \frac{\text{BBL}^5}{312.5 \text{ lb}} = 351,000 \text{ GGL/tanker}$$

$$351,000 \frac{\text{BBL}}{\text{tanker}} \frac{\text{hr}}{35,000 \text{ BBL}} \text{ tanker pumping rate}^1 = 10.0 \text{ hours to unload}$$

Emission factors and fuel usage are taken from EPA's October 1976 study<sup>5</sup>. I will also assume that the tanker berths in one hour with the aid of one tug<sup>6</sup>; and that 24 hours<sup>4</sup> later it unberths, turns, and starts down river, again aided by one tug<sup>6</sup>.

The EPA study<sup>5</sup> assumes that the tankers burn 1.5% sulfur residual oil, that the tug burns 0.25% sulfur diesel fuel. Table 6 of Reference 5:

14.7 BBL/hr	Maneuver	x 2 hours	- 29.4
15.0 " "	Off load	x 10 hrs.	- 150.0
2.0 " "	idle	x 12 hrs.	- 24.00
		24 hrs.	203.4 BBLs
			<u>TANKER VISIT</u>



$$4846 \frac{\text{lbs HC}}{\text{Tanker visit}} \times 33.475 \frac{\text{Tankers}}{\text{Yr}} \times \frac{\text{Ton}}{2000 \text{ lb}} = 81.1 \frac{\text{Tons HC}}{\text{Yr}}$$

$$\text{At berth } 81.1 \frac{\text{Ton HC}}{\text{Yr}} \times \frac{10}{35} = 21 \frac{\text{Tons HC}}{\text{Yr}}$$

$$\text{On River } 81.1 \frac{\text{Ton HC}}{\text{Yr}} \times \frac{25}{35} = 60 \frac{\text{Tons HC}}{\text{Yr}}$$

These emissions may be high by a factor of 10 per R. W. Bogan.<sup>2,6</sup> The Texas Air Pollution Control Board has done a study showing that the crude oil vapors mostly lie in a blanket over the liquid surface. The fresh air that is drawn in during OFF-LOAD is expelled during ballasting.

7) Tanker Venting Emissions

The crude oil leaves a film on the surface of the tankers walls which evaporates with time. From the EPA Study<sup>5</sup> Table 10, a figure of 114 lb HC/hr is taken for a 49,000 DWT tanker. Tankers would take about 2 1/2 hours<sup>7</sup> transit time from Port Westward to the Columbia bar.

$$\text{At berth } 114 \frac{\text{lb HC}}{\text{hr}} \times 24 \frac{\text{hrs}}{\text{tanker visit}} \times 33.476 \frac{\text{Tankers}}{\text{Yr}} \times \frac{\text{Ton}}{2000 \text{ lb}} = 45.8 \frac{\text{Ton HC}}{\text{Yr}}$$

$$\text{On river } 114 \frac{\text{lb HC}}{\text{hr}} \times 5 \frac{\text{hrs on River}}{\text{tanker visit}} \times 33.475 \frac{\text{tankers}}{\text{Yr}} \times \frac{\text{Ton}}{2000 \text{ lb}} = 9.54 \frac{\text{Ton HC}}{\text{Yr}}$$

8) Tanker Inerting and/or Fueling Emissions

It is assumed that the average tanker is not equipped with inerting (which expels HC vapor), and that the tanker will not take on bunker C fuel while at Port Westward, at Portland, or at other Oregon ports.<sup>3,5</sup>

B. Lower Columbia

- 1) Ballasting - Figured in A(6) as  $60 \frac{\text{tons HC}}{\text{Yr}}$
- 2) Venting - Figured in A(7) as  $9.54 \frac{\text{Tons HC}}{\text{Yr}}$
- 3) Tanker Boilers

Tankers will take 2 1/2 hours<sup>7</sup> to steam from Port Westward to the Columbia bar. This type of travel is considered maneuvering rather than cruising, per pg. 340 of Reference 9.



From Table 6 and 7 of Reference 5:

$0.134 \frac{\text{lb HC}}{\text{BBL}}$	$14.7 \frac{\text{BBL}}{\text{Hr}}$	$5 \frac{\text{Hrs}}{\text{Tanker}}$	$33.475 \frac{\text{Tankers}}{\text{Yr}}$	$\frac{\text{Ton}}{2000 \text{ lb}}$	$= 0.16 \frac{\text{Ton HC}}{\text{Yr}}$
$10.05 \frac{\text{lb SO}_x}{\text{BBL}}$	$\frac{\text{BBL}}{\text{Yr}}$	$\frac{\text{Ton}}{\text{lb}}$	$1.230$		$= 12.4 \frac{\text{Ton SO}_x}{\text{Yr}}$
$4.36 \frac{\text{lb NO}_x}{\text{BBL}}$		"			$= 5.36 \frac{\text{Ton NO}_x}{\text{Yr}}$
$0.966 \frac{\text{Lb Part}}{\text{BBL}}$		"			$= 1.19 \frac{\text{Ton Part.}}{\text{Yr}}$
$.084 \frac{\text{Lb CO}}{\text{BBL}}$		"			$= 0.10 \frac{\text{Ton CO}}{\text{Yr.}}$

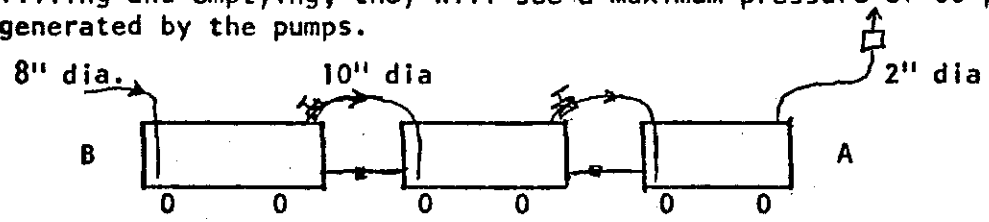
C. Oregon Coast

No emissions are supposed along the Oregon Coast as the tanker is in service between Valdez, Alaska and Port Westward, Oregon. When the tanker leaves the Columbia River it enters Washington coastal waters.

D. Unit Train Emissions

About every 37 hours a 90 tank car unit train will leave Port Westward, head up the Columbia on the Oregon side. It will cross the Columbia at Portland. It will proceed up the Columbia to Pasco, Washington, and from there on to Cut Bank, Montana, where it will empty into the Glacier Pipe Line. This line is used to convey oil from Canadian fields to American refineries. That supply is being curtailed by Canada. References 10 and 11.

The unit train to move petrochemicals was pioneered by GATX.<sup>11</sup> A 3 car unit has been in service in Alaska since 1974 moving things like JP-4 jet fuel. Two 60 car unit trains entered service in Michigan this month, October, 1977, carrying #5 residual fuel oil. The tanker cars will have zero emissions while in transit. They are each tested to 100 psi. Their safety relief valves are set at 75 psi. During filling and emptying, they will see a maximum pressure of 60 psi generated by the pumps.



At Port Westward, pumps push crude oil thru an 8" line, past a quick disconnect into the B end of the unit train. The first tank car fills. The crude oil is pushed through an on-off valve over into the next car via a 10" diameter, permanently installed (by bolted flanges) reinforced flex hose weighing 20 lbs per lineal foot. The vapors displaced and

generated by the filling are forced out of the unit train through a quick disconnect into a 2" dia. hose at the A end. Alarms and shut-off control are located here. The vapors are incinerated at 2 specially designed afterburners at Port Westward. At Cut Bank emptying is accomplished by putting inert gas (probably N<sub>2</sub> and CO<sub>2</sub>) in at A, forcing the crude oil out at B. For the return trip, the unit train is mostly full of inert gas. Before leaving Port Westward or Cut Bank, the valves on the 10" dia. connecting hoses are turned OFF, so that the cars are not interconnected during transit. The Goodyear 10" hoses have been put through life tests. GATX owns 51,400 tank cars, 97% of which are leased out to customers. The high spots (the hoses) are filled with inert gases for the 500 mile journey. The cars are insulated. No venting is expected through the safety relief valves; and no leakage is expected at any other point.<sup>11</sup>

Per a discussion with Burlington Northern RR<sup>12</sup> the unit train may use five 3000 hp locomotives, type EMD SD-40-2, 16 cylinder diesel-electric, which are two stroke, turbocharged. Eastbound from Port Westward to Pasco, Washington will take about 12 hours 30 minutes; westbound 11 hours. Assume 15 minutes for time between leaving the vicinity of the Oregon border to get to Pasco. The load factor eastbound is estimated at about 0.50, westbound 0.10.

Using Table 3.2.2-2 from AP-42<sup>8</sup>

Eastbound:

$$\text{hphr} = \text{lph} = 0.50 (15,000) (12.5 - .25) = 91,875 \text{ hp hr}$$

Westbound

$$\text{hp hr} = \text{lph} = 0.10 (15,000) (11 - .25) = 16,125 \text{ hp hr}$$

Carbon Monoxide = CO

$$\frac{4.0 \text{ g}}{\text{hphr}} (91,875 + 16,125) \text{ hphr} \frac{1.102 \text{ tons} \times 10^{-6}}{\text{gm}} = 0.475 \frac{\text{Ton CO}}{\text{round trip in Oregon air shed}}$$

$$\times 235 \text{ trains/yr} = \underline{112 \text{ T/yr CO}}$$

Hydrocarbon = HC

$$\frac{0.70 \text{ g}}{\text{hphr}} (108,000) \text{ hphr} \frac{1.102 \times 10^{-6} \text{ Tons}}{\text{g}} = 0.0833 \frac{\text{Ton HC}}{\text{Round trip}} \times 235 = 20 \text{ T/yr HC}$$

Nitrogen Oxides = NO<sub>x</sub>

$$\frac{8.2 \text{ g}}{\text{hphr}} (108,000) \frac{1.102 \times 10^{-6}}{\text{g}} = 0.976 \frac{\text{Ton NO}_x}{\text{Round trip}} \rightarrow 229 \text{ Ton/Yr NO}_x$$



11

SUMMARY - ANNUAL EMISSIONS - MOST PROBABLE CONDITIONS

TONS POLLUTANT PER YEAR

	HC	SO <sub>x</sub>	NO <sub>x</sub>	Part.	CO
GATX Storage Tanks	7	0	0	0	0
Incinerators	Negl.	Negl.	2	Negl.	Negl.
Handling Loss	Negl.	0	0	0	0
Tankers at Port Westward					
Boilers	.5	34	15	3	Negl.
Ballasting	21	0	0	0	0
Venting	46	0	0	0	0
Tug at Port Westward	.2	Negl.	.4	.2	.1
Railroad at Port Westward	.6	Negl.	7.6	Negl.	3.7
Port Westward Subtotal	75.3	34	25	3.2	3.8
Lower Columbia					
Ballasting Tankers	60	0	0	0	0
Venting Tankers	9.5	0	0	0	0
Tanker Boilers	.2	12	5	1	0.1
Lower Columbia Subtotal	69.7	12	5	1	.1
Upper Columbia, Unit Trains	20	Negl.	229	Negl.	112
Grand Total	165	46	259	4	116

REFERENCES - AQ FILE 05-2569 NC 1007

1. GATX, R. W. Bogan, Application for an Air Contaminant Discharge Permit, Received by DEQ 10/11/77, File 05-2569, also NC 1007.
  2. GATX, R. W. Bogan at 10/11/77 meeting with DEQ.
  3. Frank E. Brown, Federal Energy Administration, 915 2nd Avenue, Seattle, Washington 98174, phone 442-1746 - Phone conversations with Bosserman 10/12/77.
  4. GATX, Herman D. Kerfman, design engineer, phone call 10/18/77 with Peter Bosserman, DEQ.
  5. David C. Bray, U. S. Environmental Protection Agency, Region X, 1200 Sixth Ave., Seattle, Washington 98101, phone 442-1125 - Phone conversations with Peter Bosserman 10/12/77.
- Reference Publication "The Alaskan Oil Disposition Study: Air Quality Impact in the Pacific Northwest", October 1976.
6. GATX, R. W. Bogan, 10/12/77 - phone call with Bosserman, DEQ.
  7. Joe Mangold, Pilots Association, 10/12/77 phone call with Bosserman, DEQ. Phone 228-9325.
  8. AP-42 "Compilation of Air Pollutant Emission Factors", U. S. Environmental Protection Agency, April 1973.
  9. Federal Energy Administration, "North Slope Crude, Where To? How?," Chapter IV-E, Evaluation of Marine Terminals, Draft November 18, 1976.
  10. Mike Karl, Burlington Northern, Asst. V. P. Marketing, 10/13/77, phone call with Bosserman, DEQ. Karl's office is at 621 S. W. Morrison, Portland, Oregon, Phone 221-1300.
  11. GATX Transportation, Mark Kostolich and Stu Moyes, phone call with Bosserman, DEQ, 10/13/77. Kostolich is in the Chicago Office of GATX, Phone (312) 621-6322.
  12. Jerry Wood, Burlington Northern Railroad, Operations Section, Phone (612) 298-2766, FTS 8-725-4242, 176 E. 5th, St. Paul, Minnesota, 55101, telephone discussion 10/14/77 with Bosserman, DEQ.

2. DAILY EMISSIONS - Most Probable Conditions

Floating Roof Tank Loss and Incinerator Emissions

These emissions are fairly steady state. The floating roof tank losses change with increased solar heating in summer, but the daily loss is roughly from sheet one and Reference 4:

$$\frac{7.17 \text{ Tons/yr HC}}{365.25} = .01963 \frac{\text{Tons}}{\text{day}} \frac{2000 \text{ lb}}{\text{ton}} = 39 \text{ lbs/day}$$

Assume that a tank train is being loaded during the day.

$$\frac{11,750,000 \text{ BBL Thruput}^4}{235 \text{ trains/yr}^4} \frac{42 \text{ gal}}{1 \text{ BBL}} \frac{\text{pump capacity}}{12,000 \text{ gal/min}} \frac{\text{hr}}{60 \text{ min}} = 2.9 \frac{\text{hrs. to load}}{\text{Train}}$$

The incinerator emissions will peak toward the end of the loading by an unknown amount; this effect has no effect on the total amount. From pg. 5 of GATX's emission study :

$$7,796.8 \text{ lb Butane} \frac{\text{gal}}{4.8 \text{ lb}} \frac{0.3 \text{ lb HC}}{10^3 \text{ gal Butane}} = 0.49 \frac{\text{lb HC}}{\text{Per train or per day}}$$

This use of an emission factor for an industrial process furnace to quantify a waste gas incinerator must be checked. It seems optomistic to me.

The other pollutants are by ratio:

$$0.49 \text{ lb HC} \frac{2.31 \text{ T/yr NO}_x}{.0573 \text{ T/yr HC}} = 19.7 \frac{\text{lb NO}_x}{\text{Per train or per day}}$$

$$0.49 \text{ lb HC} \frac{.305 \text{ T/yr CO}}{.0573 \text{ T/yr HC}} = 2.6 \frac{\text{lb CO}}{\text{Per train or per day}}$$

Tanker Daily Emissions at Port Westward

On page 3 of this study it is figured that a typical tanker can dock, unload, and un-berth in 24 hours. Assume that this occurs on the day of interest. All of the emissions on pg. 3 of this study can be divided by 33.476 tanker visits per year to achieve the following daily emissions:

0.46	$\frac{\text{Ton}}{\text{yr}} \div 33.476 \times \frac{2000 \text{ lb}}{\text{Ton}}$	=	27.5 lb HC/day
34.2	(59.744) "	=	2,043 lb SO <sub>x</sub> /day
14.8	" "	=	844 lb NO <sub>x</sub> /day
3.3	" "	=	197 lb Part/day
0.29	" "	=	17 lb CO/day

Same for tugboats:

- .25  $\frac{\text{Ton}}{\text{yr}} \div 33.476 \times 2000 = 15 \text{ lb HC/day}$
- .075 " " = 4.5 lb SO<sub>x</sub>/day
- .41 " " = 24.5 lb NO<sub>x</sub>/day
- .20 " " = 11.9 lb Part/day
- .11 " " = 6.6 lb CO/day

From pg. 4, the tanker ballasting emissions at berth:

$$21 \frac{\text{Ton HC}}{\text{Yr}} \frac{2000 \text{ lb}}{\text{ton}} \frac{\text{Yr}}{33.475 \text{ tanker}} = 1,255 \frac{\text{lb HC}}{\text{tanker or per day}}$$

From pg. 5, the tanker venting emission

$$45.8 \frac{\text{Ton HC}}{\text{yr}} \frac{2000 \text{ lb}}{\text{ton}} \frac{\text{Yr}}{33.476 \text{ tankers}} = 2,736 \frac{\text{lb HC}}{\text{tanker or per day}}$$

Emissions of Tankers on the Lower Columbia

Assume that the day being figured is the day that the tanker is berthed 24 hours, as broken down on page 3, unloading itself. Because it takes all 24 hours, lower Columbia River emissions occur on the previous day and the following day. Therefore, in this calculation, air emissions are zero on the lower Columbia.

Railroad Switching

The daily loss is  $\frac{1}{235}$  the annual, since the day of interest is a day in which both a tanker and a unit train are at Port Westward.

From pg. 9:

$$3.7 \frac{\text{ton CO}}{\text{yr}} \frac{2000 \text{ lb/ton}}{235 \text{ trains/yr}} = 31 \frac{\text{lb CO}}{\text{day}}$$

$$0.65 \frac{\text{Ton HC}}{\text{yr}} \quad 8.51 \quad = 5.5 \frac{\text{lb HC}}{\text{day}}$$

$$7.6 \frac{\text{Tons NO}_x}{\text{yr}} \quad 8.51 \quad = 64.7 \frac{\text{lb NO}_x}{\text{day}}$$

Unit Train Emissions

The daily, most probable unit train emissions will be from one train. The air pollutants from the 5 locomotives will be spread out along the air shed from Port Westward, Longview-Rainier area, Portland-Vancouver Air Quality Maintenance Area, and along the lightly populated Columbia River, to where the Columbia and the railroad leave the Oregon airshed near the Pasco/Kennewick/Richland, Washington area. Where the train has tight curves, and requires acceleration from slow speeds, emissions will be higher than the average,

specifically in the Portland-Vancouver area. Since the train has a load time of 6 hours, and a transit time of 12.25 hours east, and a 10.75 hour west, adding to 29 hours, 5 hours will be chopped off the west trip.

5 hour chop

$hphr = 0.10 (15,000) 5 = 7,500 \text{ hphr}$

$\text{Chop factor} = \frac{92,875 + 16,125 - 7,500}{91,875 + 16,125} = \frac{100,500}{108,000} = .93$

From page 8:

$112 \text{ T/yr CO} \frac{\text{yr}}{235 \text{ trains}} \frac{2000 \text{ lb}}{\text{T}} = 953 \frac{\text{lb CO}}{\text{day or per train}} \times .93 = \frac{887 \text{ lb CO}}{\text{day}}$

$20 \text{ T/yr HC} \frac{\text{yr}}{235 \text{ trains}} \frac{2000 \text{ lb}}{\text{T}} = 170 \frac{\text{lb HC}}{\text{day or per train}} \times .93 = \frac{158 \text{ lb HC}}{\text{day}}$

$229 \text{ T/yr NO}_x \frac{\text{yr}}{235 \text{ trains}} \frac{2000 \text{ lb}}{\text{T}} = 1,949 \frac{\text{lb NO}_x}{\text{day or per train}} \times .93 = \frac{1,814 \text{ lb NO}_x}{\text{day}}$

These emissions form an upper Columbia sub-total, if one makes the probable assumption that tankers will take on Bunker C fuel elsewhere (i.e. a Puget Sound refinery), and not steam up to Portland for fueling.

A possible pipeline to the proposed Cascade Energy Co. oil refinery at Rainier (AQ file 05-2561) would be the subject of another notice of construction review.



SUMMARY - DAILY EMISSIONS - MOST PROBABLE CONDITIONS  
 (EXCEPT THAT ON THIS DAY A TANKER IS UNLOADING AND A  
 TRAIN IS LOADING)

	POUNDS POLLUTANT PER DAY				
	HC	SO <sub>x</sub>	NO <sub>x</sub>	Part.	CO
GATX Storage tanks	39	0	0	0	0
Incinerators	.5	Negl.	19.7	Negl.	2.6
Handling Loss	Negl.	0	0	0	0
Tankers at Port Westward					
Boiler	27.5	2,043	884	197	17
Ballasting	1,255	0	0	0	0
Venting	2,736	0	0	0	0
Tug at Port Westward	15	4	24	12	6.6
Railroad at Port Westward	5.5	Negl.	65	Negl.	31
Port Westward Subtotal	4,078	2,047	993	209	83
Upper Columbia, Unit Train	158	Negl.	1,814	Negl.	887
Grand Total	4,236	2,047	2,807	209	970

3. ANNUAL EMISSIONS - Worst Case Conditions

This computation re-examines all the assumptions that were used to figure the most probable emissions. Where worst case conditions can significantly elevate emissions, the scenarios for those conditions will be discussed. Mitigating factors will also be discussed.

Terminal Losses (subject of Notice of Construction 1007)

These include the HC losses from the 5 floating roof tanks. Since they will be new, one cannot describe a situation for elevated HC emissions that is plausible.

The pumps will also be new and seal leakage of HC will be minimal. Same for valves and vessel relief valves. AP-42 has emission factors for these sources at refineries which have more handling than a transfer terminal like GATX.

For refineries, AP-42<sup>8</sup>, Table 9.1-1, April 1973:

Pipeline valves and flanges	28 lb HC/10 <sup>3</sup> BBL throughput
Vessel relief valves	11 " "
Pump seals	17 " "
	<hr/> 56 lb HC/10 <sup>3</sup> BBL throughput

$$\frac{56 \text{ lb HC}}{10^3 \text{ BBL}} \times \frac{11,750,000 \text{ BBL}}{\text{Yr.}} \times \frac{\text{Ton}}{2000 \text{ lb}} = 280 \text{ ton/yr HC Handling Loss}$$

If the terminal were allowed to deteriorate, losses, for worst case, could approach this number. Since this loss is valued product, such leaks of vapors are not likely. Daily handling loss:

$$\frac{280 \text{ Ton HC}}{\text{yr}} \times \frac{2000 \text{ lb}}{\text{ton}} \times \frac{\text{Yr.}}{365.25 \text{ days}} = 1,530 \text{ lb/day HC}$$

Afterburner Off

Details of the afterburner were not submitted on October 11, 1977. An afterburner efficiency of 99.9937% is claimed:

$$0.3 \text{ lb}/10^3 \text{ gal (Butane LPG) Pg. 4 of emission computation}^1$$

Volume conversion of 4.8 lbs/gal for Butane:

$$\frac{0.3 \text{ lb HC emission}}{1000 \text{ gal (4.8 lbs/gal)}} = .000063 = .0063\%$$

Reasons for afterburner off:

1. Control or human error (fumes are transparent, wind does not carry smell to operator).
2. Energy savings: somebody decides that the LPG pilot gas used to touch off the HC fumes is wasteful, and disenables the afterburner.
3. Incinerator failure, i.e. fire brick wears so bad that re-bricking is needed, but repairman is not available. Incinerator is turned off to avoid its total destruction.

Since the plans indicated two afterburners serving the proposed terminal, the most likely worst case situation is that only one is off.

From Reference 1 pg. 5 of the emission computation:

$$7,796.8 \frac{\text{lbs HC}}{\text{train}} \frac{235 \text{ trains}}{\text{yr}} \frac{\text{ton}}{2000 \text{ lb}} \frac{1 \text{ off}}{2 \text{ afterburners}} = 457 \frac{\text{tons HC}}{\text{yr}}$$

This type of worst case is more likely than some others quoted because product is not being lost. The afterburner is purely for air pollution control.

Daily loss from working afterburner is half the most probable case, pg. 12, 0.49 lb HC/day. The above afterburner that is off emits no NO<sub>x</sub> or CO from combustion but:

$$457 \frac{\text{tons HC}}{\text{yr}} \frac{2000 \text{ lb}}{\text{ton}} \frac{\text{yr}}{235 \text{ trains}} = 3,889 \text{ lb/day}$$

#### Tanker - Worst Case

The assumptions for annual, probable tanker emissions assumed Alaska Oil being shipped from Valdez and sent by train to Cut Bank, Montana. This assumption has many pollution controlling features, as the Valdex situation has brought about many safety and air pollution control advances.

GATX has not denied or affirmed this assumption. Rather, they desire to be free to accept crude oil from any tanker or barge.

Let us assume that a 62,000 DWT tanker, of Liberian registry, is willing to sell one of GATX's Utah customers some Ecuadorian crude oil.

The ship is burning 5% sulfur residual fuel oil, and it is scheduled to be scrapped.

The Utah refinery is desirous of quick shipment. The unit train is routed over Union Pacific track, not leaving Oregon until it crosses the Snake River, where the largest, nearest city is Boise, Idaho.

This tanker is small enough to get over the 38' depth bar at the Columbia River mouth, but also has pumps of smaller capacity than the 35,000 BBL/hr most probable case tanker, and also carries more crude, resulting in an unloading time of 22 hours, rather than 9. The tanker has tanks for 62,000 DWT<sup>3</sup>, but they are not so full that he can't get over the bar.

The tanker ballasts to 60% of its capacity at Port Westward before steaming out to sea. The ship's Captain prefers fresh Columbia River water to sea water. The Captain heads south along the Oregon Coast on his way to a San Francisco Bay scrapyard.

Because the ship's crew refused to sign aboard the ship unless it was fitted with inerting, and owner has had inerting installed. Inerting expels HC vapors from the tanker (they can and do reach exposure concentrations), replacing them with N<sub>2</sub> and CO<sub>2</sub> which are inert gases from the ship's boiler flue gas. The HC vapors are expelled into the outside air without air pollution controls.

This description of worst case cannot be multiplied up by 33 tankers per year. If GATX served many tankers like these, they would lose their insurance, license to operate, employes, etc. Therefore the worst case will be figured on a daily basis, assuming only several worst cases per year, which is probably an exaggeration of the likelihood.

#### Worst Case Daily Tanker Emissions at Port Westward

##### Boiler Emissions at Port Westward

From Table 6 of Reference 5 for a 62,000 DWT tanker:

$$\begin{array}{rcl} 15.5 \text{ BBL/hr Maneuver} \times 2 \text{ hours} & = & 31 \text{ BBLS} \\ 15.8 \text{ BBL/hr Off Load} \times 22 \text{ hrs} & = & \underline{347.5 \text{ BBLS}} \\ & & 378.5 \text{ BBLS} \end{array}$$

From Table 7 of Reference 5, but factoring up from 1.5 to 5.0% sulfur:

$$\begin{array}{rcl} 0.134 \frac{\text{lb HC}}{\text{BBL}} \cdot 378.5 \frac{\text{BBLS}}{\text{day}} & = & 51 \text{ lb/day HC} \\ 10.05 \frac{\text{lb SO}_x}{\text{BBL}} \cdot 378.5 \frac{\text{BBLS}}{\text{day}} \cdot \frac{5.0\% \text{ S}}{1.5\% \text{ S}} & = & 12,680 \text{ lb/day SO}_x \\ 4.36 \frac{\text{lb NO}_x}{\text{BBL}} \cdot 378.5 \frac{\text{BBLS}}{\text{day}} & = & 1,650 \text{ lb/day NO}_x \\ 0.966 \frac{\text{lb Part.}}{\text{BBL}} \cdot 378.5 \frac{\text{BBLS}}{\text{day}} & = & 366 \text{ lb/day Part.} \\ .084 \frac{\text{lb CO}}{\text{BBL}} \cdot 378.5 \frac{\text{BBLS}}{\text{day}} & = & 32 \text{ lb/day CO} \end{array}$$

Tugboat emissions are small and not likely to have significant excursions for worst case. Use values from Most Probable computations.

Ballasting Emissions at Port Westward followed by Inerting Emissions at Port Westward

Ballasting is done for 60% rather than 35% capacity. From Table 9, Reference 5, corrected to 60%:

$$6,105 \text{ lbs HC} \frac{.60}{.35} = \frac{10,470 \text{ lbs HC}}{\text{day}}$$

Inerting is done while unloading and ballasting to minimize the explosive hazard.

Purging Emissions from Inerting

From Table 11A , Reference 5, for seven hours -

correct downward for adjustment from 120,000 DWT to 62,000  
correct downward for being ballasted by 60% rather than 35%

$$40,937 \text{ lbs HC} \frac{62,000 \text{ DWT}}{120,000 \text{ DWT}} \frac{35\%}{.35} = 12,340 \frac{\text{lbs HC}}{\text{day}}$$

Venting

The venting emission is increased by the larger tanker's surfaces. From Reference 5, Table 10, Venting is 143 lb HC/hr.

Lower Columbia Subtotal

Since all the ballasting, purging, inerting, venting was done at Port Westward, only the boiler emissions remain.

From Table 6 of Reference 3 for a 62,000 DWT tanker:

$$\text{Cruise } 25.9 \frac{\text{BBL}}{\text{hr}} \times 2.5 \text{ hrs} \times 2 \text{ (up and back)} = 219.5 \frac{\text{BBL}}{\text{trip}}$$

These emissions would not occur on the same day, but on the day before and after. It is unlikely that the pollutants would be washed into Port Westward, then stay there. The area has good ventilation.

From Table 7 of Reference 3, except correct from 1.5% to 5.0% sulfur:

$$0.134 \frac{\text{lb HC}}{\text{BBL}} \quad 129.5 \frac{\text{BBL}}{\text{trip}} \quad = 17 \frac{\text{lb HC}}{\text{tanker visit}}$$

$$10.05 \frac{\text{lb SO}_x}{\text{BBL}} \quad 129.5 \frac{\text{BBL}}{\text{trip}} \quad \frac{5.0\% \text{ sulfur}}{1.5\% \text{ sulfur}} = 4,338 \frac{\text{lb SO}_x}{\text{tanker visit}}$$

$$4.36 \frac{\text{lb NO}_x}{\text{BBL}} \quad 129.5 \frac{\text{BBL}}{\text{trip}} \quad = 565 \frac{\text{lb NO}_x}{\text{tanker visit}}$$

$$0.966 \frac{\text{lb Part.}}{\text{BBL}} \quad 129.5 \frac{\text{BBL}}{\text{Trip}} \quad = 125 \frac{\text{lb Part.}}{\text{tanker visit}}$$

$$.084 \frac{\text{lb CO}}{\text{BBL}} \quad 129.5 \frac{\text{BBL}}{\text{trip}} \quad = 11 \frac{\text{lb CO}}{\text{tanker visit}}$$

Coastal Subtotal

A worst case scenario would have the 62,000 DWT tanker steaming up and back the coastal waters of Oregon.

The Pacific Coast of Oregon is about 300 miles, measured as a tanker would steam. Assuming 14 knots average speed:

$$\frac{300 \text{ miles}}{14 \text{ knots}} \times \frac{\text{knot}}{1.152 \frac{\text{miles}}{\text{HOUR}}} = 18.6 \text{ hours one way}$$

Therefore transit time up and down the Oregon Coast would be 37.2 hours. From Table 6 of Reference 3 for a 62,000 DWT tanker:

$$\text{Cruise } 25.9 \frac{\text{BBL}}{\text{hr}} \times 37.2 \text{ Hrs.} = 963.5 \text{ BBL}$$

From Table 7 of Reference 5, except correct from 1.5% to 5.0% sulfur:

$0.134 \frac{\text{lb HC}}{\text{BBL}}$	963.5 BBL		= 129 $\frac{\text{lb HC}}{\text{Tanker Visit}}$
$10.05 \frac{\text{lb SO}_x}{\text{BBL}}$	963.5 BBL	$\frac{5.0\% \text{ Sulfur}}{1.5\% \text{ sulfur}}$	= 32,300 $\frac{\text{lb SO}_x}{\text{tanker visit}}$
$4.36 \frac{\text{lb NO}_x}{\text{BBL}}$	963.5 BBL		= 4,200 $\frac{\text{lb NO}_x}{\text{tanker visit}}$
$0.966 \frac{\text{lb Part.}}{\text{BBL}}$	963.5 BBL		= 931 $\frac{\text{lb Part}}{\text{tanker visit}}$
$.084 \frac{\text{lb CO}}{\text{BBL}}$	963.5 BBL		= 81 $\frac{\text{lb CO}}{\text{tanker visit}}$

Venting Emissions.

Reference 5 Table 10:

$$143 \frac{\text{lb HC}}{\text{HR}} \times \frac{37.2 \text{ Hrs}}{2000 \text{ lb/ton}} = 2.66 \frac{\text{Ton HC}}{\text{tanker visit}}$$

Unit Train Emissions - Worst Case

As previously mentioned on page 19, the unit train is routed over Union Pacific Railroad tracks on its way to Utah. Because this train must climb the Wallowa Mountains, rising from Pendleton, elevation 1068', to the summit, about elevation 4000', then drop down to cross the Snake River in the vicinity of Huntington, about elevation 2000', a factor of 3 will be assumed for the emissions figured on page 8. Since the track mileage is nearly doubled, that accounts for one doubling. Because of the elevation gain, another doubling.

From Page 10:

$$\begin{array}{rcl}
 953 \frac{\text{lb CO}}{\text{day or per train}} & \times 3 & = 2,860 \frac{\text{lb CO}}{\text{per train}} \\
 170 \frac{\text{lb HC}}{\text{day or per train}} & \times 3 & = 510 \frac{\text{lb HC}}{\text{per train}} \\
 1,949 \frac{\text{lb NO}_x}{\text{day or per train}} & \times 3 & = 5,850 \frac{\text{lb NO}_x}{\text{per train}}
 \end{array}$$

Worst Case Overall with Annual Emissions

As previously stated on page 15, total worst case emissions could not be the worst tanker and unit train to Utah multiplied by 33.476 and 235 respectively. As a worst case frequency estimation, it is estimated to happen only several times per year. Therefore to get worst case annual emissions, the probable case will have 1/33.476 subtracted, and then a single worst case added in.

What is more likely is that GATX's business will flourish and that the terminal will be run around the clock, limited only by the number of trains and tankers it could serve. A page 2 computation shows 10 hours to unload a tanker. Assume berthing and unberthing takes 2 hours. Assume hook-up time of 4 hours rather than the 6 quoted by GATX<sup>4</sup>. Then a tanker every 16 hours could be projected. This would multiply up to 548 per year, rather than 33.476!

The unit train is the limiting factor; its load time is figured at 2.9 hours to load on pg. 12.

$$235 \frac{\text{trains/yr}}{\text{tankers/yr}} = 7.020 \frac{\text{trains}}{\text{tanker}}$$

If 4.0 hours loading for the trains is assumed, rather than 6 quoted by GATX<sup>4</sup>:

$$\frac{8766 \text{ hours/yr}}{4 \text{ hrs/train}} = 2191.5 \frac{\text{trains}}{\text{yr}}$$

$$2191.5 \text{ trains/yr} \frac{\text{tanker}}{7.02 \text{ trains}} = 312 \text{ tankers/yr}$$

Unless the GATX terminal's throughput is limited to 11,750,000 BBLs per year, it is therefore possible for the throughput and the emissions to be raised by a factor of:

$$\frac{312}{33.476} = 9.325 \quad \text{or} \quad \frac{2191.5}{235} = 9.325$$

This worst case factor will be used after the number and amount of worst case tankers and daily emissions are determined.

It will be assumed that one out of every 33.476 tankers is worst case and that other worst case conditions happen the same percentage of the time.

The daily, worst case emissions cannot include emissions on the lower Columbia or in Oregon Coastal waters because they will occur from a worst case tanker on other days.

The daily, worst case emissions likewise cannot include Eastern Oregon train emissions because a unit train cannot load and travel beyond the upper Columbia River corridor in one day.

4. DAILY EMISSIONS - Worst Case Conditions



SUMMARY - DAILY EMISSIONS - WORST CASE

	POUNDS POLLUTANT PER DAY				
	HC	SO <sub>x</sub>	NO <sub>x</sub>	Part.	CO
GATX Storage Tanks	39	0	0	0	0
Incinerators	3,889	Negl.	8.8	Negl.	1.3
Handling loss	1,530	0	0	0	0
Tanker at Port Westward					
Boiler	51	12,680	1,650	366	32
Ballasting	10,470	0	0	0	0
Venting	3,432	0	0	0	0
Inerting	12,340	0	0	0	0
Tug at Port Westward	15	4	24	12	6.6
Railroad at Port Westward	5.5	Negl.	65	Negl.	31
Port Westward Subtotal	31,771	12,684	1,748	378	71
Upper Columbia, Unit Train	158	Negl.	1,814	Negl.	887
Grand Total	31,930	12,684	3,562	378	958

To calculate the annual worst case emissions some item calculations will be like the incinerator emissions:

$$\begin{aligned}
 \text{Incinerator HC} &= \left[ \text{the worst daily case} + \frac{32.476}{33.476} (\text{probable annual}) \right] 9.325 \\
 &= \left[ 3889 \text{ lbs HC} + \frac{32.476}{33.476} (.06 \text{ ton HC}) \right] 9.325 \\
 &= \left[ \frac{3889 \text{ lb HC} + 32.476 (.06 \text{ ton HC})}{2000 \text{ lb/ton}} \frac{9.325}{33.476} \right] 9.325 \\
 &= [1.94 \text{ Ton HC} + .058 \text{ Ton HC}] 9.325 \\
 &= 1.998 \times 9.325 = 18.6 \frac{\text{Ton HC}}{\text{Yr}}
 \end{aligned}$$

Others will be like the handling loss:

$$\frac{\text{Ton}}{2000 \text{ lb}} \frac{1,530 \text{ lb HC}}{\text{day}} \frac{365.25 \text{ days}}{\text{yr}} \frac{1 \text{ ratio}}{33.476 \text{ worst case}} = \frac{1,530}{2,000} \frac{10.91 \text{ days}}{\text{yr}} = 8 \frac{\text{ton HC}}{\text{yr}}$$

Tanker emissions like this:

$$\begin{aligned}
 \text{Tanker boiler SO}_x &= \left[ \text{worst daily case} + \frac{32.476}{\text{daily case}} (\text{most probable}) \right] \frac{9.325}{2000 \frac{\text{lb}}{\text{ton}}} \\
 \text{at Port Westward} & \\
 &= [12,680 + 32.476 (2,043)] \frac{9.325}{2000} = 368 \frac{\text{ton SO}_x}{\text{yr}}
 \end{aligned}$$

$$\text{Tanker Boiler NO}_x = [1,650 + 32.476 (884)] \frac{9.325}{2000} = 141.5 \frac{\text{ton NO}_x}{\text{yr}}$$

Tug emissions are simply multiplied by the throughput increase, 9.325.

$$\text{Lower Columbia Ballasting is } (60 \text{ ton/yr} \frac{32.476}{33.476}) 9.325 = 543 \frac{\text{Ton HC}}{\text{yr}}$$

$$\text{Lower Columbia Venting is } (143 \frac{\text{lb}}{\text{hr}} \frac{5 \text{ hours}}{2000 \text{ lb/T}} + \frac{32.476}{33.476} \frac{9.5 \text{ ton}}{\text{yr}}) 9.325 = 89.3 \frac{\text{Ton HC}}{\text{yr}}$$

$$\text{Eastern Oregon Unit Train CO} = (953 \frac{\text{lb CO}}{\text{train}} \times 2) \frac{9.325}{2000 \text{ lb/T}} \frac{7.02 \text{ trains}}{\text{tanker}} = 62.4 \frac{\text{ton CO}}{\text{yr}}$$

SUMMARY - ANNUAL EMISSIONS - WORST CASE

	TONS POLLUTANT PER YEAR				
	HC	SO <sub>x</sub>	NO <sub>x</sub>	Part.	CO
GATX Storage Tanks	7	0	0	0	0
Incinerators	18.6	Negl.	2	Negl.	1.3
Handling Loss	8.3	0	0	0	0
Tankers at Port Westward					
Boilers	4.4	368	141.5	31.5	2.7
Ballasting	239	0	0	0	0
Venting	430	0	0	0	0
Inerting	57.5	0	0	0	0
Tug at Port Westward	2.3	0.7	3.8	1.9	1.0
Railroad at Port Westward	6.1	Negl.	70.9	Negl.	34.5
<hr/>					
Port Westward Subtotal	773.2	368.7	218.2	33.4	39.5
<hr/>					
Lower Columbia					
Ballasting Tankers	543	0	0	0	0
Venting Tankers	89.3	0	0	0	0
Tanker boilers	1.5	132.3	51	11.3	1.0
<hr/>					
Lower Columbia Subtotal	633.8	132.3	51	11.3	1.0
<hr/>					
Tankers on Oregon Coast	25.4	151	19.6	4.3	0.4
<hr/>					
Upper Columbia, Unit Trains	186	Negl.	2,135	Negl.	1,044
Eastern Oregon, Unit Trains	11	Negl.	128	Negl.	62.4
<hr/>					
Unit Train Subtotal	197	Negl.	2,263	Negl.	1,106.4
<hr/>					
Grand Total (Rounded)	1,630	652	2,550	49	1,150

## 5. POSSIBLE MITIGATING CLAUSES

The two greatest problems which could most increase emissions from the GATX proposed terminal are tankers burning high sulfur residual oil and a decision by GATX to increase their throughput. The highest sulfur oil I've heard about is 5%, from Frank Brown on 10/12/77. My rough calculations show a possibility of increasing throughput by an order of magnitude (10 times) without GATX coming back with a new Notice of Construction or an amended application for an Air Contaminant Discharge Permit. Therefore, the Department should:

1. Limit the annual throughput to 11,750,000 barrels of crude oil, or some higher figure (double?) deemed tolerable to the air shed by the Department.
2. Limit the amount of sulfur that can be burned by tankers in Oregon coastal waters (within 200 miles of shore) if they dock at Port Westward.
  - a. Effective immediately, 3.5% sulfur.
  - b. Effective with Magnuson Tanker Safety Law, 0.5% sulfur.

This restriction would be on GATX, that they would have to test the % sulfur in fuel oil of every tanker calling, and that they could not accept oil from any tanker until it certifies that the fuel oil is below our limit. Fines for violation should be specified; start at \$100 flat fines and \$10,000 for every 1% above the limit, prorated. All test reports must cc the Department from their Lab.

I would not care to limit ballasting or inerting as this is tampering with the safe operation of the tanker. Benefits gained for air quality would not be worth increasing the risk of oil spills.

3. The malfunction of pumps, valves, seals, controls, and the afterburner can be mitigated by GATX stocking critical spare parts. The permit can require GATX to obtain recommended spare parts lists from their vendors and to stock them at Port Westward before the third year of the terminal's operation.
4. The submittal of annual, or oftener, inspection reports to the Department would insure non-deterioration of the terminal seals. HC sniffers can detect leaks. Reports of such sniffing and the prompt repair of leaks could be summarized and submitted to the Department annually. The claim that unit trains do not leak HC should be verified periodically (every two years?) by HC sniffers.
5. Emission testing of the afterburners is recommended every 5 years.
6. Every shut down of an afterburner must be reported per the upset rule.

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

OIL SPILL CONTINGENCY PLAN

EMERGENCY NUMBERS

REPORT ALL SPILLS TO  
BOTH TOLL FREE NUMBERS  
LISTED BELOW:

1 - 8 0 0 - 4 5 2 - 0 3 1 1 (STATE OF OREGON)

1 - 8 0 0 - 4 2 4 - 8 8 0 2 (FEDERAL GOVERNMENT)

INVESTIGATION & COMPLIANCE  
SECTION

MAY 2 5 1977

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Oil Spill Contingency Plan

#### Purpose:

This plan provides a pattern of coordinated and integrated response by all Departments and Agencies of the State of Oregon, the Federal Government, and the oil spiller or potential oil spiller in order to protect the environment from the damaging effects of oil spills into public waters.

#### Background:

This plan is a brief guide for oil spill response. It provides the response procedures to be followed. By using these procedures, fast, efficient, and coordinated response to spills is possible. The DEQ program has focused on a teamwork approach avoiding duplication of effort by all involved. It also attempts to minimize over response and unnecessary alarm. The plan summarizes spill response procedures, sets forth a communications system, describes procedures for recovery and disposal of oil, and outlines the typical enforcement process.

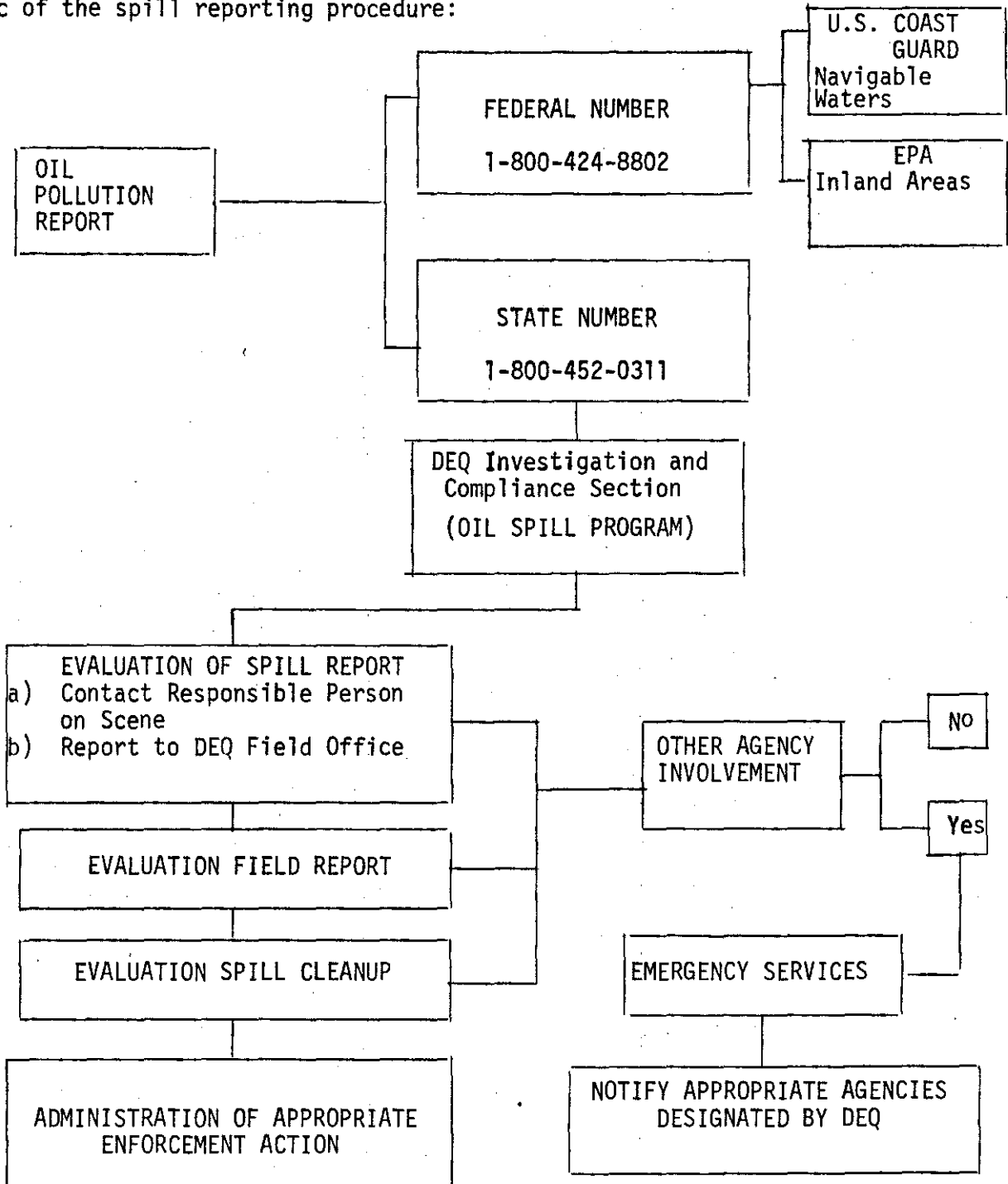
The Federal Water Pollution Control Act is administered by the U. S. Coast Guard in the navigable waters along our beaches, bays, along the Columbia River up to the Bonneville Dam, and along the Willamette River up to the Oregon City Falls (See Attachment "A"). The DEQ program has focuses its field response efforts on the inland areas of Oregon. This teamwork approach avoids duplication of response effort by the Federal Government and the State Government. It promotes the best response by utilizing each agency's superior capabilities. The Coast Guard is best equipped for response in maritime areas. They have vessels, helicopters, expertise, staff on active duty 24 hours a day, and an excellent communications system. The DEQ has greater resources for handling inland spills. They have 11 Regional and Branch offices located throughout the State (See Attachment "B"). They have staff on call 24 hours a day throughout the State.

The Environmental Protection Agency (EPA) relies on the State to administer the oil program in the inland areas which encompass their area of Federal responsibility. The EPA does not have field staff in Oregon. However, they do have administrative responsibilities to enforce the Federal Water Pollution Control Act in the inland areas. In addition to any administrative or enforcement action taken by DEQ, the EPA may also exercise separate enforcement action. These actions are in no way integrated.

## SPILL REPORTING

ALL OIL SPILLS SHOULD BE REPORTED IMMEDIATELY TO BOTH THE STATE TOLL FREE NUMBER (1-800-452-0311) AND THE FEDERAL TOLL FREE NUMBER (1-800-424-8802).

Both state and federal law requires that the spiller report oil spills immediately. Fines will be imposed by both the state and federal agencies for lack of reporting by the oil spiller to both numbers. Calling these numbers activates both the state and federal response systems. The following is a schematic of the spill reporting procedure:



## SPILL RESPONSE

Since the Coast Guard is well staffed for response to oil spills in navigable waters as shown in Attachment "A", most spills that occur in these waters are acted on and carried to completion independently by the Coast Guard. To eliminate a duplication of effort, the Department of Environmental Quality will make a field response to spills in the Coast Guard area only when its services are needed. The DEQ involvement may occur in the following situations:

1. If the spill source is regulated by a State Waste Discharge Permit or Federal NPDES Permit.
2. If the spill clean-up operation results in the development of a solid waste disposal problem.
3. If the spill is of large magnitude resulting in serious environmental impact.
4. If the spill reaches the Coast Guard area of jurisdiction from an inland source.
5. If laboratory services are needed.
6. If the Coast Guard requests assistance on environmental impact.
7. If the Coast Guard requests investigation and enforcement assistance.
8. If the Coast Guard requests special assistance from the DEQ for miscellaneous reasons.

The DEQ responds to all spills in inland areas of Oregon. A list of the DEQ Regional Offices is shown in Attachment "C".

All spills that are properly reported to the State (1-800-452-0311) are relayed to the Investigation and Compliance Section staff for assessment and response as is determined appropriate. The DEQ will contact other State Agencies directly or through the State Emergency Services Division as is determined necessary. For example, if there is a fish kill, the Oregon Department of Fish and Wildlife will be contacted. If a water supply is endangered, the State Health Division will be advised. The DEQ spill response will consist of:

1. Evaluation of Spill Report.
2. Evaluation of Field Report.
3. Evaluation of Spill Cleanup.
4. Administration of appropriate enforcement action.



The DEQ Investigation and Compliance Section has attempted to coordinate an organized response to each spill without activation of undue alarm to the various state agencies unless absolutely necessary. Spill response is very costly and without effective coordination, parallel program efforts by the various agencies interested certainly can be carried beyond what is necessary in the public interest. Although several agencies may be represented at the scene of an oil spill, it is important to recognize that the DEQ is the on-scene coordinator (OSC) unless a federal agency (EPA, Coast Guard) is represented. If a federal agency is represented, they then become OSC unless they delegate that responsibility to the DEQ.

#### OIL RECYCLING OR DISPOSAL

Physical cleanup of oil resulting from a spill is required by Oregon Revised Statutes (ORS) 468.785 and Oregon Administrative Rules (OAR), Section 340-47-015. Cleanup may include physical removal of the pollutant from the water and related on-shore areas, such as collection of oil through use of sorbents, skimmers, or other collection devices, and the removal of oil-saturated soil and debris. The disposal or recycling of the pollutants recovered in the cleanup process must be carried out in a non-pollution manner.

Disposal of oil is a major environmental protection problem. Lack of proper contingency planning may result in a transfer of oil pollution from the spill site to a disposal site creating a new oil pollution problem. Since disposal of these highly polluting substances is a problem of such great magnitude, it is evident that spill cleanup operations should proceed in a manner to eliminate solid waste so far as is practicable. Devices should be made available as part of the cleanup process so that the oil can be separated and reclaimed from solid wastes including soil, sorbents, debris, and so forth. The amount of solid waste materials encountered in a spill situation may vary with a number of factors as shown below:

1. Method of cleanup.
2. Magnitude of the Spill.
3. Location of the Spill.
4. Type of oil spilled.
5. Various other factors.

If oil-saturated solid wastes are generated as a result of a spill, the Department will evaluate and approve a disposal method appropriate for each situation. The Investigation and Compliance Section will coordinate the Department's response with the DEQ Programs and Regions. Categorically, the alternative methods of handling waste oil include:

## 1. Recycling:

Attachment "D" is a list of recycling sites for oil statewide. For small quantities of automotive waste oils, the preferred method is to deposit it at a local service station that is served by a private collector. Waste oils (and fuel oils) could be directed to local users for boiler fuel. For larger quantities, direct contact with local users or collectors is preferred to deposit in service stations, since this may not be acceptable to station operators, especially in areas where oils are picked up by the collectors for a fee. In remote areas where no users or collectors are available, waste oils could be delivered to Portland oil processors or could be stored until suitable disposal means are available.

## 2. Landfilling:

Attachment "E" is a list of solid waste landfills that may be considered for receiving small quantities of oil-soaked soil, wood, or other debris subject to approval in each instance by the DEQ Solid Waste Management Section. Large quantities of oil-saturated sand cannot be deposited in any solid waste landfill in Oregon without creating severe water quality problems. Therefore, oil-saturated sand along the beaches should be cleaned mechanically and the liquid oil physically separated and reclaimed.

## 3. Special Controlled Burning:

In the event of a major oil spill along the coast of Oregon, combustible materials may have to be incinerated using pit incineration or air curtain destructor methods. The Department must review and give approval for this type of disposal and may require whatever degree of control it deems appropriate under the circumstances.

BLACK PICTURE

(A TYPICAL OIL SPILL)

GENERAL PROBLEM:

If and when a large oil spill occurs at the mouth of the Columbia River, Yaquina Bay, Winchester Bay, or Coos Bay, there are no containment methods available that will stop the oil from being deposited along a large portion of the Oregon Coast beaches. The resulting disaster can be dealt with only by months of expensive and laborious cleanup. Disposal of oil-saturated materials such as driftwood is a difficult problem and the technology for removal of the oil from the saturated beaches has not been developed adequately so that oil can be removed without removing the sand. There are no disposal sites in Oregon equipped to handle a large quantity of oil-saturated material. Removal of driftwood from the beaches can result in serious erosion problems. The damaging effects of large coastal spills will result in compromises at the expense of the environment either at the spill site or in other areas selected for depositing these materials. It is highly doubtful that technology will eliminate the potential for spills occurring during oil transport nor is it likely that methods will be devised to contain oil spilled in the coastal vicinity without the resultant irreparable damage to the public beaches.

CLEANUP EQUIPMENT:

Along the inland portions of the Columbia River, we have currently below average capabilities and resources available to clean up spills due to insufficient oil skimming equipment. The strong current of the Columbia River makes a cleanup and oil containment operation difficult. In Oregon, we need a self-propelled skimming device that is reasonably unaffected by debris and will navigate in the rough waters of the Columbia River. Oregon has above average capabilities and resources in the area of spill containment. Large quantities of boom are available along the river as shown in the following chart:

<u>Source</u>	<u>Length</u>	<u>Maximum Time to Spill Site</u>
Columbia Marine Lines Pasco, Washington	500 ft.	<u>Truck:</u> 2 hours
Coast Guard Astoria, Oregon	1,000 ft.	<u>Air:</u> 30 minutes
Western Environmental Service	8,000 ft.	<u>Truck:</u> 3 hours
Several Companies in Longview, Washington	3,000 ft.	<u>Tug:</u> (8 knots/hr.)

<u>Source</u>	<u>Length</u>	<u>Maximum Time to Spill Site</u>
Several Companies in Portland, Oregon	10,000 ft.	<u>Truck</u>
Knappton's Astoria, Oregon	500 ft.	<u>Tug: (8 knots/hr.)</u>
Crowley Environmental Service	1,500 ft.	<u>Truck: 3 hours</u>

Due to infrequent spills of great magnitude in various inland waters, containment equipment and oil cleanup materials are not readily available in the proximity of these spills. The DEQ encourages the organization of Oil Company Cooperatives to stock cleanup materials at key locations throughout the inland areas of the state. On oil spills where a large quantity of oil must be picked up, a vacuum truck such as a septic tank pumper might be considered. OAR Section 340-71-045 (6)(i) states: "Pumping equipment shall be used exclusively for pumping the contents of septic tanks or other sewage treatment facilities, holding tanks, privies, or other non water-carried waste disposal facilities, unless otherwise authorized by the Director in emergency situations". This rule allows the Department to consider the use of a septic tank pumper for use at an oil spill on a case-by-case basis, and approved by the Director.

CLEANUP CONTRACTORS:

Cleanup contractors are typically located in areas of high spill frequency such as in Portland, Coos Bay, and in Pasco, Washington. Attachment "F" is a list of spill contractors working in Oregon.

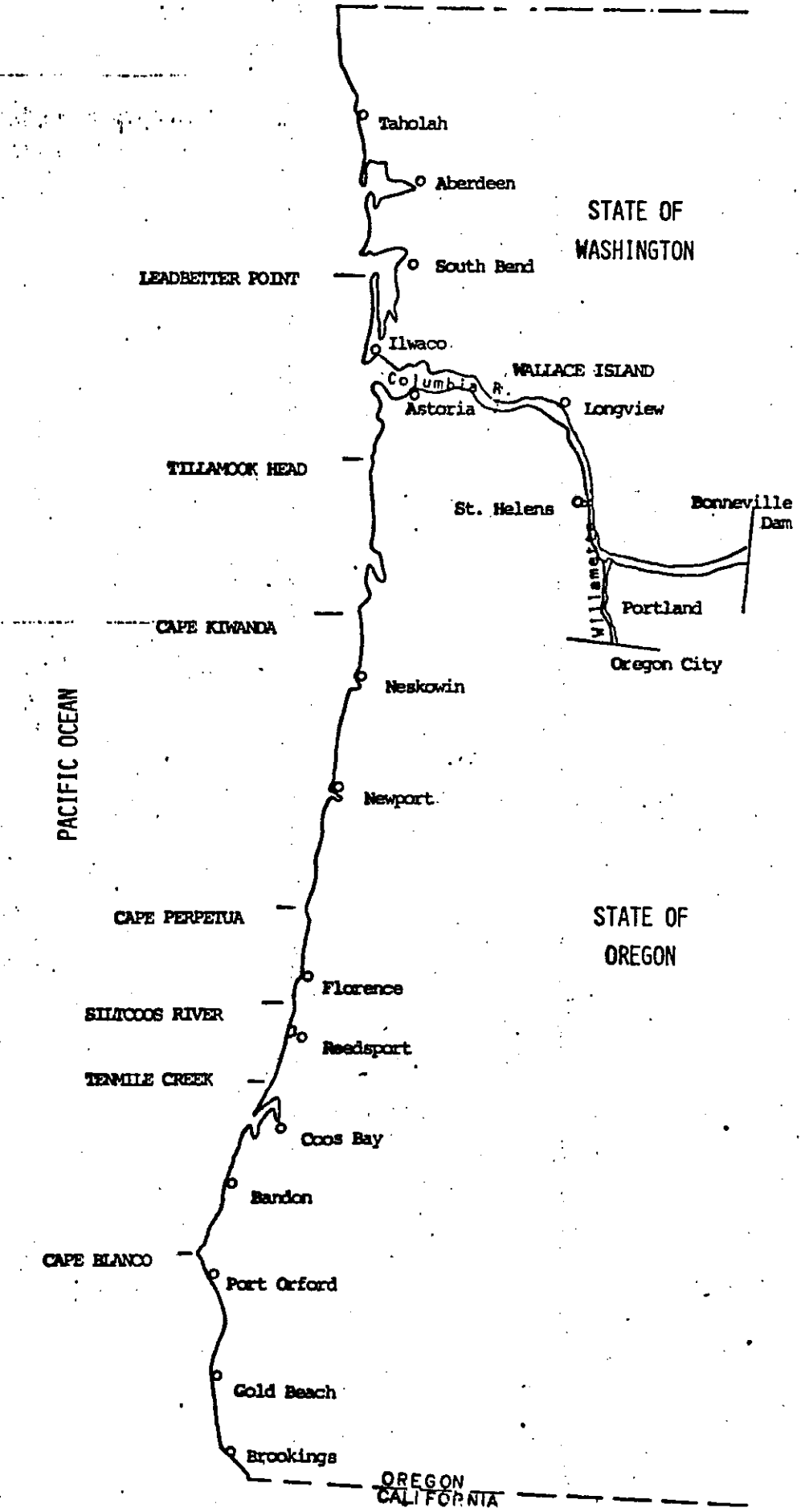
Oregon Law does not provide for requirements to equip areas for rapid cleanup response. Since many areas of Oregon are not adequately equipped, Oregon's spill containment and cleanup capabilities are limited. However, the Coast Guard and EPA have access to the use of the Federal Water Pollution Control Fund for hiring cleanup contractors out of the area. Also, in event of a large spill anywhere in the state, the Federal Agencies (EPA and Coast Guard) will bring in a Strike Force Team of experts from San Francisco. This team of experts will coordinate the cleanup operations and the Federal Agencies will assume the role of on-scene coordinator (OSC).

#### ENFORCEMENT

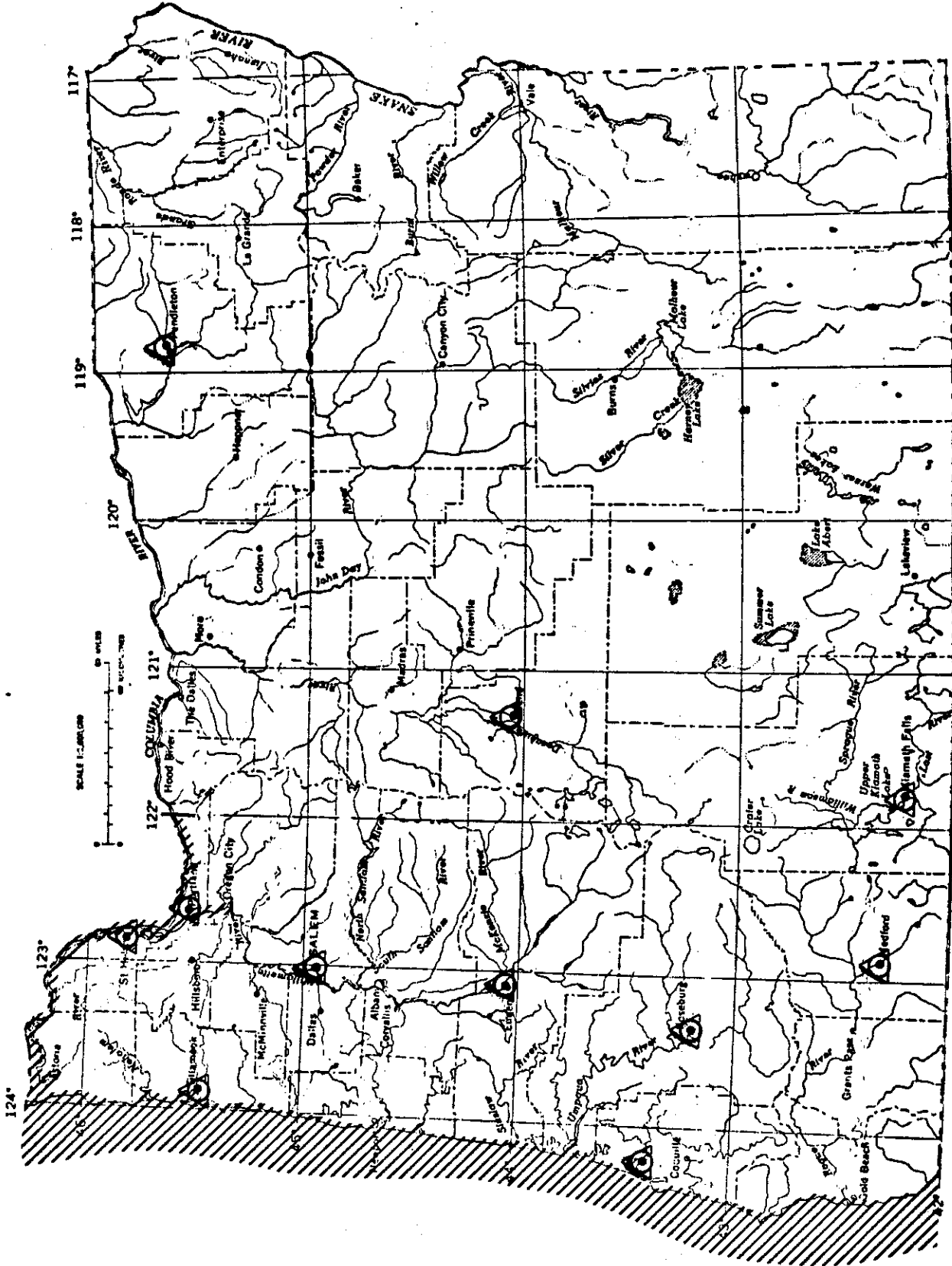
The Oregon Revised Statutes and Oregon Administrative Rules provide fines for the spillage of oil. There are also provisions requiring the spiller of oil to clean up the spill and restore the environment regardless of the cause of the spill. ORS 468.140 provides for the imposition of civil penalties of up to \$10,000 per day for each and every day oil is allowed to pollute public waters. In addition to the above penalties, any person who intentionally causes or permits the discharge of oil into the waters of the state is subject to a \$20,000 civil penalty and for negligently spilling oil the spiller is subject to a \$15,000 civil penalty. Due to the serious impact of oil spills on the environment, the Oregon Legislature has adopted strict statutes carrying high fines. These regulations are designed to place a heavy burden of responsibility upon all those who handle oil encouraging them to institute all measures necessary to stop oil spills now. DEQ does not want a Santa Barbara oil spill disaster in Oregon. There are no compliance schedules for oil handlers. ORS 468.785 prohibits the entry of oil into public waters and if oil does enter the water, ORS 468.785 requires collection and removal of the oil. Should a spill occur, OAR 340-47-015 requires that the spiller institute the following actions:

1. Immediately notify the Department of the spill by calling 1-800-452-0311
2. Immediately stop the spill.
3. Immediately contain, collect, and physically remove the oil from the public waters.
4. Immediately proceed to correct the cause of the spill.
5. Within seven days following a spill, submit a complete and detailed written report to the Department describing all aspects of the spill and steps taken to prevent a recurrence.

The spillers' response in cleaning up an oil spill will be considered in determining the amount of any civil penalty imposed. All statutes and rules relative to oil spills are shown in Attachment "G".



REGIONAL AND BRANCH OFFICE LOCATIONS



△ Denotes Regional or Branch Office

LIST OF REGIONAL AND BRANCH OFFICES

Investigation and Compliance Section  
Oil Spill Program  
1234 S. W. Morrison  
Portland, Oregon 97205  
(503) 229-5251 (Routine messages may be left on 24-hour basis).  
Jurisdiction: Statewide

Portland Region  
1234 S. W. Morrison  
Portland, Oregon 97205  
(503) 229-5292  
Jurisdiction: Multnomah, Clackamas, Washington, and Columbia Counties.

Salem North Coast Region  
796 Winter Avenue  
Salem, Oregon 97301  
(503) 378-8240  
Jurisdiction: Marion, Polk, Yamhill, Lincoln, Tillamook and  
Clatsop Counties.

North Coast Branch  
3600 East 3rd Street  
Tillamook, Oregon 97141  
(503) 842-6637  
Jurisdiction: Clatsop, Lincoln, and Tillamook Counties.

Midwest Region  
16 Oakway Mall  
Eugene, Oregon 97401  
(503) 686-7601  
Jurisdiction: Linn, Benton and Lane Counties

Southwest Region  
1937 W. Harvard Blvd.  
Roseburg, Oregon 97470  
(503) 672-8204  
Jurisdiction: Douglas, Jackson, Josephine, Curry and Coos Counties.

Roseburg Branch  
1937 W. Harvard Blvd.  
Roseburg, Oregon 97470  
(503) 672-8204  
Jurisdiction: Douglas County

Coos Bay Branch  
1869 Virginia Street, Room #4  
North Bend, Oregon 97459  
(503) 756-4244  
Jurisdiction: Coos and Curry Counties



Medford Branch  
221 W. Main Street  
Medford, Oregon 97501  
(503) 776-6010  
Jurisdiction: Jackson & Josephine Counties

Central Region  
2150 N. E. Studio Road  
Bend, Oregon 97701  
(503) 382-6446  
Jurisdiction: Deschutes, Jefferson, Crook, Hood River, Wasco, Sherman,  
Klamath, Lake, and Harney Counties

Klamath Falls Branch  
260 Main Street  
Klamath Falls, Oregon 97601  
(503) 884-2747  
Jurisdiction: Klamath and Lake Counties.

Eastern Region  
Hess Building  
245 S. E. 4th  
Pendleton, Oregon 97801  
(503) 276-6131 Ext. 283  
Jurisdiction: Gilliam, Morrow, Umatilla, Union, Wallowa, Baker, Grant,  
Wheeler, and Malheur Counties.

RECYCLING SITES

Attachment "D"

1. Atwood, George  
2021 S. E. 112th  
Portland, Oregon 97216  
254-2107
2. Ager and Davis Refining Co.  
3753 N. Suttle Road  
Portland, Oregon 97217  
286-3073
3. Chemical Processors, Inc.  
(Chempro)  
5501 Airport Way, South  
Seattle, Washington  
(206) 767-0350
4. Chemical Processors, Inc.  
(Chempro)  
11535 North Force  
Portland, Oregon  
285-4648
5. Crosby & Overton  
Swan Island  
Portland, Oregon  
283-1150
6. Dobbins, Bud  
13135 S. E. Foster Road  
Portland, Oregon 97236  
761-2375
7. Fresh Way Sanitation  
10410 S. E. 82nd  
Portland, Oregon 97266  
771-8669
8. Hanna Nickel  
Riddle, Oregon 97469  
874-2211
9. Klamath Falls Tallow Co.  
Klamath Falls, Oregon 97601  
884-4685
10. Leatherman Oil Company  
7615 N. E. Killingsworth  
Portland, Oregon  
253-4663
11. N. W. Dust Control  
2667 Kirkland Road  
Central Point, Oregon 97501  
664-4583
12. Northwest Vacuum  
Industrial Pollution  
214 N. E. Middlefield Road  
Portland, Oregon 97211  
283-3261
13. Nu-Way Oil Company  
7039 N. E. 46th Avenue  
Portland, Oregon 97213  
281-9375

RECYCLING SITES (continued)

Attachment "D" cont'd

- |                                       |   |
|---------------------------------------|---|
| 14. Oregon Fire Log                   | 336 S. E. Spokane<br>Portland, Oregon 97202<br>232-7343       |
| 15. Port of Portland                  | Swan Island Ship Repair Yards<br>Portland, Oregon<br>233-8331 |
| 16. Portland Recycling Team           | 1207 S. W. Montgomery<br>Portland, Oregon 97201<br>228-6760   |
|                                       | 1801 N. W. Irving<br>Portland, Oregon 97209<br>228-6760       |
|                                       | 2209 S. E. Hawthorne<br>Portland, Oregon 97214<br>228-6760    |
|                                       | 2003 N. Portland Blvd.<br>Portland, Oregon 97217<br>289-7925  |
| 17. Southern Oregon Tallow<br>Company | Medford, Oregon 97501<br>826-3141                             |

The above list includes those people who hold themselves out to the public as being capable of accepting and recycling oil. This list does not guarantee in any manner the quality of service rendered by any one service. The Department does not represent this as a complete list but rather it is a list of those with which the Department is familiar. There may be others who are willing and able to perform the services but who are unknown to this Department.

## SOLID WASTE LANDFILLS

Attachment "E"

The following is a list of statewide solid waste landfills that may be considered for receiving small quantities of oil-soaked debris subject to the approval in each instance by the DEQ Solid Waste Management Division. All questions concerning authorization for use of any specific site shall be directed to the Investigation and Compliance Section for coordination of approval from the Solid Waste Management Division.

Ann Flat Landfill, Enterprise  
Baker Landfill  
Bandon Landfill  
Boy Canyon Landfill, Madras  
Burns Landfill  
Chem-Nuclear Systems, Arlington  
Chiloquin Landfill  
Coffin Butte Landfill, Corvallis  
Columbia Land Reclamation Landfill  
Elkton Landfill  
Florence Landfill  
Hermiston Landfill  
John Day Landfill (Hendrix site)  
Klamath Disposal Co. Landfill, Klamath Falls  
Knott Pit Landfill, Bend  
Lavelle & Yett Landfill, Portland  
Newport Landfill  
Roseburg Disposal Site, Roseburg  
Ontario Landfill  
Pendleton Landfill  
Port Orford Disposal Site, Port Orford  
Santosh Landfill, Scappoose  
Short Mountain Landfill, Lane County  
South Stage Landfill, Jacksonville  
St. John's Landfill, Portland  
The Dalles Landfill  
Turner Landfill, Heppner  
Whitson Landfill, McMinnville

It should be emphasized that the Solid Waste Management Division is not necessarily recommending use of any of the above sites as the best practicable disposal site available in a given area. Rather, this list is intended simply to designate authorized landfills which may be available in an emergency for receipt of limited amounts of oil contaminated wastes. Other, more suitable, potential disposal areas may also be available in the case of such an emergency.

OIL SPILL CONTRACTORS

Columbia Marine Lines  
Box 412  
1320 South 8th  
Pasco, Washington 99301  
(503) 283-1244

Crowley Environmental Services  
6208 N. Ensign  
Portland, Oregon 97217  
(503)283-1244

Knappton Towboat Company  
Foot of 14th  
Astoria, Oregon 97103  
(503) 325-6621

Oregon Coast Towing  
P. O. Box 3638 Empire Station  
Coos Bay, Oregon 97420  
(503) 283-1244

Western Environmental Services  
Foot of North Portsmouth Avenue  
Portland, Oregon 97203  
(503) 285-9111  
Keith C. Roberts, Representative

The above list includes those people who hold themselves out to the public as being oil spill cleanup contractors. This list does not guarantee in any manner the quality of service rendered by any one service. The Department does not represent this as a complete list but rather it is a list of those with which the Department is familiar. There may be others who are willing and able to perform the services but who are unknown to the Department.

OIL SPILL RULES AND STATUTES

**OIL SPILLAGE REGULATION**

**468.780** Definitions for ORS 468.780 to 468.815. As used in ORS 468.020, 468.095, subsection (3) of ORS 468.140 and ORS 468.780 to 468.815, unless the context requires otherwise:

(1) "Oils" or "oil" means oil, including gasoline, crude oil, fuel oil, diesel oil, lubricating oil, sludge, oil refuse and any other petroleum related product.

(2) "Person having control over oil" includes but is not limited to any person using, storing or transporting oil immediately prior to entry of such oil into the waters of the state, and shall specifically include carriers and bailees of such oil.

(3) "Ship" means any boat, ship, vessel, barge or other floating craft of any kind. [Formerly 449.155]

**468.785** Entry of oil into waters of state prohibited; exception. (1) It shall be unlawful for oil to enter the waters of the state from any ship or any fixed or mobile facility or installation located offshore or onshore, whether publicly or privately operated, regardless of the cause of the entry or the fault of the person having control over the oil, or regardless of whether the entry is the result of intentional or negligent conduct, accident or other cause. Such entry constitutes pollution of the waters of the state.

(2) Subsection (1) of this section shall not apply to the entry of oil into the waters of the state under the following circumstances:

(a) The person discharging the oil was expressly authorized to do so by the department, having obtained a permit therefor required by ORS 468.740; or

(b) The person having control over the oil can prove that the entry thereof into the waters of the state was caused by:

(A) An act of war or sabotage or an act of God.

(B) Negligence on the part of the United States Government, or the State of Oregon.

(C) An act or omission of a third party without regard to whether any such act or omission was or was not negligent. [Formerly 449.157]

**468.790** Liability for violation of ORS 468.785. (1) Any person owning oil or having control over oil which enters the waters of the state in violation of ORS 468.785 shall be strictly liable, without regard to fault, for the damages to persons or property, public

or private, caused by such entry. However, in any action to recover damages, the person shall be relieved from strict liability without regard to fault if he can prove that the oil to which the damages relate, entered the waters of the state by causes set forth in subsection (2) of ORS 468.785.

(2) Nothing in this section shall be construed as limiting the right of a person owning or having control of oil to maintain an action for the recovery of damages against another person for an act or omission of such other person resulting in the entry of oil into the waters of the state for which the person owning or having control of such oil is liable under subsection (1) of this section. [Formerly 449.159]

**468.795** Duty to collect and remove oil; dispersal of oil. (1) In addition to any other liability or penalty imposed by law, it shall be the obligation of any person owning or having control over oil which enters the waters of the state in violation of ORS 468.785 to collect and remove the oil immediately.

(2) If it is not feasible to collect and remove the oil, the person shall take all practicable actions to contain, treat and disperse the oil.

(3) The director shall prohibit or restrict the use of any chemicals or other dispersant or treatment materials proposed for use under this section whenever it appears to him that use thereof would be detrimental to the public interest. [Formerly 449.161]

**468.800** Action by state; liability for state expense; order; appeal. (1) If any person fails to collect, remove, treat, contain or disperse oil immediately when under the obligation imposed by ORS 468.795, the department is authorized, itself or by contract with outside parties, to take such actions as are necessary to collect, remove, treat, contain or disperse oil which enters into the waters of the state.

(2) The director shall keep a record of all necessary expenses incurred in carrying out any action authorized under this section, including a reasonable charge for costs incurred by the state, including state's equipment and materials utilized.

(3) The authority granted under this section shall be limited to actions which are designed to protect the public interest or public property.

(4) Any person who fails to collect, remove, treat, contain or disperse oil immediately when under the obligation imposed by ORS 468.795, shall be responsible for the necessary expenses incurred by the state in carrying out actions authorized by this section.

(5) Based on the record compiled by the director pursuant to subsection (2) of this section, the commission shall make a finding and enter an order against the person described in subsection (4) of this section for the necessary expenses incurred by the state in carrying out the action authorized by this section. The order may be appealed pursuant to ORS chapter 183 but not as a contested case.  
[Formerly 449.163]

**468.805 Action to collect costs.** (1) If the amount of state-incurred expenses under ORS 468.800 is not paid by the responsible person to the commission at the time provided in subsection (2) of this section, the Attorney General, upon the request of the director, shall bring action in the name of the State of Oregon in the Circuit Court of Marion County or the circuit court of any other county in which the violation may have taken place to recover the amount specified in the order of the commission.

(2) Payment must be made within 15 days after the end of the appeal period or, if an appeal is filed, within 15 days after the court renders its decision if the decision affirms the order.  
[Formerly 449.165]

**468.810 Oil Spillage Control Fund** (1) All penalties recovered under subsection (3) of ORS 468.140 shall be paid into the Oil Spillage Control Fund, which account is hereby established within the General Fund. The fund shall be administered by the department solely for the advancement of costs incurred in carrying out actions authorized by subsection (1) of ORS 468.800 and in carrying out the rehabilitation authorized by ORS 468.745.

(2) With the approval of the commission, the moneys in the Oil Spillage Control Fund may be invested as provided by ORS 293.701 to 293.776 and earnings from such investment shall be credited to the fund.  
[Formerly 449.167]

**468.815 Effect of federal regulations of oil spillage.** Nothing in ORS 468.020, 468.095, subsection (3) of ORS 468.140 and

ORS 468.780 to 468.815 or the rules adopted thereunder shall require or prohibit any act if such requirement or prohibition is in conflict with any applicable federal law or regulation.

[Formerly 449.175]

**PENALTIES**

**468.990 Penalties.** (1) Wilful or negligent violation of ORS 468.720 or 468.740 is a misdemeanor and a person convicted thereof shall be punishable by a fine of not more than \$25,000 or by imprisonment in the county jail for not more than one year, or by both. Each day of violation constitutes a separate offense.

(2) Violation of ORS 468.775 is a Class A misdemeanor. Each day of violation constitutes a separate offense.

(3) Violation of subsection (1) or (2) of ORS 468.760 is a Class A misdemeanor.

(4) Violation of ORS 454.415 or 454.425 is a Class A misdemeanor.  
[1973 c.835 §28]

**468.992 Penalties for water pollution offenses.** (1) Wilful or negligent violation of any rule, standard or order of the commission relating to water pollution is a misdemeanor and a person convicted thereof shall be punishable by a fine of not more than \$25,000 or by imprisonment in the county jail for not more than one year, or by both. Each day of violation constitutes a separate offense.

(2) Refusal to produce books, papers or information subpoenaed by the commission or the regional air quality control authority or any report required by law or by the department or a regional authority pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.315 to 454.355, 454.405 to 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter is a Class A misdemeanor.

(3) Violation of the terms of any permit issued pursuant to ORS 468.065 is a Class A misdemeanor. Each day of violation constitutes a separate offense.  
[1973 c.835 §26]

**468.995 Penalties for air pollution offenses.** (1) Violation of any rule or standard adopted or any order issued by a regional authority relating to air pollution is a Class A misdemeanor.

(2) Unless otherwise provided, each day of violation of any rule, standard or order relating to air pollution constitutes a separate offense.



## Subdivision 7

REGULATIONS PERTAINING TO  
OIL SPILLS INTO  
PUBLIC WATERS

[ED. NOTE: Unless otherwise specified, sections 47-005 through 47-030 of this chapter of the Oregon Administrative Rules Compilation were adopted by the Department of Environmental Quality June 15, 1972 and filed with the Secretary of State June 15, 1972, as DEQ 45. Effective July 1, 1972.]

**47-005 PURPOSE.** The purpose of these regulations is to prescribe procedures for reporting and controlling oil spills into public waters, and for regulating the removal and disposal of spilled oil and rehabilitating and restoring any public resource damaged thereby, pursuant to ORS 449.155 to 449.175.

**47-010 DEFINITIONS.** As used in these regulations unless otherwise required by context:

(1) "Oils" or "oil" shall mean oil, including gasoline, crude oil, fuel oil, diesel oil, lubricating oil, sludge, oil refuse and any other petroleum related product.

(2) "Having control over oil" shall include but shall not be limited to any person using, storing or transporting oil immediately prior to entry of such oil into the waters of the state, and shall specifically include carriers and bailees of such oil.

(3) "Public waters" or "waters of the state" includes lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or

partially within or bordering the state or within its jurisdiction.

(4) "Spill" shall mean any unlawful discharge or entry of oil into public waters or waters of the state including but not limited to quantities of spilled oils that would produce a visible oily slick, oily solids or coat aquatic life, habitat or property with oil, but excluding normal discharges from properly operating marine engines.

(5) "Department" shall mean the Department of Environmental Quality.

(6) "Director" shall mean the Director of the Department of Environmental Quality.

(7) "Person" shall mean 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.

**47-015 NOTICE, CONTROL AND CLEANUP OF OIL SPILLS REQUIRED.**

(1) Any person owning or having control over oil that is spilled into public waters or on land such that there is a substantial likelihood it will enter public waters shall:

(a) Immediately stop the spilling;

(b) Immediately collect and remove the spilled oil unless not feasible in which case the person shall take all practicable actions to contain, treat and disperse the same in a manner acceptable to the department;

(c) Immediately proceed to correct the cause of the spill;

(d) Immediately notify the Department of the type, quantity, and location of the spill, corrective and cleanup actions taken and proposed to be taken (immediate notification to the U.S. Coast Guard of oil spills in marine estuaries and inland navigable waters will suffice as notification to the Department); and

(e) Within seven days following a spill, submit a complete and detailed written report to the Department describing all aspects of the spill and steps taken to prevent a recurrence.

(2) Cleanup of oil spills shall proceed in a timely and diligent manner until

written notice is obtained from the Department that satisfactory cleanup has been achieved.

(3) Compliance with the above requirements does not relieve the owner or person having control over oil from liability, damages or penalties resulting from spill and clean up of such oil.

**47-020 APPROVAL REQUIRED FOR USE OF CHEMICALS.** (1) No chemicals shall be used to disperse, coagulate or otherwise treat oil spills except inert absorbant materials that are completely removed in the clean up process or other materials as may be specifically approved by the Department.

(2) Physical removal of oil spills will ordinarily be required except where use of chemical dispersants is warranted by

extreme fire danger or other unusually hazardous circumstances.

**47-025 APPROVAL REQUIRED FOR DISPOSAL OF SPILLED OILS.** (1) Spilled oils and oil contaminated materials resulting from control, treatment, and clean up shall be handled and disposed of in a manner approved by the Department.

(2) Disposal of oils and oily wastes resulting from clean up of an oil spill may be achieved by reclaiming and recycling, disposal at a disposal site operated under and in accordance with a permit issued pursuant to ORS Chapter 459 or treated and discharged in accordance with a permit obtained pursuant to ORS 449.083.

[Repealed 9-6-74 by DEQ 78.]

tions of the respondent;

(d) The gravity and magnitude of the violation;

(e) Whether the violation was repeated or continuous;

(f) Whether a cause of the violation was an unavoidable accident, or negligence or an intentional act of the respondent;

(g) The opportunity and degree of difficulty to correct the violation;

(h) The respondent's cooperativeness and efforts to correct the violation for which the penalty is to be assessed;

(i) The cost to the Department of investigation and correction of the cited violation prior to the time the Department receives respondent's answer to the written notice of assessment of civil penalty; or

(j) Any other relevant factor.

(2) In imposing a penalty subsequent to a hearing, the Commission shall consider factors (a), (b), and (c), of subsection (1) of this section, and each other factor cited by the Director. The Commission may consider any other relevant factor.

(3) Unless the issue is raised in respondent's answer to the written notice of assessment of civil penalty, the Commission may presume that the economic and financial conditions of respondent would allow imposition of the penalty assessed by the Director. At the hearing, the burden of proof and the burden of coming forward with evidence regarding the respondent's economic and financial condition shall be upon the respondent.

12-050 AIR QUALITY SCHEDULE OF CIVIL PENALTIES. In addition to any liability, duty, or other penalty provided by law, the Director, or the director of a regional air quality control authority, may assess a civil penalty for any violation pertaining to air quality by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than one hundred dollars (\$100) nor more than five hundred dol-

lars (\$500) for violation of an order of the Commission, Department, or regional air quality control authority.

(2) Not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) for any violation which causes, contributes to, or threatens the emission of an air contaminant into the outdoor atmosphere.

(3) Not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300) for any other violation.

12-055 WATER POLLUTION SCHEDULE OF CIVIL PENALTIES. In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation relating to water pollution by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than fifty dollars (\$50) nor more than ten thousand dollars (\$10,000) for:

(a) a violation of an order of the Commission or Department;

(b) a violation of a State Waste Discharge Permit or National Pollutant Discharge Elimination System (NPDES) permit;

(c) any violation which causes, contributes to, or threatens the discharge of a waste into any waters of the state.

(2) Not less than twenty-five (\$25) nor more than seven thousand five hundred dollars (\$7,500) for any other violation.

(3)(a) In addition to any penalty which may be assessed pursuant to subsections (1) and (2) of this section, any person who intentionally causes or permits the discharge of oil into the waters of the state shall incur a civil penalty of not less than one thousand dollars (\$1,000) nor more than twenty thousand dollars (\$20,000) for each violation.

(b) In addition to any penalty which may be assessed pursuant to subsections (1) and (2) of this section, any person who negligently causes or permits the discharge of oil into the waters of the state shall incur a civil penalty of not less than five hundred dollars

(\$500) nor more than fifteen thousand dollars (\$15,000) for each violation.

**12-060 SUBSURFACE SEWAGE DISPOSAL AND NONWATER-CARRIED SEWAGE DISPOSAL FACILITIES SCHEDULE OF CIVIL PENALTIES.** In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to subsurface disposal of sewage or nonwater-carried sewage disposal facilities by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) upon any person who:

(a) Violates a final order of the Commission requiring remedial action;

(b) Violates an order of the Commission limiting or prohibiting construction of subsurface sewage disposal systems or nonwater-carried sewage disposal facilities in an area;

(c) Performs, or advertises or represents himself as being in the business of performing, sewage disposal services, without obtaining and maintaining a current license from the Department, except as provided by statute or rule; or

(d) Operates or uses a newly constructed or modified subsurface sewage disposal system without first obtaining a certificate of satisfactory completion from the Department, except as provided by statute or rule.

(2) Not less than ten dollars (\$10) nor more than four hundred dollars (\$400) upon any person who:

(a) Constructs or causes to be constructed a subsurface sewage disposal system or nonwater-carried sewage facility or part thereof without first obtaining a permit from the Department therefor;

(b) Constructs or causes to be constructed a subsurface sewage disposal system or nonwater-carried sewage disposal facility which fails to meet the minimum requirements for design and

construction prescribed by the Commission therefor;

(c) Commits any other violation in the course of performing sewage disposal services; or

(d) Fails to obtain a permit from the Department within three days after beginning emergency repairs on a subsurface sewage disposal system.

(3) Not less than five dollars (\$5) nor more than three hundred dollars (\$300) upon any person who commits any other violation pertaining to the subsurface disposal of sewage or nonwater-carried sewage disposal facilities.

**12-065 SOLID WASTE MANAGEMENT SCHEDULE OF CIVIL PENALTIES.** In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to solid waste management by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for violation of an order of the Commission or Department.

(2) Not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) for any violation which causes, contributes to, or threatens;

(a) A hazard to the public health or safety;

(b) Damage to a natural resource, including aesthetic damage and radioactive irradiation;

(c) Air contamination;

(d) Vector production;

(e) Exposure of any part of an ecosystem to environmentally hazardous wastes, as defined by statute or rule of the Commission; or

(f) A common law public nuisance.

(3) Not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300) for any other violation.

**12-070 WRITTEN NOTICE OF ASSESSMENT OF CIVIL PENALTY; WHEN PEN-**

October 4, 1977

Mr. FORD. Mr. President, reserving the right to object.

Several Senators addressed the Chair. The PRESIDING OFFICER. The Senator from Louisiana still has the floor. Does he yield?

Mr. JOHNSTON. So, Mr. President, at the appropriate time I would simply have to object.

Mr. JACKSON. Mr. President, will the Senator yield on my time?

Mr. JOHNSTON. Yes. The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. In order to clear the deck for the moment at least I withdraw my unanimous-consent request.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I wonder if the situation might not be helped if we had a quorum call or a recess for a little while?

Mr. RANDOLPH. A recess.

Mr. ROBERT C. BYRD. Because there seems to be some desire and inclination on the part of various Senators here to see if they can work out a package which would, of course, have to have unanimous consent, and I think perhaps that might be the best thing for us to do.

I ask unanimous consent— Mr. FORD. Mr. President, will the majority leader withhold? I need to propound a parliamentary inquiry.

Mr. ROBERT C. BYRD. Yes, I withhold the request.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. I ask the Chair: The unanimous-consent agreement as propounded by the Senator from Washington said we immediately go to a vote on his substitute. Even though according to the request I made earlier my amendments were eligible, if the Senate goes to a vote may I then offer my amendments?

The PRESIDING OFFICER. Are the amendments of the Senator from Kentucky to the Jackson substitute?

Mr. FORD. They are.

The PRESIDING OFFICER. Then they would be in order.

Mr. FORD. As I understood the unanimous-consent agreement is that we would go to an immediate vote under the unanimous consent agreement. If we went to an immediate vote that would take the whole thing and leave my amendments and others out.

The PRESIDING OFFICER. If the Pearson-Bentsen amendment were defeated the Senate would go to the Jackson substitute and vote immediately, but there is no time constraint put on the Pearson-Bentsen amendment.

Mr. FORD. But my amendments do not lie to the Pearson-Bentsen amendment. They lie to the Jackson substitute. If the Senate goes to an immediate vote I thought that meant my amendments then could not be offered.

The PRESIDING OFFICER. The amendments of the Senator are in order now, even though the Pearson-Bentsen amendment is pending.

Mr. FORD. OK, but the point then is that if we get unanimous-consent agreement to go to an immediate vote after the Pearson-Bentsen amendment, subject to its failing, which I hope it does not, then if we go to the Jackson substitute for an immediate vote I then at that point have an opportunity to present my amendments; is that correct?

The PRESIDING OFFICER. The Senator would have the right to offer the amendments at that point, but they would not be debatable.

Mr. FORD. That is the point, and I will object to the Jackson proposal.

The PRESIDING OFFICER. However, the Senator could offer his amendments prior to the vote on the Pearson-Bentsen amendment, and be able to debate them if he has time.

Mr. FORD. I understand.

Mr. JAVITS. Mr. President, if the Senator will yield, there is one point omitted. The Senator could offer his amendments before the vote on the Pearson-Bentsen amendment to the Jackson substitute.

Mr. FORD. I understand, but it may not be necessary. Why put the Senate through all that if it is not necessary is the point I am making.

Mr. JAVITS. If it is, that does not mean the Senator has to object to the whole thing.

Mr. FORD. I am not objecting to the whole thing. There is the point. I am exercising the point right now. I have not done that yet. I do not want these other amendments to fall. I am trying to back my aces.

Mr. BAKER. Back his aces is what he said.

RECESS UNTIL 1:29 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 hour.

There being no objection, the Senate, at 12:29 p.m., recessed until 1:29 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ZORINSKY).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to extend beyond 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARINE MAMMAL PROTECTION ACT AUTHORIZATION

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1522.

The PRESIDING OFFICER (Mr. ZORINSKY) laid before the Senate the amendments of the House of Representatives to the bill (S. 1522) to increase the appropriations authorization for fiscal years 1977 and 1978 and to authorize appropriations for fiscal year 1978

to carry out the Marine Mammal Protection Act of 1972, and for other purposes.

(The amendments of the House are printed in the House proceedings of the Record of September 12, 1977.)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment with the amendments which I have sent to the desk on behalf of Mr. MAGNUSON.

UP AMENDMENT NO. 862

(Purpose: (1) To ban commercial whaling within 200 miles of the United States; (2) To reaffirm Washington State oil port siting policy.)

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for Mr. MAGNUSON proposes unprinted amendment No. 862 en bloc.

The amendments are as follows:

On page , line , insert the following: "Sec. 5. Section 102 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372) is amended by adding at the end thereof the following new subsection:

"(f) It is unlawful for any person or vessel or other conveyance to take any species of whale incident to commercial whaling in waters subject to the jurisdiction of the United States."

On page , immediately after line insert the following:

Sec. 5. (a) The Congress finds that—

(1) the navigable waters of Puget Sound in the State of Washington, and the natural resources therein, are a fragile and important national asset;

(2) Puget Sound and the shore area immediately adjacent thereto is threatened by increased domestic and international traffic of tankers carrying crude oil in bulk which increases the possibility of vessel collisions and oil spills; and

(3) it is necessary to restrict such tanker traffic in Puget Sound in order to protect the navigable waters thereof, the natural resources therein, and the shore area immediately adjacent thereto, from environmental harm.

(b) Notwithstanding any other provision of law, on and after the date of enactment of this section, no officer, employee, or other official of the Federal Government shall, or shall have authority to, issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying or otherwise altering a terminal, dock, or other facility in, on, or immediately adjacent to, or affecting the navigable waters of Puget Sound, or any other navigable waters in the State of Washington east of Port Angeles, which will or may result in any increase in the volume of crude oil capable of being handled at any such facility (measured as of the date of enactment of this section), other than oil to be refined for consumption in the State of Washington.

Mr. MAGNUSON. Mr. President, during consideration of S. 1522 today, two amendments will be considered by the Senate. S. 1522 would amend the Marine Mammal Protection Act of 1972 in order to authorize appropriations under the act for fiscal year 1978. The bill has passed both the Senate and the House and has been returned because of the House's deletion of Senator Bob Packwood's antiwhaling amendment. Since

the act's funding authorization expired on October 1, it is imperative that we act on this bill quickly.

The first amendment to be considered is a compromise antiwhaling amendment. The amendment is acceptable to the House Merchant Marine and Fisheries Committee and to the Senate Commerce Committee. The original Senate amendment would have banned all whaling within 200-nautical miles of the United States. The new amendment bans all commercial whaling, which was the source of our concern in the first place. This new amendment would be completely in keeping with U.S. policy on this issue, but would not have the effect of unduly restricting subsistence whaling—which is specifically allowed under the Marine Mammal Protection Act—or Government approved research—which is also allowed under very strict conditions. I believe it is a good amendment.

The second amendment is extremely important to me and to the State of Washington. The State of Washington has been experiencing a heated public debate on the location of expanded oil terminal facilities in the State's coastal zone. While I would have preferred a unanimous decision by State leaders settling this controversy, unfortunately this has not happened. Instead of allowing this controversy to continue, I and my colleagues from the State have decided to confirm, as a matter of Federal law, that increased tanker traffic in Puget Sound is simply bad policy and should not be allowed. The amendment is also a clear Federal endorsement of the policy now in the Washington State coastal zone management program that—

The State of Washington, as a matter of overriding policy, positively supports the concept of a single, major crude oil petroleum receiving and transfer facility at or west of Port Angeles.

This policy would preclude any major new facility, or significant enlargement of any existing facility, on navigable waters east of Port Angeles, and in particular on Puget Sound.

The waters of Puget Sound, and the attendant resources, are indeed a major national environmental treasure. Puget Sound ought to be strictly protected; its resources ought not to be threatened. Since tanker accidents are directly related to the amount of tanker traffic, there should not be an expansion of traffic over what now presently exists. One oil company proposal would quadruple the amount of oil moved now through this pristine environment. This is simply intolerable. There are other oil transport options that would serve the national interest just as well as moving it by tanker through Puget Sound.

I do not necessarily favor increased oil traffic at Port Angeles. The State of Washington already bears its fair share of the Nation's refinery capacity. The social costs of oil tanker movements in my State, in my view, simply outweigh the benefits. And as I said, there are other alternatives.

Again, it is urgent that Congress approve this amendment. The Alaska oil transportation picture is a bit of a mess. This amendment will speed a decision on the best oil transport system to the Midwest. More importantly, it will also protect a fragile and significant natural asset—Puget Sound.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized in the engrossment of S. 1522 to make any necessary technical and clerical corrections.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### BORROWING AUTHORITY OF THE DISTRICT OF COLUMBIA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 419, H.R. 6530.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6530) to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, this matter is cleared for passage on our calendar.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 6530) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 427, Senate Resolution 263.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 263) waiving section 402 (a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2114.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, reserve the right to object, and I shall not object, this matter also is cleared for passage on this side. We have no objection.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to be printed in the RECORD an excerpt from the report (No. 95-462), explaining purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD as follows:

#### PURPOSE OF THE RESOLUTION

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year if that bill or resolution is reported in the House or Senate, as the case may be, before May 15 preceding the beginning of such fiscal year. Because S. 2114, which effect authorizes enactment of new budget authority which would become available for fiscal 1978, was reported on September 19, 1977, by the Committee on Energy and Natural Resources, a resolution waiving section 402(a) of the Budget Act with respect to S. 2114 must be adopted before this bill can be considered by the Senate. In reporting favorably on the resolution, the Budget Committee is simply recommending that the Senate proceed to consideration of S. 2114 and is not prejudging the merits of the

#### COMMITTEE CRITERIA

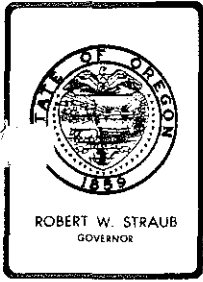
The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 402(a) of the Budget Act. This section was included in the Budget Act to insure that all authorizing legislation is considered as far as possible in advance of the fiscal year in which it will take effect so that it could be considered in the formulation of the first concurrent resolution in addition, this section was included to provide the Appropriations Committee some reasonable notice of needed appropriations for the coming fiscal year so that the Appropriations Committee can meet the appropriations timetable spelled out in the Budget Act.

Legislation authorizing the enactment of new budget authority which is reported to the Senate after May 15 could delay the enactment of appropriations bills past the Budget Act deadline of 7 days after 1 Day for the completion of the entire appropriations process. The legislative history of the Budget Act indicates that the May 15 reporting deadline is not to be lightly waived. Under these circumstances, the Budget Committee, in deciding whether to favorably report resolutions waiving section 402(a) of the Budget Act, will consider factors including: the reporting committee's effort to meet the May 15 deadline, the delay in the appropriations process engendered by the reporting of the authorization, and whether the enactment of the authorization significantly affect the national priorities established in the congressional budget.

#### BUDGET IMPLICATIONS

S. 2114 authorizes \$10 million in fiscal 1978 and thus requires a section 402(a) waiver. The bill also authorizes "such sums as may be necessary" for certain activities estimated to require \$12 million in fiscal 1978. This brings the total cost of S. 2114 to an estimated \$22 million.

S. 2114 is the last of five bills reported to the Committee on Energy and Natural Resources as part of a national energy plan. It is primarily a regulatory policy bill dealing with public utility ratemaking. The bill authorizes Federal action to encourage energy conservation, efficiency and equitable



## *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. K2, February 24, 1978, EQC Meeting

Staff Comment and Amendments Proposed for Crude Oil Tanker Rules in Response to Comment and Information Received February 15 to February 23, 1978

### Background

The staff's report and recommendations to the Commission on the proposed tanker rule could not include letters and information received February 15, 16, and 23.

#### West Coast Shipping Company

West Coast Shipping Company's letter received February 15 objected to the 1.75 percent sulfur limit. West Coast claimed that it would be unavailable and if available, costly.

Residual fuel oil of 1.75 percent sulfur is available in Oregon. Fuel oil of lower percent sulfur is available in California. Therefore, the staff recommends that this part of the rule be passed intact.

#### Coast Guard on Ballasting

The Coast Guard's letter received February 16 thought the 25 percent ballast was not enough for safe operation at times. They also wanted segregated ballast specifically excluded. West Coast Shipping had similar objections.

In response to this, the following amendments are offered:

1. Change 25 percent to 35 percent as the limit for unsegregated ballast.
2. Specifically exclude segregated ballast, as it is uncontaminated by hydrocarbon vapors: "The taking on of ballast into segregated ballast tanks, which are uncontaminated by crude oil, is not included in or restricted by this rule."



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3. Remove the restriction for bad weather, when winds will disperse the hydrocarbon vapor emitted: "This limit of 35 percent may be exceeded when the Coast Guard certifies to the Department that vessel safety requires more ballast."

Coast Guard on Inerting

The Coast Guard's letter, Shell Oil's February 13 letter, data received from California on February 23, and phone calls with the Port of Portland and others, all indicate that the State should not restrict inerting operations. Rather, other operations should be specifically restricted. In proposed rule 340-22-090 change "inert or purge" to "purge, vent, gas free, or tank wash."

It is understood that when tankers come into shipyards for repairs, that rule 340-22-290 could be violated under rule 340-21-070 concerning scheduled maintenance.

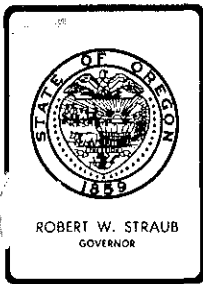
Director's Recommendation

It is recommended that if the Commission desires to pass a tanker rule today, that the above amendments be adopted.

WILLIAM H. YOUNG

PBBosserman/kz  
229-6278  
2/23/78





## *Environmental Quality Commission*

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

### MEMORANDUM

To: Environmental Quality Commission  
From: Director  
Subject: Future Activities in the Medford/Ashland AQMA

Much interest has been expressed in future air quality activities which will involve the Medford/Ashland AQMA. Adoption of the proposed particulate strategy is just a start in developing a complete program to attain and maintain compliance with all Federal and State air quality standards. Following is a list of such activities and the dates by which those activities are projected to be completed:

#### Future Control Strategy Activities

##### Particulate Summary

February 1978	Adopt Particulate Control Strategy (effective thru 1985)
May 1978	Obtain Source Compliance Schedules
May 1978	Adopt Emergency Reduction Plans for Air Pollution Episodes
May 1978-Jan. 1985	Addition to the strategy may be adopted based on new information and need to accommodate greater than projected growth and need to replace existing strategies which may become non-viable.
Jan. 1982	Complete all control installations required by strategy
Jan. 1985*	Adopt long term maintenance strategy

\*Note ongoing efforts to improve data bases including special studies on slash burning, road dust and home heating will provide better information on area source and background impacts so that level of confidence in the new strategy effectiveness will be maximized.

##### CO & HC Summary

Jan. 1979	Adopt work plan for development of transportation control strategy. Adopt reasonable available control technology rules for stationary sources.
July 1982	Adopt complete transportation control strategy
December 1987	Complete strategy



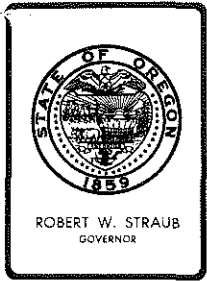
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1. The adoption of particulate control rules, as now drafted, would require the development of compliance schedules within 3 months of adoption. Control equipment would be installed on industrial sources until January 1, 1982. An arrangement will be made with local fire permit issuing agencies to control open burning.
2. A program must be established by January 1, 1979 outlining the process which will be used to develop control strategies for carbon monoxide (CO) and photochemical oxidants (POx). A requirement for all reasonably available control technology must be in effect by January 1, 1979.

In connection with this, a lead agency which will coordinate the air quality planning for CO and POx must be designated by the Governor by April 1, 1978. It appears now that this agency will be Jackson County. A division of responsibilities for different aspects of the planning will be made. It is anticipated that the Department will be responsible for performing some of this work.

3. The Department will be performing a study of the air quality impact in the Willamette Valley from field and slash burning from May, 1978 to March 1979. Part of that study will be efforts to use chemical tracer and chemical element balance techniques to allow identification of slash burning impact on Willamette Valley Total Suspended Particulate concentrations. If successful, these techniques would most likely be applicable to the Medford/Ashland AQMA.
4. The Environmental Protection Agency, at the request of the states of Oregon and Washington, has begun a comprehensive study of existing information on slash and other forestry burning. The study will include subjects such as existing practices, emission characteristics, air quality impact and methods for its reduction and alternative methods for disposal. The study will be completed by June, 1978.
5. The legislative Joint Interim Task Force on Forest Slash Utilization made several recommendations. The State Department of Forestry and the DEQ have met to coordinate the response to the recommendations and their implementation. The next such meeting will occur on March 3, 1978. The product of these efforts should be a reduction of the air quality impact of slash burning.
6. Chemical element and particle size analyses of some Total Suspended Particulate (TSP) samples have been made in the past and will be made in the future. These will aid in better identification of the relative effects of various source categories on TSP concentrations and help track the effects of control strategies. Results from the Portland Data Base Improvement Project and the Field Burning Monitoring effort should be very useful to better identifying source impacts in the Medford area.

7. Research work done recently on road dust emissions will be applied to the Medford/Ashland AQMA. This is a source category which has only recently been recognized as being significant. Much work on characterizing emissions and investigating and evaluating control techniques has been done lately.
8. Particle identification by microscopy will continue for some samples. Although this method is restricted to use on only particles larger than about 2 microns, it is a well accepted technique for identifying that portion of the sample. In the Medford/Ashland AQMA about 50% of the sample consists of particles greater than 2 microns in diameter.
9. Monitors for both nitrogen oxides and non-methane hydrocarbons have been installed in Medford. Measurements of these pollutants are necessary in order to use the technique recommended by the Environmental Protection Agency for determining the reduction of these two pollutants which is necessary to achieve the photochemical oxidant standard.
10. An Ambient Particulate Monitor (APM) is being evaluated at this time in Medford. This sampler gives almost continuous readings of total suspended particulate concentrations, rather than the 24 hour averages given by the high volume samplers now used. However, the APM will have to demonstrate adequate correlation to the high volume sampler before its results can be accepted.
11. A study of carbon monoxide concentrations at six sites in Medford and one site in Ashland is presently underway. The study duration will be one month. The purpose is to determine how concentrations in commercial and residential areas compare to those measured at the Brophy Building during periods of atmospheric stagnation. This information will be useful when developing transportation control strategies.
12. A survey of photochemical oxidant concentrations at several sites throughout the AQMA will be performed this summer during the peak oxidant season. This information will be useful in developing control strategies for photochemical oxidants. It will also be used to ensure that the present monitoring site is located at or near the area of peak photochemical oxidant concentrations.



# *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, February 24, 1978, EQC Meeting

Adoption of Rules to Amend Oregon's Clean Air Act Implementation  
Plan Involving Particulate Control Strategy for the Medford-Ashland  
AQMA

### Background

A public hearing to consider amendments to the Oregon Clean Air Act Implementation Plan involving particulate control strategy rules for the Medford-Ashland Air Quality Maintenance Area (AQMA) was held before the Environmental Quality Commission (EQC) on December 16, 1977. A considerable amount of oral and written testimony was submitted at that hearing and throughout the subsequent period during which the hearing record was kept open. Most of the testimony was from the wood products industry and was critical of the proposed rules because of questions about the data base and analysis techniques used to model the air shed, energy requirements of control equipment, practicability of control equipment required to meet some of the proposed rules, cost of control equipment and its effect on the competitiveness of plants in the AQMA and the probability that some of the smaller industries would not be able to pay for the necessary pollution control equipment. The Department has evaluated the testimony received and made some modifications to the proposed rules.

The proposed rules, if adopted, will be submitted to the Environmental Protection Agency (EPA) for approval as a revision to Oregon's State Implementation Plan to satisfy requirements of the 1977 Clean Air Act Amendments.

### Evaluation

The major comments from the written and oral testimony will be discussed in this section. Other less significant comments are listed and discussed briefly in Appendix A.

#### 1. Data Base

The data base was criticized as being inadequate for the development of a control strategy. In particular, the emission inventory was said to not reflect actual emissions from industrial sources.



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The emission inventory was based upon the latest source tests and, where source tests were not available, on estimates made from emission factors and production data. Industry was asked to update the production data prior to using these figures in the AQMA analysis. Some of the source tests were several years old but it was believed that they still accurately represented emission levels. The emission inventory data used in this AQMA analysis was not and never will be perfect but it was much better than that used in the initial State Implementation Plan development in 1971-1972.

The ambient air data which was used to determine compliance status with regard to ambient air standards was from high-volume samplers at the Jackson County Courthouse in Medford and the Ashland City Hall. In response to criticism that these two sample sites were not adequate to reflect actual Total Suspended Particulate (TSP) concentrations throughout the AQMA, several high-volume samplers were added to the network. It still turns out that the courthouse is the critical receptor. Also, as an aid in analysis, and to be able to better track the effect of future controls, particle sizing, chemical element analysis and particle identification by microscope have been performed on some of the high-volume samples. Also, an Ambient Particulate Monitor (APM) which is capable of giving a continuous reading of TSP concentration, as opposed to the daily average TSP concentration given by a high-volume sampler, is planned for installation in Medford as soon as the Department is assured that it correlates to an acceptable degree with the high-volume sampler. If the APM is found to perform adequately it will eliminate the delay of several days which is inherent in getting a reading from a high-volume sampler. This is the first instrument of this type which the Department has purchased.

It has been stated that a significant portion of the TSP in the AQMA is formed by photochemical reactions. However, photochemical activity is only significant in the period from late spring through early fall as demonstrated by the Department's measurements of ozone in the AQMA which show violations only in the months of June through October. The highest TSP concentrations are measured in the winter when the amount of sunlight and the ambient temperature are at a minimum. All recorded violations of the daily TSP standard of  $150 \text{ ug/m}^3$  in the AQMA for the years 1976 and 1977 have occurred during the months of October through February when essentially no photochemical activity is evident and thus no photochemically generated aerosol should be present.

The Department will continue to make improvements in the area data base but there is no significant reason to wait to adopt control strategies. The existing data base is considered reasonably sound for major control strategy decision making efforts by the Department and EPA.

## 2. Economic Impact

Several comments were received which indicated that the costs of implementing some of these proposed rules would have very adverse

effects on some industries and would result in some having to cease operation. In particular, such comments were received from several of the smaller operators of wood waste boilers, those companies with wigwam burners and particleboard and hardboard producing companies. The proposed rule for wood waste boilers included a heat input rate cutoff of  $15 \times 10^6$  Btu/hr which exempts four of the smaller boilers operated by two companies. Further inspection of the available information shows that this cutoff point could be raised to  $35 \times 10^6$  Btu/hr with a minimal effect ( $<0.1 \frac{\mu\text{g}}{\text{m}^3}$ ) on the control strategy effectiveness at the critical Medford receptor. This is because these plants are located generally in the outlying areas of the AQMA. One effect of not controlling these sources to 0.05 gr/dscf, however, would be to reduce the capacity for new industry in these outlying areas of the airshed. The raising of the cutoff point to  $35 \times 10^6$  Btu/hr would exempt the boilers at Double Dee Lumber Company, Eugene F. Burrill Lumber Company, McGrew Brothers Sawmill, Medford Veneer and Plywood Corporation and White City Dry Kilns from the 0.05 gr/dscf rule. They would still be required to meet existing statewide rules. The  $35 \times 10^6$  Btu/hr cutoff rate has been incorporated into the proposed rules. The above mentioned companies which would be exempted from the 0.05 gr/dscf rule would not be affected by any of the other proposed rules, except for the Medford Veneer and Plywood Corporation which would have to control three veneer dryers. In effect then all four small companies who testified before the EQC about adverse economic impact of the proposed rules would have no additional controls to install under these new rules.

The Department realizes that the proposed rule for dryers at hardboard and particleboard plants is technology forcing and the actual cost of control may vary considerably from the estimates. It was for this reason that Section 340-30-045 states that a public hearing on this rule shall be held by January 1, 1980, if pilot testing and cost analysis indicate that the emission limit is impractical. However, it should be noted that if this control does finally appear to not be very cost effective, then others controls (e.g., scrubber with mist eliminator or catalytic afterburner on veneer dryers) will have to be imposed to keep the strategy as effective as projected.

Testimony from industry and the AQMA Advisory Committee favored a less restrictive wigwam burner rule in order to ensure the best utilization of the wood waste. The proposed rules have, therefore, been changed by extending the compliance date by one year and allowing short-term burning in extreme situations.

It should be pointed out that any person has a right to apply to the EQC for a variance from any rule of the Department (ORS 468.345) in the case of justified economic hardship.

### 3. Wood Waste Boilers

The capability of wood waste boilers to be controlled to 0.05 gr/dscf was questioned.

The three scrubbers which have been installed on boilers within the AQMA to meet the present rules have all reduced the gas stream particulate concentration to less than 0.05 gr/dscf. Medford Corporation acknowledged that this was the case in their situation in their written testimony. Also, the Environmental Protection Agency (EPA) has recently completed a draft report on what they consider to be "best available control technology" (BACT) for wood waste boilers as part of a precedent setting Prevention of Significant Deterioration action for a Boise Cascade expansion at Wallula, Washington. They conclude that exhaust particulate emissions can be reduced to 0.04 gr/dscf and they have proposed that limit for the Boise Cascade boiler.

#### 4. Wood Particle Dryers

Much of the testimony from industry was critical of the proposed rule for wood particle dryers at particleboard and hardboard plants. It was stated that the proposed rule was impossible to achieve and that it would be unreasonable to require the relatively small companies in the AQMA to develop and experiment with new air pollution control equipment.

The Department has acknowledged that the degree of control required by this rule has not been reached on a full scale on wood particle dryers. However, pilot scale application has appeared very promising. It is not the Department's intent to force the companies in the AQMA into an expensive research and development effort to control this emission source. The intent is to require the application of pilot units of already developed control equipment. Testing while these pilot units are in operation will determine whether they are capable of bringing this source into compliance with the proposed rule. Firm cost data should be available for this equipment. If, after pilot testing is completed, either the performance of the equipment is demonstrated to be inadequate or the cost is determined to be excessive a public hearing can be held to consider modifying or eliminating the rule. However, any lessening of the degree of control on wood particle dryers would have to be offset by more restrictive controls on other sources (e.g., scrubber with mist eliminator or catalytic afterburner veneer dryer control).

In addition, the EPA, at the request of the Department, has awarded a contract to a consultant to study the emissions from hardboard and particleboard plants within the AQMA. The study will gather data important for the design of control equipment and make recommendations as to what types of control equipment are feasible. The study should provide information extremely valuable for the planning of pilot testing programs. This study should be completed in June 1978.

#### 5. Veneer Dryers

The portion of the proposed veneer dryer rule which required that the existing state rule be applied in the AQMA was well accepted by industry. However, there was much objection to the stipulation that control equipment installed to achieve compliance with the rule be designed such that it can be upgraded to approximately 85% collection efficiency.

The existing statewide rule can be met, in most cases, by the installation of scrubbers which have about a 45% collection efficiency. This would probably be the method most industries would choose to meet the proposed rule. A catalytic afterburner at 400°F (204°C) has also demonstrated its capability of reaching this level of control.

The stipulation that control equipment must have the capability of being upgraded to 85% collection efficiency was a result of the AQMA Advisory Committee's recommendation that control equipment have add-on capabilities. The 85% collection efficiency level was cited because it has been achieved by the catalytic afterburner (at a higher energy input than necessary for 45% collection efficiency) and a combination of a scrubber in series with a fiber bed mist eliminator. Also, at least one other scrubber manufacturer has expressed an intent to run pilot studies with various mist eliminators to determine if his system could achieve 85% collection efficiency. Industry has argued that the collection efficiency of this equipment will vary somewhat with the inlet particulate concentration. The Department agrees with this argument and has replaced the reference to 85% collection efficiency in the proposed rules with a reference to the specific type of control equipment which has demonstrated the highest level of collection efficiency. This should more clearly state the Department's intent.

In light of the distinct possibility that rules such as the proposed limit on wood particle dryers may not be met and other replacement strategies may be needed and that additional growth in the airshed may need emission offsets, the Department feels that it is highly desirable to keep options open for further control and not allow installation of low collection efficiency systems which can't be economically or technically upgraded to a level which has been demonstrated as achievable.

#### 6. EPA Comments

The EPA suggested a more specific rule for air conveying systems, questioned the derivation of the proposed rule for charcoal producing plants and stated that the compliance schedules for air conveying systems and charcoal producing plants appear unnecessarily long. Otherwise they support the proposed rules and indicate their acceptability for a SIP revision.

The proposed rule for air conveying systems has been modified to require a specific collection efficiency (98.5%).

Details of the derivation of the proposed charcoal producing plant rule have been discussed with EPA personnel and they have indicated that they find it acceptable. The limitation of 10 pounds per ton of charcoal is intended to be equivalent to an exhaust gas concentration of 0.05 gr/dscf.

All emission sources are to be brought into compliance as soon as practicable. However, some industries will have more than one type of emission source to control. For economic reasons it is desirable that



these industries not be required to control all of their emission sources immediately. Therefore, final compliance dates for the different emission sources were staggered. Air conveying systems were given a longer time period to be brought into compliance than wood waste boilers or veneer dryers because they emit larger particles and, from a health aspect, it is desirable to first control the small particle emitting sources. However, those companies with only air conveying systems or other less significant systems to control will be required to proceed immediately with engineering and construction of the necessary control systems.

The charcoal producing plant operators have agreed to apply a first stage of control by mid-1979 which will greatly reduce its emissions. Therefore, most of the emission reduction from this source will occur well before the final compliance date.

#### 7. General Comments

Many of the comments focused on the fact that some of the proposed rules require advanced control technology which is not in widespread use and whose performance may not be guaranteed by the manufacturer. This situation occurs because the proposed rules are basically requiring the most advanced degree of demonstrated control for emission sources. This is necessary because the installation of only control equipment which is in widespread use and which would be guaranteed would not result in significant improvement in AQMA air quality. It is not unusual for vendors to not guarantee control equipment performance. Yet this has not prevented multi-million dollar controls to be installed to meet air emission limits.

#### 8. Growth

An important aspect of the air quality situation which involves these proposed rules is future growth in the AQMA. At present, since the AQMA is a nonattainment area for TSP and no State Implementation Plan revisions for TSP have been adopted, the Federal emission offset policy applies. Basically, this policy requires that any major potential source of particulate emissions which is planned to be located within the AQMA must provide for an emission reduction greater than the amount which it will add to the AQMA. Also, the source must install controls to reach the lowest achievable emission rate.

Growth potential within the AQMA will still be very limited after SIP revisions are adopted but the emission offset requirements will be eliminated. Industry will be allowed to locate where their emissions will not cause violations of ambient air standards at any point within the AQMA. However, this available room for expansion is very limited

especially in the industrial park areas in which most industry would desire to locate. The proposed strategy, which will attain and maintain compliance through 1985, has a built-in safety margin for growth of about 4% or 150 tons/year new emissions in the White City area. Therefore, the local communities should give serious consideration to the types of industry which they attempt to attract. Any new industry will be required to install the lowest achievable emission control equipment.

The Department has had recent contacts from some industries considering locating in the AQMA. They would much prefer to not have to provide emission offsets. Therefore, it appears that the AQMA would have a much better opportunity to accommodate new industry sooner if these proposed SIP revisions are adopted and approved by EPA.

#### Summation

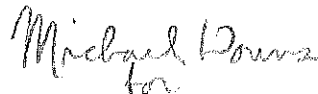
1. Monitoring data has demonstrated that State and Federal ambient air quality standards for TSP are being violated within the AQMA.
2. A public hearing to consider amendments to the Oregon Clean Air Act Implementation Plan involving particulate control strategy rules for the Medford-Ashland AQMA was held before the Environmental Quality Commission on December 16, 1977.
3. The Department reviewed all testimony received regarding the proposed rules. The most significant comments involved the following subjects:
  - A. Adequacy of the data base--The Department believes that the data base is adequate for control strategy development. However, efforts will continue to improve the data base so that if and when strategy adjustments may be needed, such as further area source control and long-term maintenance plans, there will be even better information upon which to base decisions.
  - B. Economic impact of controls--The proposed rules have been modified to eliminate the economic impact on small operators of wood waste boilers. The compliance date for wigwam burners has also been extended by one year.
  - C. Feasibility of controls on wood waste boilers, veneer dryers and wood particle dryers to meet limits in the proposed rules--the Department believes that the feasibility of controls on wood waste boilers and veneer dryers has been adequately demonstrated. Pilot studies and the ongoing EPA study will determine if control of wood particle dryers to the degree required by these proposed rules is feasible.
  - D. Length of compliance schedules--The Department believes that the length of the compliance schedules is justified to ease economic

impact and to allow time for pilot testing, in some cases. Each compliance schedule will be negotiated separately, however, and the Department expects that each schedule will be as short as possible given existing circumstances.

4. Several of the proposed rules require advanced control technology but the Department believes that the levels of control required are achievable despite the fact that vendors may not guarantee to meet them.
5. Room for industrial growth in the AQMA is very limited, but adoption of a State Implementation Plan revision for TSP would eliminate the need to comply with complex and cumbersome Federal emission offset policy.
6. The requirements in these proposed rules are predicted to bring the AQMA into compliance with TSP standards and maintain compliance through 1985 with about a 4% margin for industrial growth. A long-term maintenance strategy will be needed after this date.

Director's Recommendation

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

  
for  
WILLIAM H. YOUNG

DMBaker/kz  
229-6446  
2/8/78

Attachments:

Appendix A  
Specific Air Pollution Control Rules for the  
Medford-Ashland Air Quality Maintenance Area

## APPENDIX A

Comment No. 1: The model used in the Seton, Johnson and Odell report was not properly calibrated.

Response: The model used was calibrated with annual data for 1973 and 1974 from the Medford and Ashland monitoring sites. This calibration procedure was proper. Meteorological data was not available at the time for further validation of the model. Statistical techniques were used to estimate maximum daily concentrations. These techniques are an accepted method and the Department believes that they provide more accurate data than present worst-day type models.

Comment No. 2: The emission inventory was used to calibrate the model which, in turn, was used to confirm the inventory.

Response: The emission inventory was used as input to the model. The model was calibrated against actual air monitoring data. The model was not used to confirm the emission inventory.

Comment No. 3: The model used an unrealistic mixing height of only 44 meters.

Response: Meteorological data, including stability class, was used as input to the model. Each of the six stability classes was assigned a mixing height. Only the most stable class was assigned the mixing height of 44 meters. The tabulated data for morning mixing heights includes a 5°C heat island effect correction factor. The Department believes that this does not accurately depict the real situation in the semi-rural AQMA. The use of 44 meters as the mixing height for the most stable conditions does result in the slope of the least squares, linear regression calibration equation being almost equal to unity. This, and the fact that the intercept of the calibration curve was fairly insensitive to changes in the stable condition mixing height gives us confidence that the model was accurately reflecting the real situation of local source particulate contributions being added to a fairly constant background (yearly basis).

Another reason for not using the tabulated figures for mixing heights is that an unstable plume rise equation was used in the model. If the plumes were not trapped by the model at 44 meters, this would have resulted in a much greater plume rise and resultant dispersion that most probably does not occur in reality.

Comment No. 4: Industry should be brought into compliance with existing rules and the situation should then be assessed before new rules are passed.

Response: Modeling indicates that even if all existing sources were in compliance with existing rules, the ambient air standards for TSP would still be exceeded by about 21 ug/m<sup>3</sup>, annual geometric mean.

Comment No. 5: The requirement for wood waste boiler air pollution control equipment to meet a design criteria of 0.05 gr/scf would require the equipment manufacturer to design below that level to provide a safety factor for guarantee purposes. The staff objective could be met by eliminating reference to any design criteria and requiring that compliance with the average emission limit be demonstrated by source tests within 90 days after start up.

Response: The Department agrees that the intended objective could be met by requiring demonstration of compliance by source test. The proposed rule has been modified accordingly.

Comment No. 6: Emission reductions are being required only from the wood products industry.

Response: The Medford-Ashland AQMA Advisory Committee considered a variety of sources, including the wood products industry, open burning, slash burning, residential space heating with wood, paved road dust, orchard heating and fugitive emissions. Recommendations were made for specific rules for the wood products industry and open burning. The wood products industry is a very significant controllable source and, therefore, is a logical category from which to achieve emission reductions. Also, the area source control strategies considered prohibiting open burning, replacing oil-fired orchard heaters with propane systems and prohibiting residential space heating with wood would not have been very cost effective. There was intense interest in slash burning which resulted in a recommendation that the criteria for allowing slash burning around the AQMA be investigated and modified if necessary. The Advisory Committee's concern over slash burning was given to the legislative Joint Interim Task Force on Forest Slash Utilization. This Task Force adopted several recommendations including the one made by the Advisory Committee, that concern the air quality aspects of slash burning. All affected state agencies are now reviewing the Task Force recommendations and will coordinate response and implementation. There are two studies which are either ongoing or will start soon which will give the Department important information on the feasibility of reducing air pollution from this source.

Residential space heating for residences of not more than four families is exempted from air pollution laws by ORS 468.290.

Orchard heating is of limited duration and occurs during a period of the year when ventilation is relatively good. Also, voluntary efforts are underway by fruit growers to reduce their emissions.

Fugitive emissions are of such a nature that they are extremely difficult to measure. Also, there are existing rules which can be used to minimize emissions from this source category.

Paved road dust is a source which has just recently been recognized as a significant contributor to particulate emissions. However, as of yet there is not good data on the effectiveness of various control measures. This is a likely source for future control, as is slash burning.

Comment No. 7: The language in the wood waste boiler rule is ambiguous as "standard cubic foot" is not defined.

Response: A definition of "standard cubic foot" has been added to the proposed rules.

Comment No. 8: The averaging language in the wood waste boiler rule is difficult to understand and useless in view of the 0.05 gr/scf design criteria.

Response: The reference to a design criteria has been deleted. The averaging language has been changed to make it more understandable.

Comment No. 9: The wood waste boiler rule does not make any provision for soot blowing, grate cleaning or other operating conditions which may result in temporary excursions from normal.

Response: Such a provision has been inserted into the proposed rules.

Comment No. 10: The rules for boilers in the Portland AQMA should be adopted for the Medford-Ashland AQMA.

Response: The rules in effect for wood waste boilers in Clackamas, Columbia, Multnomah and Washington Counties are 0.2 gr/scf for existing boilers and 0.1 gr/scf for new boilers. The Portland-Vancouver AQMA, which includes portions of the four county area, has been declared a nonattainment area and new rules will need to be adopted. The development of the control strategy in that AQMA is not yet to the point of determining what levels of emission reductions are required. Regardless of the outcome of the Portland-Vancouver AQMA control strategy process, it is not accurate to compare emission limitations and ambient air TSP concentrations directly between the two AQMAs since the meteorology and geography of the AQMAs are important factors and are distinctly different. Also, there is a completely different mix of sources. There are only a few wood waste boilers in the Portland-Vancouver AQMA and, therefore, that source category is less important than in the Medford-Ashland AQMA.

Comment No. 11: The Department offered only one alternative to the Advisory Committee regarding wood particle dryers while several were available.

Response: The Department offered an alternative based on equipment which, while it has not been developed for full scale use, does show promise on a pilot scale. It appears to offer the possibility of a significant increase in collection efficiency over that of a scrubber. The wood products industry was given the opportunity to propose alternative strategies. They proposed no specific standard for wood particle dryers. However, one of the alternatives that the Advisory Committee did consider was to make no change in the rules regarding wood particle dryers.

Comment No. 12: The original draft of the Seton, Johnson and Odell report stated that "Identification of the actual sources causing NAAQS violations is impossible from these results as long as the majority of the predicted concentration is composed of noninventoried sources."

Response: Violation of the NAAQS for TSP is caused by many source contributing to the problem. Not all of the sources need to be identified to solve the problem and, at this time, not all of the sources can be identified.

Comment No. 13: The Department claimed that baghouse control on a wood waste boiler at Shelton, Washington, could meet an emission standard of 0.01 gr/scf. The facts failed to support the Department's information. This creates serious questions as to the actual feasibility of a control strategy the Department contends is reasonable.

Response: The Department based its estimated performance on the baghouse source tests which indicated that an exhaust gas particulate concentration of 0.01 gr/scf could be met if the bags were not allowed to deteriorate. This would be costly, as Department cost estimates reflect.

Comment No. 14: Industry estimates for cost and energy requirements for shutting down wigwam waste burners were significantly higher than the Department's.

Response: Industry informed the Advisory Committee of their higher estimates.

Comment No. 15: Air pollution controls will increase power demands substantially.

Response: All pollution control equipment requires some power to operate. The Advisory Committee attempted to minimize the power requirements needed to meet ambient air standards.

Comment No. 16: The word "emergency" should be dropped from the proposed wigwam burner rule since its exact meaning is unclear.

Response: The wording of the proposed rule has been clarified.

Comment No. 17: The compliance date of January 1, 1979, for wigwam burners is too soon to allow planning and implementation of sound alternative methods of wood waste disposal.

Response: The Department concurs and has modified the proposed rule by extending the compliance date by one year.

Comment No. 18: Some of the particulate captured by high volume samplers in the AQMA has been proven to originate as far away as Eugene and Roseburg.

Response: None of the particulate captured on high volume filters has been identified as to specific geographic point of origin.

Comment No. 19: The wording in the proposed rule for wood particle dryers is unclear as to whether the 0.35 pounds per 1000 square feet limitation applies to total emission from each dryer or all dryers at a plant.

Response: The wording has been clarified to definitely indicate that the limitation refers to total emission from all dryers.

Comment No. 20: The Department did not present any data regarding the charcoal furnace and the Advisory Committee made no recommendation regarding it.

Response: The charcoal furnace was considered in the same category as wood waste boilers since the same type of control equipment as used for boilers was considered adequate for the charcoal furnace after the gas stream is cooled. The Advisory Committee was made aware of this.

Comment No. 21: The testing frequency requirements for the charcoal furnace should be the same as for wood waste boilers.

Response: This modification has been made.

Comment No. 22: The proposed charcoal producing plant rule should address fugitive emissions.

Response: Fugitive emissions from all sources are addressed by OAR, Chapter 340, Sections 21-050 through 21-060.

The charcoal producing plant was given a relatively long compliance schedule because of the difficulties to be expected in controlling an extremely high temperature gas stream.

Comment No. 23: The proposed rules require the installation but not the operation of monitoring equipment.

Response: The proposed rules have been modified to require the operation of monitoring equipment.

Comment No. 24: All measurements stated in English units should also be stated in the Metric equivalents.

Response: Metric units have been incorporated into the proposed rules.

Comment No. 25: The Department should be required to reply to submittal of a compliance schedule within a certain time period after the date of that submittal.

Response: The proposed rules have been modified to require that the Department reply to an applicant within 45 days after the submittal of a compliance schedule.

Comment No. 26: Definitions for "Domestic Waste" and "Open Burning" should be added.

Response: These definitions have been added to the proposed rules.

Comment No. 27: The source testing frequency is not adequate to document emission reductions and provide continuing data for analysis and study.

Response: The source testing frequency has been modified.



DIVISION 30\*  
SPECIFIC AIR POLLUTION CONTROL RULES FOR THE  
MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA

PURPOSES AND APPLICATION

340-30-005 The rules in this Division shall apply in the Medford-Ashland Air Quality Maintenance Area (AQMA). The purpose of these rules is to deal specifically with the unique air quality control needs of the Medford-Ashland AQMA. These rules shall apply in addition to all other rules of the Environmental Quality Commission. The adoption of these rules shall not, in any way, affect the applicability in the Medford-Ashland AQMA of all other rules of the Environmental Quality Commission and the latter shall remain in full force and effect, except as expressly provided otherwise. In cases of apparent [duplication] conflict, the most stringent rule shall apply.

DEFINITIONS

340-30-010 As used in these rules, and unless otherwise required by context:

(1) "Medford-Ashland Air Quality Maintenance Area" is defined as beginning at a point approximately one mile NE of the town of Eagle Point, Jackson County, Oregon, at the NE corner of Section 36, T35S, R1W; thence South along the Willamette Meridian to the SE corner of Section 25, T37S, R1W; thence SE along a line to the SE corner of Section 9, T39S, R2E; thence SSE to the SE corner of Section 22, T39S, R2E; thence South to the SE corner of Section 27, T39S, R2E; thence SW to the SE corner of Section 33, T39S, R2E; thence West to the SW corner of Section 31, T39S, R2E; thence NW to the NW corner of Section 36, T39S, R1E; thence West to the SW corner of Section 26, T29S, R1E; thence NW along a line to the SE corner of Section 7, T39S, R1E; thence West to the SW corner of Section 12, T39S, R1W; thence NW along a line to the SW corner of Section 20, T39S, R1W; thence West to the SW corner of Section 24, T38S, R2W; thence NW along a line to the SW corner of

\* These proposed rules include modifications to those proposed rules which were the subject of a public hearing in Medford on December 16, 1977. Portions of those proposed rules which have been deleted are enclosed by brackets and additions have been underlined.

Section 4, T38S, R2W; thence West to the SW corner of Section 5, T38S, R2W; thence NW along a line to the SW corner of Section 31, T37S, R2W, thence North along a line to the Rogue River, thence North and East along the Rogue River to the North boundary of Section 32, T35S, R1W; thence East along a line to the point of beginning.

(2) "Charcoal Producing" Plant means an industrial operation which uses the destructive distillation of wood to obtain the fixed carbon in the wood.

(3) "Air Conveying System" means an air moving device, such as a fan or blower, associated ductwork, and a cyclone or other collection device, the purpose of which is to move material from one point to another by entrainment in a moving airstream.

(4) "Particulate Matter" means any matter, except uncombined water, which exists as a liquid or solid at standard conditions.

(5) "Standard Conditions" means a temperature of 60° Fahrenheit (15.6° Celsius) and a pressure of 14.7 pounds per square inch absolute (1.03 Kilograms per square centimeter).

(6) "Wood Waste Boiler" means equipment which uses indirect heat transfer from the products of combustion of wood waste to provide heat or power.

(7) "Veneer Dryer" means equipment in which veneer is dried.

(8) "Wigwam Waste Burner" [is defined in Section 340-25-005(4).] means a burner which consists of a single combustion chamber, has the general features of a truncated cone, and is used for the incineration of wastes.

(9) "Collection Efficiency" means the overall performance of the air cleaning device in terms of ratio of weight of material collected to total weight of input to the collector.

(10) "Domestic Waste" means combustible household waste, other than wet garbage, such as paper, cardboard, leaves, yard clippings, wood or similar materials generated in a dwelling housing four (4) families or less, or on the real property on which the dwelling is situated.

(11) "Open Burning" means burning conducted in such a manner that combustion air and combustion products may not be effectively controlled including, but not limited to, burning conducted in open outdoor fires, burn barrels, and backyard incinerators.

(12) "Dry Standard Cubic Foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions.

#### WOOD WASTE BOILERS

340-30-015 No person shall cause or permit the emission of particulate matter from any wood waste boiler with a heat input greater than [15] 35 million BTU/hr in excess of 0.050 grain per dry standard cubic foot (1.14 grams per cubic meter) of exhaust gas, corrected to 12 percent carbon dioxide, [as an annual average or 0.10 grains per standard cubic foot of exhaust gas corrected to 12 percent carbon dioxide as a two hour average test. Control equipment shall be installed to meet a design criteria of 0.05 grains per standard cubic foot corrected to 12 percent carbon dioxide. The equipment shall demonstrate capability to meet their design level during the startup phase of operation.] as an annual average.

#### VENEER DRYERS

340-30-020 No person shall cause or permit any veneer dryer to violate the rules of Section 340-25-315(1) except that, for the purposes of this Section, subsection 340-25-315(1)(c) shall become applicable on [April 1, 1978] June 1, 1978. In addition, air pollution control equipment installed to meet the opacity requirements of Section 340-25-315(1) shall be designed such that the particulate collection efficiency can be practicably upgraded [to approximately 85 percent over uncontrolled emissions.] to emission control performance level presently demonstrated by a wet scrubber in series with a fiber bed mist eliminator or a catalytic afterburner operating at 600°F (316°C) or equivalent.

[NOTE: Section 340-25-315(1) is the veneer dryer rule which has been in effect in areas of the state outside of special problem areas. It is attached to these proposed rules for reference.]

#### AIR CONVEYING SYSTEMS

340-30-025 All air conveying systems emitting greater than 10 tons per year of particulate matter to the atmosphere at the time of adoption of these rules shall, with the prior written approval of the Department, be equipped with a control system with collection efficiency [equivalent to that of a bag filter] of at least 98.5 percent.

#### WOOD PARTICLE DRYERS AT HARDBOARD AND PARTICLEBOARD PLANTS

340-30-030 No person shall cause or permit the total emission of particulate matter from all wood particle dryers at a plant site to exceed 0.35 pounds per 1,000 square feet of board produced by the plant on a 3/4" basis as an annual average.

#### WIGWAM WASTE BURNERS

340-30-035 No person shall cause or permit the operation of any wigwam burner, except for [an emergency condition when operation is authorized in writing by the Director of the Department] short-term conditions when disposal of plant waste by other methods is extremely impracticable and operation is authorized in writing by the Director of the Department.

#### CHARCOAL PRODUCING PLANTS

340-30-040(1) No person shall cause or permit the emission of particulate matter from charcoal producing plant sources including, but not limited to, charcoal furnaces, heat recovery boilers and wood dryers using any portion of the charcoal furnace off-gases as a heat source, in excess of a total from all sources within the plant site of 10.0 pounds per ton of charcoal produced (5.0 grams per Kilogram of charcoal produced) as an annual average.

(2) Emissions from char storage, briquet making, boilers not using charcoal furnace off-gases, and fugitive sources are excluded in determining compliance with subsection (1).

(3) Charcoal producing plants as described in (1) above shall be exempt from the limitations of 340-21-030(1) and (2) and 340-21-040 which concern particulate emission concentrations and process weight.

#### COMPLIANCE SCHEDULES

340-30-045 The person responsible for an existing emission source subject to 340-30-015 through 340-30-040 shall proceed promptly with a program to comply as soon as practicable with these rules. A proposed program and implementation plan shall be submitted no later than [April 1, 1978] June 1, 1978, for each emission source to the Department for review and written approval. The Department shall within 45 days of receipt of a complete proposed program and implementation plan, notify the person concerned as to whether or not it is acceptable.

The Department shall establish a schedule of compliance, including increments of progress, for each affected emission source. Each schedule shall include the dates, as soon as practicable, by which compliance shall be achieved, but in no case shall full compliance be later than the following dates:

- (a) Wood Waste Boilers shall comply with Section 340-30-015 as soon as practicable, in accordance with approved compliance schedules, but by no later than January 1, 1980.
- (b) Veneer Dryers shall comply with Section 340-30-020 as soon as practicable, in accordance with approved compliance schedules, but by no later than January 1, 1980.
- (c) Air Conveying System shall comply with Section 340-30-025 as soon as practicable, in accordance with approved compliance schedules, by not later than January 1, 1981.
- (d) Wood Particle Dryers at Hardboard and Particleboard Plants shall comply with Section 340-30-030 as soon as practicable, in accordance with approved compliance schedules, but by no later than January 1, 1981.
- (e) Wigwam Waste Burners shall comply with Section 340-30-035 as soon as practicable, in accordance with approved compliance schedules, but by no later than [January 1, 1979] January 1, 1980.
- (f) Charcoal Producing Plants shall comply with Section 340-30-040 as soon as practicable, in accordance with approved compliance schedules, but by no later than January 1, 1982.

Compliance schedule for Charcoal Producing Plants and Wood Particle Dryers at Hardboard and Particleboard Plants shall contain reasonably expeditious interim dates and pilot testing programs for control to meet the emission limits in 340-30-040(1) and 340-30-030, respectively. If pilot testing and cost analysis indicates that meeting the emission limits of these rules may be impractical, a public hearing shall be held no later than July 1, 1980, for Charcoal Producing Plants and January 1, 1980, for Wood Particle Dryers at Hardboard and Particleboard Plants to consider amendments to this limit.

#### CONTINUOUS MONITORING

340-30-050 The Department may require the installation and operation of instruments and recorders for measuring emissions and/or the parameters which affect the emission of air contaminants from sources covered by these rules to ensure that the sources and the air pollution control equipment are operated at all times at their full efficiency and effectiveness so

that the emission of air contaminants is kept at the lowest practicable level. The instruments and recorders shall be periodically calibrated. The method and frequency of calibration shall be approved in writing by the Department. The recorded information shall be kept for a period of at least one year and shall be made available to the Department upon request.

SOURCE TESTING

340-30-055 The person responsible for the following sources of particulate emissions shall make or have made tests to determine the type, quantity, quality and duration of emissions, and/or process parameters affecting emissions, in conformance with test methods on file with the Department at the following frequencies:

<u>Source</u>	<u>Test Frequency</u>
Wood Waste Boilers	Once every year*
Veneer Dryers	[Once every 3 years] <u>Once every year until</u> <u>January 1, 1983 and once</u> <u>every 3 years thereafter</u>
Wood Particle Dryers at Hardboard and Particleboard Plants	[Once every 2 years] <u>Once every year</u>
Charcoal Producing Plants	Once every [year] <u>year*</u>

[\* If this test exceeds 0.05 grains/scf at 12 percent CO<sub>2</sub> then 3 additional tests shall be required at 3 month intervals with all four tests being averaged to determine compliance with the annual standard.]

\* If this test exceeds the annual emission limitation then three (3) additional tests shall be required at three (3) month intervals with all four (4) tests being averaged to determine compliance with the annual standard. No single test shall be greater than twice the annual average emission limitation for that source.

Source testing shall begin at these frequencies within 90 days of the date by which compliance is to be achieved for each individual emission source.

These source testing requirements shall remain in effect unless waived in writing by the Department because of adequate demonstration that the source is consistently operating at lowest practicable levels.

Source tests on wood waste boilers shall not be performed during periods of soot blowing, grate cleaning or other operating conditions which may result in temporary excursions from normal.

Source tests shall be performed within 90 days of the startup of air pollution control systems.

#### TOTAL PLANT SITE EMISSIONS

340-30-060 The Department shall have the authority to limit the total amount of particulate matter emitted from a plant site, consistent with requirements in these rules. Such limitation will be applied, where necessary, to ensure that ambient air quality standards are not caused to be exceeded by the plant site emissions and that plant site emissions are kept to lowest practicable levels.

#### NEW SOURCES

340-30-065 New sources shall be required to comply with [these rules] Sections 340-30-015 through 340-30-040 immediately upon initiation of operation.

#### OPEN BURNING

340-30-070 No open burning of domestic waste shall be initiated on any day or at any time when the Department advises fire permit issuing agencies that open burning is not allowed because of adverse meteorological or air quality conditions.

Board Products Industries  
(Veneer, Plywood, Particleboard, Hardboard)

Hist: Filed 3-31-71 as DEQ 26,  
Eff. 4-25-71  
Amended by DEQ 132,  
Filed and Eff. 4-11-77

Definitions

340-25-305 (1) "Department" means Department of Environmental Quality.

(2) "Emission" means a release into the outdoor atmosphere of air contaminants.

(3) "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

(4) "Operations" includes plant, mill, or facility.

(5) "Particleboard" means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.

(6) "Person" means the same as ORS 468.005(5).

(7) "Plywood" means a flat panel built generally of an odd number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at right angles to the one adjacent to it.

(8) "Tempering oven" means any facility used to bake hardboard following an oil treatment process.

(9) "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

(10) "Opacity" is defined by section 340-21-005(4).

(11) "Visual opacity determination" consists of a minimum of 25 opacity readings recorded every 15 to 30 seconds and taken by a trained observer.

(12) "Opacity readings" are the individual readings which comprise a visual opacity determination.

(13) "Fugitive emissions" are defined by section 340-21-050(1).

(14) "Special problem area" means the formally designated Portland, Eugene-Springfield, and Medford AQMA's and other specifically defined areas that the Environmental Quality Commission may formally designate in the future. The purpose of such designation will be to assign more stringent emission limits as may be necessary to attain and maintain ambient air standards or to protect the public health or welfare.

Statutory Authority: ORS 468.295

General Provisions

340-25-310 (1) These regulations establish minimum performance and emission standards for veneer, plywood, particleboard, and hardboard manufacturing operations.

(2) Emission limitations established herein are in addition to, and not in lieu of, general emission standards for visible emissions, fuel burning equipment, and refuse burning equipment, except as provided for in section 340-25-315.

(3) Emission limitations established herein and stated in terms of pounds per 1000 square feet of production shall be computed on an hourly basis using the maximum 8 hour production capacity of the plant.

(4) Upon adoption of these regulations, each affected veneer, plywood, particleboard, and hardboard plant shall proceed with a progressive and timely program of air pollution control, applying the highest and best practicable treatment and control currently available. Each plant shall at the request of the Department submit periodic reports in such form and frequency as directed to demonstrate the progress being made toward full compliance with these regulations.

Statutory Authority: ORS 468.295

Hist: Filed 3-31-71 as DEQ 26,  
Eff. 4-25-71  
Amended by DEQ 132,  
Filed and Eff. 4-11-77

Veneer and Plywood Manufacturing Operations

340-25-315 (1) Veneer Dryers:

(a) Consistent with section 340-25-310(1) through (4), it is the objective of this section to control air contaminant emissions, including, but not limited to, condensable hydrocarbons such that visible emissions from each veneer dryer located outside special problem areas are limited to a level which does not cause a characteristic "blue haze" to be observable.

(b) No person shall operate any veneer dryer outside a special problem area such that visible air contaminants emitted from



any dryer stack or emission point exceed:

(A) A design opacity of 10%,

(B) An average operating opacity of 10%, and

(C) A maximum opacity of 20%.

Where the presence of uncombined water is the only reason for the failure to meet the above requirements, said requirements shall not apply.

(c) After July 1, 1977, no person shall operate a veneer dryer located outside a special problem area unless:

(A) The owner or operator has submitted a program and time schedule for installing an emission control system which has been approved in writing by the Department as being capable of complying with subsection 340-25-315(1)(b)(A), (B), and (C),

(B) The veneer dryer is equipped with an emission control system which has been approved in writing by the Department and is capable of complying with subsection 340-25-315(1)(b), (B) and (C), or

(C) The owner or operator has demonstrated and the Department has agreed in writing that the dryer is capable of being operated and is operated in continuous compliance with subsection 340-25-315(1)(b)(B) and (C).

(d) Each veneer dryer shall be maintained and operated at all times such that air contaminant generating processes and all contaminant control equipment shall be at full efficiency and effectiveness so that the emission of air contaminants are kept at the lowest practicable levels.

(e) No person shall willfully cause or permit the installation or use of any means, such as dilution, which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission which would otherwise violate this rule.

(f) Where effective measures are not taken to minimize fugitive emissions, the Department may require that the equipment or structures in which processing, handling, and storage are done, be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air.

(g) The Department may require more restrictive emission limits than provided in section 340-25-315(1)(b) for an individual

plant upon a finding by the Commission that the individual plant is located or is proposed to be located in a special problem area. The more restrictive emission limits for special problem areas may be established on the basis of allowable emissions expressed in opacity, pounds per hour, or total maximum daily emissions to the atmosphere, or a combination thereof.

(2) Other Emission Sources:

(a) No person shall cause to be emitted particulate matter from veneer and plywood mill sources, including, but not limited to, sanding machines, saws, presses, barkers, hogs, chippers, and other material size reduction equipment, process or space ventilation systems, and truck loading and unloading facilities in excess of a total from all sources within the plant site of one (1.0) pound per 1000 square feet of plywood or veneer production on a 3/8 inch basis of finished product equivalent.

(b) Excepted from subsection (a) are veneer dryers, fuel burning equipment, and refuse burning equipment.

(3) Monitoring and Reporting: The Department may require any veneer dryer facility to establish an effective program for monitoring the visible air contaminant emissions from each veneer dryer emission point. The program shall be subject to review and approval by the Department and shall consist of the following:

(a) A specified minimum frequency for performing visual opacity determinations on each veneer dryer emission point;

(b) All data obtained shall be recorded on copies of a "Veneer Dryer Visual Emissions Monitoring Form" which shall be provided by the Department of Environmental Quality or on an alternative form which is approved by the Department; and

(c) A specified period during which all records shall be maintained at the mill site for inspection by authorized representatives of the Department.

Statutory Authority: ORS 468.295

Hist: Filed 3-31-71 as DEQ 26,

Eff. 4-25-71

Amended 2-15-72 by DEQ 37,

Eff. 3-1-72

Amended by DEQ 43(Temp),

Filed and Eff. 5-5-72 through  
9-1-72

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

In the Matter of the Adoption )  
of Specific Air Pollution )  
Control Rules for the Medford- )  
Ashland Air Quality Maintenance )  
Area, OAR 340-30-005 to )  
340-30-0070. )

STATEMENT OF NEED

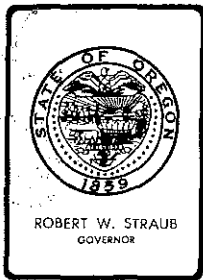
The Environmental Quality Commission intends to adopt Specific Air Pollution Control Rules for the Medford-Ashland Air Quality Maintenance Area (OAR 340-30-005 to 340-30-070).

- (a) Legal authority: ORS 468.020 (general) and ORS 468.295.
- (b) Need for Rule: The Medford-Ashland Air Quality Maintenance Area is violating State and Federal Standards for Total Suspended Particulate. The State is required by the Federal Government to revise its State Implementation Plan by adopting rules to bring the AQMA into compliance with these standards. The rules are predicted to achieve compliance with these standards through 1985 by reducing emissions from industry and open burning.
- (c) Documents Principally Relied Upon: "Medford-Ashland Air Quality Maintenance Area Analysis," Seton, Johnson and Odell Inc., October 20, 1976.

Department of Environmental Quality

By: Michael Young for  
WILLIAM H. YOUNG

February 17, 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 M, February 24, 1978 EQC Meeting

### Proposed Amendments To Oregon Administrative Rules, Chapter 340, Division 71, 72, 74 & 75, Subsurface & Alternative Sewage Disposal

#### Background

Subsurface and alternative sewage disposal systems are administered under Oregon Administrative Rules (OAR) Chapter 340, Section 71-005 to Section 71-045; Chapter 340, Section 72-010 to Section 72-030; Chapter 340, Section 74-005 to Section 74-020 and Chapter 340, Section 75-010 to Section 75-056. These rules adopted by the Commission are provided for by statute, Oregon Revised Statutes (ORS) 454.605 through 454.745.

The administrative rules may be amended by the Commission after public hearing. The need for amendments occurs periodically as a result of recent legislation, minor errors or unclear rules that require correction or clarification, or the necessity to address substantive environmental issues.

At its meeting on October 21, 1977 the Commission authorized public hearings on the question of amending the Administrative Rules governing Subsurface and Alternative Sewage Disposal.

After proper public notice public hearings were conducted at four locations throughout the state during December 1977. (Eugene, Medford, Portland and Bend).

In addition to public hearings the Department's Citizen's Advisory Committee (CAC) for on-site sewage disposal met on December 8, 1977 and reviewed the proposed amendments. A report on the CAC's recommendation is attached. (Attachment B) Considerable written testimony was received by mail, as well.



Contains  
Recycled  
Materials

As a result of input at the public hearings, testimony of the Citizen's Advisory Committee and written testimony a package of proposed amendments has been developed and is attached. (Attachment A) Hearing officer's reports are attached, also. (Attachment C). Attachment "D" is the official amendment package, to be submitted to the Secretary of State, which incorporates all of the proposed amendments in Attachment "A".

The proposed amendments package is divided into three categories by type of amendment; (1) amendments necessitated by new legislation, (2) housekeeping amendments and (3) substantive issues.

### Evaluation

An evaluation of testimony by category is as follows:

#### LEGISLATIVE AMENDMENTS -

With one exception there was no opposition to the proposed amendments necessitated by legislation. State Representative Bill Rogers, Lane County, sponsor of House Bill 2858 (Chapter 523, Oregon Laws 1977) feels that the proposed amendments completely ignore section 6 (2)(a) of a - engrossed HB-2858 which states "...and shall be preceded by a pretreatment facility such as, but not limited to, a septic tank."

It is the Department's opinion that the proposed amendment on page 5 of attachment "A" deals adequately with the intent of the above cited legislation. This proposed amendment was rewritten after Representative Rogers' testimony.

#### HOUSEKEEPING AMENDMENTS -

There was no opposition to the proposed housekeeping amendments; however, several additional housekeeping amendments were proposed. Those accepted for submission to the Commission are contained within attachment "A".

SUBSTANTIVE ISSUES -

Each issue proposed is discussed individually as follows:

1. Sizing of subsurface systems - two sub-issues within this issue were heavily supported with some modifications; minimum capacity of septic tanks and hardship connections to existing systems. These two revised proposed amendments are set forth on page 10.

The other sub-issues within this issue; definition of "Bedroom", initial use or re-use of abandoned subsurface systems and their appendant proposed rule amendments are being deferred and referred to the CAC for additional consideration, particularly with regard to coordination with the uniform building code.

2. Protection of groundwater aquifers - although it is generally agreed that protection of groundwater in East Multnomah County is long overdue it is felt that the proposed amendments do not deal fully with this problem. It is proposed that this issue be deferred while the Department, Multnomah County, the City of Portland and the Columbia Region Association of Governments (CRAG) develops a plan to deal completely with this issue. It is expected that a plan can be developed by the Department and adopted by the Commission to deal with such troublesome questions as sewerage system plans and funding, interim and permanent systems to serve existing lots, interim and permanent systems to serve new subdivisions, etc. This plan should be developed by September 1, 1978.
3. Use of pit privies for disposal of black wastes from dwellings - All testimony on this proposal was negative. The proposal according to the testimony would be a giant step backward. As a result this proposal was dropped from the package of proposed amendments.

4. Standardization of variance procedures - The proposal to repeal the Rural Areas Variance Rule 340-71-030(2) received strong opposition statewide. As a result this proposal was dropped from the package of proposed amendments. The other sub-issue within this proposal, to provide for Commission appeal of denied variances, received support therefore that proposal was left intact.

The following issues with attendant proposed amendments received support, some with minor modifications, and are contained within the proposed amendment package:

- A. Trench construction -
- B. Setbacks for subsurface and alternative sewage system components -
- C. Disclosure of tank capacity on septic tank pumping trucks -
- D. Fee refunds -
- E. Procedures for issuance of experimental systems permits -

In addition to the above other substantive issues were proposed in the course of the hearings as follows:

General Standards - (expansion) It is proposed that five (5) new general standards be added to OAR 340-71-020(1). Those proposed general standards are set forth in proposed amendments on page 14 of attachment "A".

#### Summation

1. ORS 454.625 provides that the Commission, after public hearing, may adopt or amend rules it considers necessary for the purpose of carrying out ORS 454.605 to 454.745.
2. After proper notice public hearings were conducted at four locations within the State of Oregon.
3. As a result of input at public hearings proposed amendments were either dropped, deferred, modified or left as originally proposed and some new amendments proposed.

Director's Recommendation

It is the Director's recommendation that:

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

*Bill*

WILLIAM H. YOUNG

T. Jack Osborne:aes  
229-6218  
1/7/78  
Attachments

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

In the Matter of the Adoption )  
of Amendments to Oregon ) Statement of Need  
Administrative Rules, Chapter )  
340, Divisions 71, 72, 74 & 75 )

The Environmental Quality Commission intends to adopt amendments to Oregon Administrative Rules, Chapter 340, Divisions 71, 72, 74 & 75, (Subsurface & Alternative Sewage Disposal).

- (a) Legal Authority: ORS Chapter 183 & ORS 454.625
- (b) Need for Rule: The Commission is required to adopt rules necessary for carrying out ORS 454.605 to 454.745. The need for amendments occurs periodically as a result of recent legislation, minor errors or unclear rules that require correction or clarification, or the necessity to address substantive environmental issues.
- (c) Documents Relied Upon:
1. Chapter 171, Oregon Laws 1977 (SB 337)
  2. Chapter 523, Oregon Laws 1977 (HB 2858)
  3. Chapter 828, Oregon Laws 1977 (HB 3225)
  4. The Department of Environmental Quality's discussion document entitled "Proposed Amendments to Oregon Administrative Rules Pertaining to Alternative and Subsurface Sewage Disposal", dated February 1978, consisting of 66 pages.

Date:

ENVIRONMENTAL QUALITY COMMISSION

By: \_\_\_\_\_



PROPOSED AMENDMENTS TO  
OREGON ADMINISTRATIVE RULES  
PERTAINING TO ALTERNATIVE AND  
SUBSURFACE SEWAGE DISPOSAL

February 1978

DEPARTMENT OF  
ENVIRONMENTAL  
QUALITY



PROPOSED AMENDMENTS TO  
OREGON ADMINISTRATIVE RULES  
340-71-005 to 340-71-045

AMENDMENTS  
NECESSITATED OR WARRANTED  
AS A RESULT OF  
LEGISLATION PASSED IN  
1977 LEGISLATIVE SESSION

THE FOLLOWING BILLS ARE  
ADDRESSED IN THIS SECTION

Chapter 171, Oregon Laws 1977 (SB 337)  
Chapter 523, Oregon Laws 1977 (HB 2858)  
Chapter 828, Oregon Laws 1977 (HB 3225)

Chapter 523, Oregon Laws 1977 (HB 2858)

Discussion

Chapter 523, Oregon Laws 1977 (HB 2858) requires the State Department of Commerce to develop rules setting standards for installation of composting toilets.

Bond may be required for manufacturers of composting toilets.

This statute also sets methods for gray water disposal that must be allowed by the DEQ.

Also allows the Department to accept pretreatment devices for gray water in addition to the septic tank.

With the passage of this legislation and the acceptance by the State Department of Commerce of other units that handle toilet wastes only rules to deal with split waste systems becomes necessary.

Proposed Amendment

340-71-040, add a new subsection (4).

340-71-040(1) . . .

(b) The privy shall be located and constructed in a manner to eliminate the entrance of surface water into the pit, either as runoff or as flood water.

(c) When the pit becomes filled to within sixteen (16) inches of the ground surface, a new pit shall be excavated and the old one shall be backfilled with at least two (2) feet of earth.

(3) Self-Contained Nonwater-Carried Waste Disposal Facilities:

(a) The contents of a self-contained nonwater-carried waste disposal facility shall not be permitted to overflow onto the surface of the ground or otherwise cause a public health hazard or adversely affect public waters.

(b) Standards required to be met for the construction of self-contained nonwater-carried waste disposal facilities are found in Appendix F, which by this reference are incorporated herein.

(c) All buildings housing self-contained nonwater-carried waste disposal facilities shall be constructed according to the standards contained in Appendix F.

Statutory Authority: ORS 468.020, 454.615, and 454.625  
Hist: Filed and Eff. 10-5-73 as DEQ 57(Temp)  
Filed and Eff. 2-1-74 as DEQ 65(Temp)  
Filed 3-28-74 as DEQ 68, Eff. 4-26-74  
Amended 9-2-75 by DEQ 98, Eff. 9-25-75  
Amended 10-29-76 by DEQ 124, Eff. 11-1-76

→"(4) Split waste systems. In dwellings or other facilities for which the State Department of Commerce has authorized installation of plumbing fixture units that are nonwater-carried and designed to handle black wastes only, such as recirculating oil flush toilets or compost toilets, gray water may be discharged into:

(a) Standard subsurface systems on sites meeting requirements of these rules except that such system shall use two-thirds (2/3) the normal size subsurface drainfield which is preceded by a septic tank or other pretreatment facility approved by the Department; or

(b) An existing subsurface system which is functioning satisfactorily; or

(c) A public sewerage system which serves the facility from which such gray water is derived."

Chapter 171, Oregon Laws 1977 (SB 337)

Discussion

Chapter 171 Oregon Laws 1977 (SB 337)

requires 3 1/2 gallon flush toilets starting January 1, 1978 in new hotels, motels, apartment houses and single family dwellings. In theory, this should reduce the toilet sewage flow by 40% and the total sewage flow by 15%.

The Department of Commerce has accepted for general use a two quart low flush toilet. Use of this toilet would reduce the toilet sewage flow by 90% and the total sewage flow by 30%, over the present 5 1/2 gallon flush toilet.

Proposed Amendment

To 340-71-030(3), add new subsections (d) and (e):

340-71-030(1) . . . .

(3) Minimum Seepage Area. All disposal fields shall comply with the following requirements:

(a) The bottom of the disposal trench or seepage trench shall not be calculated as seepage area. Only the trench effective sidewall area shall be calculated as seepage area. The amount of effective sidewall area required for each disposal field shall be determined by consideration of soil characteristics, including texture and levels of restrictive layers, observed and anticipated perched ground water levels, topographical and climatological features.

(b) Where restrictive layers are encountered, Table 5 shall be used to determine the minimum effective sidewall area.

Note: This table shall not be used to determine soil suitability for disposal area installation.

(c) Where observed or projected liquid water is encountered, Table 6 shall be used to determine the minimum effective sidewall area.

Note: This table shall not be use to determine soil suitability for disposal area installation.

"(d) After January 1, 1978, subsurface sewage system construction permits issued for new hotels, motels, apartment houses, single family dwellings or other facilities which utilize three and one-half (3 1/2) gallon flush toilets, approved by the State of Oregon, Department of Commerce, shall provide for a 10% reduction in the drainfield sidewall seepage area over that required by these rules."

"(e) Subsurface sewage system construction permits issued for new hotels, motels, apartment houses, single family dwellings or other facilities which utilize two (2) quart flush low volume toilets, approved by the State of Oregon, Department of Commerce, shall provide for a 25% reduction in the drainfield sidewall seepage area over that required by these rules."

Chapter 523, Oregon Laws 1977 (HB 2858)

Continued

Proposed Amendment

340-71-030(5)(g) insert "pretreatment facility such as, but not limited to"

340-71-030(5)(a) ...  
(g) For dwellings and other structures with piped in running water and for which nonwater-carried black waste disposal facilities are permitted under section 340-71-040, gray water waste disposal systems consisting of a septic tank and disposal field may be utilized for disposal of gray water under the following conditions:

(A) There shall be adequate area available for a full size initial and replacement disposal field.

(B) The capacity of the septic tank shall be not less than that required under section 340-71-025 for a septic tank handling both black waste and gray water.

(C) The effective sidewall area of the disposal field shall be not less than two thirds (2/3) of that required under section 340-71-030 for a disposal field receiving both black waste and gray water septic tank effluent.

(6) Seepage Trenches:

(a) Seepage trenches may be used in areas where the unsaturated zone is sufficiently deep and where degradation of the quality of any public waters would not result. Any permit for a seepage trench proposed to be issued by any authorized representative other than the Department's staff shall receive the prior written concurrence of the Department. Seepage trenches shall not be used in an area where disposal trenches can be utilized.

Areas considered for seepage trench construction shall meet all conditions required by subsection (1) of this section.

(b) Seepage trench dimensions shall be determined by the following formula:

Length of seepage trench= (4) (Length of disposal trench)/(3 + 2D) Where D= depth of filter material below distribution pipe in feet.

Insert "followed by a"

a

smaller

larger

Chapter 828, Oregon Laws 1977 (HB 3225)

Discussion

Chapter 828, Oregon Laws 1977 (HB 3225) was an attempt to eliminate the overlap in jurisdiction over building sewers between the DEQ and the Department of Commerce.

This legislation provided (1) that building sewers are plumbing and, therefore, under Department of Commerce jurisdiction.

(2) That sewage disposal service licensees as well as plumbers could install building sewers after receiving a permit for plumbing inspection under ORS 447.095.

(3) Deletion of building sewers from DEQ statutes.

(4) That Department of Commerce may contract with sanitary districts and county service districts to perform inspection of building sewers.

The following definition amendments are required as result of Chapter 828, Oregon Laws 1977 (HB 3225)

EXISTING DEFINITION

1. 340-71-010(3)

(3) "Alternative sewage disposal system" means a system consisting of a building sewer, a septic tank or other sewage treatment or storage unit, and a disposal facility or method consisting of other than an absorption facility, but not including discharge to public waters of the State of Oregon.

2. 340-71-010(85)

(85) "Subsurface sewage disposal system" means the combination of a building sewer and cesspool or a building sewer, septic tank, or other treatment facility and effluent sewer and absorption facility.  
(See Diagrams 5A and 5B)

PROPOSED AMENDMENTS

(3) "Alternative sewage disposal system" means a system consisting of [a building sewer,] a septic tank or other sewage treatment or storage unit, and a disposal facility or method consisting of other than an absorption facility, but not including discharge to public waters of the State of Oregon.

(85) "Subsurface sewage disposal system" means [the combination of a building sewer and] a cesspool or [a building sewer] the combination of a septic tank or other treatment unit and effluent sewer and absorption facility.

Matter underlined is new; matter bracketed is existing language to be omitted.

Chapter 828, Oregon Laws 1977 (HB 3225)

Continued

Discussion

Chapter 828, Oregon Laws 1977 (HB 3225) requires that sewage disposal service licensees installing building sewers obtain a permit for plumbing inspection of that installed building sewer.

Proposed Amendment

340-71-045(11) insert "after obtaining a permit for plumbing inspection under ORS 447.095".

340-71-045(1) . . . . .

(a) Discharge no part of the contents upon the surface of the ground unless specifically authorized by the Department in writing.

(b) Dispose of such pumpings only in disposal facilities or treatment facilities authorized by the Department and operating under permits issued by the Department. Disposal may be conducted at other locations and by approved methods in which written authorization has been obtained from the Department.

(c) Possess at all times during pumping, transport, or disposal of wasted waste disposal facilities for temporary or limited usages, such as recreation parks, isolated individual camp sites, farm labor camps, or on construction sites, if all liquid wastes can be handled in vices rendered, completed on forms approved by the Department.

(d) Maintain on file origin-destination receipts and data summary forms, provided by the Department, pertaining to the monitoring of pumping, transport and disposal operations. The licensee shall submit summary data forms to the Department quarterly unless otherwise agreed by the Department. Summary data form information required by the Department shall include, but not be limited to:

(A) Source of all material pumped on each occurrence, including name and address of source.

(B) Specific type of material pumped on each occurrence.

(C) Quantity of material pumped on each occurrence.

(D) Name and location of authorized disposal site, operating under permit or authorization of the Department, where pumpings were deposited on each occurrence.

(E) Quantity of material deposited on each occurrence.

(e) Transport the contents in a manner that will not create a nuisance or public health hazard.

(11) Personnel Qualifications. Any person operating a sewage disposal service licensed by the Department may employ personnel other than journeyman plumbers licensed under ORS Chapter 693 to perform the manual work of installing the pipe in drain and sewage lines from five feet outside a building or structure to the service lateral at the curb or in the street or alley or other disposal terminal holding human or domestic sewage.

Statutory Authority: ORS 468.020, 454.615, and 454.625

Hist: Filed and Eff. 2-1-74 as DEQ 65(Temp)

Filed 3-28-74 as DEQ 68, Eff. 4-26-74

Amended 9-2-75 by DEQ 98, Eff. 9-25-75

Amended 10-29-76 by DEQ 124, Eff. 11-1-76

PROPOSED  
AMENDMENTS  
INVOLVING  
SUBSTANTIVE ISSUES



ISSUES

1.	Minimum Capacity of Septic Tanks . . . . .	page 10
2.	Hardship Connections to Existing Systems . . . . .	page 10
3.	General Standards . . . . .	page 14
4.	Trench Construction . . . . .	page 17
5.	Setbacks for Subsurface or Alternative Sewage System Components	page 20
6.	Disclosure of Tank Capacity on Septic Tank Pumping Trucks . . .	page 23
7.	Fee Refunds . . . . .	page 25
8.	Procedures for Issuance of Experimental Systems Permits . . . .	page 27
9.	Variance Appeals . . . . .	page 37

→ INDICATES DEPARTMENT'S PREFERRED ALTERNATIVE

ISSUE - Minimum Capacity of Septic Tanks

At present, Administrative Rules provide for septic tank sizing based on number of bedrooms with the minimum tank size of 750 gallons to serve a maximum of two (2) bedrooms. As the number of bedrooms increase within a dwelling, the size of septic tank required is increased by specified increments. When systems are installed, they meet only the absolute minimum, then problems may be created if the owner wishes to increase the use of the subsurface system (add bedrooms or other units). Present rules prohibit an increased use of a subsurface system beyond its design capacity, including the septic tank. For example, if a system is installed to serve a two bedroom dwelling and the minimum size tank (750 gallons) is used, then bedrooms may not be added to that dwelling without replacing the septic tank with at least the appropriate larger size.

Alternatives

- (a) Leave Administrative Rules as presently written.
- (b) Amend rules to allow an increased use of an existing, but undersized system within defined limitations.
- (c) Amend rules to provide for a minimum size septic tank to serve dwellings with up to four (4) bedrooms.

Proposed rule amendments to accomplish (c) above are set forth on page 12.

ISSUE - Hardship Connections to Existing Systems

One problem that frequently confronts the Department or contract county is that of whether to allow persons with personal hardships to connect a mobile home to an existing subsurface system already serving another home. A hardship most often encountered is the case of elderly parents who need to be near their children who can provide assistance. Present Administrative Rules do not provide for such connections.

Alternatives

- (a) Leave Administrative Rules as presently written.
- (b) Amend rules to provide for hardship connections to existing systems.

Proposed amendment to rules to accomplish (b)  
above is set forth on page 13.

Proposed Amendment 340-71-025(2) (a)

Insert: "Effective January 1, 1979 the following table of septic tank sizes shall be required for new installations:

<u>Number of Bedrooms</u>	<u>Required Minimum Capacity in Gallons</u>
1 to 4	1000
5	1250
More than 5	1500"

Septic Tanks

340-71-025 All septic tanks shall comply with the following requirements:

(1) Required liquid capacity of the first compartment of septic tanks shall be at least seven hundred fifty (750) gallons for flows up to five hundred (500) gallons per day; shall be equal to at least one and one-half (1-1/2) days' sewage flow for flows between five hundred (500) and fifteen hundred (1500) gallons per day; and shall be equal to eleven hundred twenty-five (1125) gallons plus seventy-five (75) percent of the daily sewage flow for flows greater than fifteen hundred (1500) gallons per day. Additional volume may be required by the Director or his authorized representative for industrial wastes or other special wastes. The quantity of daily sewage flow shall be estimated by the Director or his authorized representative using the daily sewage flow chart under the rule section on Subsurface Sewage Disposal Systems. (Table 3).

(2) Minimum Liquid Capacity - Septic tanks shall be sized according to subsection (1) above except that in no case shall a septic tank have a liquid capacity less than indicated in the following:

(a) Single Family Dwellings:

<u>Number of Bedrooms</u>	<u>Required Minimum Capacity in Gallons</u>	<u>Recommended Liquid Capacity in Gallons</u>
1	750	1200
2	750	1200
3	900	1200
4*	1000	1200

\*For each additional bedroom, add two hundred fifty (250) gallons to tank capacity.

(b) Minimum liquid capacities of septic tanks for structures and establishments not listed shall be determined by the Director or his authorized representative.

Proposed Amendment 340-71-016

Add a new subsection (8):

"(8) Personal hardship connections to existing systems. Upon receiving proof that a hardship exists within a family in that a family member is suffering either physical or mental impairment, infirmity, or is otherwise disabled and after determination that all the provisions of subsection(4) of this section have been satisfied, the Director or his authorized representative may allow a mobile home to connect to an existing system serving another residence in order to provide housing for the family member suffering hardship. Connection shall be for a specified period, renewable on an annual basis, but not to exceed cessation of the hardship. The Director or his authorized representative shall impose conditions in the connection permit necessary to assure protection of public health and public waters."

340-71-016(1)

having a greater sewage flow (including, but not limited to, size of septic tank and disposal field, characteristics of soils, absence of ground water, and setback requirements) the permit shall authorize the connection of an establishment having a sewage flow of not more than that authorized by the standards and requirements in effect at the time of application.

(7) An "existing subsurface or alternative sewage disposal system" means a subsurface or alternative sewage disposal system which was constructed pursuant to a permit and for which a Certificate of Satisfactory Completion has been issued, or a system the construction of which was completed prior to January 1, 1974.

Statutory Authority: ORS 468.020,  
454.615, and 454.625  
Hist: Filed 9-2-75 as DEQ 98,  
Eff. 9-25-75  
Amended 10-29-76 by DEQ 124,  
Eff. 11-1-76

Issue - General Standards

Problem - OAR 340-71-020(1) sets forth general standards to serve as guides in reviewing all applications for subsurface or alternative sewage disposal system construction permits. It is occasionally necessary to establish new general standards to clarify commission intent and to provide guidance in difficult situations not now addressed in the rules.

The following five (5) situations have proved troublesome and need to be dealt with. For each situation a proposed amendment to OAR 340-71-020(1) is set forth on page 16.

1. A Subsurface system designed to serve one dwelling unit shall not be used to serve two (2) or more dwelling units. As an example, occasionally an application is received to allow two (2) one bedroom mobile homes to connect to a system designed to serve one mobile home with two (2) bedrooms. This should not be allowed because of the potential of system overload. With the one mobile home with two bedrooms you normally have in addition to the two bedrooms, one family, one kitchen and one bath. With the two (2) mobile homes with one bedroom each you have in addition to the two bedrooms, two families, two kitchens, and two baths, resulting in a potentially greater sewage flow than the system was designed for.
2. Newly created lots or parcels should have room for a system to serve at least a three (3) bedroom dwelling. Many lots are now being subdivided or parceled where soil or topographical conditions will allow a home no larger than two bedrooms. Quite often a buyer is not made aware of this restriction until he has purchased the lot or if he is aware will often try to get approval for a larger system in spite of the restriction. Most new homes have a minimum of three (3) bedrooms. It is not realistic to allow new lots to be created where only a two (2) bedroom home may be built.
3. There is some confusion in property descriptions with regard to the difference between tax lot lines and property lines. A general standard would make the two synonymous for the purpose of administering these rules.

4. Approval of lots or parcels with encumbrances. Occasionally a contract county or Department office is requested to approve a lot or parcel for subsurface sewage disposal where encumbrances such as utility company easements exist, particularly power line easements. Many of these easements cover the only area suitable or large enough to install the disposal system. Most of these easements give the utility precedence in use of the easement area. In the event a system is installed in the easement area it may be damaged by vehicular traffic or actually destroyed by the utility in exercise of its rights under the easement. A general standard would provide some protection to home purchasers in this event.
5. Sewage system located to facilitate connection of house plumbing to sewerage system. It is quite common for a subdivision to be approved for on-site sewage disposal where it is logical to expect that a sewerage system will in a comparatively short time be available. In these situations home builders should be encouraged to locate the on-site system in a way that would facilitate connection to the sewerage system. Changing direction of plumbing can be expensive and sometimes difficult. The intent of this rule is to call this to the attention of the homeowner.

Alternatives

- 
1. Adopt the above five (5) general standards thus providing better guidance to field personnel.
  2. Do not adopt the proposed general standards and attempt to deal with these situations administratively.

TJO:aes  
2/2/78

Proposed Amendments

340-71-020 (1) Add a new paragraph (h) to subsection (1): "(h) except where specifically allowed within this Division a system designed to serve a single residence with a specific number of bedrooms shall not be utilized to serve two (2) or more residences containing bedrooms equal or greater in number to that for which the system was designed."

Add a new paragraph (i) to subsection (1): "(i) Lots or parcels created after March 1, 1978 shall be adequate in size to accommodate a system large enough to serve a three (3) bedroom home."

Add a new paragraph (j) to subsection (1): "(j) For the purpose of administering these rules property line and tax lot line are synonymous."

Add a new paragraph (k) to subsection (1): "(k) Before approval of any lot or parcel for subsurface sewage disposal is granted it must be determined that the proposed drainfield site and the replacement site are free of encumbrances that might in the future prevent that site from being used for disposal or encumbrances that might in the future cause physical damage to occur to the system."

Add a new paragraph (l) to subsection (1): "(l) Within urbanizing or other areas where sewerage facilities are expected to replace on-site disposal facilities within five (5) years, the placement of house plumbing to facilitate connection to the sewerage system shall be encouraged."

Subsurface Sewage Disposal Systems

340-71-020 All subsurface sewage disposal systems shall comply with the following requirements:

(1) General Standards:

(a) Public Waters or Health Hazard. If, in the judgment of the Director or his authorized representative, the installation of a subsurface sewage disposal system would cause degradation of the quality of any public waters of the state, or would create a public health hazard, he shall not authorize the installation of the system.

(b) Capacity. The system shall have adequate capacity to properly dispose of the maximum daily sewage flow. The quantity of sewage shall be determined by the Director or his authorized representative based on the greater of the figures listed in Columns 1 and 2 of Table 3 or other valid information that may show different flows.

(c) Operation and Maintenance. All subsurface sewage disposal systems shall be operated and maintained so as not to create a public health hazard or cause degradation of the quality of any public waters.

(d) Repairs. A subsurface sewage disposal system which has violated any prohibition of section 340-71-012 and which has not been repaired shall be repaired. However, if the Director or his authorized representative determines that the system is not repairable, no permit to repair shall issue and the system shall be abandoned pursuant to section 340-71-018.

(e) Prohibited Flows. No cooling water, air conditioning water, ground water, oil, or roof drainage shall be discharged to any subsurface sewage disposal system.

(f) Pipe Materials and Construction. Standards required to be met for pipe used for subsurface sewage disposal systems including the building sewer, the effluent sewer, header pipe, and the distribution pipe in the absorption facility or evapotranspiration system are found in Appendix E. All pipe used in subsurface sewage disposal systems shall comply with the standards set forth in Appendix E which by this reference are incorporated herein, or other standards approved by the Department.

(g) The effluent sewer shall extend at least five (5) feet beyond a septic tank or other treatment facility before connecting to any distribution unit or distribution pipe.



ISSUE - Trench construction.

PROBLEM - At present, the Administrative Rules require that certain disposal trench bottoms be constructed absolutely level. This is next to impossible to accomplish with the equipment (backhoe) used to construct most trenches. Some contract counties and DEQ offices are interpreting this rule literally and requiring reconstruction in some trenches that are not perfectly level. Although it is desirable, trench bottoms do not need to be absolutely level for the system to operate properly.

ALTERNATIVES - (1) Leave rule as presently written.

→ (2) Amend rule to allow a deviation from level for the trench bottom.

The rules need to be amended in six (6) locations as shown on the two (2) attached pages.

Distribution Techniques

340-71-035 (1) Distribution System Design-Disposal trenches shall be constructed according to one of the following methods or other techniques approved by the Department depending on the slope of the ground surface:

(a) Loop System (Diagrams 8A, 8B, and 8C):

(A) The loop system shall be used on level ground only. All laterals and headers shall be level [with no drop] throughout their length.

(B) A distribution box may receive the effluent sewer and concurrently divert the flow into header pipe for each lateral of the absorption facility. In lieu of a distribution box, a series of "tees" laid on an even grade may be used.

(C) Disposal trenches shall be interconnected at the farthest point from the effluent sewer or header pipe by "tees" connecting an additional disposal trench which shall run at right angles to the other trenches.

(D) The elevation of all disposal trenches shall be the same.

(b) Equal Distribution System (Diagrams 10A and 10B):

Proposed Amendment

340-71-035(1)(a)(A), line 3, after "level" delete "with no drop" and substitute "within a tolerance of plus or minus one (1) inch."

Delete "Bottom of each trench and its" and "line". Substitute "pipe and its attached header pipe"

(A) The equal distribution system shall be used on level ground only.

(B) A distribution box may receive the effluent sewer and concurrently divert the flow into header pipe for each lateral of the absorption facility.

(c) Serial System (Diagrams 11A and 11B):

(A) The Serial System shall be used on sloping ground. The [bottom of each trench and its]distribution [line]shall be level.

(B) One overflow pipe or one set of drop-boxes per line shall be used to divert the effluent to the succeeding trench at such time as each fills.

(2) Distribution Boxes:

(a) Construction. Construction of distribution boxes shall comply with the minimum standards set forth in Appendix B.

(b) Foundation. All distribution boxes shall be bedded on undisturbed earth as shown in Diagram 9.

Statutory Authority: ORS 468.020, 454.615, and 454.625

Hist: Filed and Eff. 10-5-73

as DEQ 57(Temp)

Filed and Eff. 2-1-74

as DEQ 65(Temp)

Filed 3-28-74 as DEQ 68,

Eff. 4-26-74

Amended 9-2-75 by DEQ 98,

Eff. 9-25-75

Proposed Amendment

340-71-035(1)(b)(B), line 4, after

"facility." insert a new sentence:

"All laterals and headers shall be at the same elevation and shall be level within a tolerance of plus or minus one (1) inch."

Proposed Amendment

340-71-035(1)(c)(A), line 3, after

"level" insert "within a tolerance of plus or minus one (1) inch."

Proposed Amendment 340-71-030(4)(f)(D)

Delete "two (2) inch drop in every one hundred twenty five (125) feet" and substitute "shall be installed level within a tolerance of plus or minus one (1) inch."

340-71-030(1) . . .

(f) Disposal trenches shall be constructed in accordance with the standard dimensions listed in the following table:

(A) Minimum lines per field using equal distribution system - two (2)

(B) Maximum length per trench - one hundred twenty-five (125) feet

(C) Minimum - diameter of distribution lines - four (4) inches

(D) Maximum grade of distribution lines - two (2) inch drop in every one hundred twenty-five (125) feet

(E) Minimum bottom width of trench - twenty-four (24) inches

(F) Minimum depth of trench - eighteen (18) inches, except in serial trenches, the minimum depth shall be twenty-four (24) inches

(G) Maximum depth of trench - thirty-six (36) inches

(H) Minimum depth of backfill over filter material - six (6) inches

(I) Minimum distance of undisturbed earth between disposal trenches - eight (8) feet\*

(J) Minimum depth of filter material under distribution pipe - six (6) inches

(K) Minimum total depth of filter material - twelve (12) inches

(L) Depth of filter material over distribution pipe - two (2) inches

\*Note: In redundant disposal systems, this dimension applies to disposal trenches designed to operate simultaneously.

(5) Seepage pits, cesspools, and gray water waste disposal sumps and systems:

(a) Seepage pits, cesspools, and gray water waste disposal sumps shall not be used for the subsurface disposal of sewage except where specifically approved by the Department. Each seepage pit and cesspool shall be installed in a location which will facilitate future connection to a community

Proposed Amendment 340-71-030(4)(f)(H)

After "inches" insert "except that in serial trenches the minimum depth of backfill shall be twelve (12) inches."

Proposed Amendment 340-71-030(4)(f)(M)

Add a new subsection "M" to read as follows: "(M) The bottom of each disposal trench shall be level within a tolerance of plus or minus two (2) inches."

ISSUE - Setbacks for subsurface or alternative sewage system components.

- PROBLEM -
- (1) In order to provide a measure of protection for sewage disposal facilities or to property on which facilities are located or to adjacent properties, distance setbacks are established by Administrative Rules. In the case of holding tanks (an alternative system) setbacks were inadvertently omitted from the rules. It is necessary to provide those setbacks by rule amendment as shown on the attached page 21.
  - (2) Normally (but not always) setback distances are greater for disposal areas than for the septic tank. In many instances, septic tanks may be closer to certain facilities or property lines than disposal areas, but still provide the necessary protection. This is the case with curtain drains downslope from disposal areas or septic tanks.

ALTERNATIVES - (1) Leave rules unchanged.



(2) Amend rules to provide proper setbacks as shown on the attached pages.

Proposed Amendment 340-71-037(3) (b)

Add a new paragraph (C) to read  
as follows:

"(C) Setbacks as required in OAR  
340-71-020(2) for septic tanks shall  
be maintained."

340-71-037(1) . . .

(3) Holding Tanks:

(a) The installation and use of holding tanks may be permitted under the following conditions:

(A) They shall be designed, constructed, installed, operated, and maintained in conformance with the requirements of paragraphs (b), (c), and (d) of this subsection.

(B) They may be permitted for permanent use, provided:

(i) The sites are not approvable for installation of subsurface sewage disposal systems and no community or area-wide sewerage systems are available or expected to be available within five (5) years; and

(ii) They are to serve small industrial or commercial buildings or occasional use facilities such as county fairs or rodeos. Unless otherwise authorized by the Department, the average daily flow of sewage to be handled shall not be more than two hundred (200) gallons.

(C) They may be permitted for temporary use, provided:

(i) Community or area-wide sewerage systems are either under construction and scheduled to be completed by a specified date or are committed by a governmental entity to be completed within 5 years, at which time connections to such sewerage system will be available and use of the holding tanks will be discontinued; or

(ii) Installation of approved subsurface or alternative disposal systems has been delayed by weather conditions or for other reasons; or

(iii) They are to serve construction personnel at construction sites.

(b) Minimum design and construction requirements for holding tanks shall be as follows:

(A) Each tank shall be large enough to hold a minimum of seven (7) days sewage flow or 1,000 gallons whichever is larger.

(B) Each tank shall be constructed of durable material meeting the standards for septic tanks set forth in Appendix A of these rules, shall be watertight, shall be designed to facilitate removal of contents by pumping, and shall be equipped with a warning device to indicate when the tank is within 75% of being full. Such warning device shall create both an audible and visible signal at a location frequented by the home owner or responsible individual. No overflow or vent shall be allowed at an elevation lower than the overflow level of the lowest fixture served.

(c) No permit shall be issued for the installation and use of any holding tank unless plans and specifications covering its design and construction have been submitted to and approved by the Department, and the application for the permit contains evidence that a contract has been entered into with a licensed and bonded sewage disposal service company or that other arrangements meeting the approval of the Department

Proposed Amendment

340-71-020(2)(c)(B) under septic tank column, delete "50" and substitute "25".

340-71-020(1) . . . .  
(2) Minimum Separation Distances. Septic tanks and all other treatment facilities, distribution units, and any effective side wall, including the replacement area, shall not be installed closer than the following distance from items below (see footnote 1):

	Sewage Disposal Area	Septic Tanks, Other Treatment Facilities, and Distribution Units
(a) Ground water supplies, excluding springs. (Including temporarily abandoned wells).	100'	50'
(b) Springs:		
(A) Upslope from effective side wall;	50'	50'
(b) Downslope from effective side wall.	100'	50'
(c) Intermittent streams, including all ground water interceptors, agricultural draintile, cuts-manmade and ditches, except curtain drains:		
(A) Curtain drains upslope from effective side wall (see footnote 2);	50'	50'
(B) Curtain drains downslope from effective side wall.	50'	5'

(d) Surface public water, excluding intermittent streams, ground water interceptors, agricultural draintile, cuts-manmade and ditches. (see footnotes 5 & 7):

→ [50]

ISSUE - Disclosure of tank capacity on septic tank pumping trucks.

PROBLEM - The Department has had a number of reports of licensed septic tank pumpers stating that their tanks have a capacity greater than they actually have. This has resulted in some instances of incomplete pumping of tanks and some possible overcharges.

ALTERNATIVES - (1) Leave Administrative Rules as presently worded.

→ (2) Amend rule to provide for disclosure of tank capacity as shown in proposed amendment on attached page.

Proposed Amendment 340-71-045(9), insert:

"Tank capacity shall be printed on both sides of the tank in letters three (3) inches in height and in a color contrasting with the background."

340-71-045(1) . . .

(g) Spreader gates on tank shall be prohibited.

(h) Each truck shall at all times be supplied with a pressurized wash water tank, disinfectant, and implements needed for cleanup purposes.

(i) Pumping equipment shall be used exclusively for pumping the contents of septic tanks or other sewage treatment facilities, holding tanks, privies or other nonwater-carried waste disposal facilities unless otherwise authorized by the Director in emergency situations.

(j) Chemical toilet cleaning equipment shall not be used for any other purpose.

(7) Equipment Operation and Maintenance:

(a) When in use, pumping equipment shall be so operated that a public health hazard or a nuisance will not be created.

(b) When not in use and parked, all such equipment shall be covered or protected so that an odor or nuisance will not be caused.

(c) Equipment shall be maintained in a reasonable clean condition at all times.

(8) Personnel Responsibilities. The person or persons doing the actual septic tank or other treatment facility, holding tank or vault, chemical toilet, or privy cleaning operation shall avoid spilling, pumping, or dumping the contents of the said septic tank or other treatment facility, holding tank or vault, chemical toilet, or privy in the immediate vicinity of the operation or the highway when transporting the contents for dumping. Any accidental spillage on the ground around the operation shall be cleaned up by the operator and disinfected in such a manner as to render it harmless to humans and animals.

(9) Trucks-Identification. The licensee must display by attached decal, placard, or sign on each side of every tank truck cab, in letters not less than three (3) inches in height and in a color contrasting with the background, the name or duly adopted assumed business name of the license holder as listed on the license and also the business address. Labels issued by the Department for each current license period shall be displayed at all times at the front, rear, and on each side of the "motor vehicle" as defined by the United States Department of Transportation Regulations, Title 49 U.S.C.

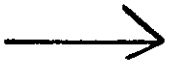
(10) Disposal of Septic Tank or Other Treatment Facility, Holding Tank, Chemical Toilet, Privy, and Other Water and Nonwater-Carried Waste Sludge. Every person licensed by the Department to engage in the pumping out and cleaning out, transporting, and disposal of the contents of septic tanks or other



ISSUE - Fee refunds.

PROBLEM - Statutes [ORS 454.655(3)] states that fees submitted with applications for subsurface or alternative sewage system approvals or permits are nonrefundable. It is felt that it was legislative intent to allow some discretion in application of the statute with regard to fee refunds. It appears logical to provide for refunds under certain conditions. Those conditions should be spelled out in Administrative Rules.

ALTERNATIVES - (1) Interpret the statutes literally and give no refunds.



(2) Provide for refunds under certain conditions by amending the Administrative Rules as shown on the attached page.

**DIVISION 72**

**Fees for Permits, Licenses and Evaluation Reports**

**Definitions**

340-72-005 The definitions contained in ORS 454.605 and section 340-71-010 shall apply as applicable.

Statutory Authority: ORS 468.020, 454.615, and 454.625  
Hist: Filed and Eff. 4-2-74 as DEQ 70(Temp)  
Filed 6-26-74 as DEQ 74, Eff. 7-25-74

**Fees for Permits and Licenses**

340-72-010 (1) Except as provided in subsection (4) of this section, the following nonrefundable fees are required to accompany applications for permits and licenses issued under ORS 454.655 and 454.695:

Subsurface or Alternative Sewage Disposal System	Fee
Construction Installation Permit	\$100
Alteration Permit	25
Repair Permit	25
Extension Permit	25
Sewage Disposal Service Business License	100

(2) A twenty-five dollar (\$25) fee shall be charged for renewal of an expired permit issued under ORS 454.655.

(3) Each fee received pursuant to ORS 454.755, subsection (4) of this section, and section 340-72-020 for a report of evaluation applied for under section 340-72-015 of site suitability or method or adequacy of a new subsurface sewage disposal system, shall be deducted from the amount of the fee otherwise required for the subsequent issuance of a permit for the installation or construction of the new facility or system for which the site evaluation was conducted, provided its findings are still valid or another evaluation study is not considered necessary.

(4) Pursuant to ORS 454.745(4) as contained in Section 10 of Chapter 167, Oregon Laws 1975, and to requests of the respective governing bodies of the following counties all of which have agreements with the Department under ORS 454.725, and notwithstanding the fees listed in subsection (1) of this section and subsection (1) of section 340-72-020,

(a) the fees to be charged by the counties of Clatsop, Crook, Curry, Deschutes, Douglas, Hood River, Jefferson, Josephine, Lincoln, Malheur, Polk, Sherman, Tillamook, and Wasco shall be as follows:

(A) New Construction Installation Permit	\$50
(B) Alteration, Repair or Extension Permit	\$15
(C) Evaluation Reports	\$25

except that in Douglas County the fee for alteration, repair or extension permit shall be \$5, and

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

(A) New Construction Installation Permit	\$25
--	------

(in addition to evaluation report fee)

(B) Alteration, Repair or Extension Permit \$25  
(C) Evaluation Report

(i) Applicant provides soil information obtained by registered sanitarian or professional engineer \$40

(ii) Applicant provides test holes for evaluation by county \$55

(iii) Test holes dug and evaluated by county and \$75

(c) effective from March 1, 1976, the fees to be charged by the county of Linn shall be as follows:

(A) New Construction Installation Permit \$75  
(B) Repair Permit \$5

(C) Alteration, Extension Permit \$25  
(D) Evaluation Reports \$50

and

(d) the fees to be charged by the County of Marion shall be as follows:

(A) New Construction Installation Permit \$75.00  
(B) Alteration, Repair or Extension Permit \$25.00

(C) Evaluation Reports \$37.50

Statutory Authority: ORS 468.020, 454.615, and 454.625

Hist: Filed and Eff. 4-2-74 as DEQ 70(Temp)

Filed 6-26-74 as DEQ 74, Eff. 7-25-74

Amended 6-30-75 by DEQ 91(Temp), Eff. 7-1-75

Amended 9-2-75 by DEQ 98, Eff. 9-25-75

Amended by DEQ 108, Filed and Eff. 3-2-76

Amended by DEQ 111(Temp), Filed and Eff. 5-5-76

Amended by DEQ 117(Temp), Filed and Eff. 8-5-76

Amended by DEQ 120, Filed and Eff. 9-3-76

Proposed Amendment 340-72-010

Add a new subsection (5) to read as follows:

"(5) The provisions of ORS 454.655(3)

notwithstanding fees required by ORS

454.745(1) may be refunded under the

following conditions:

(a) The fee or application was submitted in error.

(b) Applicant requests refund and the application has not been acted upon through staff field visits."

ISSUE -

Procedures for issuance of experimental systems permits.

The legislature has funded an expanded program for experimentation on new or innovative sewage disposal systems. The present procedures on applications and permits are set forth in Oregon Administrative Rules (OAR) Chapter 340, Sections 74-005 to 74-020.

PROBLEMS -

The rules dealing with the experimental sewage systems program are deficient in a number of areas, as follows:

- (1) The intent of the program is not well stated and may be misunderstood;
- (2) Criteria for selecting sites are not clear;
- (3) Stated application and permit issuing procedures are inadequate; and
- (4) Appeal or review procedures are not provided for.

QUESTIONS -

- (1) Who, within the Department, should issue the permit for an experimental system?

Discussion - The permit could be issued by a number of staff individuals, as well as the Director. Those persons considered for this task were the program manager, supervisor of Subsurface and Alternative Sewage Systems Section, administrator of Water Quality Division and the Director.

In order to provide for a more objective review of each system application and not to unduly burden the Director, it is felt that the administrator of the Water Quality Division would be the appropriate person to issue the permits. The permit would be issued only after a review of each application. The proposed rules provide for a permit issuance in this manner.

- (2) Should a technical review committee be established by administrative rule?

Discussion - At present a multi-discipline technical review committee named by the Director and consisting of an engineer, soil scientist and sanitarian, reviews each application and makes a decision on issuance or denial of a particular permit. The program manager issues the permit.

The proposed rules do not formally establish the technical review committee; however, from a practical standpoint, it is felt that the committee is necessary for application review and recommendation to the division administrator.

- (3) Should the rules provide for an appeals mechanism?

Discussion - After discussion with legal counsel, it has been determined that there is little, if any, legal basis for appealing a denied experimental systems permit. It does appear appropriate for a review of denials.

The proposed rules will provide, upon request, for a review of a denied permit by the Director. The Director would have the prerogative of referring a denial to the Commission for review and decision.

Another option may be to provide for an appeal directly to the Environmental Quality Commission rather than to the Director of DEQ.

ALTERNATIVES - (1) Leave present administrative rules intact.



- (2) Amend administrative rules governing experimental sewage systems to provide clarity and better procedures.

PROPOSED AMENDMENT

Delete the present rule OAR Chapter 340, Sections 74-005 to 74-020 in their entirety and substitute the new proposed rules attached.

**DIVISION 74**

**Experimental Facilities for Sewage Disposal**

**Statement of Purpose**

**340-74-005** The Commission acknowledges the need for progress in technology and design which will further the development of efficient and effective on-site sewage treatment and disposal. For that purpose any person may apply to the Department for an experimental sewage disposal facility installation permit.

**Statutory Authority:** ORS 468.020, 454.615, and 454.625  
**Hist:** Filed 9-2-75 as DEQ 98, Eff. 9-25-75

**Application and Permit Requirements**

**340-74-015** (1) Application for an experimental sewage disposal facility installation permit shall be made in a form prescribed by the Department and shall be accompanied by a nonrefundable fee as required by ORS 454.745. The application shall include design specifications, detailed plans, any available laboratory or field test data, and such other information as the Department considers necessary to determine eligibility for installation of such a facility. If the proposed facility is determined to be ineligible the application shall be denied.

(2) The permit shall:

(a) Specify the method and manner of facility installation and operation;

(b) Specify the method, manner and duration of field testing and monitoring needed to produce required performance data; and

(c) Require the prompt submission to the Department of test results.

(3) The owner of the proposed facility shall agree in writing to hold harmless the State of Oregon, its officers, employees, and agents, from any and all loss and damage caused by defective installation or operation of the proposed facility.

(4) The permit shall be issued with the following precautions to the permittee:

(a) That there is no express or implied warranty by the Department or Commission that the proposed experimental facility will function properly for its intended purpose; and

(b) That the Department expects to monitor its operation and, if it fails to function properly and as a result threatens to create a public health hazard or cause pollution of public waters, the Department will require that it be repaired so as to function properly or be abandoned.

**Statutory Authority:** ORS 468.020, 454.615, and 454.625  
**Hist:** Filed 9-2-75 as DEQ 98, Eff. 9-25-75  
Amended 10-29-76 by DEQ 124, Eff. 11-1-76

**Repair or Replacement of Facility**

**340-74-020** If the Department finds that the installation or operation of the experimental sewage disposal facility is unsatisfactory, the permittee upon notification by the Department shall promptly repair or modify the facility in a manner acceptable to the Department or replace it with another facility acceptable to the Department.

**Statutory Authority:** ORS 468.020, 454.615, and 454.625  
**Hist:** Filed 9-2-75 as DEQ 98, Eff. 9-25-75

Proposed Amentment: 340-74-005 to 74-020

Delete present rule for experimental facilities for sewage disposal in their entirety and substitute the proposed rules on pages 30 thru 36.

Draft  
Proposed Amendments  
to  
Oregon Administrative Rules Relating  
to  
Experimental Sewage Disposal Systems  
October 11, 1977

74-004 STATEMENT OF POLICY. The Environmental Quality Commission recognizes:

1. Alternative technologies to conventional septic and drainfield sewage disposal systems are needed in areas planned for rural or low density development.
2. Standards for alternative disposal systems must be developed based on information obtained from a controlled program of field testing and evaluation.
3. Funds available to the State of Oregon for testing the acceptability of alternative systems are limited. Careful selection of the types and numbers of systems to be studied is necessary.
4. The testing of alternative systems requires the cooperation of citizens willing to risk investing money on an experimental system which may fail and require replacement.
5. An experimental program is not intended to serve as the last resort for obtaining an on-site sewage disposal permit where all other attempts to get a permit fail.

6. Any program of experimentation must be carried out with the recognition failures will occur. Appropriate steps must be taken to insure adequate protection of public health, safety, welfare and the potential purchasers of properties where experimental systems are installed.

Therefore, it is the policy of the Commission that the Department pursue a program of experimentation to obtain sufficient data for the development of alternative disposal systems, rules and standards which may benefit significant numbers of people in areas of need within Oregon.

74-010 DEFINITIONS. All definitions under ORS 468.700 and OAR 74-71-010 shall apply as applicable.

74-011 MINIMUM CRITERIA FOR SELECTING EXPERIMENTAL SITES. The Commission recognizes minimum criteria are necessary for selecting experimental disposal systems sites.

Sites may be considered for experimental permit issuance where:

1. Soils, climate, groundwater or topographical conditions are common enough to benefit large numbers of people. Sites will not be considered for permit where soils, climate, groundwater or landscape have little in common with other areas.
2. A specific acceptable backup alternative is available in the event the experimental system fails.

Backup alternatives may include but are not limited to repair, expansion, connection to a sewer, installation of a different system, or abandonment of site.

3. For absorption systems, soils in both original development and expansion areas are similar.

4. Installation of a particular system is necessary to provide a sufficient data sampling base.
5. Zoning, planning and building requirements allow system installation.
6. A single family dwelling or its waste water producing equivalent will be served.
7. The permitted system will be used on a continuous basis during the life of the test project.
8. Resources for monitoring, sample collection and laboratory testing are available.
9. Legal and physical access for construction inspections and monitoring are available to the Department.
10. The property owner will record an affidavit notifying prospective purchasers of the existence of an experimental system.

74-012 PRELIMINARY EXPERIMENTAL SYSTEM PROPOSALS. The Commission and Department desire to minimize expenses for potential experimental systems applicants until it can be determined there is strong potential a proposal can be accepted for approval. Therefore, the following procedures shall apply:

1. A preliminary experimental proposal shall be directed to the Department for review to determine if they meet minimum site selection criteria. The Department will evaluate the proposed experimental site to help determine if it meets minimum site selection criteria.



2. Where the Department finds a preliminary proposal meets minimum site selection criteria, it will advise the prospective experimental applicant to complete and file an application for permit pursuant to OAR 340-74-015. The Department will advise and assist the applicant to the extent possible in this process.
3. Where the Department finds minimum site selection criteria are not met, the prospective experimental applicant will be advised against making permit application.

74-013 PERMIT REQUIRED FOR CONSTRUCTION. Without first obtaining a specifically conditioned permit, from the Department, no person shall construct or install an experimental on-site treatment and disposal system.

74-015 PROCEDURES FOR ISSUANCE OR DENIAL OF PERMITS.

1. Application for permit shall be made on forms approved and provided by the Department. All application forms must be completed in full, signed by the applicant or his legally authorized representative and accompanied by a fee as required under ORS 468.065(2).

Applications shall include detailed design specifications and plans, all available laboratory or field test data and any additional information the Department considers necessary.

2. The applicant shall agree in writing to hold the State of Oregon, its officers, employees and agents, harmless of any and all loss and damage caused by defective installation or operation of the proposed experimental disposal system.

3. The permit shall:
  - a. Specify the method and manner of disposal system installation, operation and maintenance.
  - b. Specify the method, manner and duration of the disposal system's testing and monitoring.
  - c. Identify when and where system inspection.
  - d. Require prompt submission of monitoring and test data to the Department.
  - e. Require the permittee to have recorded under deed records in the county where the experimental system is located:
    - (1) An affidavit which informs future purchasers:
      - (a) That an experimental system has been installed on the site and is undergoing Department evaluation;
      - (b) That neither the Commission nor the Department imply, express or warrant the experimental system will operate satisfactorily; and
      - (c) That if the Department finds the experimental system does not operate satisfactorily and as a result threatens to create a public health hazard or pollute state waters, the Department will require the system be repaired, so as to function properly, replaced or be abandoned.
    - (2) An easement which provides the Department legal access for monitoring the experimental system.

4. Permits may be issued by the Water Quality Division Administrator when the Department receives a completed experimental application and has determined minimum criteria for experimental site selection can be met.
5. Permits are not transferable. Permits shall be issued directly to applicants.
6. System construction and use are required within one (1) year of permit issuance.
7. If the proposed experimental system is determined ineligible, the Water Quality Division Administrator will notify the applicant of denial of the permit and the reasons for denial.
8. The decision by the Water Quality Division Administrator to either issue or deny a permit may, upon request, be reviewed by the Director of DEQ. The Director has the prerogative of affirming or reversing the decision, or referring the matter to the Commission for a decision.

74-017 INSPECTION OF COMPLETED CONSTRUCTION: CERTIFICATE OF SATISFACTORY COMPLETION.

1. Upon completing construction for each inspection phase required under permit, the permit holder shall notify the Department. The Department shall inspect construction to determine if it complies with provisions established in the permit and transmittal letter.

2. Where construction complies with permit terms, the Department shall issue a Certificate of Satisfactory Completion.

74-020 REPAIR OR REPLACEMENT OF FACILITY. If the Department finds the installation or operation of the experimental sewage disposal system is unsatisfactory, the owner upon notification from the Department, shall promptly repair or modify the disposal system in a manner acceptable to the Department, replace it with another acceptable disposal system, or as a last resort, abandon the site.

ISSUE - Variance appeals.

PROBLEM - Variances to Administrative Rules for subsurface sewage disposal are provided for in OAR 340-75-010 to 060, "Variances." Variance rules (340-75-010 to 060) have been in effect since July 14, 1975 and are based upon State Law (ORS 454.657, 454.660 and 454.662). Present rules do not provide for administrative review or appeal of a denied variance. Appeal to the Commission seems appropriate.

ALTERNATIVES - The variance program operated under OAR 340-75-010 to 060 has been running quite smoothly with a comparatively high approval rate. This program allows maximum flexibility in granting permits, while providing protection to the environment. Any amendments to these rules should be carefully considered so as not to damage an extremely successful program. Amendment to OAR 340-75-050 should be considered to allow EQC review of variance denials. This can be accomplished in a way that would not damage the program.

→ The proposed amendments on page 38 would provide for EQC review of denials.

variance to be acted upon by the Department. The Department shall disburse twenty-five (25) dollars of the variance fee per granted variance to counties under agreement pursuant to ORS 454.725. Such counties shall issue construction permits, perform final inspection of installed systems and issue Certificates of Satisfactory Completion in cases where variances are granted. Fees submitted with applications to counties under agreement to perform variance duties shall be in accordance with the fee schedule established by the county, not to exceed one hundred and fifty (150) dollars per application. Fees collected by a county with a variance agreement may be retained by that county to meet administrative expenses of hearings.

Statutory Authority: ORS 468.020, 454.615, and 454.625  
Hist: Filed and Eff. 7-14-75 as DEQ 94(Temp)  
Filed 9-2-75 as DEQ 98, Eff. 9-25-75  
Amended 10-29-76 by DEQ 124, Eff. 11-1-76

#### Hearings

**340-75-045** The variance officer shall hold a public information type hearing on each application for a variance at which time the variance officer will receive pertinent testimony from any interested person. The variance officer may visit the site of the proposed system if he deems it necessary to his reaching a decision.

Statutory Authority: ORS 468.020, 454.615, and 454.625  
Hist: Filed and Eff. 7-14-75 as DEQ 94(Temp)  
Filed 9-2-75 as DEQ 98, Eff. 9-25-75

#### Proposed Amendment 340-75-050

In the first sentence after "grant" insert "or deny".

Delete the second sentence in its entirety.

#### Appeals

**340-75-050** Decisions of the variance officer to grant a variance may be appealed to the Environmental Quality Commission. [A decision of the variance officer to deny a variance is final and not subject to administrative appeal]

Statutory Authority: ORS 468.020, 454.615, and 454.625  
Hist: Filed and Eff. 7-14-75 as DEQ 94(Temp)  
Filed 9-2-75 as DEQ 98, Eff. 9-25-75

#### Inspection of Installed Systems

**340-75-055** Each system installed as a result of a variance shall be inspected by the Department or by the county in counties under agreement pursuant to ORS 454.725. Systems found to be in compliance with the provisions of the construction permit and the conditions imposed therein shall be issued a certificate of satisfactory completion.

Systems failing to comply with the provisions of the construction permit and the conditions imposed therein shall not be operated or used until a certificate of satisfactory completion is issued.

Statutory Authority: ORS 468.020, 454.615, and 454.625  
Hist: Filed and Eff. 7-14-75 as DEQ 94(Temp)  
Filed 9-2-75 as DEQ 98, Eff. 9-25-75

#### Administrative Review

**340-75-060** The Department may review all records and files of variance officers to determine compliance or noncompliance with the provisions of these rules.

Statutory Authority: ORS 468.020, 454.615, and 454.625  
Hist: Filed and Eff. 7-14-75 as DEQ 94(Temp)  
Filed 9-2-75 as DEQ 98, Eff. 9-25-75

PROPOSED  
HOUSEKEEPING  
AMENDMENTS

PROPOSED HOUSEKEEPING AMENDMENTS

1. Discussion

Chapters 167, 171 and 309 Oregon Laws 1975 have been incorporated into ORS 454.605 through 454.745 as appropriate.

Proposed Amendment (340-71-005)

Delete "167, 171 and 309" and "1975" - substitute "171, 523 and 828" and "1977" for deleted matter.

**SUBSURFACE SEWAGE AND ALTERNATIVE DISPOSAL**

[ED NOTE: Effective January 1, 1974, Chapter 835, Oregon Laws 1973 transferred jurisdiction for subsurface sewage disposal to the Department of Environmental Quality and initiated a state-wide permit program for installation of subsurface systems. Chapter 835, Oregon Laws 1973 also repealed State Health Division legal authorities effective October 5, 1973. In order to provide continuity of the program with minimum changes until January 1, 1974, and based on authorities contained in ORS 449, the Department of Environmental Quality adopted temporary rules to cover the interim period and the Department of Environmental Quality and the State Health Division entered into a contract pursuant to ORS 449.062 whereby the Health Division and local Health Departments continued to implement the subsurface program until January 1, 1974.]

**DIVISION 71**

**Standards for Subsurface and Alternative Sewage and Nonwater-Carried Waste Disposal**

[ED NOTE: All Tables and Diagrams referred to in the text of Division 71 may be found in numerical order at the end of the division.]

**Statement of Purpose**

340-71-005 These rules, adopted pursuant to the provisions of ORS 454.605 through 454.745 and Chapters [167, 171, and 309] Oregon Laws [1975] prescribe the requirements for the construction, operation, and maintenance of subsurface and alternative sewage disposal systems and nonwater-carried waste disposal facilities and establish procedures for regulation of such activities. They are for the purpose of restoring and maintaining the quality of the public waters and of protecting the public health and general welfare of the people of the State of Oregon.

Statutory Authority: ORS 468.020, 454.615, and 454.625

Hist: Filed and Eff. 2-1-74 by DEQ 65(Temp)

Filed 3-28-74 as DEQ 68, Eff. 4-26-74

Amended 9-2-75 by DEQ 98, Eff. 9-25-75



2. Discussion

To clarify that in a subsurface system header pipe conveys effluent from drop boxes as well as distribution boxes.

Proposed Amendment [340-71-010(47)]

Insert "drop box"



340-71-010(1) . . .

into the atmosphere and for transpiration by specifically selected and located vegetation.

(37) "Filter material" means clean, crushed stone or washed gravel ranging from three quarters (¾) to two and one-half (2½) inches in size. (See Diagram 7)

(38) "Five-day biochemical oxygen demand" (5-day BOD) means the quantity of oxygen used in the biochemical oxidation of organic matter in five days at twenty (20) degrees centigrade under specified conditions and reported as milligrams per liter (mg/l).

(39) "Geographic region rule" means a subsurface sewage disposal rule that is applicable to certain geographic regions of the state but not to the entire state, as authorized in ORS 454.615(1).

(40) "Governmental unit" means the state or any county, municipality, or political subdivision, or any agency thereof.

(41) "Grade" means the rate of fall or drop in inches per foot or percentage of fall of a pipe.

(42) "Gray water" means any household sewage other than toilet wastes and includes, but is not limited to, shower and bath waste water, kitchen waste water, and laundry wastes.

(43) "Gray water waste disposal system" means a subsurface or alternative sewage disposal system for the disposal of gray water.

(44) "Gray water waste disposal sump" means a series of approved receptacles designed to receive gray water for absorption into the soil. (See Diagrams 15A and 15B)

(45) "Ground water interceptor" means any natural or artificial ground water drainage system including agricultural drain tile, cut banks, and ditches.

(46) "Ground water, perched" means unconfined ground water separated from an underlying body of ground water by a restrictive layer or impervious layer, its water table is a perched water table and the perched ground water is either permanent where recharge is frequent enough to maintain a saturated zone above the perching bed, or temporary, where intermittent recharge is not great or frequent enough to prevent perched water from disappearing from time to time, but is sufficient to cause the presence of perched water for a continuous period of greater than two (2) weeks per year. (See Diagram 1)

(47) "Header pipe" means a tight jointed part of the sewage drainage conduit which receives septic tank effluent from the distribution box, or effluent sewer and conveys it to the disposal area. (See Diagrams 5A, 14A, and 14B)

(48) "Headwall" means a steep slope at the head or upper end of a land slump block or unstable landform. (See Diagrams 4A and 4B)

(49) "Holding tank" means a watertight receptacle designed and constructed to receive and store sewage and to facilitate ultimate disposal of the sewage at another location.

(50) "Impervious layer" means a layer which limits water or root penetration more than a restrictive layer. It is virtually free of roots. In addition, it shall be

3. Discussion

"Rules" is correct terminology -  
need to eliminate the word  
"regulations" in order to prevent  
confusion.

Proposed Amendment [340-71-010(83)

(h)]

Delete "regulations" and insert  
"rules"

340-71-010(1) . . . .  
moist soil is plastic and will form a cast that will  
withstand considerable handling.

(f) Silty clay loam: Consists of a moderate amount  
of clay, a large amount of silt, and a small amount of  
sand. It breaks into moderately hard clods or lumps  
when dry. When moist, a thin ribbon or one-eighth (1/8)  
inch wire can be formed between thumb and finger  
that will sustain its weight and will withstand gentle  
movement.

(g) Silty clay: Consists of even amounts of silt and  
clay and very small amounts of sand. It breaks into  
hard clods or lumps when dry. When moist, a thin  
ribbon or one-eighth (1/8) inch or less sized wire formed  
between thumb and finger will withstand considerable  
movement and deformation.

(h) Clay: Consists of large amounts of clay and  
moderate to small amounts of silt and sand. It breaks  
into very hard clods or lumps when dry. When moist, a  
thin, long ribbon or one-sixteenth (1/16) inch wire can be  
molded with ease. Fingerprints will show on the soil,  
and a dull to bright polish is made on the soil by a  
shovel.

These and other soil textural characteristics are  
also defined as shown in the United States Department  
of Agriculture textural classification chart which is  
hereby adopted as part of these [regulations]. This  
textural classification chart is based on the Standard  
Pipette Analysis as defined in the United States  
Department of Agriculture, Soil Conservation Service  
Soil Survey Investigations Report No. 1. (See Table 2)

(84) "Subsurface sewage disposal" means the phys-  
ical, chemical or bacteriological breakdown and  
aerobic treatment of sewage in the unsaturated zone of  
the soil above any temporarily perched ground water  
body.

(85) "Subsurface sewage disposal system" means  
the combination of a building sewer and cesspool or a  
building sewer, septic tank, or other treatment facility  
and effluent sewer and absorption facility. (See Dia-  
grams 5A and 5B)

(86) "Suspended solids" means solids in the sewage  
that can be removed readily by standard filtering  
procedures in a laboratory and reported as milligrams  
per liter (mg/l).

(87) "Temporarily abandoned well" means any well  
closed by a watertight cap or seal which is removed  
from production for a period of time.

(88) "Test pit" means an open pit dug to sufficient  
size and depth to permit thorough examination of the  
soil to evaluate its suitability for subsurface sewage  
disposal.

(89) "Toilet facility" means a fixture housed within  
a toilet room or shelter for the purpose of receiving  
black waste.

(90) "Unsaturated zone" means the zone between  
the land surface and the water table. This zone  
contains liquid water under less than atmospheric  
pressure. In parts of the zone, interstices, particularly  
the small ones, may be temporarily or permanently

4. Discussion

OAR 340-71-020(1)(a)

Applies to alternative disposal systems as well as subsurface sewage disposal systems. Alternative systems was by oversight omitted at this point.

Proposed Amendment [340-71-020(1)

(a)]

Insert "or alternative" |

Subsurface Sewage Disposal Systems

340-71-020 All subsurface sewage disposal systems shall comply with the following requirements:

(1) General Standards:

(a) Public Waters or Health Hazard. If, in the judgment of the Director or his authorized representative, the installation of a subsurface sewage disposal system would cause degradation of the quality of any public waters of the state, or would create a public health hazard, he shall not authorize the installation of the system.

(b) Capacity. The system shall have adequate capacity to properly dispose of the maximum daily sewage flow. The quantity of sewage shall be determined by the Director or his authorized representative based on the greater of the figures listed in Columns 1 and 2 of Table 3 or other valid information that may show different flows.

(c) Operation and Maintenance. All subsur-

5. Discussion

The setback distances inserted at this point in the rule text are in error. No setbacks should be shown.

340-71-020(2) \_\_\_\_\_

(d) Surface public water, excluding intermittent streams, ground water interceptors, agricultural drain tile, cuts-manmade and ditches. (see footnotes 5 & 7):

(A) Upslope from effective side wall; 50' 50'

(B) Downslope from effective side wall. 100' 50'

(e) Top of downslope cuts-manmade:

(A) Which intersect one or more impervious or restrictive layers 50' 50'

(E) Which do not intersect one or more impervious or restrictive layers, except where intercepting ground water. 25' 10'

(f) Unstable land forms. 50' 50'

(g) Escarpments: [25'] [10']

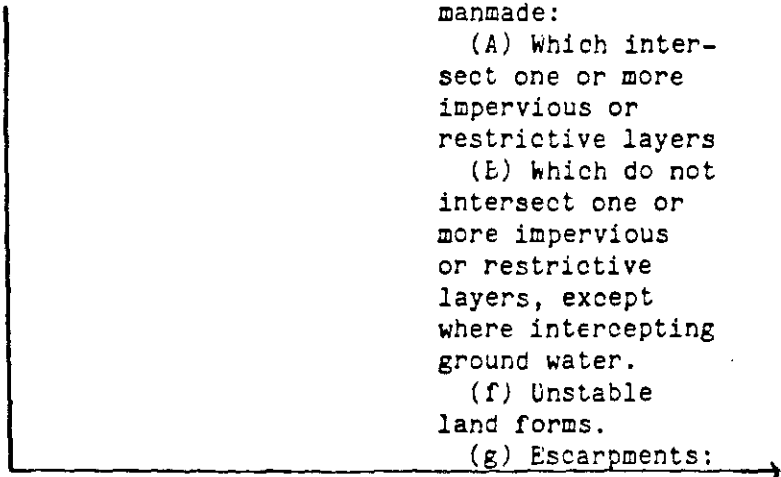
(A) Which intersect one or more impervious or restrictive layers; 50' 10'

(B) Which do not intersect one or more impervious or restrictive layers. 25' 10'

Proposed Amendment[340-71-020(2)

(g)]

Delete "25'" and "10'"



Discussion

The 25' setback from property lines on lots with individual water supplies is a carry-over from the old health division rules when the separation distance between wells and disposal field was 50'. This setback is no longer appropriate.

(d) Surface public water, excluding intermittent streams, ground water interceptors, agricultural drain tile, cuts-manmade and ditches. (see footnotes 5 & 7):

(A) Upslope from effective side wall;	50'	50'
(B) Downslope from effective side wall.	100'	50'
(e) Top of downslope cuts-manmade:		
(A) Which intersect one or more impervious or restrictive layers	50'	50'
(B) Which do not intersect one or more impervious or restrictive layers, except where intercepting ground water.	25'	10'
(f) Unstable land forms.	50'	50'
(g) Escarpments:	25'	10'

(A) Which intersect one or more impervious or restrictive layers; 50' 10'

(B) Which do not intersect one or more impervious or restrictive layers. 25' 10'

(h) Property Line (see footnotes] 3 [& 4]); "10' " "10' " ←

→ [(A) When adjacent to property served by a community water supply or when abutting a public street; [10' 10' ]

→ (B) When adjacent to property served by an individual or public water supply.] [25' 10' ]

(i) Water mains or service lines (see footnote 8). 10' 10'

(j) Foundation lines of any building including garages and out buildings (see footnote 6). 10' 5'

340-71-020(2)(h);

Proposed Amendment;

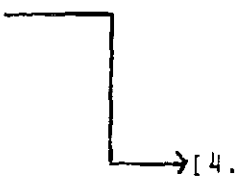
Delete "& 4", (A) in its entirety, (B) in its entirety, and the accompanying numbers.

Insert after footnote 3: "10'" and "10'" ←

Proposed Amendment:

340-71-020(2) FOOTNOTES:

Delete Footnote 4 and renumber the following footnotes:



- 3. area or potential disposal area. Where more than one lot or parcel is served by a common subsurface disposal system, no property setbacks will be required from the common property line, providing the minimum separation distance between wells and subsurface sewage disposal systems can be maintained.
- [4. Community and public water supplies are as defined in ORS 448.205.]
- 4. ~~5~~ Setback from streams shall be measured by bank drop-off or mean yearly high water mark, whichever provides the greatest separation distance.
- 5. ~~6~~ Septic tanks and other treatment facilities shall be kept as close to the minimum separation distance from the foundation as feasible to minimize opportunity for clogging of the building sewer.
- 6. ~~7~~ In subdivisions or lots approved by the appropriate governing body prior to May 1, 1973, with a minimum setback from surface public waters of fifty (50) feet, the Department will consider and may approve installation of a subsurface system with a setback of not less than fifty (50) feet.
- 7. ~~8~~ Where water lines and building or effluent sewer lines cross, separation distances shall be as required in the state Plumbing Code.

340-71-020(2)

FOOTNOTES:

- 1. Greater separation distances will be required if in the judgment of the Director or his authorized representative the disposal system will adversely affect the quality of any public water of the state.
- 2. If the restrictive layer is within the acceptable limit for a disposal area as defined in these rules, a curtain drain may be used to interrupt and/or drain perched liquid water. However, a curtain drain shall be used only on ground with a minimum slope of five (5) percent, and shall be located at least twenty (20) feet up-gradient from the nearest disposal area and at least fifty (50) feet down-gradient from any other disposal

Statutory Authority: ORS 468.020,  
454.615, and 454.625  
 Hist: Filed and Eff. 10-5-73  
 as DEQ 57(Temp)  
 Amended by DEQ 64(Temp),  
 Filed and Eff. 1-3-74  
 Filed and Eff. 2-1-74  
 as DEQ 65(Temp)  
 Amended by DEQ 67(Temp),  
 Filed and Eff. 3-4-74  
 Filed 3-28-74 as DEQ 68,  
 Eff: 4-26-74  
 Amended 9-26-74  
 by DEQ 79(Temp),  
 Eff. 9-27-74  
 Amended 10-30-74 by DEQ 80,  
 Eff. 11-25-74  
 Amended by DEQ 90(Temp),  
 Filed and Eff. 5-30-75  
 Amended by DEQ 92(Temp),  
 Filed and Eff. 7-10-75

6. Discussion

The language of 340-71-030(1)

(a) and (b) is confusing. The below proposed amendments are intended to clarify the language without changing intent of the rule.

Proposed Amendment 340-71-030(1)

(a)

After "ground" insert a period, delete the remainder of that sentence. Insert a new sentence which reads "A twelve (12) inch separation must be maintained between the impervious layer and the bottom point of the effective sidewall of the disposal trench."

Disposal Areas

340-71-030 (1) Disposal Trenches. No disposal trench shall be installed where any of the following conditions are present except as provided in subsection (2) below:

Note: Measurements are to be taken on the downhill side of the test pit.

(a) An impervious layer is less than thirty-six (36) inches below the surface of the ground, or less than twelve (12) inches below the bottom point of the effective sidewall of the disposal trench.

(b) A restrictive layer is less than thirty (30) inches below the surface of the ground or less than six (6) inches below the bottom point of the effective sidewall of the disposal trench.

(c) An area where the highest level attained by a permanent water table or permanently perched water table will be within four (4) feet of the bottom point of the effective sidewall of the disposal trench, except in defined areas where the Department has determined that degradation of ground water supplies or health hazards would not be caused. Diagram 7A shows an acceptable design where such water table will be five (5) feet or more but less than five and one-half (5-1/2) feet below the surface of the ground. Water table levels may be predicted during periods of dry weather utilizing one of the following criteria:

(6. continued)

Proposed Amendment 340-71-030(1)

(b)

After "ground" insert a period,  
delete the remainder of that  
sentence and insert a new sentence  
to read: "A six (6) inch  
separation must be maintained  
between the restrictive layer  
and the bottom point of the  
effective sidewall of the  
disposal trench."

Disposal Areas

340-71-030 (1) Disposal Trenches. No disposal trench shall be installed where any of the following conditions are present except as provided in subsection (2) below:

Note: Measurements are to be taken on the downhill side of the test pit.

(a) An impervious layer is less than thirty-six (36) inches below the surface of the ground or less than twelve (12) inches below the bottom point of the effective sidewall of the disposal trench.

(b) A restrictive layer is less than thirty (30) inches below the surface of the ground, [or less than six (6) inches below the bottom point of the effective sidewall of the disposal trench]

(c) An area where the highest level attained by a permanent water table or permanently perched water table will be within four (4) feet of the bottom point of the effective sidewall of the disposal trench, except in defined areas where the Department has determined that degradation of ground water supplies or health hazards would not be caused. Diagram 7A shows an acceptable design where such water table will be five (5) feet or more but less than five and one-half (5-1/2) feet below the surface of the ground. Water table levels may be predicted during periods of dry weather utilizing one of the following criteria:



7. Discussion

Header pipe is necessary for use of drop boxes as well as distribution boxes.

Proposed Amendment [340-71-030(4)

(d)]

Insert "or drop boxes".

8. Discussion

The use of small diameter pipe is necessary in pressurized systems.

Proposed Amendments

340-71-030(4) (d)

340-71-030(4) (e)

340-71-030(4) (e) (A)

Insert "except in pressurized systems,".

340-71-030(1) . . .

(d) Header pipe shall be watertight, have a minimum diameter of four (4) inches, and shall be bedded on undisturbed earth. Trenches shall not be constructed to allow septic tank effluent to flow backwards from the distribution pipe to undermine the distribution box, the septic tank, or other treatment facility, or any portion of the distribution unit. Where distribution boxes are used, header pipe shall extend at least four (4) feet beyond the box before entering the disposal area.

(e) Distribution pipes, shall have a minimum diameter of four (4) inches and shall be laid true to line and grade. The distribution pipe may consist of perforated bituminized-fiber, perforated plastic, or vitrified clay pipe or cement tile laid with loose joints. A description of the approved materials and the construction requirements is found below:

(A) Distribution pipes in disposal trenches. All disposal trenches shall have a distribution pipe of at least four (4) inch diameter, centered in the middle of the ditch. The pipe installation shall conform with the following requirements unless otherwise approved by the Department:

(i) Plastic pipe may be installed with the aid of grade boards or stakes which have been installed before any filter material is placed in the ditch, and there shall be no less than six (6) inches of filter material under every portion of the pipe.

(ii) Concrete tile shall be laid with one-quarter (1/4) inch open joints. The top one-half (1/2) of these joints must be protected by individual strips or a capping strip of treated building paper, tar paper, or other materials approved by the Department. Suitable tile connectors, spacers, collars, or clips may be used. The tile must be laid on a grade board at least six (6) inches high and one (1) inch wide. This grade board must run the total length of the seepage trench and must remain in place after backfilling. If used in soils with a pH of less than six (6.0), Special-Quality pipe as defined in ASTM C 412-65 (Appendix J) shall be installed.

(iii) Clay drain tile shall be installed in the same manner as concrete pipe as in

9. Discussion

It is necessary to clarify that specific rules in this chapter take precedence over this general standard.

Proposed Amendment [340-71-030(4)

(f)]

Insert "unless otherwise allowed or required within a specific rule of this chapter".

340-71-030(1) . . .

(iv) Bituminized fiber pipe may be installed with the aid of grade boards or stakes which have been installed before any filter material is placed in the ditch, and there may be no less than six (6) inches of filter material under every portion of the pipe.

(v) No disposal pipe shall be installed which does not comply with the standards in Appendix E, which by this reference are incorporated herein.

(f) Disposal trenches shall be constructed in accordance with the standard dimensions listed in the following table:

(A) Minimum lines per field using equal distribution system - two (2)

(B) Maximum length per trench - one hundred twenty-five (125) feet

(C) Minimum diameter of distribution lines - four (4) inches

(D) Maximum grade of distribution lines - two (2) inch drop in every one hundred twenty-five (125) feet

(E) Minimum bottom width of trench - twenty-four (24) inches

(F) Minimum depth of trench - eighteen (18) inches, except in serial trenches, the minimum depth shall be twenty-four (24) inches

(G) Maximum depth of trench - thirty-six (36) inches

(H) Minimum depth of backfill over filter material - six (6) inches

(I) Minimum distance of undisturbed earth between disposal trenches - eight (8) feet\*

(J) Minimum depth of filter material under distribution pipe - six (6) inches

(K) Minimum total depth of filter material - twelve (12) inches

(L) Depth of filter material over distribution pipe - two (2) inches

\*Note: In redundant disposal systems, this dimension applies to disposal trenches designed to operate simultaneously.

(5) Seepage pits, cesspools, and gray water waste disposal sumps and systems:

(a) Seepage pits, cesspools, and gray water waste disposal sumps shall not be used for the subsurface disposal of sewage except where specifically approved by the Department. Each seepage pit and cesspool shall be installed in a location which will facilitate future connection to a community

Proposed Amendment

340-71-030(4) (f) (C)

Delete "Lines" and insert "pipe". After inches insert "except in pressure systems"

340-71-030(4)

(e) Distribution pipes shall have a minimum diameter of four (4) inches and shall be laid true to line and grade. The distribution pipe may consist of perforated bituminized-fiber, perforated plastic, or vitrified clay pipe or cement tile laid with loose joints. A description of the approved materials and the construction requirements is found below:

(A) Distribution pipes in disposal trenches. All disposal trenches shall have a distribution pipe of at least four (4) inch diameter centered in the middle of the ditch. The pipe installation shall conform with the following requirements unless otherwise approved by the Department:

(i) Plastic pipe may be installed with the aid of grade boards or stakes which have been installed before any filter material is placed in the ditch, and there shall be no less than six (6) inches of filter material under every portion of the pipe.

(ii) Concrete tile shall be laid with one-quarter (1/4) inch open joints. The top one-half (1/2) of these joints must be protected by individual strips or a capping strip of treated building paper, tar paper, or other materials approved by the Department. Suitable tile connectors, spacers, collars, or clips may be used. The tile must be laid on a grade board at least six (6) inches high and one (1) inch wide. This grade board must run the total length of the seepage trench and must remain in place after backfilling. If used in soils with a pH of less than six (6.0), Special-Quality pipe as defined in ASTM C 412-65 (Appendix I) shall be installed.

(iii) Clay drain tile shall be installed in the same manner as concrete pipe as in

subsection (4)(e)(A)(ii) of this section.

(iv) Bituminized fiber pipe may be installed with the aid of grade boards or stakes which have been installed before any filter material is placed in the ditch, and there may be no less than six (6) inches of filter material under every portion of the pipe.

(v) No disposal pipe shall be installed which does not comply with the standards in Appendix E, which by this reference are incorporated herein.

(f) Disposal trenches shall be constructed in accordance with the standard dimensions listed in the following table:

(A) Minimum lines per field using equal distribution system - two (2)

(B) Maximum length per trench - one hundred twenty-five (125) feet

(C) Minimum - diameter of distribution [lines] - four (4) inches

(D) Maximum grade of distribution lines two (2) inch drop in every one hundred twenty-five (125) feet

Discussion

Pipe is correct terminology. It is necessary to clarify that pressure pipe may be less than 4" diameter.

(L) Depth of filter material over distribution pipe - two (2) inches

\*Note: In redundant disposal systems, this dimension applies to disposal trenches designed to operate simultaneously.

(5) Seepage pits, cesspools, and gray water waste disposal sumps and systems:

(a) Seepage pits, cesspools, and gray water waste disposal sumps shall not be used for the subsurface disposal of sewage except where specifically approved by the Department. Each seepage pit and cesspool shall be installed in a location which will facilitate future connection to a community

10. Discussion

It is necessary to clarify that seepage trenches as well as disposal trenches may be used in repairs to failing subsurface disposal systems.

Proposed Amendment [340-71-030(7)

(a)]

Insert "or seepage trench".

340-71-030(1) . . .

(6) Seepage Trenches:

(a) Seepage trenches may be used in areas where the unsaturated zone is sufficiently deep and where degradation of the quality of any public waters would not result. Any permit for a seepage trench proposed to be issued by any authorized representative other than the Department's staff shall receive the prior written concurrence of the Department. Seepage trenches shall not be used in an area where disposal trenches can be utilized.

Areas considered for seepage trench construction shall meet all conditions required by subsection (1) of this section.

(b) Seepage trench dimensions shall be determined by the following formula:

Length of seepage trench = (4) (Length of disposal trench) / (3 + 2D) Where D = depth of filter material below distribution pipe in feet.

(7) Repair of Disposal Areas:

(a) In repairing a failing disposal system, consideration may be given to the installation of a disposal trench, where the soil profile depth is less than thirty-six (36) inches to an impervious layer, where the soil profile depth is less than thirty (30) inches to a restrictive layer, where permanently perched groundwater or the permanent water table would come within four (4) feet of the absorption facility's

11. Discussion

To insert complete and correct terminology so the rule text is uniform.

340-71-030(1) . . .

(C) The slope of original ground surface does not exceed twelve percent (12%).

(D) The disposal trench is installed so that its bottom is not less than six (6) inches above the layer described in (A) and capping fill of the same type of soil as found in the uppermost horizon is installed in accordance with designs contained in Diagram 7B. The capping fill shall provide at least twelve (12) inches of cover, after settling, over the top of the gravel in the disposal trench. The system shall be sized according to 30" to restrictive layer in the table in OAR Chapter 340, 340-71-030 (minimum sidewall seepage area in square feet per [150] gallons daily waste flow determined from type of soil versus depth of restrictive layer (Table 5)).

Proposed Amendment [340-71-030(8)(a)

(D)]

Delete "150" and insert "one hundred fifty (150)".

(E) The repair area shall not be disturbed.

(F) Vegetation shall be removed from the original soil surface.

(G) Serial distribution systems shall be used on original soil slopes of 3-12%. Where serial systems are used, the capping fill shall be sloped so as to extend a minimum of [25'] downgrade from the lowest disposal trench.

12. Proposed Amendment

[340-71-030(8)(a)(g)]

Delete "25'" and insert "twenty five (25) feet".

(H) With the exception of the requirements in this subsection, all other conditions required by OAR Chapter 340, 340-71-005 through 340-71-035 and appendices must be met.

(b) Two (2) four (4) inch monitoring wells may be required and shall be placed within the capping fill down to the restrictive layer and extending four (4) inches above finished grade.

Statutory Authority: ORS 468.020, 454.615, and 454.625

Hist: Filed and Eff. 10-5-73 as DEQ 57(Temp)

Filed 3-28-74 as DEQ 68, Eff. 4-26-74

Amended by DEQ 94(Temp), Filed and Eff. 7-14-75

Amended 9-2-75 by DEQ 98, Eff. 9-25-75

Amended 10-29-76 by DEQ 124, Eff. 11-1-76

Amended 12-30-76 by DEQ 127(Temp), Eff. 12-31-76 through 4-29-77

13. Discussion

It is necessary to clarify that Appendix B contains standards for drop boxes.

Distribution Techniques

340-71-035 (1) Distribution System Design-Disposal trenches shall be constructed according to one of the following methods or other techniques approved by the Department depending on the slope of the ground surface:

(a) Loop System (Diagrams 8A, 8B, and 8C):

(A) The loop system shall be used on level ground only. All laterals and headers shall be level with no drop throughout their length.

(B) A distribution box may receive the effluent sewer and concurrently divert the flow into header pipe for each lateral of the absorption facility. In lieu of a distribution box, a series of "tees" laid on an even grade may be used.

(C) Disposal trenches shall be interconnected at the farthest point from the effluent sewer or header pipe by "tees" connecting an additional disposal trench which shall run at right angles to the other trenches.

(D) The elevation of all disposal trenches shall be the same.

(b) Equal Distribution System (Diagrams 10A and 10B):

(A) The equal distribution system shall be used on level ground only.

(B) A distribution box may receive the effluent sewer and concurrently divert the flow into header pipe for each lateral of the absorption facility.

(c) Serial System (Diagrams 11A and 11B):

(A) The Serial System shall be used on sloping ground. The bottom of each trench and its distribution line shall be level.

(B) One overflow pipe or one [set of dropboxes] per line shall be used to divert the effluent to the succeeding trench at such time as each fills.

(2) Distribution Boxes:

(a) Construction. Construction of distribution boxes shall comply with the minimum standards set forth in Appendix B.

(b) Foundation. All distribution boxes shall be bedded on undisturbed earth as shown in Diagram 9.

Proposed Amendment

340-71-035(2)

340-71-035(2)(a)

340-71-035(2)(b)

Insert "and drop boxes".

340-71-035(1)(c)(B)

Proposed Amendment:

Delete "set of dropboxes" and

insert "drop box"

## APPENDIX A

(340-71-025)

### Standards for Septic Tank Construction

Septic tanks may have single or multiple compartments which shall be constructed in the following manner:

**I. LIQUID DEPTH:** The liquid depth of any septic tank or compartment thereof shall not be less than thirty (30) inches. A liquid depth of greater than seventy-two (72) inches shall not be considered in determining liquid capacity. The tank may be oval, circular, rectangular, or square in plan, provided the distance between the inlet and outlet of the tank is at least equal to the liquid depth of the tank.

#### II. COMPARTMENTS:

- A. No compartment of any tank shall have an inside horizontal dimension of less than twenty-four (24) inches, nor a liquid depth of greater than seventy-two (72) inches.
- B. No tank shall have more than four (4) compartments.
- C. The second compartment shall have a minimum liquid capacity at least equal to one-third ( $\frac{1}{3}$ ) of the capacity of the first compartment.

#### III. MATERIALS:

A. Septic tanks shall be of watertight construction below the liquid level and either of concrete or of not less than fourteen (14) gauge steel for seven hundred fifty (750) gallon tanks and twelve (12) gauge steel for tanks larger than seven hundred fifty (750) gallons or of other material approved by the Department. When steel is used it shall be covered inside and out with asphalt or other protective coatings, meeting U.S. Department of Commerce Commercial Standards CS 177-62, effective January 1962, Sections 5.3.1 through 5.3.4.4, as shown in Appendix G, or other coatings of equal performance approved by the Department. Precast concrete tanks shall have a minimum wall, compartment, and bottom thickness of two and one-half ( $2\frac{1}{2}$ ) inches, and shall be adequately reinforced.

B. Cast-in-place concrete tanks, precast concrete tanks, fiberglass and steel tanks shall be constructed and reinforced to withstand all loads imposed upon the walls and bottom. All septic tank covers shall be capable of supporting an earth load of not less than three hundred (300) pounds per square foot when the maximum coverage does not exceed three (3) feet.

The top of the cast-in-place and precast concrete tanks shall be at least four (4) inches thick.

**NOTE:** Diagram 12 shows [recommended] sidewall thickness, bottom thickness, and reinforcement for cast-in-place tanks as well as for septic tanks that are installed beneath a road or driveway.

#### 14. Discussion

It is necessary to clarify that the specifications in Diagram 12 and Table 8 are required not recommended.

Proposed Amendment - Appendix A (340-71-025)

Insert "and Table 8". Delete "recommended" and insert "minimum required".

APPENDIX A

(340-71-025)

Standards for Septic Tank Construction

Septic tanks may have single or multiple compartments which shall be constructed in the following manner:

- I. LIQUID DEPTH: .....
- II. COMPARTMENTS: .....

III. MATERIALS:

A. Septic tanks shall be of watertight construction below the liquid level and either of concrete or of not less than fourteen (14) gauge steel for seven hundred fifty (750) gallon tanks and twelve (12) gauge steel for tanks larger than seven hundred fifty (750) gallons or of other material approved by the Department. When steel is used it shall be covered inside and out with asphalt or other protective coatings, meeting U.S. Department of Commerce Commercial Standards CS 177-62, effective January 1962, Sections 5.3.1 through 5.3.4.4. as shown in Appendix G, or other coatings of equal performance approved by the Department. Precast concrete tanks shall have a minimum wall, compartment, and bottom thickness of two and one-half (2½) inches, and shall be adequately reinforced.

B. Cast-in-place concrete tanks, precast concrete tanks, fiberglass and steel tanks shall be constructed and reinforced to withstand all loads imposed upon the walls and bottom. All septic tank covers shall be capable of supporting an earth load of not less than three hundred (300) pounds per square foot when the maximum coverage does not exceed three (3) feet.

The top of the cast-in-place and precast concrete tanks shall be at least four (4) inches thick.

NOTE: Diagram 12 shows recommended sidewall thickness, bottom thickness, and reinforcement for cast-in-place tanks as well as for septic tanks that are installed beneath a road or driveway.

C. Where concrete block tanks are permitted by the Director or his authorized representative, the tanks shall be constructed of heavyweight concrete block, eight (8) inch minimum thickness, laid on a four (4) inch poured foundation slab. The mortared joints shall be well filled. All block holes or cells shall be filled with mortar or concrete. "k" webbing shall be installed at every third row of block. No. three (3) re-bar shall be installed vertically in every block. The interior of the tank shall be surfaced with two (2) one-quarter (¼) inch thick coats of Portland cement-sand plaster or water-proof asphalt emulsion. If any portion of the tank is installed below the water table level, the outside of the tank shall be surfaced in a similar manner. The first row of blocks shall be keyed or doweled to the concrete foundation.

D. The Department shall review and approve specific specifications and manufacturers of tanks of other materials, and when such specific approval is granted, the Director or his authorized representative shall allow the installation of such tanks.

E. The inlet and outlet connection shall be located at opposite ends of the tank, shall be cast-iron soil pipe, or other materials approved by the Department which show equal performance, at least four (4) inches in diameter, and shall extend below and above the liquid level as required in this section.

F. The invert of the inlet shall be not less than one (1) inch and preferably three (3) inches above the invert of the outlet line.

G. The inlet pipe shall be a ninety (90) degree elbow extending at least six (6) inches below the liquid level and be of cast-iron or other material approved by the Department. The cast-iron elbow shall be attached to a steel tank by a rubber or synthetic rubber ring seal and compression plate, or in some other manner approved by the Department.

H. The outlet pipe of the tank shall be a "tee" extending below the liquid level to a distance equal to (forty (40) percent) of the liquid depth and at least six (6) inches above the liquid in order to provide scum storage. The tee shall

Proposed Amendment 340-71-025 Appendix A

Delete "forty (40) percent" and insert "not less than thirty-five (35) percent nor greater than fifty (50) percent"

Discussion

To allow some flexibility in tank construction without sacrificing tank efficiency



**APPENDIX B**

(340-71-035)

**Standards for Dosing Tanks, Effluent Lift Pumps, Distribution Boxes, Diversion Valves, and Drop Boxes**

**I. DOSING TANKS:**

A. Siphons and Pumps. Siphons and pumps shall be of the alternating type when the total volume of waste to be disposed of exceeds five thousand (5,000) gallons per day. They shall operate automatically and shall discharge to separate disposal areas of equal size.

B. Capacity. Dosing tanks shall have a capacity equal to the volume required to cover the disposal area being dosed to a depth of not less than one-quarter (¼) inch nor more than two (2) inches within fifteen (15) minutes.

C. Foundation. Dosing tanks shall be constructed on a level stable base that will not settle.

D. Inlet and Outlet. The inlet shall be above maximum water elevation in the tank. The outlet shall conform with the requirements of the manufacturer of the dosing tank siphon.

E. Manholes. Manholes shall be installed to provide access and to facilitate repair or adjustment of the siphon or pump in all dosing tanks. Manholes shall be brought up to ground surface.

**II. EFFLUENT LIFT PUMPS:**

**A. Pump:**

1. Pumps shall be capable of passing a three-quarters (¾) inch solid sphere, shall have a minimum one and one-quarter (1¼) inch discharge, and shall be equipped with closed frame motors and switches.

2. Pumps may be oil filled submersible pumps or vertically-mounted column pumps.

3. Impellers shall be of cast-iron, bronze or other corrosion-resistant metals.

4. Level control shall be by mercury float switch.

**B. Pressure Line:**

1. A gate valve shall be installed in the pressure line and a check valve shall be installed between the pump and the gate valve.

2. The pressure line shall be constructed of piping material of a bursting pressure of at least one hundred (100) psi and shall be of corrosion-resistant material.

3. The pressure line shall be bedded in three (3) inches of sand or pea gravel.

4. The discharge of the pressure line shall be baffled or otherwise controlled to ensure even distribution of effluent to the drain lines.

**C. Pump Sump:**

1. The sump shall be constructed of corrosion-resistant material of sufficient strength to withstand the soil pressures related to the depth of the sump.

2. Total capacity of the sump shall be no less than fifty (50) gallons.

3. Sumps shall be provided with a maintenance access manhole at the ground surface or above and of at least twenty-two (22) inch diameter with a durable cover.

Proposed Amendment

340-71-035 Appendix B

Insert "At the discretion of the Director or his authorized representative."

Discussion

It is not always necessary or desirable to bed pressure pipe.

APPENDIX B

(340-71-035)

Standards for Dosing Tanks, Effluent Lift Pumps, Distribution Boxes, Diversion Valves, and Drop Boxes

III. DISTRIBUTION BOXES

A. Outlet elevations. The invert elevation of all outlets shall be the same, and shall be at least two (2) inches below the inlet invert.

B. Sump. The distribution box shall be provided with a sump extending four (4) inches below the bottom of the outlet pipe.

C. Size. The minimum inside horizontal dimensions measured at the bottom of the box shall be eight (8) inches and the box shall have a minimum inside bottom surface area of one hundred sixty (160) square inches. No distribution box shall be installed with a top outside surface area greater than the bottom outside surface area.

D. Construction. Distribution boxes shall be constructed of concrete or other durable material approved by the Department. They shall be water-tight and designed to accommodate the necessary distribution laterals.

E. Cover. Distribution boxes shall show the manufacturer's name and address on the top, and all manufacturers shall state, in writing, to the Department that the products to be distributed for use in absorption facilities within the State of Oregon will meet all of the requirements of this section.

IV. DIVERSION VALVES:

A. Construction. Diversion valves shall be of durable material and of a design approved by the Department, shall be corrosion-resistant, and shall be watertight and designed to accommodate the inlet and outlet pipes.

B. Cover. Diversion valves shall show the manufacturer's name and address on the top, and all manufacturers shall state, in writing, to the Department that the products to be distributed for use in absorption facilities within the State of Oregon will meet all of the requirements of this section.

3-1-77

341

15. Discussion

Address is inappropriate and cumbersome in this instance. Not needed.

Proposed Amendment Appendix B (340-71-035)

Delete "and address" and substitute "or company number assigned by the Department".

16. Discussion

To insert correct terminology in the rule text.

Proposed Amendment

Delete "bottom" and substitute "invert".

**APPENDIX B**

(340-71-035)

**Standards for Dosing Tanks, Effluent Lift Pumps, Distribution Boxes, Diversion Valves, and Drop Boxes**

**I. DOSING TANKS:**

**V. DROP BOXES**

- A. Sump. Sumps are optional.
- B. Size. Drop boxes shall be large enough to accommodate header pipe.
- C. Invert Elevations. Inlet and overflow pipe port inverts shall be at the same elevation. The invert of the header pipe port leading to the disposal trench shall be six (6) inches below inlet and overflow port inverts.
- D. Construction. Drop boxes shall be constructed of concrete or other durable material approved by the Department.
- E. Cover. Drop box covers shall bear the manufacturer's name [and address]
- F. Premarketing Certification. Drop box manufacturers shall state in writing, to the Department, that the product(s) to be distributed for use in Oregon will meet all requirements of this section.

**17. Discussion**

Address is inappropriate and cumbersome in this instance. Not needed.

Proposed Amendment Appendix B (340-71-035)

Delete "and address" and substitute "or company number assigned by the Department".

APPENDIX E

(340-71-020)

Standards for Pipe Materials and Construction

I. BUILDING SEWER AND EFFLUENT SEWER

A. The building sewer and effluent sewer shall be constructed with materials in conformance to building sewer standards in the Oregon State Plumbing Laws and Administrative Rules.

II. DISTRIBUTION AND HEADER PIPE AND FITTINGS

A. Plastic Pipe and Fittings:

1. Styrene-rubber plastic distribution and header pipe and fittings shall meet ASTM (American Society for Testing and Materials) Specification D 2852-72 and Sections 5.5 and 7.8 of Commercial Standard 228-61, published by the U.S. Department of Commerce, which are designated Appendix H and I respectively, and by this reference are made a part of these regulations. Pipe and fittings shall also pass a deflection test withstanding three hundred-fifty (350) pounds/foot without cracking by using the method found in ASTM 2412. In addition to the markings required by ASTM 2852-72, each manufacturer of styrene-rubber plastic pipe shall state, in writing, to the Department that he certifies that the pipe to be distributed for use in absorption facilities within the State of Oregon will comply with all requirements of this section.

2. Polyethylene distribution and header pipe in ten (10) foot lengths, of which pipe and fittings shall meet ASTM F405-74 which is designated Appendix N and by this reference is made a part of these rules. Pipe and fittings shall also pass a deflection test withstanding three hundred-fifty (350) pounds per foot without cracking or collapsing by using the method found in ASTM 2412. Pipe used in absorption facilities shall be heavy duty. In addition to the markings required by ASTM F405-74, each manufacturer of polyethylene pipe shall state, in writing, to the Department that he certifies that the pipe to be distributed for use in absorption facilities within the State of Oregon will comply with all requirements of this section.

3. Polyvinyl chloride (PVC) distribution and header pipe and fittings shall meet ASTM (American Society for Testing and Materials) Designation D2729-72, which is specified as Appendix O and by this reference made a part of these rules. Pipe and fittings shall pass a deflection test withstanding three hundred-fifty (350) pounds per foot without cracking or collapsing by using the method found in ASTM 2412. Markings shall meet requirements established in ASTM 2729, subsections 9.1.1., 9.1.2. and 9.1.4. Each manufacturer of polyvinyl chloride pipe shall state, in writing, to the Department that he certifies that pipe and fittings to be distributed for use in absorption facilities within the State of Oregon will comply with all requirements of this section.

4. The three types of plastic pipe described above shall have two (2) rows of holes spaced one hundred twenty (120) degrees apart and sixty (60) degrees on either side of a center line. For distribution pipe, a line of contrasting color shall be provided on the outside of the pipe along the line furthest away and parallel to the two (2) rows of perforations. Markings, consisting of durable ink, shall cover at least fifty (50) percent of the pipe. Markings may consist of a solid line, letters, or a combination of the two. Intervals between markings shall not exceed twelve (12) inches. The holes of each row shall be not more than five (5) inches on center and shall have a minimum diameter of one-half (1/2) inch.

Proposed Amendment 340-71-020 Appendix E

Delete "and header" and after "lengths" insert "and header pipe in lengths of ten (10) feet or greater"

Proposed Amendment 340-71-020 Appendix E

Insert a new paragraph 4 to read as follows:

"4. High density polyethylene smooth wall distribution and header pipe in ten (10) foot lengths of which pipe and fittings shall meet the specifications designated as Appendix P and by this reference made a part of these rules. Each manufacturer of high density polyethylene smooth wall pipe shall state, in writing, to the Department that he certifies that the pipe to be distributed for use in absorption facilities within the State of Oregon will comply with all requirements of this section." Renumber 4. to 5.

Delete "three" and substitute "four".

Discussion

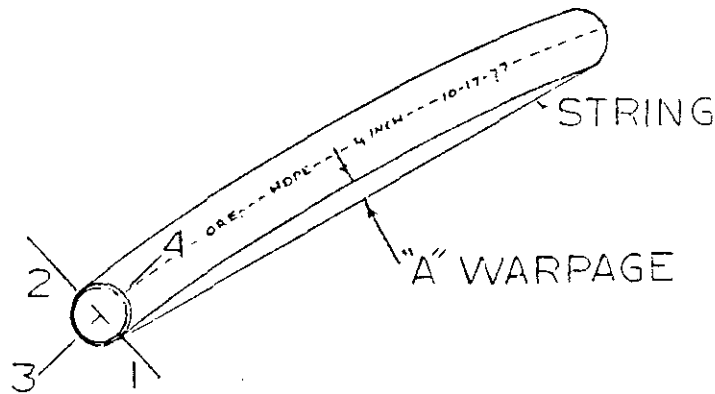
To include newly approved pipe standards in the rules.

SPECIFICATIONS FOR:  
FOUR INCH HIGH DENSITY POLYETHYLENE SMOOTH WALL TUBING

Note: All specifications are assumed to be for tubing  
cured at  $72^{\circ} \pm 2^{\circ}\text{F}$ .

1. Outside diameter  $4.215'' \pm 0.009''$ .
2. Permissible deviation  $0.050''$  from roundness.
3. Die center, a maximum of no more than  $0.007''$  between readings for all measurable points.
4. Pipe and fittings shall pass a deflection test withstanding three hundred fifty (350) pounds per foot without cracking or collapsing by using the method found in ASTM 2412.
5. Flattening, no splitting or cracking at 20 percent deflection.
6. Smooth Wall High Density Polyethylene Tubing shall have two rows of holes spaced one hundred twenty (120) degrees apart and sixty (60) degrees on either side of a center line. For distribution pipe, a line of contrasting color shall be provided on the outside of the pipe along the line farthest away and parallel to the two rows of perforations. Markings, consisting of durable ink, shall cover at least fifty (50) percent of the pipe. Markings may consist of a solid line, letters, or a combination of the two. Intervals between markings shall not exceed twelve (12) inches. The holes of each row shall be not more than five (5) inches on center and shall have a minimum diameter of one-half ( $1/2$ ) inch.
7. The pipe shall have a belled end, and have a length of 10 feet 3 inches  $\pm 1/4$  inch.
8. The pipe shall be white in color with a UV stabilizer.
9. The following coding sequence shall be used:  
(Manufacturer's Name) - - - HDPE - - - Leachfield - - -  
4 INCH - - - (proper date and plant coding).
10. Appearance, pipe must have smooth I.D. and O.D. with a minimum amount of streaks, lines and pits on O.D., and must be free of any splits or blow holes. (Any questionable product must be approved through Quality Control.)

11. Belling depth (after 30 minute cure) 4.215 plug gauge depth one and three-quarters (1-3/4) inches minimum.
12. The maximum allowable warpage is one-quarter (1/4) inch (Dimension A). To measure warpage, place pipe on a flat floor with markings up (position No. 4, see sketch). Check warpage first at positions 1 and 2 by stretching a string the full length of the pipe and measuring warpage (Dimension A, see sketch), then rotate pipe 90° and repeat procedure for positions 3 and 4.



13. The minimum wall thickness  $0.110 \pm 0.009$  inches

$$\text{SDR Number} = \frac{4.215}{0.110} = 38.3$$

14. The polyethylene plastic pipe compounds shall be found to conform to the following cell classification limits by the appropriate ASTM test method listed:

<u>Property</u>	<u>Test Method</u>	<u>Cell Classification</u>
Density (g/cm <sup>3</sup> )	D 1505	greater than 0.941
Melt Index	D 1238	less than 0.4
Flexural Modulus (PSI)	D 790	greater than 160,000
Tensile Strength at Yield (PSI)	D 638	greater than 4,000
Environmental Stress		

15. Each manufacturer of high density polyethylene smooth wall tubing shall certify in writing, to the Department, that the pipe to be distributed for use in absorption facilities within the State of Oregon will comply with all requirements of this section.

18. Discussion

Chapter 167, Oregon Laws 1975  
has been incorporated into  
Statutes (ORS 454.745).

Proposed Amendment

Delete "as contained in Section  
10 of Chapter 167, Oregon Laws  
1975".

**DIVISION 72**

**Fees for Permits, Licenses and Evaluation Reports**

**Definitions**

**340-72-005** The definitions contained in ORS 454.605 and section 340-71-010 shall apply as applicable.

Statutory Authority: ORS 468.020, 454.615, and 454.625  
Hist: Filed and Eff. 4-2-74 as DEQ 70(Temp)  
Filed 6-26-74 as DEQ 74, Eff. 7-25-74

**Fees for Permits and Licenses**

**340-72-010** (1) Except as provided in subsection (4) of this section, the following nonrefundable fees are required to accompany applications for permits and licenses issued under ORS 454.655 and 454.695:

**Subsurface or Alternative**

<b>Sewage Disposal System</b>	<b>Fee</b>
Construction Installation Permit	\$100
Alteration Permit	25
Repair Permit	25
Extension Permit	25
Sewage Disposal Service Business License	100

(2) A twenty-five dollar (\$25) fee shall be charged for renewal of an expired permit issued under ORS 454.655.

(3) Each fee received pursuant to ORS 454.755, subsection (4) of this section, and section 340-72-020 for a report of evaluation applied for under section 340-72-015 of site suitability or method or adequacy of a new subsurface sewage disposal system, shall be deducted from the amount of the fee otherwise required for the subsequent issuance of a permit for the installation or construction of the new facility or system for which the site evaluation was conducted, provided its findings are still valid or another evaluation study is not considered necessary.

(4) Pursuant to ORS 454.745(4) [as contained in Section 10 of Chapter 167, Oregon Laws 1975] and to requests of the respective governing bodies of the following counties all of which have agreements with the Department under ORS 454.725, and notwithstanding the fees listed in subsection (1) of this section and subsection (1) of section 340-72-020,

(a) the fees to be charged by the counties of Clatsop, Crook, Curry, Deschutes, Douglas, Hood River, Jefferson, Josephine, Lincoln, Malheur, Polk, Sherman, Tillamook, and Wasco shall be as follows:

- (A) New Construction Installation Permit \$50
- (B) Alteration, Repair or Extension Permit \$15
- (C) Evaluation Reports \$25

except that in Douglas County the fee for alteration, repair or extension permit shall be \$5, and

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

- (A) New Construction Installation Permit \$25  
(in addition to evaluation report fee)

furnished to the applicant indicating whether or not the proposed method of sewage disposal for each individual lot, parcel or unit is approved by the Department, and listing any condition or limitations placed on such approval including, but not limited to, location or capacity of the proposed sewage disposal system. In addition to the evaluation report the Department or authorized representative, upon request by a county or city, may also indicate approval of the proposed method of sewage disposal by signing a subdivision plat.

(6) An approved evaluation report shall remain in effect until issuance of a permit to construct, unless in the meantime conditions on subject or adjacent properties have been altered in any manner which would prohibit issuance of a permit in which case the evaluation report shall be considered null and void. The above condition shall be stated on the approved evaluation form at the time of issuance. Technical rule changes will not invalidate any evaluation report issued pursuant to this section.

Statutory Authority: ORS 468.020, 454.615, and 454.625

Hist: Filed and Eff. 4-2-74 as DEQ 70(Temp)

Filed 6-26-74 as DEQ 74, Eff. 7-25-74

Amended 9-2-75 by DEQ 98, Eff. 9-25-75

Amended 10-29-76 by DEQ 124, Eff. 11-1-76

**Fees for Evaluation Reports**

**340-72-020** (1) Except as provided in subsection (4) of section 340-72-010, the following nonrefundable

fees are required to accompany applications for evaluation reports submitted pursuant to ORS 454.755:

Method	Fee
Sewerage system	\$5 first lot \$10 maximum (two (2) or more lots)
Subsurface sewage disposal (site suitability)	\$75 per lot

(2) No fee shall be charged for the conduct of an evaluation and issuance of a report requested by any person on any repair, alteration, connection or extension of an existing subsurface or alternative sewage disposal system or part thereof.

Statutory Authority: ORS 468.020, 454.615, and 454.625

Hist: Filed and Eff. 4-2-74 as DEQ 70(Temp)

Filed 6-26-74 as DEQ 74, Eff. 7-25-74

Amended 6-30-75 by DEQ 91(Temp), Eff. 7-1-75

Amended 9-2-75 by DEQ 98, Eff. 9-25-75

**Evaluation Reports for Partitioning of Three Lots or Less**

**340-72-025** At the discretion of the Department, evaluation reports for partitioning of three (3) lots or less may be completed and the fees retained by the owner of the sewerage system involved or by the county under agreement with the Department pursuant to ORS 454.725

Statutory Authority: ORS 468.020, 454.615, and 454.625

Hist: Filed and Eff. 4-2-74 as DEQ 70(Temp)

Filed 6-26-74 as DEQ 74, Eff. 7-25-74

**19. Discussion**

Subsection 340-72-025 is no longer effective. All fees collected by agreement counties are retained by the county.

Proposed Amendment

Delete the entire subsection 340-72-025.



20. Discussion

Chapter 309, Oregon Laws 1975 has been incorporated into ORS 454.660.

**DIVISION 75**

**VariANCES**

**Definitions**

**340-75-010** Definitions contained in OAR Chapter 340, 340-71-010 shall apply as applicable.

**Statutory Authority:** ORS 468.020, 454.615, and 454.625  
**Hist:** Filed and Eff. 7-14-75 as DEQ 94(Temp)  
Filed 9-2-75 as DEQ 98, Eff. 9-25-75

**VariANCES Authorized**

**340-75-015** Pursuant to authority granted by the Commission under the provisions of [Chapter 309, Oregon Laws 1975] a special variance officer may grant specific variances from the particular requirements of the rules or standards pertaining to subsurface sewage disposal systems if he finds that:

(1) The subsurface sewage disposal system will function in a satisfactory manner so as not to create a public health hazard, or to cause pollution of public waters; and

(2) Special physical conditions exist which render strict compliance unreasonable, burdensome, or impractical.

**Statutory Authority:** ORS 468.020, 454.615, and 454.625  
**Hist:** Filed and Eff. 7-14-75 as DEQ 94(Temp)  
Filed 9-2-75 as DEQ 98, Eff. 9-25-75  
Amended 10-29-76 by DEQ 124, Eff. 11-1-76

**VariANCES Prohibited**

**340-75-020** No variance shall be granted for any parcel or lot that contains an area suitable for installation of a subsurface system that would comply with OAR 340-71-020 to 340-71-035.

**Statutory Authority:** ORS 468.020, 454.615, and 454.625  
**Hist:** Filed and Eff. 7-14-75 as DEQ 94(Temp)  
Filed 9-2-75 as DEQ 98, Eff. 9-25-75

**Variance Criteria**

**340-75-025** Variances may be granted where:

(1) Depth to impervious layer is less than thirty-six (36) inches.

(2) Depth to restrictive layer is less than thirty (30) inches.

(3) Depth to temporarily perched water is less than twenty-four (24) inches.

(4) The permanently perched water or permanent water table would be less than four (4) feet below the bottom of the absorption facility's effective sidewall.

(5) Slopes exceed twenty-five (25) percent.

(6) Depth to coarse grain material is less than thirty-six (36) inches.

(7) Minimum separation distances would be less than those specified in OAR 340-71-020(2).

(8) Cuts or fills exist.

(9) Minimum depths to restrictive or impervious layers for given slopes are less than those allowed in OAR 340-71-030(1)(e).

**Statutory Authority:** ORS 468.020, 454.615, and 454.625  
**Hist:** Filed and Eff. 7-14-75 as DEQ 94(Temp)  
Filed 9-2-75 as DEQ 98, Eff. 9-25-75

Proposed Amendment

Delete "Chapter 309, Oregon Laws 1975" and substitute "ORS 454.660".

21. Discussion

To clarify that the amended portion of OAR 340-71-030(1)(c) was intended to apply to large well defined geographic areas rather than to individual lots or parcels. That a study is necessary to make such determination.

Proposed Amendment [340-71-030(1)(c)]

Insert "that have been the subject of a groundwater study and".

Disposal Areas

340-71-030 (1) Disposal Trenches. No disposal trench shall be installed where any of the following conditions are present except as provided in subsection (2) below:

Note: Measurements are to be taken on the downhill side of the test pit.

(a) An impervious layer is less than thirty-six (36) inches below the surface of the ground or less than twelve (12) inches below the bottom point of the effective sidewall of the disposal trench.

(b) A restrictive layer is less than thirty (30) inches below the surface of the ground or less than six (6) inches below the bottom point of the effective sidewall of the disposal trench.

(c) An area where the highest level attained by a permanent water table or permanently perched water table will be within four (4) feet of the bottom point of the effective sidewall of the disposal trench, except in defined areas, where the Department has determined that degradation of ground water supplies or health hazards would not be caused. Diagram 7A shows an acceptable design where such water table will be five (5) feet or more but less than five and one-half (5-1/2) feet below the surface of the ground. Water table levels may be predicted during periods of dry weather utilizing one of the following criteria:

(A) Where water movement is laterally restricted, mottling consisting of various shades of gray and red specks, splotches, and/or tongues throughout the soil caused by alternated saturation and desiccation, or dark, highly organic layers of grayish low chroma layers may be found at the highest seasonal level of the water table. Some soils including, but not limited to, certain salt affected soils and low iron bearing soils may not show signs of mottling even though they become saturated under laterally restrictive conditions for extended periods of time.

Citizen's Advisory Committee Report

The Department's Citizen's Advisory Committee (CAC) for on-site sewage disposal reviewed the proposed amendments at a meeting on December 8, 1977.

Recommendations of the CAC are as follows:

1. Proposed amendments resulting from 1977 legislation supported as proposed.
2. Proposed Housekeeping Amendments; Supported as proposed.
3. Substantive Issues were addressed individually as follows:

A. Sizing of subsurface disposal systems - supported with the following exceptions:

- (1) Definition of "Bedroom" (340-71-010(7) ) should conform to that definition in the State Building Code.
- (2) In the proposed new subsection 340-71-016(8) dealing with hardship connection to existing systems, expand hardship beyond "disabled or infirm."
- (3) Proposed amendment to 340-71-025(2)(a), on septic tank sizes substitute the following table for that proposed:

<u>"Number of Bedrooms</u>	<u>Required Minimum Capacity In Gallons</u>
1 to 4	1000
More than 4	1500 "

- (4) Proposed amendments to OAR 340-71-018 (1) and OAR 340-71-020(1)(a) not be adopted at this time. Allow the CAC to study the entire question of "Abandoned systems" and develop an amendment for future Commission action.

B. Protection of Groundwater Aquifers -

Supported the proposal to ban cesspools immediately and phase out seepage pits in the future. The vote was split 8 to 1 on this issue. The CAC recognized that this is a complex issue that impacts not only the groundwater in East Multnomah County but land use, economics, etc. A delay of up to a year on this proposal while the Department gathers more definitive groundwater data, develops data on sewerage collection costs, etc. was discussed with the CAC which seemed to agree on the need for such a delay.

C. Use of Pit Privies for Disposal of Black Wastes from Dwellings.

This issue was not discussed by the CAC due to time limitations.

D. Standardization of Variance Procedures.

The CAC unanimously opposed repeal of the "Rural Areas" rule 340-71-030(2) as proposed, but supported the proposed amendment to 340-75-050 which would provide Commission appeal for denied variances.

E. Trench Construction.

Supported the proposed amendment with some suggestions for minor modification to the proposal.

F. CAC supported the following three issues as proposed:

- Setbacks for subsurface on alternative sewage system components.

- Disclosure of tank capacity on septic tank pumping trucks.

- Fee refunds.

G. Procedures for issuance of experimental systems permits -

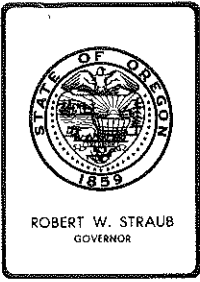
CAC did not discuss this proposal due to time limitations.

HEARING OFFICER'S REPORTS

PUBLIC HEARINGS

Proposed Amendments to Oregon Administrative Rules Chapter 340,  
Sections 71, 72, 74 and 75, Subsurface and Alternative Sewage  
Disposal.

EUGENE	12-13-77
MEDFORD	12-13-77
PORTLAND	12-14-77
BEND	12-20-77



## *Department of Environmental Quality*

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 Telephone (503) 229-6218

### HEARING OFFICER'S REPORT

Public hearing on proposed amendments to Administrative Rules on Subsurface and Alternative Sewage Disposal.

EUGENE, December 13, 1977

Five persons testified at this hearing which was convened at 10:00 a.m. in Harris Hall, Lane County Courthouse, Eugene.

State Representative Bill Rogers--In his opinion, the Department has not been responsive to legislative intent in developing alternative systems. He cited in particular SB 297 (1975 session) and HB 2858 (1977 session). In addition, Representative Rogers expressed the opinion that the proposed amendments that deal with gray water disposal do not adequately address legislative intent. He indicated that gray water should be dealt with in a separate section of the rules rather than being integrated into existing sections that address "black wastes."

Note: Representative Rogers will submit the full text of his testimony in writing.

Ron Davis--Mr. Davis submitted his testimony in writing as well as orally. The written text is attached. Basically, his testimony was that three of man's basic needs; air, water and food, are associated with DEQ regulations. We need regulations encouraging conservation. Suggested some specifics for future regulations. The last portion of the testimony is a series of eleven questions to Department staff.

Roy Burns--Lane County, submitted his testimony in writing as well as orally. The written text is attached. Mr. Burns' testimony supports the proposed amendments necessary as a result of legislation in 1977, as well as the proposed housekeeping amendments. In addition to the above, Mr. Burns offered a number of comments and suggestions on the proposed amendments dealing with substantive issues.



Contains  
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Materials

William A. Jewell--Submitted his testimony in writing as well as orally. The written text is attached. Mr. Jewell's testimony dealt with "abandoned" systems, abandonment of alternative systems, (compost toilets) when a sewerage system becomes available and need for gray water pretreatment options.

Gerritt Rosenthal--Lane County Council of Governments submitted his testimony in writing as well as orally. The written text is attached. Supports proposal to increase minimum size septic tank, and supports the proposed rules for experimental systems.

SUBMITTED,



T. JACK OSBORNE

TJO/jms  
12-14-77  
Attachments

HOME ADDRESS  
BILL ROGERS  
P.O. BOX 109  
VIDA, OREGON 97488

LANE COUNTY  
DISTRICT 44



COMMITTEES  
MEMBER:  
LABOR/BUSINESS AFFAIRS  
LOCAL GOVERNMENT/  
URBAN AFFAIRS

HOUSE OF REPRESENTATIVES  
SALEM, OREGON  
97310

December 16, 1977

R. J. Osborne, R.S.  
Department of Environmental Quality  
1234 S.W. Morrison  
Portland, OR 97205

Dear Jack,

Enclosed is a copy of my testimony on the proposed  
administrative rules for the implementation of  
HB 2858 given on December 13, 1977.

Sincerely yours,

Bill Rogers  
State Representative  
District 44

BR/gm

Enclosure

RECEIVED  
DEC 19 1977

Water Quality Division  
Dept. of Environmental Quality



Rep. Bill Rogers  
P.O. Box 109  
Vida, OR 97488

December 13, 1977

Chapter 523, Oregon Laws 1977 (HB 2858)  
Proposed Administrative Rules

I am the author of HB 2858 which was passed by the 1977 Oregon Legislature. The proposed administrative rules for the implementation of this law are of considerable concern to me, since they do not fully meet the legislative intent of the bill.

The 1975 Legislature passed a law, SB 297 (Chapter 167, Oregon Laws 1975), which required DEQ to offer alternatives to the standard subsurface sewage disposal systems, and this law has not been complied with. In fact, during the interim between the effective date of that law and the present time, most of those who have attempted to get an alternative system permit have been blocked by bureaucratic inaction.

For example, there have been approximately 400 application forms for compost toilet/gray water systems sent by DEQ to requesting parties, but because of the negative approach of the DEQ and the lack of support by the contracting counties, only about 20 applications have been completed and submitted.

The basic flaw in the proposed administrative rules is that the provision for a gray water disposal system are not completely separated from the rules for systems which handle black wastes. Because of the differences between the functions of the two types of systems, a completely separate procedure should be adopted for gray water disposal.

X Section 6(2)(a) of A-Engrossed HB 2858 states, "...and shall be preceded by a pretreatment facility such as, but not limited to, a septic tank." The "but not limited to" is very important but has been completely ignored in these proposed rules. There must be provision made for the use of gray water treatment systems other than the standard septic tank with drainfield.

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Water Quality Division  
Dept. of Environmental Quality

I suggest the adoption of wording similar to the following:

If the soil meets the test for a regular septic system, a permit may be issued for a system of a different type, provided the applicant agrees to replace the alternate system with a septic system if the department, after a period of monitoring, determines that a health hazard exists.

There are several reasons for this proposal. First, it meets the intent of not only the 1977 Legislature, but of the 1975 Legislature as well. SB 297 (Chapter 167, Oregon Laws 1975), Section 2(4) reads, "Prescribe requirements for handling kitchen, bath and laundry wastes as opposed to human and animal wastes which recognize the possibility for separate treatment of different types of waste." Sad to say, this was not done.

Second, by the use of only a standard underground treatment, the user is kept from using the treated waste water for irrigation purposes. Part of my purpose in authoring HB 2858 was to not only reduce or eliminate the use of water for flushing standard toilets, but to allow the recovery of this valuable resource--water--for other purposes.

Now, I will go into some of the specifics of the proposed rules.

On page 5, eliminate (A), (B), and (C). There is no need to have the total area for a full size disposal field since the statute allows the use of a drainfield that is two-thirds of the normal size. Since the solids that pass into a drainfield are the primary cause of the failure of the field, and in a gray water system there are no solids, the failures will not occur.

The same reasoning applies to (B). The purpose of a septic tank is to settle out solids and digest them, but there will be no solids other than some dirt and soap curds to settle. It is ridiculous to require a full capacity septic tank for gray water disposal. This is especially true if the proposed rule on page 17 is adopted.

(C) is superfluous since it restates in different language the requirement proposed for 340-71-040(4) (a) on page 3.

Chapter 523, Oregon Laws 1977 (HB 2858)

Proposed Administrative Rules

Page 3

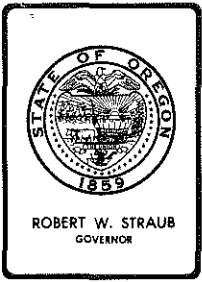
If the rules for gray water disposal are not separated from those for black waste, I propose that a new provision be added on page 17 to allow a smaller septic tank for gray water only.

On page 18, I propose that a change be made concerning the abandonment of a system. The 12 consecutive months of nonuse is arbitrary and unreasonable. There are instances where, for one reason or another, a person installs a septic system, complies with all the requirements including inspections, but does not build within a year. In that case, the system would be considered abandoned.

On pages 19 through 22, I propose that the rules not be amended. The problem given on page 19 refers to Multnomah County but the rules would apply to the entire state. If there is truly a problem in East Multnomah County, rewrite the rules to allow for more restrictions there and there only.

On page 39, there is a discussion of rules pertaining to Experimental Sewage Disposal Systems, and on page 41 begins some proposed rules for that subject.

I'm sorry that I did not receive this document in sufficient time to thoroughly review and analyze it, because it is important. A superficial reading makes me believe that it does not comply with SB 297 from the 1975 Legislature. I hope that there are others concerned enough to make that thorough analysis and protest any changes that are not in keeping with the law.



*Department of Environmental Quality*  
SOUTHWEST REGION

1937 W. HARVARD BLVD., ROSEBURG, OREGON 97470 PHONE (503) 672-8204

December 19, 1977

Mr. Peter W. McSwain  
Hearings Officer  
Dept. of Environmental Quality  
1234 S. W. Morrison Street  
Portland, OR. 97205

RE: WQ-SS-General  
Rules

Dear Peter:

On December 13, 1977 I held a hearing on the proposed Subsurface Sewage Disposal rules changes. The hearing was held in the Jackson County Courthouse Auditorium from 9:00 a.m. through 10:53 a.m.

Persons present during the hearing are listed on the attached attendance sheet. Those persons whose names are marked with a red "X" provided verbal testimony as did a Mr. Eric Hamrin whose name is not found on the sheet. There may have been others present who chose not to sign the attendance sheet.

Written testimony was provided by E. A. Henderson, R.S., Curry County, Supervising Sanitarian; Kenneth D. Cote, R.S., Jackson County Sanitarian; Dick Florey, Jackson County Soil Scientist and John Rowan, Jackson County Soil Scientist.

Below I have listed each proposed rule change followed by the applicable verbal testimony given, along with the name of the testifier and whom he or she represents.

GREEN SECTION

Page 3

- 340-71-040(4) - Need recommendation for the use of grease traps and gray water in a sprinkler or drip irrigation system

Jim Christopherson - self

- It should specify whether a full sized initial and repair area should be reserved for the installation of the system.

Brad Prior, R.S. - Jackson County\*



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Recycled  
Materials

- Under (4)(b), there should be some mention that the proper procedures relating to sewage connections under O.A.R. 340, 71-013 & 016 be followed. As it is now written, it appears that any subsurface system which is functioning satisfactorily could be used as a receptical for an infinite volume of gray water.

Brad Prior, R.S., Jackson County

- The Josephine County Health Department feels that there must be some communications procedures set up between DEQ and the Dept. of Commerce so that DEQ or it's authorized representative can evaluate the disposal sites before the Dept. of Commerce can issue a plumbing permit. This would allow this rule change to provide for residential development on sites which are not quite large enough for a standard sized system but do meet all other requirements.

Charles Costanzo, R.S., Josephine Cty.\*\*

Page 4

340-71-030(3)(d)&(e)

- Should reduce drainfield area by 15% when three and one-half (3-1/2) gallon flush toilets are used and by 30% when two (2) quart flush low volume toilets are used.

Jim Christopherson - self

- No objection to the reduction in the sidewall seepage area when low flush toilets are used, but would also think that a reduction in the size of the usable area should be specified in the rules.

Brad Prior, R.S., Jackson County

- In favor of the ten percent (10%) reduction of usable area when three and one-half (3-1/2) gallon flush toilets are used but not in favor of the proposed twenty-five (25) percent reduction when two (2) quart flush toilets used, as they may not prove as successful as expected and drainfield expansion would then be necessary.

Brad Prior, R.S., Jackson County

- We feel that the percent reduction in the drainfield size should be equal to the calculated reduction, that is fifteen (15) and thirty (30) percent, rather than the proposed ten (10) and twenty-five (25) percent.

Charles Howe, R.S., Douglas County\*\*\*

Page 5

340-71-030(5)(g)

- Should reduce the size of the septic tank by one-third (1/3) when

Page 5 (con't)

340-71-030(5)(g)

non-water carried black waste disposal facilities are used, as well as make some arrangement for soap and grease.

Jim Christopherson - self

Page 6

340-71-010(3)

No Testimony

340-71-010(85)

No Testimony

Page 7

340-71-045(11)

No Testimony

WHITE SECTION

Page 13

340-71-010(7)

- Definition for bedroom should be "those rooms designated by the owner as bedrooms".

Jim Christopherson - self

- We are basically in favor of this change as it allows professional discretion and still provides the necessary guidelines to resolve conflicts.

Brad Prior, R.S., Jackson County

- The definition of a bedroom should exclude:
  1. Rooms which are in the main traffic pattern of the house;
  2. Rooms which have a four (4) foot or wider opening on interior walls seperating individual rooms;
  3. Rooms without a wardrobe closet;
  4. Rooms which are ninty (90) square feet or smaller.

Charles Costanzo, R.S., Josephine Cty.

- A bedroom should be defined as a place a person sleeps.

Fred Young - self

Peter W. McSwain  
December 19, 1977  
Page Four

RE: General - Rules Hearing

- We support the proposed definition of a bedroom.

Charles Howe, R.S. - Douglas County

Page 14

340-71-013(4)

No Testimony

Page 15

340-71-016(5)

- Recommend against this change as it conflicts with the proposed change in 340-71-025(2)(a), Page 17.

Jim Christopherson - self.

- Disagree with that portion of this change which deals with the two (2) seventy-five foot disposal trenches. This is a bare minimum system in Jackson County even for a two bedroom home. Under this proposal, an individual could receive approval for a maximum two bedroom system, install a two bedroom system and house, then request to expand the system beyond the sites capabilities. This rule should not be adopted.

Brad Prior, R.S., Jackson County

- This proposed amendment should be dropped, as it would allow for the connection of a five (5) to six (6) bedroom dwelling to a system with only two (2) seventy-five (75) foot lines.

Charles Costanzo, R.S., Josephine Cty.

- We would support connecting to an existing system only if the definition of an existing system were changed to be those systems installed prior to 1974 and no Certificate of Satisfactory Completion was issued for such a connection.

Charles Howe, R.S., Douglas County

Page 16

340-71-016(8)

- Not needed, it's sticking governments nose in where it does not belong.

Jim Christopherson, - self

- In favor of this proposed rule change as it provides for a yearly inspection. I would, however, request that local approval be allowed when the hardship is an immediate family member.

Brad Prior, R.S., Jackson County

Peter W. McSwain  
December 19, 1977  
Page Five

RE: General - Rules Hearing

- We support this proposed amendment.  
Charles Howe, R.S., Douglas County
- We feel the rule should be changed to allow DEQ or another appropriate governing body the authority to approve hardship connections for other than immediate family members where medical reasons prevail. (i.e., a nurse staying on the property with an infirm person)
- We also feel that the Department's authorized representative should be allowed to approve hardship hookups. This would allow the issuing agency to impose needed conditions. (i.e., limit hook-ups to two bedroom mobile homes with no more than two persons).  
Charles Costanzo, R.S., Josephine Cty.

Page 17

340-71-025(2)(a)

- Against change as it is a financial penalty against people who use two to four bedroom houses ... unfair and trying to second guess the owner. Should set a size for each bedroom.  
Jim Christopherson - self
- Should retain the current sizing schedule for one (1) to four (4) bedroom homes as a guideline for connection to older systems. The rule change should also specify the number of compartments required in the proposed 1200 gallon tank.  
Brad Prior, R.S., Jackson County
- We concur with the intent to standardize septic tank sizes but see no reason to require a twelve-hundred (1200) gallon over the one-thousand (1000) gallon tank. We would therefore recommend that the rule require a one-thousand (1000) gallon tank for one (1) to four (4) bedroom homes with a two-hundred-fifty (250) gallon increase for each additional bedroom.  
Charles Costanzo, R.S., Josephine Cty.
- We support this proposed change with one exception. The standard size should be a one-thousand (1000) gallon tank for one (1) to four (4) bedroom homes.  
Charles Howe, R.S., Douglas County

Page 18

340-71-018(1)

No Testimony



Peter W. McSwain  
December 19, 1977  
Page Six

RE: General - Rules Hearing

Page 18

340-71-020(1)(a)

- This change should be left out as it is a violation of the Department's responsibility to protect public waters.

Jim Christopherson - self

Page 21

340-71-030(5)(a)

- Seepage pits and cesspools are not a problem in Jackson County as the requirements for installation cannot be met. Not for or against this proposed rule change but would request that the public be told that the aquifer which will be polluted by these systems must be written off.

Brad Prior, R.S., Jackson County

340-71-030(5)(c)

No Testimony

340-71-030(5)(d)

No Testimony

Page 22

340-71-030 Appendix D

No Testimony

Page 24

340-71-040(1)(b)

- Would request that sealed vault privies also be included in this provision.

Brad Prior, R.S., Jackson County

- The proposed change should refer to nonwater-carried waste disposal systems rather than just pit privies.

Charles Howe, R.S., Douglas County

Page 27

340-71-030(2)

- The Rural Areas rule is legal and the difference in size requirements from county to county is fine. This rule should not be deleted.

Jim Christopherson - self

- In Jackson County the Rural Areas program has worked exceptionally well and is much faster and more economical than the Variance procedures. Understanding the legalities of this program, we however, have no objections to the proposed rule change.

Brad Prior, R.S., Jackson County

- We believe that the Rural Area rule has been a useful tool and should be incorporated into the Variance program, with a change which would allow for a waiver of the one-hundred-fifty (150) dollar fee for ten (10) acre or larger parcels which are in ten (10) acre or larger minimum zones.

Charles Costanzo, R.S., Josephine Cty.

- We support the removal of the Rural Areas section as long as it's replaced by a standard Variance procedure which has been modified to make it speedier and is accompanied by some type of fee adjustment.

Charles Howe, R.S. - Douglas County

Page 28

340-75-050

- The law says that decisions of a Variance Office are appealable. The DEQ has been violating the law for over two (2) years. The DEQ is sneaking in this little correction.

Jim Christopherson - self

Page 30

340-71-035(1)(a)(A)

- This is a change for the convenience of a few. It is very easy to make a trench bottom absolutely level. Rule should remain as written.

Jim Christopherson - self.

- I feel this is a realistic change in the rules as it is not possible to install an absolutely level trench.

Brad Prior, R.S., Jackson County

Peter W. McSwain  
December 19, 1977  
Page Eight

RE: General - Rules Hearing

340-71-035(1)(b)(B)

No Testimony

340-71-035(1)(c)(A)

No Testimony

Page 31

340-71-030(4)(f)(D)

No Testimony

340-71-030(4)(f)(H)

No Testimony

Page 33

340-71-037(3)(b)

- The overflow vent and pumping port should be required to be constructed so as to refrain or retain aquatic insects.

Eric Hamrin, Jackson County  
Vector Control District

Page 34

340-71-020(2)(c)(B)

- We would like to see 340-71-020(2)(h)(B) changed to require a ten (10) foot setback rather than the existing twenty-five (25) foot setback.

Charles Howe, R.S., Douglas County

Page 36

340-71-045(9)

- Would like 340-71-045(8) to be changed so as to require that the septic pumps be required to refill the access hole.

Eric Hamrin, Jackson County  
Vector Control District

Page 38

340-72-010

No Testimony

Page 40-47

340-74-005 to 74-020

- This is an internal DEQ problem which the Director can solve by putting out a policy statement. There is no mention of what other states are doing.

Ron Richardson, (Aquatic Biologist)  
Representing self

- Rule should require that an aquatic biologist review all experimental proposals.

Eric Hamrin, Jackson County  
Vector Control District

YELLOW SECTION

- Just housekeeping amendments and a waste of our tax paying dollars to publish.

Jim Christopherson - self

GENERAL STATEMENTS MADE

- DEQ should have five sets of rules, one for each of Oregon's five (5) geological regions.

Jim Christopherson - self

- I would strongly recommend that the EQC direct the DEQ to study the existing scientific "State of the Art" of disposing of sub-surface sewage and promulgate some rules which will solve the problems based on scientific facts and not upon the convenience of either the Director, back-hoe operators or subdividers and that the Director be directed to enforce the rules.

Jim Christopherson - self

- There are now available in Oregon, approved blackwater systems. Next we should allow the use of the gray water systems which have proven to work in other areas of the world. The reason they are not made available is due to the sewer industries control of the legislative bodies through lobbying. Also, the rules should be written in a clear, understandable manner.

Ron Richardson - self

Peter W. McSwain  
December 19, 1977  
Page Ten

RE: General - Rules Hearing

- The septic systems being used today will all eventually pollute the water table and should therefore be eliminated.

Ron Richardson - self

- I'm against all DEQ rules.

Fred Young

- I am against the entire rules, period. Not necessarily the changes, but the rules, because they are an effort to rule and regulate upon our property in violation of the Tenth Amendment of the United States Constitution.

David Stine, Representative,  
"Committee to Restore the Constitution"

- We got to have rules to clean up our rivers and lakes, etc.

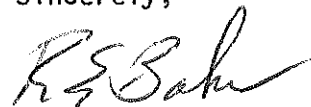
Elery Perry - self

Pete, please find attached the four (4) written testimonies I received. They are as follows:

1. E. A. Henderson, R.S., Curry County
2. Kenneth D. Cote, R.S., Jackson County
3. Dick Florey, Soil Scientist, Jackson County
4. John H. Rowan, Soil Scientist, Jackson County

If you have questions, please contact me at your convenience.

Sincerely,



R. E. Baker, R.S.  
Assistant Regional Manager

REB:mc  
encls.

cc: T. Jack Osborne, WQ-SS, Portland

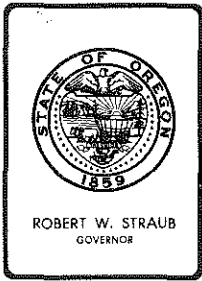
- \* In each instance shall indicate, Environmental Sanitation Section, Jackson County Department of Planning & Development.
- \*\* In each instance shall indicate, Environmental Health Services Division, Josephine County Health Department

Peter W. McSwain  
December 19, 1977  
Page Eleven

RE: General - Rules Hearing

\*\*\* In each instance shall indicate, Douglas County Health Department  
All other verbal testimony identified as indicated.

(mc)



## Department of Environmental Quality

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 Telephone (503) 229-5383

### HEARING OFFICER'S REPORT

Public hearing on proposed Amendments to Administrative Rules on  
Subsurface and Alternative Sewage Disposal.

PORTLAND, December 14, 1977

Three persons testified at this hearing which was convened at 9:00  
a.m. in Multnomah County Courthouse, Portland.

Bob McDougald--Director of Planning and Governmental Affairs, Home  
Builders Association of Metropolitan Portland, testified that his  
Association is opposed to the proposal to ban cesspools and phase  
out seepage pits. Mr. McDougald presented a lengthy justification  
for continuing the use of cesspools and seepage pits. His written  
testimony is attached.

Craig Chisholm--Associate Title Counsel, Pioneer National Title  
Insurance Company, Portland, wishes to emphasize that the proposed  
experimental systems rules, specifically 74-012(3)(e), needs to be  
written in such a way that requires the easement to contain a legal  
description of the property, otherwise it will not be picked in a  
title search.

Harding Chinn--Multnomah County Department of Environmental Services,  
testified in opposition to the proposal to ban cesspools and phase  
out seepage pits. Mr. Chinn feels it is necessary to allow con-  
tinued use of these facilities in order to complete orderly development  
in the area and to attain maximum densities on existing lots.

SUBMITTED:

  
Peter McSwain  
Hearing Officer

TJO/jms  
Attachment



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# HOME BUILDERS ASSOCIATION OF METROPOLITAN PORTLAND

December 12, 1977

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Environmental Quality Commission  
1234 S.W. Morrison  
Portland, OR

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Director of Planning and  
Governmental Affairs

## Commissioners:

The Home Builders Association of Metropolitan Portland opposes the proposed rules amending Sections 340-71-030, subsections 5A, C and D, regarding cesspools and seepage pits. This issue was before the Commission in May 1975 and at that time both the HBA of MP and Multnomah County opposed the ban on cesspools and seepage pits within Multnomah County and the City of Portland.

Since that time, actions taken by public agencies intensify the fact that any rule prohibiting reasonable use of cesspools within Multnomah County will create economic, social and land use problems.

Specifically, we oppose the rule for at least the following reasons.

--Within the CRAG region, local agencies, CRAG and LCDC have reviewed the urban containment boundary, which incorporates mandatory constraints on outward growth. The initial adoption of the boundary was based upon the services available and the need to "fill-in" passed over lands. These "passed over lands" in Multnomah County are designated urban and are considered developable with cesspools.

--CRAG, through an LCDC order, will adopt an interim urban growth boundary. Based upon the order, the "passed over lands" in Multnomah County undoubtedly will be included as urban and developable with cesspools.

--The Multnomah County Planning Commission considered its Framework Plan for approximately two years prior to its recent adoption. The County considered all aspects of development and included within the urban area lands that are to be developed with cesspools.

--Since the last action in 1975, the City of Portland and Multnomah County have attempted to provide incentives to use passed over parcels. In most instances activity on



these lands is generally limited to small partitions and subdivisions, in keeping with existing neighborhood development character. There is no planned large scale use of "passed over" lands on cesspools.

--Because existing areas lack public sewers, it is not economically feasible to extend lines to development "passed over" lands. If cesspools are not permitted within Portland and Multnomah County, the only alternative to meet LCDC and CRAG goals on providing housing is to expand urban boundaries.

Such action is contrary to adopted policies at the local, regional and state level.

--The use of cesspools and seepage pits is diminishing because public sewers eventually are being extended to serve unsewered areas in Portland and Multnomah County. To do away with their use immediately will cause repercussions from existing property owners for several reasons.

1. Those people located in the center of areas furthest away from public sewers cannot build until the sewers are extended. It is unreasonable to ask those presently on the sewer to vote for bond issues to extend facilities they do not anticipate needing. Those on working cesspools will not vote for sewers.
2. Based upon conservative county estimates in 1975 it will cost \$50,000,000 to \$150,000,000 to convert cesspools and septic tanks to public sewer systems as well as separate storm and sanitary sewers within the City of Portland.

Approximately 200,000 people still use cesspools and seepage pits in East Multnomah County and the City of Portland. It seems highly unlikely these people will sit still with a mandate to convert. An obvious problem is a cesspool cost approximately \$800 per unit in 1975 whereas a City of Portland trunkline at 82nd Avenue has a connection charge of apparently approximately \$20,000.

--It appears the rule does not recognize people problems nor does it recognize the practicality of:

1. Regional differences -- because of a geological freak of nature, portions of Multnomah County have approximately 95 percent of gravel strata acceptable for cesspools and seepage pits.
2. Authorities indicate that polluted ground water will take approximately thirty years to purify itself. It

seems that an additional few years will not upset the anticipated balance. Further, we have seen no facts that pollution originates only from cesspools and not septic tanks.

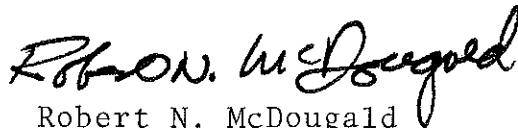
3. Why single out cesspools and seepage pits? It seems that any effluent in the ground, be it from cesspool, septic tank, seepage pit or whatever, will create a degree of pollution. Just because cesspools are geologically unique to Multnomah County and not the rest of the state is no reason to single them out and say that some other form of treatment is more acceptable.

--Attached is a memo regarding the rule in 1975. Given the actions of Multnomah County in land use, the contents which justify its opposition is still valid.

In conclusion, the proposed rule change does not recognize the uniqueness of Multnomah County geology, the hardship that will be incurred by existing property owners, nor established land use policies of the state, region, county and city governments.

The Home Builders Association of Metropolitan Portland members prefer development on sewers, but to provide needed housing and conform to present land use policies and laws, we must oppose discontinuance of current practices within Multnomah County. We strongly feel Multnomah County should be able to continue the present use of cesspools.

Sincerely,



Robert N. McDougald  
Director of Planning  
and Governmental Affairs

RNM/sc  
Enclosure

Multnomah County Oregon  
INTER-OFFICE MEMORANDUM

TO: Commissioner Mel Gordon

SUBJECT: DEQ Proposed Revisions  
Regarding Cesspools

FROM: Martin R. Cramton  
Director

DATE: May 2, 1975

Approximately 47 square miles of the area between the Willamette and Sandy Rivers within Multnomah is underlain by a gravel deposit with local depths of over 200 feet. These gravels are of Quaternary age and are the result of a combination of fluvial and lacustrine deposition. As a consequence of these depositional processes, particle size decreases from large boulders to pebbles in an east to west direction within the deposits. Lithologies present include sandstone, granitic types, tuff, quartzite and mafic volcanics. The majority are of this latter category with nearly 60 percent being Columbia River basalt.

The geologic nature of these gravels makes them excellent for a number of uses. Two such uses, subsurface sewage disposal and mineral aggregate extraction, operate in direct conflict with one another. The need for mineral aggregate is created through a demand for footing, foundation and driveway material for new development. However, much of this new development is sited atop gravel which might be required to satisfy demands for future aggregate material. This is not to say that the resource is not being utilized. Where municipal sewers are not available, cesspools in these gravels provide an excellent means of sewage disposal.

The Oregon Department of Environmental Quality is proposing that a statewide ban be placed on subsurface sewage disposal via cesspools. This proposal stems from a seven month survey of wells and surface waters that tentatively indicates the existence of pollution problems.

The problem facing Multnomah County, then, is whether such a ban is warranted for Multnomah County. If so, are there sites that can be conserved to satisfy the growing demand for aggregate material?

#### Mineral Aggregate

The extent of the gravel deposits in the unincorporated portion of Multnomah County is shown on the accompanying map. It comprises an area of approximately 24 square miles. If this averaged only 10 feet in depth, it would represent over 2½ million cubic yards of gravel. However, when the currently developed areas are eliminated from consideration this potential is reduced by nearly 85 percent.

Relative location plays the dominate role in determining the cost of aggregate products. Production costs can be considered a fixed parameter, but for every ten miles that product is transported, hauling costs double its value. Thus, the closer construction

RE: DEQ - Cesspools

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occurs to an aggregate source, the lesser the construction costs. Alternate sources are possible, but must be considered within the parameters of the LCDC goals regarding Energy Conservation, Transportation, Housing, Natural Resources and the Economy of the State.

Realizing the need to determine the mineral resource potential of the County, the Board of County Commissioners has recently taken positive action to insure the identification and conservation of future aggregate sources.

In January of this year, a Mineral Extraction Ordinance was adopted for Multnomah County. It allows that once a site has been recognized as having an economic gravel deposit, that site can be conserved for future extraction. Also, it requires that when extraction does occur, that it shall be accomplished in such a manner that the site is progressively reclaimed for future use.

### Subsurface Sewage

The attached map also shows the approximate limits of the area within east Multnomah County currently served by sanitary sewers. When considered in combination with the corporate boundaries and sewer areas the undeveloped, unsewered areas drop out. Most of these areas are considered by the Multnomah County Sanitarian as having good potential for cesspool installation.

There is indication that continued reliance on cesspools in the east County area has resulted in pollution of the local ground water. This is particularly true in the area of the Columbia Slough. Research by DEQ has shown a concentration of nitrate-nitrogen, one of the end products of decomposed domestic sewage, in the Columbia Slough and some adjacent community wells. Since the ground water table for the metropolitan area flows in a northerly direction, this pollution has been related to subsurface sewage disposal. However, the maximum acceptable level for nitrate-nitrogen is 10 mg/l while the average of those samples taken is slightly above 5 mg/l.

### Conclusions

The lined portion of the map indicates the area of Multnomah County where cesspools are currently being permitted. The undeveloped properties within this area consist almost exclusively of vacant interior portions of superblocks. Current population for this area is approximately 150,000 people. If it were to entirely develop at an R-7 density, a population of nearly 195,000 would result. A 30% increase in the number of cesspools would be required to serve this population. It is questionable whether 30% increase in subsurface sewage would result in a 100% increase in the nitrate-nitrogen level. In fact, it is only an assumption that relates these pollution levels solely to subsurface sewage.

What is being proposed with the intent of solving a tenuous public health problem will actually result in the County being required to promote land use policies that run counter to those of LCDC and CRAG, as well as the County's intent for land use management.

RE: DEQ - Cesspools

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Multnomah County's compliance with the LCDC goals regarding Housing, Public Facilities and Services, Urbanization, and Air, Water and Land Resource Quality will be greatly affected.

Housing - one of the directions of this goal is to develop incentives for increasing population densities in urban areas. This will be difficult to accomplish when that area having the highest potential for increased density is removed from development consideration.

Public Facilities & Services - "A public facility or service should not be provided in areas where there are not coordinated plans for development." If no development potential exists for this area, then, LCDC will not encourage the extension of public facilities and services. Yet, DEQ is suggesting that it be sewerred, but proposing no means through which this can be funded. The financial feasibility for municipal sewers can be realized by increasing the demand for that facility in a manner which does not cause a public health hazard.

Urbanization - "Plans should designate sufficient amounts of urbanizable land to accommodate the need for further urban expansion, taking into account the growth policy of the area." Multnomah County has long been encouraging higher density development in close-in areas. If this area is removed from consideration, sprawl in the form of large lot rural development will be the only alternative.

Air, Land and Water Resources Quality - "Plans of State agencies before they are adopted, should be coordinated with and reviewed by local agencies with respect to the impact of these plans on the air, water and land resources in the planning area." Multnomah County has been given the opportunity to review the proposed plans, but they have definitely not been coordinated with one another.

CRAG is proposing that an urban service boundary be established within which all urban type development will occur, largely through the utilization of vacant land. Multnomah County is considering such a boundary. However, if at least interim development is not allowed on cesspools, very little vacant urban land will have development potential.

Gravel extraction has proven to be an incompatible use with higher density residential areas. Complaints of noise and air pollution, traffic congestion and incongruent hours of operation are common. Therefore, the likelihood of encouraging mineral extraction in the undeveloped, unsewered portions of mid-Multnomah County is quite low. Also, parcel sizes are so small as to make gravel operation economically unfeasible.

RE: DEQ - Cesspools

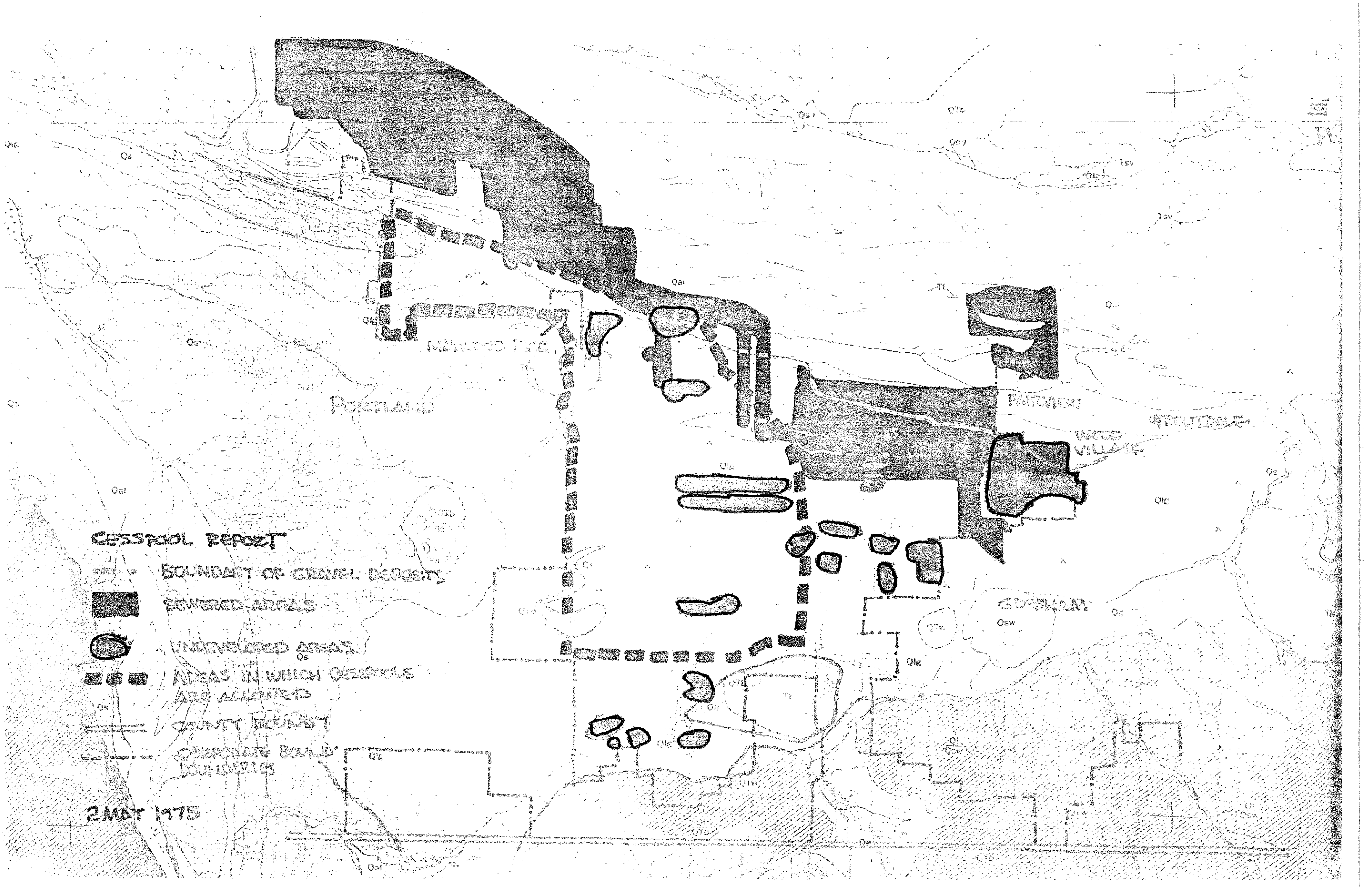
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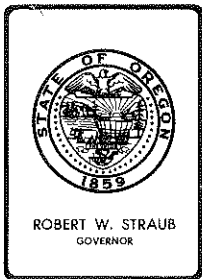
Recommendations

Multnomah County should oppose any proposed ban on cesspools within the area of its jurisdiction. The geologic nature of the material where cesspools are being approved makes it uniquely suitable for subsurface sewage disposal via cesspools. DEQ should be encouraged to recognize this anomaly and not include such areas in any proposed ban on cesspool installation. Until municipal sewers are constructed in this area, such a ban would negate compliance with the LCDC mandate of "filling-in" developed areas.

Multnomah County should develop a capital improvements program strongly directed towards providing currently developed areas with urban services (mainly sewer and water). Higher density urban development will surely require these services to avert future pollution problems.

Multnomah County should also develop an inventory of its mineral resource base. It is obvious that much of the aggregate potential that once existed has since been rendered unavailable by development. Areas currently possessing the physical and economic characteristics required for gravel extraction should be identified and conserved.





## Department of Environmental Quality

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 Telephone (503) 229- 6218

### HEARING OFFICER'S REPORT

Public hearing on proposed amendments to Administrative Rules on Subsurface and Alternative Sewage Disposal.

BEND, December 20, 1977

Six persons testified at this hearing which was convened at 9:00 a.m. in Deschutes County Courthouse Annex, Bend.

John Glover--Supervising Sanitarian, Deschutes County, testified in favor of reduced sized drainfields for low flush toilets, amending the "bedroom" definition, setting a minimum size septic tank larger than presently required (suggests 1,000 gallon rather than 1,200 gallon), amendments as proposed to 340-71-016(5), 340-71-016(8) and 340-72-010.

Opposed deletion of the "rural areas" rule. Opposed allowing pit privies for full-time dwellings.

In addition, Mr. Glover suggested three other amendments not considered in this proposal. These proposed amendments would effect 340-71-015(6)(a), 340-71-020(2)(h)(b), and 340-71-020 generally.

The following persons testified in favor of the proposal to set a minimum size septic tank larger than presently required (all favor 1,000 gallon as minimum): Robert Wilson, Wilson Precast, Bend; Aubrey Perry, Bend; Earnest Simpson, General Contractor, Bend.

George Cruden--Testified in favor of a reduced sized septic tank for gray water only. (Suggested 250 gallons.) Also feels that drainfield for gray water only should be reduced by two-thirds rather than one-third as now provided.

Dennis Kerr--Representing Central Oregon Board of Realtors, testified in favor of allowing reduced sized standard subsurface systems where sewerage systems are expected in near future, such as City of Bend.

SUBMITTED:

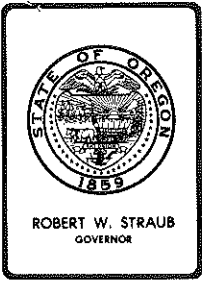
  
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## Department of Environmental Quality

P.O. Box 1760, Portland, OR 97207 ~~AND OREGON 97205~~ Telephone (503) 229- 6218

### HEARING OFFICER'S REPORT

Public Hearing on Proposed Amendments to Administrative Rules on Subsurface and Alternative Sewage Disposal. Summary of Testimony Received by Mail.

The following persons submitted testimony by mail. That testimony is summarized and the complete written text is available in the Commission's Hearing Officer's office.

John R. Munro, Legislative Director - Oregon Association of Realtors supported increased minimum size for septic tanks - 1000 gals. for 4 bedrooms + 1500 for more than 4 bedrooms.

Supports bedroom definition based upon uniform building code rather than that proposed by the Department.

Supports concept of Hardship Connection to the existing system but feels it should be more flexible than proposed.

Rules pertaining to abandoned subsurface systems should be re-written to reflect intent of ORS 454.675. Recommends that proposed rule not be adopted but be referred to Citizen's Advisory Committee for study.

Cesspools/Seepage Pits - the outright exclusion of these facilities is unwarranted and unjustifiable. The proposal is not supported by data to indicate significant groundwater deterioration. Opposed the proposal to eliminate the Rural Areas Variances from the rules.

Experimental Rules - In subsection 74-005(5) the wording "the last resort for obtaining an on-site disposal permit" seems ill warranted.

In addition, several suggestions for rule clarification were presented.

William D. Lyche, Bend - Proposed that Rules 340-71-045 (sewage disposal service) be amended to allow sewage pumpers to operate without a license when pumping facilities in privately owned camps licensed by the State.

Proposed that holding tanks (340-71-037) be allowed for permanent use in private recreational compounds under certain conditions.



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Gaston Porterie, Days Creek - Proposed that "Compost Digesters" be first priority for black waste disposal and submitted a design for a gray water system.

City of Portland, Bureau of Water Works - Favors use of community sewer systems as opposed to cesspools and seepage pits. Groundwaters in East Multnomah County, presently being polluted by cesspool and seepage pit disposal.

William W. Quigley, Baker County Planning Director - Opposed elimination of the Rural Areas Variance rule.

The following DEQ contract counties and region and branch offices submitted testimony which was considered in developing the final proposal for Commission action:

Douglas County - Gregory J. Farrell, Sanitarian and David Hansen, Soil Scientist

Josephine County - Charles D. Constanzo, Sanitarian

Tillamook County - James C. Seabrant, Sanitarian

Washington County - Gregory D. Baesler, Sanitarian

Yamhill County - Sanitation Office Staff

Southwest Region Office - Richard P. Reiter, Regional Manager and Ronald E. Baker, Assistant Regional Manager

Coos Bay Branch Office - Delbert Cline and Steve Scheer, Sanitarians

Salem/North Coast Region - Gary Messer, Sanitarian

Midwest Region - Daryl Johnson and Gary Morse, Sanitarians

Central Region - Bob Free, Sanitarian

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January 16, 1978

ATTACHMENT "D"

AMENDMENTS TO  
OREGON ADMINISTRATIVE RULES, CHAPTER 340  
DIVISIONS 71, 72, 74 & 75

In the Secretary of State's version of Oregon Administrative Rules, Chapter 340, Divisions 71, 72, 74 & 75 dated 3/1/77 and amended 7/1/77 & 9/15/77 amend as follows:

NOTE: Matter underlined is new; matter bracketed is existing language to be omitted.

1. Page 317, 340-71-005, line 3, delete [167, 171 and 309] and [1975] & substitute 171, 523 and 828 & 1977 for the deleted matter.
2. Page 317, 340-71-010(3), line 2, delete [a building sewer].
3. Page 319, 340-71-010(47), line 3, after "distribution box" insert drop box.
4. Page 321, 340-71-010(83)(h), line 11, delete [regulations] and substitute rules.
5. Page 321, 340-71-010(85) amend the definition "subsurface sewage disposal system" as follows: "Subsurface sewage disposal system" means [the combination of a building sewer and] a cesspool or [a building sewer] the combination of a septic tank or other treatment unit and effluent sewer and absorption facility.
6. Page 327, 340-71-016(8) line 17, following subsection 7, add a new subsection (8) to read as follows:  
(8) Personal hardship connections to existing systems.  
Upon receiving proof that a hardship exists within a family in that a family member is suffering either physical or mental impairment, infirmity, or is otherwise disabled and after determination that all

the provisions of subsection (4) of this section have been satisfied, the Director or his authorized representative may allow a mobile home to connect to an existing system serving another residence in order to provide housing for the family member suffering hardship. Connection shall be for a specified period, renewable on an annual basis, but not to exceed cessation of the hardship. The Director or his authorized representative shall impose conditions in the connection permit necessary to assure protection of public health and public waters.

7. Page 328, 340-71-020(1) (a), Line 4, after "subsurface" insert or alternative.
8. Page 328, 340-71-020(1), line 35, right hand column, following paragraph (g) insert 5 new paragraphs as follows:

"(h) Except where specifically allowed within this Division a system designed to serve a single residence with a specific number of bedrooms shall not be utilized to serve two (2) or more residences containing bedrooms equal or greater in number to that for which the system was designed."

"(i) Lots or parcels created after March 1, 1978 shall be adequate in size to accommodate a system large enough to serve a three (3) bedroom home."

"(j) For the purpose of administering these rules property line and tax lot line are synonymous."

"(k) Before approval of any lot or parcel for sub-surface sewage disposal is granted it must be determined that the proposed drainfield site and the replacement

site are free of encumbrances that might in the future prevent that site from being used for disposal or encumbrances that might in the future cause physical damage to occur to the system."

"(1) Within urbanizing or other areas where sewerage facilities are expected to replace on-site disposal facilities within five (5) years, the placement of of house plumbing to facilitate connection to the sewerage system shall be encouraged."

9. Page 328a, 340-71-020(2)(c)(B) line 20, left hand column, right hand column of numbers, delete [50] and substitute 25.

Left hand column, last line at bottom, following "escarpments:" delete [25] & [10].

Right hand column, line 14, delete [& 4], insert in the numbers column 10' & 10', and delete lines 15 thru 26 in their entirety, including the accompanying numbers.

10. Page 328c, 340-71-020(2) Footnotes, line 10, right hand column, delete footnote 4 in its entirety and renumber the following footnotes.

11. Page 329, 340-71-025(2)(a), Line 42, left hand column, following "capacity" insert the following:

"Effective January 1, 1979 the following table of of septic tank sizes shall be required for new installations:

<u>Number of Bedrooms</u>	<u>Required Minimum Capacity in Gallons</u>
<u>1 to 4</u>	<u>1000</u>
<u>5</u>	<u>1250</u>
<u>More than 5</u>	<u>1500"</u>

12. Page 331, 340-71-030(1) (a) line 3, left hand column, after "ground" insert a period, and delete the remainder of that sentence. Following the new period insert a new sentence to read as follows: A twelve (12) inch separation must be maintained between the impervious layer and the bottom point of the effective sidewall of the disposal trench.

340-71-030(1) (b), line 3, left hand column, after "ground" insert a period, and delete the remainder of that sentence. Following the new period insert a new sentence to read as follows: A six (6) inch separation must be maintained between the restrictive layer and the bottom point of the effective sidewall of the disposal trench.

340-71-030(1) (c), line 6, left hand column, after "areas" insert, that have been the subject of a groundwater study and.

13. Page 332, 340-71-030(3) line 21, right hand column, add two new subsections (d) & (e) to read as follows:

(d) After January 1, 1978, subsurface sewage system construction permits issued for new hotels, motels, apartment houses, single family dwellings or other facilities which utilize three and one-half (3-1/2) gallon flush toilets, approved by the State of Oregon, Department of Commerce, shall provide for a 10% reduction in the drainfield sidewall seepage area over that required by these rules.

(e) Subsurface sewage system construction permits issued for new hotels, motels, apartment houses, single family dwellings or other facilities which utilize two (2) quart flush low volume toilets, approved by the State of Oregon, Department of Commerce, shall provide for a 25% reduction in the drainfield sidewall seepage area over that required by these rules.

14. Page 333, 340-71-030(4)(d), line 11, left hand column, after "boxes" insert or drop boxes .
15. Page 333, 340-71-030(4)(d), line 4, left hand column, after "inches", insert except in pressurized systems.
16. Page 333, 340-71-030(4)(e) line 1, left hand column, after "pipes", insert except in pressurized systems.
17. Page 333, 340-71-030(4)(e)(A) line 4, left hand column, after "diameter" insert, except in pressurized systems.
18. Page 333, 340-71-030(4)(f), line 3, right hand column, after "table" insert, unless otherwise allowed or required within a specific rule of this chapter.
19. Page 333, 340-71-030(4)(f)(C), line 2, right hand column, delete [lines] and substitute pipe. After "inches" insert except in pressurized systems.
20. Page 333, 340-71-030(f)(D), line 2, right hand column, delete [two (2) inch drop in every one hundred twenty-five (125) feet] and substitute shall be installed level within a tolerance of plus or minus one (1) inch.
21. Page 333, 340-71-030(4)(f)(H), line 2, right hand column, after "inches" insert except that in serial trenches the minimum depth of backfill shall be twelve (12) inches.
22. Page 333, 340-71-030(f)(M), line 43, from top of page, right hand column, add a new subsection "(M)" to read as follows: (M) The bottom of each disposal trench shall be level within a tolerance of plus or minus two (2) inches.
23. Page 334, 340-71-030-(5)(g), right hand column, line 6, after "consisting of a" insert, pretreatment facility such as, but not limited to, after "and" insert, followed by a.

24. Page 334, 340-71-030(7) (a), right hand column, line 3, after "trench" insert, or seepage trench.
25. Page 334a, 340-71-030(8) (a) (D), right hand column, line 14, delete [150] and insert one hundred fifty (150).
26. Page 334a, 340-71-030(8) (a) (G), right hand column, line 5, delete [25'] and insert twenty-five (25) feet.
27. Page 334b, 340-71-035(1) (a) (A), left hand column, line 3, delete [with no drop] and substitute within a tolerance of plus or minus one (1) inch.
28. Page 334b, 340-71-035(1) (b) (B), right hand column, line 4, after "facility" insert a new sentence as follows:  
All laterals and headers shall be at the same elevation and shall be level within a tolerance of plus or minus one (1) inch.
29. Page 334b, 340-71-035(1) (c) (A), right hand column, line 2, delete [bottom of each trench and its] and substitute pipe and its attached header pipe, in line 3, delete [line], and after "level" insert within a tolerance of plus or minus one (1) inch.
30. Page 334b, 340-71-035(1) (e) (B), right hand column, line 1, delete [set of drop-boxes] and substitute drop box.
31. Page 334b, 340-71-035(2), right hand column, line 1, after "boxes" insert and drop boxes.  
  
340-71-035(2) (a), right hand column, line 2, after "boxes" insert and drop boxes.  
  
340-71-035(2) (b), right hand column, line 1, after "boxes" insert and drop boxes.



32. Page 336, 340-71-037(3)(b), right hand column, line 20, insert a new paragraph (C) to read as follows:
- (C) Setbacks as required in OAR 340-71-020(2) for septic tanks shall be maintained.
33. Page 337, 340-71-040, right hand column, at the end of the section add a new subsection (4) to read as follows:
- (4) Split waste systems. In dwellings or other facilities for which the State Department of Commerce has authorized installation of plumbing fixture units that are nonwater-carried and designed to handle black wastes only, such as recirculating oil flush toilets or compost toilets, gray water may be discharged into: (a) Standard subsurface systems on sites meeting requirements of these rules except that such system shall use two-thirds (2/3) the normal size subsurface drainfield which is preceded by a septic tank or other pretreatment facility approved by the Department; or (b) An existing subsurface system which is functioning satisfactorily; or (c) A public sewerage system which serves the facility from which such gray water is derived.
34. Page 338a, 340-71-045(9) right hand column, line 7, after "address" insert a new sentence to read as follows: Tank capacity shall be printed on both sides of the tank in letters three (3) inches in height and in a color contrasting with the background.
35. Page 338b, 340-71-045(11) right hand column, line 9, after "sewage" insert, after obtaining a permit for plumbing inspection under ORS 447.095.

36. Page 339, 340-71-025, Appendix A, III, B, in the note, line 1, after "Diagram 12" insert and table 8. Delete [recommended] and substitute minimum required.
37. Page 339, 340-71-025, Appendix A, III, H, line 1, delete [forty (40) percent] and substitute, not less than thirty-five (35) percent nor greater than fifty (50) percent.
38. Page 341, 340-71-035, Appendix B, II, B. 3, line 1, after "3." insert, At the discretion of the Director or his authorized representative.
39. Page 341, 340-71-035, Appendix B, III. B., line 1, delete [bottom] and substitute, invert. In III. E., line 1, delete [and address] and substitute or company number assigned by the Department.
40. Page 341, 340-71-035, Appendix B, IV, B., line 1, delete [and address] and substitute or company number assigned by the Department.
41. Page 342, 340-71-035, Appendix B, V.E., line 1, delete [and address] and substitute, or company number assigned by the Department.
42. Page 347, 340-71-020, Appendix E, II. A.2., line 1, delete [and header] and after "lengths" insert and header pipe in lengths of ten (10) feet or greater.
43. Page 347, 340-71-020, Appendix E, II.A., insert a new paragraph 4. to read as follows:  
4. High density polyethylene smooth wall distribution and header pipe in ten (10) foot lengths of which pipe

and fittings shall meet the specifications designated as Appendix P and by this reference made a part of these rules. Each manufacturer of high density polyethylene smooth wall pipe shall state, in writing, to the Department that he certifies that the pipe to be distributed for use in absorption facilities within the State of Oregon will comply with all requirements of this section. Renumber 4. to 5.

In newly renumbered paragraph 5., line 1, delete [three] and substitute four.

44. Page 447, 340-72-010(4) left hand column, line 1, delete [as contained in Section 10 of Chapter 167, Oregon Laws 1975].
45. Page 447, 340-72-010, right hand column, add a new subsection (5) to read as follows:  
(5) The provisions of ORS 454.655(3) notwithstanding fees required by ORS 454.745(1) may be refunded under the following conditions:  
     (a) The fee or application was submitted in error.  
     (b) Applicant requests refund and the application has not been acted upon through staff field visits.
46. Page 448, 340-72-025, right hand column, delete 340-72-025 in its entirety.
47. Page 451, 340-72-005 to 74-020, delete the division in its entirety and substitute newly adopted rules set forth on pages 11 thru 17.
48. Page 453, 340-75-015, left hand column, line 2, delete [Chapter 309, Oregon Laws 1975] and substitute ORS 454.660.

49. Page 454, 340-75-050, right hand column, line 2, after "grant" insert or deny, delete the second sentence which reads [A decision of the variance officer to deny a variance is final and not subject to administrative appeal].

Amendments to  
Chapter 340, Division 74  
Oregon Administrative Rules Relating  
to  
Experimental Sewage Disposal Systems

74-004 STATEMENT OF POLICY. The Environmental Quality Commission recognizes:

1. Alternative technologies to conventional septic and drainfield sewage disposal systems are needed in areas planned for rural or low density development.
2. Standards for alternative disposal systems must be developed based on information obtained from a controlled program of field testing and evaluation.
3. Funds available to the State of Oregon for testing the acceptability of alternative systems are limited. Careful selection of the types and numbers of systems to be studied is necessary.
4. The testing of alternative systems requires the cooperation of citizens willing to risk investing money on an experimental system which may fail and require replacement.
5. An experimental program is not intended to serve as the last resort for obtaining an on-site sewage disposal permit where all other attempts to get a permit fail.

6. Any program of experimentation must be carried out with the recognition failures will occur. Appropriate steps must be taken to insure adequate protection of public health, safety, welfare and the potential purchasers of properties where experimental systems are installed.

Therefore, it is the policy of the Commission that the Department pursue a program of experimentation to obtain sufficient data for the development of alternative disposal systems, rules and standards which may benefit significant numbers of people in areas of need within Oregon.

74-010 DEFINITIONS. All definitions under ORS 468.700 and OAR 74-71-010 shall apply as applicable.

74-011 MINIMUM CRITERIA FOR SELECTING EXPERIMENTAL SITES. The Commission recognizes minimum criteria are necessary for selecting experimental disposal systems sites.

Sites may be considered for experimental permit issuance where:

1. Soils, climate, groundwater or topographical conditions are common enough to benefit large numbers of people. Sites will not be considered for permit where soils, climate, groundwater or landscape have little in common with other areas.
2. A specific acceptable backup alternative is available in the event the experimental system fails.

Backup alternatives may include but are not limited to repair, expansion, connection to a sewer, installation of a different system, or abandonment of site.

3. For absorption systems, soils in both original development and expansion areas are similar.

4. Installation of a particular system is necessary to provide a sufficient data sampling base.
5. Zoning, planning and building requirements allow system installation.
6. A single family dwelling or its waste water producing equivalent will be served.
7. The permitted system will be used on a continuous basis during the life of the test project.
8. Resources for monitoring, sample collection and laboratory testing are available.
9. Legal and physical access for construction inspections and monitoring are available to the Department.
10. The property owner will record an affidavit notifying prospective purchasers of the existence of an experimental system.

74-012 PRELIMINARY EXPERIMENTAL SYSTEM PROPOSALS. The Commission and Department desire to minimize expenses for potential experimental systems applicants until it can be determined there is strong potential a proposal can be accepted for approval. Therefore, the following procedures shall apply:

1. A preliminary experimental proposal shall be directed to the Department for review to determine if they meet minimum site selection criteria. The Department will evaluate the proposed experimental site to help determine if it meets minimum site selection criteria.

2. Where the Department finds a preliminary proposal meets minimum site selection criteria, it will advise the prospective experimental applicant to complete and file an application for permit pursuant to OAR 340-74-015. The Department will advise and assist the applicant to the extent possible in this process.
3. Where the Department finds minimum site selection criteria are not met, the prospective experimental applicant will be advised against making permit application.

74-013 PERMIT REQUIRED FOR CONSTRUCTION. Without first obtaining a specifically conditioned permit, from the Department, no person shall construct or install an experimental on-site treatment and disposal system.

74-016 PROCEDURES FOR ISSUANCE OR DENIAL OF PERMITS.

1. Application for permit shall be made on forms approved and provided by the Department. All application forms must be completed in full, signed by the applicant or his legally authorized representative and accompanied by a fee as required under ORS 468.065(2).

Applications shall include detailed design specifications and plans, all available laboratory or field test data and any additional information the Department considers necessary.

2. The applicant shall agree in writing to hold the State of Oregon, its officers, employees and agents, harmless of any and all loss and damage caused by defective installation or operation of the proposed experimental disposal system.



3. The permit shall:
  - a. Specify the method and manner of disposal system installation, operation and maintenance.
  - b. Specify the method, manner and duration of the disposal system's testing and monitoring.
  - c. Identify when and where system inspection.
  - d. Require prompt submission of monitoring and test data to the Department.
  - e. Require the permittee to have recorded under deed records in the county where the experimental system is located:
    - (1) An affidavit which informs future purchasers:
      - (a) That an experimental system has been installed on the site and is undergoing Department evaluation;
      - (b) That neither the Commission nor the Department imply, express or warrant the experimental system will operate satisfactorily; and
      - (c) That if the Department finds the experimental system does not operate satisfactorily and as a result threatens to create a public health hazard or pollute state waters, the Department will require the system be repaired, so as to function properly, replaced or be abandoned.
    - (2) An easement which provides the Department legal access for monitoring the experimental system.

4. Permits may be issued by the Water Quality Division Administrator when the Department receives a completed experimental application and has determined minimum criteria for experimental site selection can be met.
5. Permits are not transferable. Permits shall be issued directly to applicants.
6. System construction and use are required within one (1) year of permit issuance.
7. If the proposed experimental system is determined ineligible, the Water Quality Division Administrator will notify the applicant of denial of the permit and the reasons for denial.
8. The decision by the Water Quality Division Administrator to either issue or deny a permit may, upon request, be reviewed by the Director of DEQ. The Director has the prerogative of affirming or reversing the decision, or referring the matter to the Commission for a decision.

74-017 INSPECTION OF COMPLETED CONSTRUCTION: CERTIFICATE OF SATISFACTORY COMPLETION.

1. Upon completing construction for each inspection phase required under permit, the permit holder shall notify the Department. The Department shall inspect construction to determine if it complies with provisions established in the permit and transmittal letter.

2. Where construction complies with permit terms, the Department shall issue a Certificate of Satisfactory Completion.

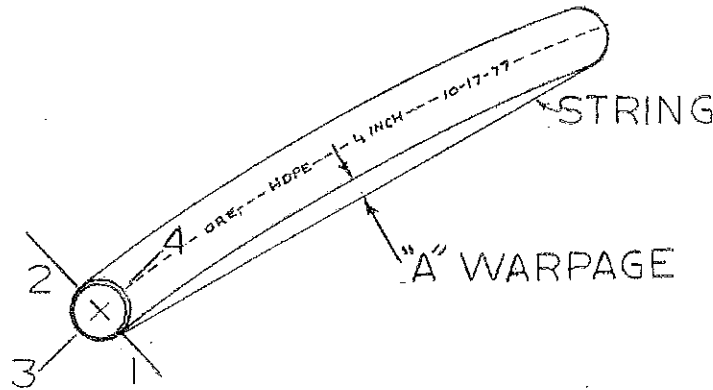
74-025 REPAIR OR REPLACEMENT OF FACILITY. If the Department finds the installation or operation of the experimental sewage disposal system is unsatisfactory, the owner upon notification from the Department, shall promptly repair or modify the disposal system in a manner acceptable to the Department, replace it with another acceptable disposal system, or as a last resort, abandon the site.

SPECIFICATIONS FOR:  
FOUR INCH HIGH DENSITY POLYETHYLENE SMOOTH WALL TUBING

Note: All specifications are assumed to be for tubing cured at  $72^{\circ} \pm 2^{\circ}\text{F}$ .

1. Outside diameter  $4.215'' \pm 0.009''$ .
2. Permissible deviation  $0.050''$  from roundness.
3. Die center, a maximum of no more than  $0.007''$  between readings for all measurable points.
4. Pipe and fittings shall pass a deflection test withstanding three hundred fifty (350) pounds per foot without cracking or collapsing by using the method found in ASTM 2412.
5. Flattening, no splitting or cracking at 20 percent deflection.
6. Smooth Wall High Density Polyethylene Tubing shall have two rows of holes spaced one hundred twenty (120) degrees apart and sixty (60) degrees on either side of a center line. For distribution pipe, a line of contrasting color shall be provided on the outside of the pipe along the line farthest away and parallel to the two rows of perforations. Markings, consisting of durable ink, shall cover at least fifty (50) percent of the pipe. Markings may consist of a solid line, letters, or a combination of the two. Intervals between markings shall not exceed twelve (12) inches. The holes of each row shall be not more than five (5) inches on center and shall have a minimum diameter of one-half (1/2) inch.
7. The pipe shall have a belled end, and have a length of 10 feet 3 inches  $\pm 1/4$  inch.
8. The pipe shall be white in color with a UV stabilizer.
9. The following coding sequence shall be used:  
  
(Manufacturer's Name) - - - HDPE - - - Leachfield - - -  
  
4 INCH - - - (proper date and plant coding).
10. Appearance, pipe must have smooth I.D. and O.D. with a minimum amount of streaks, lines and pits on O.D., and must be free of any splits or blow holes. (Any questionable product must be approved through Quality Control.)

11. Belling depth (after 30 minute cure) 4.215 plug gauge depth one and three-quarters (1-3/4) inches minimum.
12. The maximum allowable warpage is one-quarter (1/4) inch (Dimension A). To measure warpage, place pipe on a flat floor with markings up (position No. 4, see sketch). Check warpage first at positions 1 and 2 by stretching a string the full length of the pipe and measuring warpage (Dimension A, see sketch), then rotate pipe 90° and repeat procedure for positions 3 and 4.



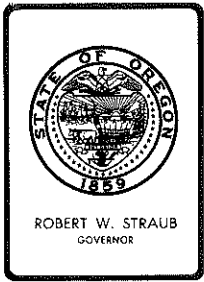
13. The minimum wall thickness  $0.110 \pm 0.009$  inches

$$\text{SDR Number} = \frac{4.215}{0.110} = 38.3$$

14. The polyethylene plastic pipe compounds shall be found to conform to the following cell classification limits by the appropriate ASTM test method listed:

<u>Property</u>	<u>Test Method</u>	<u>Cell Classification</u>
Density (g/cm <sup>3</sup> )	D 1505	greater than 0.941
Melt Index	D 1238	less than 0.4
Flexural Modulus (PSI)	D 790	greater than 160,000
Tensile Strength at Yield (PSI)	D 638	greater than 4,000
Environmental Stress		

15. Each manufacturer of high density polyethylene smooth wall tubing shall certify in writing, to the Department, that the pipe to be distributed for use in absorption facilities within the State of Oregon will comply with all requirements of this section.



## *Environmental Quality Commission*

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

### MEMORANDUM

To: Environmental Quality Commission  
From: Director  
Subject: Agenda Item No. N, February 24, 1978, EQC Meeting

Vehicle Emission Testing Rules (OAR, Chapter 340-24)  
Consideration of Adoption of Proposed Amendments to  
Rules Governing Motor Vehicle Emission Inspection to  
Include Testing of Publicly Owned Vehicles

### Background

At the Environmental Quality Commission meeting of November 18, 1977 authorization was granted to hold a public hearing to consider amendments to the inspection program rules. The purpose of these amendments is to include the testing of publicly owned vehicles in the testing program. The proposed rule modifications are presented in Appendix A.

### Statement of Need

The Environmental Quality Commission pursuant to ORS 468.370 is proposing to adopt rules to implement changes made in ORS 481.190 by the Legislature. The rule adoption is based upon the need to lay out in a clear manner, certain extra or different procedures in the emission inspection process that apply only to governmental agencies because of the nature of Oregon's motor vehicle licensing law. No special documents aside from the general rules (OAR 340-24-300 to 24-350), and the attachments to this memorandum were relied upon in preparing the rule modifications.

### Evaluation

The public hearing was held January 16, 1978 in the State Office Building. The Hearing Officer's report is attached as Appendix B. Department staff discussions on the testimony are presented in Appendix C.

Based upon the testimony received, the proposed rules are modified to allow for fleets of publicly owned vehicles, as defined by ORS 481.125, to self inspect if they have a minimum of 50 Oregon registered motor vehicles instead of the current 100. This reduction in fleet size is only being allowed for



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Recycled  
Materials

public fleets because the Legislature is requiring publicly owned vehicles to be certified every year, while most privately owned vehicles are required to be certified every two years.

This change will help with keeping costs down for those governmental agencies that participate. However, this should not be viewed as an irreversible move. It may be necessary, in the future, to go back to the 100 vehicle minimums if the situation warrants. On the other hand, this can be considered a preliminary trial and the Department would propose to extend this new minimum across the board to all fleets if it proves satisfactory. The Department will be monitoring this change, and if further changes are warranted, appropriate recommendations will be made to the Commission. The provision for government fleets to contract with each other remains.

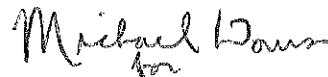
There is only one other proposed rule change. That change makes clear that a Certificate of Compliance before registration is required if a public agency is purchasing a used motor vehicle.

#### Summation

A public hearing was held and comments were received on proposed rules for testing of publicly owned vehicles. The comments were evaluated and changes in the proposed rules were made based on those comments. The adoption of these rules will complete the necessary preparations to implement SB 832.

#### Director's Recommendation

It is the Director's recommendation that the proposed amendments to the vehicle testing rules included in Attachment A be adopted with an effective date of April 1, 1978.

  
WILLIAM H. YOUNG

Ron Householder:mg  
6200  
February 7, 1978  
Attachments: Appendix A  
Appendix B  
Appendix C

0AR 340-24-306 is new and is added.

Publicly Owned Vehicles Testing Requirements

340-24-306

(1) All motor vehicles registered as government-owned vehicles under ORS 481.125 which are required to be certified annually pursuant to ORS 481.190 shall, as means of that certification, obtain a Certificate of Compliance.

(2) Any motor vehicle which is to be registered under ORS 481.125, but is not a new motor vehicle, shall obtain a Certificate of Compliance prior to that registration as so required by ORS 481.190.

(3) For the purposes of providing a staggered certification schedule for vehicles registered as government-owned vehicles under ORS 481.125, such schedule shall be on the basis of the final numerical digit contained on the vehicle license plate. Such certification shall be completed by the last day of the month as provided below:

<u>Last Digit</u>	<u>Month</u>
1	January
2	February
3	March
4	April
5	May
6	June
7	July
8	August
9	September
0	October

0AR 340-24-340 (8) is amended as follows:

(8) A fleet operation vehicle emission inspector license shall be valid only for inspection of, and execution of certificates for, motor vehicle pollution control systems and motor vehicles of the motor vehicle fleet operation by which the inspector is employed on a full time basis [·], except as provided in subsection (a).

(a) A fleet operation vehicle emission inspector employed by a governmental agency may be authorized by the Department to perform inspections and execute Certificates of Compliance for vehicles of other governmental agencies that have contracted with that agency for that service and that contract having the approval of the Director.

0AR 340-24-340 (10) is amended as follows:

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

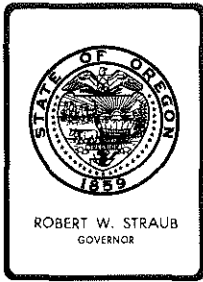
(a) Be in ownership, control, or management, or any combination thereof of 100 or more Oregon registered in-use motor vehicles [·], or 50 or more publicly owned vehicles registered pursuant to ORS 481.125.



(b) Be a governmental agency that has entered into a contract to provide for the inspection and execution of Certificates of Compliance for other governmental agencies. The combination of motor vehicles owned by the agency providing the service plus those covered under the contract must total 50 or more.

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

[~~(e)~~] (d) 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.



## *Environmental Quality Commission*

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

To: Environmental Quality Commission  
 From: Hearing Officer  
 Subject: Hearing Report: Proposed Rules for Emission Inspection of Publicly Owned Vehicles

### BACKGROUND

Commencing at 1:00 p.m. on Monday, January 16, 1978, a public hearing was held in Room 36 of the State Office Building in Portland, Oregon. Of the 45 to 50 people in attendance, 9 offered testimony. This testimony is summarized below.

Written testimony was offered by the City of Forest Grove, the City of Lake Oswego, and the Tualatin Rural Fire Protection District. Copies are attached and the testimony is summarized below.

### SUMMARY OF TESTIMONY

Mr. Daniel F. Durig, City Manager, representing the City of Forest Grove:

Mr. Durig appears to support the inclusion of publicly owned vehicles in the inspection regime. Mr. Durig states, however, that the size of fleet for the purpose of self inspection should be less than 100 vehicles.

Mr. Duane Cline, representing the City of Lake Oswego:

Mr. Cline proposed that the number of vehicles necessary for fleet inspection be reduced from 100 to 50. Mr. Cline supported the concept of staggering the inspection dates of publicly owned vehicles.

Mr. Roscoe E. Watts, representing the Tualatin Rural Fire Protection District:

Mr. Watts opposes the inclusion of fire emergency vehicles in the inspection program. Mr. Watts' reasons include:

1. The danger to public health and safety is greater from a fire emergency than from air pollution from fire vehicles.



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2. Fire emergency vehicles' air pollution contribution is minor.
3. Fire Districts are in the process of converting their vehicles to all diesel application.
4. DEQ requirements conflict with engine settings for fire emergency use.
5. Catalytic converters are a fire hazard.
6. Testing of fire fighting emergency vehicles would reduce the protection from fire danger to the public.

Mr. Watts further calls on the Commission to exempt emergency fire vehicles from any emission control.

Mayor Neil Goldschmidt, of the City of Portland, represented by Mr. Donald F. Mazziotti, read a prepared statement, copy attached:

In this statement, the mayor supports the Department's inspection program and supports the testing and compliance of publicly owned vehicles. The mayor requests the Commission to direct the Department to undertake a study to examine the impacts of present and projected Clark County traffic on the Portland Air Quality Maintenance Area.

Mr. Donald Allison representing Hillsboro Union High School District 3JT read a prepared statement, copy attached:

Mr. Allison opposes the 100 vehicle minimum required for self inspecting fleets. Mr. Allison opposes annual inspection since private cars are only required to inspected biennially. Mr. Allison calls for concerted effort to keep costs at a bare minimum.

Mr. Sam Piro representing Tri-Met:

Mr. Piro indicated that Tri-Met will comply with all emission requirements.

Mr. Michael R. Jones, representing the Bureau of Fleet Management of the City of Portland:

Mr. Jones proposes that the 10 month cycle be expanded to make 10 periods over the 12 month year in order to better utilize their manpower.

Mr. Jones requests that DEQ supply a list of the fleet vehicles by license number, as the city has over 1,400 vehicles, so that the city can determine what vehicles are required to be tested and when.

Deputy Chief Tom Shriver, representing Washington County Fire District #1:

He indicated that they are concerned about the down time of emergency fire fighting equipment. Deputy Chief Shriver stated that with only 52 vehicles they would not qualify for fleet self inspection; but because of the need for preparedness, they serviced all of their vehicles every 90 days. He stated that the contracting with other agencies was not as simple as it sounds.

Deputy Chief Shriver requested that the number for qualifying for self inspecting fleets be lowered to 50.

Mrs. Dolores Backus, representing Reynolds School District:

Mrs. Backus objects to the inspection because of scheduling difficulties, costs, and they can better utilize their time doing other things.

Mrs. Backus stated that 25 vehicles was a better number than 100 to designate a fleet.

Mr. Tom Fender, representing the Automobile Safety and Equipment Association, and the Multnomah Hot Rod Council:

Mr. Fender submitted written testimony, copy attached, regarding SB 832 Section 4, and suggested that the Commission adopt rules regarding after-market automotive equipment.

Mr. Howard Reed, representing the Oregon Department of Transportation:

Mr. Reed requested clarification on the specifics of what vehicles are and are not required (i.e., fixed load vehicles). He indicated that Highway Division vehicles will comply with the emission requirements.

Mr. Wayne Paterson representing the City of West Linn:

Mr. Paterson stated that 50 was a better choice for the minimum number of vehicles for self inspecting.

#### RECOMMENDATION

Your hearing officer makes no recommendation in this matter.

Respectfully submitted,

  
William P. Jasper  
Hearing Officer

WPJ:mg  
1/31/78  
Attachments

# City of Forest Grove

1924 COUNCIL STREET  
P.O. Box 326  
FOREST GROVE, OREGON 97116

January 6, 1978

Department of Environmental Quality  
P. O. Box 1760  
Portland, Oregon 97207

Gentlemen:

We present the following written testimony with regard to the proposed rules for testing vehicle emission of publicly-owned vehicles within the Metropolitan Service District. Our one area of concern regarding the proposed rules is that we must "be in ownership, control, or management, or any combination thereof of 100 or more Oregon registered in-use motor vehicles."

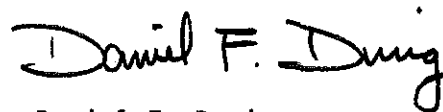
We have 53 licensed motor vehicles, some of which are backhoes, a grader, and track-mounted equipment. Also, our fire trucks are included in the 53 licensed vehicles. The proposed rule of 100 vehicles seems to be an arbitrary number and would pose a hardship on public agencies like ourselves.

We have two full time mechanics that could be licensed to perform vehicle emission inspection of our fleet whether there are 53 or 100 vehicles. Thus, we feel the rule should be based on the public agency having a full time licensed inspector, rather than a particular number of vehicles.

It appears that the intent of the law is to reduce pollution. If we have to drive our vehicles to a testing station seven miles away, this not only adds to pollution but is also a waste of money, time and fuel for this organization.

We strongly recommend that you adopt a rule consistent with a public agency's capability to test and correct their own vehicle emissions without regard to how many vehicles they have at any one time.

Sincerely,



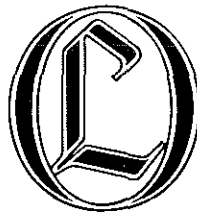
Daniel F. Durig  
City Manager

DFD:jj  
cc: Dir. of Public Works

STATE OF OREGON  
RECEIVED

JAN 10 1978

Dept. of Environmental Quality  
Vehicle Inspection Division



## CITY OF LAKE OSWEGO

January 23, 1978

Dept. of Environmental Quality  
P.O. Box 1760  
Portland, Oregon 97207

Re: Vehicle Inspection Program

Dear Sirs:

The City of Lake Oswego, in regard to Senate Bill 832, would like to make the following recommendations.

I would like to see the quantity of vehicles necessary for self certification reduced from 100 to 50. Additionally I would like to recommend that the initial compliance date be in the same month as they were registered. This would prevent the mass testing and certification of all vehicles at one time.

I sincerely appreciate the opportunity to submit these recommendations in an effort to make this program successful with a limited amount of financial burdens, etc. to the smaller public entities.

If you have any questions, please feel free to contact this office.

Very truly yours,  
Jim Hattan, Director  
Maintenance Service

By: Duane Cline  
Assistant Director

DC/g

STATE OF OREGON  
RECEIVED

JAN 25 1978

Dept. of Environmental Quality  
Vehicle Inspection Division

WATTS & WATTS  
ATTORNEYS AT LAW  
3434 S. W. WATER AVE.  
PORTLAND, OREGON 97201

ROSCOE E. WATTS  
JAMES R. WATTS  
JOHN S. WATTS

January 25, 1978

STATE OF OREGON  
R E C E I V E D

JAN 25 1978

Dept. of Environmental Quality  
Vehicle Inspection Division

Mr. William Jasper  
Hearing Officer  
Department of Environmental Quality  
P.O. Box 1760  
Portland, Oregon 97207

Re: Hearing - Proposed Inclusion of Publicly-  
Owned Vehicles under DEQ Testing Program

Dear Mr. Jasper:

We represent Tualatin Rural Fire Protection District ("TRFPD"), a rural fire protection district organized under ORS 478.002. It owns, operates and maintains fire emergency vehicles in Washington and Clackamas counties. This District would like to go on record as vigorously opposing the inclusion of fire emergency vehicles under the DEQ Testing Program.

We take this position for the following reasons:

1. Fire emergency vehicles are designed and maintained to operate at the scene of a fire for many hours at idling speed without movement; others must operate at peak RPM's for hours at the scene of a fire. These engines must be individually tuned to accomplish these operations, and leaded gasoline is essential to produce the required power. These vehicles are tuned to provide additional acceleration in traffic and adequate power for unpaved or hilly terrain, coupled with said ability to operate for hours without further adjustment. The power required is not only for movement, but for operation of radios, pumps, generators, lights, and other emergency equipment. We recognize that there is a pollution problem during this operation; however, the danger to public health and safety created by the fire emergency is far greater.

2. The contribution of fire equipment to total pollution is relatively minor, particularly as our district is primarily rural. During the month of December, 1977, TRFPD averaged 200 miles per fire engine for the entire month; that would approximate 40,000 miles

over a twenty year life. The average passenger car will operate 40,000 miles every four years. Fire staff vehicles average 500-700 miles per month or approximately 6,000-9,000 miles per year. Such vehicles constitute less than one percent of those registered in the state.

3. Most fire departments have been in the process of conversion from gasoline to diesel for a number of years. Diesel equipment can supply the required performance indicated above, using half the fuel and creating half the heat with little or no emission problem; however, diesel equipment is very costly and the conversion process necessarily is tied to the depreciation of any gasoline-fueled equipment now owned. The normal life of fire equipment is set at 20 years, with conversion to diesel upon replacement of equipment. Although most departments are well into their conversion programs, it probably will be at least 10 more years before all departments are completely converted (this is necessarily an estimate, as there is no way of obtaining accurate statistics).

4. The practicality of tuning engines to meet current DEQ requirements is questionable because fire engines tuned to meet emission control standards will not meet requirements necessary for emergency fire use. That is, an engine tuned for power will violate emission standards, while an engine tuned to meet emission standards will fail power requirements necessary for fire-fighting.

5. The high heat generation produced by catalytic converters creates a fire hazard under the vehicle. The heat generated exceeds 1000 degrees, which is well over the combustion point of any natural cover. It is well known that a fire vehicle traveling or parked over natural cover (grain, grass, brush, stubble, etc.) can easily set a field on fire. Such travel is usual or normal in the Tualatin district inasmuch as field fires are a substantial portion of our fire emergencies, and all off-highway parking is over planted or natural vegetation. (Fire vehicles engaged in fire-fighting operations must park off the highway on and about such natural cover.) The additional hazard could put fire vehicles out of operation and create or compound fire emergencies. One such emergency would result in far more pollution than the minimal amount generated by the fire vehicles involved.

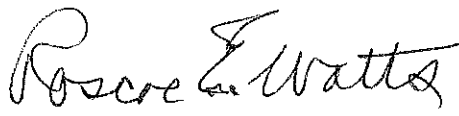
6. Fire vehicles now are out of service only for mandatory servicing. To require additional "down-time" to have emergency vehicles tested for emission control reduces the fire protection afforded. This District and all fire departments endeavor to maintain peak fire protection around the clock and this aim necessarily requires that down-time be kept to a absolute minimum.



The operation of emergency fire vehicles is solely for the minimization of fire destruction. We have no disagreement with the objectives of the Environmental Quality Commission in regard to exhaust emissions; however, we feel that such controls must yield to the greater danger of fire destruction. We respectfully urge that the Environmental Quality Commission exempt emergency fire vehicles from any emission controls.

Yours very truly,

WATTS & WATTS

By   
Attorneys for Tualatin Rural  
Fire Protection District

REW:dlh

cc: Chief Russell Washburn

**THOMAS FENDER, JR., P.C.**

LAWYER

THE OLD GARFIELD SCHOOL

528 COTTAGE STREET N.E.

SALEM, OREGON 97301

TELEPHONE  
(503) 399-9801

IN REPLY REFER TO OUR  
FILE NO.

January 16, 1978

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

STATE OF OREGON  
**R E C E I V E D**

JAN 16 1978

Dept. of Environmental Quality  
Vehicle Inspection Division

Re: SB 832

Gentlemen:

The Environmental Quality Commission's hearing to define the certification process for publicly owned vehicles does not reflect a total consideration of the provisions of SB 832. Included in this 1977 law was an amendment to ORS 483.825 allowing the modification of engine components in pollution control systems. The proposed rule does not indicate administrative notice of subsection 4 of SB 832.

This area is important because in the past the public has experienced a significant number of problems at testing stations with rational modifications to pollution control systems. The public looks to DEQ to amplify this section of the law through rulemaking, thereby correcting the current lack of reasonable standards governing the type of pollution control equipment which is installed in any vehicle.

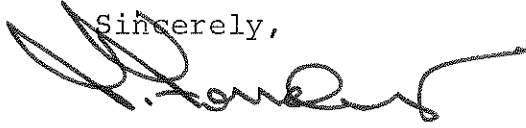
The marketplace is developing and selling new equipment specifically designed to improve the economy and the efficiency of pollution control devices. With the introduction of new equipment, there will be an increasing demand from the public for these systems which provide greater efficiency. This will mean continual changes in testing new equipment. We have samples of published material which explain some of the new devices currently available to the public for improving fuel economy and reducing emissions. We urge the Commission to have their technical people contact representatives of the Automotive Safety Equipment Association for further information about the most recent developments in automotive equipment to improve vehicle performance.

In order to prepare both the public and the compliance inspectors, the current rulemaking process should include the changing types of equipment allowed by subsection 4 of SB 832,

Environmental Quality Commission  
January 16, 1978  
Page 2

and provide for the implementation of this feature of the law  
within the overall testing system.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Fender, Jr.", written in a cursive style.

T. Fender, Jr.

TF:tb

STATE OF OREGON  
R E C E I V E D

JAN 16 1978

TESTIMONY FROM MAYOR NEIL GOLDSCHMIDT  
REGARDING IMPLEMENTATION OF SENATE BILL 832

Dept. of Environmental Quality  
Vehicle Inspection Division

THE CITY OF PORTLAND HAS A STRONG AND CONTINUING INTEREST IN THE STATE EMISSION TESTING PROGRAM AND AIR QUALITY MATTERS IN GENERAL. IN AUGUST OF 1977, CONGRESS PASSED AMENDMENTS TO THE CLEAN AIR ACT WHICH INCLUDED NEW EMISSION CONTROLS FOR AUTOMOBILES PRODUCED AFTER 1981. EVEN WITH THESE NEW EMISSION FACTORS, THE DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) HAS DETERMINED THAT THERE WILL BE CARBON MONOXIDE VIOLATIONS THROUGH 1990 ON MOST OF THE MAJOR HIGH DENSITY CORRIDORS IN AND AROUND THE CITY.

THE CURRENT DEQ INSPECTION PROGRAM HAS CONTRIBUTED SIGNIFICANTLY TOWARDS ASSISTING IN CONTROLLING THIS PROBLEM. SINCE IT'S INCEPTION IN 1973, THE INSPECTION PROGRAM HAS PROVIDED AN ESTIMATED 16% REDUCTION IN CARBON MONOXIDE WITHIN DOWNTOWN PORTLAND, ALONE, WITH SUBSTANTIAL CITY AND AREA-WIDE REDUCTIONS.

BASED ON THE MAGNITUDE OF THE PROBLEM AND THE COMMENDABLE RESULTS FROM THE INSPECTION PROGRAM SO FAR, THE CITY OF PORTLAND STRONGLY SUPPORTS THE STATE IN IT'S CURRENT EFFORT.

THE CITY FEELS, HOWEVER, THAT THE INSPECTION PROGRAM NEEDS TO BE EXPANDED. THE AMENDMENT BEING DISCUSSED TODAY, WHICH WOULD REQUIRE THE INSPECTIONS OF PUBLICLY - OWNED VEHICLES, REPRESENTS A GOOD FIRST STEP IN EXPANDING THE PROGRAM. THE CITY SUPPORTED THIS PROGRAM DURING THE 1977 SESSION OF THE OREGON LEGISLATURE.

EVEN THIS, HOWEVER, IS NOT ENOUGH TO ATTAIN THE EMISSION REDUCTIONS REQUIRED BY FEDERAL LAW. A MORE IMMEDIATE CONCERN TO THE CITY IS THE NUMBER OF

COMMUTERS WHO WORK AND DRIVE INTO THE PORTLAND AIR QUALITY MAINTENANCE AREA ON A REGULAR BASIS BUT LIVE IN AREAS OUTSIDE OF THE INSPECTION AREA. AT LEAST 15% OF THE CARS CURRENTLY USING THE DOWNTOWN AREA OF PORTLAND ALONE, ARE NOT COVERED BY THE EXISTING PROGRAMS. ONLY A SMALL PERCENTAGE OF THESE ARE PUBLIC VEHICLES AND WILL BE EFFECTED BY THE AMMENDMENTS BEING DISCUSSED TODAY.

ONE SUCH AREA, WHICH HAS BEEN OF CONCERN TO THE CITY FOR SOME TIME, IS CLARK COUNTY, WASHINGTON. WHILE IT IS UNKNOWN HOW MANY CLARK COUNTY RESIDENTS WORK IN THE PORTLAND AREA, THE TRAFFIC PROBLEMS RESULTING ON THE I-5 BRIDGE DURING PEAK HOUR TRAFFIC ALONE MAKE US BELIEVE THAT THE NUMBER AND IMPACT ON AIR QUALITY IS SUBSTANTIAL.

IN 1977 WE ESTIMATE THERE WERE 192,000 (APPROXIMATELY) PEOPLE EMPLOYED IN THE CITY; OF THIS TOTAL 103,000 LIVE IN PORTLAND AND THE REMAINDER IN THE FOUR-COUNTY AREA, INCLUDING CLARK COUNTY, WASHINGTON. SINCE 97% OF ALL COMMUTER TRAFFIC FROM CLARK COUNTY IS AUTO TRAFFIC, WE CONCLUDE THIS IS HAVING AN IMPACT ON THE QUALITY OF THE PORTLAND AIRSHED.

IT IS CERTAIN THAT MANY MORE VEHICLES ENTER THE PORTLAND AIRSHED THAN PUBLICLY-OWNED VEHICLES WITHIN THE BOUNDARIES OF THE METROPOLITAN SERVICE DISTRICT.

IN ORDER TO FAIRLY DISTRIBUTE THE RESPONSIBILITY FOR IMPROVING THE QUALITY OF AIR IN THIS AREA TO ALL JURISDICTIONS WHO HAVE A PART IN PRODUCING THE POLLUTION AND TO ASSIST IN MEETING THE NATIONAL AMBIENT AIR QUALITY STANDARDS IN A TIMELY MANNER, THE CITY OF PORTLAND REQUESTS THAT THE ENVIRONMENTAL QUALITY COMMISSION DIRECT THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO UNDERTAKE A STUDY TO EXAMINE THE IMPACTS OF PRESENT AND PRO-

JECTED CLARK COUNTY TRAFFIC ON THE PORTLAND AIR QUALITY MAINTENANCE AREA. WE WOULD HOPE THAT A POSSIBLE OUTCOME OF THIS WORK WOULD BE THE EXPANSION OF THE INSPECTION PROGRAM TO INCLUDE ALL VEHICLES REGISTERED IN CLARK COUNTY AND OTHER CONTROL MEASURES, AS MAY BE NEEDED.

# HILLSBORO UNION HIGH SCHOOL DISTRICT 3JT

---

- LANE L. DuBOSE, Superintendent
- W. RAY CARDER, Asst. Superintendent
- ROBERTA HUTTON, Director of Curriculum

- 1595 S.E. TUALATIN VALLEY HIGHWAY
- HILLSBORO, OREGON 97123
- TELEPHONE 648-8561

- BOARD OF EDUCATION
- Charles Starr, Chairman
- Jeannette Hamby, Vice Chairman
- Roger Madsen
- Frederick Teufel
- Stone Rose

STATE OF OREGON  
**R E C E I V E D**

JAN 16 1978

Dept. of Environmental Quality  
Vehicle Inspection Division

January 16, 1978

Name: Donald Allison

Representing: Hillsboro Union High School District 3 Jt.

I would like to go on record that I am not opposed to emission quality control. However, I am opposed to trucks and buses being singled out to pay twice the fee of automobiles for inspection. At no time has D.E.Q. shown that there is a need for twice as frequent inspection for the commercial vehicles. I would venture that few private vehicles are kept in tune and operating as efficiently as the fleet of school buses for which I am responsible.

I also feel there is no valid reason for the arbitrary number of 100 vehicles as the minimum number before private inspection is accepted. A fleet owner of 100 vehicles (75 diesel and 25 gasoline) may inspect the 25 gasoline privately and our fleet of 56 gasoline vehicles does not qualify. The regulations show remarkable inconsistency in their application.

Including driver time, it will cost our district approximately \$12.80 per bus to have them tested if there is no waiting time. If we were able to operate our own supervised inspection, we could save our taxpayers over \$600.00 per year on inspection costs alone.

The problem of overlapping governmental agencies charging each other for services only serves to increase the over-all cost to the taxpayer. It is reasonable that school districts and similar agencies be required to meet D.E.Q. regulations, but there should be a concerted effort by all agencies to keep the cost to a bare minimum or make no charge for other public agencies.

COMMENTS FROM PUBLIC HEARING JANUARY 16, 1978

A public hearing was held January 16, 1978 to obtain comments regarding the amendments to the vehicle inspection rules. The specific amendments cover the testing of publicly owned vehicles as defined by ORS 481.125. Written comments were received from the City of Forest Grove, the City of Lake Oswego, and the Tualatin Rural Fire Protection District. Prepared statements were received from Mayor Neil Goldschmidt of the City of Portland, Mr. Donald Allison of the Hillsboro Union High School District 3JT, and Mr. Thomas Fender. Oral testimony was received from Messrs. Sam Piro, Michael R. Jones, Howard Read, Wayne Paterson, Mrs. Delores Backus, and Dep. Chief Tom Schriver.

Oral Testimony

Mr. Sam Piro of Tri-Met spoke, indicating that Tri-Met would comply with all emission regulations. Mr. Howard Read of the Oregon Department of Transportation also indicated that all of their vehicles would comply with the emission regulations. It should be noted that the Highway Division currently is a licensed fleet for the purposes of self inspection.

Deputy Chief Schriver, Mr. Wayne Paterson, and Mrs. Delores Backus all spoke for the reduction of the minimum vehicle size requirement from its present 100 vehicles.

Mr. Michael R. Jones suggested an alternative testing schedule. This schedule would divide 12 months into 10 periods, as opposed to the proposed 10 months. It is possible that a 10 period/12 month schedule would cause undue confusion and it appears to staff that the schedule as proposed is more straight forward. This would not prohibit, however, any fleet from adopting its own schedule as long as that schedule is compatible with the proposed compliance dates.

Written Testimony and Prepared Statements

The City of Forest Grove, the City of Lake Oswego, and Mr. Donald Allison representing Hillsboro Union High School District 3JT all requested that the fleet size requirement be reduced from 100 to 50.

Mr. Thomas Fender indicated that the proposed rule amendments did not take note of subsection 4 of SB 832. Actually it was Section 2, subsection 4 of SB 832 which amended ORS 483.825 which clarifies the Legislative intent by stating that the statute is ". . . not intended to prohibit the use of replacement or conversion parts . . . if the components do not significantly affect the efficiency or ineffectiveness of the system in controlling air pollution." It is the staff's belief that existing rules, especially OAR 340-24-320(4)(b), sufficiently cover the intent of the change in legislation. However, this section, as well as other sections, will be reviewed during the annual update of emission standards and review of the rules.



Mayor Neil Goldschmidt endorses the expansion of the testing program and calls upon the Commission to direct the Department to study "the impacts of present and projected Clark County (Washington) traffic on the Portland AQMA." While staff has in the past estimated and reported such impact, (Ref. the Commission's Report to the 1977 Legislature), a study of the size and magnitude eluded to in the Mayor's comments, would be more properly done by the Columbia Regional Association of Governments (CRAG) of which Clark County is a member. The Department actively cooperates with CRAG.

Mr. Roscoe E. Watts, representing the Tualatin Rural Fire Protection District (TRFPD) raised six specific issues:

1. The danger to public health and safety is greater from a fire emergency than from air pollution from fire vehicles.
2. Fire emergency vehicles' air pollution contribution is minor.
3. Fire Districts are in the process of converting their vehicles to all diesel application.
4. DEQ requirements conflict with engine settings for fire emergency use.
5. Catalytic converters are a fire hazard.
6. Testing of fire fighting emergency vehicles would reduce the protection from fire danger to the public.

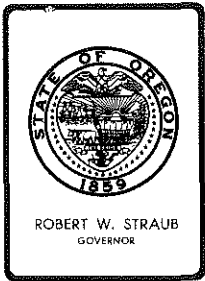
The following points should assuage some of TRFPD's concerns on the issues they raised:

1. ORS 481.075(2)(b) exempts from the registration requirements and therefore the inspection requirements, fire wagons and fire engines. In layman's terms, fire wagons (fire trucks is current usage) comprise a list of the larger trucks except for pumper trucks. Fire engines are pumper trucks.
2. While fire vehicles may constitute a small segment of the population, the Legislature directed in SB 832 that every motor vehicle registered within the MSD as a government-owned vehicle under ORS 481.125 demonstrate compliance annually with the emission standards.
3. One of the side benefits from emission inspection is to promote proper maintenance and identify engine problems in addition to reducing emissions. Proper maintenance and identification of potential equipment problems complements the mentioned diesel conversion program.

4. DEQ emission requirements are consistent with both light and heavy duty engine settings as specified by the engine or motor vehicle manufacturer. Testimony to this fact from the manufacturers has been presented before the Commission many times.
5. There has been a great deal of testing and research done on catalytic converters for fire danger, and catalytic converter equipped cars when operating properly are no more of a fire hazard than cars without catalytic converters. A paper done under the auspices of the U. S. Forest Service indicates that when properly maintained, catalyst cars pose no more hazard than non-catalytic equipped cars. In a similar demonstration conducted by the Los Angeles County Fire Department, both catalyst and non-catalyst cars caused fires in dry grass. In the report on the demonstration, it was suggested that there was not necessarily a problem with catalyst cars, but a problem driving any car into an area of tall dry grass.

EPA noted in a response to a Washington Department of Ecology request, that the National Highway Traffic Safety Administration (NHTSA) has closed their docket on the subject of catalyst overheating, (Federal Register, Vol. 42, No. 42 -- Thursday, March 3, 1977). This docket was NHTSA's official monitor for reporting catalyst overheating and converter caused vehicle fires.

6. As ORS 481.075(2)(b) would appear to exempt fire wagons and fire engines, the testing requirements would apply only to the smaller emergency equipment such as the fire chief's car and the like. It would appear reasonable that most fire districts have sufficient back-up available that the public safety would not be endangered by the time required for an emission inspection on that vehicle class.



## Environmental Quality Commission

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

### MEMORANDUM

To: Environmental Quality Commission  
From: Director, DEQ  
Subject: Agenda Item No. 0, February 24, 1978 EQC Meeting

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

### Background

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

### Summation

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

### Director's Recommendation

I recommend that the Commission approve the following Consent Orders:

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

*William H. Young*  
WILLIAM H. YOUNG

FMB/gcd  
229-5372  
February 21, 1978  
Attachments: Two (2) City of Eugene Final Orders



Contains  
Recycled  
Materials

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
Jun 1 - Oct 31:	NO DISCHARGE TO PUBLIC WATERS WITHOUT WRITTEN PERMISSION FROM THE DEPARTMENT.				
Nov 1 - May 31:					
BOD	55mg/l	60 mg/l	3.1 (6.9)	3.4 (7.5)	6.2 (13.8)
TSS	110mg/l	110mg/l	6.2 (13.8)	6.2 (13.8)	12.4 (27.6)

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

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

17 b. Respondent has committed violations of its NPDES Permit No. 1570-J  
18 and related statutes and regulations. Those violations have been  
19 disclosed in Respondent's waste discharge monitoring reports to the  
20 Department, covering the period from March 22, 1975 through the  
21 date which the order below is issued by the Environmental Quality  
22 Commission.

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

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

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

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

13 NOW THEREFORE, it is stipulated and agreed that:

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

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

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

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

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

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

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

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

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

15 DEPARTMENT OF ENVIRONMENTAL QUALITY

16  
17 Date: JAN 17 1978

By William H. Young  
WILLIAM H. YOUNG  
Director

19 RESPONDENT

20  
21 Date: 12/15/77

By Charles S. Henry  
Name  
Title Director of Public Works  
City Manager

23 FINAL ORDER

24 IT IS SO ORDERED:

25 ENVIRONMENTAL QUALITY COMMISSION

26 Date: \_\_\_\_\_

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

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

3 DEPARTMENT OF ENVIRONMENTAL QUALITY,                    )  
 of the STATE OF OREGON,                                    )  
 4    )  
   )        STIPULATION AND  
   )        FINAL ORDER  
   )        WQ-MWR-77-309  
   )        LANE COUNTY  
 5                                   v.                                    )  
   )  
 6 CITY OF EUGENE,    )  
   )  
 7                                   Respondent.                                    )

8                                   WHEREAS

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

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

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

26 ///

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

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

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

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

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

22 b. Respondent has committed violations of its NPDES Waste Discharge  
 23 Permit No. 1941-J and related statutes and regulations. Those  
 24 violations have been disclosed in Respondent's waste discharge  
 25 monitoring reports to the Department, covering the period from  
 26 March 7, 1975 through the date which the order below is signed



1 by the Environmental Quality Commission.

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

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

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

18 NOW THEREFORE, it is stipulated and agreed that:

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

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

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

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

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

1 (d) Submit a progress report within nineteen (19) months  
2 of Step III grant offer.

3 (e) Complete construction within thirty-four (34) months  
4 of Step III grant offer.

5 (f) Attain operational level within thirty-six (36) months  
6 of Step III grant offer.

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

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

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

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

26 DEPARTMENT OF ENVIRONMENTAL QUALITY

1 Date: JAN 17 79

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5 Date: 12/15/77

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7

FINAL ORDER

8 IT IS SO ORDERED:

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11 Date: \_\_\_\_\_

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By William H. Young  
WILLIAM H. YOUNG  
Director

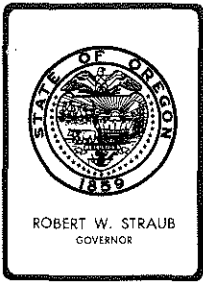
RESPONDENT

By Wanda P. Allen  
Name  
Title

*Director of Public Works*  
Charles J. Henry  
City Manager

ENVIRONMENTAL QUALITY COMMISSION

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



## *Environmental Quality Commission*

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

### MEMORANDUM

To: Environmental Quality Commission  
From: Director  
Subject: Agenda Item No. P, February 24, 1978, EQC Meeting.

Report on Groundwater and Subsurface Sewage Disposal,  
Hermiston - Boardman area.

### Background

In April of 1977 the Commission requested that an analysis be made of the ground water impact in the potential growth areas in Umatilla and Morrow counties. The specific concern was that the aquifer is or may be endangered due to high density use of subsurface sewage disposal systems.

### Evaluation

We met with the county planning staffs to determine where the high density growth was likely to occur in marginal soils areas and where the groundwater would be needed for individual water supplies. Three potential problem areas were identified. They are the Irrigon area, the Westland area southwest of Hermiston, and the Diagonal Road area northwest of Hermiston. (See attached maps in Groundwater Water Protection memo).

By area, our findings are as follows:

The Irrigon area: There is a high occurrence of shallow coarse grained material. Groundwater will be adequately protected by proper application of our subsurface sewage disposal rules. There will be a high denial percentage in this area.

The Westland area: The soils are similar to the Irrigon area with the inclusion of some high water tables. Again, groundwater will be adequately protected by proper application of our subsurface sewage disposal rules. There will be a high rate of denials.

The Diagonal Road area: This area has a high groundwater table and the occurrence of some shallow coarse grained soils. There will be a high rate of denials in this area due to the high water table. We still have concerns in the areas where the water table is deep enough to approve a system due to the sandy nature of the soils. We intend to do more soils analysis in this area.



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Agenda Item P, February 24, 1978, EQC Meeting

If the sandy soils have an appreciable amount of fine material coupled with the dry arid climate our concerns may be unfounded. We also intend to make a groundwater quality analysis.

The soils and phase one of the water quality analysis should be completed within a month. Additional water quality work will be necessary.

#### Summation

Based on current information and data the Department has been able to gather, at this time there is no apparent need to hold a public hearing in the Hermiston-Boardman area to consider a moratorium on subsurface sewage disposal permits. Water quality data needs to be collected, especially in the Diagonal Road area of Hermiston (Umatilla County), to determine if the aquifer is in danger of becoming contaminated. Work is now underway to develop that information.

The Department has notified appropriate planning agencies and other interested parties of our concerns and our intent to evaluate the groundwater situation.

#### Director's Recommendation

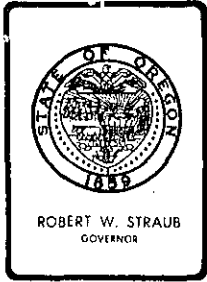
It is the Director's recommendation that the public hearing to consider a moratorium on subsurface sewage disposal permits in the Hermiston - Boardman area not be held at this time. It is also recommended that if the Department finds, in the groundwater analysis and soils work program which is to be conducted, that the aquifer is in danger of being contaminated from sewage disposal practices, that this matter be immediately brought to the attention of the Commission for necessary action.



WILLIAM H. YOUNG

Steve Gardels  
Fred M. Bolton:bw  
Pendleton 276-4063  
Portland 229-5373  
February 16, 1978

Attachments: 1 letter (Staff Report).  
1 Memo (Hermiston Area Ground Water Protection).



*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

February 13, 1978

David Bishop, Director  
Umatilla County Planning Commission  
County Courthouse  
Pendleton, Oregon 97801

Dave Moon, Director  
Morrow County Planning Director  
P.O. Box 541  
Heppner, Oregon 97836

Torie McCallister, Reporter  
East Oregonian  
Hermiston, Oregon 97838

Re: SSD - Northwest Umatilla and  
North Morrow Counties

Ladies and Gentlemen:

There was concern that heavy use of subsurface sewage disposal systems, due to dense and rapid rural growth in the norther Morrow and north-western Umatilla County areas, would degrade ground water quality. We, therefore, conducted a limited survey and study of the area.

Based on information gained from our Staff working these areas, State Soil Scientists and Hydrologists, soils inventory maps and County Planners' growth projections, we narrowed the survey area down to three areas (see attached maps). For discussion purposes I will refer to them as Irrigon, Westland, and Diagonal Road areas. On the maps you will note cross-hatched areas. In these cross-hatched areas there is a high probability that an application for a subsurface sewage disposal system would be denied because of high water or rapid draining coarse grained material or both.

The maps are somewhat general. Therefore, denials could be expected in the non-crosshatched areas and some approvals in the cross-hatch depending on test holes and a lot-by-lot evaluation.

Initially we wanted to determine if the soil and water conditions were severe enough to warrant a moritorium on subsurface disposal, lot size restrictions, or if some type of modified disposal system would be better.

By area, our conclusions are as follows:

Northwest Umatilla and North Morrow Counties  
February 13, 1978  
Page -2-


The Irrigon Area: No special recommendations. The existing subsurface disposal rules are adequate. Applied properly, ground water should be protected. High probability of denials due to coarse grained material, especially west and southwest of Irrigon.

The Westland Area: Same as for the Irrigon area except that a few small areas also have high water tables.

The Diagonal Road Area: Recommend more soils analysis and ground water quality monitoring. Much of this area would not be approvable because of high water tables. Even in the areas where the water table is deep enough to meet requirements, we still have concerns due to the sandy soil in the area. We plan to make more soil tests. If the soil proves to have a high enough content of fine material coupled with the arid climate, our concerns may be unfounded. On the other hand, the lack of fines in the sand could necessitate further restrictions or modifications to the disposal systems, such as a low-pressure distribution system, as opposed to the standard gravity drainfield system.

We will keep you informed when the soils work and the proposed study are completed in the Diagonal Road Area.

Sincerely,

  
Steven F. Gardels  
Regional Manager  
Eastern Region

SFG:jlj

cc: Senator Mike Thorne  
cc: Representative Jack Duff  
cc: Jack Osborne, WQ-SSD  
cc: Kent Mathiot, Water Resources  
cc: Jim Kennedy, LCDC  
cc: ECOAC  
cc: Jim Swenson, PI thru FMBolton, RO  
cc: KEBirkbeck, ERO thru LELemkau, ERO

Attachments (3)



## STATE OF OREGON

## INTEROFFICE MEMO

TO: Fred Bolton - Steve Gardels

FROM: R. Kent Mathiot & Bob Paeth  
*Mathiot* *Paeth*

SUBJECT: Hermiston Area Ground Water Protection

DATE: February 1, 1978

## BACKGROUND:

In April of 1977 the Environmental Quality Commission, in an attempt to protect local ground water quality, passed a resolution prohibiting the construction of any additional septic tank/drainfield systems in the Clatsop Plains sand dune complex. Following that resolution, members of the commission raised the question of whether or not other shallow ground water aquifers in the state might require similar protective action. Mr. Ron Summers specifically expressed concern over the protection of the shallow alluvial aquifers in the Hermiston-Irrigon area, and requested a preliminary investigation of the situation by the D.E.Q. staff.

In response to Mr. Summers request, Steve Gardels scheduled a meeting of representatives from various state and county agencies involved with land use planning and related programs in the Hermiston-Irrigon area. The meeting was held on July 12, 1977 and resulted in the delineation of three areas for which there was concern over the adequacy of current ground water protection programs. The three areas of concern are the land in and adjacent to the city of Irrigon, the Westland Road area southwest of Hermiston, and the Diagonal Road area northeast of Hermiston, (figure 1). These three areas; (1) are under strong developmental pressure, (2) have relatively shallow ground water tables, and (3) have soils that contain a high percentage of coarse grained material.

Steve Gardels requested that additional soil and ground water information for the three areas be collected, and a recommendation made as to whether or not additional ground water protection programs would be necessary. The following comments are in response to that request.

## REGIONAL CHARACTERISTICS:

Geology: All three study areas are located in the northeast corner of the Deschutes-Umatilla Plateau. The entire Plateau region is underlain by the Yakima Basalts. These flow basalts are Miocene in age, and, in places, have a total thickness of several thousand feet. They underwent minor structural deformation during the Pliocene epoch, and were further modified by the Pleistocene glacial flood waters of the ancestral Columbia River. The waters of the Columbia carved channels and terraces into the hard basalt surface, and spread an extensive cover of glaciofluvial deposits over much of the plateau's lower regions, (figure 2). This sedimentary



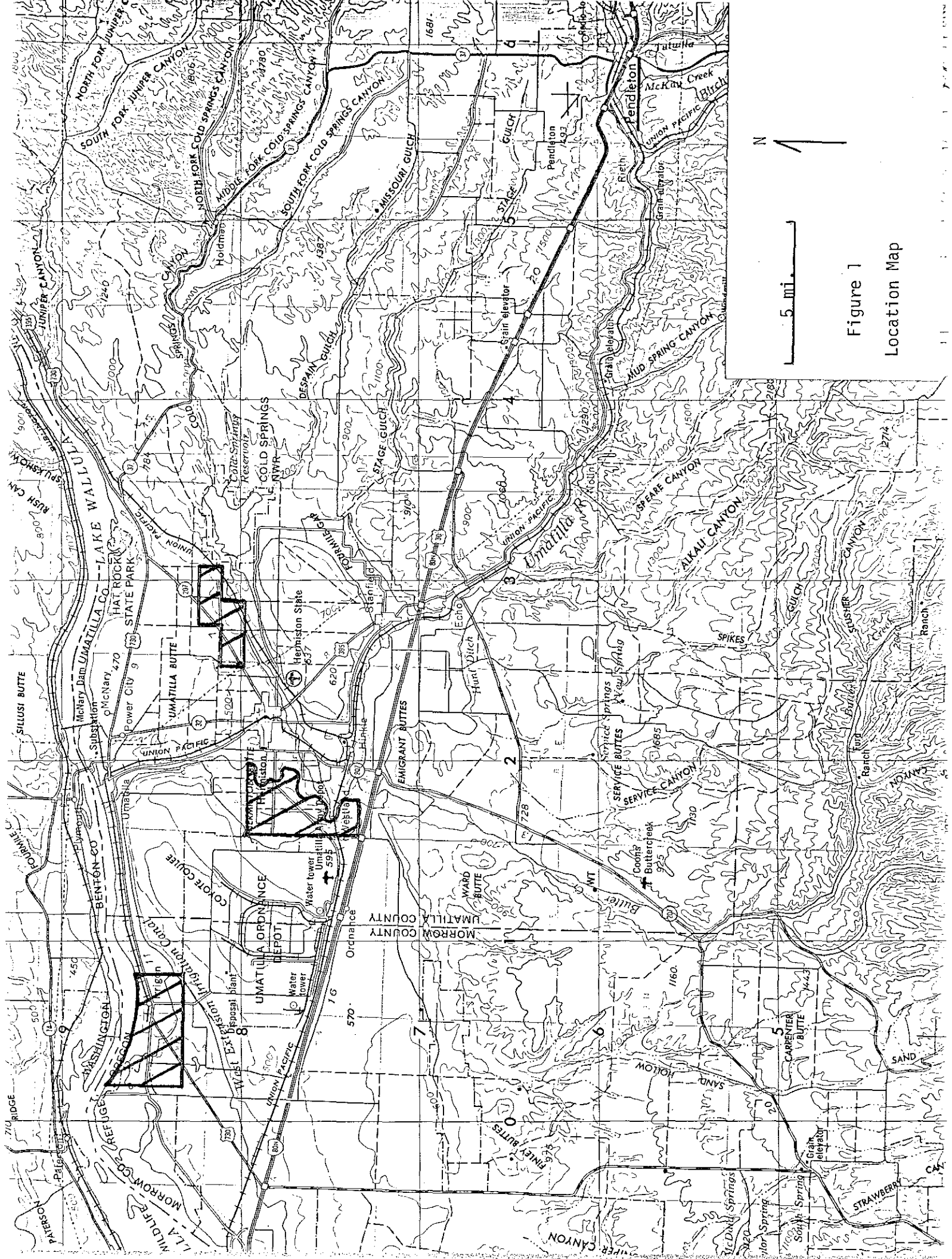


Figure 1  
Location Map

cover is present in all three study areas where it consists primarily of coarse sand, gravel, and boulders. It has locally been reworked by the ongoing processes of wind and water.

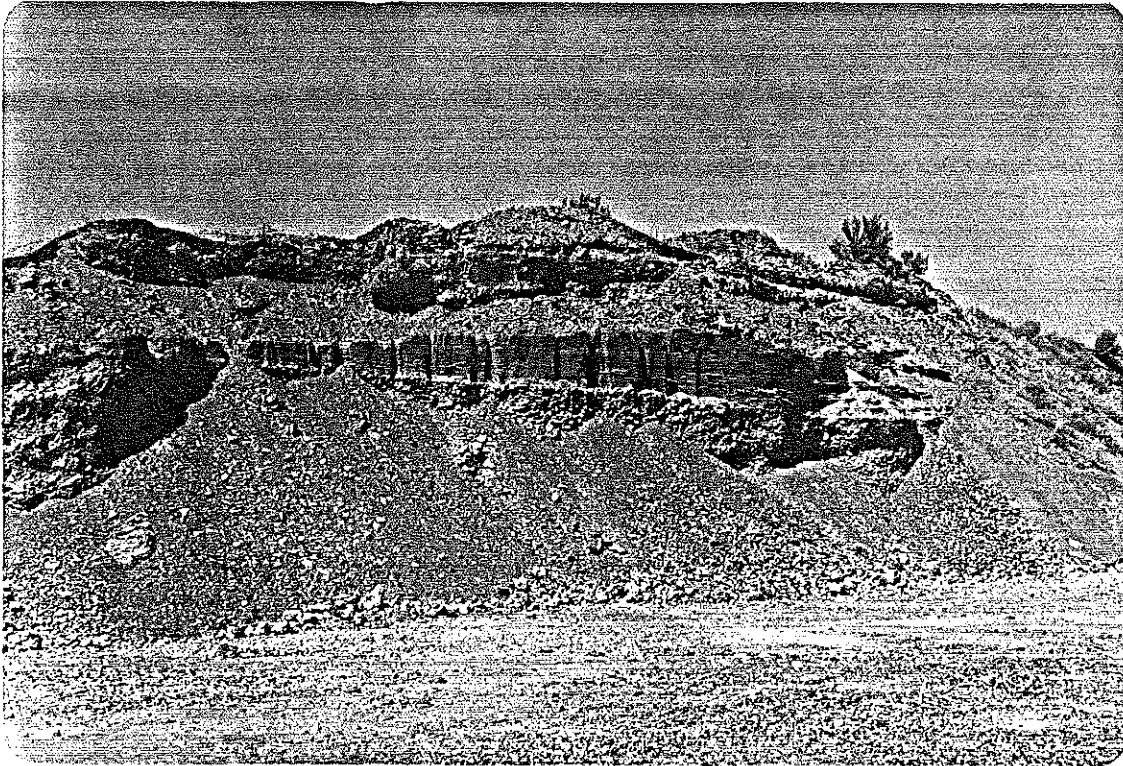


Figure 2

Glaciofluvial Deposits Exposed in  
Gravel Quarry - Westland Road Area

Soils: Quincy, Burbank, Winchester, and Adkins soils are the dominant soil types in the Hermiston-Irrigon area.

The Quincy soil series consists of excessively drained, coarse-textured soils formed in wind reworked sand and gravel. The surface layer is light brownish-gray loamy fine sand or fine sand about 10 inches thick. The substratum is light brownish-gray loamy fine sand 55 inches thick. The gravelly

substratum phase is light brownish-gray gravelly and very gravelly fine sand below 30 inches in depth. Quincy loamy fine sand, wet variant occurs on lower lying positions and is moderately well drained. The surface layer is very dark gray loamy fine sand about 6 inches thick. The upper substratum is very dark gray loamy sand 35 inches thick. The lower substratum is dark gray fine sand about 10 inches thick with dark brown mottles. Depth to ground water ranges from 3 to 5 feet below the soil surface from January to March.

The Burbank series consists of excessively drained, coarse-textured soils formed in gravelly and cobbly alluvial deposits reworked by wind. The surface layer is grayish brown loamy fine sand about 5 inches thick. The upper substratum is brown loamy fine sand 21 inches thick. The lower substratum is brown very cobbly sand. Depth to gravel and cobbles ranges from 20 to 40 inches.

The Winchester series consists of excessively drained, coarse-textured soils formed in alluvial sands. The surface layer is grayish brown sand about 12 inches thick. The substratum is dark gray coarse sand about 48 inches thick.

The Adkins series consists of moderately well to somewhat excessively drained, moderately coarse-textured soils formed in sandy alluvium. The surface layer is pale brown fine sandy loam about 5 inches thick. The subsoil is pale brown fine sandy loam 25 inches thick. The upper substratum is pale brown, calcareous fine sandy loam 15 inches thick. The lower substratum to a depth of 60 inches is light yellowish brown, slightly calcareous fine sandy loam. Adkins with variant is mottled at about 20 inches. Depth to ground water ranges from 3 to 5 feet below the soil surface from January to March.

Hydrology: The Columbia and Umatilla Rivers are the only natural surface drainages in the Hermiston-Irrigon area. The westerly flowing Columbia forms the northern boundary of the Irrigon study area, and the northward meandering channel of the Umatilla forms the eastern boundary of the Diagonal Road study area.

There are numerous man made ditches, sumps, and ponds that have been constructed to provide and distribute irrigation water to the area, however, many of these features contain water only during the irrigation season.

Hydrogeology: Two distinctly different aquifers provide ground water for irrigation, industrial, commercial and domestic uses in the Hermiston-Irrigon area. They are the deeper basalt aquifer; in which wells sometimes draw water from over 1,000 feet in depth; and the shallow alluvial aquifer in which wells rarely go deeper than 150 feet and are commonly only 50 to 100 feet in depth.

Ground water in the basalt aquifer is confined almost entirely to cracks and fissures in the otherwise impervious rock that makes up the individual flows, and to the rubbly, scoriaceous zones between flows. Ground water enters the basalt aquifer flow system in the Blue Mountains to the south

and moves slowly down-gradient toward eventual discharge in the Columbia River Basin. The ground water in the basalt aquifer is protected from surface contaminants by the relatively impermeable nature of the basalt in a vertical direction, and therefore the adoption of additional protective measures for this aquifer is not necessary.

Permanently perched ground water bodies occur in the alluvial materials that underlie all three study areas. Ground water is recharged to the gravels by surface runoff from upland areas to the south, by movement of water from the Columbia and Umatilla River channels into the adjacent gravels, and, during years of abnormally high rainfall, by the infiltration of precipitation. Water from excessive irrigation is also a major source of ground water recharge, especially in the Diagonal Road area.

The direction of movement of ground water in the alluvial aquifers is controlled primarily by the configuration of the basalt surface that underlies the gravels. In the Irrigon area, ground water movement is generally in a northwest direction toward the Columbia River, in the Westland Road area it is easterly toward the Umatilla River, and in the Diagonal Road area it is west by southwest towards the Umatilla River. Local variations from these general flow patterns may occur adjacent to areas of ground water discharge or recharge.

The highly porous and permeable nature of these shallow aquifers makes them highly susceptible to contamination from surface sources. Maintenance of the quality of the shallow ground water is entirely dependent on the ability of overlying soil to filter or treat potential surface contaminants.

#### AREA SUITABILITY FOR STANDARD DRAINFIELD INSTALLATION:

Under current rules lands that are suitable for standard soil absorption systems have moderately well to excessively drained soils, are not subject to flooding, and do not have a permanent water table within 66 inches of the natural ground surface or a temporary water table within 24 inches of the natural ground surface. In addition, suitable land must have a slope of 25 percent or less; and at least moderately permeable soils that do not have a restrictive layer within 30 inches of the surface, or an impermeable layer or coarse grained layer within 36 inches of the surface.

Westland Road - Irrigon Areas: Large areas of excessively drained Burbank and Quincy soils occur in the Westland and Irrigon study areas (figures 3 and 4). Gravelly substratum phases of these soils have coarse grained gravelly and very gravelly sand substrata (figures 5 and 6). If soil adsorption systems were installed in these soils, excessive permeability would allow untreated effluent to move rapidly into ground water and thus create a potential health hazard through contamination of drinking water supplies. The unshaded areas on figures 3 and 4 are non-gravelly phases of Burbank and Quincy soils that are suitable for installation of soil adsorption systems.

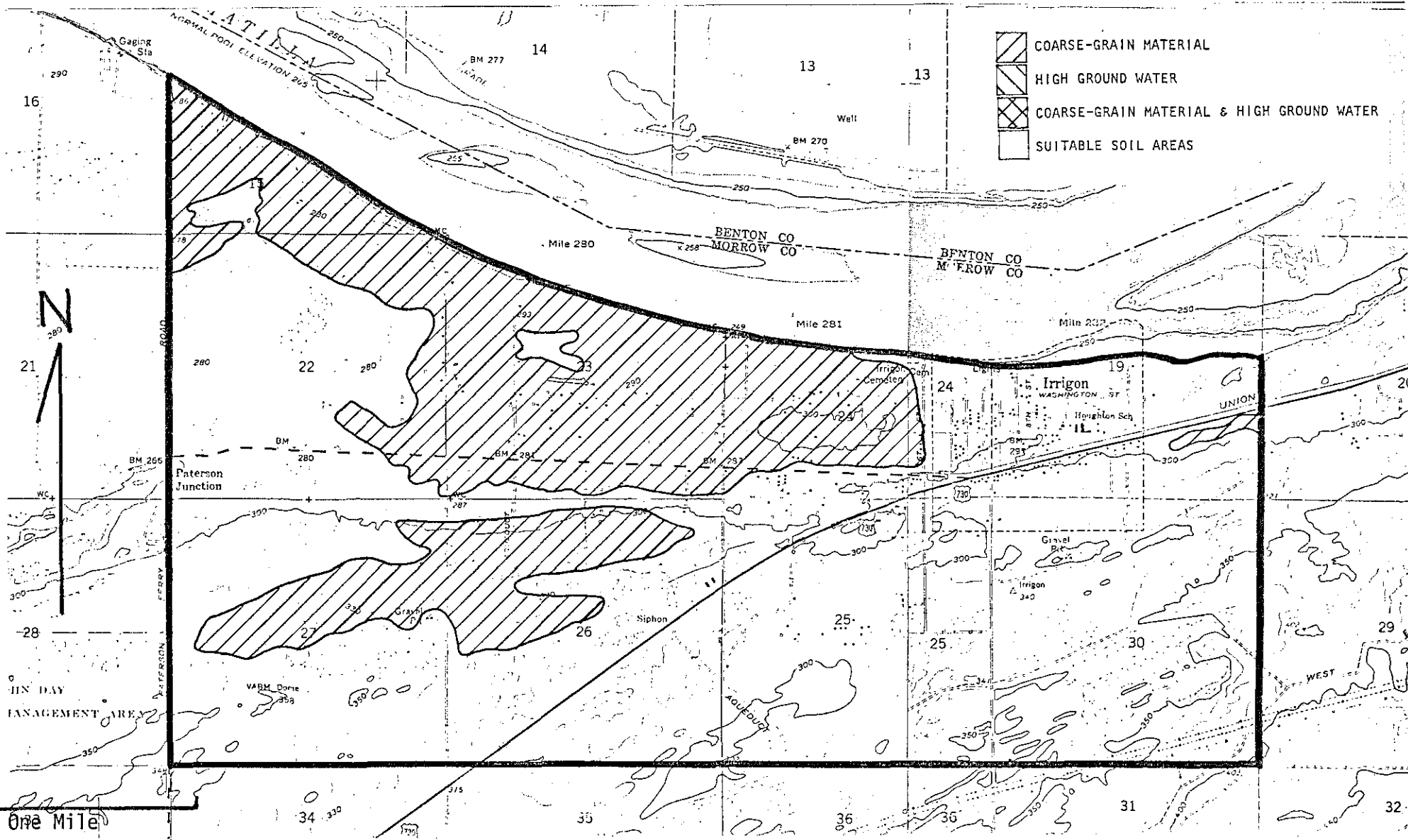


Figure 3

Soil Characteristics - Irrigon Area

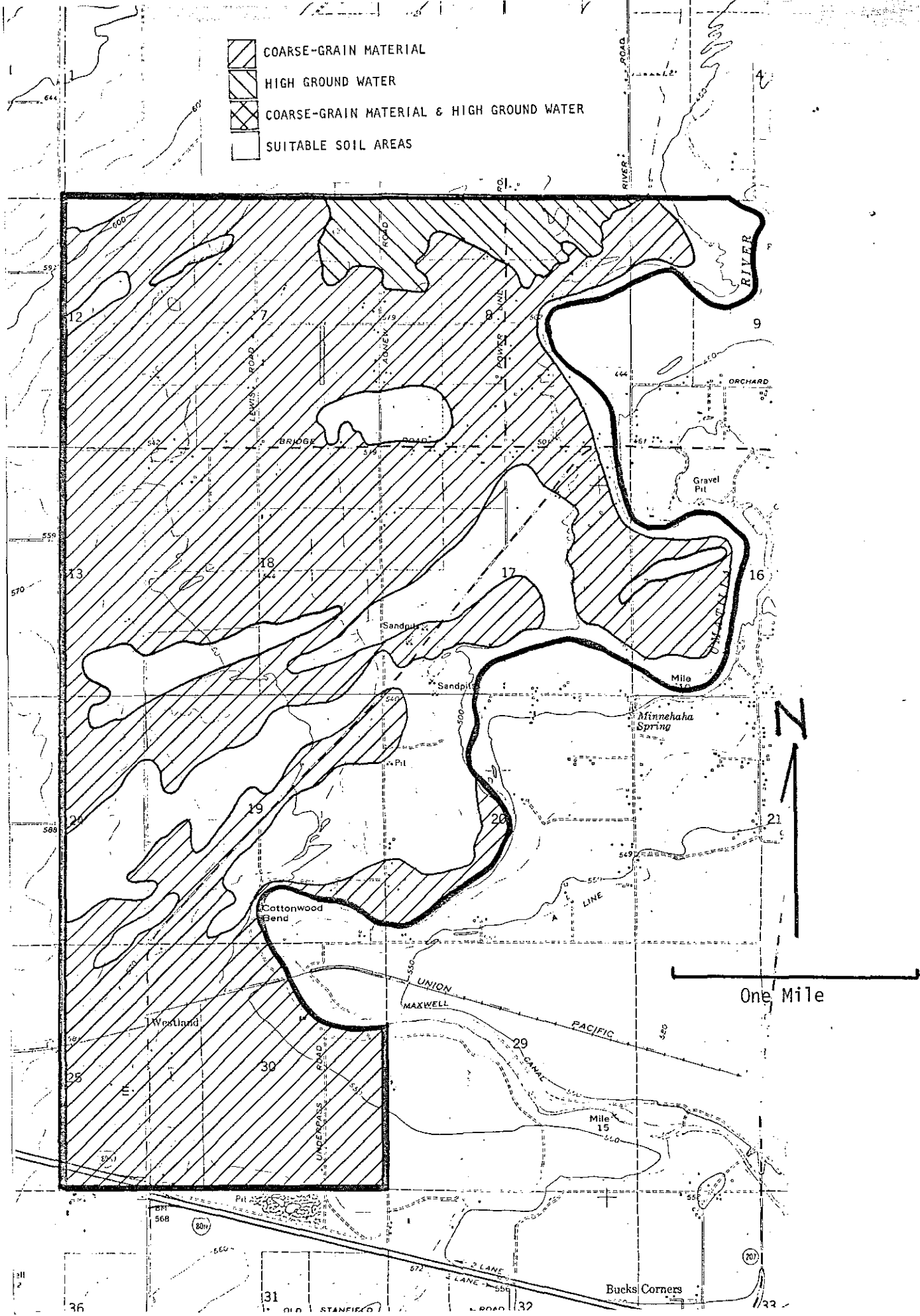


Figure 4  
Soil Characteristics - Westland Road Area



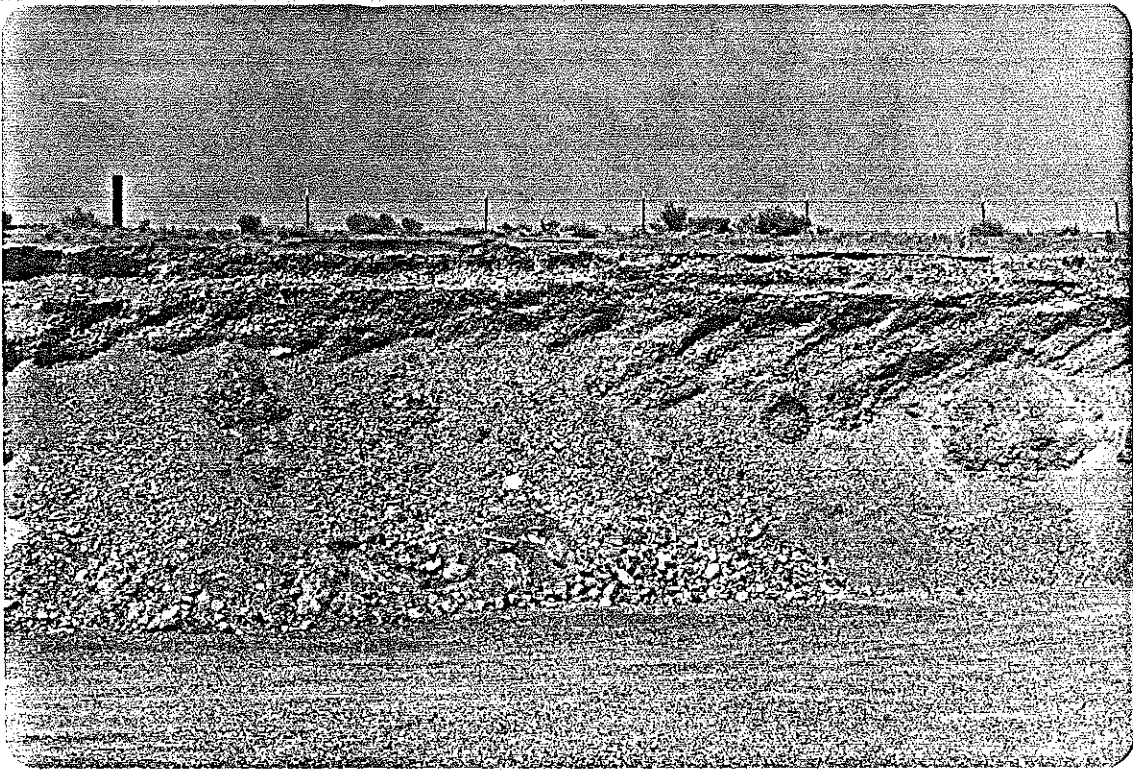


Figure 5



Coarse Grained  
Substrata in West-  
land Road Area

Figure 6

Water tables in the Westland Road and Irrigon areas average between 16 and 70 feet below land surface, (figures 7 and 8).

Diagonal Road Area: About half of the Diagonal road area soils consists of wet variants of Adkins and Quincy soil series with permanent ground water less than 66 inches below the soils surface (figure 9). Oregon Administrative Rule, Chapter 340, Division 7, Section 71-030 does not allow soil absorption systems to be installed in these wet soils because of high ground water.

The remaining part of the Diagonal Road area consists of soils of the Adkins and Quincy series that are suitable for installation of soil absorption systems under current rules. However, these soils may not contain adequate amounts of fine grain material to provide sufficient treatment to drainfield effluent prior to its entering the shallow ground water table that exists throughout the area.

Numerous shallow "sand point" wells are used for providing domestic water supplies in the Diagonal Road area. These wells draw water from a very shallow depth, (less than 20 feet), and are very rarely adequately sealed. As a result they are very susceptible to contamination from near surface sources.

#### CONCLUSIONS:

Oregon Administrative Rule, Chapter 340, Division 7, Section 71-030 does not allow installation of soil absorption systems in soils where coarse grain material is closer than 36 inches of the natural ground surface or where the bottom of the disposal trench is not separated by at least 18 inches from coarse grain material. Proper application of Oregon Administrative Rules, Chapter 340, Division 7 during individual site evaluations will not allow installation of soil absorption systems in areas of coarse grain materials around Westland and Irrigon (figures 3 and 4). This should be adequate to control contamination of ground water and avert a potential health hazard to these two areas. The unshaded areas on these two maps (figures 3 and 4) are non-gravelly phases of Burbank and Quincy soils that are suitable for installation of soil absorption systems.

Similarly, current rules are adequate to prevent ground water contamination in those portions of the Diagonal Road Area that are subject to high water tables, (figure 9). However, additional soil texture and water quality information is needed to determine if the current subsurface rules provide adequate protection to ground water in those portions of Diagonal Road area that do not have high ground water tables.

#### PLANS FOR ADDITIONAL WORK:

Plans are now being made to collect and analyze five ground water and two soil samples from the Diagonal Road area. The results of these tests will determine the ability of the unsaturated Adkins and Quincy soils



to treat drainfield effluent, and will provide data on the ground water quality of developed and undeveloped portions of the Diagonal Road area. It is anticipated that these samples will be collected in mid February of this year.

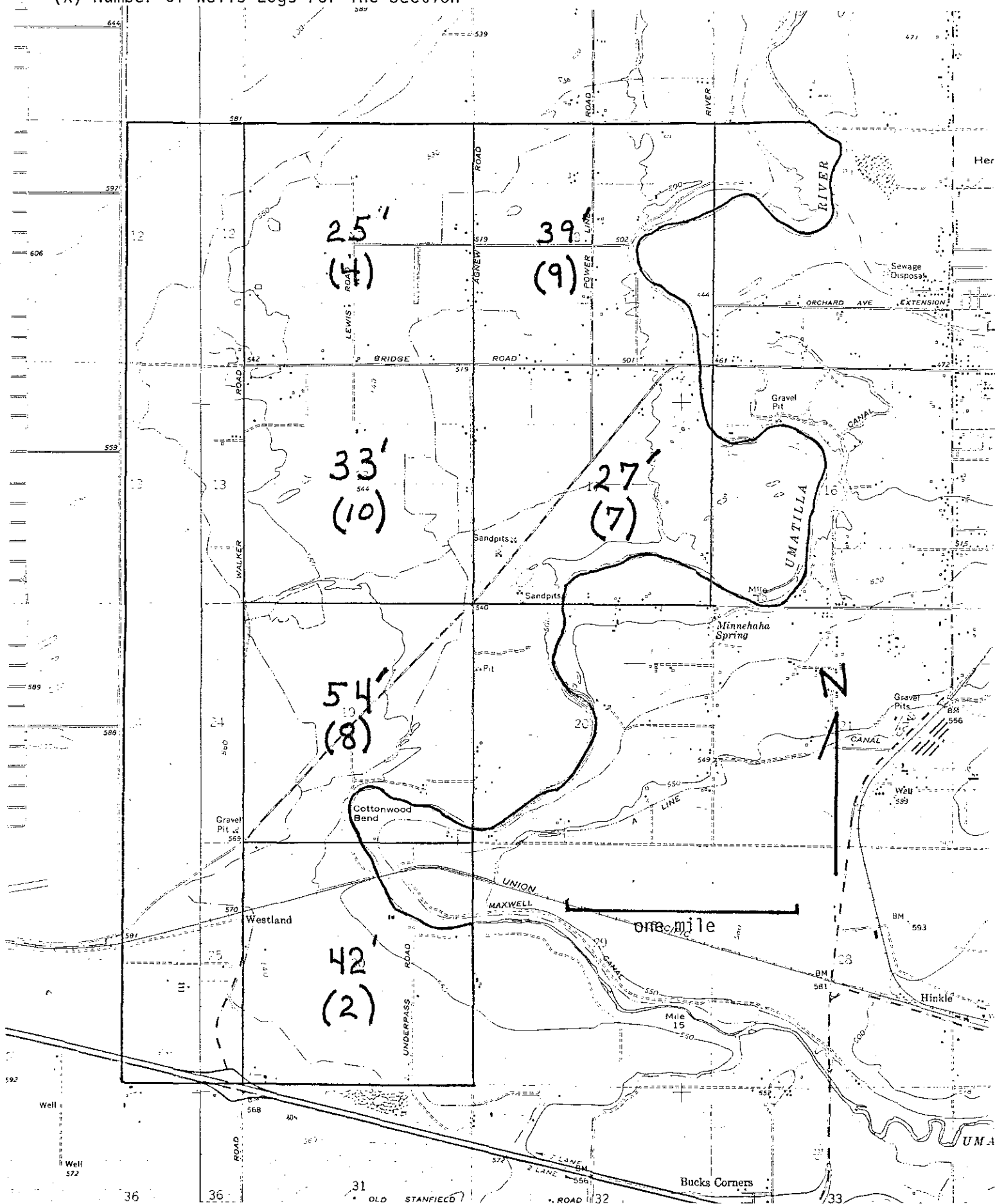


Figure 8

Westland Road Area

X Average Ground Water Static Level (In Feet Below Land Surface) For The Section

(X) Number of Wells Logs For The Section



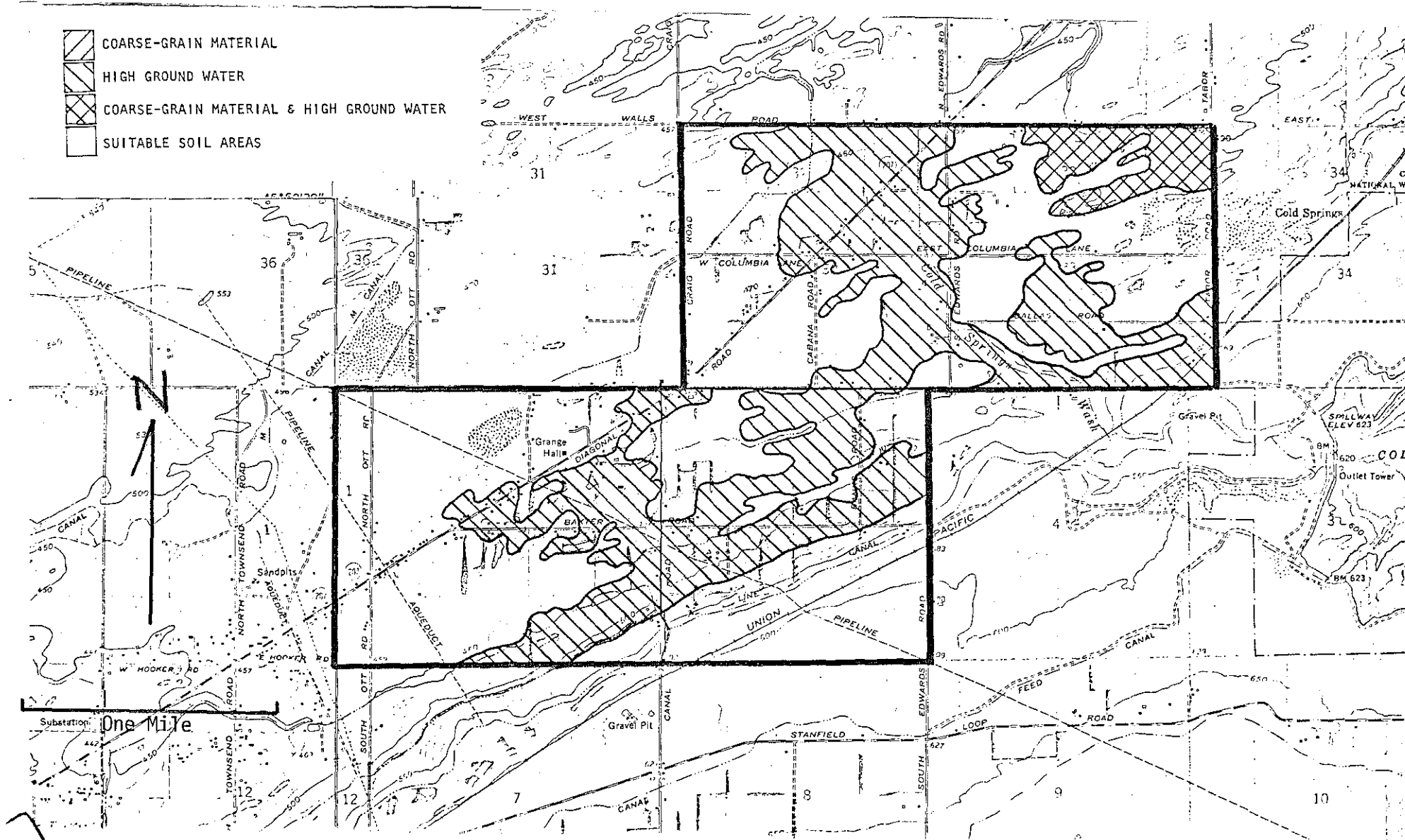
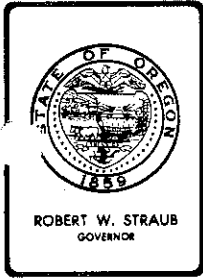


Figure 9

Soil Characteristics - Diagonal Road Area



## Environmental Quality Commission

522 SW 5th Avenue, Portland, Oregon 97204

PHONE (503) 229-5696

### MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. Q, February 24, 1978 EQC Meeting

### Multnomah County Groundwater Aquifer - Status Report

#### Background

An area of approximately 30 square miles in central Multnomah County is currently unsewered. Development has occurred over the past 30 - 50 years utilizing individual on-site sewage disposal systems, predominantly cesspools. An estimated 10 million gallons of sewage per day is presently discharged into the underlying porous gravels.

The area of concern is a regional groundwater discharge zone which receives water from the Cascades as well as local hills bordering the area. The aquifer receives approximately 50,000 acre feet of annual recharge from precipitation in the 30 square mile area. Groundwater production capabilities could therefore range from 50,000 acre feet (16,335,000,000 gallons) to 100,000 acre feet (32,670,000,000 gallons) annually.

Presently several water districts utilize the aquifer for domestic water supply purposes. The City of Portland has recently filed for a water right for approximately 200 million gallons per day (MGD). The aquifer would be utilized as an alternate and supplemental source to Bull Run and provide for continued growth in the metropolitan area.

In 1971 and 1973 the Department conducted water quality studies of the Columbia Slough. The chemical data obtained during these studies revealed high concentrations of nitrate - nitrogen ( $\text{NO}_3 - \text{N}$ ) in the springs forming the headwaters of the South Arm of Columbia Slough. The individual subsurface sewage disposal systems lying directly south of the South Arm of Columbia Slough were presumed to be the prime contributors to the  $\text{NO}_3 - \text{N}$  levels. As a result the Department, assisted by the State Engineer's Office (now the Water Resources Department), conducted a water quality-hydrogeological evaluation of the central Multnomah County area. Data was collected for the period June 1974 to July 1975. The U.S. Geological Survey (USGS) and City of Portland Bureau of Water Works, under its exploratory program have also collected additional data from some of the same and other wells within this area from 1975 to 1977.



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