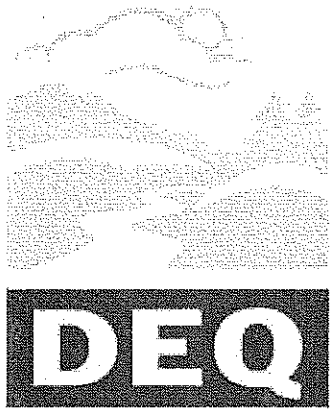
11/17/1978

OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS



State of Oregon
Department of Environmental Quality

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ENVIRONMENTAL QUALITY COMMISSION MEETING
November 17, 1978

Eugene City Council Chambers
City Hall, 777 Pearl Street
Eugene, Oregon

9:00 am A. Minutes of the September 22, 1978

B. Monthly Activity Report for October 1978

C. Tax Credit Applications

9:15 am D. Indirect Source Rules - Public Hearing to consider proposed amendments to Indirect Source Rules, OAR 340-20-100 through 20-135 — HARRIS

9:30 am E. Field Burning Regulations - Public hearing on proposed revisions to the Agricultural Burning Rules to establish maximum acreage limitations and burning procedures for 1979 and 1980 field burning seasons, OAR 340-26-005 through 26-030 — FREEBURN

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

F. Medford-Ashland AQMA - Proposed adoption of particulate and volatile organic compounds (VOC) offset rules for the Medford-Ashland Air Quality Maintenance Area (AQMA) — BELSKY

G. Noise Control Rules - Reconsideration of adoption of proposed amendments to Noise Control Regulations for new automobiles and light trucks, OAR 340-35-025 — HECTOR

H. OEC Petition - Consideration of petition from Oregon Environmental Council requesting promulgation of rules to regulate noise emissions from airports — HECTOR

11:30 am I. Contested Case Reviews:
a. DEQ v. Suniga - Civil penalty for alleged open burning violation
b. DEQ v. Randall Taylor - case review

J. Clatsop Plains Subsurface Sewage Disposal Rules - Proposed adoption of technical amendments, OAR 340-71-020(7) — McSWAIN

K. Chem-Nuclear License - Proposed adoption of amendments to Chem-Nuclear's license for operation of Arlington Hazardous Waste Disposal Site — BROMFELD

L. 208 Nonpoint Project - Request for approval to add new elements to Statewide Water Quality Management Plan — LUCAS

M. Sunrise Village, Bend - Appeal of subsurface sewage disposal requirements — NICHOLS

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

The Commission will breakfast (7:30 am) at the Eugene Hotel, 222 E. Broadway; and lunch Conference Room B off the cafeteria at Harris Hall, 125 E. Eighth Street, Eugene.

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

November 17, 1978

On Friday, November 17, 1978, the one hundred third meeting of the Oregon Environmental Quality Commission convened in the Eugene City Council Chambers, 777 Pearl Street, Eugene, Oregon.

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

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

AGENDA ITEM A - MINUTES OF SEPTEMBER 22, 1978 EQC MEETING

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the Minutes of the September 22, 1978 EQC meeting be approved as presented.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR OCTOBER 1978

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Monthly Activity Report for October 1978 be approved as presented.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and carried unanimously that the following Tax Credit Applications be approved: T-972 (Georgia-Pacific Corporation), T-1002 (Edward Hines Lumber Company), T-1027, T-1028 (both Champion International Corporation), and T-1006 (Boise Cascade Corporation).

PUBLIC FORUM

No one wished to appear on any subject.

RESOLUTION

Commissioner Densmore expressed the hope that the resignations tendered by Chairman Richards and Director Young would not be accepted. He said he had observed that the Director had been doing a superior job with the agency, and he believed it would not serve the environmental programs of the state to change Directors of the Department at this time. He also complimented Chairman Richards on the excellent manner in which he directed the Commission.

The following resolution was agreed upon unanimously by Commission members with Chairman Richards abstaining.

> BE IT RESOLVED by the State of Oregon, Envionmental Quality Commission, that Governor-Elect Victor Atiyeh consider and reject the resignations of Mr. Joe B. Richards, Chairman of the Environmental Quality Commission, and Mr. William H. Young, Director of the Department of Environmental Quality.

It was directed that this resolution be forwarded to Governor-Elect Atiyeh.

AGENDA ITEM L - 208 NONPOINT PROJECT REQUEST FOR APPROVAL TO ADD NEW ELEMENTS TO STATEWIDE WATER QUALITY MANAGEMENT PLAN

Mr. Tom Lucas of the Department's Water Quality Division presented this item. He said that the 2-year 208 project was nearing completion. Some 11 projects had been worked on, he continued, with emphasis on forestry and agriculture. Mr. Lucas presented Volumes V, VI and VII of the Statewide Water Quality Management Plan for Commission approval.

Following questions by Commission members regarding references in the three volumes, Mr. Lucas was requested to reference the document clearly and return later in the Commission meeting for adoption. It was noted that no one was present to testify on this matter.

AGENDA ITEM D - PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO INDIRECT SOURCE RULES OAR 340-20-100 THROUGH 20-135

Mr. Howard Harris of the Department's Air Quality Division, said a change to the rules was being sought to meet the terms of an out-of-court settlement agreement. The proposed amendments, he said, did not change the type or amount of information required by the current Indirect Source Rules.

Mr. Harris said the major change was in the information requirements of the rules which would require the Department or Regional Authority to consider an application complete if a written demand for additional information was not mailed or delivered within a 15 day period.

Mr. Harris then presented the following Direcator's Recommendation.

DIRECTOR'S RECOMMENDATION

Subject to such changes as the Commission may find appropriate after receiving testimony at the public hearing, it is the Director's Recommendation that the Commission take the following actions.

1. Adopt the Proposed Amendments to OAR 340-20-129 as permanent Rules to become effective upon their prompt filing with Legislative Counsel, Legislative Counsel Committee, and the Secretary of State.

2. Adopt as Final Statement of Need for the Rules that statement contained in the staff report on this item.

Mr. Marc Kelley of the City of Portland's Mayor's Office, appeared opposing the change in indirect source rules. The rule change they were concerned with, he said, dealt with the less stringent standards proposed for sources of 1000 parking spaces or more outside of large metropolitan areas. Mr. Kelley said the City would like to see the technical justification for why some sources over 1000 spaces in nonattainment areas would be reviewed under a different criteria than sources of the same size within the same nonattainment area. They realized, he said, that DEQ reserved the right to request additional information from those projects outside of the metropolitan areas.

Mr. Kelley said they believed that any development of 1000 spaces or more within urban growth boundaries should be required to submit the same information as a matter of course and not as a matter of the Department requesting it. He urged that the present rules which required the same information from all applicants of large sources be continued.

Mr. Douglas DuPrist, attorney with Coons and Anderson in Eugene, appeared representing several organizations that were involved in the process that lead to the proposed amendments. He said that the amendments were proposed as a means of eliminating certain issues that were raised by the present regulation. He expressed the support of the organizations he represented for the proposed amendments and encouraged their adoption.

Mr. DuPrist wanted the Commission to be aware that although the amendments reduced the number of issues between his clients and the Commission they would not eliminate them entirely. He said the remaining issues were set forth in an exhibit attached to the Settlement Agreement which the Commission would take up later in the meeting. He wanted to reiterate their objections on those other issues. He also asked that the Commission consider testimony and evidence from an earlier hearing with regard to the proposed rule amendments. Their concern, Mr. DuPrist said, was that the proposed amendments address specific technical corrections; and it was their position that the adoption of those refinements did not constitute a readoption of the entire rules.

Commissioner Hallock asked if it was necessary for the Commission to act on this matter at this meeting. She indicated she had some concerns about the Settlement Agreement and the proposed rules which she would like additional time to review.

Mr. Robert Haskins, Department of Justice, responded that according to the Settlement Agreement, it was effective provided the Commission adopted the agreed-upon amendments within six months. The Agreement was signed by the last party in September 1978, he said, therefore it would be possible for the Commission to act at a later date. Mr. Harris said that since he administered the program he would be pleased to have the amendments adopted at this meeting and did not see a significant change in the proposal would come by further review.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney, and carried with Commissioners Hallock and Densmore desenting that the Director's Recommendation as stated above be approved.

AGENDA ITEM E - PUBLIC HEARING ON PROPOSED REVISIONS TO THE AGRICULTURAL BURNING RULES TO ESTABLISH MAXIMUM ACREAGE LIMITATIONS AND BURNING PROCEDURES FOR 1979 AND 1980 FIELD BURNING SEASONS, OAR 340-26-005 THROUGH 26-030

Representative Nancie P. Fadeley, Eugene, requested the Commission keep in mind that the report in front of them talked about the impact of burning valley-wide; dealt with average levels of pollution throughout the valley; and did not address those peaks in certain areas.

Representative Fadeley was also concerned that this report did not deal with fine particulate which caused health problems. She wanted the Commission to keep in mind that the monitoring this summer did not pick up the fine particulate which contributed to the health problems in the area. In response to Chairman Richards, Representative Fradeley said she was not opposed to the Department's recommendations on this matter and thought the Department was doing the best it could with what they had to work with.

Mr. Lawrence Barton, Sweet Home City Council, appeared on behalf of the City Council and also presented a memorandum from the Sweet Home Chamber of Commerce. He said the City did not have the expertise to comment on the technical aspects of the proposed field burning regulations, however they wished to comment based on the citizen complaints of smoke intrusions which the City had received. Mr. Barton complimented the Department on their willingness to respond to citizen complaints, especially by Mr. Scott Freeburn's appearance on a local radio talk show.

Mr. Barton said it was their impression that the smoke intrusions into the Sweet Home area were becoming worse over the years instead of better. He said they objected to the smoke intrusions, but did not object to the grass seed industry and did not wish to use the smoke issue to cause

economic problems to the industry. He said they would encourage self-policing by the industry rather than more governmental regulation. They realized, he said, that some monitoring standards were necessary and it would be appropriate for DEQ to monitor compliance as they do with municipal wastewater facilities.

Mr. Barton also encourage continued research into alternate techniques to burning. He presented some results of a survey by the Chamber of Commerce in the area on field burning. He said it was 2 to 1 in favor of designating Sweet Home as a smoke-sensitive area, and 2 to 1 opposed to deregulation concerning field burning. He said that the majority of responses acknowledged the economic necessity of field burning to the grass seed industry.

Chairman Richards said the staff report before the Commission on this matter was basically the same as was submitted to the Commission in October. He asked if any additional information had caused a modification of the Director's recommendation in this matter.

Mr. Scott Freeburn, DEQ's Air Quality Division, said that a report received from AeroVironment, Inc., pointed out that field burning and slash burning had significant impact on fine particulate matter. He said that monitoring done this summer showed increased in fine particulate levels when field burning smoke was intruding into the monitoring area.

In response to Commissioner Phinney, Mr. Freeburn said that approximately 152,000 acres were burned during the last burning season and approximately 171,000 acres were burned in 1977.

Chairman Richards said it was intended that testimony be taken at this public hearing and that the record be kept open for 10 days to receive additional comments. Final action, he continued, would be taken at the Commission's next meeting scheduled for December 15.

In response to Chairman Richards, Mr. Freeburn said that the State Law required the Commission to establish an acreage limitation prior to January 1, for the next two years based on the AeroVironment study and what the Department felt was a fairly good year in terms of smoke impacts in the Eugene-Springfield area. Mr. Freeburn said they recommended retaining the 180,000 acre limit with the possible check-off to 150,000 acres upon noted smoke intrusions.

Chairman Richards asked if there was a reasonably good prospect that smoke intrusions on the Eugene-Springfield area could be held down as successfully as was done during the burning season just past. Mr. Freeburn said that the weather factors were significant in holding the smoke intrusions down this year and that given similar or better circumstances they should be able to continue on that level.

Mr. John Vlastelicia, Oregon Operations Office of the Environmental Protection Agency, said he was not appearing to present an EPA position either for or against the proposed regulation. He wanted to make sure that the relationship between the proposed action and the Federal Clean Air Act requirements was understood and to outline EPA's concerns about proposed field burning regulations. He said that EPA's basic concern was that the final State Implementation Plan (SIP) demonstrated attainment and maintenance of the National Ambient Air Quality Standards.

Mr. Vlastelicia said that the most immediate and critical requirement was the SIP revision for the Eugene-Springfield nonattainment area which was to be submitted to EPA by January 1, 1979. He said that this SIP revision had to demonstrate attainment by 1982 through control of those sources impacting the nonattainment area, and the decision on the control of field burning was only a part of the total SIP revision package. Delays in final adoption of the SIP, he continued, might inhibit EPA's consideration of any field burning regulation revision, and unless the SIP was revised, the current SIP provision of limiting burning to 50,000 acres would still be in effect.

Mr. Vlastelicia said that without submission of an approvable SIP before the 1979 field burning season began, the interested parties would be faced with the alternatives of litigation or an acceptable Interim Strategy.

EPA was concerned, Mr. Vlastelicia said, that the proposed regulations would result in a substantial increase in emissions over those allowed by both the current SIP and the 1978 Interim Strategy. He said that the 1978 Interim Strategy was accepted by EPA because it employed all reasonable measures and both emissions and air quality impact under the strategy were expected to be about the same as that which would result under the current SIP.

Mr. Vlastelicia said EPA recognized that State Law required new acreage limitations be set by January 1, 1979, but did not feel it was appropriate to develop permanent SIP regulations without the benefit of study results not possible outside the context of the overall SIP strategy for attaining and maintaining standards.

Mr. Vlastelicia said that Prevention of Significant Deterioration (PSD) regulations must also be taken into consideration when adopting the proposed field burning regulations. He said any SIP revision for field burning must show that increased emissions over that allowed in the SIP would not cause or contribute to violations of Class II increments in the Willamette Valley or Class I increments in any of the five Class I areas adjacent to the Willamette Valley.

Mr. Vlastelicia reiterated that EPA's prime concern was that the State develop strategies to attain and maintain national standards. Since the State had in the past controlled field burning to some degree, he said, any proposed relaxation of that control must be accompanied by a demonstration that such action would not cause or contribute to violations of national standards or PSD increments.

Mr. Robert J. Elfers, appeared representing the City of Eugene. He said that although they would be making a number of suggested modifications to the proposed rules, they generally supported the approach that rules similar to the temporary rules of 1978 were justified for the next few years. However, he said they were not clearly in favor of the present proposed rules.

Mr. Elfers said that the 1978 rules were successful from the standpoint of air quality in the Eugene-Springfield area. Even though, he said, there was a lengthy period of rain during the past burning season, the total number of burning days was not substantially different from previous seasons. He said they had concluded that the dramatic reduction in the air quality impact of field burning on the Eugene-Springfield area was primarily caused by the revised Smoke Management Plan. However, he continued, striplighting and moisture requirements were ineffective.

Their analysis of DEQ emission tests, Mr. Elfers said, indicated a reduction of only 2% in average straw moisture content when 180,000 acres of fields were burned would reduce the particulate emissions by 5500 to 6800 tons. It appeared, he said, that the data indicated an emission rate of 171 pounds per ton at the 12% moisture level which would mean that 180,000 acres of field burning could produce over 55,000 tons of particulate. If this data were correct, he said, it would be additional justification for maintaining and improving the Smoke Management Program.

Mr. Elfers presented the following six recommendations to improve the proposed rules and make them more effective, flexible, easier to administer and to allow for some additional burning opportunities.

1. A modification to the acreage release system,
2. A revision of the moisture content restriction,
3. Objections to the controlled up-wind burning in certain south valley priority areas,
4. Extension of the striplighting requirement,
5. Support for future actions which would place additional responsibility and accountability in the seed industry in the management of its own air quality problems.

Mr. Elfers said the City's primary objective was the improvement and maintenance of clean air in the Eugene-Springfield area. Mr. Elfers presented a written statement which contained additional technical information prepared by the City's Environmental Analyst in support of the City's recommendations. This statement will be made a part of the Commission's record on this matter.

Mr. Terry Smith, City of Eugene, appeared to discuss some of the points made by Mr. Elfers. He said the results of the Department's open burning testing during last summer indicated that straw moisture was extremely important in effecting a reduction in total emissions. He said that the emission factors found for field burning from the summer's research work

were considerably larger than had been previously expected. Mr. Smith said the entire emissions from Eugene-Springfield were 16,000 tons for the year; consequently, three Eugene-Springfields reduced to 0 emissions would be needed to offset the emissions of field burning. No matter what the actual emissions were from field burning, he said, the same measured impact would be present. Trying to comply with those points brought up by EPA's testimony, he continued, would be extremely difficult in light of the new data from the summer's burning season.

Commissioner Phinney asked if the ideas about the contribution slash burning had changed in light of the new data. Mr. Smith replied that new information had been obtained on slash burning also so that its relative importance to field burning would be about the same. He said it did make field and slash burning the largest single emitters in the entire state.

Mr. Donald A. Haagensen, Oregon Seed Council, appeared to testify about the legal issues involved with the Clean Air Act, Oregon SIP revisions and the proposed field burning rules. Mr. Haagensen said that when Congress enacted the Clean Air Act, among the pollutants identified by EPA was particulate matter and EPA set standards for control based on total suspended particulate (TSP) present in the area. Once these pollution standards were established, he said, the primary responsibility for controlling air quality through use of those standards fell to individual states.

Mr. Haagensen said that under the nonattainment provisions of the Clean Air Act, Oregon had the duty to submit a revision for particulate matter to its SIP for the Eugene-Springfield AQMA. However, he said, none of the requirements for nonattainment area revisions dictated that Oregon adopt a particular scheme of regulation for field burning. Field burning, he said, was classified by EPA as a non-traditional source which in EPA's view need only be controlled to the extent necessary to meet the Clean Air Act schedules set up for attainment.

Mr. Haagensen said field burning operations in the Willamette Valley occurred in areas that were attaining the national air standards and the 1977 amendments to the Clean Air Act required a particulate matter revision to Oregon's SIP which contained emission limitations and other measures necessary to prevent significant deterioration of air quality in attainment areas. He said the PSD provision of the Clean Air Act required states to implement a permit program for any "major emitting facilities". However, he said none of these requirements for attainment area revisions dictated that Oregon adopt a particular scheme of regulation for field burning.

Mr. Haagenson said that by submitting rules designed to minimize nuisance effects as part of an SIP revision the state would relinquish its control over those rules and set the rules "in concrete" as federally enforceable rules. This procedure would mean, he continued, that as new field burning regulations were adopted each year they must be submitted to EPA and approved before they replace the prior rules.

Mr. Haagensen presented written testimony which is made a part of the Commission's record on this matter.

Chairman Richards read into the record a statement by the League of Women Voters of Central Lane County in support of the revisions to the field burning rules. This written statement is made a part of the Department's record on this matter.

Mr. Hal Burkitt, Oregon Seed Council presented an analysis of the AeroVironment, Inc. study. He said this evaluation related to the data which had been collected by the monitoring network and DEQ. Mr. Burkitt said it could be concluded from the data collected and presented in the AeroVironment study that the absence of any measurable impact on TSP values from field burning was significant, especially when rules were being considered to regulate that activity. Also, he said, there appeared to be a high degree of variation between sampling sites only a few miles apart with no correlation of TSP emitted from field or slash burning.

Mr. Burkitt said that based on collected data, the proposed rules for field burning had no scientific evidence as a reason for adoption or any indication that if adopted they would enhance the air quality in the Willamette Valley. He suggested the Commission adopt a meteorological ventilation index to determine the number of acres which could be burned on a given day with minimal impact on populated areas. He also suggested that up-wind burning of the Eugene-Springfield area be continued to be given special consideration.

Mr. Burkitt commended the EQC and the Department for their efforts in identifying the impact of field burning in the Willamette Valley. He said that based on the data collected, field burning could not be identified as a cause for exceeding any TSP daily or annual standards. He urged the Commission to adopt only rules which could be supported by sound scientific evidence.

Mr. Burkitt submitted a written statement which is made part of the Commission's record on this matter.

Mr. Dave Nelson, Oregon Seed Council, submitted a written statement which is made part of the Commission's record on this matter. He briefly commented on some of the points made in this statement.

Mr. Nelson said that the Department's staff report stated burning was satisfactory under the 1978 rules and the rules and their implementation prevented measurable impact on air quality standards. However, he said, the study indicated that the rules had nothing to do with preventing measurable impact and without any rules there would be little measurable impact on the standards. Also, Mr. Nelson said, there had been a couple of reports over the last few years which determined that field burning was not really the problem in the Eugene-Springfield area.

Mr. Nelson reminded the Commission that their objective through the Clean Air Act was to provide attainment of the primary standards established by EPA to protect health levels, and to attain soon thereafter the secondary standards to protect the livability of an area.

Mr. Nelson said they had experienced a high incidence of health complaints contributed to field burning during times when there was no burning going on, or there were other smoke intrusions than field burning. Because of the high visibility of the practice of field burning, he said, people tend to blame it for their problems.

Mr. Nelson said it was the Seed Council's recommendation that the acreage limitation be discontinued and the acreage burned on any given year be the sum of the acreage burned on each individual day on which burning is authorized. He said the annual limit only caused a hardship on growers and did not reduce particulate. The monitoring report, he continued, showed that 65+% of the particulate problem in the Southern Willamette Valley was from dust. He said that eliminating field burning would increase tillage and therefore increase dust.

The nephalometer standards, Mr. Nelson said, served only to reduce the amount of burning when an accident or an act of God caused smoke to drift into Eugene. He said there was no visibility standard at the present time and if one were implemented it should be applied to all sources of emissions causing the visibility reduction. Mr. Nelson also said there was no justification for the moisture content rule. The rule, he said, served only to reduce the amount of overall burning that could take place. Because there was no handy method of determining fuel moisture, Mr. Nelson recommended the rule should be dropped.

Mr. Nelson said they supported the restructuring of the special south valley priority burning and believed it could be accomplished if sufficient flexibility was given to the program coordinator. He said they also thought the backfiring and striplighting requirements should be eliminated from the rules because of negligible savings and because the low energy smoke had been identified as the biggest problem. He said the rules should encourage using rapid ignition as investigated by Oregon State University during the last burning season.

Mr. Nelson submitted to the Commission a copy of the proposed rule with the Seed Council's recommended changes.

Mr. Bob Davis said that what they should be interested in is the air quality in the City of Eugene. The air quality in the area was not good, Mr. Davis said, but obviously it was not the result of field burning. He said that based on the scientific data to date, if field burning were phased out completely the City of Eugene would still have an air quality problem.

Mr. Davis said it was the responsibility of the Commission and DEQ to investigate what was really causing the air quality problems in Eugene and adopt some regulations to attack those problems instead of wasting time on a source which has a minimal contribution to the air quality problem.

Mr. Davis said he thought the State should fight the federal government on this issue, and he didn't think the federal government wanted regulation of field burning. He said it was the State that put regulation of field burning into the SIP and therefore the State could remove it.

Mr. James L. Carnes, Albany Area Chamber of Commerce Agriculture, Natural Resource and Rural Affairs Committee, said his committee recommended that the proposed field burning rules be based on air quality and not on acreage limitations. He urged that field burning not be singled out and designated as a single pollutant contributor in the SIP. Mr. Carnes presented to the Commission copies of a booklet titled "Look Who's Supporting Oregon's Grass Seed Industry" which contained letters of support from 42 Chambers of Commerce, 56 Willamette Valley Cities, 16 County Boards of Commissioners and 44 fire districts, in addition to the City of Portland, Western Environmental Association and the Oregon State Board of Agriculture.

Mr. Carnes said that since DEQ had documented evidence that pollution from open field burning was far less than other measured sources of pollution, his Committee felt all sources of pollution should be measured and restricted on an equal basis and it was not realistic for open field burning to remain a part of the SIP for the State of Oregon.

Mr. Carnes submitted written testimony along with the booklet mentioned above which became part of the Commission record on this matter.

Ms. Marie Jensen, Oregon Women for Agriculture, testified to the economic impact of the regulation of field burning. She said the history of the Valley showed there had always been smoke in the Valley from grass fires or timber fires. She said the elimination of field burning would cause development of presently agricultural land.

Ms. Jensen said farmers were getting weary of regulation and most of them cannot go into growing other crops because the land is only suited to grass seed crops.

Ms. Jensen was concerned that the elimination of field burning would cause the farm land to disappear to development.

Ms. Sue Corwin, Oregon Farm Bureau, presented a written statememt from the Benton County Farm Bureau which will be made a part of the Commission's record on this matter. She said they concurred with the opinions of the Seed Council already presented. They wanted to reinforce, she said, that field burning should not be included in the State Implementation Plan for the Clean Air Act.

Ms. Corwin also expressed the feeling that the farm community was weary of the field burning battle and would like to see the problem resolved. She urged the Commission to take into account the benefits of agriculture and what would happen if those benefits were eliminated.

Ms. Liz VanLeeuwen, Linn-Benton Women for Agriculture, also asked that field burning not be included in the State's Implementation Plan. She asked that the acreage limitations on field burning be removed so growers could utilize the favorable burning days in such a way as to get the maximum acreage burned with a minimal total smoke intrusion impact. She said experimental burning techniques had been used on her farm and had not proved successful.

Ms. VanLeeuwen presented a written statement which is made part of the Commission's record on this matter.

Mr. Elfers said the City of Eugene would try to prepare some additional information to be submitted to the Commission within the 10-day period before the record closed. He said he was concerned about the importance being placed on the AeroVironment report statement that there was small impact from field burning. He said he was concerned whether or not this report was being used wisely and presented accurate information. They felt it was unreasonable for the seed industry to seek to not be regulated at all, he said. Mr. Elfers said the City of Eugene was seeking adequate and sufficient quality of air for the Eugene area.

Mr. Nelson responded that the Seed Industry was not asking to be unregulated. He said they felt the smoke management program was crucial. However, he said, they believed there was a great deal of refinement needed to that program. Mr. Nelson said they were asking that regulation of field burning be kept within the State and out of the SIP.

Chairman Richards then concluded the public hearing on this matter.

AGENDA ITEM F - PROPOSED ADOPTION OF PARTICULATE AND VOLATILE ORGANIC COMPOUNDS (VOC) OFFSET RULES FOR THE MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA (AQMA)

Mr. Dennis Belsky, of the Department's Air Quality Division, presented the item pertaining to the particulate emissions and volatile organic compound (VOC) rules for the Medford-Ashland AQMA. Mr. Belsky said that further growth in the area either from existing sources or from new sources could not occur until an offset policy was in effect to mitigate the effect of the emissions.

Mr. Stuart Foster appeared on behalf of the Greater Medford Chamber of Commerce. He said they were concerned about the economic impact from the proposed offset rules. He said it appeared to them that the burden of controlling air pollution in Jackson was being placed 100% on industry

which only accounted for 25% of the identified emissions. Mr. Foster continued, that they believed these regulations would provide a disincentive for growth or new industry in the area. He said the Chamber of Commerce opposed an offset policy; however, they were not in favor of rolling back the burdens which were put on industry through the control strategy.

Mr. Foster said they felt the Commission should reevaluate its control strategy to make it broader and request legislation in areas that it does not presently have authority.

Chairman Richards said the only alternatives facing the Commission were either no-growth or offsets. Mr. Foster said they realized that the control strategies had been adopted, and urged the Commission to reevaluate those strategies because they did not believe offsets were needed.

After some discussion with Commissioner Somers, Mr. Foster requested the Commission take into account the impact of the proposed rules on the economy of Southern Oregon and reminded the Commission that one of the LCDC goals was to protect and diversify the economy.

Mr. Foster presented a written statement which is made part of the Commission's record on this matter.

Mr. Gary Grimes, SWF Plywood Company, Medford, testified on the particulate attainment portion of the proposed rules as they relate to the AQMA. He said his company wanted to be assured of the Commission's understanding and intent or direction to the staff in applying the mechanisms of these proposed rules. In particular, he said, they were concerned that in order to comply with the standards eliminating wigwam burners, they may be forced to seek an outside offset as mandated by the proposed rules. Mr. Grimes said that the Medford/Ashland AQMA Committee identified that there would be little benefit to the airshed by the removal of wigwam waste burners and a solid waste problem could be created by their elimination.

Mr. Grimes suggested the following wording be incorporated into the proposed rule:

> "Sources required to cease operation for purposes of meeting compliance with the particulate attainment strategy rule are exempt from the provisions of this offset rule."

Some provisions to that, he continued, would be any new emission sources required in the phase-out would be in compliance with the particulate strategy and there should be a net improvement or resultant decrease in total emissions than existed with the facility being phased out.

In response to Commissioner Densmore, Mr. Grimes said he had discussed some changes in the rule with the staff, but not specific wording, and it would be only fair to let the staff have a chance to look at it.

Mr. Tom Donaca, Associated Oregon Industries, testified he was concerned about some issues that had come up since the public hearings. He suggested the Commission might be moving too rapidly in adopting these rules, especially in light of two ongoing studies in other air quality maintenance areas. He cited in particular a wage and price control study which pointed out that the VOC regulations on a national basis would cost between $5 and $9 billion a year; this would include transportation-related controls.

Commissioner Somers asked Mr. Donaca if the Medford area would be substantially prejudiced if this matter was held over until the December meeting of the Commission. Mr. Donaca replied that in light of the information that was currently available to the Portland AQMA Advisory Committee, there was reason to request a delay on the part of Portland in adopting rules. He said he could not speak for Medford or Eugene/Springfield. He said there was reason to investigate whether EPA was going to hold to a hard time line in all cases.

Commissioner Densmore commented that the position the Commission was in was having the federal mandate and the severe sanction of the possibility that, if an approval SIP was not submitted, no air quality permits could be issued in the State. He continued that until the Commission received some Legislative authority in certain areas they were stuck.

Mr. Donaca replied that the Portland AQMA Committee would be looking at some alternatives. He said they had reason to believe that fuel oil consumption was going down in the state and that would contribute to reductions in emissions. Another alternative would be determining what could be done about road dust emissions, he said.

Mr. David Sant, Manager of Industrial Development for the Department of Economic Development, testified that they had been unable to meet with local officials regarding this proposed rule, as they would have liked. They were concerned, he said, that the offset rules would be too restrictive and prevent further economic development in the Medford/Ashland area. He said the economic problem was equal to or greater than the air quality problem in the area. They were concerned, Mr. Sant said, that the proposed offset rules would carry the message that the Medford/Ashland area was closed to future economic growth.

Mr. Sant said his Department would supply a staff representative, if desired, to assist DEQ in developing a viable alternative solution to the offset rules.

After some discussion among Commission members and staff it was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and carried unanimously that this matter be deferred until the Commision's December 1978 meeting.

AGENDA ITEM G - RECONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO NOISE CONTROL REGULATIONS FOR NEW AUTOMOBILES AND LIGHT TRUCKS, OAR 340-35-025

Mr. John Hector of the Department's Noise Control Section, said this item was presented at the last meeting; however, the Commission made no decision at that time. Mr. Hector presented the following Director's Recommendation on this matter:

Director's Recommendation

Based on the Summation in the staff report, it is recommended that the effective date for the 75 dBA noise level for automobiles and light trucks be amended from model years after 1980 to read model years after 1982.

Mr. Hector said he had received a telegram from the Ford Motor Company supporting their position that the 75 dBA standard be recinded due to the effect it will have of significantly reducing available power train combinations in light vehicles. He said they noted that trailer towing packages for vehicles may not be available in the future due to this standard. Also, he said, they had recently received a letter from Mr. F. Glen Odell supporting the 75 dBA standard.

In response to Commissioner Somers, Mr. Hector said it was not absolutely necessary to set the standard over until 1982, but it did give the industry two more years to gear up for the new standard. He said that the Director's Recommendation was hard to make and was a compromise. Commissioner Phinney asked if Mr. Hector was aware of how much gearing-up the industry did during the past two-year extension and what reason would the Commission have to expect that the next two years would be different. Mr. Hector replied that the problem was the industry did not take the Commission seriously last time and he had no idea if they would deal with the situation any more differently this time.

Commissioner Somers said that information he had indicated that other states were doing exactly what the Director was recommending in this situation.

Mr. Edwin Ratering, Director of Vehicular Noise Control of the Environmental Activities Staff of General Motors Corporation, said at a minimum they supported the Director's Recommendation. He said if the recommendation were not approved, Oregon would be the only state to have a 75 dBA standard in 1981. From their standpoint, he said, it was extremely difficult to comply with non-uniform state regulations.

Mr. Ratering said the major automobile noise problem was caused by modified and poorly maintained vehicles and not by newly manufactured automobiles and light trucks. This particular proposed regulation, he said, did not address those major noise problems as they relate to

automobiles. The 75 dBA standard, he said, would not result in a perceptibly quieter environment because motor vehicles are driven at wide-open throttle less than 1/2 of 1% of the time. He said it was clear that at least 85% of the time engine-related noise levels were not a substantive factor with respect to motor vehicle noise. With the exception of modified and poorly maintained vehicles, Mr. Ratering said tire noise also dominates. Therefore, he continued, a 75 dBA standard would impact the availability of tires and other options to some degree.

Mr. Ratering said regulations governing exhaust emissions, fuel economy and noise levels produce design requirements which run counter to each other. He asked that they be given time to develop solutions to those various problems.

In addressing the staff report, Mr. Ratering said that EPA reports on noise testing should not be used as a basis for regulation because they had already found discrepancies in the sound levels which EPA reported. He said that testimony by an engineering consultant in support of the regulation that was referred to in the staff report, was replete with errors, presented no factual data to support claims and was thoroughly discredited in industry responses.

Mr. Ratering said Oregon should take note of the substantial investigative effort that EPA was conducting prior to proposing regulations on passenger cars and light trucks. Until those studies had been completed, he said, it was premature to arbitrarily establish regulated levels.

Mr. Rich Kister, Oregon Automobile Dealers Association, submitted to the Commission the results of an economic analysis entitled, "The Impact of Oregon's Franchised Automobile Dealers on the State Economy." This document is made a part of the Commission's record on this matter.

Mr. Joe Romania, Eugene car dealer, said it appeared obvious from the statement by General Motors there was a need for the Commission to roll back the 75 dBA standard. He said that should the 75 dBA standard be implemented there would be a severe shortage of vehicles available to Oregon dealers for sale to Oregonians. Mr. Romania said he was concerned that this standard would severely restrict the consumer on the variety of automobiles available for sale in Oregon.

Mr. Robert A. Laws, Eugene Police Department, addressed this matter from the standpoint of people-problems with automobile noise. He said the vehicular noise was the single most noise problem in the metropolitan Eugene area. In addition to modified and poorly maintained cars, Mr. Laws said that manufacturers encourage people to buy certain models for their high performance. These cars, he continued, were not being operated under normal driving situations, therefore the noise levels from these cars was higher.

Commissioner Somers said the basic problem the Commision was facing was that Oregon only constituted 2% of the total automobile market in the United States. Therefore, he continued, automobile manufacturers were not going to gear up differently just for Oregon. Commissioner Phinney responded that the problem the Commission was dealing with was the effect of noise on the citizens of Oregon and she couldn't see that the evidence warranted throwing out the present regulation. Chairman Richards said the federal government was looking at this problem and there was the possibility that all state standards would be thrown out and a federal standard of 1981 implemented.

AGENDA ITEM H - CONSIDERATION OF PETITION FROM OREGON ENVIRONMENTAL COUNCIL REQUESTING PROMULGATION OF RULES TO REGULATE NOISE EMISSIONS FROM AIRPORTS

Mr. Lloyd Anderson, Port of Portland, appeared in response to a petition filed by the Oregon Environmental Council requesting public hearings on whether emissions from airports should be promulgated. The Port presented a slide presentation before the Commission concerning their position on this matter. They also submitted a written statement which is made a part of th Commission's record on this matter. Mr. Anderson requested the Commission delay its decision until legal limits of its authority were established; until the technical differences between the Port and DEQ staff were established; and to clearly identify what is wanted out of the hearing process. He said if it was the intent of the hearing process to find out what the problems are around the airports in the State, then he suggested that a public hearing might not be the best way to find out that information. He suggested that detailed surveying of an area might be better.

If it is determined that public hearing should be held, Mr. Anderson said a clear statement of the objectives of those hearings should be established.

Mr. John Hector, of the Department's Noise Section, presented the staff report on this matter. Her said it would be the Department's position that public informational hearings be held on the petition and the subject matter in general to develop a proposal that addresses the grievances of the petitioners.

In response to Commissioner Phinney, Mr. Hector said they would initially be holding hearings in the areas of airports to assess the magnitude of the problem and perhaps the OEC pertition would be proposed as a mechanism to cure the problem.

Chairman Richards asked about a pending court case which questioned the authority of states to regulate airports because federal law preempted states in this regard. Mr. Hector replied he understood states could not set standards for individual aircraft, however the airport proprietor has

the authority and ability to operate the airport in any way he desires. Some things however, he continued, had to be approved by the FAA for safety considerations.

Chairman Richards said he felt there were enough alternatives to be explored that perhaps the petition should be denied and the Department directed to work with the Port on this problem. Then, he continued, the petitioners could petition again in 90 to 120 days if that effort did not appear to be making headway. Mr. Hector said he understood that the petitioners had been working with the Portland International Airport and did not feel the proprietor of that airport had recognized that there was a noise problem, nor was an acceptable solution being worked on.

Ms. Jean Baker, Oregon Environmental Council, said they had been involved with this problem for 18 months and for that period of time they listened to citizen advisory groups talk about noise. She said they waited as long as they could see if the Port would make a showing of good faith, and so far they had not.

Ms. Baker said they had looked into the FAA directive, and short of the Commission accepting their petition, there was really no way to achieve that directive. The state had no authority to control an airport, she said. Also, she said, there was no tower control of planes, therefore pilots were free to come into the airport on any flight path they felt comfortable with.

Ms. Baker said DEQ and the Port had been working on this problem for about two months and it resulted in a 27 page report on their unresolved differences. She said they wanted some serious attention on the part of the Port to citizen complaints and a plan on what was going to be done to remedy the situation.

Ms. Baker said the Port should be more demanding, and perhaps impose fines on those pilots who do not use designated flight paths into the airport. So far the Port has been remiss in doing this, she said.

Chairman Richards said the law required the Commission to, within 30 days of the filing of a petition, either reject it or to initiate rule-making proceedings. He asked Ms. Baker about the possibility of extending the time and requesting staff to better define the scope of the proposed public hearings. Ms. Baker replied that she was not familiar with the EQC petition process, but would not feel comfortable if the staff did not address all those things of concern to the neighborhood groups. She said if it had to be done, she would agree to it.

It was MOVED by Commissioner Phinney that this matter be postponed until the Commission's next meeting, and that the staff be directed to report on what they see as a viable topic for public hearings. The motion was seconded by Commissioner Hallock and carried with Commissioner Somers desenting.

AGENDA ITEM J - PROPOSED ADOPTION OF TECHNICAL AMENDMENTS TO CLATSOP PLAINS SUBSURFACE SEWAGE DISPOSAL RULES OAR 340-71-020(7)

Mr. T. Jack Osborne, of the Department's Subsurface and Alternative Sewage Disposal Section, said the amended Clatsop Plains moratorium rule provided for a density of one family unit per acre within the moratorium area. He said lots of less than one acre in size existing prior to April 2, 1977 were exempt. A temporary rule adopted earlier changed that exemption date to October 28, 1977, he said. The Commission was being asked to make that temporary rule permanent, he continued.

In response to Chairman Richards, Mr. Osborne said the Department had received no objections to this proposal.

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

Director's Recommendation

It is the Director's recommendation that, based on the summation in the staff report, the Commission take action as follows:

1. Adopt as a permanent rule Attachment A of the Hearing Report, such rule to be filed with Legislative Counsel and the Secretary of State before its expiration as a temporary rule.

2. Adopt as its final State of Need for Rulemaking the Statement of Need incorporated in this report, such statement to be filed with the rule as set forth above.

AGENDA ITEM K - PROPOSED ADOPTION OF AMENDMENTS TO CHEM-NUCLEAR'S LICENSE FOR OPERATION OF ARLINGTON HAZARDOUS WASTE DISPOSAL SITE

Mr. Fred Bromfeld, of the Department's Solid Waste Division, said it was proposed that the Commission modify the Chem-Nuclear license for operation of the Arlington Hazardous Waste Disposal Site. Basically, he said, the modifications were housekeeping changes. He said it was the Director's Recommendation that the modified Chem-Nuclear license be issued.

After some discussion among staff and Commission on the proposed modifications, the Commission, by unanimous consent, indicated that they would not approve the proposed permit without the reinsertion of the old condition C7 relating to conveying title of the property to the state in event of a default on the part of the compaany. Mr. Bromfeld was directed to convey this to the Company.

By unanimnous consent of the Commission, this matter was deferred until the Comiission's next meeting.

AGENDA ITEM G - RECONSIDERATION

It was MOVED by Commissioner Hallock that the proposed noise rule relating to new automobiles and light trucks be amended to read "models after 1981," and approved of the Director's Recommendation as amended. The motion was seconded by Commissioner Somers and carried unanimously.

AGENDA ITEM L - COMPLETION

Commissioner Somers said that when this item was presented earlier in the meeting it was noted that there were several references in the report to appendices which appeared to have no significance. He said the staff had referenced Exhibit A to the staff report to each appendix.

Commissioner Somers MOVED the Director's recommendation be approved with the amended Volume 5 submitted by the staff. The motion was seconded by Commissioner Phinney and carried unanimously.

AGENDA ITEM M - SUNRISE VILLAGE, BEND - APPEAL OF SUBSURFACE SEWAGE DISPOSAL REQUIREMENTS

Mr. Richard Nichols, Regional Manager of the Department's Central Region, said this item concerned an appeal by Sunrise Village of a subsurface disposal requirement imposed on their development. Mr. Nichols then read the summation and presented the following Director's Recommendation from the staff report.

Director's Recommendation

Based upon the summation, it is recommended that the Environmental Quality Commission direct the Department to not permit a community sewage disposal system for Sunrise Village unless such system is a part of the overall regional sewerage plan and would be connected to the Bend regional sewerage system at some future time. The Commission should also direct the Department staff to work with the City of Bend and Sunrise Village to reach agreement for ultimate connection of the sewage system to the regional system.

Mr. Martin West, one of the principals of the Sunrise Village development, said they were appearing befre the Commission for economic reasons and out of general principle. They contend, he said, Sunrise Village was outside the original sewer service area EPA planned and funded for in the City of Bend plan. He also said that Sunrise Village had not received equal treatment compared to the Cascade Junior High School in regard to subsurface sewage disposal and city sewer agreements.

After considerable discussion among the Commission, staff and the developers of Sunrise Village, it was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that this matter be deferred until the Commission's next meeting.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Carol A. Splettstaszer

Carol A. Splettstaszer
Recording Secretary

ROBERT W. STRAUB
GOVERNOR

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, November 17, 1978, EQC Meeting

October Program Activity Report

Discussion

Attached is the October Paogram Activity Report.

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

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

The purposes of this report are:

1) To provide information to the Commission regarding the status of reported program activities and an historical record of project plan and permit actions;
2) To obtain confirming approval from the Commission on actions taken by the Department relative to air contamination source plans and specifications; and
3) 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, giving confirming approval to the air contaminant source plans and specifications listed on page 2 of the report.

Bill

WILLIAM H. YOUNG

M.Downs:ahe
229-6485
11-06-78

Contains Recycled Materials

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

October, 1978
Month

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air, Water, and Solid Waste Divisions (Reporting Unit) — October, 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.	
Air							
Direct Sources	10	65	17	78		2	30
Total	10	65	17	78		2	30
Water							
Municipal	98	518	97	499			71
Industrial	11	49	5	36			30
Total	109	567	102	535			101
Solid Waste							
General Refuse	1	8	1	7		2	5
Demolition		2					2
Industrial		8	2	13			2
Sludge		1	1	2			
Total	1	19	4	22		2	9
Hazardous Wastes							
GRAND TOTAL	120	651	123	635		4	140

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — October, 1978 (Month and Year)

PLAN ACTIONS COMPLETED (17)

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
DIRECT STATIONARY SOURCES			
Benton (NC 1047)	Evans Products New battery separator line	10/78	Approved
Jackson (NC 1159)	Boise Cascade Corp. Modify bark surge bin	10/24/78	Completion memo
Benton (NC 1219)	Evans Products Co. Ovens for water base paint	10/13/78	Approved
Jackson (NC 1227)	Grinnell Capital Corp. Over tree sprinkler system	8/16/78	Approved
Jackson (NC 1231)	Louisiana Pacific Corp. Hog and storage bins	8/16/78	Approved
Hood River (NC 1234)	Robert M. McIsaac One orchard fan	8/24/78	Approved
Clatsop (NC 1235)	Quality Asphalt Paving and Supply Venturi scrubber	10/78	Approved
Benton (NC 1243)	Evans Products Co. Glass wool manufacturer	9/27/78	Approved
Linn (NC 1245)	Willamette Industries Hog fuel cell and veneer drying	10/17/78	Approved
Klamath (NC 1246)	Weyerhaeuser Co. Lumber sander to boiler	10/9/78	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — October, 1978 (Month and Year)

PLAN ACTIONS COMPLETED (17 cont'd)

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
DIRECT STATIONARY SOURCES (cont.)			
Hood River (NC 1248)	D & P Orchard, Inc. One orchard fan	9/26/78	Approved
Yamhill (NC 1250)	Coast Range Plywood, Inc. New hardwood veneer mill	10/13/78	Approved
Yamhill (NC 1251)	Atlas Plastic Corp. Extrude plastic sheet	10/13/78	Approved
Polk (NC 1252)	Willamette Industries Add multiclones to boiler	10/9/78	Approved
Union (NC 1255)	Boise Cascade Corp. Cyclone for hogged fuel	10/19/78	Approved
Curry (NC 1256)	Champion International Corp. Four veneer Burley scrubbers	10/19/78	Approved
Linn (SIW #3)	Teledyne Wah Chang Albany Chlorinator residue bldg.	10/13/78	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — October 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	FY	Month	FY			
Direct Sources							
New	0	16	7	12	24		
Existing	2	19	14	28	19		
Renewals	2	12	28	36	51		
Modifications	13	34	27	41	12		
Total	17	81	76	117	106	1,869	1,912
Indirect Sources							
New	2	11	1	15	11		
Existing	-	-	-	-	-		
Renewals	-	-	-	-	-		
Modifications	2	4	0	2	2		
Total	4	15	1	17	13	101	
GRAND TOTALS	21	96	77	134	119	1,970	

Number of Pending Permits	Comments
16	To be drafted by Northwest Region Office
14	To be drafted by Willamette Valley Region Office
27	To be drafted by Southwest Region Office
1	To be drafted by Central Region Office
1	To be drafted by Eastern Region Office
9	To be drafted by Program Operations
3	To be drafted by Program Planning & Development
71	
21	Permits awaiting next public notice
14	Permits awaiting end of 30-day public notice period
35	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — October 1978 (Month and Year)

PERMIT ACTIONS COMPLETED (77)

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Direct Stationary Sources			
Benton	Corvallis High School 02-2459, Existing	9/26/78	Permit Issued
Benton	Evans Products 02-2515, Modification	9/11/78	Permit Issued
Benton	I. P. Miller Lumber 02-6018, Renewal	9/26/78	Permit Issued
Benton	Marys River Lumber Co. 02-7002, Renewal	10/17/78	Permit Issued
Clackamas	Caffall Bros. Forest Prod. 03-1793, Modification	9/11/78	Permit Issued
Clackamas	The Murphy Co. 03-1874, Existing	9/26/78	Permit Issued
Clackamas	Estacada Rock Products 03-1934, Renewal	9/27/78	Permit Issued
Clackamas	Hanna Industries 03-2572, Renewal	9/11/78	Permit Issued
Clackamas	Oregon City Ready Mix 03-2670, Modification	9/27/78	Permit Issued
Clackamas	Estacada Rock Products 03-2671, Modification	9/27/78	Permit Issued
Clatsop	RCA Service Co. 04-0034, Renewal	10/17/78	Permit Issued
Columbia	Boise Cascade Papers 05-1849, Renewal	9/29/78	Permit Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — October 1978 (Month and Year)

PERMIT ACTIONS COMPLETED (77 cont'd)

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Direct Stationary Sources (cont.)			
Columbia	Kynsi-Lammi Rock Products 05-2572, Existing	9/27/78	Permit Issued
Coos	Coos Head Timber 06-0005, Renewal	9/29/78	Permit Issued
Coos	Alder Pacific 06-0075, Modification	10/17/78	Permit Issued
Douglas	Sun Studs 10-0030, Renewal	10/17/78	Permit Issued
Douglas	International Paper 10-0056, Modification	10/13/78	Addendum Issued
Douglas	Champion Building Products 10-0079, Renewal	9/27/78	Permit Issued
Grant	Prairie City Shake and Shingle 12-0025, Existing	9/27/78	Permit Issued
Harney	G. E. Frost 13-0006, Existing	9/26/78	Permit Issued
Jackson	Medford Corp. 15-0014, Renewal	9/26/78	Permit Issued
Jackson	Phoenix High School 15-0106, Existing	9/11/78	Permit Issued
Jackson	Mid High School 15-0113, Existing	9/11/78	Permit Issued
Jackson	McLoughlin School 15-0114, Existing	9/11/78	Permit Issued

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — October 1978 (Month and Year)

PERMIT ACTIONS COMPLETED (77 cont'd)

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Direct Stationary Sources (cont.)			
Jackson	Hedrick School 15-0115, Existing	9/11/78	Permit Issued
Jackson	Hoover School 15-0116, Existing	9/11/78	Permit Issued
Josephine	Miller Redwood 17-0023, Modification	6/5/78	Permit Issued
Lincoln	Morse Bros- Lincoln Ready Mix 21-0028, Modification	9/11/78	Permit Issued
Lincoln	Morse Bros- Lincoln Ready Mix 21-0035, Modification	9/11/78	Permit Issued
Linn	Boise Cascade 22-0511, Renewal	9/27/78	Permit Issued
Linn	Simpson Lumber Co. 22-0512, Renewal	9/11/78	Permit Issued
Linn	North Santiam Plywood 22-2522, Renewal	9/29/78	Permit Issued
Linn	Frank Lumber Co. 22-2525, Renewal	10/17/78	Permit Issued
Linn	Champion Building Products 22-5195, Renewal	9/26/78	Permit Issued
Linn	Far West Farmers Coop. 22-5197, Modification	9/11/78	Permit Issued

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — October 1978 (Month and Year)

PERMIT ACTIONS COMPLETED (77 cont'd)

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Direct Stationary Sources (cont.)			
Linn	Willamette Industries 22-5249, Renewal	9/11/78	Permit Issued
Linn	Northrup King Co. 22-8038, New	9/11/78	Permit Issued
Marion	Salem Blacktop and Asphalt Paving 24-5954, Modification	9/26/78	Permit Issued
Multnomah	Henry R. Miller 26-1407, Modification	9/26/78	Permit Issued
Multnomah	Reynolds Metals Co. 26-1851, Modification	9/29/78	Addendum Issued
Multnomah	Columbia Steel Casting 26-1869, Renewal	10/17/78	Permit Issued
Multnomah	Union Oil Co. 26-1889, Modification	9/26/78	Permit Issued
Multnomah	Ash Grove Cement Co. 26-1891, Renewal	9/11/78	Permit Issued
Multnomah	Willamette-Western Corp. 26-1895, Modification	9/26/78	Permit Issued
Multnomah	Western Pacific Construction Materials 26-1908, Modification	9/27/78	Permit Issued
Multnomah	Willamette Western 26-1909, Renewal	10/17/78	Permit Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — October 1978 (Month and Year)

PERMIT ACTIONS COMPLETED (77 cont'd)

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Direct Stationary Sources (cont.)			
Multnomah	Willamette-Western Corp. 26-1910, Modification	9/11/78	Permit Issued
Multnomah	Louis Dreyfus 26-2000, Renewal	9/27/78	Permit Issued
Multnomah	Pacific Carbide & Alloys 26-2015, Renewal	9/27/78	Permit Issued
Multnomah	Bird & Son 26-2043, Renewal	9/27/78	Permit Issued
Multnomah	Central Office Dist #40 26-2427, Modification	9/27/78	Permit Issued
Multnomah	Consolidated Dairy Products 26-2574, Modification	9/27/78	Permit Issued
Multnomah	Northwest Wholesale Distributors 26-2575, Modification	9/27/78	Permit Issued
Multnomah	Apostolic Faith Church 26-2589, Modification	9/27/78	Permit Issued
Multnomah	United Good Neighbors 26-2599, Modification	9/27/78	Permit Issued
Multnomah	Gardeners & Ranchers Assn 26-2767, Modification	9/27/78	Permit Issued
Multnomah	Portland State University 26-2832, Renewal	10/17/78	Permit Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — October 1978 (Month and Year)

PERMIT ACTIONS COMPLETED (77 cont'd)

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Direct Stationary Sources (cont.)			
Multnomah	General Services Administration 26-2954, Existing	9/27/78	Permit Issued
Multnomah	GATX 26-2993, New	9/27/78	Permit Issued
Multnomah	Wacker Siltronics 26-3002, New	9/28/78	Permit Issued
Tillamook	Kimber Log & Lumber 29-0048, Modification	9/27/78	Permit Issued
Umatilla	Snipe Mt. Sand & Gravel 30-0055, Modification	9/29/78	Permit Issued
Umatilla	Ready Mix, Sand & Gravel 30-0057, Modification	9/27/78	Permit Issued
Umatilla	Timber Investments 30-0092, New	9/27/78	Permit Issued
Union	Del Monte Corp. 31-0031, Existing	6/24/78	Permit Issued
Wallowa	Wallowa Valley Ready Mix 32-0016, Existing	9/27/78	Permit Issued
Washington	Stinson Lumber Co. 34-2143, Renewal	9/26/78	Permit Issued
Yamhill	Taylor Lumber Co. 36-7004, Renewal	9/26/78	Permit Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — October 1978 (Month and Year)

PERMIT ACTIONS COMPLETED (77 cont'd)

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Direct Stationary Sources (cont.)			
Portable Sources			
Portable	Tidewater Contractors 37-0053, Renewal	9/26/78	Permit Issued
Portable	O'Hair Construction 37-0072, Modification	10/17/78	Permit Issued
Portable	C. H. Stinson 37-0166, Renewal	9/26/78	Permit Issued
Portable	Mid-Oregon Crushing 37-0174, Renewal	9/26/78	Permit Issued
Portable	Columbia West Materials & Construction 37-0197, New	9/26/78	Permit Issued
Portable	Wasco County Road Dept. 37-0205, Existing	9/26/78	Permit Issued
Portable	Robert L. Coats 37-0207, New	9/27/78	Permit Issued
Portable	Keith L. Taylor Const. 37-0209, New	9/27/78	Permit Issued
Indirect Sources			
Marion	Bi-Mart (South Salem) Shopping Center 395 spaces File No. 24-8028	10/23/78	Final Permit Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality - SWC Section (Reporting Unit) — October 1978 (Month and Year)

PLAN ACTIONS COMPLETED (102)

Engineer	County	Name of Source/Project/Site & Type of Same	Rec'd	Date of Action	Action	Time to Complete Action
		Municipal Sources - 97				
		PORTLAND 52ND AVE - MARIGOLD	K092979	100279	PROV APP	03
	64	WOODBURN COUNTRY ACRES	J090178	100378	PROV APP	32
		USA WINTERS ADDITION	K100278	100478	PROV APP	02
		MCMINNVILLE WEST COZINE	J091279	100478	PROV APP	19
	52	CLACKAMAS CARRIE ANNE	J091179	100978	PROV APP	38
		LAKE OSWEGO TERRACE ROAD AREA SS	J091578	100978	PROV APP	24
	00 03	LAKE OSWEGO LID 161-ROYCE WAY AREA	J082878	100978	PROV APP	41
		ROSEBURG CHURCH OF CHRIST	J091279	100978	PROV APP	27
		ROSEBURG LOT 11,12,1,2 BLK 2 SHINNS	J091278	100978	PROV APP	27
		ROSEBURG MIGUEL DORWIN ST	J091278	100978	PROV APP	27
	51	MEDFORD CAMPUS SUBD	K090878	101078	PROV APP	32
		BANDON EIGHTH COURT SEWER	K092578	101178	PROV APP	16
		HINES CHOATE TRACTS	K091278	101178	PROV APP	29
		USA LEE SEWER EXT.	K091378	101178	PROV APP	28
		USA DANA PEDERSON EXT	K091378	101178	PROV APP	28
		USA LINCOLN BLDG SWR	K092278	101178	PROV APP	19
		SANDY ALDERGATE NO 1	K092078	101178	PROV APP	21
		BEND WESTPINE REVISED	K091278	101178	PROV APP	29
		WALDPORT TOWNSHIP 13, PHASE 2	J091878	101178	PROV APP	23
		CANBY SCHMEISER TRACT	K091278	101178	PROV APP	29
		RIDDLE COPPER PENNEY REV	K091878	101278	PROV APP	24
		EUGENE MARACOTT MANOR	K092778	101278	PROV APP	15
		PORTLAND SE 89TH & PRIV PROP	K092678	101278	PROV APP	16
	03	WILSONVILLE CHARBONNEA-L- NEIGHBOR	K073178	101278	PROV APP	73
		SPRINGFIELD UPPER VIEW SP 317	K092178	101278	PROV APP	21
		SPRINGFIELD SOUTH 71ST ST SP 360	K092878	101278	PROV APP	14
		SPRINGFIELD MP 280 - 281 PROJ	K092778	101278	PROV APP	15
		PORTLAND LINNTON INTERCEPTOR	K092178	101278	PROV APP	21
		PORTLAND NW WARRENTON TER-MACLEY BLVD	K092078	101278	PROV APP	22
		PORTLAND SW HUBER ST EAST - 36TH PL	K092778	101278	PROV APP	15
		PORTLAND SE 89TH AVE AND PRIV PROP	K092678	101278	PROV APP	16
		NEWPORT LAKEWOOD HILLS	K091278	101278	PROV APP	30
		PORTLAND TAX LOT 73 - 3.13 AC.	K091378	101278	PROV APP	29
		USA SCHOLLS-SUMMER LAKE SUBDIV	K101178	101378	PROV APP	02
		PORTLAND SE 47TH - HENRY	K100678	101378	PROV APP	07
		PORTLAND SW 6TH - BOONSFERRY TER	K100478	101378	PROV APP	09
		PORTLAND SE HARNEY CT - PRIV PROP	K100478	101378	PROV APP	09
		LAKE OSWEGO TOWNHOUSE DEV	K092678	101578	PROV APP	19
		USA THE WINDMILL SUBDIV	K100578	101678	PROV APP	11
		EUGENE FOX HOLLOW STREET	K100678	101678	PROV APP	10
		EUGENE THIRTEENTH AVE	K100678	101678	PROV APP	10
		EUGENE ANNE FIRST ADD	K100678	101678	PROV APP	10
		EUGENE GILHAM ROAD	K100678	101678	PROV APP	10
		EUGENE BRANSOM SUBDIVISION	K100678	101678	PROV APP	10
		BEND ADDENDUMS 1 AND 2 CONTR 4	K091978	101778	PROV APP	28
		BEND ADDENDUMS 1 AND 2 CONTR 6	K091978	101778	PROV APP	28
		BEND ADDENDUMS 1 AND 2 CONTR 3	K091378	101778	PROV APP	34
		WEST LINN HORTON HEIGHTS 11	K092778	101778	PROV APP	20
		BEND CONTRACT NO 5 SCHED AB PUMP	K101078	101878	PROV APP	08
		BEND CONTRACT NO 8 SUBSYSTEMS	K101678	101878	PROV APP	02
		BEND CONTRACT NO 10 W SIDE PS	K101678	101878	PROV APP	02
		BEND CONTRACT NO 13 SITE PREP	K101078	101878	PROV APP	08

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality - SWC Section (Reporting Unit) October 1978 (Month and Year)

PLAN ACTIONS COMPLETED (102 cont'd)

Engineer	County	Name of Source/Project/Site & Type of Same	Rec'd	Date of Action	Action	Time to Complete Action
		Municipal Sources - Continued				
	BEND	CONTRACT NO 11 PREL	K091178	101878	PROV APP	37
	HILLSBORO	LAURA SUBDIV	K092278	101878	PROV APP	26
	HILLSBORO	NE 12TH AVE SWR	K092278	101878	PROV APP	26
	HILLSBORO	DEE ORCHARD	K092278	101878	PROV APP	26
	HILLSBORO	TOWELL ACRES	K092278	101878	PROV APP	26
	HILLSBORO	HAREWOOD PHASE I	K092278	101878	PROV APP	26
	HILLSBORO	CROWELL TRACT	K092278	101878	PROV APP	26
	HILLSBORO	MEADOW LANE	K092278	101878	PROV APP	26
	ALBANY	BROOKSHORE PHASE II	K092578	101878	PROV APP	23
	CANBY	NW ASPEN STREET	K092778	101878	PROV APP	21
	LINCOLN CITY	SURFWOOD MANOR	K092078	101878	PROV APP	21
	LKE OSWEGO	BERWICK ROAD WO 6222	K091378	101978	PROV APP	36
	LAKE OSWEGO	LID 191-TIMBER GROVE	K091378	101978	PROV APP	36
	GRESHAM	SQUARE BROOK NO 2	K092878	101978	PROV APP	21
	MEDFORD	GRASS VALLEY SUBD	K092578	102078	PROV APP	25
	MCMINNVILLE	DOROTHY ADDITION	K101378	102078	PROV APP	07
	CENTRAL POINT	GREEN GLEN SUBD #2	K092578	102078	PROV APP	25
	DALLAS	VISTA VIEW NORTH SUBD	J091378	102378	PROV APP	40
	CANBY	TEMP GRINDER PUMP STA	K101878	102478	PROV APP	06
	CRESWELL	COLINA VISTA 2ND	K092078	102478	PROV APP	34
	BEND	TAMARACK PARK REV	K100678	102678	PROV APP	20
	FLORENCE	CASA DEL MAR	K100978	102678	PROV APP	17
	TRI CITY S D	LOT 9 PARCELS	K100378	102678	PROV APP	23
	SALEM	BLOCK 23 RELOC	K100678	102678	PROV APP	20
	EUGENE	ALENE ACRES	K100978	102678	PROV APP	17
	GRESHAM	RUSTIC FIRS	K092278	102678	PROV APP	34
	OAK LODGE S DI	PARADISE LOST	K100378	102778	PROV APP	24
	GRANTS PASS	THREE PINES SUBDIV	K100978	102778	PROV APP	18
	NOR TILL S A	THIRD ST PROJ	K100978	102778	PROV APP	18
	ROSEBURG	PARROTT ST	K100278	102778	PROV APP	25
	WARRENTON ALDE	ALDERCREEK ACRES PHASE 2	K092878	102778	PROV APP	29
	WHEELER	BLOCK 42 NTCSA	J090178	102878	PROV APP	41
	USA	HIGKETHIER PARK	K102578	103078	PROV APP	05
	USA	SCHOLLS TRUNK	K100978	103178	PROV APP	22
	USA	SCHOLLS TRUNK LAT A	K102078	103178	PROV APP	11
	USA	WOLFCREST SUBDIV	K102078	103178	PROV APP	11
	USA	MORNING HILL	K102078	103178	PROV APP	11
	USA	RAINTREE COURT	K100978	103178	PROV APP	20
	USA	SHOP CNTR 185TH BASELINE	K100378	103178	PROV APP	28
	USA	SW 72ND SEWER EXT	K101178	103178	PROV APP	20
	USA	SOMERSET	K100378	103178	PROV APP	28
	USA	ANGELYN SUBDIV	K101178	103178	PROV APP	20
	PORTLAND	SW CAPITOL HILL-19TH-PRIV	K102678	103178	PROV APP	05
	PORTLAND	JOHNS LANDING	K102678	103178	PROV APP	05
	PORTLAND	SW COMUS ST-37TH-PASADENA	K102778	103178	PROV APP	04

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit) — October 1978 (Month and Year)

PLAN ACTIONS COMPLETED (102 cont'd)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
INDUSTRIAL WASTE SOURCES (5)			
Coos	Oregon Aqua Foods - Coos Bay Salmon Release/Recapture Facility	10-23-78	Approved
Curry	Independent Fisherman's Coop - Port Orford Crab Processing Facility	10-16-78	Approved
Clackamas	VanPort Manufacturing Boring - Logyard runoff control system Phase I	10-16-78	Approved
Clackamas	VanPort Manufacturing Boring - Logyard runoff control system Phase II	10-16-78	Approved
Clackamas	VanPort Manufacturing Boring - Logyard runoff control system Phase III	10-16-78	Approved

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit) — October 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.							
	*	**	*	**	*	**	*	**	*	**	*	**	*	**
Municipal														
New	1	1	2	3	0	0	1	0	1	5				
Existing	0	0	0	0	0	0	0	0	0	0				
Renewals	15	2	19	2	1	1	11	6	44	3				
Modifications	1	0	3	0	1	0	2	0	5	1				
Total	17	3	24	5	2	1	14	6	50	9	244	80	245	85
Industrial														
New	1	1	8	5	1	0	5	6	11	5				
Existing	0	0	0	0	0	0	4	0	3	0				
Renewals	11	4	18	7	1/ 13	4 27	29	10	51	10				
Modifications	0	0	2	3	0	0	3	3	6	0				
Total	12	5	28	15	14	4	41	19	71	15	395	121	409	126
Agricultural (Hatcheries, Dairies, etc.)														
New	0	4	2	7	0	0	2	3	2	4				
Existing	0	0	0	0	0	0	0	0	0	0				
Renewals	0	0	0	0	0	0	0	1	2	0				
Modifications	0	0	0	0	0	0	0	0	0	0				
Total	0	4	2	7	0	0	2	4	4	4	60	17	62	21
GRAND TOTALS	29	12	54	27	16	5	57	29	125	28	699	218	716	232

* NPDES Permits
** State Permits

1/ Contains 2 NPDES Permits not to be renewed

2/ Contains 2 State Permits not to be renewed

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit) — October 1978 (Month and Year)

PERMIT ACTIONS COMPLETED (21)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Multnomah	Reynolds Metals Co. Aluminum Plant	10-5-78	NPDES Renewal Issued
Linn	Triple H. Investments Diamon Hill	10-11-78	State Renewal Issued
Josephine	Wesley Pieren Greenback Mine	10-11-78	State Renewal Issued
Josephine	Wesley Pieren Leipold Mine	10-11-78	State Renewal Issued
Multnomah	Union Oil Co. Oil Terminal	10-11-78	NPDES Renewal Issued
Multnomah	Northwest Ice & Cold Storage, Inc. Cooling Water	10-11-78	NPDES Renewal Issued
Tillamook	Port of Tillamook Bay Sewage Disposal Add. #1	10-11-78	NPDES Modification Issued
Lane	Monsanto Company Glue Resins	10-16-78	NPDES Renewal Issued
Baker	City of Baker Sewage Disposal	10-16-78	NPDES Renewal Issued
Benton	Evans Products Corvallis (Hardboard Plant)	10-23-78	NPDES Renewal Issued
Lane	Weyerhaeuser - Springfield Paperboard	10-25-78	NPDES Renewal Issued
Hood River	Diamond Fruit Growers, Inc. Odell - Fresh Fruit Packing	10-26-78	NPDES Renewal Issued
Hood River	Diamond Fruit Growers, Inc. Central - Fresh Fruit Packing	10-26-78	NPDES Renewal Issued
Hood River	Diamond Fruit Growers, Inc. Parkdale - Fresh Fruit Packing	10-26-78	NPDES Renewal Issued

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit) — October 1978 (Month and Year)

PERMIT ACTIONS COMPLETED (21 cont'd)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Hood River	Diamond Fruit Growers, Inc. Van Horn - Fresh Fruit Packing	10-26-78	NPDES Renewal Issued
Linn	Teledyne Wah Chang Albany Metals Plant	10-31-78	NPDES Renewal Issued
Jackson	Steve Wilson Lumber Co. Trail Creek Plant	10-31-78	NPDES Permit not to be renewed
Douglas	Joseph A. Barnes Placer Mine	10-31-78	State Permit not to be renewed
Josephine	North Star Mining Placer Mine	10-31-78	State Permit not to be renewed
Lane	Pennzoil Company Lubrication Oil	10-31-78	NPDES Application Exempted
Lane	Camac Veneer Eugene	10-31-78	NPDES Permit not to be renewed

MONTHLY ACTIVITY REPORT

Solid Waste (Reporting Unit) — October 1978 (Month and Year)

PLAN ACTIONS COMPLETED (4)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Lane	Solid Waste Resources Proposed Composting Facility Operational Plan	10/4/78	Withdrawn
Jackson	Roto Rooter Septage Transfer Station Proposed Transfer Station Operational Plan	10/8/78	Approved
Tillamook	Publishers Paper Brickyard Site Proposed Industrial Landfill Operational Plan	10/11/78	Letter Authorization issued.
Douglas	Elkton Transfer Station Proposed Transfer Station Operation and Construction Plans	10/19/78	Approved
Malheur	Ore-Ida Foods Existing Industrial Landfill Expansion Plans	10/25/78	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste (Reporting Unit) — October 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.			
General Refuse							
New		1		1	1		
Existing					19 *		
Renewals		9		12	5		
Modifications	2	3	1	4	4		
Total	2	13	1	17	29	168	172
Demolition							
New		1			1		
Existing							
Renewals							
Modifications	1	1	1	1			
Total	1	2	1	1	1	22	22
Industrial							
New	1	6	2	8			
Existing				1			
Renewals	2	6	1	7	7		
Modifications		1		2	1		
Total	3	13	3	18	8	97	97
Sludge Disposal							
New							
Existing							
Renewals				1			
Modifications							
Total	0	0	0	1	0	10	10
Hazardous Waste							
New Authorizations	8	62	6	60	2		
Renewals							
Modifications							
Total	8	62	6	60	2	1	1
GRAND TOTALS	14	90	11	97	40	298	302

*Fourteen (14) sites operating under temporary permits until regular permits are issued.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division (Reporting Unit) — October 1978 (Month and Year)

PERMIT ACTIONS COMPLETED (5)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
General Refuse Facilities (1)			
Multnomah	MDC - North Portland Exising tire shredder.	10/30/78	Permit amended.
Demolition Waste Facilities (1)			
Douglas	Davis Construction Co. New landfill	10/17/78	Letter authorization amended.
Industrial Waste Facilities (3)			
Clatsop	Lewis and Clark Log Yard Existing wood waste site.	10/3/78	Permit renewed.
Klamath	Weyerhaeuser, Klamath Falls New wood waste site.	10/9/78	Permit issued.
Tillamook	Publishers Paper, Tillamook New wood waste site.	10/11/78	Letter authoriztion issued.

Sludge Disposal Facilities - none

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste (Reporting Unit) — October 78 (Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-NUCLEAR SYSTEMS, GILLIAM CO.

Date	Waste Description: Type	Source	Quantity: Present	Quantity: Future
Disposal Requests Granted (6)				
Oregon (1)				
11	Spent ammoniacal solution of copper.	Manufacturer of electrical devices.	5,000 gals.	Periodic
Washington (3)				
2	Unwanted mixed pesticides pesticides	City government	136 gals.	none
11	PCB capacitors and debris	Government agency.	43 cu. ft.	Periodic
12	Various laboratory chemicals (ethyleneamine, napthylamine, benzidine, benzene)	University research lab.	small quantity	none
British Columbia (2)				
6	Mercury spill cleanup debris	Electric utility	1 drum	none
12	Wood preserving sludge containing copper arsenate	Chemical plant	none	48,000 lbs. yr.

TOTALS	LAST	PRESENT (November 1978)
Settlement Action	11	16
Preliminary Issues	19	17
Discovery	4	2
To be Scheduled	3	5
To be Rescheduled	0	0
Set for Hearing	3	1
Briefing	0	1
Decision Due	6	6
Decision Out	4	2
Appeal to Commission	6	4
Appeal to Court	1	1
Transcript	1	1
Finished	0	0
	58	56

KEY

ACD	Air Contaminant Discharge Permit
AQ	Air Quality
AQ-SNCR-76-178	A violation involving air quality occurring in the Salem/North Coast Region in the year 1976; the 178th enforcement action in that region for the year.
Cor	Cordes
CR	Central Region
Dec Date	The date of either a proposed decision of a hearing officer or a decision by the Commission.
$	Civil Penalty Amount
ER	Eastern Region
Fld Brn	Field burning incident
Hrngs	The Hearings Section
Hrng Rfrrl	The date when the enforcement and compliance unit requests the hearings unit to schedule a hearing.
Hrng Rqst	The date the agency receives a request for hearing.
LQ	Land Quality
McS	McSwain
MWV	The Mid-Willamette Valley Region
NP	Noise Pollution
NPDES	National Pollutant Discharge Elimination System wastewater discharge permit
P	At the beginning of a case number means litigation over a permit or its conditions.
PR	Portland Region
PNCR	Portland/North Coast Region
Prtys	All parties involved
Rem Order	Remedial Action Order
Resp Code	The source of the next expected activity on the case.
SNCR	Salem/North Coast Region (now MWV)
SSD	Subsurface Sewage Disposal
SWR	Southwest Region
T	At the beginning of a case number means litigation over a tax credit matter.
Trancr	Transcript being made.
Underlined	Different status or new case since last contested case log.

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	DEQ or Atty	Hrng Offcr	Hrng Date	Resp Code	Dec Date	Case Type & No.	Case Status
Davis et al	5/75	5/75	Atty	McS	5/76	Resp	6/78	12 SSD Permits	Appeal to Court
Paulson	5/75	5/75	Atty	McS		Resp		1 SSD Permit	Settlement Action
Trent	5/75	5/75	Atty	McS		Resp		1 SSD Permit	Settlement Action
Faydrex, Inc.	5/75	5/75	Atty	McS	11/77	Transc		64 SSD Permits	Transcript Prepared
Johns et al	5/75	5/75	Atty	McS		All		3 SSD Permits	Preliminary Issues
Laharty	1/76	1/76	Atty	McS	9/76	Resp	1/77	Rem Order SSD	Appeal to Comm
PGE (Harborton)	2/76	2/76	Atty	McS		Hrngs		ACD Permit Denial	Preliminary Issues
~~Taylor, R.~~	~~9/76~~	~~9/76~~	~~Atty~~	~~Lmb~~	~~12/76~~	~~Resp~~	~~12/77~~	~~$500-SS-MWR-76-91~~	~~Finished~~
Ellsworth	10/76	10/76	Atty	McS		Dept		$10,000 WQ-PR-76-196	Preliminary Issues
Ellsworth	10/76	10/76	Atty	McS		Prtys		WQ-PR-ENF-76-48	Settlement Action
Silbernagel	10/76	10/77	Atty	Cor		Resp		AQ-MWR-76-202 $400	Discovery
Jensen	11/76	11/76	Atty	Cor	12/77	Prtys	6/78	$1500 Fld Brn AQ-SNCR-76-232	Settlement Action
Mignot	11/76	11/76	DEQ	McS	2/77	Dept	2/77	$400 SW-SWR-288-76	Appeal to Comm
Perry	12/76	12/76	DEQ	Cor	1/78	Hrngs		Rem Order SS-SWR-253-76	Decision Due
Jones	4/77	7/77	DEQ	Cor	6/9/78	Hrngs		SSD Permit SS-SWR-77-57	Decision Due
~~Beaver State et al~~	~~5/77~~	~~5/77~~	~~Atty~~	~~Cor~~	~~10/77~~	~~Resp~~		~~$150-AQ-SNCR-77-84~~	~~Finished~~
Sundown et al	5/77	6/77	Atty	McS		Prtys		$11,000 Total WQ Viol SNCR	Settlement Action
Wright	5/77	5/77	Atty	McS		Dept		$250 SS-MWR-77-99	Decision Due
Henderson	6/77	7/77	Atty	Cor	1/77	Resp		Rem Order SS-CR-77-136	Re-appeal to Comm
Lowe	7/77	7/77	DEQ	Cor		Resp		$1500 SW-PR-77-103	Settlement Action
Magness	7/77	7/77	DEQ	Cor	11/77	Hrngs		$1150 Total SS-SWR-77-142	Decision Due
Southern Pacific Trans	7/77	7/77	Atty	Cor		Prtys		$500 NP-SNCR-77-154	Preliminary Issues
Suniga	7/77	7/77	Atty	Lmb	10/77	Hrngs		$500 AQ-SNCR-77-143	Appeal to Comm
Sun Studs	8/77	9/77	DEQ	McS		Resp		$300 WQ-SWR-77-152	Settlement Action
Taylor, D.	8/77	10/77	DEQ	McS	4/78	Dept		$250 SS-PR-77-188	Settlement Action
Brookshire	9/77	9/77	Atty	McS	4/19/78	Hrngs		$1000 AQ-SNCR-76-178 Fld Brn	Decision Out
Grants Pass Irrig	9/77	9/77	Atty	McS		Prtys		$10,000 WQ-SWR-77-195	Discovery
Pohll	9/77	12/77	Atty	Cor	3/30/78	Hrngs		SSD Permit App	Decision Due
~~Trussell et al~~	~~9/77~~	~~9/77~~	~~DEQ~~	~~Cor~~	~~10/77~~	~~Resp~~		~~$150-AQ-SNCR-77-105~~	~~Finished~~
Califf	10/77	10/77	DEQ	Cor	4/26/78	Prtys		Rem Order SS-PR-77-225	Settlement Action
McClincy	10/77	12/77	Atty	McS		Resp		SSD Permit Denial	Preliminary Issues
Zorich	10/77	10/77	Atty	Cor		Prtys		$100 NP-SNCR-77-173	Settlement Action
Powell	11/77	11/77	Atty	Cor		Hrngs		$10,000 Fld Brn AQ-MWR-77-241	Preliminary Issues
Wah Chang	12/77	12/77	Atty	McS		Dept		ACD Permit Conditions	Preliminary Issues
Barrett & Sons, Inc.	12/77		DEQ			Dept		$500 WQ-PR-77-307	Preliminary Issues
Carl F. Jensen	12/77	1/78	Atty	McS		Prtys		$18,600 AQ-MWR-77-321 Fld Brn	Settlement Action
Carl F. Jensen/ Elmer Klopfenstein	12/77	1/78	Atty	McS		Prtys		$1200 AQ-SNCR-77-320 Fld Brn	Settlement Action
Steckley	12/77	12/77	DEQ	McS	6/9/78	Resp		$200 AQ-MWR-77-298 Fld Brn	Decision Out
Wah Chang	1/78	2/78	Atty	Cor		Dept		$5500 WQ-MWR-77-334	Preliminary Issues
Gray	2/78	3/78	DEQ			Dept		$250 SS-PR-78-12	Settlement Action
Hawkins	3/78	3/78	Atty			Dept		$5000 AQ-PR-77-315	Preliminary Issues
Hawkins Timber	3/78	3/78	Atty			Dept		$5000 AQ-PR-77-314	Preliminary Issues
Knight	3/78		DEQ			Dept		$500 SS-SWR-78-33	Settlement Action
~~Avery~~	~~4/78~~	~~5/78~~	~~DEQ~~	~~McS~~	~~9/13/78~~	~~Hrngs~~		~~$500-AQ-SNCR-78-05~~	~~Finished~~
Wah Chang	4/78	4/78	Atty	McS		Prtys		NPDES Permit	Preliminary Issues
~~Abiqua~~	~~5/78~~		~~DEQ~~			~~Resp~~		~~P-SS-WVR-78-01~~	~~Finished~~
Stimpson	5/78		Atty	McS		Dept		Tax Credit Cert. T-AQ-PR-78-01	To be Scheduled
Vogt	6/78	6/78	DEQ	Cor	11/8/78	Dept		SSD Permit	Briefings
Hogue	7/78		Atty			Dept		P-SS-SWR-78	Preliminary Issues
B & M	8/78	8/78	DEQ	Cor	11/1/78	Hrngs		SSD License	Decision Due
St. Helens	7/78		Atty	McS		Resp		P-WQ-NWR-78-03	Preliminary Issues
Champion	8/78	8/78	DEQ			Resp		P-WQ-CR-78-04	Settlement Action
Welch	10/78	10/78	Atty			Prtys		P-SS-CR-78-134	To be Scheduled
Vaara	10/78	10/78	DEQ			Resp		$100 SS-SWR-78-116	Preliminary Issues
Carter	10/78		DEQ		12/21/78	Hrngs		$50 AQ-WVR-78-140	Set for Hearing
Holst	10/78		DEQ			DEQ		P-SS-WVR-78-05	To be Scheduled
Louisiana-Pacific	9/78	10/78	DEQ			DEQ		$1500 AQ-SWR-78-97	Preliminary Issues
Louisiana-Pacific	9/78	10/78	DEQ			DEQ		$2000 AQ-SWR-78-122	Preliminary Issues
Hood River	11/78		Atty	McS		Hrngs		$1650 WQ-CR-78-142	To be Scheduled
Reeve	10/78		Atty			Prtys		P-SS-CR-78-132 & 133	To be Scheduled
Johnson	11/78		DEQ			Prtys		P-SS-CR-78-114	Settlement Action

ROBERT W. STRAUB
GOVERNOR

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, November 17, 1978, EQC Meeting

TAX CREDIT APPLICATIONS

Director's Recommendation

Attached are four requests for tax credit action. It is recommended that the Commission issue Pollution Control Facility Certificates for applications T-972 (Georgia-Pacific Corporation), T-1002 (Edward Hines Lumber Company), T-1027 and T-1028 (Champion International Corporation).

Bill

WILLIAM H. YOUNG

MJDowns:cs
229-6485
11/7/78
Attachments

Contains
Recycled
Materials

Proposed November 1978 Totals:

Air Quality	$ 1,059,457
Water Quality	-0-
Solid Waste	2,353,798
	$ 3,413,255

Calendar Year Totals to Date
(Excluding November 1978 Totals)

Air Quality	$ 2,190,810
Water Quality	6,192,720
Solid Waste	13,674,466
	$ 22,057,966

Total Certificates Awarded (monetary values)
Since Beginning of Program
(Excluding November 1978 Totals:

Air Quality	$114,377,895
Water Quality	91,487,886
Solid Waste	28,103,095
	$233,968,876

Appl. T-972

Date 10/23/78

State of Oregon

DEPARTMENT OF ENVIRONMENTAL QUALITY

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Georgia Pacific Corporation
Suite 200
2310 Parklake Drive, N.E.
Atlanta, Georgia 30345

The applicant owns and operates a charcoal briquet manufacturing plant in White City, Oregon.

2. Description of Claimed Facility

The facility described in this application is a Stearns-Roger rotary hog fuel dryer with related equipment.

Notice of intent to construct was made June 22, 1976 and approved July 27, 1976. However, the Request for Preliminary Certification for Tax Credit was not signed (the old DEQ form required two signatures on the same page). Due to the fact that Georgia-Pacific Corporation applied previously for tax credits with correctly completed forms, it is reasonable to assume that it was a clerical error (Georgia-Pacific Corporation letter of September 25, 1978), and that the company's application constituted a request for preliminary certification.

Construction was initiated on the claimed facility July 2, 1976, completed January 31, 1977 and the facility was placed into operation March 1, 1977.

Facility Cost: $829,545.76 (Accountant's certification was provided.)

3. Evaluation of Application

The claimed facility is utilizing waste heat to pre-dry waste wood material prior to processing to charcoal. Pre-drying results in the increased consumption of wood waste. The facility consumed 18,000 tons additional wood waste in 1977. This is expected to increase to 25,000 tons in 1978.

4. Summation

a. Facility was constructed after receiving approval to construct and after request for preliminary certification.

b. Facility was under construction on or after January 1, 1973 as required by ORS 468.165(1)(c).

C. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controling or reducing solid waste. The facility is necessary to satisfy the intents and purposes of ORS Chapter 459, and the rules adopted under that chapter.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of $829,545.76 with 100% allocated to pollution control be issued for the facility claimed in Tax Credit Application Number T-972.

EAS:mm
229-5913
October 23, 1978

Appl T-1002 R
Date 10/18/78

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Edward Hines Lumber Co.
Ponderosa Pine Division
Box 557
Hines 97738

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

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

2. Description of Claimed Facility

The facility described in this application is the equipment necessary to grind and compress wood waste into pellets. The pellets are used as fuel for the boilers.

Request for Preliminary Certification for Tax Credit was made on 4/19/77, and approved on 6/7/77.

Construction was initiated on the claimed facility on 5/4/77, completed on 11/1/77, and the facility was placed into operation on 11/1/77.

Facility Cost: $1,059,457 (Accountant's Certification was provided).

3. Evaluation of Application

The pelletizing plant provides a uniform fuel for the boilers. The boilers have been able to demonstrate compliance with Dept. limits using the pelletized fuel. The wood waste used to make pellets is the same waste previous burned in the boiler. By pelletizing the wood waste, the combustion in the boiler can be better controlled and pollutants reduced.

4. Summation

A. Facility was constructed after receiving approval to construct and preliminary certification issued pursuant to ORS 468.175.

B. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).

C. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling or reducing air pollution.

D. The facility was required by the DEQ and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.

E. The only purpose of this facility is air pollution control. Therefore, 100% is allocable to pollution control.

5. Director's Recommendation

Based upon the summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,059,457 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1002 R.

FASkirvin:kmm
(503) 229-6414
October 23, 1978

Appl. T-1027

Date 10/27/78

State of Oregon

DEPARTMENT OF ENVIRONMENTAL QUALITY

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Champion International Corporation
Champion Building Products
P. O. Box 10228
Eugene, OR 97440

The applicant owns and operates a green veneer plant at Mapleton, Oregon.

Application was made for tax credit for a solid waste pollution control facility.

2. Description of Claimed Facility:

The facility described in this application consists of the following:

1. Lamb Grays Harbor 36 X 36 hammer hog and related equipment	$ 146,277.11
2. Lamb Grays Harbor 17 X 18 rechipper knife bay and related equipment	20,650.07
3. 1977 Peerless (S/N No. 577202S) semi-trailer	13,366.00
Total	$ 180,293.18

Request for Preliminary Certification for Tax Credit was made June 8, 1977, and approved June 29, 1977.

Construction was initiated on the claimed facility July 15, 1977, completed October 15, 1977, and the facility was placed into operation October 15, 1977.

Facility Cost: $ 180,293.18 (Accountant's certification was provided.)

Evaluation of Application:

3. As a result of the claimed facility approximately 400 units per week of bark and over-sized chips from the log processing area are being conveyed, hogged, stored and transported (via semi-trailer) to the company's on-site boiler and/or the market place. No longer is the waste material being landfilled or stockpiled.

4. Summation

Facility was constructed after receiving approval to construct and preliminary certification issued pursuant to ORS 468.175.

Facility was under construction on or after January 1, 1973 as required by ORS 468.165(1)(c).

Facility is designed and is being operated to a substantial extent for the purpose of preventing, controlling or reducing solid waste. The facility is necessary to satisfy the intents and purposes of ORS Chapter 459, and the rules adopted under that chapter.

5. Director's Recommendation:

It is recommended that a Pollution Control Facility Certificate bearing the cost of $180,293.18 with 100% allocated to pollution control be issued for the facility claimed in Tax Credit Application Number T-1027.

EAS:mt
229-5356
October 27, 1978

Appl. T-1026

Date 10/27/78

State of Oregon

DEPARTMENT OF ENVIRONMENTAL QUALITY

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Champion International Corporation
Champion Building Products
P. O. Box 10228
Eugene, Oregon 97440

The applicant owns and operates a hardboard manufacturing plant at Dee, Oregon.

Application was made for tax credit for a solid waste pollution control facility.

2. Description of Claimed Facility:

The facility described in this application consists of the following:

1. Kipper & Sons water tube boiler (70,000 PPH at 475 PSIG)	$ 884,518.60
2. COEN sanderdust burner	96,277.00
3. Piping and fittings	19,377.50
4. Boiler water treatment system	8,804.25
5. Motors and gearboxes	28,441.69
6. Miscellaneous, electric and control equipment	306,540.96
Total	$1,343,960.00

Request for Preliminary Certification for Tax Credit was made December 28, 1976, and approved February 3, 1977.

Construction was initiated on the claimed facility February 1977 completed July 1977 and the facility was placed into operation August 1977.

Facility Cost: $1,343,960.00 (Accountant's certification was provided)

3. Evaluation of Application:

Prior to installation of the claimed facility, waste bark, sawdust, and planer shavings were disposed in a wigwam burner. The claimed facility is utilizing 70 units per week of the above waste materials to produce steam.

4. Summation:

Facility was constructed after receiving approval to construct and preliminary certification issued pursuant to ORS 468.175.

Facility was under construction on or after January 1, 1973, as required by ORS 468.165 (1)(c).

Facility is designed for and is being operated to a substantial extent for the purpose of preventing controlling or reducing solid waste. The facility is necessary to satisfy the intents and purposes of ORS Chapter 459, and the rules adopted under that chapter.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of $1,343,960.00 with 100% allocated to pollution control be issued for the facility claimed in Tax Credit Application Number T-1028.

EAS:mt
229-5913
October 27, 1978

ROBERT W. STRAUB
GOVERNOR

Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Addendum to Agenda Item C, November 17, 1978, EQC Meeting

TAX CREDIT APPLICATIONS

Director's Recommendation

It is recommended that the Commission issue Pollution Control Facility Certificate for Tax Credit Application No. T-1006, Boise Cascade Corporation (see review report, attached).

Bill

WILLIAM H. YOUNG

MJDowns:cs
229-6485
11/15/78
Attachments

Contains Recycled Materials

Appl T-1006

Date Nov. 15, 1978

State of Oregon
DEPARTMENT OF ENIVRONMENTAL QUALITY

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

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

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

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

2. Description of Claimed Facility

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

A formal request for Preliminary Certification for Tax Credit was not made, however circumstances were such that in effect a verbal request was made. Verbal authorization to construct was given prior to construction.

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

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

3. Evaluation

The applicant claims that with the two additional aerators and other internal improvements in the operation, BOD discharge to the Willamette River was reduced from 6,000 pounds per day down to 3,600 pounds per day. This effort was made to reflect the need to reduce pollutant discharges during the 1977 drought condition.

Department representatives first met with Company officials and other industrial and municipal dischargers early in 1977 to discuss possible Willamette River water quality problems associated with the drought. The probable need for extraordinary treatment measures was forecast at that time, and the voluntary cooperation of each source was requested.

Subsequent meetings and discussion with Company representatives concentrated on possible alternatives for reducing waste discharges, including the installation of two additional aerators. Verbal authorization for the latter approach was granted during one of these meetings. Due to the prevailing "emergency conditions", which saw flow predictions and discharge needs change almost daily, no formal written approval to construct and preliminary certification were given.

Actual discharge goals were proposed to the Company by the Department's letters of April 19 and June 20, 1977. The final standards were 5500 #/day BOD_5 (69% of the NPDES Permit limit of 8,000 #/day) and 7,000 #/day NH_3N. The Department's letter of June 30, 1977 officially implemented these reduced discharge limits.

4. Summation

A. Facility was constructed after receiving verbal approval to construct and after request in Preliminary Certification, pursuant to ORS 468.175.

B. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).

C. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling or reducing water pollution.

D. Applicant claims 100% of costs allocable to pollution control.

5. Director's Recommendation

Considering the June 14, 1978 letter from Ray Underwood regarding Preliminary Certification based on unwritten requests, it is recommended that a Pollution Control Facility Certificate bearing the cost of $51,608 with 80% or more allocable to pollution control be issued for Tax Credit Application number T-1006.

SCDowns:JEBorden
378-8240
November 15, 1978
Attachments

ROBERT W. STRAUB
GOVERNOR

Department of Environmental Quality

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 PHONE (503) 229- 5395

April 19, 1977

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

Attention: Mr. C. V. Fahlstrom, Mill Manager

Gentlemen:

The Department has completed its evaluation of possible Willamette River water quality problems associated with the current drought. Flow predictions based on current reservoir storage, snow pack and normal rainfall show that the flow in the Willamette River at Salem could average 5000 cubic feet per second (cfs) and may need to be reduced to 4000 cfs flow during July and August in order to sustain a 6000 cfs flow during the fall salmon run.

Our studies indicate that we will not have a serious dissolved oxygen deficiency in the river provided there is about 15% reduction in BOD-5 discharges from average summertime discharge levels. (This level is about 33% below permit levels.) We believe this reduction can be achieved by good, tight control of waste and treatment facilities and land application of some waste where practicable.

Based on our evaluation of Willamette River water quality and possible alternatives to reduce waste discharges, we request that you reduce your discharge of BOD-5 to 5000 #/day and NH_3 to 6000 #/day at such time as the Willamette River flow drops below 6000 cfs at Salem. If the flow in the river drops below 4000 cfs, additional reduction may be required.

We understand that the Willamette Valley pulp and paper industry intends to work collectively on their waste reduction program. If so, the industry may feel that waste reduction may be achieved more economically by allocating waste load reductions differently. We are receptive to this and will consider any reasonable alternative your industry may propose which will achieve the same result.

We realize you may have questions concerning our evaluation and conclusions and we are willing to meet with you (individually or collectively) to discuss the matter. Please contact Mr. Dick Nichols in this office at 229-5374.

Sincerely,

Original Signed By
William H. Young

APR 20 1977

WILLIAM H. YOUNG
Director

RJN:em

cc: Mr. Joe Kolberg, Boise Cascade Corp. - Portland
Salem/North Coast Region Office - DEQ

COPY

ROBERT W. STRAUB
GOVERNOR

Department of Environmental Quality

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 PHONE (503) 229- 5395

June 20, 1977

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

Attention: Mr. C. V. Fahlstrom, Mill Manager

Gentlemen:

On April 19, 1977 we mailed you a letter specifying a target BOD-5 discharge goal which we felt was within the capabilities of your plant during low flow summer months. Since the date of that letter, we have met with you to discuss treatment and waste reduction alternatives.

Based upon these discussions and predicted greater flows in the Willamette River this summer, we propose the discharge goal of 5500 #/day BOD-5 and 7000#/day NH_3 as N for your mill. We realize that achievement of this goal will require very tight control of your waste treatment processes and you may not be able to consistently meet the goal.

If you wish to be kept informed of river conditions through the summer, you may call Ms. Terri Sylvester (229-5309) who will have the water quality monitoring data as it becomes available from our lab.

If you have questions concerning this matter, please feel free to contact Mr. Dick Nichols in this office at 229-5374.

Very truly yours Original Signed By William H. Young

WILLIAM H. YOUNG JUN 20 1977
Director

RJN:em

cc: Joe Kolberg, Boise Cascade - Portland
✓ Salem/North Coast Region Office - DEQ

COPY

DEQ-2

DEQ-4

ROBERT W. STRAUB
GOVERNOR

Department of Environmental Quality

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 PHONE (503) 229-5312

June 30, 1977

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

Attention: Mr. C. V. Fahlstrom, Mill Manager

Gentlemen:

Re: DEQ Letters dated April 19, 1977
and June 20, 1977 - Drought Flow Plan

Please refer to our letters referenced above. The Willamette River flow has now dropped below 6,000 cfs at Salem and is predicted to go lower.

We, therefore, request that you strive to keep your discharge of BOD-5 to below 5500 pounds per day and NH_3 to below 7000 pounds per day.

If you have questions concerning this matter, please contact Mr. Dick Nichols in this office, telephone 229-5374.

Sincerely,

WILLIAM H. YOUNG
Director

Harold L. Sawyer
Administrator
Water Quality Division

WDL:ak

cc: Joe Kolberg, Boise Cascade, Portland
Salem North Coast Region - DEQ

COPY

ROBERT W. STRAUB
GOVERNOR

Environmental Quality Commission

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

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. D, November 17, 1978, EQC Meeting

Indirect Source Rules - Proposed Rule Amendments

Background

At the September 22, 1978, EQC Meeting the Commission authorized the Director to schedule a public hearing to consider the adoption of the proposed amendments to OAR 340-20-129.

Three separate lawsuits have been directed against the Indirect Source Rules. The following petitioners named as respondents the EQC, six of its members, the DEQ and two of its directors: Western Environmental Trade Association, Inc., Oregon State Homebuilders Association, International Council of Shopping Centers, Associated Floor Covering Contractors, and Asphalt Paving Association--known as "WETA" case; Oregon-Columbia Chapter, the Associated General Contractors of America, Inc.--known as the "AGC" case; Washington Square, Inc. and all the petitioners of the WETA case--known as the "ICSC" case.

An out of court settlement has been negotiated by Assistant Attorney General Robert L. Haskins on behalf of the Department, attorney Richard Alexander on behalf of the AGC, and attorney Bruce Anderson representing the remaining petitioners. The Department and petitioners have agreed to a dismissal with prejudice of the WETA and AGC cases and of the vast majority of the issues raised in the ICSC case, contingent upon the Commission adopting certain amendments to OAR 340-20-129.

Statement of Need for Rule Making

1. Legal authority relied upon: ORS 468.020 and 468.320.

2. As an outcome of the lawsuits filed against the Indirect Source Rules, a proposed Settlement Agreement (shown in Attachment 1) has been reached that is contingent upon adoption of the substance of he proposed rule amendments.

3. Documents relied upon in developing the rule amendments are OAR 340-20-100 to 340-20-135.

Contains Recycled Materials

Evaluation

1. The proposed amendments to OAR 340-20-129 (shown in Attachment 2) clarify the required traffic information and also provide in one consecutive list all the information required of an applicant.

2. The proposed amendments require the same amount of information from an applicant as the current Indirect Source Rules require.

3. A Long Form Application is currently required for all projects in the State where 1,000 or more parking spaces are to be provided. The proposed amendments would require a Long Form Application for parking facilities containing 1,000 or more parking spaces within five miles of the municipal boundaries of only Portland, Salem, Eugene, or Medford. Projects of this size in other areas of the State would initially submit the Short Form Application. However, if warranted, the Department could request all the information required by the Long Form Application for those projects.

4. Proposed Subsection 340-20-129(g)(A) modifies the existing Subsection 340-20-125(2) by replacing the phrase "shall advise the owner or operator of the Indirect Source of" with the phrase "shall mail or deliver to the applicant a written demand for."

5. Proposed Subsection 340-20-129(g)(B) modifies the existing Subsection 340-20-125(3) by adding the sentence "If no timely written demand is made for additional information, then the application shall be considered complete."

6. The major change in the above noted modifications is that if the Department (or Regional Authority having jurisdiction) misses the 15-day response time for requesting additional information, for whatever reason, then the application would be considered complete.

7. Failure to adopt the substance of the proposed amendments would nullify the proposed Settlement Agreement.

8. The required public notice, filing, and land use determinations have been made respecting the proposed rule. A public hearing should be conducted by the Commission at its November 17, 1978 regular meeting.

Summation

1. The Department and petitioners have agreed to a dismissal with prejudice of the WETA and AGC cases and of the vast majority of the issues raised in the ICSC case, contingent upon the Commission adopting certain amendments to OAR 340-20-129.

2. The proposed amendments do not change the type or amount of information required by the current Indirect Source Rules.

3. Whereas all projects within the State with 1,000 or more planned parking spaces are currently required to submit a Long Form Application, under the proposed amendments only those projects located within five miles of the municipal boundaries of Portland, Salem, Eugene, or Medford would be required to submit the Long Form Application. Projects of this size in other areas of the State would initially submit the Short Form Application, but if warranted, the Department could request all the information required by the Long Form Application.

4. The major change written into OAR 340-20-129 would require the Department (or Regional Authority having jurisdiction) to consider an application complete if a written demand for additional information were not mailed or delivered within the allotted 15-day period.

5. A public hearing should be conducted at this time to obtain comment on the proposed rule.

Director's Recommendation

Subject to such changes as the Commission may find appropriate after receiving testimony at today's public hearing, it is the Director's recommendation that the Commission, based upon the Summation above, take the following actions:

1) Adopt the attached Proposed Amendments to OAR 340-20-129 (Third Draft - Attachment hereof) as permanent rules to become effective upon their prompt filing with Legislative Counsel, Legislative Counsel Committee, and the Secretary of State.

2) Adopt as the final Statement of Need for the rules the Statement of Need for Rulemaking incorporated into this written agenda item, such final statement of need to be filed with the rule as set forth above.

Bill

WILLIAM H. YOUNG

JFKowalczyk:as
(503)229-6459
11/1/78

Attachments

ATTACHMENT 1

SETTLEMENT AGREEMENT

This agreement is made by and between: The state of Oregon, Department of Environmental Quality ("Department"); and Oregon-Columbia Chapter, The Associated General Contractors of America, Inc., ("AGC"), an Oregon nonprofit corporation; Western Environmental Trade Association, Inc., ("WETA"), an Oregon nonprofit corporation; Oregon State Homebuilders Association ("OSHA"), an Oregon nonprofit corporation; International Council of Shopping Centers ("ICSC"), an Illinois not-for-profit corporation; Associated Floor Covering Contractors ("AFCC"), a voluntary unincorporated association of Oregon floor covering contractors; Asphalt Pavement Association of Oregon ("APAO"), an Oregon nonprofit corporation; and Washington Square, Inc., ("WSI"), a Washington corporation, on the dates specified below.

W H E R E A S

1. In July, 1975, WETA, OSHA, ICSC, AFCC and APA filed what they denominated as a "Petition for Declaratory Judgment Pursuant to ORS 183.400 (Suit in Equity)" in the Lane County Circuit Court. That case was assigned case no. 75-3351, and was brought against Oregon Environmental Quality Commission, Joe B. Richards, Dr. Morris Crothers, Dr. Grace S. Phinney, Jacklyn L. Hallock, Ronald M. Somers, Commissioners; B. A. McPhillips; Oregon Department of Environmental Quality, and Loren "Bud" Kramer, Director, Oregon Department of Environmental Quality; and Kessler R. Cannon, Respondents.

That case was brought seeking declaratory relief to determine the validity of the Environmental Quality Commission's "Rules for Indirect Sources", OAR 340-20-010 through 340-20-135. That case is presently pending before the Lane County Circuit Court. No trial has yet been held. That case will be referred to herein as the WETA case.

2. In December 1975, AGC filed in the Multnomah County Circuit Court a "Petition for Review Pursuant to ORS 183.480 (16) [sic]." That case was assigned case no. 424-274. That case was brought against the same individuals and entities as were named Respondents in the WETA case. No trial has yet been held in case no. 424-274, referred to herein as the AGC case.

3. In February 1976, all the Petitioners in the WETA case and WSI filed a "Petition for Judicial Review Pursuant to Or Laws 1975, ch 759, Sec 9 (HB 2068)", in the Oregon Court of Appeals. That case has been assigned no. 5767. That case was brought against the same individuals and entities as were named Respondents in the WETA case. Court of Appeals case no. 5767 has not yet been briefed, heard or decided on the merits. It will be referred to herein as the ICSC case.

4. In each of the above cases, Petitioners have attacked the validity of the State of Oregon, Environmental Quality Commission's indirect source rules, OAR 340-20-100 through 340-20-135, on various grounds and in various respects. The parties hereto, through their representatives, have met informally on several occasions and discussed their differences. They have agreed to resolve the vast majority of their differ-

ences by compromising and settling the above-described cases on the following terms.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

A. Each of the Petitioners in the WETA case agrees to execute simultaneously herewith a Consent Decree dismissing their petition, with prejudice, as against each Respondent therein, without costs to either party. The Order of Dismissal shall be construed in accordance with Paragraph F hereof.

B. Petitioner, AGC agrees to execute simultaneously herewith a Consent Decree dismissing its petition, with prejudice, as against each Respondent therein, without costs to either party. The Order of Dismissal shall be construed in accordance with Paragraph F hereof.

C. Each of the parties in the ICSC case agrees to the filing of an Amended Petition as set forth in Exhibit A attached hereto, with any necessary renumbering of the "Rules for Indirect Sources" paragraphs referred to in Exhibit A, as such renumbering is caused by the amendments contained in Exhibit B; and each of the parties hereto, who are also petitioning organizations in the ICSC case, agree to be barred from raising the issues contained in the original Court of Appeals Petition in that case, except for those still remaining in accordance with Exhibit A attached hereto and by this reference incorporated herein and made a part hereof, as set forth in Paragraph F hereof.

D. The Department shall make a formal proposal to the Environmental Quality Commission ("Commission") of the State

of Oregon, that the Commission adopt amendments to its rule, OAR 340-20-129, identical in substance to those contained in the document entitled "Proposed Amendments to OAR 340-20-129 -- Third Draft, January 9, 1978", a copy of which is attached hereto as Exhibit B and by this reference incorporated herein and made a part hereof. (In Exhibit B language proposed to be deleted is enclosed in brackets [ ]; language which is proposed to be added is underlined.) The Department shall make its best efforts to convince the Commission that it should adopt those amendments.

E. One or more representatives of the Petitioners in each of the three cases described above shall make his or her best efforts to encourage the Commission to adopt the proposed amendments. Each such Petitioner shall state its support of the proposed amendments on the record in the Commission's rule-making proceeding and hereby authorizes the Department to represent to the Commission the Petitioner's support on that record.

F. This Settlement Agreement is intended to resolve all differences between the parties regarding the subject matter of the above-described cases, except as expressly reserved herein. This Settlement Agreement is intended to supersede each and every previous oral and written agreement and understanding between the parties. This Settlement Agreement may be separately signed in multiple counterparts; but this Settlement Agreement shall not be binding upon any of the parties until authorized representatives of all of the parties listed above have signed a duplicate original of this Settlement Agreement. Each of the parties hereto agrees that this Settlement Agreement

shall be interpreted and construed under the laws of the State of Oregon, and that each of the parties is bound hereby. Each of the parties hereto agrees that except as stated in Paragraph C hereof, and Exhibit A attached hereto, they, as organizations, shall be barred from raising the issues that are the subject of the cases being dismissed as a result of this Settlement Agreement, and the issues originally presented in the ICSC case that are not contained in Exhibit A attached hereto, in any and all courts, and before all administrative agencies, of the State of Oregon and of the United States, as such issues apply to the wording of the "Rules for Indirect Sources" of the State of Oregon, as amended in accordance with Exhibit B attached hereto. Provided, however, that nothing contained in this Settlement Agreement, or in the Orders of Dismissal applicable to the WETA and the AGC cases, shall be construed as prohibiting any individual, partnership or corporation that is a member of any of the parties hereto from contesting the lawfulness of any provision of the "Rules for Indirect Sources" of the State of Oregon, as applied to that individual, partnership or corporation, in the course of a contested case hearing or other administrative, quasi-judicial or judicial proceeding involving the terms and conditions of an Indirect Source Construction Permit applicable to that individual, partnership or corporation.

G. The Petitioners' obligations under this Settlement Agreement, as set forth in Paragraphs A, B and C above, shall not be effective until the Commission has adopted the substance of the proposed amendments contained in Exhibit B attached hereto. The Commission shall have six (6) months from the

effective date of this Settlement Agreement, which shall be the date that such Settlement Agreement is signed by the last party hereto, to adopt the substance of the proposed amendments contained in Exhibit B attached hereto. Should the Commission fail to adopt such proposed amendments within the time specified, then this Settlement Agreement shall be of no further force and effect.

DEPARTMENT OF ENVIRONMENTAL QUALITY OF THE STATE OF OREGON

Dated this _____ day of _____, 1978, at Portland, Oregon.

By: _____
William H. Young
Director

OREGON-COLUMBIA CHAPTER, THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA, INC.

Dated this _____ day of _____, 1978, at _____.

By: _____
(signature)
Name of signator: _____
(type or print)
Title of signator: _____
(type or print)

WESTERN ENVIRONMENTAL TRADE ASSOCIATION, INC.

Dated this _____ day of _____, 1978, at _____.

By: _____
(signature)
Name of signator: _____
(type or print)
Title of signator: _____
(type or print)

OREGON STATE HOMEBUILDERS ASSOCIATION

Dated this _____ day of _____, 1978, at _____.

By: _____
(signature)
Name of signator: _____
(type or print)
Title of signator: _____
(type or print)

INTERNATIONAL COUNCIL OF SHOPPING CENTERS

Dated this _____ day of _____, 1978. at _____.

By: _____ (signature)
Name of signator: _____ (type or print)
Title of signator: _____ (type or print)

ASSOCIATED FLOOR COVERING CONTRACTORS

Dated this _____ day of _____, 1978. at _____.

By: _____ (signature)
Name of signator: _____ (type or print)
Title of signator: _____ (type or print)

ASPHALT PAVEMENT ASSOCIATION OF OREGON

Dated this _____ day of _____, 1978. at _____.

By: _____ (signature)
Name of signator: _____ (type or print)
Title of signator: _____ (type or print)

WASHINGTON SQUARE, INC.

Dated this _____ day of _____, 1978. at _____.

By: _____ (signature)
Name of signator: _____ (type or print)
Title of signator: _____ (type or print)

ATTACHMENT 2

PROPOSED AMENDMENTS TO
OAR 340-20-129
THIRD DRAFT
January 9, 1978

340-20-129 INFORMATION AND REQUIREMENTS APPLICABLE TO INDIRECT SOURCE(S) CONSTRUCTION PERMIT APPLICATION WHERE NO APPROVED PARKING AND TRAFFIC CIRCULATION PLAN IS ON FILE.

(1) [Application Information Requirements: (a) Parking Facilities and other] For all Indirect Sources for which an Indirect Source Construction Permit is required [with Associated Parking], other than Highway Sections and Airports, [with planned construction resulting in total parking capacity for 1000 or more vehicles, the following] a completed Short Form Application [information] shall be submitted containing the following information:

[(A) Items (A) through (E) of subsection 340-20-125(1)(a).]

[(B) Subsection 340-20-125(2) and (3) shall be applicable.]

(a) A map showing the location of the site;

(b) A description of the proposed and prior use of the site;

(c) A site plan showing the location and quantity of Parking Spaces at the Indirect Source and Associated Parking area, point of motor vehicle ingress and egress to and from the site and Associated Parking;

(d) A ventilation plan for subsurface and enclosed parking;

[(C)](e) An estimate of the annual average and annual maximum daily vehicle trips detailed in the highest one and eight hour periods of the day, generated by the movement of mobile

EXHIBIT R

sources to and from the Parking Facility and/or Associated Parking Facility for the [following time periods:]

[(i) First, fifth and tenth years after completion of construction of each planned incremental phase of the Indirect Source and having a total parking capacity of more than 5000 parking spaces.]

[(ii) First] <u>first</u> and fifth years after completion of each planned incremental phase of the Indirect Source [having a total parking capacity of 5000 or less parking spaces].

[(D)] <u>(f)</u> A description of the availability and type of mass transit presently serving or projected to serve the proposed Indirect Source. This description shall only include mass transit operating within 1/4 mile of the boundary of the Indirect Source.

[(E) A description of the Indirect Source Emission Control Program if such program is necessary in order to be in compliance with the requirements of subsections 340-20-130(5)(a), (b) and (c).]

<u>(g)(A) Within 15 days after the receipt of an application for an Indirect Source Construction Permit or any addition thereto, the Department (or Regional Authority having jurisdiction) shall mail or deliver to the applicant a written demand for any additional information which the Department (or Regional Authority having jurisdiction) requires as a condition precedent to making a final determination to issue or deny a permit.</u>

<u>(B) An application shall not be considered complete</u>

until all the required information is received by the Department (or Regional Authority having jurisdiction). If no timely written demand is made for additional information, then the application shall be considered complete.

(C) Such additional information may be required when there is reasonable basis for concluding:

(i) that the Indirect Source may cause or contribute to a violation of the Clean Air Act Implementation Plan for Oregon; or

(ii) that the Indirect Source may cause or contribute to a delay in the attainment of or a violation of any applicable ambient air quality standard after December 31, 1982; or

(iii) that the Indirect Source may cause or contribute to a delay in the attainment of or a violation of any applicable ambient air quality standard by any other Indirect Source or system of Indirect Sources after December 31, 1982; or

(iv) that the information is necessary to determine whether the proposed Indirect Source may cause or contribute to any such delay or violation.

The Department shall base such conclusion upon any reliable information, including ambient air monitoring, traffic volume, traffic speed, and air quality projections based thereon, or on any other reliable information.

(D) The additional information that may be required as a condition precedent to issuance of a permit may include any of that information required to be submitted in a Long Form

Application by OAR 340-20-129(2).

(2) For Indirect Sources, other than Highway Sections and Airports, proposed to be constructed or modified to create new or additional parking capacity of 1000 or more parking spaces in or within five miles of the municipal boundaries of Portland, Salem, Eugene or Medford, the following Long Form Application information shall be submitted:

(a) all the information required by the Short Form Application by OAR 340-20-129(1)(a) through (g).

[(F)](b) An estimate of the Average Daily Traffic, peak hour and peak eight hour traffic volumes for all roads, streets, and arterials within 1/4 mile of the Indirect Source and for all Freeways and Expressways within 1/2 mile of the nearest boundary of the Indirect Source for the time periods as stated in [subsections] subsection 340-20-129(1)[(a)(C)(i)](e) [and 340-20-1(1)(a)(C)(ii)] and as exist at the time of application.

[(G)](c) An estimate of the gross emissions of carbon monoxide, lead, reactive hydrocarbons and oxides of nitrogen based on the analysis performed in subsections 340-20-129(1)[(a)](e)[(G)] and 340-20-129](1)(a)(F)](2)(b).

[(H)](d) Measured and [or] estimated carbon monoxide and lead concentrations at Reasonable Receptor and Exposure Sites. Measurements shall be made prior to construction. [and estimates] Estimates shall be made for the first, fifth and tenth years after the Indirect Source and Associated Parking are completed or fully operational. Such estimates shall be made for the average and peak operating conditions.

[(I)](e) Evidence of the compatibility of the Indirect

Source with any adopted transportation plan for the area.

[(J)] (f) An estimate of the additional residential, commercial, and industrial developments which may occur concurrent with or as the result of the construction and use of the Indirect Source. This shall also include an air quality impact assessment of such development pursuant to 340-20-129(2)(d).

(g) A description of the Indirect Source Emission Control Program if such program is necessary in order to be in compliance with the requirements of subsections 340-20-130(5)(a), (b) and (c).

[(b) For Parking Facilities and other Indirect Sources with Associated Parking, other than Highway Sections and Airports, with planned construction of parking capacity for 150 to 1000 vehicles; the following information shall be submitted:]

[(A) Items (A) through (E) of subsection 340-20-125(1)(a) and items (C) through (D) of subsection 340-20-129(1)(a). The Department will request item (E) of subsections 340-20-12[illegible](1)(a) where it is necessary in order to be in compliance with the requirements of subsections 340-20-130(5)(a), (b) and (c).]

[(B) Subsections 340-20-125(2) and (3) shall be applicable. Such additional information may include such items as (F) through (J) of subsection 340-20-129(1)(a).]

[(c)] (3) For Airports, the following information shall be submitted:

[(A)] (a) Items (A) through (E) of subsection 340-20-125(1)(a).

[(B)] (b) Subsections 340-20-125(2) and (3) shall be applicable.

[(C)] (c) A map showing the topography of the area

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surrounding and including the site.

[(D)] (d) Evidence of the compatibility of the Airport with any adopted Transportation Plan for the area.

[(E)] (e) An estimate of the effect of the operation of the Airport on total vehicle miles traveled.

[(F)] (f) Estimates of the effect of the operation and use of the Airport on traffic patterns, volumes, and flow in, on or within 1/4 mile of the Airport.

[(G)] (g) An estimate of the average and maximum number of Aircraft Operations per day by type of aircraft in the first, fifth and tenth years after completion of the Airport.

[(H)] (h) Expected passenger loadings in the first, fifth and tenth years after completion.

[(I)] (i) Measured or estimated carbon monoxide and lead concentrations at Reasonable Receptor and Exposure Sites. Measurements shall be made prior to construction and estimates shall be made for the first, fifth and tenth years after the Airport and Associated Parking are completed or fully operational. Such estimates shall be made for average and peak operating conditions

[(J)] (j) Alternative designs of the Airport, i.e., size, location, parking capacity, etc., which would minimize the adverse environmental impact of the Airport.

[(K)] (k) An estimate of the additional residential, commercial and industrial development which may occur within three miles of the boundary of the new or modified Airport as the result of the construction and use of the Airport.

[(L)] (l) An estimate of the area-wide air quality impact

analysis for carbon monoxide, photochemical oxidants, nitrogen oxides, and lead particulate. This analysis would be based on the emissions projected to be emitted from mobile and stationary sources within the Airport and from mobile and stationary source growth within 3 miles of the boundary of the Airport. Projections should be made for the first, fifth and tenth years after completion.

[(M)](m) A description of the availability and type of mass transit presently serving or projected to serve the proposed Airport. This description shall only include mass transit operating within 1/4 mile of the boundary of the Airport.

[(d)](4) For Highway Sections, the following information shall be submitted:

[(A)](a) Items (A) through (C) of subsection 340-20-125(1)(a).

[(B)](b) Subsection 340-20-125(2) shall be applicable.

[(C)](c) A map showing the topography of the Highway Section and points of ingress and egress.

[(D)](d) The existing average and maximum daily traffic on the Highway Section proposed to be modified.

[(E)](e) An estimate of the maximum traffic levels for one and eight hour periods in the year in which the maximum air quality impact is projected and the first and last years the Highway Section is projected not to be in compliance with the requirements of subsections 340-20-130(5)(a), (b) and (c).

[(F)](f) An estimate of vehicle speeds for average and maximum traffic volumes for the year in which the maximum air quality impact is projected and the first and last years the

Highway Section is projected not to be in compliance with the requirements of subsections 340-20-130(5)(a), (b) and (c).

[(G)](g) A description of the general features of the Highway Section and associated right-of-way.

[(H)](h) An analysis of the impact of the Highway Section on the development of mass transit and other modes of transportation such as bicycling.

[(I)](i) Alternative designs of the Highway Section, i.e., size, location, etc., which would minimize adverse environmental effects of the Highway Section.

[(J)](j) The compatibility of the Highway Section with an adopted comprehensive transportation plan for the area.

[(K)](k) An estimate of the additional residential, commercial and industrial development which may occur as the result of the construction and use of the Highway Section, including an air quality assessment of such development.

[(L)](l) Estimates of the effect of the operation and use of the Indirect Source on major shifts in traffic patterns, volumes, and flow in, on or within 1/4 mile of the Highway Section.

[(M)](m) An analysis of the area-wide air quality impact for carbon monoxide, photochemical oxidants, nitrogen oxides, and lead particulates for the year in which maximum air quality impact is projected and the first and last years the Highway Section is projected not to be in compliance with the requirements of subsections 340-20-130(5)(a), (b) and (c). This analysis would be based on the change in total vehicle miles traveled in the area selected for analysis.

[(N)](n) The total air quality impact (carbon monoxide and

lead) of maximum and average traffic volumes. This analysis would be based on the estimates of an appropriate diffusion model at Reasonable Receptor and Exposure Sites. Measurements shall be made prior to construction and estimates shall be made for the year in which the maximum air quality impact is projected and the first and last years the Highway Section is projected not to be in compliance with the requirements of subsections 340-20-130(5)(a), (b) and (c).

[(O)](o) Where applicable and requested by the Department, a Department approved surveillance plan for motor vehicle related air contaminants.

ROBERT W. STRAUB
GOVERNOR

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. E, November 17, 1978, EQC Meeting

Field Burning Regulations and Amendment to the Oregon State Implementation Plan, Proposed Permanent Rule Revision to Agricultural Burning Rules, OAR Chapter 340, Sections 26-005 through 26-030 -- Public Hearing

Background

The 1977 Oregon Legislative Assembly passed House Bill 2196 which mandated certain changes to the existing field burning law including establishing a maximum acreage limitation for 1978 of 180,000 acres. The law further required that acreage limitations would be thereafter determined by the Environmental Quality Commission (EQC). The new acreage schedule, and other substantial changes in the law, required the Environmental Quality Commission to amend Oregon Administrative Rule (OAR) Chapter 340, Sections 26-005 to 26-030. Due to the limited time period between legislative authorization and the 1977 field burning season, these rules were adopted as temporary in the absence of the required 30-day public notice for permanent rule adoptions. Additionally, in October 1977, the Department submitted to the Environmental Protection Agency (EPA) revisions to the State Implementation Plan (SIP) reflecting the new legislation and rules.

The revision request was returned by the EPA in January 1978 for correction of procedural and substantive deficiencies. Inadequate public notice prior to adoption of the 1977 season rules was identified as a procedural deficiency, while lack of continued reasonable progress toward attainment of federal air quality standards (particularly in the Eugene-Springfield area) was identified as a substantive deficiency. Without EPA approval, the 1977 limitation of 95,000 A established by 1975 law remained in effect and burning in excess of this amount was cause for EPA to issue a non-discretionary Notice of Violation to the Department in February. The EPA offered two alternatives to the enforcement of the 50,000A SIP limitation scheduled for 1978: 1) the Department would resubmit a SIP revision including a control strategy and analysis that would guarantee air quality standards attainment in the Eugene-Springfield non-attainment area, or 2) the Department would develop a one-year control strategy which would incorporate "all reasonable measures" to alleviate the air quality problem in the Willamette Valley and satisfy interested parties.

Contains Recycled Materials

Though research and monitoring programs were scheduled for the 1978 season, data and analysis would not be available until early 1979. Consequently, the Department could not develop strategies to guarantee air quality standards attainment in the absence of necessary data. The Department then negotiated with the City of Eugene and the Oregon Seed Council the "reasonable measures" alternative yielding a compromise which culminated in the EQC adoption of the May 26, 1978, temporary field burning rules and subsequent EPA approval of a one year interim control strategy.

The temporary rules adopted by the EQC at its May 26, 1978 meeting contained four new changes which promised to significantly affect air quality (smoke) impact and burning accomplishment. These may be summarized as follows:

1. An acreage restriction of 180,000A which could be reduced to 150,000A based on cumulative smoke intrusions as recorded in the Eugene-Springfield Air Quality Maintenance Area,

2. A loose straw moisture content (12% wet weight basis) restriction on burning after August 15, 1978, except under "Unlimited Ventilation Conditions",

3. A prohibition on burning acreages within the permit jurisdictions of several east Marion County fire districts and greater restrictions on burning south priority acreages when these areas are upwind of the Eugene-Springfield area, and

4. A requirement for into-the-wind strip burning or backfire burning of annual grass seed crops and cereal crops except under "Unlimited Ventilation Conditions".

When assessing the impact of these rule revisions, it is important to consider this summer's weather. During July and early August typically hot, dry weather conditions prevailed. However, beginning August 12, a long succession of rainy, high humidity days persisted until late September preventing burning. This period was interrupted by a brief drying episode from August 31 through September 2 during which time some burning was accomplished under favorable southerly winds and unlimited ventilation conditions. This long period of dampness delayed not only field burning but also harvesting of later maturing crops such as wheat, bentgrass, late perennial ryegrasses, and some row crops. Finally, beginning in late September, a stable high pressure system over the Pacific Northwest resulted in dry weather. Harvesting and burning operations resumed, although under generally poorer atmospheric ventilation conditions.

As of August 15, 1978, field burning smoke intrusions resulted in approximately eight hours of nephelometer readings above 2.4×10^{-4} B-scat, averaging the Eugene and Springfield totals. Consequently, the 150,000A limitation was not invoked by the EQC when it conferred on August 16, 1978.

Due chiefly to the weather patterns described above, the only significant burning period affected by the moisture content rule was that from August 31 through September 2. However, good ventilation existed throughout

this period and the moisture content rule was invoked only during the early afternoon hours when vertical mixing was insufficient to declare Unlimited Ventilation Conditions to exist.

The 1978 rules provided for burning in "Special Priority Areas" upwind of Eugene-Springfield. Though daily quotas were small, smoke concentrations were sufficient to send nephelometer readings above the "2.4" value. As a result, this burning was curtailed and all south priority burning was conducted under wind flow patterns protective of Eugene. Burning opportunities were accordingly reduced.

Due to what staff believes to be an unusually large number of days of Unlimited Ventilation Conditions sandwiched between wet days of no burning, into-the-wind striplighting and backfire burning requirements were not invoked as often as was predicted prior to the season. From strictly visual observations of such burns, three facts have become evident:

1. Backfire burning (as well as any fire with insignificant plume rise) has substantial ground level smoke impact downwind,

2. Smoke and plume develop from striplight burning is not significantly different than more typical ring or headfire burning except the last 10-15% of the acreage burns as a back-fire with its attendant smoke problem,

3. Backfires burn very slowly while striplights require more manpower (using traditional lighting equipment) to produce burning rates comparable to a headfire.

Though the Eugene-Springfield area fared well under this summer's program, the Lebanon-Sweet Home area again experienced significant smoke intrusions on south Valley burn days. Very high levels of fine particulate were identified by DEQ particulate samplers and nephelometers, as well as visual observation. Sweet Home also received a significant amount of smoke (which eventually impacted Eugene-Springfield too) on July 27th under northerly winds.

Smoke problems resulting in accidents on Interstate 5 occurred on two occasions this year. The first, on August 11, resulted from an uncontrolled burn which escaped from an authorized burning operation while the second, on October 5, was associated with an uncontrolled burn resulting from a propane flaming operation. In the second instance, there was an apparent violation of DEQ rules regarding field preparation for flaming.

Statement of Need

The Environmental Quality Commission is requested to consider adoption, as permanent rules, proposed, revised Agricultural Field Burning Rules (OAR, Chapter 340, Section 26-005 to 26-030).

1. Legal Authority: ORS 468.020, 468.460, and 468.475

2. Need for Rule:

   a. To provide permanent operating rules to comply with 1977 Law, Chapter 650 (HB 2196) and federal law.

b. To provide rules to facilitate improvements in smoke management and air quality.

c. To establish acreage for which permits may be issued during 1979 and 1980.

3. Documents Relied Upon:

a. Staff report from William H. Young, Director, Department of Environmental Quality, presented at March 31, 1978 EQC meeting.

b. Memorandum and attachments regarding "Field Straw and Stubble Moistures," Thomas R. Miles, May 23, 1977.

c. Staff report from William H. Young, Director, Department of Environmental Quality, presented at May 26, 1978, EQC Meeting.

d. Draft report on south Willamette Valley grass straw moisture content measurements during summer 1978, Department of Environmental Quality, October 9, 1978.

e. Preliminary results of Department of Environmental Quality open field burning emission test program, 1978 -- not published as of time of this writing, October 16, 1978.

f. Personal communication with various representatives of the Oregon Seed Council, September 29 and October 5, 1978.

g. Preliminary results of the Department of Environmental Quality field burning air quality monitoring program, October 19, 1978.

h. Personal communication with various representatives of the City of Eugene, September 29 and October 6, 1978.

Evaluation

The 1978 field burning season operated under rules, some of which may be classified as experimental due to their temporary nature and the fact that they represented a significant departure from previous seasons' operations. These rule changes as well as some specific 1978 season problems are analyzed below.

In general, burning operations under these rules were satisfactory. In fact, it is the Department's evaluation that the 1978 acreage limitation as well as other rules were sufficient to prevent any measureable impact on federal health and welfare standards for Total Suspended Particulate in the Willamette Valley. Consequently, the attached proposed rules (Attachment 1) would retain the 1978 temporary rules with minor changes.

1. Acreage Limitations

As stated previously, the 180,000 acre limitation in conjunction with the 1978 burning rules resulted in no measureable impact on federal particulate standards due to field burning. Though this seems to indicate greater annual acreage limitations are feasible from the standpoint of meeting federal standards, two factors may argue in favor of continued limitations on burning. First, DEQ results are preliminary and staff could not, based on these results, justify major relaxations in burning rules or limitations and guarantee continued compliance. Second, the need to minimze the nuisance effects of field burning is a far more stringent operational criterion than compliance with federal standards. (The fact that health related complaints are received without violations of federal standards highlights the apparent inadequacy of the present standards and may argue in favor of continued acreage limits. However, it should be noted that the initiation of complaints is much more affected by daily smoke management decisions, or lack thereof, than annual acreage allowances.) Because of the uncertainty with regard to continued compliance with federal standards at higher acreage limitations, based on present preliminary results, the proposed rules would maintain the current 180,000A limitation.

The use of smoke intrusion incidents as a controlling factor in smoke management was beneficial in reducing smoke intrusions both in number and severity into Eugene-Springfield, though results are not readily quantifiable. Staff would propose to retain this rule. Though not identifiable as a useful smoke management tool, the potential for severe acreage reductions led to a somewhat more conservative posture in smoke management program operations which may have helped limit smoke problems. It is likely that the more conservative approach precluded some acreage from being burned even though its impact on Eugene-Springfield would have been near zero.

The nephelometer was used much more extensively than in previous years and anticipated nephelometer readings became a major factor in formulating burn releases. In general, burning releases, including times, places, and acreages, were more highly specified than in previous seasons to insure minimum Eugene-Springfield impact. This greater detail in releases necessitated more overall staff time than was utilized in past seasons.

2. Restrictions on Loose Straw Moisture Content

The Department supports the moisture content rule to control the burning of damp fields as analysis of data accumulated during the 1978 season indicates fuel moisture content to be a significant variable affecting total particulate production from field fires. However, further analysis of 1978 data may support a change away from the 12% moisture content value to a different value. A field testing program was conducted this summer to search for a relationship between grass straw physical characteristics and moisture content. Though some moisture content/physical property relationships were identified, no simple "crackle test" or other test were adequate to help facilitate a moisture content rule.

It should be pointed out that the loose straw moisture content (MC) does not reflect the overall MC of the fuel. Green regrowth adds significantly to overall MC as has been determined before and verified this summer. It is believed that the high moisture content in regrowth contributes to higher particulate emission. Analysis of emission testing data collected this summer will help determine more specifically the effect of regrowth on emissions.

Perhaps more important than total emissions is the adverse effect of regrowth (high MC fuel) on plume rise. Smoke from such fires has a much greater impact especially near the burn area.

Though the problem of high moisture content fuel is easily recognized, a solution that can be reasonably implemented by the industry does not appear to be available at this time. The Department believes a solution may be approached through:

a. Promotion and/or prioritization of early season burning so that it is accomplished as soon after harvest as is practicable,

b. Promotion of chopping and drying treatments by growers after the onset of green regrowth, and

c. Drafting a general rather than field-by-field regulation to eliminate the burning of fields with excessive regrowth.

The Department would propose to follow-up on all three points before next season. However, development of the regulation in c. above should proceed based on the analysis of this summer's emission testing and its implementation should consider the scheduling of new equipment purchases or other requirements of seed growers.

3. Restrictions on Burning Upwind of Eugene-Springfield

Staff believes the new restrictions on burning in eastern Marion County and south Valley priority areas to have been instrumental in reducing field burning related smoke problems in the EugeneSpringfield area. It also limited burning opportunities and resulted in less burning being accomplished in these areas. Reports from south Valley fire districts with significant priority acreage in particular, indicated reduced burning. (However, wet weather was a much more significant factor in all areas.)

The Special Priority Areas identified in the 1978 temporary rules allowed some south Valley acreages to be burned upwind of the Eugene-Springfield area. However, burning in the areas could not be accomplished under northerly winds without exceeding the smoke intrusion (nephelometer) limitations in effect. These areas like other south priority areas must be burned under wind conditions that prevent surface level smoke impacts in Eugene and vicinity.

In adopting rules for 1978, provisions were made for burning upwind of highways previously protected by priority areas. This change was negotiated as a compromise off-setting to some degree, restrictions on burning upwind of Eugene-Springfield. This rule change did not contemplate uncontrolled burns such as those which resulted in traffic accidents this season.

On August 22, DEQ staff met with State Representative David Frohnmeyer and representatives of various state agencies, the Oregon Seed Council, local fire districts, and the Governor's office to discuss the August 11 accident on Interstate 5. In summarizing that meeting, the Oregon Seed Council agreed to: 1) distribute warning signs to affected fire districts, 2) install an Oregon Seed Council radio in the State Police offices, and 3) work with the Department of Transportation to develop safety signs for warning of freeway burning situations. Local fire chiefs in attendance agreed to notify the State Police and the Oregon Department of Transportation offices when specific fields near the freeway would be burned. This information would include the specific location and approximate time. The Oregon Department of Transportation offered to 1) provide temporary signs for the rest of the season when smoke situations were expected, 2) review permanent sign design for use next season, and 3) review their present mowing schedules with an eye toward increasing their mowing efforts. The DEQ committed to 1) the use of test fires in priority areas near the major highways so that these areas may be burned under the safest, most controlled conditions, 2) to make field inspectors available for assistance whenever it is needed with regard to traffic problems, 3) contact the local CB REACT groups in an effort to gain their assistance in warning of bad traffic situations, and 4) carefully review the current field burning rules for changes which would potentially improve the safety along the highway during burning periods. The Department will follow-up on these agreements.

The attached rules would propose a return to the pre-1978 regulations regarding burning in highway priority areas. That is, no burning upwind of and within one-quarter mile of, protected highways. Such a restriction should not only mimimize the direct impacts of regulated burns on these highways but would also reduce the likelihood of smoke from uncontrolled burns impacting the highway. Wildfires would have to spread across the one quarter mile priority strip before causing serious smoke problems. Though possible, such fire spread is not likely under most south wind burning conditions.

Due to prevailing wind directions and the need to protect both the highways and the City of Eugene from smoke impact, burning in certain south Valley priority areas is likely to be severely restricted. To allow some relief of this situation, staff would propose to allow closely controlled burning upwind of the City of Eugene. Under proposed procedures, burning would be conducted using rapid ignition techniques demonstrated successfully by researchers at Oregon State University and by others and would only be allowed when:

a. Burning conditons and techniques would be utilized such that under existing weather conditions smoke is expected to miss the cities of Eugene and Springfield or effectively pass over these cities at an altitude of at least 3000 feet above mean sea level,

b. DEQ personnel, after being apprised of proposed lighting techniques, field location, and conditions, etc., specifically authorize the burn, and

c. Surface level smoke impact is not expected to result in nephelometer measurements greater than 2.4×10^{-4} B-scat.

Such burning activities are analogous to those contemplated under "Special Priority Area" burning during the 1978 season except, due to better preparation, less

smoke impact is expected. Because of the close control by DEQ staff, these burns will be regulated in a manner similar to closely observed experimental burns.

Since this burning is proposed for concentration along highways, an added benefit of this approach, if successful, will be the development of a burned buffer strip adjacent to the highways thus contributing to improved fire and highway safety.

Unless unexpectedly successful, staff would anticipate less than 3000A to be burned under this program during 1979.

4. Requirements for Striplighting of Annuals and Cereals

As stated previously, weather conditions produced an unusually large number of "Unlimited Ventilation Conditions" days and wet days. As a result, striplight and backfire burning techniques were not used extensively. When these techniques were observed it was apparent that backfires produced excessive amounts, in staff's estimation, of ground level smoke and smoke impact, at some level, was assured for all areas along the plume trajectory.

Striplights were observed to have markedly better plume rise than backfires and, for cases observed, appeared in all respects much like fields that had been headfired under similar conditions. However, as a striplit field nears completion, it approximates a backfire burn and produces a similar smoke distribution. Roughly ten percent of the field is burned under these conditions.

Both backfire and striplight burns are slower than headfire burns reducing the amount of burning accomplished in a given time period. The time for completion of a striplit field can be reduced by increasing the total length of the flame front in the field. This usually requires more manpower and as lines of fire are spaced more closely, flame front movement begins to approximate that of a headfire. As a headfire is more closely approximated, particulate emission would be expected to increase.

The DEQ field burning emission test program this summer conducted tests of both headfires and backfires but because of the rain-shortened season, was unable to test striplighting methods. (It is hoped striplighting may be computer simulated using data from backfires and headfires). Preliminary results indicate the expected lower emissions of the backfire as compared with a headfire. Extrapolation to striplights (based on University of California research) would also predict lower emissions than those produced by headfires.

Staff believes, from general observation, that the essentially zero plume rise effected by a backfire burn is unacceptable even if measured emissions are low. It would therefore be withdrawn as a suggested burning technique. (Being the slowest of burning methods, and therefore easiest to control, backfires will of necessity be used to establish fire breaks. Extensive backfiring beyond the need for firebreak establishment has always been discouraged by staff.) Striplights, because of their potentially reduced emission and good plume rise, would be retained in the proposed rules as a requirement on annual and cereal fields under average or poor ventilation conditions.

The Department is awaiting final results from its own emission test program and a plume evaluation study conducted, under contract, by Oregon State University. These studies, coupled with further in-house analysis, may support revisions to the proposed striplight requirement. Such analysis will be completed as part of the Department's SIP development.

5. Other Rule Changes

Two rule revisions are proposed to expedite burning and simplify record-keeping operations. First, the requirement for written permits at the burn site would be dropped, and second, the requirement for record-keeping by local fire districts of approved alternatives to open field burning would be eliminated.

6. Procedural Changes

Three areas of concern within the smoke management program which staff proposes to address through operational changes are continued smoke problems in Lebanon and Sweet Home, public notification of proposed burning activities, and improved coordination with seed growers during burning operations. Major attention has traditionally focused on the protection of Eugene and Springfield from smoke intrusion while serious smoke intrusions have occurred in both Lebanon and Sweet Home. Lebanon, in particular, is downwind of perhaps 100,000A of grass seed fields on a south burn day and, though protected by a three-mile wide priority area, smoke concentrations are high during intrusions.

To reduce smoke intrusions in this area is expected to involve planning with Lebanon and all adjacent fire districts, the Seed Council, and local growers, and may involve the development priority zones, acreage transferrals, and more specific siting of burning operations. Discussions with affected agencies will begin this fall.

As requested by the Commission at its August meeting, staff investigated public disbursement of field burning information through the Associated Press and United Press International. Unfortunately, neither wire service expressed an interest in the information nor indicated they would use it.

Staff is investigating, and would propose to adopt if feasible, the use of commercial radio, either through public service or paid announcements to disburse daily burning plans. It is proposed that the program would be in operation next season.

For the past two years DEQ and the Oregon Seed Council have operated the field burning radio network. Communication between fire districts, the Seed Countil offices, and DEQ staff members have thus been facilitated. Starting this season active communication with members of the Seed Council Smoke Management Committee added to the overall information available to the staff meteorologist.

Unfortunately, this season communications broke down during a period when many seed growers were asking for burning to be stopped by DEQ. To avoid this situation in the future, staff members will communicate regularly during burning periods with Seed Council members in affected areas. After equipment acquisition, staff will receive local surface meteorological information as part of these communications.

Summation

The Department requests a public hearing after which the Commission 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 the 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.

Results from special monitoring programs established to determine the impact of field burning on Willamette Valley air quality, indicate field burning has no measureable impact on federal health and welfare particulate standards under the rules and acreage limitations in effect during the 1978 burning season.

Effects of other specific rules adopted for the 1978 season and proposed revisions for the 1979 season are summarized as follows:

1. Regulation of total acreage based on cumulative hours of smoke intrusion appeared effective in limiting smoke intrusions. Since the nephelometer is also a useful smoke management tool this rule is proposed to be retained.

2. Preliminary results show increased straw moisture content (MC) to result in increased particulate emissions. Since the 1978 MC rule did not significantly restrict burning, the rule restricting fields to be burned only when loose straw MC is 12% or below (except under Unlimited Ventilation Conditions) is proposed to be retained.

3. Rules restricting burning upwind of Eugene effectively reduced smoke intrusions in that city. However, since the burning of Special Priority areas and quotas routinely caused nephelometer readings to exceed 2.4×10^{-4} B-scat, Special Priority definitions and quotas would be dropped. Proposed rules would allow burning in this area only under close Department supervision. Rules restricting the burning of eastern Marion County when that area is upwind of Eugene-Springfield are proposed to be retained.

Because of the threat to traffic safety which burning upwind of a highway represents, temporary rules allowing the practice are proposed to be eliminated.

4. Backfire burning causes extensive ground level smoke under all circumstances. Striplighting appears to develop adequate plume rise though both it and backfiring are slower than headfire techniques. DEQ preliminary analysis indicates backfires and, by extrapolation from other data, striplights, to have lower emissions than headfires. Because of its extremely poor plume rise, backfiring is proposed for elimination from the rules as an acceptable burning techniques. The rule requiring striplighting of annual and cereal grains is proposed to be retained and studied further.

5. In order to simplify fire district record-keeping and expedite the permitting process, two rules are proposed for elimination. The first, requiring local fire districts to keep records of burning accomplished by approved alternatives to open field burning, and the second, requiring written authorization to burn at the burn site. Authority to burn, however, must be readily demonstrable upon request.

The Department proposes through operational procedures to address smoke problems in the Lebanon-Sweet Home area. This will be accomplished this fall through better fire district coordination and planning, possible adoption of special priority burning zones, and more specific siting of major burn operations. Additionally, operating procedures are proposed to give the public better notice of intended burning activities (using commercial radio) and improve DEQ-Seed Council Smoke Management Committee communications.

It is the staff's belief that the Commission can make the finding that the open burning of 180,000 acres as regulated by the attached proposed rules, will not substantially impair public health and safety and will not substantially interfere with compliance with relevant state and federal laws regarding air quality.

Director's Recommendation

Based on the summation above, it is recommended that the Commission conduct a public hearing on the attached proposed rules, leaving the record open through November 27, 1978 for such additional testimony as may be submitted. The Commission will be asked to adopt rules on field burning at its December 15, 1978 meeting.

Michael Downs
for
WILLIAM H. YOUNG

SAFreeburn
686-7837
10/22/78
Attachment (1)
Proposed Field Burning Rules, OAR Chapter 340, Sections 26-005 through 26-030

Attachment I

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 servicing 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).

"[----]" represents material deleted
Underlined material represents proposed additions

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

(8) "Ventilation Index (VI)" means a calculated value used as a criterion of atmospheric ventilation capabilities. The Ventilation Index as used in these rules is defined by the following identity:

$$VI = \frac{\text{Mixed depth (feet)}}{1000} \times \text{Average wind speed through the mixed depth (knots)}$$

(9) [~~(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 portion 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.

(10) [~~(9)~~] "Commission" means the Environmental Quality Commission.

(11) [~~(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.

(12) [~~(11)~~] "Open Field Burning Permit" means a permit issued by the Department pursuant to ORS 468.458.

(13) [~~(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.

(14) [~~(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).

(15) [~~(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.

(16) "Backfire Burning" means a method of burning fields in which the flame front does not advance with the existing surface winds. The method requires ignition of the field only on the downwind side.

(17) "Into-the-Wind Strip Burning" means a modification of backfire burning in which additional lines of fire are ignited by advancing directly into the existing surface wind after completing the initial backfires. The technique increases the length of the flame front and therefore reduces the time required to burn a field

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

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

(20) [~~(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.

(21) [~~(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.

(22) [~~(19)~~] "Approved Pilot Field Sanitizer" means any field burning device that has been observed and endorsed by 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.

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

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

(25) [~~(22)~~] "Approved Alternative Facilities" means any land, structure, building, installation, excavation, machinery, equipment or device approved by 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 <u>or be able to readily demonstrate authority to burn</u> at all times during the burning operation and said permit shall <u>be made available</u> for at least one year after 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 appropriate authority.

(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, cuttings 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, cuttings 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) Fuel conditions shall be limited as follows:

(a) All debris, cuttings 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.

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

(c) After August 15, 1978, no field shall be burned having a loose straw moisture content exceeding 12% wet weight basis except such moisture content restrictions may be waived by the Department when unlimited ventilation conditions exist. If the Department finds that under this moisture content rule, enforcement has caused or is likely to cause a reduction in excess of 50% of the acreage that remains to be burned in compliance with the remaining rules, this moisture content rule shall not be enforced. The Department may, on a field by field basis, prohibit burning of fields containing high moisture content stubble and/or regrowth material which, when burned, would result in excessive low level smoke.

(4) [~~(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.

(5) [~~(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.

(6) No person shall conduct open burning which results in a direct smoke and/or ash nuisance for adjacent residential communities, schools, or other smoke sensitive areas.

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.

(3) 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.

(b) Emission Standards for Approved Pilot Field Sanitizers.

(A) Approved pilot field sanitizers shall be required to demonstrate the capability of sanitizing a representative harvested grass or cereal grain field with an accumulative straw and stubble fuel load of not less than 1.0 ton/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;

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

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

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

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

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

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

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

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

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

(3) Experimental field sanitizers 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 operator of the field sanitizers shall report to the Department the locations of operation of experimental field sanitizers.

(b) 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. 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 flailchopped, 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 feepaid acres and shall be issued in accordance with the priorities established by subsection 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 suballocated 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(6) and (7), the maximum acreage to be open burned under these rules:

(a) [~~During 1978,~~]Shall not exceed 180,000 acres.

(b) If by August 15 of each year, the average of total cumulative hours of nephelometer readings exceeding 2.4×10^{-4} B-scat units at Eugene and Springfield, which have been determined by the Department to have been significantly caused by field burning, equals or exceeds 13 hours, the maximum acreage to be open burned under these rules shall not exceed 150,000 acres and the sub-allocation to the fire permit issuing agencies shall be reduced accordingly, subject to the further provisions that:

(A) Unused permit allocations may be validated and used after the 150,000 acre cut-off only on unlimited ventilation days as may be designated by the Department, and

(B) If by August 15 of each year, the acreage burned exceeds 120,000 acres the Commission may establish a further acreage limitation not to exceed 15,000 acres over and above the 150,000 acre limitation and authorize permits to be issued pursuant thereto, in order to provide growers of bentgrass seed crops

and other late maturing seed crops opportunity to burn equivalent to that afforded growers of earlier maturing crops.

(c) [~~(b)~~] During 1979 and each year thereafter shall be determined and established by the Commission [~~by January 1 of 1979 and~~] by January 1 of each odd year [~~thereafter~~]. [~~This determination~~] The Commission 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) 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) Acres burned on any day by approved field sanitizers and approved experimental field sanitizers and propane flamers shall not be applied to open field burning acreage allocations or quotas, and such 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) 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 the Department shall suballocate 110 percent of the total acre allocation established by the Commission, as specified in Section 26-013(1), to the respective growers on a pro rata share basis of the individual acreage registered as of April 1 to the total acreage registered as of April 1.

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

(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 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 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)~~] (6) and [~~(8)~~] (7) of this subsection no fire district shall allow acreage to be burned in excess of their allocations assigned pursuant to (b), (c) and (d) above.

(6) [~~(7)~~] 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). Such experimental open burning shall be conducted only as may be specifically authorized by the Department and will be conducted for gathering of scientific data, or training of personnel or demonstrating specific practices. The Department shall maintain a record of each experimental burn and may require a report from any person conducting an experimental burn stating factors such as:

1. Date, time and acreage of burn.
2. Purpose of burn.
3. Results of burn compared to purpose.
4. Measurements used, if any.
5. Future application of results of principles featured.

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

(b) For experimental open burning the Department may assess an acreage fee equal to that charged for open burning of regular acres. Such fees shall be segregated from other funds and dedicated to the support of smoke management research to study variations of smoke impact resulting from differing and various burning practices and methods. The Department may contract with research organizations such as academic institutions to accomplish such smoke management research.

(7) [~~(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.

(8) [~~(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.

(9) [~~(10)~~] The Department may 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, a mixing depth greater than 3500 feet and relative humidity less than 50 percent.

(b) Marginal Class S conditions: Forecast southerly winds.

(c) Prohibition conditions: Forecast northerly winds, a mixing depth of 3500 feet or less, and/or relative humidity greater than 50 percent.

(d) Unlimited Ventilation conditions: A mixing depth of 5000 feet or greater and a ventilation index of 32.5 or greater.

(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 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.

(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[.] except that no acreage located within the permit jurisdictions of Aumsville, Drakes Crossing, Marion County District 1, Silverton, Stayton, Sublimity, and the Marion County portions of the Clackamas-Marion Forest Protection District shall be burned upwind of the Eugene-Springfield non-attainment area.

(B) South Valley: one priority area quota for priority area burning may be issued in accordance with Table 1.

(c) Marginal Class S Conditions. Unless specifically authorized by the Department on days classified as Marginal Class S conditions, burning shall be limited to the following:

(A) North Valley: One basic quota may be issued in accordance with Table 1 in the following permit jurisdictions: Aumsville, Drakes Crossing, Marion County District 1, Silverton, Stayton, Sublimity, and the Marion County portion of the Clackamas-Marion Forest Protection District. One priority area quota my 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 priority acreage may be burned on the upwind side of any city, airport, or highway within the same priority areas.

(B) No south priority acreage [may] shall be burned upwind of [~~any city, airport, or highway within a priority area unless the mixing height is forecast greater than 4,000 feet.~~] the Eugene-Springfield non-attainment area unless when burned the resultant smoke is effectively passed over the city at no less than 3000 feet above mean sea level.

[~~(6) All south priority acreages located upwind of the Eugene-Springfield priority area shall be burned using backing fire or into the wind strip lighting techniques, except as provided by 26-015(4)(e).~~]

(e) Restrictions on burning techniques.

(A) All annual grass seed crops, cereal crops, and if so directed by the Department, bentgrass crops shall be burned using into-the-wind strip burning methods except when unlimited ventilation conditions exist.

(B) [~~(e)~~] The Department shall require acreages to be burned using [~~back fire~~] backfire or into-the-wind strip[~~lighting~~] burning techniques when, in the Department's judgment, use of such techniques will reduce adverse effects on air quality.

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

TABLE 1

FIELD BURNING ACREAGE QUOTAS

NORTH VALLEY AREAS

County/Fire District	Quota	
North Valley Counties	Basic	Priority
Clackamas County		
Canby RFPD	50	0
Clackamas County #54	50	0
Clackamas - Marion FPA	[50] 100	0
Estacada RFPD	75	0
Molalla RFPD	50	0
Monitor RFPD	50	0
Scotts Mills RFPD	50	0
Total	[375] 425	0
Marion County		
Aumsville RFPD	[50] 100	0
Aurora-Donald RFPD	50	50
Drakes Crossing RFPD	[50] 100	0
Hubbard RFPD	50	0
Jefferson RFPD	225	50
Marion County #1	[100] 200	50
Marion County Unprotected	50	50
Mt. Angel RFPD	50	0

TABLE I

(continued)

County/Fire District	Quota	
North Valley Counties	Basic	Priority
Marion County (continued)		
St. Paul RFPD	125	0
Salem City	50	50
Silverton RFPD	[~~300~~] 600	0
Stayton RFPD	[~~150~~] 300	0
Sublimity RFPD	[~~250~~] 500	0
Turner RFPD	50	50
Woodburn RFPD	125	50
Total	[~~1675~~]2575	[~~200~~] 350
Polk County		
[~~Polk County Non-District~~] Amity #2	50	0
Southeast Rural Polk	400	50
Southwest Rural Polk	125	50
Total	575	100
Washington County		
Cornelius RFPD	50	0
Forest Grove RFPD	50	0
Forest Grove, State Forestry	50	0
Hillsboro	50	0
Washington County RFPD #1	50	50
Washington County FPD #2	50	50
Total	300	150

TABLE 1

(continued)

County/Fire District	Quota	
North Valley Counties	Basic	Priority
Yamhill County		
Amity #1 RFPD	125	50
Carlton RFPD	50	0
Dayton RFPD	50	50
Dundee RFPD	50	0
McMinnville RFPD	150	75
Newberg RFPD	50	50
Sheridan RFPD	75	50
Yamhill RFPD	50	50
Total	600	325
North Valley Total	4475	875

TABLE 1

(continued)

SOUTH VALLEY AREAS

County/Fire District		Quota
South Valley Counties	Basic	Priority
Benton County		
County Non-District & Adair	350	175
Corvallis RFPD	175	125
Monroe RFPD	325	50
Philomath RFPD	125	100
Western Oregon RFD	100	50
Total	1075	500
Lane County		
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	150
Santa Clara RFPD	50	50
Thurston-Walterville	50	50
West Lane RPD	50	0
Total	1225	550
Linn County		
Albany RFPD (inc. N. Albany, Palestine, Co. Unprotected Areas)	625	125
Brownsville RFPD	750	100

TABLE 1

(continued)

County/Fire District	Quota	
South Valley Counties	Basic	Priority
Linn County (continued)		
Halsey-Shedd RFPD	2050	200
Harrisburg RFPD	1350	50
Lebanon RFPD	325	325
Lyons RFPD	50	0
Scio RFPD	175	50
Tangent RFPD	925	325
Total	6250	1225
South Valley Total	8550	2275

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 auxilliary 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 468.480, 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 ORS 468.150, approved 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.

ROBERT W. STRAUB
GOVERNOR

Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. F, November 17, 1978, EQC Meeting

Adoption of Rules to Amend Oregon's Clean Air Act Implementation Plan Involving an Emission Offset Rule for New or Modified Emission Sources in the Medford-Ashland AQMA

Background

A public hearing was held September 19, 1978 to consider proposed emission offset rules for new or modified emission sources of particulate and volatile organic compounds (VOC) in the Medford-Ashland Air Quality Maintenance Area (AQMA). Oral and written testimony was submitted at the public hearing and during the period when the hearing record was open (until 10/1/78). Major issues raised included concerns about: 1) regulating industrial growth through any mechanism including the offset concept; 2) the emission source size subject to the proposed rule; 3) inconsistencies in the proposed rule compared to the EPA Interpretative Ruling[1]; and 4) the precedence of establishing airshed rights through a banking program.

Evaluation

The major comments from the written and oral testimony are discussed in this section. Other less significant comments are discussed in Appendix A.

Issue: The regulation of industrial growth through any mechanism including the offset concept is a serious concern expressed by industry and elected officials.

The Clean Air Act (CAA) Section 110(a)(2) and Section 173, in part, requires the State Implementation Plan (SIP) to contain a growth mechanism for major sources constructed or modified after June 30, 1979, so as to assure that National Ambient Air Quality Standards (NAAQS) are achieved and maintained.

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[1] Federal Register December 21, 1976. Interpretative Ruling for Implementation of 40 CFR 51.18, Pages 55528-30 inclusive.

Contains Recycled Materials

The Department, without such a growth mechanism, must disapprove new and modified sources or place the State of Oregon in jeopardy of EPA sanctions if unregulated growth is allowed. Therefore, while this matter is of great concern and may deserve review by the legislature, the Department is legally bound to act administratively in pursuing regulations as part of the SIP. Either the SIP stipulates no increase in stationary source emissions or an alternative such as the offset rule is necessary.

Future growth in the Medford-Ashland AQMA was a matter presented to the EQC on March 31, 1978 (Agenda Item I). Of six alternatives, the EQC directed staff to develop an emissions offset rule. The offset concept has generally been supported through testimony by the Medford-Ashland AQMA Advisory Committee and industry. Therefore, the Department feels compelled to pursue adoption of an offset rule.

Issue: The emission source size subject to the proposed rule is more stringent than the EPA Interpretative Ruling.

The EPA Interpretative Ruling is an interim policy which applies to 100 ton per year (TPY) new or modified sources until June 30, 1979. After this date the EPA requires the SIP to address stationary source growth for all source sizes and not necessarily just large ones (Section 173(1)(A) of the CAA).

The Department proposes reserving the small growth increment in the particulate control strategy (approximately 100 TPY) for very minor sources and apply offsets to sources of 5 TPY - 50 pounds per day - 10 pounds per hour particulate, and 20 TPY - 200 pounds per day for volatile organic compounds (VOC). These limits will encompass moderate sized sources common to Medford such as a veneer dryer or hogged fuel boiler but not impact small sources like individual gas stations, dry cleaning establishments, and most cyclones. Surely small sources would have a difficult financial burden in arranging offsets. More stringent limits than the EPA Interpretative Ruling are also justified on the basis that smaller sources have a greater impact on the Medford airshed due to extremely adverse ventilation conditions. If the size cut were set at the Federal level, smaller sources would have to be disapproved since the existing growth increment would not accommodate them and they would not have the offset option available to them.

Issue: The banking of emission reductions establishes airshed rights.

Testimony from the AQMA Committee, industry, and elected officials expressed great concern about the mechanics of banking and the legal precedent in establishing airshed rights. These concerns may only rightfully be consid-

ered and addressed by the legislature. The present EPA Interpretative Ruling does not provide for banking. To be consistent with the EPA Rule the Department has deleted the banking provision from the proposed rule. Banking may be considered later on by the legislature or the Department when further EPA guidance becomes available.

Issue: The proposed rule is inconsistent with the EPA Interpretative Ruling.

With the above changes and a revised definition of modified source, the redrafted proposed rule is identical to the EPA Interpretative Ruling except for source size which has been previously justified above. If the EPA source size is used then most smaller sources would have to be disapproved as insufficient growth increment is available to accommodate increased emissions in the existing particulate control strategy.

Other Comments: Refer to Appendix A.

Summation

1. A mechanism is needed and required by EPA to accommodate growth and development of significant particulate and hydrocarbon emission sources in the Medford-Ashland AQMA.

2. The EQC, Citizens Advisory Committee, and industry generally support the offset concept as a growth approval mechanism.

3. The most acceptable offset rule appears to be one patterned closely to the EPA Interpretative Ruling.

4. A smaller source applicability size than contained in EPA Interpretative Rulings is proposed to provide means to approve moderate emission sources (less than 100 TPY), as the existing particulate growth increment is inadequate to accommodate such sources in the Medford-Ashland airshed.

5. The redrafted proposed rule is as responsive as practicable with regard to hearing testimony on banking and consistency with the EPA Interpretative Ruling.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission adopt the redrafted proposed rule (Attachment 2 and 3) and transmit them to the Environmental Protection Agency for approval as a revision to Oregon's State Implementation Plan.

Bill

WILLIAM H. YOUNG

JFKowalczyk:as
(503)229-6459

10-6-78

Attachments:
1) Appendix A
2) Proposed Rule for Emission Offset
3) Federal Register page 55528-30, December 21, 1976, Interpretative ruling for Implementation 40 CFR 51.18

ATTACHMENT 1

APPENDIX A

Comment 1 - The establishment of a "bank" or "banked" emission reductions:

a. should include emission reductions achieved greater than necessary in complying with applicable SIP emission limitations.

Response: Paragraph IV.C. of the EPA Interpretative Rule states: "...credit for emission offset purposes may be allowable for existing control that goes beyond that required by the SIP." This credit is received by the source which reduces emissions over and above the reduction required by an emission regulation. Excess emission reduction in obtaining an emission offset would not be eligible for credit for emission offset purposes.

Credit obtained as above belongs to the source and may be retained or transferred at the owner's discretion for emission offset purposes. It is not the intent of this policy to establish a "bank" or "banked" emissions.

b. creates a property right as the "banked" excess emission reduction has an intrinsic value.

Response: Testimony indicates lacking legal precedent or legislative intent on the concept of "banked" emissions, inclusion of such a provision into the proposed rule is premature. A provision allowing "banked" emissions is deferred at this time.

Comment 2 - Promulgation of a volatile organic compound (VOC) emission offset requirement by the Department procedurally should follow development of a photochemical oxidant attainment strategy reducing existing VOC emissions.

Response: Testimony was heard from industry spokesmen that the Department is premature in developing a VOC emission offset requirement for the AQMA. The EPA Interpretative Ruling, Part II.B., now requires emission offsets for particulate matter, sulfur oxides, nitrogen oxides, non-methane hydrocarbons (term includes all VOC as defined in proposed rule), and carbon monoxide. Therefore the Department is in accord with the EPA Interpretative Ruling in promulating a VOC emission offset requirement.

Additional testimony was heard that supported a VOC emission offset requirement so as to provide a certain protection against aggravating the photochemical oxidant problem during the period the attainment strategy is developed and implemented.

Comment 3 - The proposed minimum emission levels differ from the EPA

Interpretative Ruling and are set lower than can technically be justified.

Response: The EPA Interpretative Ruling and the proposed rule have as minimum increased emission levels triggering emission offsets the following:

Criteria Pollutant	EPA Interpretative Ruling	Proposed Rule
Particulate Matter	100 Tons per year	5 Tons per year or 50 Pounds per day or 100 Pounds per hour
Volatile Organic Compound	100 Tons per year	20 Tons per year or 200 Pounds per day

The proposed rule is more stringent than the EPA Interpretative Ruling on a tons per year basis. In addition, the proposed rule has criteria for daily emissions of VOC, and daily and hourly emissions of particulate matter.

The determination of particulate matter criteria resulted from the modeled impact of a 5 ton per year (TPY) source as 0.12 micrograms per cubic meter (ug/m^3) on the White City Receptor (available growth increment 0.90 ug/m^3) and 0.09 ug/m^3 at the Medford Courthouse receptor (available growth 0.70 ug/m^3). Receptor sensitivity is indicative of the poor ventilation in the AQMA. Restrictive annual, daily, and hourly criteria were necessary so as to preserve the growth increment for small increases in emissions. Higher limits would use the available growth more quickly. Once the growth allowance is consumed, a no growth policy would be mandatory until further emission reductions could be obtained from existing sources.

The volatile organic compound criteria in the proposed rule were changed from 50 TPY to 20 TPY and 200 pounds per day after staff analysis of the impact of the lower limits. The lower limits were proposed by the Medford-Ashland AQMA Citizens Advisory Committee (NOTE: The committee also proposed 10 pounds per hour which was not incorporated into the proposed rule.)

Establishment of minimum VOC emission limits is intended to apply to industrial growth and expansion while excluding small sources of VOC to be controlled under regulations currently being developed (e.g., gasoline vapor recovery) or sources not emitting significant VOC. The

analysis below justifies the proposed VOC limits until an attainment strategy is developed and implemented. An attainment strategy containing a substantial growth allowance may permit relaxation of the stringent limits.

Common Sources of VOC in the AQMA[2]

Source	Hourly Emission	Daily Emission	Annual Emission
Gas Station (1 million gallons/year)	Over 10 lb/hr	Under 200 lb/day	Under 20 tons/year
Dry Cleaning	Under 10 lb/hr	Under 200 lb/day	Under 20 tons/year
Food Service	Under 10 lb/hr	Under 200 lb/day	Under 20 tons/year
Spray Painting	Over 10 lb/hour (infrequent circumstance)	Under 200 lb/day	Under 20 tons/year
Veneer Dryer (Controlled by scrubber)	Under 10 lb/hr	Under 200 lb/day	Over 20 tons/year Under 50 tons/year
Hogged Fuel Boiler[3] (50,000#/hr steam)	Over 10 lb/hr	Over 200 lb/day	Over 20 tons/year Over 50 tons/year

[2]Staff Memorandum 9-19-78, PBBosserman to DWBelsky, 5 pages.

[3]Based on #1 boiler EI 15-0054 61.5 TPY operated 24 hr/day, 7 days/week, 51 weeks/year.

An hourly limit of 10 pound per hour is not proposed as it would require sources such as certain large service stations and spray painting operations to obtain emission offsets. This is unwarranted as service stations will be controlled under VOC rules being developed while spray painting exceeds 10 pounds per hour only in infrequent circumstances such as painting water towers.

The 200 lb/day limit does not appear to affect industrial sources except large wood-fired boilers such as are required to control particulate emissions under the AQMA regulations. A limit of 200 lb/day is proposed nonetheless, as an annual emission criteria alone is possibly inadequate in application to mitigate large scale--short term duration emission sources.

The 20 ton per year limit is considered reasonable after analyzing the impact of reducing the limit from 50 tons per year. At 20 tons per year a veneer dryer would require an emission offset. A limit of 50 tons per year VOC would not include veneer dryers. This is important due to the predominance of wood products industry in the AQMA.

The proposed rule has 20 tons per year and 200 pound per hour emission offset criteria for VOC and 5 tons per year, 50 pounds per day, and 10 pounds per hour for particulate matter. It is recognized by the Department that stringent limits are being proposed and the necessity to reconsider these limits to correspond to the extent of available growth that is built into the VOC attainment strategy and subsequent particulate control strategies.

Comment No. 4: The EPA Interpretative Ruling requires that "emission offsets generally should be made on a pounds-per-hour basis when all facilities involved...in the offset calculation are operating at their maximum production rate." The proposed rule does not include a VOC emission offset criteria in pounds per hour.

Response: The proposed rule is not inconsistent with the EPA Interpretative Ruling Section IV.3.C. The document is establishing the baseline for calculation of credit for emission offsets. Testimony implies that this portion of the EPA Interpretative Ruling requires a pounds per hour minimum emission be established as criteria for determining if emission offsets are needed.

Comment No. 5: The concept of "banked emissions" creates an ownership or property right to a portion of the airshed; there is a possibility that monopoly ownership of growth potential in the airshed could be obtained by a dominant source; and can the Department retain its authority in the issuance of emission permits if some or all of the airshed is owned by industry?

Response: The establishment of "banked emissions" and the operation of the "bank" are concepts that are properly addressed by the legislature or by future EPA guidance. Until that policy is set forth, the Department will refrain from implementing "banked emissions" resulting from excess emission reductions obtained through emission offsets.

Comment No. 6: Standards more stringent than Federal requirements economically penalize wood products industry in the AQMA when competing with similar industry in other states. Wood products industry is discriminized as they are subject to emission reductions while "more than half of the ambient particulate problem is background or unidentified".

Response: More stringent emission regulations than federal New Source Performance Standards or statewide rules were necessary in the Medford-

Ashland AQMA. Referring to development of the particulate regulations in Agenda Item No. L, February 24, 1978 EQC Meeting, Appendix A, Comment No. 4: "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^3, annual geometric mean." Further, from Comment No. 12, same agenda item, "Violation of the NAAQS for TSP is caused by many sources contributing to the problem. Not all the sources need to be identified to solve the problem and, at this time, not all of the sources can be identified."

Comment No. 7: The EPA Interpretative Ruling promulgated in December, 1976 was changed by the August 1977 amendments to the Clean Air Act (CAA) regarding the concept of banked emissions.

Response: The legislature is the appropriate body of elected officials who should address banked emissions during consideration of emission offset policy.

Comment No. 8: Reinstate in the proposed rule the clarification to the terms "physical change" and "method of operation" as contained in the June 14, 1978 draft of this proposed rule.

Response: This action clarifies the meaning of "modified source" and is added to the definition. The EPA Interpretative Ruling Section II.B. also applies:

> "The following shall not, by themselves, be considered modifications under this ruling:
>
> (1) Maintenance, repair, and replacement which the reviewing authority determines to be routine for a source category;
>
> (2) An increase in the hours of operation, unless limited by previous permit conditions;
>
> (3) Use of an alternative fuel or raw material (unless limited by previous permit conditions), if prior to the publication of this ruling in the FEDERAL REGISTER, the source is designed to accommodate such alternative use; or
>
> (4) Change in ownership of a source."

Comment No. 9: The Department is "deferring replacement or updating of process or emission control equipment operating within the standards" by inclusion of "or any source" and "or any other reason" in the proposed rule 340-30-110(2).

Response: The intent of the draft rule provision 340-30-110(2) is to

require lowest achievable emission rate (LAER) for a new or modified major stationary source as defined in the CAA Section 111(a)(4) and Section 302(j) and which must comply with Section 173(2).

The Department is delaying promulation at this time of a rule implementing the requirement of the CAA (Section 173(2) becomes effective July 1, 1979). The Department will propose a rule implementing Section 173 during public hearings on the Medford-Ashland AQMA State Implementation Plan revision scheduled for January-March, 1979.

Comment No. 10: The proposed definition for Volatile Organic Compound (VOC) differs in the Department's proposed emission offset rule, and proposed VOC rules.

Response: The comprehensive definition contained in the proposed VOC rules has been included in the proposed emission offset rules.

Comment No. 11: From a DEQ analysis of possible proposed sources (PBBosserman memorandum of 5-23-78 to EJWeathersbee, page 14; see attachment SWF Testimony), it is inferred that a "five ton per year source cannot be measured (Staff Note: Impact of a 5 ton per year proposed source is modeled as adding 0.12 ug/m^3 at the White City Receptor.)" Testimony asks that a higher minimum emission limit be instituted into the proposed rule.

Response: The modeled prediction of 0.12 ug/m^3 increase at the White City Receptor from addition of a 5 ton per year cyclone is correct. Interpretation of the DEQ analysis that controlling the 5 ton per year source by the degree indicated in the memorandum (45%, 65%, 85% control) results in no reduced impact at the White City Receptor is incorrect. Upon closer examination of the document, the modeling done at the three levels of control showed that reduced emissions caused a smaller impact at the receptor. The 5 ton per year source was modeled at 5 tons per year for each of the three levels of control. That is the reason no difference is evident.

The proposed rule has a 5 ton per year particulate emission limitation before emission offsets must be obtained. For 5 ton per year or more sources locating in an area of the AQMA in attainment of NAAQS, the modeled impact must be 0.10 ug/m^3, annual arithmetic mean or less to approve construction without offset.

Comment No. 12: Promulgation of an emission offset rule "will have long range impact on the future growth of the most populated areas of Oregon, with only one hearing and...without the active participation of the responsible decision makers."

Response: The proposed rule applies only to the Medford-Ashland AQMA. The public hearing was held in Medford. The proposed rule differs from the EPA Interpretation Ruling in applying more restrictive minimum emission limitations, and the addition of minimum modeled impact criteria

for sources locating in clean areas of the AQMA on receptors located in areas of the AQMA exceeding NAAQS. These differences are necessary to maintain the integrity of the particulate control strategy, and compensate for the AQMA's recognized poor dispersion potential of pollutants.

An attainment strategy which has a substantial growth allowance is a more attractive approach from a regulatory viewpoint for accommodating new or expanded sources than is the "banking" approach typified by application of emission offsets. However, locals seem to favor an offset rule.

Comment No. 13: The proposed rule has no "baseline" for determining how offsets are to be calculated.

Response: The EPA Interpretative Ruling will be the method used to calculate emission offsets in implementing the proposed rule. The EPA Interpretative Ruling is incorporated into the proposed rule by reference. Section IV.C. of the EPA Interpretative Ruling states:

> "C. Baseline for determining credit for emission offsets. Except as provided below, the baseline for determining credit for emission and air quality offsets will be the SIP emission limitations in effect at the time the application to construct or modify a source is filed."

An example will clarify the intent:

A hogged fuel boiler emits 16 tons per year (TPY) and is allowed 21 TPY in compliance with the SIP limitation. As part of an emission offset the boiler is controlled to 11 TYP. The emission offset credit would be 21 - 11 = 10 TPY. The hogged fuel boiler emission limitation would become 11 TPY.

Comment No. 14: An emission level of 5 TPY of particulate in Table 1 of the proposed rule would virtually require new cyclones to be equipped with a baghouse. A 10 ton per year emission from a cyclone is necessary before 98.5 percent control (i.e., baghouse) is required by existing AQMA rules. The proposed limit in Table 1 should correspondingly be 10 tons per year.

Response: The growth increment available is 0.70 ug/m^3 and 0.90 ug/m^3 at the Medford and White City receptors respectively. A 5 ton per year cyclone consumes 0.12 ug/m^3 at the White City receptor which is over 10 percent of the available growth allotment. Through this modeling it is evident that stringent restrictions are warranted to keep the control strategy viable and achieve NAAQS as required by the Clean Air Act.

Comment No. 15: An error is evident in the draft rule where 340-30-110(3) refers to 340-30-110(2). The correct reference is 340-30-110(1).

Response: The error has been corrected in the proposed rule.

Comment No. 16: The particulate model cannot realistically predict accurately a growth increment concentration of less than 1 ug/m^3 . The proposed 5 tons per year was established on the basis of the particulate model. The EPA Interpretative Ruling limits of 100 tons per year should be adopted.

Response: The model and its use in developing the particulate control strategy has been documented by the Department. The sensitivity of the airshed to small increases in pollutant results from the prevailing poor ventilation in the AQMA. More restrictive limits are proposed so as to preserve progress towards and eventual attainment of NAAQS. A smaller source size is proposed to provide means to approve moderate emission sources (under 100 TPY) as the existing growth increment is inadequate to accommodate moderate sources should the EPA levels be retained.

Addition to Division 30

Emission Offset Regulation
for the Medford-Ashland AQMA

DEFINITIONS (to be added to 340-30-010)

(13) "Criteria Pollutants" means Particulate Matter, Sulfur Oxides, Nonmethane Hydrocarbons, Nitrogen Oxides, or Carbon Monoxide, or any other criteria pollutant established by the U.S. Environmental Protection Agency.

(14) "Facility" means an identifiable piece of process equipment. A stationary source may be comprised of one or more pollutant-emitting facilities.

(15) "Lowest Achievable Emission Rate" or "LAER" means, for any source, that rate of emissions which is the most stringent emission limitation which is achieved in practice or can reasonably be expected to occur in practice by such class or category of source taking into consideration the pollutant which must be controlled. This term applied to a modified source means that lowest achievable emission rate for that portion of the source which is modified. LAER shall be construed as nothing less stringent than new source performance standards.

(16) "Modified Source" means any physical change in, or change in the method of, operation of a stationary source which increases the potential emission of criteria pollutants over permitted limits, including those pollutants not previously emitted and regardless of any emission reductions achieved elsewhere in the source.

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

(b) A change in the method of operation, unless limited by previous permit conditions, shall not include:

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

(ii) Use of an alternative fuel or raw material, if prior to December 21, 1976, the source was capable of accommodating such fuel or material; or

(iii) Change in ownership of a source.

(17) "New Source" means any source not previously existing or permitted in the Medford-Ashland Air Quality Maintenance Area on the effective date of these rules.

(18) "Offset" means the reduction of the same or similar air contaminant emissions by the source:

(a) Through in-plant controls, change in process, partial or total shut-down of one or more facilities or by otherwise reducing criteria pollutants; or

(b) By securing from another source or, through rule or permit action by DEQ, in an irrevocable form, a reduction in emissions similar to that provided in subsection (a) of this section.

(19) "Source" means any structure, building, facility, equipment, installation or operation, or combination thereof, which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person, or by persons under common control.

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

OFFSET

OAR 340-30-110

The intent of this rule is to supplement and in some cases be more stringent than the Federal Interpretative Ruling promulgated in the December 21, 1976, Federal Register on pages 55,528 through 55,530 (40 CFR, Part 51) hereby incorporated by reference.

OAR 340-30-110

(1) Any new or modified source which emits at a rate greater than in Table 1 and is proposed to be constructed or operated in an area of the Medford-Ashland AQMA where a state or federal ambient air quality standard is:

(a) being violated, shall comply with offset conditions (a) through (d) of Section (2);

(b) not being violated, but by modeling is projected to exceed the incremental air quality values of Table 2 in the area where the state or federal ambient air standard is being violated, shall comply with offset conditions (a) through (d) of Section (2).

TABLE 1

	Emission Rate					
	Annual		Day		Hour	
Air Contaminant	Kilograms	(tons)	Kilograms	(lbs)	Kilograms	(lbs)
Particulate Matter (TSP)	4,500	(5.0)	23	(50.0)	4.6	(10.0)
Volatile Organic Compound (VOC)	18,100	(20.0)	91	(200)	-	-

TABLE 2

	Incremental Value	
Air Contaminant	Annual Arithmetic Mean	24 Hr Average
Particulate Matter (TSP)	0.10 ug/m^3	0.50 ug/m^3

(2) Offset Conditions

(a) The new or modified source shall meet an emission limitation which specifies the lowest achievable emission rate for such a source.

(b) The applicant provides certification that all existing sources in Oregon owned or controlled by the owner or operator of the proposed source are in compliance with all applicable rules or are in compliance with an approved schedule and timetable for compliance under state or regional rules.

(c) Emission offset from existing source(s) in the Medford-Ashland AQMA, whether or not under the same ownership, are obtained by the applicant on a greater than one-for-one basis.

(d) The emission offset provides a positive net air quality benefit in the affected area.

ATTACHMENT 3

INTERPRETATIVE RULING FOR IMPLEMENTATION OF THE REQUIREMENTS OF 40 CFR 51.18

I. INTRODUCTION

This notice sets forth EPA's Interpretative Ruling on the preconstruction review requirements for stationary sources of air pollution under 40 CFR 51.18. This ruling reflects EPA's judgment that the Clean Air Act allows a major new or modified source[1] to locate in an area that exceeds a national ambient air quality standard (NAAQS) only if stringent conditions can be met. These conditions are designed to insure that the new source's emissions will be controlled to the greatest degree possible; that more than equivalent offsetting emission reductions ("emission offsets") will be obtained from existing sources; and that these will be progress toward achievement of the NAAQS.

II. INITIAL ANALYSIS AND APPLICABLE REQUIREMENTS

A. *Review of all sources for emission limitation compliance.* The reviewing authority must examine each proposed new source subject to the SIP preconstruction review requirements approved or promulgated pursuant to 40 CFR 51.18 to determine if such a source will meet all applicable emission requirements in the SIP. If the reviewing authority determines that the proposed new source cannot meet the applicable emission requirements, the permit to construct must be denied.

B. Review of major sources for air quality impact. In addition, for each proposed "major" new source or "major" modification, the reviewing authority must perform an air quality analysis[2] to determine if the source will cause or exacerbate a violation of a NAAQS. A proposed source which would not be a "major" source may be approved without further analysis, provided such a source meets the requirement of Part II.A.

The term "major source" shall, as a minimum, cover any structure, building, facility, installation or operation (or combination thereof) for which the allowable emission rate is equal to or greater than the following:

	tons per year
Particulate matter	100
Sulfur oxides	100
Nitrogen oxides	100
Non-methane hydrocarbons (organics)	100
Carbon monoxide	1,000

Similarly a "major modification" shall include a modification to any structure, building, facility, installation or operation (or combination thereof) which increases the allowable emission rate by the amounts set forth above. A proposed new source with an allowable emission rate exceeding the above amounts is considered a major source under this ruling, even though such a source may replace an existing source with the result that the net additional emissions are increased by less than the above amounts.

Where a source is constructed or modified in increments which individually do not meet the above criteria, and which are not a part of a program of construction or modification in planned incremental phases previously approved by the reviewing authority, all such increments commenced after the date this ruling appears in the FEDERAL REGISTER or after the latest approval issued by the reviewing authority, whichever is most recent, shall be added together for determining applicability under this ruling. Moreover, where there is a group of proposed sources which individually do not meet the above criteria, but which would be constructed in substitution for a major source, the group should be collectively reviewed as a major source.

Allowable annual emissions shall be based on the applicable New Source Performance Standard (NSPS) set forth in 40 CFR Part 60 or the applicable SIP emission limitation, whichever is less, and the maximum annual rated capacity of the source. If the source is not subject to either a NSPS or SIP emission limitation, annual emissions shall be based on (1) the maximum annual rated capacity, and (2) the emission rate agreed to by the source as a permit condition.

The following shall not, by themselves, be considered modifications under this ruling:

(1) Maintenance, repair, and replacement which the reviewing authority determines to be routine for a source category;

(2) An increase in the hours of operation, unless limited by previous permit conditions;

(3) Use of an alternative fuel or raw material (unless limited by previous permit conditions), if prior to the publication of this ruling in the FEDERAL REGISTER, the source is designed to accommodate such alternative use; or

(4) Change in ownership of a source.

C. Air quality impact analysis. For "stable" air pollutants (i.e., SO_2, particulate matter and CO), the determination of whether a source will cause or exacerbate a violation of a NAAQS generally should be made on a case-by-case basis as of the proposed new source's operation date using the best information and analytical techniques available (i.e., atmospheric simulation modeling, unless a source will clearly impact on a receptor which exceeds a NAAQS). This determination should be independent of any general determination of nonattainment or judgment that the SIP is substantially inadequate to attain or maintain the NAAQS. This is because the area affected by a determination of SIP inadequacy usually conforms to established administrative boundaries such as Air Quality Control Regions (AQCR's) rather than a precisely-defined area where air quality problems exist. For example, a SIP revision may be required for an AQCR on the basis of a localized violation of standards in a small portion of the AQCR. If a source seeks to locate in the "clean" portion of the AQCR and would not affect the area presently exceeding standards or cause a new violation of the NAAQS, such a source may be approved. For major sources of nitrogen opides, the initial determination of whether a source would cause or exacerbate a violation of the NAAQS for NO_2 should be made using an atmospheric simulation model assuming all the nitrogen oxide emitted is oxidized to NO_2 by the time the plume reaches ground level. The initial concentration estimates may be adjusted if adequate data are available to account for the expected oxidation rate. For major sources of hydrocarbons, see the discussion entitled "Geographic Applicability of Emission Offset Requirements for Hydrocarbon Sources" in the Notice appearing in today's FEDERAL REGISTER at 41 FR 55558.

III. SOURCES LOCATING IN "CLEAN" AREAS, BUT WOULD CAUSE A NEW VIOLATION OF A NAAQS

If the reviewing authority finds that the allowable emissions[3] from a proposed major source would cause a new violation of a NAAQS, but would not exacerbate an existing violation, approval may be granted only if both of the following conditions are met:

Condition 1. The new source is required to meet a more stringent emission limitation[4] and/or the control of existing sources below allowable levels is required so that the source will not cause a violation of any NAAQS.

Condition 2. The new emission limitations for the new source as well as any existing sources affected must be enforceable in accordance with the mechanisms set forth in Part V below.

IV. SOURCES THAT WOULD EXACERBATE AN EXISTING VIOLATION OF A NAAQS

A. *Conditions for approval.* If the reviewing authority finds that the allowable emissions[3] from a proposed source would exacerbate an "existing" violation (i.e., as of the source's proposed start-up date) of a NAAQS, approval may be granted only if all the following conditions are met:

Condition 1. The new source is required to meet an emission limitation which specifies the lowest achievable emission rate for such type of source.[5] In determining the applicable emission limitation, the reviewing authority must consider the most stringent emission limitation in any SIP and the lowest emission rate which is achieved in practice for such type of source. At a minimum, the lowest emission rate achieved in practice must be specified unless the applicant can sustain the burden of demonstrating that it cannot achieve such a rate. In no event could the specified rate exceed any applicable NSPS. Even where the applicant demonstrates that it cannot achieve the lowest

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[1] Hereafter the term "new source" will be used to denote both new and modified sources.

[2] Required only for those pollutants causing the proposed source to be defined as a "major" source, although the reviewing authority may address other pollutants if deemed appropriate.

[3] Where a new source will result in specific and well defined indirect or secondary emissions which can be accurately quantified, the reviewing authority should consider such secondary emissions in determining whether the source would cause or exacerbate a violation of the NAAQS. However, since EPA's authority to perform indirect source review relating to parking-type facilities has been restricted by statute, consideration of parking-type indirect impacts is not required.

[4] If the reviewing authority determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an enforceable numerical emission standard infeasible, the authority may instead prescribe a design, operational or equipment standard. In such cases, the reviewing authority shall make its best estimate as to the emission rate that will be achieved and must specify that rate in the required submission to EPA (see Part V). Any permits issued without an enforceable numerical emission standard must contain enforceable conditions which assure that the design characteristics or equipment will be properly maintained (or that the operational conditions will be properly performed) so as to continuously achieve the assumed degree of control. Such conditions shall be enforceable as emission limitations by private parties under Section 304. Hereafter, the term "emission limitations" shall also include such design, operational, or equipment standards.

emission rate achieved in practice, this in itself would not operate to raise the required emission limitation to the applicable NSPS. The "lowest achievable emission rate" requirement must still apply, and the applicant would retain the burden of demonstrating that it cannot achieve any rate more stringent than the NSPS rate.

Condition 2. The applicant must certify that all existing sources owned or controlled by the owner or operator of the proposed source in the same AQCR as the proposed source are in compliance with all applicable SIP requirements or are in compliance with an approved schedule and timetable for compliance under a SIP or an enforcement order issued under Section 113. The reviewing authority must examine all enforcement orders for sources owned or operated by the applicant in the AQCR to determine if more expeditious compliance is practicable. Where practicable, a more expeditious compliance schedule for such sources must be required as an enforceable condition of the new source permit.

Condition 3. Emission reductions ("offsets") from existing sources in the area of the proposed source (whether or not under the same ownership) are required such that the total emissions from the existing and proposed sources are sufficiently less than the total allowable emissions from the existing sources under the SIP[6] prior to the request to construct or modify so as to represent reasonable progress toward attainment of the applicable NAAQS.[7] Only intrapollutant emission offsets will be acceptable (e.g., hydrocarbon increases may not be offset against SO_2 reductions).

Condition 4. The emission offsets will provide a positive net air quality benefit in the affected area (see Part IV.D. below).[8]

Condition 5. For a source which would be located in an area where EPA has found that a SIP is substantially inadequate to attain a NAAQS and has formally requested a SIP revision pursuant to Section 110(a)(2)(H)(ii), (or an area where EPA has called for a study to determine the need for such a revision), permits granted on or after January 1, 1979[4] must specify that the source may not commence construction until EPA has approved or promulgated a SIP revision for the area (if the source is a major source of the pollutant subject to the call for revision or study).

B. *Exemptions from certain conditions.* The reviewing authority may exempt a source from Condition 1 under Part III or Conditions 3 and 4 under Part IV.A., in cases where the source must switch fuels due to lack of adequate fuel supplies or where the source is required as a result of EPA regulations (i.e., lead-in-fuel requirements) to install additional process equipment and no exception from such an EPA regulation is available to the source. Such an exemption may be granted only if: (i) the applicant demonstrates that it made its best efforts to obtain sufficient emission offsets to comply with Condition 1 under Part III or Conditions 3 and 4 under Part IV.A. and that such efforts were unsuccessful; (ii) the applicant has secured all available emission offsets; and (iii) the applicant will continue to seek the necessary emission offsets and apply them when they become available. Such an exemption may result in the need to revise the SIP to provide additional control of existing sources.

[6] Subject to the provisions of Part IV.C. below.

[4] Or, if later, the date which is six months after the deadline for submittal of the revision.

C. *Baseline for determining credit for emission offsets.* Except as provided below, the baseline for determining credit for emission and air quality offsets will be the SIP emission limitations in effect at the time the application to construct or modify a source is filed. Thus, credit for emission offset purposes may be allowable for existing control that goes beyond that required by the SIP.

1. *No applicable SIP requirement.* Where the applicable SIP does not contain an emission limitation for a source or source category, the emission offset baseline involving such sources shall be the actual emissions at the time the permit request is filed (determined by source test or other appropriate means).

2. *Combustion of fuels.* Generally, the emissions for determining emission offset credit involving an existing fuel combustion source will be the allowable emissions under the SIP for the type of fuel being burned at the time the new source application is filed (i.e., if the existing source has switched to a different type of fuel at some earlier date, any resulting emission reduction (either actual or allowable) shall not be used for emission offset credit). If the existing source commits to switch to a cleaner fuel at some future date, emission offset credit, based on the allowable emissions for the fuels involved, is acceptable; provided, that the permit must be conditioned to require the use of a specified alternative control measure which would achieve the same degree of emission reduction should the source switch back to a dirtier fuel at some later date. The reviewing authority should ensure that adequate long-term supplies of the new fuel are available before granting emission offset credit for fuel switches.

Where the particulate emission limit for fuel combustion exceeds the appropriate uncontrolled emission factor in "Compilation of Air Pollutant Emission Factors" (AP–42) (as when a State has a single emission limit for all fuels), emission offset credit will only be allowed for control below the appropriate uncontrolled emission factor in AP–42. (Actual emissions determined by a source test may be used in place of the uncontrolled emission factor in AP–42 in the above situation.)

3. *Operating hours and source shutdown.* Emission offsets generally should be made on a pounds-per-hour basis when all facilities involved in the emission offset calculations are operating at their maximum expected production rate. The reviewing agency should specify other averaging periods (e.g., tons per year) in addition to the pounds-per-hour basis if necessary to carry out the intent of this ruling. A source may be credited with emission reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below that which existed at the time the new source application was submitted; provided, that the work force to be affected has been notified of the proposed shutdown or curtailment. Emission offsets that involve reducing operating hours or production or source shutdowns must be legally enforceable, as is the case for all emission offset situations.[7]

[7] Source shutdowns and curtailments in production or operating hours occurring prior to the date the new source application is filed generally may not be used for emission offset credit. However, where an applicant can establish that it shut down or curtailed production after SIP approval as a result of enforcement action providing for a new source as a replacement for the shut down or curtailment, credit for such shut down or curtailment may be applied to offset emissions from the new source.

Nothing contained in this ruling is intended to alter EPA's interpretation of the Clean Air Act with regard to the use of "supplemental control systems" or "stack height increases" as set forth at 41 FR 7460 (February 18, 1976).

4. *EPA has requested a SIP revision (or study).* Where EPA has found that a SIP is substantially inadequate to attain a NAAQS and has formally requested a SIP revision pursuant to Section 110(a)(2)(H)(ii) (or EPA has called for a study to determine the need for such a revision) the baseline for emission offset credit involving sources of the relevant pollutant will be the emissions resulting from the application of reasonably available control measures. The intent of this requirement is to prevent sources from receiving emission offset credit against an inadequate SIP and nullifying the gains that will be achieved through the required SIP revision. In effect, States should use the anticipated SIP revision as the baseline for emission offset credit until such time as the SIP is formally revised.

5. *Credit for hydrocarbon substitution.* EPA has found that almost all non-methane hydrocarbons are photochemically reactive and that low reactivity hydrocarbons eventually form as much photochemical oxidant as the highly-reactive hydrocarbons. Therefore, no emission offset credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity.

6. *No "banking" of emission offset credit.* Once an emission offset has been executed for a particular new source, there can be no leftover credit to "bank" for additional new source growth in the future. This "no banking" rule would not prohibit, however, the issuance of a single permit to cover more than one phase of a phased-construction project.[5] Similarly, for State-initiated emission offsets (see Part V.B.), several different sources may be allowed to construct as part of a general SIP revision, so long as the plans for each source are definite and such sources are specifically identified as the recipients of the emission offset credits in the SIP revision.

D. *Geographic area of concern.* In the case of emission offsets involving hydrocarbons or NO_x, the offsets may be obtained from sources located anywhere in the broad vicinity of the proposed new source (within the area of nonattainment, and usually within the same air quality control region). This is because areawide oxidant and NO_2 levels are generally not as dependent on specific hydrocarbon or NO_x source location as they are on overall area emissions. However, since the air quality impact of SO_2, particulate and carbon monoxide sources is site dependent, simple areawide mass emission offsets are not appropriate. For these pollutants, the reviewing authority should require atmospheric simulation modeling to ensure that the emission offsets provide a positive net air quality benefit. However, to avoid unnecessary consumption of limited, costly and time consuming modeling resources, in most cases it can be assumed that if the emission offsets are obtained from an existing source on the same premises or in the immediate vicinity of the new source, and the pollutants disperse from substantially the same effective stack height, the air quality test under Condition 4 in Part IV.A. above will be met. Thus, when stack emissions are offset against a ground level source at the same site, modeling would be required.

E. *Reasonable progress towards attainment.* As long as the emission offset is greater than one-for-one, and the other criteria set

[5] If any phase covered by the permit is for any reason not constructed, there would be no resulting credit to "bank."

forth above are met, EPA does not intend to question a reviewing authority's judgment as to what constitutes reasonable progress towards attainment as required under Condition 3 in Part IV.A. above. Reviewing authorities should bear in mind, however, that the control achieved through emission offsets can significantly assist the authorities in developing legally acceptable SIP's.

V. ADMINISTRATIVE PROCEDURES

The necessary emission offsets may be proposed either by the owner of the proposed source or by the local community or the State. The emission reduction committed to must be enforceable by authorized State and/or local agencies and under the Clean Air Act, and must be accomplished by the new source's start-up date.

A. *Source initiated emission offsets.* A source may propose emission offsets which involve (1) reductions from sources controlled by the source owner (internal emission offsets); and/or (2) reductions from neighboring sources (external emission offsets). The source does not have to investigate all possible emission offsets. As long as the emission offsets obtained represent reasonable progress toward attainment, they will be acceptable. It is the reviewing authority's responsibility to assure that the emission offsets will be as effective as proposed by the source. An internal emission offset will be considered enforceable if it is made a SIP requirement by inclusion as a condition of the new source permit and the permit is forwarded to the appropriate EPA Regional Office.[1] An external emission offset will not be accepted unless the affected source(s) is subject to a new SIP requirement to ensure that its emissions will be reduced by a specified amount in a specified time. Thus, if the source(s) does not obtain the necessary reduction, it will be in violation of a SIP requirement and subject to enforcement action by EPA, the State and/or private parties. The form of the SIP revision may be a State or local regulation, operating permit condition, consent or enforcement order, or any other legally enforceable mechanism available to the State. If a SIP revision is required, the public hearing on the revision may be substituted for the normal public comment procedure required for all major sources under 40 CFR 51.18. The formal publication of the SIP revision approval in the FEDERAL REGISTER need not appear before the source may proceed with construction. To minimize uncertainty that may be caused by these procedures, EPA will, if requested by the State, propose a SIP revision for public comment in the FEDERAL REGISTER concurrently with the State public hearing process. Of course, any major change in the final permit/SIP revision submitted by the State may require a reproposal by EPA.

B. *State or community initiated emission offsets.* A State or community which desires that a source locate in its area may commit to reducing emissions from existing sources to sufficiently outweigh the impact of the new source and thus open the way for the new source. As with source-initiated emission offsets, the commitment must be something more than one-for-one. This commitment must be submitted as a SIP revision by the State.

The provisions of Part IV.C.4. above remain applicable to State or community initiated emission offsets. Therefore, where EPA has found that a SIP is substantially inadequate to attain an NAAQS and has formally requested a SIP revision pursuant to Section 110(a)(2)(H)(ii) (or has called for a study to determine the need for such a revision), the resulting emission reduction may not be used as an emission offset.

VI. POLICY WITH RESPECT TO SECONDARY STANDARDS

The statutory attainment dates for the primary NAAQS have now passed or will pass very soon and cannot be administratively extended. Therefore, this ruling does not allow a new source to cause or exacerbate a primary NAAQS violation on the grounds that the SIP will eventually achieve the NAAQS (as may have been permitted in some cases before the statutory attainment dates).

The Act provides more flexibility with respect to secondary NAAQS's. Rather than setting specific deadlines, Section 110 requires secondary NAAQS's to be achieved within a "reasonable time." Under 40 CFR 51.13(b), a State may revise its SIP to provide extensions from its present secondary NAAQS deadlines. If, therefore, a State submits (and EPA approves) such a revision, a new source which would cause or exacerbate a secondary NAAQS violation may be exempt from the Conditions of Part IV.A. so long as the new source meets the applicable SIP emission limitations and will not interfere with attainment by the newly-specified date.

[FR Doc.76-37346 Filed 12-20-76;8:45 am]

[FRL 656-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Alabama: Approval of Plan Revision

On October 7, 1976 (41 FR 44194), the Agency announced as a proposed rulemaking, an implementation plan change which the State of Alabama had adopted and submitted for EPA's approval. Copies of the materials submitted by Alabama were made available for public inspection and written comments on the proposed revision were solicited. The purpose of the present notice is to announce the Administrator's approval of this revision. An evaluation of them may be obtained by consulting the personnel of the Agency's Region IV Air Programs Branch, 345 Courtland Street, Atlanta, Georgia 30308, or telephone 404/881-3286.

On August 20, 1975, the Administrator revised 40 CFR Part 51 by changing the emergency level for photochemical oxidants from 1200 $\mu g/m^3$ to 1000 $\mu g/m^3$, one-hour average. The Alabama Air Pollution Control Commission, on March 30, 1976, amended its regulation to reflect this change. The amendment was submitted for EPA's approval on April 23, 1976.

This revised emergency level for photochemical oxidants is hereby approved. These actions are effective immediately since they serve only to notify implementation plan changes already in effect under Alabama law and impose no additional burden to anyone.

Copies of the information submitted by the State are available for public inspection during normal business hours at the following locations:

Air Programs Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36104.

Public Information Reference Unit, Library Systems Branch PM-213, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

(Section 110(a), Clean Air Act (42 U.S.C. 1857c-5(a)))

Dated: December 14, 1976.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart B—Alabama

Section 52.50 is amended by adding paragraph (c)(15) as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

(15) Revised emergency level for photochemical oxidants (emergency episode control plan) submitted by the Alabama Air Pollution Control Commission on April 23, 1976.

[FR Doc.76-37347 Filed 12-20-76;8:45 am]

[FRL 657-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the Virgin Islands Implementation Plan

This notice announces approval by the Environmental Protection Agency (EPA) of a revision to the Virgin Islands Implementation Plan.

As requested by the Virgin Islands on August 16, 1976, the EPA has reconsidered its disapproval of the revised 12 V.I.R. & R. 9:204-26, "Sulfur Compounds Emission Control," subsections (a)(1), (a)(3), (b), (c) and (d) as they apply to the island of St. Croix. Receipt of this request was announced in the October 1, 1976 FEDERAL REGISTER at 41 FR 43421 which contains a full description of the proposed revision.

In the October 1, 1976 notice, EPA established a 30-day period for receipt of comments from the public on whether or not the proposed revision to the Virgin Islands Implementation Plan shhould be approved. No comments were received.

EPA has determined that approval of this proposed revision to the Virgin Islands Implementation Plan would not result in the contravention of any applicable ambient air quality standard. The proposed revision has been found to be consistent with current EPA policies and goals set forth by the requirements of section 110(a)(2)(A)-(H) of the Clean Air Act and EPA regulations in 40 CFR Part 51 and, therefore, is approved.

[1] The emission offset will therefore be enforceable by EPA under Section 113 as an applicable SIP requirement and will be enforceable by private parties under Section 304 as an emission limitations. EPA will publish notice of such emission offsets in the FEDERAL REGISTER.

ROBERT W. STRAUB
GOVERNOR

Environmental Quality Commission

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

MEMORANDUM

TO: Environmental Quality Commission DATE: October 13, 1978

FROM: Hearing Officer

SUBJECT: Hearing Report on September 19, 1978 Hearing re: "Emission Offset for the Medford-Ashland Air Quality Maintenance Area (OAR 340-30-100 and 30-110)"

SUMMARY OF PROCEDURE

Pursuant to public notice, a public hearing was convened in the Medford City Hall at 1:00 p.m. on September 19, 1978. The purpose was to receive testimony regarding adoption of an "Offset Rule for New or Modified Emission Sources".

SUMMARY OF TESTIMONY

Esther Jensen, Medford-Ashland Air Quality Advisory Committee stated that the Committee agrees with the Department's exemption levels for particulates of 5 tons per year, 50 pounds per day, and 10 pounds per hour. They do, however, "take strong exception" to the 50 tons per year exemption for Volatile Organic Compounds (VOC), "at least until the VOC study and control strategy for Medford is complete", because there is a "real urgency in establishing an immediate legal basis for the Department to deny permits for new or expanding sources of volatile organic emissions over 20 tons per year unless the applicant complies with offset requirements."

The committee also noted that VOC limits should include 200 pounds per day and 10 pounds per hour, to meet the standards of the Federal rule.

The committee does not agree with that portion of the rule that allows a source to reduce its emission level and, when expansion is definite, "bank" for a new source.

Patricia P. Kuhn, Medford-Ashland Air Quality Advisory Committee stated that the following questions "need fully responsive answers" before adoption of OAR 340-30-115. Not included in the Department's original proposal or its letter of July 28, was any consideration of the concept of "banking". Any manipulation or deviation from the Federal regulation raises very serious questions about the banking concept:

Contains Recycled Materials

1. What suddenly gives either industry or the Department ownership rights to the Medford-Ashland airshed?

2. Would banking not open up the possibility of monopoly ownership of the air by a dominant corporation or industry?

3. Would banking not weaken the Department's power to meet its responsibility for attaining and maintaining clean air through the issuance of emission permits? The banking concept essentially gives to a polluting industry control over the issuance of permits.

4. How can the Department even consider legalizing banking in direct contravention of Federal regulations, and in an area which is in worse shape than any other in the State?

5. Does not the banking concept change heavily polluting emissions from the liability they represent, into a valuable, salable asset?

Eleanor Bradley, Medford-Ashland Air Quality Advisory Committee testified that she would like to see the concept of banking taken out of OAR 340-30-115. She also would like to see the exemption point recommended by the Advisory Committee adopted and "the level be reviewed when permanent control programs covering volatile organic compounds have demonstrated their adequacy to do the job."

Martin Craine, Southern Oregon Timber Industries Association testified that making air quality standards in Oregon more stringent than Federal standards is discrimination against small wood products operations. He would like the rule revised to adhere to Federal standards.

Dorothy Warnick, League of Women Voters of the Rogue Valley stated that even with imposed controls, there have been a large number of exceedences for particulates in the Medford-Ashland AQMA and unless stringent regulations and levels are set, the same could occur for oxident levels.

Gary Grimes, SWF Plywood Company stated that an emissions offset policy should be set uniformly for all AQMA's in Oregon and should be done by the legislature. Mr. Grimes noted that with the concept of banked emissions, the Department is attempting to supercede the Federal rule. He also stated that the Federal Rule was promulgated in 1976 and the Clean Air Act was amended in August of 1977. This dual regulation approach is confusing now, and will become even more confusing as future changes are made to the Federal interpretive ruling.

Mr. Grimes would like to have "physical change" and "method of operation" defined under "modified source" in proposed rule 340-30-010(17) as they were in the June 14, 1978 draft. The Volatile Organic Compound inventory and strategy are not complete for Medford and there is a proposed rule

scheduled for hearing in October concerning Volatile Organic Compounds. The VOC definition in that rule does not coincide with the definition in the present rule. Mr. Grimes wishes the definition for VOC to be changed in this rule. He also feels that the Department is deterring replacement or updating of process and/or emission control equipment operation by including "or any source" and "or any other reason" in the definitions of "new source" and "modified source" in 340-30-110(2).

Mr. Grimes would like the state standards for Particulates and Volatile Organic Emissions set at the same level as the Federal standards.

R.L. Carsten, Georgia-Pacific Corporation, White City stated that the proposed offset regulations which give the DEQ approval over the issuance of offsets and their use is beyond the intent of the Clean Air Act. He said the issuance of offsets to new or expanded industry by DEQ represents a stranglehold on future growth and expansion in the Rogue Valley. He maintains that industries will not be willing to invest extra funds to reduce emissions below present standards and, as a result, total emissions will be greater. Mr. Carsten also feels the banking provision in the proposed rule is unreasonable because it is to be used only for a special purpose within a specific time limit.

Lynn Newbry, Medford Corporation stated that this rule, if adopted, "will have a long range impact on the future growth of the most populated areas of Oregon, with only one hearing . . .without the active participation of the responsible decision makers."

Mr. Newbry also stated that, being a legislator for 14 years, in his opinion "a policy decision having as sweeping an effect on the economic well-being of the state as this would take up untold hours of hearing in the committees of each house, professional bill writers would be involved, constitutional questions would be satisfied and even with all this, such a policy decision might not be made in one session. Knowing these things gives me considerable personal concern with the speed being followed in this instance. As a matter of fact, I'm not sure but what this particular policy deserves legislative consideration."

Mr. Newbry feels that the "offset" rule should be one rule for all present and future AQMA's. He also believes that the offset limits should not be lower than the Federal standards with the exception of emissions. Also, Mr. Newbry feels that ambient air quality standards will be achieved in the AQMA without the requirement that worn out equipment be replaced with equipment meeting lowest achievable emission rates.

Mr. Newbry stated that the provision for banking, as proposed in this rule, deters industry from reducing their emissions, unless the Department has approved expansion and a time limit is imposed. He states that proposed OAR 340-30-110 is too strict and should be set at the ten ton level to be consistent with AQMA rules.

Mr. Newbry does not think that offset requirements for Volatile Organic Compounds should be set until a control strategy is developed for this contaminant.

"We would suggest that a general rule applying to the state as a whole be promulgated incorporating all of the document entitled the Interpretive Ruling for Implementation of the Requirements of 40 CFR 51.18 as published on pages 55528-29-30 of the Federal Register December 21, 1976. We would further suggest that a simple rule requiring an off-set for any new or modified source, as defined in the interpretive ruling, for particulate matter (TSP) in excess of 10 tons per year, be established for the Medford-Ashland A.Q.M.A."

Wallace N. Cory, Boise Cascade Corporation, Boise, Idaho testified that the model used to project particulate emission impacts for the Medford-Ashland AQMA was not calibrated correctly. Mr. Cory would also like the offsets to be retained or transferred by the "owner" company. Mr. Cory feels VOC offsets are premature and he also asked how the mechanics of offsets would work.

Thomas C. Donaca, Associated Oregon Industries requested that the definition of "modified source" in proposed rule 340-30-010(17) conform to the definition of "modified source" in the proposed VOC rule. He believes this proposed definition should be expanded because it is very important to the meaning of proposed rule 340-30-110(1) & (2). He stated that under proposed rule 340-30-110(a) through (d), if a company changes ownership, undertakes routine maintenance, increases production, etc., the company is required to meet LAER regardless of "whether or not the source is operating within standards and in conformance with existing permits."

Mr. Donaca would also like the state to raise the VOC offset limits to conform with the federal standards of 100 tons per year. He also requested that the banking procedures in the rule be studied and companies be made equal before adoption so that one company does not have an advantage over another.

In proposed rule 340-30-115, Mr. Donaca wants the qualifying words "limited time" and "specific purpose" deleted, or generalized more.

E.D. "Debbs" Potts, State Senator, District 25 testified that an interim rule should be adopted to closely follow the federal requirements and then the Legislature should review and enact the final standards as law.

Lenn Hannon, State Senator, District 26 would like the offset limitations set at the federal standards of 100 tons per year and Legislative review and promulgation.

Other Testimony Received by Letter

Doug Larkins, Co-Broker, OAR Environmental Committee, Chairman, West Coast Realty, Eugene, Oregon - See Attached.

C.X. Heffner, KOGAP Manufacturing Company, Medford, Oregon - Feels that the offset rules should conform statewide; that the federal standard of 100 tons per year should be used instead of the 50 tons per year; and that the definition of "new source" should be changed as follows:

"a. A physical change of a source shall not include routine maintenance, repair, and replacement.
b. A change in the method of operation shall not include an increase in the productions rate, if such increase does not exceed the operating design capacity of the source.
c. Shall not include the use of an alternative fuel or raw material.
d. Shall not include the change in ownership or a source."

Mr. Heffner would like the definition of Volatile Organic Compounds in this rule to conform to the definition in the proposed Volatile Organic Compounds rule scheduled for hearing in October.

Last, he suggested that the offsets a company acquires should remain in their possession.

Gordon H. Dotson, Vice President & General Manager, Medford Industrial Park, White City Corporation, White City, Oregon believes that the banking concept as proposed in this rule is unfair to those companies that make an effort to reduce emissions and to those that have already reduced their emissions prior to this rule's adoption.

RECOMMENDATIONS

Your Hearing Officer has no recommendations.

Respectfully submitted,

Peter W. McSwain

Peter W. McSwain
Hearing Officer

TS:km

Attachments

Oral and written testimony was offered by:

Esther Jensen, Medford-Ashland Air Quality Advisory Committee Member
Patricia P. Kuhn, Medford-Ashland Air Quality Advisory Committee Member
Eleanor Bradley, Medford-Ashland Air Quality Advisory Committee Member
Martin Craine, Secretary-Manager of the Southern Oregon Timber Industries Association
Dorothy Warnick, President of the League of Women Voters of the Rogue Valley
Gary Grimes, Director, Energy and Environmental Affairs for SWF Plywood Company, a subsidiary of Southwest Forest Industries
R.L. Carsten, Resident Manager, Georgia-Pacific Corporation
Lynn Newbry, Public Affairs Director for Medford Corporation
Wallace N. Cory, Environmental Manager, Timber and Wood Products Group, Boise Cascade Corporation, Boise, Idaho
Thomas C. Donaca, Associated Oregon Industries
E.D. "Debbs" Potts, State Senator, District 25.

Oral Testimony was given by:

Lenn L. Hannon, State Senator, District 26

Testimony received in written form only:

Doug Larkins on behalf of OAR Environmental Committee, West Coast Realty
C.X. Heffner on behalf of Kogap Manufacturing Company Gordon H. Dotson on behalf of White City Corporation

REALTOR®

West Coast Realty

484-2091 379 COBURG ROAD EUGENE, OREGON 97401

July 27, 1978

RECEIVED
JUL 31 1978
DEPT. OF ENVIROMENTAL QUALITY

Mr. Dave Gemma
Dept. of Environmental Quality
522 S.W. 5th Avenue
Portland, Oregon 97204

Dear Mr. Gemma,

I am somewhat concerned with several of the items being considered at the EQC. Public Hearing in LaGrande Friday July 28, 1978.

Specifically the proposed amendments to the Oregon Clean Air Act implementation plan - and the offset rules requiring any air pollution source wishing to locate facilities in the Medford Airshed to reduce pollution discharge from other sources in the area equal to their estimated discharge rate before they would be able to begin operation.

As the Oregon Association of REALTORS Environmental Committee, Chairman I have questioned this particular rule and it seems (without background knowledge on my part) to have placed a limit of pollution at todays level and unless some other source fails their will be no possibility of a polluter (industry) to enter the Medford area, and more importantly it also seems to place the burden of reducing pollution on those entering the area(who have no control of) those existing polluters.

Please forward background material of reasons for considering this rule and note my concern in the record.

Thank you,

Doug Larkins
Co-Broker
OAR Environmental Committee, Chairman

DL/tk

ROBERT W. STRAUB
GOVERNOR

Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. G, November 17, 1978, EQC Meeting

Noise Control Rules - Consideration of Adoption of Proposed Amendments to Noise Control Regulations for New Automobiles and Light Trucks, OAR 340-35-025

Background

Oregon Revised Statute Chapter 467 directs the Environmental Quality Commission to establish maximum permissible levels of noise emissions. In 1974 the Commission adopted noise standards and associated procedure manuals for new motor vehicles. These standards began at a regulatory level of 83 dBA for 1975 models, 80 dBA for model years 1976 through 1978 and 75 dBA for subsequent models.

In June, 1976 the Department received a petition from General Motors Corporation to amend OAR 340-35-025, Noise Control Regulations for the Sale of New Motor Vehicles. This petition proposed to delete the 75 dBA requirement for passenger cars and light trucks that was scheduled to be effective for 1979 and subsequent models. After public hearings, the Commission adopted an amendment that did not rescind the 75 dBA standard but postponed its implementation two years, until 1981.

In May, 1978 General Motors again petitioned to amend Noise Control Regulations to delete the 75 dBA standard, now scheduled to be effective for model years after 1980.

A public hearing to consider the General Motors petition was authorized by the Commission at its June 30, 1978 meeting. This hearing was held in Portland on October 10, 1978. Testimony was presented by representatives of the motor vehicle industry and other interested parties.

Statement of Need for Rule Making

1. The proposed rule may be promulgated by the EQC under authority granted in ORS. 467.030.

2. New automobiles and light trucks significantly contribute to excessive environmental noise levels in Oregon.

Contains Recycled Materials

3. Principle documents relied upon in considering the need for this rule include:

   a) Petition for Rule Amendment, submitted by General Motors Corporation dated May 19, 1978.

   b) Hearing Report: October 10, 1978, Public Hearing on Petition to Amend Noise Control Regulations.

   c) "Determination of Urban Acceleration Rates for Light Vehicles", Environmental Activities Staff, General Motors Corporation.

   d) "Manual Transmission Shift Point Study", Environmental Activities Staff, General Motors Corporation.

   e) "Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety", U.S. EPA, March 1974.

   f) "Transportation Noise and Noise from Equipment Powered by Internal Combustion Engines", U.S. EPA, December 31, 1971.

   g) Other materials entered into the record of the October 10, 1978 public hearing.

Evaluation

In 1971 California adopted new vehicle standards for automobiles and light trucks to meet progressively tougher standards over a 15-year period. By 1977 the requirement would have been 75 dBA and by 1987 a 70 dBA standard was to be met. Many other states and some local governments followed California by establishing similar standards. However, in the last few years the major automobile manufacturers, specifically General Motors and Ford Motor Company, have successfully persuaded regulatory agencies, local governments, and state legislators that any standard below 80 dBA was not needed.

At this time the few remaining jurisdictions with standards more restrictive than 80 dBA are Florida with 75 dBA by 1985, Maryland with 77 dBA by 1982, and Chicago with 75 dBA by 1981.

The major points made by the automobile industry representatives at the October 10, 1978 hearing were as follows:

   a) The current "wide-open throttle" compliance test procedure does not correlate with real traffic conditions.

   b) The costs to achieve the 75 dBA standard are greater than any environmental benefit.

   c) The Federal EPA is currently studying this product and may preempt state and local regulations by 1982 or possibly 1983.

Other issues raised by the industry were:

a) Motor vehicle noise is caused by in-use vehicles with defective or modified exhaust systems.

b) The national energy goal to meet fuel consumption standards supersedes vehicle noise standards as the noise control package adds excessive weight.

Issues raised by non-industry testimony and supportive of the existing 75 dBA standard were as follows:

a) Noise reductions gained under the present compliance test procedure are reflected in real traffic situations.

b) Median noise levels near many urban streets are in excess of ambient limits established for commercial and industrial noise sources. Autos and light trucks are accountable for these high levels and should share the burden to achieve protective ambient noise levels.

c) The motor vehicle industry should be held to the two-year "compliance schedule" granted during its 1976 petition on this matter. Industry did not consider the extension as a schedule but only as a delay.

Since the receipt of the General Motors petition, staff has been reviewing the large amounts of test information that GM believes supports its petition. It is obvious there are some deficiencies in the present compliance test procedure and the industry and the federal government have been working to develop new procedures. The federal EPA, after two years of development, is ready to publish a proposed procedure. General Motors has not yet proposed a new procedure. The European Common Market countries have developed a new procedure, however, it has not been proposed for adoption.

The present test procedure is most accurately described as a method to measure the maximum noise capacity of the vehicle at relatively low speeds (to eliminate the effects of tire generated noise). Thus, this procedure is not designed to measure real traffic or "real world" situations. It does provide a method to accurately compare one vehicle with another and measure the noise capabilities of each.

Industry contends that this method discriminates against some classes of vehicles in real traffic situations. For example, an automobile with a large engine and relatively low weight (high horsepower to weight ratio) seldom operates at or near the conditions required during the compliance test, and may be "over soundproofed."

Industry contends that the conditions under which the vehicles are certified are seldom duplicated in real traffic situations, however, it has not proven that there is no correlation between the compliance test and typical urban traffic operations. In 1972 Ford Motor Company conducted a demonstration with three vehicle classes--a compact, a full sized car, and a pickup truck.

Ford brought to Portland current production models meeting the 80 dBA standard and retrofitted models that were quieted to achieve the 75 dBA standard. Although the ideal difference between the 80 and 75 decibel models should have been 5 decibels (80-75) during a compliance test, the measured values ranged from approximately 3 to over 6 decibels.

A second test typical of urban accelerations was also performed to provide correlative data.

The quiet (75 dBA) compact vehicle was 3.7 dBA quieter in the compliance test and 3.1 dBA quieter in the typical acceleration test than its 80 dBA counterpart. The pickup data showed a compliance test difference of 6.5 dBA and a typical acceleration difference of 4.5 decibels. The full size car data was not as impressive; the compliance test difference was 4.2 dBA and typical acceleration difference was 2.4 decibels. In a percentage form, these data show the following correlation between the compliance test and the typical acceleration test for these vehicles:

Compact	84%
Pickup	69%
Full Size	57%

The Cost of Control

The petitioner has stated that the public would not pay added costs for quieter vehicles that the industry has estimated at approximately $10 to $260 for automobiles and light trucks. Data from a Florida survey was offered in testimony as an indication that the public would not support noise control efforts. The survey in fact showed that the average citizen polled favored having approximately 3 of his tax dollars spent on noise control. The most recent statistics available indicate that the Florida noise control program receives less than $.02 for every citizen in the state. It should be noted that Florida has one of the most active noise control programs in the nation.

The Federal Role

Part of the motor vehicle manufacturing industry's argument for the deletion of tougher standards is that these products should be regulated at the federal level and that EPA is moving toward the adoption of preemptive standards for automobiles and light trucks.

While it is true that EPA regulations in this area would be preemptive, EPA is moving slowly on the path toward establishing standards for light duty vehicles. It has been investigating the health and welfare impacts of noise produced by these products since 1975 and has been developing a compliance test procedure since early 1977. When the Commission heard General Motors Corporation's petition in 1976, the industry believed that federal standards would be adopted and applicable to model years 1980 or 1981. Now the industry estimates that the earliest federal standards might become effective will be 1982 or 1983.

EPA's role in the regulation of automobiles and light trucks has been cautious. It has not yet identified this vehicle class as a "major noise source" because that would initiate the rule adoption timetable that it must maintain by law. EPA has expended much effort toward the development of a better compliance test procedure, but this process has been slow. It is doubtful that a procedure will be accepted in the near term, although EPA is now prepared to ask for comments on a proposed procedure.

EPA has determined some significant facts in its investigation of light vehicles:

a) The major deficiency of the present test procedure is that it fails to properly rank vehicles according to typical urban traffic operation conditions. It does properly rank vehicles by noise producing capability.

b) Sub-compact and diesel powered cars and light trucks are the major contributors to real world traffic noise due to their low power to weight ratio.

c) Many current model vehicles, measured during the compliance test procedure, emit levels of 75 dBA or less.

It is anticipated that increasingly stringent fuel economy standards will alter the composition of the light motor vehicle fleet. Gasoline V8 engine equipped cars currently comprise 56% of the current market, but these vehicles will represent no more than 18% of the total by 1985. Conversely, the percentage of diesel and 4-cylinder vehicles will double.

Diesel and 4-cylinder vehicles are approximately 5 dBA and 7 dBA, respectively, noisier than the average V8 engine vehicle when compared during a typical acceleration, and 1 dBA and 3 dBA noisier during cruise.

An EPA conducted test of representative 1977 model vehicles demonstrated that over 80% of the 76 vehicles tested would pass the 75 dBA test without any modification. Of those vehicles in excess of 75 dBA, nearly half (40%) were 4-cylinder.

EPA tests indicated that engine radiated noise in diesels and 4-cylinder vehicles was a significant contributor during the compliance test, and that engine radiated noise was the primary noise source during typical acceleration and cruise conditions. This indicates that until engine noise is more effectively controlled, the compliance test is an effective indicator of the noise that 4-cylinder vehicles will produce under typical operating conditions.

It appears that the 4-cylinder and diesel vehicles should be the focus of our interest. These vehicles are rapidly becoming the dominant segment of the "on-road" population, and they make more noise in all modes of operation than the vehicles they are replacing. Finally, 4-cylinder and diesel vehicles yield an acceptable correlation between the compliance test and typical urban driving.

New vs. In-Use Control

The ambient noise levels measured near streets and roads in terms of "median" and "average" noise descriptors are not greatly impacted by those relatively few excessively loud vehicles. To achieve reductions in ambient noise near these traffic corridors, all vehicles must become quieter, and the light duty vehicles (due to their high volumes) are responsible for most of the noise that makes up the average ambient noise level.

The fact remains that motor vehicles significantly contribute to the ambient noise measured near streets and roads. The standards established for industrial and commercial noise sources are believed to achieve acceptable noise levels at noise sensitive uses, but near many streets and roads the noise caused by traffic is in excess of these desirable ambient levels.

Testimony was presented by an engineering consultant that calculated the effects of light duty vehicle noise on a typical heavily traveled arterial. The calculated distance from the road at which the median noise level equalled 55 dBA was 400 feet. However, if the light duty vehicle source strength were reduced by an amount gained under the 75 dBA standard, the distance to the 55 dBA point would move toward the road 200 feet. Thus, all noise sensitive property between 200 feet and 400 feet from the road would be brought within acceptable ambient noise levels.

The question of energy consumption was not fully addressed by the industry. Although noise controls would tend to add weight to the vehicle and therefore raise its fuel consumption, no quantitative data has been submitted for evaluation.

Summation

Drawing from the background and evaluation presented in this report, the following facts and conclusions are offered:

1. The present light duty vehicle compliance test procedure, although not reflective of real traffic conditions, is an acceptable method to establish noise standards that effectively reduce "real world" traffic-caused noise.

2. The development of a new test procedure may more effectively identify vehicles needing additional noise controls, however such a procedure has not been proposed or fully developed.

3. Motor vehicles, specifically light duty vehicles, are responsible for establishing the median ambient noise level near major traffic corridors. The noise levels at noise sensitive properties near these streets and roads are often in excess of standards with which industrial sources must comply.

4. Implementation of the 75 decibel standard could reduce impacted land by as much as one-half near major traffic corridors.

5. EPA is slowly moving toward the adoption of standards for light duty vehicles, but it may fail to identify this category as a major noise source if state and local standards are continued to be rescinded.

6. The U.S. Environmental Protection Agency should exercise its authority to regulate the noise emissions of new light motor vehicles nationwide to ensure consistency of regulation, fairness to the automotive industry, and meaningful protection of the public from the effects of motor vehicle noise.

Director's Recommendation

Based on the Summation, it is recommended that the effective date for the 75 dBA noise level for automobiles and light trucks be amended from "models after 1980" to read "models after 1982."

Bill

WILLIAM H. YOUNG

John Hector:dro
229-5989
10/16/78

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ROBERT W. STRAUB
GOVERNOR

Environmental Quality Commission

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

To: Environmental Quality Commission

From: Hearing Officer

Subject: Hearing Report: October 10, 1978 Hearing Regarding Proposed Amendments to Noise Regulations

Background

DEQ Noise Regulations, OAR 340-35-025 Table A, specify in part that new automobiles and light trucks of model years 1976-1980 shall not exceed 80 dBA when measured according to the SAE J987a test. Model years subsequent to 1980 shall not exceed 75 dBA.

When Noise Control Regulations for new automobiles were first adopted in July 1974, the 75 dBA requirement was to apply to model years after 1978. Before adoption, General Motors Corporation filed a statement commenting on the proposed rules, and criticizing the 75 dBA standard.

In 1976 General Motors petitioned the Commission to amend the rules to delete the 75 dBA standard, and the Commission subsequently amended the rule to defer the effective date of the 75 dBA requirement until model year 1981.

On May 19, 1978, General Motors petitioned the Commission for a further amendment and deletion of the 75 dBA standard.

Summary

Pursuant to Commission authority, a public hearing was held on the proposed rule amendment on October 10, 1978, in the Commission Room of the Fish and Wildlife Building, 508 S.W. Mill, Portland, Oregon. Approximately 15 persons attended the hearing, and both written and oral testimony was offered. Some written testimony was received shortly after the hearing.

Summary of Testimony

Representatives of General Motors, Ford, and Chrysler were present at the hearing and presented written and oral testimony. The comments immediately following can be ascribed to each of those representatives.

Bruce Greig, GM; John Damian, Ford; A. E. Davis, Chrysler

The SAE test procedure requires the throttle of the subject vehicle to be "rapidly and fully opened" during the sound level measurement. Motor vehicles are driven wide open throttle less than .5% of the time. The SAE test is not

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meant to measure the actual noise the motor vehicle contributes in the real traffic environment, and using this test as a measure of environmental noise contribution is not valid.

There is no measurable difference in the sound levels of vehicles emitting 80 dBA during the SAE test and vehicles emitting 75 dBA during the SAE test when those vehicles are in typical operating modes. The sound levels of these vehicles during typical operating modes is well under the 75 dBA limit scheduled for 1981.

If the 75 dBA standard remains, manufacturers will have to build special vehicles to meet the Oregon requirements. The Oregon vehicles will cost substantially more (Ford estimates an increase of $76 for passenger cars), some options will not be available, and some models might not be offered within the state.

Oregon is the only state that retains a 75 dBA standard for 1981. California has deleted the 75 dBA requirement entirely, and Florida has postponed its 75 dBA requirement. Other states and cities have followed suit.

The U.S. EPA may subject cars and light trucks to federal regulation, which would preempt all state and local regulations. The EPA is presently investigating other test procedures that may more accurately reflect the noise output of a car as it is typically operated.

There is now considerable ongoing research relative to community noise measurement. It would be inappropriate to institute more stringent standards than those presently being met before some of these studies are completed.

Further Comments by Bruce Greig, General Motors

The SAE test measures the sound output of vehicles at maximum engine speeds. A General Motors study shows vehicles are typically operated at 55-60% of rated engine speeds.

A study of the shift speed of vehicles with manual transmissions showed that the mean 1-2 shift speed was 60-70% of rated engine speed. (Fifty-five to sixty percent for automatic transmissions.) The engine speeds and sound levels for manual transmissions are still well below those generated using the regulatory test.

An attitudinal study conducted in Florida shows 93% of the citizens do not think more than 10 of their tax dollars should be spent on noise control.

With the 75 dBA standard, tire noise will become a more significant factor in overall vehicle noise, and a number of popular tread styles would have to be withheld from the Oregon market.

There will be a larger population of subcompact and diesel vehicles in the future to meet federally mandated fuel economy standards. It is more difficult to reduce noise levels on these vehicles and under certain conditions they will be noisier, but the overriding national priority for automobiles is fuel economy.

Annoyance from noise of motor vehicles can best be reduced by in-use enforcement. Data from California and Florida shows that modified, defective, and otherwise inadequate exhaust systems constitute the majority of vehicles cited (84% in Florida; virtually 100% in California). Reducing the wide open throttle sound levels of new passenger vehicles would not change the impact of modified or defective vehicles.

Further Comments by John Damian, Ford

Ford has constructed a number of prototype motor vehicles designed to meet 80 dBA and 75 dBA standards. As a result of tests performed with these vehicles, Ford concluded that the 75 dBA standard would not result in meaningful community noise reductions. These prototype vehicles were displayed for DEQ staff in April, 1976, and testing by DEQ staff was permitted.

No reliable assessments indicate that 80 dBA adversely affects community noise levels, thus a lower standard is inappropriate.

Merle Royce, Manager, Georgia Pacific Truck Division

Mr. Royce concurred with previous testimony of General Motors, Ford, and Chrysler. He stated that a required 2 dBA decrease for trucks implemented at the first of last year increased overall cost of trucks by 1% and no noticeable noise reduction occurred.

Glen Odell, Seton Johnson and Odell, Inc.

The SAE test provides a reasonable common basis for the evaluation of mechanical noise. Industry's contention that the proposed reduction for the SAE test will result in no significant difference in other operational modes is based on comparisons between different models, not differently equipped versions of similar models.

There was no test data presented on the noise characteristics of cars modified to meet a 75 dBA standard. The EQC should demand more authoritative data before amending its rules. DEQ staff was not allowed to test all of the modified cars Ford used in its April 1976 demonstration. Subjective evaluation by Tom Arnold, chief acoustical consultant for Seton Johnson and Odell, during the Ford demonstration was that the cars modified to meet the 75 dBA standard were noticeably quieter.

A 5 dBA reduction by the SAE test method will result in an average reduction of source strength of 4 to 4.5 dBA for vehicles operating under 35 mph.

In 1984, Cedar Hills Boulevard will carry 1300-1900 vehicles per hour during the daytime, and will produce L_{50} noise levels of 63-65 dBA 100 feet from the edge of the paving. Anyone within 400 feet of the roadway would be exposed to excessive noise levels according to DEQ industrial and commercial source standards. A reduction of source strength of 4-5 dBA would reduce to 200 feet this excessive noise exposure area.

If ambient standards have any value they must be enforced with respect to all sources. To enforce strict standards against industrial and commercial sources while ignoring the automobile is grossly unfair.

The City of Portland allows purchase of products with reduced noise characteristics if those products are 110% of the cost of similar, non-reduced noise products. According to this standard, the added cost attributable to the 75 dBA vehicles is not unreasonable.

Kirk Roberts, OSPIRG

A presumption of validity should be given to established standards until independent studies are carefully studied. Data obtained and presented by the industry should be questioned, if not held suspect.

The control emphasis on new rather than in-use vehicles is reasonable because the new vehicles can be more easily controlled. The argument that the industry is locked into long-term plans and re-tooling dates flys in the face of DEQ as regulator of the industry.

Mr. Roberts was not convinced that the cost attributed to the 75 dBA vehicles would be excessive, nor did he feel that the fact that Oregon is the only state with a 75 dBA standard for 1981 should be held against it.

Molly O'Reilly

Two years ago DEQ granted an extension to the auto industry but did not require a compliance schedule for meeting the 75 dBA standard. Testimony indicated that present plans for re-tooling and production do not include an expectation of meeting the 75 dBA standard. Ms. O'Reilly would suggest that if further variance is given, a compliance schedule be required of the auto manufacturers.

Thomas Fender

ORS 483.449 (1)(c) is in substantial conflict with the proposed rule. The statute limits the Department to the establishment of "equivalence ratings" for the near field techniques. It is Mr. Fender's opinion that statutory interpretation and construction would render the proposed rule invalid.

K. H. Faber, Mercedes Benz of North America

Mercedes Benz agrees that more noise reduction should be accomplished to create an environment with the least possible adverse effect on the public. The test procedure presently used, however, is not suited to maximum noise reduction. Experience has shown that the test used for certification in Oregon is atypical for a city driving pattern and thus atypical for real noise emission in cities.

A lower standard will mainly affect high-performance vehicles with good acceleration. In typical city driving these vehicles are very quiet because the needed acceleration can be obtained while the vehicle is operating in the lower part-load range.

The first task before lowering any standard should be the development of an appropriate test procedure.

A study by the Committee of Common Market Automobile Constructors shows that only 2% of the usual driving in European city traffic is full throttle

acceleration. This study resulted in a proposal for a new test procedure for manual transmission vehicles. A proposal for automatic transmission vehicles will follow. A new procedure would yield better results and a better cost/benefit ratio.

N. A. Miller, International Harvestor

International Harvestor supports the General Motors petition. IH is a limited production manufacturer of a four-wheel drive sport utility vehicle (scout) and does not have the ability to develop advanced noise reduction technology and remain competitive in the market. If the 75 dBA requirement were to be continued, IH may discontinue sale of the scout in Oregon. Anticipated sales for 1981 are 1000 units and would represent a sizeable loss to franchised IH dealers in Oregon.

Edwin Chestnut

Mr. Chestnut submitted testimony stating that he felt further noise reductions from 80 to 75 dBA would incur excessive costs for the public while providing no appreciable public benefit.

Dietmar K. Haenchen, Volkswagenwerk Aktiengesellschaft, Audi Auto Union Ag, and Volkswagen of America, Inc.

Mr. Haenchen provided a letter stating that the above companies support the deletion of the 75 dBA standard because a wide open throttle noise reduction would result in little if any change in the noise emitted during normal vehicle operation.

Comments by Charles Elkins, Environmental Protection Agency

It is not true that light vehicles with stock exhaust systems in good repair are not a problem. These vehicles contribute about one-fourth of urban traffic noise energy.

Four-cylinder and diesel light vehicles are 5 dB and 7 dB noisier during typical acceleration and 1 dB and 3 dB noisier during cruise than average V8 gasoline engined automobiles. The 4-cylinder and diesel vehicles are expected to increase from the current 25% of the auto market to about 50%.

Vehicles exhibiting similar sound levels as measured by the full throttle test procedures do not necessarily contribute equally to community noise.

Small 4-cylinder and diesel engine vehicles have a significant amount of engine radiated noise under full throttle acceleration, and engine radiated noise is generally dominant under partial throttle acceleration. Thus, treatment of the engine radiated noise to reduce the vehicle's noise level under a full throttle noise test could bring about even greater benefits under more typical operating conditions.

Mr. Elkins's submitted testimony also included a detailed discussion of the EPA's proposed test procedure.

The following documents are of record and available to the Commission for further study.

Three attachments to the Ford testimony discuss the nature and scope of research presently ongoing under the auspices of the U.S. EPA to assess tire noise in relation to total community noise. Bolt Beranek, and Newman is the contractor for this project.

Two attachments to the Ford testimony discuss research carried out at McMaster University, entitled "Community Response to Road Traffic Noise." These documents, prepared with Ford support, question the assumptions that:

1) Community reaction to noise does not vary significantly across noise sources, and

2) The degree of annoyance one experiences may not be directly related to noise levels.

Attachments to General Motors testimony document research performed by GM. They are entitled:

1) Manual Transmission Shift Point Study

2) Determination of Acceleration Rates for Light Vehicles

These studies address the RPM levels at which vehicles typically operate, and the rates at which vehicles typically accelerate in an urban environment. The conclusions made by the researchers were cited by General Motors in its written testimony.

An attachment to Mercedes Benz testimony is entitled, "Proposals for a New Test Procedure for the Measurement of Exterior Noise of Passenger Cars."

This document offers test data to show that noise emissions from cars are a function of engine power and engine RPM. The document concludes that the ISO test (a European, "maximum noise potential" test) should be replaced by a procedure in which the regulatory level is determined by a weighted average of sound levels produced during cruise conditions and acceleration conditions. These two levels, in turn, are determined from an operational profile of that particular automobile model.

Written rebuttal to Mr. Glen Odell's testimony has been received from General Motors Corp., Ford Motor Co., and International Harvestor. Copies of the rebuttal are attached.

Recommendation

Your Hearing Officer makes no recommendations in this matter.

Respectfully Submitted,

Peter McSwain

Peter W. McSwain

INTERNATIONAL HARVESTER

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Noise Pollution Control

October 13, 1978

Mr. John Hector
Supervisor
Noise Control Program
Department of Environmental Quality
1234 S.W. Morrison
Portland, Oregon 97205

Dear Mr. Hector:

This letter is a rebuttal to the testimony given on October 10th by Seton, Johnson, and Odell, Inc. concerning Proposed Revisions to Noise Regulations. Mr. Odell, who testified, has blatantly misrepresented available and public information and drawn totally erroneous conclusions.

The conclusion that "The SAE test procedure which is specified by EQC rules is a valid measure for urban conditions" is contrary to all data presented in Oregon, other states, and to the U.S. EPA concerning the subject of passenger car noise test procedures. If the SAE Test Procedure had been valid for urban traffic conditions, U.S. EPA would have selected it as opposed to the multi-million dollar project conducted by them to evaluate and develop an urban acceleration test procedure. I believe that Mr. Odell has confused wide open throttle operation with maximum engine speed. Wide open throttle is required by both SAE and the EQC Test Procedures, and wide open throttle is not representative of how passenger cars are driven under urban conditions.

Secondly, the contention that "The reduction from 80 to 75 dB(A) will result in an important environmental improvement in most urban areas" is erroneous and not supported by any of the information provided by Mr. Odell. The data presented by Ford and measured by DEQ at the demonstration in 1976 conclusively demonstrated that the measures required to reduce the wide open throttle noise level from 80 to 75 dB(A) had little effect on noise during the typical urban acceleration (.15G). It must be realized that vehicles meeting the 80 dB(A) limitation under wide open throttle conditions, emit noise levels of less than 65 dB(A) at 50 ft. under normal or urban accelerations (see Ford data from 1976 demonstration). There are a large number of passenger cars, but reduction beyond an impact of 65 dB(A) would have very little effect on the overall community noise level. The much higher levels of other sources, such as construction equipment, buses, motorcycles, aircraft, tires and trucks, mask the low noise levels of passenger cars. As an "acoustical expert", Mr. Odell must be familiar with the masking effect of sound levels.

TRUCK GROUP ENGINEERING 2911 Meyer Road Fort Wayne, Indiana 46803 Phone 219 461-5128
Address reply to P.O. Box 1109 Fort Wayne, Indiana 46801

Thirdly, the allegation that "It is grossly unfair and inequitable for Oregon to continue to enforce stringent noise regulations on industrial and commercial sources and ignore the most pervasive noise source in urban areas, the automobile" is not supported. U.S. EPA has, of yet, been unable to identify passenger automobiles as a major noise source and, therefore, has not been able to justify the promulgation of noise regulations for passenger cars. Secondly, all of the major noise abatement areas, such as Chicago, Florida, Maryland, and California have removed new passenger car noise standards lower than 80 dB(A). This was done after much deliberation and consideration in each of those areas. Such a move could only be justified by the conclusion that passenger cars manufactured to a standard lower than 80 dB(A) (J-986a) do not significantly contribute to unacceptable community noise levels.

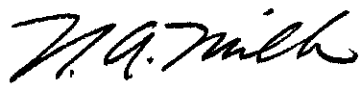
The fourth claim made by Mr. Odell was that "the economic costs of compliance with the 75 dB(A) standard is reasonable." This claim is no more correct than the grammar used in the sentence. Obviously, the environmental impact is zero. Since no benefit exists, no increase in costs can be justified; the benefit-cost ratio is zero.

Mr. Odell's argument about what the city allows for the cost of equipment selected on a noise emission basis may or may not be fact, but I do know that Mr. John Q. Public will not pay for equipment that serves no purpose. In addition, adding noise abatement material increases weight and decreases fuel economy. This is adverse to the desires of new car purchasers, who are becoming very energy conscious.

After reviewing Mr. Odell's testimony, it can only be concluded that either he honestly does not understand automobiles, acoustics and the test procedures involved, or that he has intentionally distorted the facts. International Harvester, therefore, requests that you carefully consider this rebuttal, set Mr. Odell's testimony aside, and decide to act in accordance with the GM petition and remove the 75 dB(A) requirement.

Should you have questions concerning this rebuttal, please don't hesitate to contact me.

Very truly yours,



N. A. Miller (219/461-5211)
Staff Engineer - Sound & Energy

GENERAL MOTORS CORPORATION

October 12, 1978

Mr. Joe B. Richards, Chairman
Environmental Quality Commission
State of Oregon
522 S.W. 5th Street
P. O. Box 1760
Portland, Oregon 97207

Dear Mr. Richards:

During the public hearings regarding the General Motors Corporation petition to rescind further reduction of sound level for passenger cars and light trucks, testimony was presented by Mr. Odell of Seton, Johnson and Odell, Inc. recommending that the General Motors petition be denied. In support of his recommendations, representations were made by Mr. Odell that are clearly incorrect. It is the purpose of this statement to respond to these inaccuracies.

Mr. Odell claims the SAE test procedure specified by EQC roles is a valid measure for urban conditions and that GM is inaccurate and misleading in referring to this test as a WOT test procedure. The claim that the procedure calls for 3/4 of rpm associated with peak horsepower is in error.

Section 4.5.7.3 of the Oregon procedure states:

(3) Acceleration. The vehicle shall proceed along the vehicle path at a constant speed of 30 mph in the selected gear for at least 50 feet before reaching the acceleration point. When the vehicle reference point reaches the acceleration point, the throttle shall be rapidly and fully opened. The throttle shall be held open until the vehicle reference point reaches the end point or until maximum rpm is reached within the end zone. At maximum rpm, the throttle shall be closed sufficiently to keep the engine just under maximum rpm until the end point, at which time the throttle shall be closed (emphasis added).

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Maximum rpm is elsewhere defined 4.5.2.9 as:

a. Maximum RPM. "Maximum rpm" means the maximum governed engine speed, or if ungoverned, the rpm at maximum engine horsepower as determined by the engine manufacturer in accordance with the procedures in Society of Automotive Engineers Standard, Engine Rating Code - Spark Ignition - SAE J245, April, 1971, or Engine Rating Code Diesel - SAE J270, September, 1971 (emphasis added).

This is clearly a WOT, maximum rpm test and not representative of normal urban acceleration as Mr. Odell claims. Figure 2 of the GM petition was not submitted as evidence that a reduction from 80 to 75 dBA will give no significant difference in other modes of operation, as contended by Mr. Odell. They have misread and misinterpreted Figure 2 because Figure 1 shows the comparison between 75 and 80 dBA vehicles. All the vehicles were built to an 80 dBA WOT standard and Figure 2 depicts the sound level of these vehicles under normal driving conditions.

Mr. Odell says, in the section of his testimony headed "validity of SAE Test", that the "only comparison valid as a determinant of effectiveness of the 75 dBA rule is what happens when a given vehicle is modified to comply with it. We are told by GM that significant hardware changes will be needed, but are given no test data on the noise characteristics of modified cars." Mr. Odell has evidently overlooked Figure 1 of GM's petition of May 19, 1978 to the Commission. Figure 1 contains side-by-side comparisons of 75 dBA and 80 dBA cars. Those comparisons show basically no noise difference between 80 dBA vehicles and 75 dBA vehicles at 35 mph cruise and a typical acceleration from rest. These are vehicles built to an 80 dBA standard tested and then modified to a 75 dBA standard and tested again.

Mr. Odell attempts to refute arguments about adverse economic impact by citing Title 18, Section 18.08.030 Portland noise

regulation which allows the city to select equipment on the basis of noise emission at a total cost of 110% of the cost of comparable equipment without special noise abatement treatment. Therefore, Mr. Odell concludes that the residents of Oregon would be willing to pay $500.00 extra for a $5,000.00 motor vehicle for a measure of noise control that is imperceptible during normal driving conditions. This speculation is contrary to the impartial attitudinal survey conducted by the University of Florida as to the willingness of citizens to pay for noise control. They determined that ninety three percent of the citizens are not willing to pay more than ten dollars for noise control. This information is included in the GM petition.

Furthermore, a $500.00 increase in the price of passenger cars would cost the residents of Oregon over 50 million dollars in a typical year with no measurable benefits.

The heart of Mr. Odell's reasoning appears to be his incorrect assumption that "a 5 dBA reduction by the SAE test method will result in an average reduction of source strength of 4 to 4.5 dBA for vehicles operating under 35 mph" and that "a source strength reduction of 4 to 5 dBA for speeds under 35 mph will have the effect of reducing to 200 ft. the area next to Cedar Hills Boulevard which is in violation of state noise rules (emphasis added)." The quoted remarks of Mr. Odell are contained in a section of his testimony headed "DEQ's Rule a Significant Environmental Improvement."

Mr. Odell points out that vehicles operating on Cedar Hills Boulevard travel at speeds of 18 to 27 mph, presumably for the most part in a "cruise" or steady speed mode. As is pointed out in Figure 1 included with GM's petition to the Commission of May 19, 1978, the 35 mph cruise mode noise levels of 80 dBA and 75 dBA vehicles are the same, a range from 61 to 63 dBA. The 5 dBA average reduction which Mr. Odell sees as the advantage in lowering the standard from 80 to 75 dBA does not occur. Therefore, his only reason for retaining the 75 dBA standard is invalid.

General Motors takes exception to the projections made by Seton, Johnson and Odell regarding the L50 noise levels on Cedar Hills Boulevard carrying vehicular traffic at the rate of 1300 to 1900 vehicles per hour at speeds of 18 to 27 mph. The L50 levels projected by Mr. Odell are excessive. We base our objections not on projections, but on hard factual test data.

In October, 1975, General Motors and the EPA conducted a test program to determine the extent of sulphate pollution, if any, from heavy concentrations of traffic. As part of these tests, we made measurements of the noise emanating from the traffic.

At 50 feet at an actual traffic rate of 3700 vehicles per hour, which is more than double the Odell projections, the peak noise levels measured were 64 to 66 dBA. At 100 feet, the peak sound level would be in the order of 61 to 63 dBA. The average sound level would be something less than this. It should be noted that the sound is tire noise and reducing vehicle WOT levels from 80 dBA to 75 dBA would not change these figures one bit. It is clear that Mr. Odell has overstated the projections.

Since Mr. Odell has presented no data to verify his assertion that a 5 dBA reduction from 80 dBA will produce a similar reduction in other driving modes, and his assertion is contradicted by hard data contained in the GM petition, we believe Mr. Odell's position is invalid.

Very truly yours,

E. G. Ratering

Dept. of Environmental Quality
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OCT 17 1978
Noise Pollution Control

Ford Motor Company

The American Road
Dearborn, Michigan 48121

October 13, 1978

Mr. Peter McSwain, Hearing Officer
State of Oregon
Environmental Quality Commission
P.O. Box 1760
Portland, Oregon 97207

Dear Mr. McSwain

Subject: Petition on Proposed Revision to Noise Regulations (OAR 340-35-025 Table A - Relating to Automobiles, Light Trucks and other Road Vehicle Noise Emission Standards

On October 10, 1977 Ford testified in support of the petition to delete the 75 dB(A) noise level for 1981 model light vehicles. We believe that our testimony provides ample substantiation for acting affirmatively on the petition. From our analysis, the questionable benefits associated with the imposition of more stringent noise standards on light vehicles simply do not justify the costs to the Oregonians.

Mr. F. Glen Odell was the only witness who presented a formal statement at the hearing in favor of the reduction of light vehicle noise levels to 75 dB(A). His statement contained, in our opinion, unsupported technical assumptions and many technical inaccuracies. The Attachment and appended Exhibits contain Ford's response to his statement. It is requested that our response be included as part of the official record of the hearing on this matter.

In our view, the record clearly reflects overwhelming technical and economic substantiation for deleting the 75 dB(A) noise level requirement from the Oregon regulations. Your thoughtful consideration of this request is respectfully solicited.

Sincerely yours,

John U. Damian

Attachments

cc Mr. John Hector
Mr. F. Glen Odell

Attachment

FORD COMMENTS ON F. GLEN ODELL TESTIMONY PRESENTED BEFORE THE ENVIRONMENTAL QUALITY COMMISSION HEARING OFFICE ON OCTOBER 10, 1978

Odell Statement:

"1) The SAE test procedure specified by EQC rules is a valid measure for urban conditions."

Ford Comment:

Ford disagrees with the foregoing statement and technically concludes that the SAE J986a WOT test does not replicate the urban driving modes. As was pointed out in my statement to you on October 10, 1978, we had serious misgivings about the meaningfulness of future reductions under a WOT test procedure. In attempting to quantify community noise levels perceived by the public, as far back as 1975, Ford constructed a number of prototype vehicles meeting a 75 dB(A) noise level and compared them with current production vehicles complying with a current 80 dB(A) noise level during a variety of driving modes. When the vehicles were subjected to urban type driving, the consensus of the observers was that little or no perceptable difference in sound level was evident.

A copy of the text accompanying the demonstration given to Oregon officials on April 13, 1976 and our statement before you as hearing officer on August 6, 1976 on a previous petition for indefinite carryover of the 80 dB(A) noise level is attached as Exhibit 1 and 2 respectively. Supplementing the sound level test data, we have added the decibel numbers generated at the Oregon demonstration to those obtained on the same vehicles during testing at a Michigan test site.

The United States Environmental Protection Agency (EPA) has been engaged in community noise studies and test procedure evaluation for the past several years. The Agency's findings substantiate our statement that the SAE J986a test does not replicate urban driving. A letter from Mr. Henry E. Thomas, Director, Standards and Regulations Division, U.S. EPA to Mr. Ron Wasko, Motor Vehicle Manufacturers Association and others, dated June 9, 1977, describes EPA's rationale for coming to this conclusion. A copy of Mr. Thomas' letter and the relevant part of the EPA attachment referenced in that letter is enclosed as Exhibit 3. We believe these documents adequately refute Mr. Odell's contention that the SAE WOT test is a valid representation of the manner in which light vehicles are driven and generate noise in the urban community.

Odell Statement:

"2) The reduction from 80 to 75 dBA will result in an important environmental improvement in most urban areas."

Ford Comments:

Unfortunately, Mr. Odell has neglected to quantify in terms of sound energy or in any other terms the alledged environmental improvement. We believe our demonstration clearly documents the imperceptible difference in sound levels between light vehicles designed to comply with 80 and 75 dB(A) per SAE J986a. Moreover, as stated above, the severe WOT test procedure is simply not representative of urban driving. Furthermore, "according to most noise-rating schemes, people do not descriminate noise levels finer than about 5 dB(A).* State acoustical experts from California, Maryland, and a number of local governments also agreed with our contention that the reduction will not result in a meaningful decrease in community noise.

Odell Statement

"3) It is grossly unfair and inequitable for Oregon to continue to enforce stringent noise regulations on industrial and commercial sources, and ignore the most pervasive noise source in urban areas--the automobile."

Ford Comments:

In our opinion, Mr. Odell's statement is very general in nature and without any factual substantiation whatsoever. Many sources contribute to community noise including aircraft, industrial machinery, commercial installations and a multiplicity of surface transportation vehicles such as trucks, buses and passenger cars. Noise emanating from these latter vehicles is primarily generated by the powertrain and the tire/road surface interface. In alledging that the automobile is the most pervasive noise source in urban areas, Mr. Odell apparently doesn't understand that no meaningful reduction in overall noise levels would result in the urban community from further reduction of powertrain noise levels as measured by the WOT SAE J986a procedure.

*Background Document for Product Noise Labeling, General Provisions, EPA 550/9-77-253, dated April 1977

EPA has recognized the fact that noise generated by the tire/road surface interface predominates at cruising speeds over 20-25 mph. It is for this reason that EPA has embarked on an extensive tire noise program. As a matter of fact, testing has already begun at the Automotive Proving Ground, Pecos, Texas.

From our data as reflected by Exhibit 4, powertrain noise becomes a subordinate source during light vehicle cruise and coast operating modes of operation at speeds above 18 mph. Consequently, the predominate source of light vehicle noise on the arterial highway referred to by Mr. Odell would emanate from the tire/road interface, not from the powertrain. It would seem that Mr. Odell has erronously lumped together all noise generated by surface transportation without endeavoring to identify the sources of such noise and its contribution to community noise levels.

Odell Statement:

"4) The economic costs of compliance with the 75 dBA standard is reasonable."

Ford Comments:

Here again, Mr. Odell has failed to define what is meant by "reasonable". We think such statements border on irresponsibility. For example, in 1977 approximately 115,000 new passenger cars and trucks were sold in Oregon. Based on Ford's estimated retail price increase of at least $73.00 for passenger cars this amounts to an annual cost to Oregon purchasers of over $8 million for a dubious reduction in sound levels. On this basis, Oregon residents would be unnecessarily spending well over $80 million dollars over a 10-year period without a distinguishable difference in the sound levels of such vehicles vs today's models.

In a statement to the EPA relating to Motorcycle Noise Standards and on the approach to transportation noise abatement, the Federal Council on Wage and Price Stability(*) made the following statement:

*Comments on Page 29 of the Council on Wage & Price Stability on Motorcycle Noise Standards and on the Environmental Protection Agency's Approach to Transportation Noise Abatement signed by Barry P. Bosworth, Director et al. dated June 22, 1978.

"To find an efficient scheme for a noise control program, one would like to find that set of regulations which would maximize net benefits to society. Because constructing an optimal policy would be extremely complex in its informational requirements, a good approximation would be to concentrate on reducing pollution from the source which has the greatest impact on society (noise level times exposure) down to the next greatest contributor, etc., if the marginal costs of abatement were equal. This would provide a cost-effective path of regulations. The next step would be to decide how far to go along that path. The most efficient policy would be to continue regulating until net benefits to society are maximized (that is, as long as marginal benefits exceed marginal costs).

"Given that EPA has already selected an 80 dBA level for trucks, it would appear that as an approximation to the optimal policy an 83 dBA level for motorcycles may be justified. However, no further tightening on trucks or motorcycles is called for, and any standard for buses would be unjustified. 2/ The next step for EPA would be to consider the contribution of other transportation vehicles to the noise pollution problem to see whether the marginal benefits of regulating any other vehicle class (given current regulations) outweighs the marginal costs of regulation." (Underlining added)

We believe the foregoing statements from the analysis of EPA's proposed motorcycle regulations by the Council on Wage and Price Stability supports our position that the imposition of more stringent noise standards on light vehicles would not be cost effective.

* * * * * * * * * * * *

Ford Motor Company
October 13, 1978

2/ Since marginal costs exceed marginal benefits in each of those cases."

ROBERT W. STRAUB
GOVERNOR

Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item H, November 17, 1978, EQC Meeting

Staff Report - Authorization to Hold Public Hearing to Consider Petition from Oregon Environmental Council to Promulgate Rules to Regulate Airport Noise Emissions

Background

Oregon Revised Statute Chapter 467 directs that "the Environmental Quality Commission shall adopt rules relating to the control of levels of noise emitted into the environment of this state and including the following:

(a) Categories of noise emission sources, including the categories of motor vehicles and aircraft."

In 1972 thirteen public meetings, cosponsored by the League of Women Voters, were held throughout the state. The results of these meetings were brought to the Commission with the conclusion that action should be delayed for two years (until 1974) to see if effective federal controls would abate the excessive noise attributed to aircraft and airports.

In a 1976 report to the Commission on the current and projected status of the noise control program, the following was presented on airport noise regulation:

"The Department has recommended that regulation of airport noise at the State level be postponed two years, pending the development of effective federal control in this area.

"State regulation of aircraft noise is currently preempted by the Federal Aviation Administration. The FAA is presently studying the possibility of adopting either 1) two retro-fit programs for older commercial jet aircraft, or 2) an aircraft replacement program, using federal assistance, designed to phase out noisy B-707's and DC-8's. A decision between the two programs is expected in the near future. EPA Administrator Russell Train has also stated that his agency will recommend to the FAA that its program of air-port noise regulation include the use of a planning process

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in the development of comprehensive noise abatement plans that should be required at all the nation's airports.

"If these federal attempts at airport noise abatement do not prove to be successful, the Department feels that implementation of the following state measures may be necessary:

a) Limiting the use of some airports to specific aircraft types;

b) Requiring establishment of approach and departure flight paths and procedures to optimize noise abatement;

c) Requiring planning of runway utilization schedules;

d) Requiring reduction of flight frequency of noisy aircraft at noise sensitive times; and

e) Development of compatible land use and buffer zones within the noise impact zones."

The Port of Portland is presently developing a master plan for Portland International Airport and Department staff members have been serving on a technical advisory committee for this process. Noise impacts are one of our major concerns at this airport and the planning process does not appear to be adequately addressing this concern. A memorandum of agreement is being jointly developed by the Port and the Department to specify areas of agreement and disagreement on guidelines for airport noise impact. This document will provide a better definition of the Department's position on airport noise impacts.

On October 27, 1978, the Department received a petition from the Oregon Environmental Council, and members of the public as co-petitioners, to amend existing noise rules. The petition would amend OAR Chapter 340 Section 35-015 (13) to include noise levels generated by the operation of aircraft in the definition of "industrial or commercial noise levels." It would also amend Section 35-035-5(j) to delete the exemption presently provided to airport flight operations. The result would be that airport generated noise would be regulated by the same noise standards controlling other commercial and industrial operations.

The petitioners have cited the following justifications in support of the proposed amendment:

1. Airport noise creates excessive noise impacts at their homes and petitioners rely upon the State of Oregon to protect them from such emissions.

2. The airport proprietor, under federally approved policy, may reduce excessive community noise by the following methods:

   a) Preferential runway use

   b) Preferential approach and departure flight tracks

   c) Priority runway use

   d) Rotational runway use

   e) Flight operational procedures such as thrust reduction or maximum climb on take-off

   f) Higher glide slope angles and glide slope intercept altitudes on approach

   g) Displaced runway thresholds.

   In addition, the proprietor may shift operations to neighboring airports and reschedule operations by aircraft type or time of day or night.

3. The Port of Portland's citizen advisory committee found that many citizens described noise from aircraft as intolerable, contributing to sleep disturbance, speech interference, and interference with productive education in local schools.

4. Aircraft operations are projected to increase significantly by the year 2000.

5. The planning process for Portland International Airport, which is nearing completion and adoption, does not recommend noise mitigation to protect the public in the southeast portion of the plan boundary and for the residents outside the study area who experience excessive noise levels.

6. The federal schedule to quiet the commercial aircraft fleet depends on fuel prices, airline economic stability, and a favorable national economy in general. The entire mitigation plan is based on tenuous circumstances that may not be realized.

7. Noise contours projected for the year 2000 are being used to evaluate Portland International Airport. Present contours show greater impact and should thus be used as a basis for noise mitigating recommendations.

Evaluation

If the Commission deems it necessary to deny the petition, then specific reasons should be given therefor so that these reasons may be included in a written order to be signed by the Commission and served on the petitioner.

Should the Commission adopt the Director's recommendation to entertain the petition, implicit in this decision would be the direction and authorization for the Department to give public notice and conduct public hearings in accordance with the Department's Administrative Rules.

Summation

Drawing from the background and evaluation presented in this report, the following facts and conclusions are offered:

1. The State enabling legislation for control of environmental noise in Oregon (ORS 467) provides for the adoption of rules pertaining to aircraft noise.

2. Department evaluation of aircraft and airport noise has indicated the need for statewide rules.

3. A petition to adopt noise control rules claims public need for statewide rules for airports.

4. The petitioners find the planning process at Portland airport deficient in developing noise mitigation measures.

5. The airport proprietor, under existing federal policy, may reduce community noise impacts through a variety of operational procedures.

6. Federal standards providing additional noise reductions for the commercial aircraft fleet may not be implemented.

7. Public hearings should be held on this petition and on the subject matter in general to develop a proposal that addresses the grievances of the petitioners.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission authorize the Department to hold public hearings, before a hearings officer, at times and locations to be set by the Director. If the Commission elects not to grant this petition, it is then recommended that this matter be held in abeyance so that it may be considered at the December 15 EQC meeting set to be held at a location more convenient for the petitioners and others affected.

Bill

WILLIAM H. YOUNG

John Hector:dro
11/2/78
Attachment (1)
1. OEC Petition

Attachment I
Agenda Item H
November 17, 1978

PETITION TO AMEND RULES
BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE
STATE OF OREGON

In the matter of amending rules 35-015 (13) to include airports in definition of Commercial-Industrial classification; 35-035-1 (a) adding appropriate noise source allowable sound levels; delete 35-035-5 (j), exemptions.	Petition to Amend Rules 35-015 (13), 35-035-1(a), 35-035-5(j) delete.

1. Petitioner's name is Oregon Environmental Council, 2637 S.W. Water Avenue, Portland, Oregon, and members of the public within Multnomah County who have signed as co-petitioners on attached sheet.

2. Petitioners are individuals and members who enjoy the quiet sanctity of their homes, air, water and soil resources of the State of Oregon, free from deterioration of their quality of life imposed by excessive noise and fuel emissions from aircraft operations at Portland International Airport. Petitioners rely upon the State of Oregon to protect them from harmful effects upon their safety, health and welfare from such emissions.

3. Petitioners propose that Rule 35-015-(13) be amended to define airports as a Commercial-Industrial use, bringing them into a regulatory status in the State of Oregon, thereby protecting the petitioners and public and to delete 35-035-5(j) regarding exemptions of preemptory federal regulations.

4. Rule 35-015 (13) as petitioners propose to be amended would read as follows:

> "Industrial or Commercial Noise Levels means those noises generated by a combination of equipment, facilities, operations, or activities employed in the production, storage, handling, sale, purchase, exchange or maintenance of a

product, commodity, or service and those noise levels generated in the storage or disposal of waste products." This definition includes sounds generated by the operation of aircraft which are not subject to preemptive federal regulation.

5. Under ORS 467.010, the Environmental Quality Commission is given authority to develop and enforce rules. Under Chapter 340, Oregon Administrative Rules, Division 35, (35-005) EQC policy is:

(1) "To provide a coordinated statewide program of noise control to protect the health, safety, and welfare of Oregon citizens from the hazards and deterioration of the quality of life imposed by excessive noise emissions;

(2) To facilitate cooperation among units of state and local governments in establishing and supporting roles control programs consistent with state program and to encourage the enforcement of viable noise control regulations by the appropriate local jurisdictions;

(3) To develop a program for the control of excessive noise sources which shall be undertaken in a progressive manner, and each of its objectives shall be accomplished by cooperation among all parties concerned."

ORS 467.030-1 (a) Further sets down the authority for the Environmental Quality Commission to adopt rules for categories of motor vehicles and aircraft. (b) Provides for Department of Environmental Quality regulation of collection, reporting, interpretations and use of data obtained from noise monitoring activities.

The U.S. Department of Transportation Aviation Noise Abatement Policy, FAA, November 18, 1976, cites airport proprietor's (Port

of Portland) options for reducing excessive community noise levels by the following methods:

1. A preferential runway use system;
2. Preferential approach and departure flight tracks;
3. A priority runway use system;
4. A rotational runway use system;
5. Flight operational procedures such as thrust reduction or maximum climb on takeoff;
6. Higher glide slope angles and glide slope intercept altitudes on approach;
7. Displaced runway thresholds.

Additional actions an airport proprietor can propose to an airline: (1) shifting operations to neighboring airports; (2) re-scheduling operations by aircraft type or time of day (or night).

FAA policy relies on state and local governments and citizens to undertake cooperative efforts for land use planning, airport operational procedures, and regulations to insure the greatest possible airport/community compatibility.

6. As a part of the current PIA (Portland International Airport) Master Plan process, a Citizen's Advisory Committee was formed by the Port to "act as a citizen's sounding board for the master plan. Members of the committee will be responsible for involving citizens who have an interest in land use in the vicinity of PIA and who can help identify additional issues the study team should address in the planning process. Citizen concerns expressed to this committee will be relayed directly to the Port Commission."

CAC heard citizens who described noise from aircraft as intolerable, contributing to sleep disturbances, speech interference, and interference with productive education in local schools. Additional testimony included examples of pervasive

and unacceptably high concentrations of solid fuel emissions on the exterior and interior of homes under the runway 2-20 glide path. Residents also complained of military weekend flights as "formation practicing hot-doggers" who fly too low. Repeatedly throughout the 15 months of hearing citizens, the problem remains to be low-flying aircraft in residential areas.

According to PIA records, approximately 200,840 aircraft arrive or depart PIA each year, with a projected increase to 75,000 aircraft by the year 2000. This figure is based upon phaseout of currently used aircraft and replacement with jumbo jets. Passenger use is placed at 1,541,758 in 1975 and projected at 4,292,000 by the year 2000. Passenger usage for the current year is up 15% over projections, giving large doubt as to the accuracy of Port projections over a 22 year period.

Thus far in the planning process, which is nearing completion and adoption, the Port has taken no action to recommend noise mitigation practices protecting the public in the south-east section of the Master Plan Vicinity Area and none for the residents outside the vicinity area who experience noise levels equal to those inside the vicinity area boundary.

According to FAA guidelines (Nov. 1976) aircraft retrofitting, scheduled for completion in seven years, will depend on the following favorable conditions: 1) A stable national economy; 2) Airlines economic stability 3) Fuel prices remaining at proportionately priced levels. In light of the current expectations of massive fuel price increases this winter, all three conditions

may be seriously affected. It seems highly questionable to base an entire plan on such tenuous circumstances.

Current noise contours for the area are not being used as a basis for noise mitigating recommendations, but rather, mitigation recommendations are based on the year 2000 projected contours, markedly reduced from today. This method of recommending mitigation effectively abandons the concerns of those who addressed the CAC, both inside and outside the Vicinity Area. In the meantime, 22 years will elapse before the desired condition which the plan describes could be accomplished, if even then.

It appears that the lack of recommendations for noise mitigation is based on FAA projections of probability of litigation by individuals and groups. Noise measurements and contours for the plan and subsequent mitigation recommendations are based on a yearly average of aircraft noise. For those affected by the use of the cross-wind runway (2-20), now used 1% of the time, according to the Port, noise contours are barely visible and do not reflect the noise which occurs during that 1% use. When examined, noise contours for 2-20 are well outside the official contours, going deep into North Portland and Vancouver, Washington. On days when the other runways cannot be used, 2-20 can be responsible for accommodating the PIA operations in excess of 500 planes per day.

In these areas, citizens have expressed concern regarding excessive noise and filth from aircraft fuel residue. Health hazards for those living in close proximity to high power take-offs have not been explored by the Port of CAC. Vancouver residents are very

concerned about the possibility of accidents.

The public testimony before the Port and CAC did not ask for relief from excessive aircraft noise by the year 2000 or for those living directly adjacent to the runways. They asked for a good-faith effort by the Port to institute mitigation for all those in high noise areas, by methods available to the Port at this time.

PIA proprietors, the Port of Portland, has failed to initiate adequate or reliable noise mitigation actions. Petitioners rely on the State of Oregon through the Environmental Quality Commission to provide relief by adoption of petitioners' proposals.

7. Petitioners waive rights to written 15 day notice.

8. Petitioners believe that all persons owning land or living on or adjacent to the PIA Vicinity Area in Wilkes, Culley-Parkrose, Argay Terrace, Concordia, and the City of Gresham have an interest in the disposition of this petition and further believe that Petition to Amend Rules notice to all interested parties would be practical and desirable. In addition, to insure adequate notice to interested parties, petitioners have informed the media of the filing of this petition.

9. Petitioners respectfully request the opportunity to present oral arguments in support of their petition at an Environmental Quality Commission meeting within 60 days of filing date.

October 27, 1978

JOHN C. PLATT
Executive Director

CO-PETITIONERS

1.	Mr. Vincent James	3811 N.E. 137th Place	Portland, Oregon
2.	Mrs. Jeanne Quan	3431 N.E. 132nd	Portland, Oregon
3.	Mr. George Grant	4236 N.E. 125th Place	Portland, Oregon
4.	Mr. & Mrs. Robert Haines	1841 S.W. 13th	Gresham, Oregon
5.	Mrs. Daisy Goldsmith	14544 N.E. Brazee	Portland, Oregon
6.	Mr. Gene Gambee	11349 N.E. Prescott	Portland, Oregon
7.	Mr. Gary Gregory	3542 N.E. 131st Place	Portland, Oregon
8.	Mr. & Mrs. E. Sasser	4005 N.E. 132nd Place	Portland, Oregon
9.	Ms. Barbara Jaeger	7130 N. Wall	Portland, Oregon

ROBERT W. STRAUB
GOVERNOR

Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Hearing Officer

Subject: Agenda Item No. I(a), November 17, 1978, EQC Meeting

Contested Case Review: DEQ v. George Suniga, Inc. (AQ-SNCR-77-143) Exceptions and Arguments

Attached are the Proposed Findings of Fact, Conclusions of Law and Order of Hearing Officer Franklin Lamb. Following are the Respondent's Exceptions and Arguments thereto, the Department's Arguments in support thereof, and a transcript of the proceedings (as requested by Respondent).

It is contemplated that, should they so desire, the parties be accorded opportunity for brief oral argument in this matter.

Respectfully submitted,

Peter W. McSwain

Peter W. McSwain
Hearing Officer

PWMc:cs

Attachment

cc: Mr. Terry Haenny
Mr. Robert Haskins
Mr. Fred Bolton
Mr. Van Kollias
Mr. Douglas Fraley
Mr. John Borden

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DEQ-46

ROBERT W. STRAUB
GOVERNOR

Environmental Quality Commission

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

July 27, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Haenny and West
Attorneys-at-Law
206 Pacific Building
100 High Street, S.E.
Salem, Oregon 97308

Re: DEQ v. George Suniga, Inc.
No. AQ-SNCR-77-143
Marion County

Dear Mr. Haenny:

Enclosed are our Proposed Findings of Fact, Conclusions of Law and Final Order in this matter.

The parties are reminded that each has fourteen days from the date of this mailing in which to file with the Commission and serve upon the other parties a request that the Commission review the proposed order. (Oregon Administrative Rule (OAR) 340-11-132(2))

Unless a timely request for Commission review is filed with the Commission, or unless within the same time limit the Commission, upon the motion of its Chairman or a majority of the members, decides to review it, the proposed order of the presiding officer shall become the final order of the Commission. (OAR 340-11-132(3))

If Commission review is invoked, then the parties shall be given thirty days from the date of mailing or personal service of the presiding officer's proposed order, or such further time as the Director (of the Department of Environmental Quality) may allow or the Commission may allow, to file with the Commission and serve upon the other parties written exceptions and arguments to the proposed order. Such exceptions and arguments shall include proposed alternative findings of fact, conclusions of law, and order and shall include specific references to those portions of the record upon which the party relies. (OAR 340-11-132(4) in pertinent part.)

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DEQ-46

A request for desired review by the Commission will be considered filed with the Commission after being date stamped as received in the office of the Department of Environmental Quality at 522 S.W. Fifth Avenue, Portland, Oregon 97204.

Should Commission review be requested, failure to file the required exceptions and arguments in a timely fashion may be grounds for dismissal of the request and affirmation of the proposed final order.

Sincerely,

Peter W. McSwain

Peter W. McSwain
for Franklin Lamb
Hearings Officer

PWM:eve
Attachment

cc: Environmental Quality Commission
Robert Haskins
Fred Bolton
Doug Fraley (Department Representative)
John Borden (Regional Manager)

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY of the STATE OF OREGON, Department vs. GEORGE R. SUNIGA, INC. Respondent	)	PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER No. AQ-SNCR-77-143 Marion County

SUMMARY

This matter was heard on September 28, 1977, in Salem, Oregon by Franklin Lamb, Hearing Officer of the Environmental Quality Commission. It involves the alleged open burning of construction debris including carpeting and paint or glue cans on property owned and controlled by Respondent. The subject property is located on Lot 1, Block 4, Sprague Heights Subdivision at 1556 Kamela Drive South in Salem, Oregon.

The Department of Environmental Quality alleged that the open burning is violative of Oregon Administrative Rules Section 340-23-040(7) and OAR Section 340-23-045(5)(a). The Respondent denied responsibility.

ISSUES

At issue are:

1. Whether on the facts of this case at Hearing, Department's Representative should have been precluded from offering evidence of Respondent's ownership of subject property.

2. Whether Respondent is deprived of Due Process rights by the application of OAR Section 340-23-040(7), which holds responsible the owner or controller of real property for open burning which occurs on property during their ownership

or control, even though there has been no showing that Respondent set the fire or directly ordered the burning.

PROPOSED FINDINGS OF FACT

1. At all times herein material, the above named property described as Lot K, Block 4, Sprague Heights Subdivision at 1556 Kamela Drive South in Salem, Oregon, was owned and/or controlled by Respondent.

2. On June 2, 1977 open burning of construction debris, including carpeting and paint or glue cans, occurred on the above described property. Such open burning took place without the knowledge or permission of the Department of Environmental Quality and fell within the scope of Oregon Administrative Rules Section 340-23-040(7) and OAR Section 340-23-045(5)(a).

3. Although Respondent regularly employed individuals to clean up debris on his building sites, no compelling evidence was offered at the Hearing that Respondent set this particular fire or instructed another to do so.

4. Respondent testified at Hearing that his normal practice was to bury debris or to have the debris loaded into "drop boxes" and hauled to a dump. Respondent testified further that during the period in question no "drop boxes" were available for hire.

5. Respondent denied that he instructed any of his employees to set the fire.

6. Respondent offered evidence at the Hearing that a Mr. W. Barrett, whose house is located across the street from subject property, saw someone near the debris pile who appeared to dump the contents of an ashtray on the pile shortly before Mr. Barrett saw the flames appear.

7. At the Hearing, after eliciting testimonial evidence from his first two witnesses, Department's Representative, a non-lawyer, was asked by Respondent's

Attorney if Department's Representative "rested his case." Department's Representative replied, "Yes."

8. Respondent's Attorney then moved for dismissal of the proceedings, basing his motion on the ground that Department's Representative had not offered evidence of ownership of the subject property by Respondent.

9. Department's Representative explained that he had not intended to end his presentation of evidence but only to rest for the time being, and then to resume and cross-examine Respondent and his witness. Department's Representative also indicated that he intended to offer evidence of ownership of the subject property.

10. The Hearing Officer denied the Respondent's motion for dismissal and permitted entry of a deed into the record by the Department's Representative, which deed purported to show Respondent as owner of subject property.

11. At the Hearing, Respondent's Attorney argued that OAR Section 340-23-040(7) as applied was violative of the United States Constitution in that it held landowners responsible for burning activity on their land even though there had been no showing that the landowner had set the fire directly or indirectly.

CONCLUSIONS

1. The Department was not precluded from offering evidence of ownership of subject property by the statement of Department's Representative, a non-lawyer, answering "yes" to Respondent's lawyer's inquiry whether he had rested his case.

2. Respondent was not deprived of Due Process rights guaranteed by the 14th Amendment of the United States Constitution by Oregon Administrative Rules Section 340-23-040(7), which provision holds responsible the owner or controller of real property for open burning which occurs on said property during his ownership or control.

3. We conclude that on the facts of this contested case as presented at Hearing, Respondent is the responsible person to whom the Civil Penalty was properly assessed by the Department.

4. The $500 penalty assessed by the Department in this matter is appropriate.

OPINION

At the Hearing, Respondent moved for a dismissal of the proceedings on the ground that the Department's Representative had "rested his case" after his first two witnesses testified. Respondent's view is that as a result, Department's Representative ought not to be allowed to offer evidence, in his possession, of ownership of the subject property. The Hearing Officer denied Respondent's motion.

We interpret the statement by Department's Representative, a non-lawyer, which was given in response to a question from Respondent's attorney, to be that Department's Representative's intention was to rest his case only for the time being and not finally. He did have in his possession prepared questions for cross-examination as well as a Deed evidencing ownership of the subject property. It is our opinion that the Administrative Procedure Act contemplates sufficient flexibility in allowing available evidence into the Record that on these facts Department's Representative was rightly allowed to offer the evidence of ownership. The result might well be otherwise were there a showing by Respondent that he was unduly surprised or prejudiced by the admission of this evidence. No such showing was made at the Hearing. Nor did Respondent indicate that he in any way relied to his detriment on Department's Representative's omission to initially offer the evidence. While in a strict, formal legal proceeding, if the error was serious and prejudicial a different result might obtain, we find such error as was involved in the present matter to have been harmless error.

Both parties agree in this matter with respect to the existence of the open burning in violation of Oregon Administrative Rules Section 340-23-040(7) and Section 340-23-045(5)(a). However, Respondent has denied responsibility. He has argued that the United States Constitution does not allow, on the facts of this case, the imposition by Oregon's environmental laws, of liability on Respondent for any prohibited open burning on Respondent's land, absent a showing that Respondent himself was responsible or a showing that Respondent himself directed another to conduct the prohibited open burning. We disagree. We find that there exists a rational basis for the Oregon legislature to determine that in order to promote the public health and welfare by controlling air pollution, a necessary means toward accomplishment of this objective is the enactment of legislation which includes a presumption of liability on the part of the land-owner for prohibited open burning activity conducted on his own land. We find it reasonable for the legislature to have made the judgement that the legal owner of land is best able to control his own land and to prevent open burning which, absent such control, would result in a detriment to the health of the community.

The facts as presented to the record at the hearing of this contested case establish that Respondent owned the subject property. We find that the statutory enactments of Section 340 are not invidiously discriminatory inasmuch as they apply equally to all property owners. They are rationally based on society's right and obligation to curtail air pollution. We believe the burden to be on Respondent to take himself out of the purview of the Oregon Administrative Rules once he has been shown to be the legal owner of subject property. Respondent denied at Hearing that he set the fire or instructed anyone else to set the fire. To this end Respondent pleads ignorance of the prohibited open burning.

Ignorance alone is not sufficient to absolve Respondent of responsibility here. Nor is it sufficient on the facts of this case that Respondent's witness, Mr. W. Barrett, testified that he, Mr. Barrett, saw someone dump what looked to be an ashtray on the debris pile shortly before the fire began that particular morning. We find Mr. Barrett's testimony more confusing than elucidating. The exact distance of Mr. Barrett's house from the debris pile is not clear from the record but we are not persuaded by Mr. Barrett's testimony that while shaving he happened to peer from his window just at the instant an individual who Mr. Barrett is unable to identify dumped what appeared to be a lighted ashtray on the pile of damp debris and yet did not take time to investigate, contact his sometime employer who he knew owned the property, or inform the fire department.

Moreover, as a sometime real estate salesman for Respondent and one who was well aware that such open burning was contrary to the law and who knew Respondent owned the land, it is puzzling why Mr. Barrett chose to ignore the flames which were described by two witnesses as massive, rather than report the conflagration to the fire department which was his duty, or to make an attempt to extinguish the fire. Mr. Barrett's testimony does not in our opinion satisfy for Respondent the Respondent's duty with respect to removing himself from the scope of the Oregon Administrative Rules.

It is our opinion that whether one of Respondent's employees started the fire, making applicable the doctrine of Respondent/Superior, or whether a stranger set the debris afire, or whether or not "drop boxes" were available, Respondent himself is responsible to the community on the facts of this case for the prohibited burning on his land.

We find that Oregon Administrative Rules Section 340 does not constitute a violation of the 14th Amendment of the United States Constitution. The $500 penalty assessed by the Department in this matter is appropriate given Respondent's past record of open burning violations.

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY, Department	)	
v.	)	ORDER NO. AQ-SNCR-77-143
GEORGE R. SUNIGA, INC. Respondent	)	

The Commission hereby orders, through its hearings officer, that Respondent, George R. Suniga, Inc., is liable to the State of Oregon in the sum of $500 and that the State have judgement for and recover the same pursuant to hearing on a civil penalty assessment by the Director of the Department on June 27, 1977.

The Commission hereby further orders that if neither a party nor the Commission requests review of this Order within 14 days of its service upon them, this Order shall become a Final Order of the Environmental Quality Commission and shall have added to its caption the words "NOW FINAL," and, if unsatisfied for more than 10 days after becoming final, may be filed with the clerk of any county and have executions issued upon it as provided by ORS 468.135.

Dated this 25th day of July, 1978.

Respectfully submitted,

Franklin Lamb

Franklin Lamb
Hearings Officer

by Peter McSwain

McSwain

HAENNY & WEST
ATTORNEYS AT LAW
206 PACIFIC BUILDING 100 HIGH STREET, S. E.
POST OFFICE BOX 924
SALEM, OREGON 97308

TERRY K. HAENNY
C. GREGORY WEST

AREA CODE 503
TELEPHONE 399-1355

August 28, 1978

Director of Enviornmental Quality,
Enviornmental Quality Commission
P.O. Box 1760
Portland, Oregon 97207

Re: DEQ vs. George Suniga Inc.
No. AQ-SNCR-77-143
Marion County

Gentlemen:

Enclosed is the original of our exceptions and arguments to the proposed order, findings of fact and conclusions of law. This document also includes our proposed alternative findings of fact, conclusions of law, order, and reference to those portions of the record upon which we rely.

Thank you so much for your kind cooperation and I will anticipate hearing from you as to a date and time when we may appear on this case for further proceedings.

Very truly yours,

TERRY K. HAENNY

TKH:sy
Enclosure
cc: Doug Fraley Department Rep.
John Borden Regional Mgr.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
AUG 29 1978
OFFICE OF THE DIRECTOR

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

No. AQ-SNCR-77-143

DEPARTMENT OF ENVIRONMENTAL QUALITY of the STATE OF OREGON

Department,

vs.

GEORGE R. SUNIGA, INC.

Respondent.

EXCEPTION TO PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER PROPOSED ALTERNATIVE FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER.

Comes Now the above named Respondent, and files this written exception to the proposed findings of fact, conclusions of law and final order as previously entered in this case.

EXCEPTIONS

The Respondent does object to the proposed order and findings of fact in the following particulars:

1. The Respondent was not proven to have been the owner of the subjects property prior to the case being rested on behalf of the Department of Environmental Quality.

2. The Respondent is deprived of his due process rights by his being held responsible as the owner or controller of a piece of real property when in fact there was no showing that the Respondent set the fire or directly or indirectly ordered any

HAENNY & WEST
ATTORNEYS AT LAW
205 PACIFIC BLDG. — 101 I STREET, S.E.
P.O. BOX 1...
SALEM, OREGON 97308
TELEPHONE (503) 399-1355

burning.

3. The hearing officer should have allowed the Respondent's motion for dismissal made following a resting of the case by the department's representative.

PROPOSED FINDINGS OF FACT

The proposed findings of fact as previously prepared by the department is agreeable with the Respondent excepting as to the following numbers: Number 1. Number 8. Number 9. Number 10. Number 11.

PROPOSED CONCLUSIONS

The Respondent alleges that conclusions as stated in the preposed findings of fact and conclusions of law by the department are not correct as to Numbers 1, 2, 3 and 4.

ALTERNATIVE FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER.

The Respondent does propose as follows:

The findings of fact should be that the Respondent was not proven to have been the named property owner on the property in question.

The department should have been precluded from introducing further evidence after they rested their case.

The conclusions of law should be as follows:

The department was precluded from offering evidence of ownership after resting their case.

The Respondent has been deprived of his due processed

HAENNY & WEST
ATTORNEYS AT LAW
206 PACIFIC BLDG. — 10 N STREET, S.E.
P.O. BOX
SALEM, OREGON 97308
TELEPHONE (503) 399-1355

rights in holding him responsible for burning which occured on property owned by him without any evidence of his being involved in the setting of a fire or fires.

The Respondent is not and was not the responsible person to whom the civil penalty should have been assessed by the department.

The $500.00 civil penalty assessed by the department was and is inappropriate and there should be no penalty assessed by the department.

PROPOSED ORDER

The commission hereby orders, through its hearings officer, that Respondent, GEORGE R. SUNIGA, INC., is not liable to the State of Oregon in the sum of $500.00 or in any amount and it is hereby entered as of record this order.

REFERENCES TO RECORD

The entire record is relied upon by the above named Respondent and it is requested that that record be and the same should be transcribed with a copy of such transcription being made available to the Respondent herein.

TERRY K. HAENNY
Attorney for Respondent

HAENNY & WEST
ATTORNEYS AW
206 PACIFIC BLDG. — 10 H STREET, S.E.
P.O. BOX
SALEM, OREGON 97308
TELEPHONE (503) 399-1355

VERIFICATION

STATE OF OREGON)
County of _____) *ss.*

I, _____, *being first duly sworn, say that I am* _____ *in the within entitled cause, and that the foregoing* _____ *is true as I verily believe.*

_____

Subscribed and sworn to before me this _____ *day of* _____, *19*____

_____
Notary Public for Oregon
My Commission Expires: _____

CERTIFICATE — TRUE COPY

I, one of the attorneys for _____ *herein, do hereby certify that the foregoing copy of* _____ *is a correct copy of the original.*

_____
Of Attorney(s) for _____

ACCEPTANCE OF SERVICE

Due service of the within _____ *is hereby accepted in* _____ *County, State of Oregon, this* _____ *day of* _____, *19*__, *by receiving a duly certified copy thereof.*

_____
Of Attorney(s) for _____

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing EXCEPTION TO PROPOSED FINDINGS OF FACT *on* Doug Fraley Dept. Rep. and John Borden Regional Mgr ~~of attorneys for~~ _____, *on the* 28th *day of* August, *19* 78 *by mailing to said attorneys a correct copy thereof, certified by me as such, contained in a sealed envelope, with postage prepaid, addressed to said attorneys at (his) (their) regular office address, to-wit,* Both addressed singly to Enviornmental Quality Commission P.O. Box 1760, Portland, Or 97207 *and deposited in the post office at Salem, Oregon, on said day. Between the said post office and the address to which said copy was mailed, there is a regular communication by U. S. Mail.*

Dated August 28, *19* 78

_____
Of Attorney(s) for Respondent

HAENNY & WEST
ATTORNEYS AT LAW
206 PACIFIC BLDG. — 100 HIGH STREET, S.E.
P.O. BOX 924
SALEM, OREGON 97308
TELEPHONE 399-1355

JAMES A. REDDEN
ATTORNEY GENERAL

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

October 13, 1978

Hearings Section
Department of Environmental Quality
522 S. W. 5th Avenue
Yeon Building
Portland, Oregon 97201

Re: DEQ v. George R. Suniga, Inc.
No. AQ-SNCR-77-143

Gentlemen:

Enclosed please find Arguments in Support of the Proposed Findings of Fact, Conclusions of Law, Opinion and Final Order with Certificate of Service attached.

Sincerely,

Robert L. Haskins (by HK)
Robert L. Haskins
Assistant Attorney General

hk
Enc.
cc: William H. Young, w/enc.
E. J. Weathersbee, w/enc.
John Borden, w/enc.
Fred Bolton, w/enc.

Management Services Div.
Dept. of Environmental Quality
RECEIVED
OCT 16 1978

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

HEARINGS SECTION

DEPARTMENT OF ENVIRONMENTAL QUALITY, OF THE STATE OF OREGON, Department, vs. GEORGE R. SUNIGA, INC., Respondent.	)	No. AQ-SNCR-77-143 ARGUMENTS IN SUPPORT OF HEARING OFFICER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, OPINION AND FINAL ORDER

I. STATEMENT OF THE CASE

This matter comes before the Environmental Quality Commission (hereinafter referred to as "Commission") following a contested case hearing which was held on September 28, 1977, in Salem, Oregon. The controversy arises from the assessment by the Department of Environmental Quality (hereinafter referred to as "Department") of a $500 civil penalty against Respondent corporation George R. Suniga, Inc. for violation of Oregon Administrative Rules (hereinafter referred to as "OAR") 340-23-040(7) and 340-23-045 (5)(a) by allowing open burning of waste materials on real property which was in Respondent's ownership and control. Respondent filed a general denial raising no affirmative defenses. The Hearing Officer found that Respondent had committed the alleged violation and affirmed the civil penalty. Respondent timely filed exceptions to the hearing officer's proposed findings

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

of fact, conclusions of law and final order, which are now before the Commission for decision.

II. FACTS

As established at the hearing and found by the Hearing Officer, Respondent was at all times relevant to this case the owner of property described as 1556 Kamela Drive South in Salem, Marion County, Oregon. This land is in an open burning control area as described by OAR 340-23-030(11)(e).

George R. Suniga, Inc. is an Oregon corporation engaged in the construction business. As such, Respondent regularly employs individuals to clean up construction debris on its building sites. Respondent was assessed a civil penalty by the Department for a similar violation on March 1, 1977.

On June 2, 1977 open burning of construction debris, including carpeting and paint or glue cans was observed on the above described property. This open burning took place without the permission of the Department. There was no compelling evidence offered at the hearing that any of Respondent's authorized representatives set the fire or instructed anyone else to do so.

At the hearing, after examining two witnesses Respondent's attorney asked the Department's representa-

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

tive Dquglas Fraley, a non-lawyer, whether he "rested his case." Mr. Fraley replied "yes." Respondent's attorney then moved to dismiss the civil penalty for failure to prove that Respondent was the owner of the property. Mr. Fraley then explained to the hearing officer that he did not intend to end his presentation but only to rest for the time being. He stated that he intended to resume and cross examine Respondent's representative and its witnesses. He also indicated that he had proof of ownership which he intended to offer in evidence. The hearing officer denied the motion and allowed Mr. Fraley to prove Respondent's ownership by offering a deed to the record.

III. ISSUES

In this appeal Respondent contends only that:

> "1. The Respondent was not proven to have been the owner of the subject property prior to the case being rested on behalf of the Department of Environmental Quality.
> "2. The Respondent is deprived of his due process rights by his being held responsible as the owner or controller of a piece of property ***". Respondent's Exception etc. p.1.

Those are Respondent's only contentions of error in the Hearing Officer's proposed ruling. Respondent stated on page 2 of its Exception, etc., that it agrees with the Hearing Officer's proposed finding of fact no. 2 which reads as follows:

///

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

> "On June 2, 1977 open burning of construction debris, including carpeting and paint or glue cans, occurred on the above described property. Such open burning took place without the knowledge or permission of the Department of Environmental Quality and fell within the scope of Oregon Administrative Rules Section 340-23-040(7) and OAR Section 340-23-045(5)(a)."

In other words, Respondent admits that there was a violation but contends that it was not responsible therefor.

IV. ARGUMENT

A. THE HEARING OFFICER'S RULING THAT ALLOWED THE DEPARTMENT'S NON LAWYER REPRESENTATIVE TO OFFER THE DEED AFTER "RESTING" WAS A REASONABLE EXERCISE OF DISCRETION

At the hearing, attorney for Respondent moved for a dismissal of the proceedings on the ground that the Department's Representative, a non-lawyer, had "rested his case" before presenting the deed as evidence of ownership of the subject property. The Hearing Officer denied Respondent's motion and permitted entry of the deed into the record.

This decision was completely within the discretionary powers of the Hearing Officer, and Respondent shows no reason why it should be reversed on review. OAR 340-11-125(3) which is derived verbatim from Section 137-03-050(4) of The Attorney General's Model Rules of Procedure Under the Administrative Procedure Act which provides:

> "Evidence objected to may be received by the presiding officer with rulings on its admissibility or exclusion to be made

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

at the time a final order is issued."

Oregon case law also shows an overwhelming desire on the part of the judiciary to be flexible in its procedural rules for admitting evidence. In Parmentier v. Ransom, 179 Or 17, 21, 169 P2d 883 (1946), the Oregon Supreme Court stated that:

> "The court, however, in its discretion 'for good reasons and in furtherance of justice,' may permit a departure from strict order of proof, *** Its rulings in this respect will not be reviewed by any appellate court, except for abuse of discretion."

This decision has been repeatedly upheld. e.g. Hiestand v.Wolford, 272 Or 222, 224-225 536 P2d 520 (1975) (court allowed party to submit further evidence after the party rested and after the judge had issued a written opinion). Those decisions are backed up by the statutory authority of ORS 17.215 which states:

> "...the order of proof shall be regulated by the sound discretion of the court."

The Commission's rules do not set a strict method for conducting a contested case hearing, but rather provide a guideline for the Hearing Officer to follow at his discretion. OAR 340-11-120(3) provides that:

> "At the discretion of the presiding officer, the hearing shall be conducted in the following manner:"
> "(a) Statement and evidence of the party with

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

the burden of coming forward with evidence in support of his proposed action;

"(b) Statement and evidence of defending party in support of his alleged position." (emphasis added)

OAR 340-11-120(9) further provides that:

"...the presiding officer, where appropriate and practicable, shall receive all physical and documentary evidence presented... ." (emphasis added)

In order for the Hearing Officer's decision to be reversed on review, Respondent must show that there was an abuse of the discretionary powers described, resulting in a prejudicial hearing. Respondent has failed to carry this burden. On the contrary, the record indicates that the initial ommission of the deed by a non-lawyer was a harmless error. Respondent could not have been unduly surprised by the fact a deed was offered in evidence, as ownership of the property was an integral aspect of the Department's notice of assessment of a civil penalty. Nor has Respondent shown that he relied to his detriment on Mr. Fraley's initial ommission of the deed.

As permitted by OAR 340-11-125(3), and for the reasons stated, the decision of the Hearing Officer should be upheld on review.

B. RESPONDENT FAILED TO PLEAD AND PROVE ITS AFFIRMATIVE DEFENSES

The Department and the Commission's hearing officer have imposed the civil penalty upon Respondent corporation for unlawful open burning which occurred upon Respondent's

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

real property, even though the Department did not offer any compelling evidence that any of Respondent's representatives set the fire or instructed anyone else to do so. The Department imposed the penalty upon the owner based upon the Commission's rule OAR 340-23-040(3) which reads as follows:

> "(3) Any person who owns or controls *** property on which open burning occurs *** shall be the person considered responsible for the open burning."

The rule establishes a non-delegable duty on landowners to prevent prohibited open burning from occurring on their property. Respondent contended at the hearing and contends on this appeal that the rule is unconstitutional in violation of the due process clause. However, Respondent did not raise this defense in its answer to the Notice of Assessment, as it was required to do by OAR 340-11-107(2). That rule provides in pertinent part that

> "[i]n the answer the party *** shall affirmatively allege any and all affirmative claims or defenses the party may have and the reasoning in support thereof."

By failing to allege its affirmative defense in its answer Respondent should be held to have waived the defense. Going into the hearing the Department did not have notice that Respondent was going to raise that defense. Therefore the Department was unable to prepare its case to counter

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

Respondent's surprise affirmative defense. It would be unfair to the Department to allow respondents to raise affirmative defenses at hearings without prior notice. Such is not allowed in court and should not be allowed here.

Should the Commission choose to consider Respondent's affirmative defense in spite of its tardiness, it will find the defense to be lacking. Respondent contends that because there was no showing that any of Respondent's authorized representative set the fire or ordered anyone else to do so, it would violate Respondent's right to due process. The United States Constitution due process clause reads as follows:

> "nor shall any state deprive any person of life, liberty, or property, without due process of law ***." US Cons amend XIV, §1.

Respondent's argument is without merit. First, Respondent apparently assumes that the Commission's rule OAR 340-23-040(3) imposes strict liability upon Respondent without any defenses. That assumption is incorrect. The duty placed upon a landowner is not absolute, and is subject to a specific affirmative defense. ORS 468.300 provides that OAR 340-23-040(3):

> "...shall not be so construed as to include any violation which was caused by an act of God, war, strife, riot or other condition as to which any negligence or wilful misconduct on the part of such person was not the proximate cause."

///

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

Here again, Respondent failed to allege such an affirmative defense in its answer. For the reasons stated above Respondent should be held to have waived that affirmative defense.

However, should the Commission consider such an affirmative defense it is clear that Respondent has failed to prove its defense. The Department concedes that if Respondent succeeded in showing by a preponderance of the evidence that, (1) the prohibited open burning was caused by a fire on its land which was an "act of God, ... or other condition", Id., and (2) as to which it was not negligent, Id, then it would not have been liable for a violation. Respondent landowner failed to discharge its burden under ORS 468.300. Respondent offereed testimony of a neighbor and sometime employee of Respondent's in an attempt to show that the fire was lit by someone else. However the Hearing Officer found the witness' testimony "more confusing than elucidating." Proposed Findings etc. at p. 6. Having undertaken the burden of showing the cause of the fire and Respondent's own reasonableness under the circumstances, it bears the burden of a party asserting a defense, Given v. Crawford, 164 Or 215, 100 P2d 1012, (1940); and further bears the burden carried by a party who has greater access to facts within its own knowledge, Weber v. Rothchild, 15 Or 385, 15 P 650 (1887). The record shows Respondent failed to discharge this burden.

Respondent offered no evidence as to the cause of the

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

fire beyond unsubstantiated speculation that someone else caused the fire. The mere denial of liability does not meet the requirement of ORS 468.300 which demands proof of the condition which caused the fire by the civil standard of a preponderance of the evidence. Secondly, Respondent failed to establish that it was not negligent as to the existing condition regardless of its cause. Respondent failed to show that it was reasonable in attempts to prevent the actual cause of the fire. Respondent failed its burden.

Furthermore, the existence of the ORS 468.300 affirmative defense satisfies the due process clause. In other words, the availability of the affirmative defense is Respondent's due process. Although Respondent claims a denial of due process, its real complaint is that it was unable to prove its alleged defense under the process that was due him and was actually available to him.

Even if there were no ORS 468.300 defense available, the Commission's rule OAR 340-23-040(3) still would be a valid exercise of the police power. Respondent's basic complaint is that liability is being imposed upon it although its representatives did not set the fire or instruct other to do so, i.e. Respondent claims to be without fault.

Imposition of liability without regard to fault, otherwise known as "strict liability" has long been known in the law. The United States Supreme Court has dis-

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

cussed with approval this

> "now familiar type of legislation whereby penalties serve as effective means of regulation. Such legislation dispenses with the conventional requirement for criminal conduct - awareness of some wrongdoing. In the interest of the larger good it puts the burden of acting at hazard upon a person otherwise innocent but standing in responsible relation to a public danger." United States v. Dotterweich, 320 US 277, 280-281, 64 S Ct 134, 135, 88 L Ed 48 (1943); quoted with approval in Morisette v. United States, 342 US 246, 259-260. 72 S Ct 240, 96 L Ed 288 (1952).

Strict liability regulations are particularly useful in enforcement of environmental quality standards. For example, in United States v. White Fuel Corp., 498 F2d 619, 6 ERC 1794 (1st Cir. 1974), an oil tank farm operator was held criminally strictly liable under the Refuse Act, 33 USC Sec. 407, et seq., for the discharge of oil into Boston Harbor which had seeped from a large accumulation on defendant's property. The applicable statutes and rules impose strict liability. No common law mens rea or scienter need be proved. Much of the Court's discussion in that case is directly applicable to this case and is set forth below:

> "...The offense falls within the category of public welfare offenses which are not in the nature of positive aggressions or invasions, with which the common law so often dealt, but are in the nature of neglect where the law requires care, or inaction where it imposes a duty . . .. The accused, if he does not will the violation, usually is in a position to prevent it with no more care than society might reasonably exact from one who, assumed his responsibilities. Morisette v.

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

United States, 342 US 246, 255-56, 72 S Ct 240, 246 96 L Ed 288 (1952).

"...The dominant purpose is to require people to exercise whatever diligence they must to keep refuse out of public waters. Given this aim, we are disinclined to invent defenses beyond those necessary to ensure a defendant constitutional due process. Specifically, we reject the existence of any generalized 'due care' defense that would allow a polluter to avoid conviction on the ground that he took precautions conforming to industry-wide or commonly accepted standards.

Merely to attempt to formulate, let alone apply such standards would be to risk crippling the Refuse Act as an enforcement tool. The defendant, if a substantial business enterprise, would usually have exclusive control of both the expertise and the relevant facts; it would be difficult indeed, and to no purpose, for the government to have to take issue with elaborate factual and theoretical arguments concerning who, why and what went wrong. A municipality may require dog owners to keep their dogs off the public streets, and the court may enforce the ordinance by criminal sanctions without paying attention, except in mitigation to the owner's tales concerning his difficulty in getting Fido to stay home. In the present circumstances we see no unfairness in predicating liability on actual noncompliance rather than either intentions or best efforts. ***Whatever occassional harshness this could entail is offset by the moderateness of the permitted fine, the fact that the statute's command -- to keep refuse out of the public waters -- scarcely imposes an impossible burden, [footnote omitted] and the benefit to society of having an easily defined, enforceable standard which inspires performance rather than excuses." Id. at 622-3.

The foregoing is relevant to the rule at hand and the facts under consideration. There is unimpeachable authority that strict liability legally attaches, not subject to any defenses, for violation of police power regulations without

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

any regard to fault. Environmental protection laws often include such regulations. White Fuel, supra, at 622, Ward v. Coleman, 423 F Supp 1357, 9, ERC 1945 (WD Okla 1976); United States v. Eureka Pipeline Co., 401 F Supp 934, 941, (ND W Va 1973); United States v. General Motors Corp., 403 F Supp 1151 1157, 8 ERC 1707, (D Conn 1975); United States v. Atlantic Richfield Corp., 429 F Supp 830, 838, 9 ERC 1993, (ED Pa 1977), aff'd 573 F2d 1303 (3d Cir 1978); United States v. United States Steel, 328 F Supp 354, 356, 2 ERC 1700, (ND Ind 1970).

In Ward v. Coleman, supra, the Court considered an argument that the imposition of a penalty under the Federal Water Pollution Control Act ("FWPCA") without regard to fault was a violation of due process. The court rejected this argument:

> "The essence of strict liability is the shifting of accidental loss, as between non-negligent parties, to the one most able to insure against the risk and bear the cost. In the FWPCA, Congress has chosen to shift the cost of damage done to the environment from the public to the owner or operator of the facility from which a harmful discharge emanated. Congress further saw fit to minimize defenses, in order to inspire 'performance rather than excuses.' This court agrees with the United States District Courts of Connecticut and the Northern District of West Virginia that the imposition of penalty after notice and hearing and after due regard given ability to pay and the gravity of the violation, withstands constitutional attack. General Motors, supra, at 1157; Eureke Pipeline, supra, at 942." Id. at 1357.

In fact, the duty which an owner of a facility bears under

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

the Federal law is so absolute that even acts by vandals and third parties will not insulate him from the attachment of strict liability. Thus in United States v. General Motors Corp., supra, the court rejected the oil storage tanks owner's argument that the fact that intruders had penetrated several barbed wire fences and eluded its security patrol was a defense to liability for the vandalism caused oil discharges.

Respondent's contention that assessment of a civil penalty in this case is a violation of its due process rights, is not well founded. OAR 340-23-040(3) is a reasonable means of effecting the state policy of restoring and maintaining the quality of our air resources.

V. CONCLUSION

For the above reasons the Commission should adopt the hearing officers proposed findings of fact, conclusions of law, final order and opinion in this case.

DATED this 13th day of October, 1978.

JAMES A. REDDEN
Attorney General

ROBERT L. HASKINS
Assistant Attorney General
of Attorneys for Department

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 Arguments in Support of Hearing Officer's Proposed Findings of Fact, Conclusions of Law, Opinion and Final Order on Respondent's attorney, Terry Haenny, 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 attorney at 206 Pacific Building, 100 High Street, S. E., P. O. Box 924, Salem, Oregon 97308, his last known address, and deposited in the Post Office at Portland, Oregon, on the 13th day of October, 1978, and that the postage thereon was prepaid.

HOLLY KETTER
Secretary

RECEIVED
AUG 1 1977
DEPT. OF ENVIROMENTAL QUALITY

HEARING DATE REQUEST

Date: July 29, 1977

To: Pete McSwain, Hearing Officer, EQC

From: Fred M. Bolton, Administrator, Regional Operations, DEQ

Subject: GEORGE R. SUNIGA, INC.
AQ-SNCR-77-143

Enclosed, pertaining to the subject case are:

1. Notice of Assessment of Civil Penalty No. AQ-SNCR-77-143 dated June 27, 1977 with Certificate of Service and Return Receipt attached.

2. Respondent's Answer.

The above constitute the pleadings in the subject administrative hearing. Please inform me as soon as you have set the date, time and place of hearing.

DDF:gcd
cc: Salem-North Coast Region, DEQ
Raymond P. Underwood, Chief Counsel, Department of Justice

INVESTIGATION AND COMPLIANCE
DEFAULT ROUTE SLIP

Personnel	Action
	Case Assigned to:
~~Gloria~~	~~Step 1 Default Mailed~~ CM
~~DWO~~	Step 1 Default Filed with Director
~~DWO~~ ~~LMS~~ DDF	Step 1 Default Logged
	Assignee
DWO	Step #2 Signed by Director
Gloria	Step #2 Default Mailed
DWO ~~LMS~~ DDF	Step #2 Default Logged
	Assignee
Gloria	Judgment Mailed to County Clerk
	Assignee
DWO ~~LMS~~ DDF	Card Returned - Log Completed

DDF

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY, of the STATE OF OREGON, Department, v. GEORGE R. SUNIGA, INC., Respondent.	NO. AQ-SNCR-77-42 MOTION FOR DEFAULT ORDER AND JUDGMENT

The Investigation and Compliance Section of the Department of Environmental Quality ("DEQ") moves the Director of the DEQ to issue, not less than ten days from the date of filing of this Motion, a Default Order and Judgment on behalf of the Environmental Quality Commission against Respondent in the amount of the civil penalty assessed in this matter, pursuant to Oregon Administrative Rules, chapter 340, section 11-107(3).

In support of this Motion, the Section relies upon the Affidavit of David W. O'Guinn which is attached hereto and made a part hereof.

4-18-77
Date

David W. O'Guinn
David W. O'Guinn, Supervisor
Investigation and Compliance Section
Department of Environmental Quality

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
APR 19 1977
OFFICE OF THE DIRECTOR

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY, of the STATE OF OREGON, Department, v. GEORGE R. SUNIGA, INC., Respondent.	NO. AQ-SNCR-77-42 AFFIDAVIT OF DAVID W. O'GUINN

STATE OF OREGON)
) ss.
County of Multnomah)

I, DAVID W. O'GUINN being first duly sworn say that:

1. I am the Supervisor of the Investigation and Compliance Section of the Department of Environmental Quality.

2. The basis for our Motion for a Default Order and Judgment are as follows:

(a) A Notice of Assessment of Civil Penalty (AQ-SNCR-77-42) dated March 1, 1977 from William H. Young to Respondent with Certificate of Service attached on file in this case.

(b) The records in this case which indicate that Respondent filed no written "Answer" or request for hearing; and

(c) The Commission's rule, section 11-107(2) and (3) of Chapter 340 of Oregon Administrative Rules, and Oregon Revised Statutes 183.415(4).

4-18-77
Date

David W. O'Guinn
David W. O'Guinn

SUBSCRIBED and SWORN to before me on the 18th day of April, 1977.

Notary Public for Oregon
My Commission Expires: August 27, 1979

DWO

dwo

RECEIPT FOR CERTIFIED MAIL

No. 345755

SENT TO GEORGE R. SUNIGA, INC.
c/o George R. Suniga, Reg. Agent

STREET AND NO.
1431 Liberty Street, S.E.

P.O., STATE AND ZIP CODE
Salem, Oregon 97302

POSTMARK OR DATE
Default Pkg 1
Marion Co.
4/19/77

OPTIONAL SERVICES FOR ADDITIONAL FEES

RETURN RECEIPT SERVICES
1. Shows to whom and date delivered ..... With restricted delivery .....
2. Shows to whom, date and where delivered With restricted delivery .....

RESTRICTED DELIVERY .....

SPECIAL DELIVERY (extra fee required) .....

CONSULT POSTMASTER FOR FEES

PS Form 3800 Jan. 1976

NO INSURANCE COVERAGE PROVIDED— NOT FOR INTERNATIONAL MAIL

(See other side)

☆ GPO: 1975—O-591-452

PS Form 3811, Jan. 1975

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
- ☐ Show to whom and date delivered..... 15¢
- ☒ Show to whom, date, & address of delivery.. 35¢
- ☐ RESTRICTED DELIVERY. Show to whom and date delivered..... 65¢
- ☐ RESTRICTED DELIVERY. Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:
GEORGE R. SUNIGA, INC.
c/o George R. Suniga, Reg. Agent
1431 Liberty St.,S.E., Salem, Oregon

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	345755	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

4. Christine Elford

DATE OF DELIVERY 4/21/77

POSTMARK

5. ADDRESS (Complete only if requested)
1431 Liberty St SE

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

☆ GPO: 1975—O-568-047

CERTIFICATE OF SERVICE

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

I hereby certify that I am a competent person over the age of 18 years, and that I served the foregoing Motion for Default Order and Judgment with Affidavit of David W. O'Guinn attached, on:

George R. Suniga, Inc.
c/o George R. Suniga, Registered Agent
1431 Liberty Street, S.E.
Salem, Oregon 97302

on the 19th day of April, 19 77 by mailing each of them true and correct copies thereof. I further certify that said copies were placed in sealed envelopes addressed to them at their respective addresses listed above and deposited in the Post Office at Portland, Oregon on the 19th day of April, 1977; that the postage thereon was prepaid, and that said service was made by certified mail.

Signature

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY, of the STATE OF OREGON, Department, v. GEORGE R. SUNIGA, INC., Respondent.	)	NOTICE OF ASSESSMENT OF CIVIL PENALTY AQ-SNCR-77-42 MARION COUNTY

I.

GEORGE R. SUNIGA, INC., hereinafter will be referred to as "Respondent." The Department of Environmental Quality is hereinafter referred to as "Department." The Director of the Department is hereinafter referred to as "Director."

II.

On or about January 25, 1977, open burning of construction debris was observed on property owned or controlled by Respondent and located at 1175 Kamela Dr. S. in Salem, Oregon. The above-described act violates Oregon Administrative Rules (hereinafter referred to as "OAR") section 340-23-040(7).

III.

Pursuant to ORS 468.125 through 468.140, ORS chapter 183, and Oregon Administrative Rules (hereinafter referred to as "OAR") chapter 340, divisions 11 and 12, and in particular, section 340-12-050(2), the Director hereby imposes upon Respondent a civil penalty of $150.00 for the one or more violations cited in Paragraph II above.

IV.

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

A. Whether Respondent committed any prior violation,

regardless of whether or not any administrative, civil, or criminal proceeding was commenced therefor;

B. Respondent's history in taking all feasible steps or procedures necessary or appropriate to correct any violation;

C. Respondent's economic and financial condition;

D. The gravity and magnitude of the violation;

E. Whether the violation was repeated or continuous;

F. Whether the cause of the violation was an avoidable accident, or Respondent's negligence or intentional act;

G. The opportunity and degree of difficulty to correct the violation;

H. Respondent's cooperativeness and efforts to correct the violation; and

I. The cost to the Department of investigation and correction of the cited violation.

V.

This penalty is being imposed without prior notice pursuant to ORS 468.125(2) and OAR, section 340-12-040(3)(b) because the above-described pollution source would normally not be in existence for five (5) days.

VI.

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

VII.

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

A. Factual matters not controverted shall be presumed admitted;

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

C. New matters alleged in the "Answer" shall be presumed to be denied; and

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

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

request for hearing and an "Answer," Respondent will be notified of the date, time and place of the hearing.

March 1, 1977
Date

William H. Young
WILLIAM H. YOUNG, Director
Department of Environmental Quality

ddf

RECEIPT FOR CERTIFIED MAIL

No. 345666

SENT TO George R. Suniga, Inc.
c/o George R. Suniga, Reg. Agent
STREET AND NO.
1431 Liberty Street, S.E.
P.O., STATE AND ZIP CODE
Salem, Oregon 97302

POSTMARK OR DATE
NOA
Marion Co.
3/2/77

OPTIONAL SERVICES FOR ADDITIONAL FEES
RETURN RECEIPT SERVICES
1. Shows to whom and date delivered
With restricted delivery
2. Shows to whom, date and where delivered
With restricted delivery
RESTRICTED DELIVERY
SPECIAL DELIVERY (extra fee required)
CONSULT POSTMASTER FOR FEES

PS Form 3800 Jan. 1976
NO INSURANCE COVERAGE PROVIDED—NOT FOR INTERNATIONAL MAIL
(See other side)
☆ GPO: 1975—O-591-452

PS Form 3811, Jan. 1975

SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
- ☐ Show to whom and date delivered..... 15¢
- ☒ Show to whom, date, & address of delivery.. 35¢
- ☐ RESTRICTED DELIVERY. Show to whom and date delivered..... 65¢
- ☐ RESTRICTED DELIVERY. Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:
George R. Suniga, Inc.
c/o George R. Suniga, Reg. Agent
1431 Liberty St., SE, Salem, Oregon 97302

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	345666	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY 3/3/77
POSTMARK MAR 1977

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:
CLERK'S INITIALS

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

☆ GPO: 1975—O-568-047

CERTIFICATE OF SERVICE

(Mail)

STATE OF OREGON)
) ss
COUNTY OF Multnomah)

I, Gloria C. Davis, being a competent person over the age of eighteen (18) years, do hereby certify that I served R. George/Suniga, Inc. by mailing by certified mail to co George R. Suniga Certified Mail # 345666

Name of Party

(Name of Person to whom Document addressed)

Registered Agent
(and if not the party, their relationship)

Notice of Assessment of Civil Penalty - AQ-SNCR-77-42 - Marion County
(Identify Document Mailed)

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

1431 Liberty St., S.E., Salem, Oregon 97302

his last known address, and deposited in the Post Office at Portland, Oregon, on the 2nd day of March, 19 77, and that the postage thereon was prepaid.

Signature

F-20

STATE OF OREGON

ROUTE SLIP

Date 7-12

TO: P.W. McSwain

FROM: ~~Corley~~

CHECK

- ___ Approval
- ___ Investigate
- 2 Necessary Action
- ___ Confer
- ___ Prepare Reply
- ___ Per Telephone Conversation
- ___ For My Signature
- ___ For Your Information
- ___ Your Signature
- ___ As Requested
- ___ Comment
- ___ Note and File
- ___ Initial and Return
- ___ Return With More Details

RECEIVED JUL 13 1977

COMMENTS:

81-125-1569

HAENNY & WEST
ATTORNEYS AT LAW
206 PACIFIC BUILDING 100 HIGH STREET, S. E.
POST OFFICE BOX 924
SALEM, OREGON 97308

TERRY K. HAENNY
C. GREGORY WEST

AREA CODE 503
TELEPHONE 399-1355

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
JUL 12 1977
OFFICE OF THE DIRECTOR

July 11, 1977

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

Re: DEQ vs. Suniga
Civil Penalty

Dear Mr. Young:

Enclosed is the written answer to the charges contained in the notice previously sent to Mr. Suniga and referred to above. The purpose of this letter is to request a formal contested case hearing before the environmental quality commission or its hearing officer regarding the matters alleged in the notice of assessment as received by Mr. Suniga. I assume that I will notified of the date and time of a hearing.

Very truly yours,

TERRY K. HAENNY

TKH:rg
Enclosure
cc: Mr. George R. Suniga

DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
JUL 12 1977

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY, of the STATE OF OREGON, Department, vs. GEORGE R. SUNIGA, INC., Respondent.	)	DENIAL AQ-SNCR-77-143 MARION COUNTY

COMES NOW George R. Suniga, Inc., the above named Respondent, by and through his attorney, Terry K. Haenny, and denies each and every allegation contained in the Notice of Assessment of Civil Penalty and the whole thereof.

DATED at Salem, Oregon, this 11th day of July, 1977.

HAENNY AND WEST

By: Terry K. Haenny
TERRY K. HAENNY
Of Attorneys for Respondent

HAENNY & WEST
ATTORNEYS AT LAW
206 PACIFIC BLDG. — 175 CHEMEKETA STREET, N.E.
P.O. BOX 1124
SALEM, OREGON 97308
TELEPHONE (503) 399-1335

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY, of the STATE OF OREGON, Department, v. GEORGE R. SUNIGA, INC., Respondent.	NOTICE OF ASSESSMENT OF CIVIL PENALTY AQ-SNCR-77-143 MARION COUNTY

I.

GEORGE R. SUNIGA, INC. (an Oregon Corporation), hereinafter will be referred to as "Respondent." The Department of Environmental Quality is hereinafter referred to as "Department." The Director of the Department is hereinafter referred to as "Director."

II.

On or about June 2, 1977, open burning of construction debris including carpeting and paint or glue cans was observed on property owned or controlled by Respondent and located on Lot 1, Block 4, Sprague Heights Subdivision at 1556 Kamela Drive S. in Salem, Oregon. The above described act violates Oregon Administrative Rules (hereinafter referred to as "OAR") Section 340-23-040(7) and OAR Section 340-23-045(5)(a).

III.

Pursuant to ORS 468.125 through 468.140, ORS chapter 183, and Oregon Administrative Rules (hereinafter referred to as "OAR") chapter 340, divisions 11 and 12, and in particular, section 340-12-050(2), the Director hereby imposes upon Respondent a civil penalty of $500.00 for the one or more violations cited in Paragraph II above.

IV.

In determining the precise amount of Respondent's penalty, the Director has

considered OAR, section 340-12-045(1)(a) through (i) as follows:

A. Whether Respondent committed any prior violation, regardless of whether or not any administrative, civil, or criminal proceeding was commenced therefor;

B. Respondent's history in taking all feasible steps or procedures necessary or appropriate to correct any violation;

C. Respondent's economic and financial condition;

D. The gravity and magnitude of the violation;

E. Whether the violation was repeated or continuous;

F. Whether the cause of the violation was an avoidable accident, or Respondent's negligence or intentional act;

G. The opportunity and degree of difficulty to correct the violation;

H. Respondent's cooperativeness and efforts to correct the violation; and

I. The cost to the Department of investigation and correction of the cited violation.

V.

This penalty is being imposed without prior notice pursuant to ORS 468.125(2) and OAR, section 340-12-040(3)(b) because the above-described pollution source would normally not be in existence for five (5) days.

VI.

This penalty is due and payable immediately upon receipt of this

notice. Respondent's check in the above amount should be made out in the name of "State Treasurer, State of Oregon" and returned to the Director.

VII.

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

A. Factual matters not controverted shall be presumed admitted;

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

C. New matters alleged in the "Answer" shall be presumed to be denied; and

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

///

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

June 27, 1977
Date

William H. Young
WILLIAM H. YOUNG, Director
Department of Environmental Quality

Certified Mail #346257

ddf

No. 346257

RECEIPT FOR CERTIFIED MAIL

SENT TO George R. Suniga, Inc.
c/o George R. Suniga, Reg. Agent

POSTMARK OR DATE
NOA

STREET AND NO.
1431 Liberty Street, S.E.

P.O., STATE AND ZIP CODE
Salem, Oregon 97302 Marion Co.

OPTIONAL SERVICES FOR ADDITIONAL FEES

RETURN RECEIPT SERVICES
1. Shows to whom and date delivered ..... With restricted delivery ....
2. Shows to whom, date and where delivered With restricted delivery ....

CONSULT POSTMASTER FOR FEES

RESTRICTED DELIVERY ....
SPECIAL DELIVERY (extra fee required) ....

PS Form Jan. 1978 3800 NO INSURANCE COVERAGE PROVIDED— NOT FOR INTERNATIONAL MAIL (See other side)

☆ GPO: 1975—O-691-452

PS Form 3811, Jan. 1975

SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
- ☐ Show to whom and date delivered..... 15¢
- ☒ Show to whom, date, & address of delivery.. 35¢
- ☐ RESTRICTED DELIVERY. Show to whom and date delivered..... 65¢
- ☐ RESTRICTED DELIVERY. Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:
George R. Suniga, Inc.
c/o George R. Suniga, Reg. Agent
1431 Liberty St.,S.E., Salem, Oregon 97302

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	346257	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

T. Wallace

4. DATE OF DELIVERY 6/30/78 POSTMARK

5. ADDRESS (Complete only if requested)
1431 Liberty, S.E.

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

☆ GPO: 1975—O-568-047

CERTIFICATE OF SERVICE

(Mail)

STATE OF OREGON)
) SS
COUNTY OF)

I, Ruth F. Weigel, being a competent person over the age of eighteen (18) years, do hereby certify that I served George R Sunega, Inc CM # 346257 by mailing by certified
Name of Party
mail to same c/o George R Sunega, Regist Agent
(Name of Person to whom Document addressed)

same
(and if not the party, their relationship)

(identify document mailed)

I hereby further certify that said document was placed in a sealed envelope addressed to said person at 1431 Liberty Strut S.E. Salem, Oregon 97302 his last known address, and deposited in the Post Office at Portland, Oregon, on the 29 day of June, 1977, and that the postage thereon was prepaid.

Ruth F. Weigel
Signature

WARRANTY DEED (INDIVIDUAL) Vol. 783 Page 563

RUTH C. FRANTZ, who took title as RUTH P. CHAPMAN and ED FRANTZ

, hereinafter called grantor, conveys to

, all that real property situated in the County of Marion, State of Oregon, described as:

Beginning at a 2" x 36" iron pipe set on the Northerly boundary line of that tract of land described in Volume 346, page 566, Marion County Record of Deeds, said monument bears North 88°32'20" West 6.31 feet and South 1°27'40" West 1,319.58 feet and North 88°37'31" West 20.00 feet from the 1/4 corner between Sections 9 and 16, Township 8 South, Range 3 West of the Willamette Meridian, Marion County, Oregon and running thence North 88°37'31" West 1,340.00 feet along said Northerly boundary line to a 5/8 inch iron rod with an aluminum cap; thence South 1°27'40" West 439.74 feet parallel to a Westerly right of way line of Liberty Road to a 5/8 inch iron rod with an aluminum cap on the Southerly boundary line of said tract of land; thence South 88°28'34" East 1,340.00 feet along said Southerly boundary line to a 5/8 inch iron rod with an aluminum cap on said Westerly right of way line of Liberty Road; thence North 2°02'10" East 440.24 feet to said Westerly right of way line to a 5/8 inch iron rod with an aluminum cap; thence continuing along said Westerly right of way line North 1°27'40" East 21.68 feet to a 5/8 inch iron rod with an aluminum cap on said Northerly boundary line; thence North 88°37'31" West 20.00 feet along said Northerly boundary line to the point of beginning.

and covenant(s) that grantor is the owner of the above described property free of all encumbrances except the rights of the public in and to that portion of the herein described property lying within the limits of roads and roadways

and will warrant and defend the same against all persons who may lawfully claim the same, except as shown above.

* The true and actual consideration for this transfer is $ 61,500.00----- .*

**

Dated this 25th day of June, 19 74

Ruth C. Frantz

Ed Frantz

STATE OF OREGON, County of Marion) ss.

June 28th, 19 74 personally appeared the above named Ruth Frantz and acknowledged the foregoing instrument to be her voluntary act and deed.

OFFICIAL SEAL
VALETA BURKE
NOTARY PUBLIC CALIFORNIA
SACRAMENTO COUNTY
My Commission Expires Aug. 29, 1975
[illegible] Sacramento Dr., Sacramento, CA 95826

Before me:

Valeta Burke

Notary Public for Oregon California

My commission expires: Aug 29 1975

* The consideration amount should include cash plus all encumbrances existing against the property to which the property remains subject or which the purchaser agrees to pay or assume.

** If consideration includes other property or value, add the following: "However, the actual consideration consists of or includes other property or value given or promised which is part of the the whole consideration." (Indicate which)

WARRANTY DEED (INDIVIDUAL)

FRANTZ, Ruth C. - took title as RUTH P. CHAPMAN & ED FRANTZ

TO

ALVIGA, George R.

After Recording Return to: and taxes to 3442 Commercial St Salem, Oregon

31139

5781

Form No. 6-668
(Previous Form No. TA 16)

STATE OF OREGON,) ss.
County of MARION)

I certify that the within instrument was received for record on the day of JUL 24 1974, 19 , at 1:03 o'clock P M. and recorded in book 783 on page 563 Records of Deeds of said County.

Witness my hand and seal of County affixed.

T. HAROLD TOMLINSON, County Clerk

Title

By Nik Deputy

$6.00

THIS INDENTURE WITNESSETH, That Harold D. Jones and Ruth A. Jones, husband and wife and Ralph R. Dent and Rachel A. Dent, husband and wife,

hereinafter known as grantor s for and in consideration of the sum of

- - Ten and no/100 - - - Dollars,

to them paid, ha ve bargained and sold, and by these presents do grant, bargain, sell and convey unto Ruth P. Chapman, her

heirs and assigns, the following described premises, to-wit:

Beginning at a point 20 chains South of the quarter section corner between sections 9 and 10, in Township 5 South, Range 2 West of the Willamette Meridian, Marion County, Oregon, running thence South 3.33 C/S chains; thence North 89° 30' West 20 chains; thence North 10' East 3.33 C/S chains; thence South 89° 30' East 20 chains to the place of beginning.

TO HAVE AND TO HOLD the said premises with their appurtenances unto the said grantee s, their heirs and assigns forever. And the said grantor s do hereby covenant to and with the said grantee s their heirs and assigns, that they are the owner s in fee simple of said premises; that they are free from all incumbrances, no exceptions,

and that they will warrant and defend the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, we have hereunto set our hand s and seal this 15th day of May 1946

Done in presence of

Harold D. Jones (SEAL)

Ruth A. Jones (SEAL)

Ralph R. Dent (SEAL)

Rachel A. Dent (SEAL)

LAMB — The time and place set for the contested case hearing in the matter of the Department of Environmental Quality versus George R. Suniga. My name is Franklin Lamb so that the, your hearing officer on behalf of the Environmental Quality Commission. For the record, this matter involves the alleged violation of OAR 340-23-040, subparagraph 7 and the alleged burning, open burning by the Respondent. The Respondent has denied that each and every allegation.
Mr. Fraley, on behalf of the Department, have you an opening statement to make?

FRALEY — Yes, I would say that the Department will show that Respondent has burned construction debris, such as carpet trimmings and glue or paint cans in violation of OAR Section 23- or 340-23-040 number 7.

LAMB — Thank you. Mr. Haney, have you an opening statement to make?

HANEY — Yes, I do, Mr. Referee. As I understand the facts in this case, it will come out and show that Mr. Suniga, himself neither consented nor knew anything about the fire that took place. With that in mind it's my opinion that the Department of Environmental Quality cannot impose a civil penalty against him merely as being the owner of a piece of property on which a fire takes place, if in fact he has no knowledge or does not consent to the fire itself. Our witness will indicate and I'm sure that Mr. Fraley does not have any witnessess that can point to Mr. Suniga, himself having anything to do with this occurrence, other than the debris being on his property which was burned. I don't believe the laws of our Country go to the point that an individual can be civilly fined for merely being a property owner. Thank you.

LAMB — Thank you, Mr. Haney. Mr. Fraley.

FRALEY — No, not right now thank you. I'd like to call, as my first witness, Terri Axell, please.

LAMB Terri Axell. Ms. Axell, do you swear that the testimony you are about to give in this matter is the truth, the whole truth and nothing but the truth, so help you God?

AXELL Yes, sir.

LAMB Thank you.

FRALEY Would you give us your full name, please.

AXELL My full name is Terrell Ann Axell.

FRALEY Okay and where do you work?

AXELL For the Department of Environmental Quality Salem Northcoast Region.

FRALEY Okay. What did you do before that?

AXELL I was employed by the Mid-Willamette Valley Air Pollution Authority until the Authority was taken over by the Department in August of '75.

FRALEY Okay. Can you tell us what you observed on June 2, 1977?

AXELL On that morning I was travelling to work, approximately 7:25 a.m. on Liberty Road South and was coming into town. As I rounded a corner I noticed, immediately, huge flames shooting into the air. At first I thought it was a house fire, but as I got closer I could see that it was a house that was under construction or at least appeared to be under construction and I assumed that it was an open burning fire of construction debris.

FRALEY Okay. What did you do then?

AXELL When I arrived at work, it was at about quarter to eight. I--Harry was in the office and I told him what I had seen and also that I had considered contacting the fire department, however, I did not as I was not able to stop on my way into town. So he assured me that he would go out and investigate.

FRALEY Okay. I don't have any further questions of this witness.

HANEY No questions for me.

LAMB Thank you.

FRALEY Okay. I'd like to call as my next witness, Harry Demaray, please.

LAMB Fine. Mr. Demaray, do you solemnly swear that the testimony you are about give in this matter is the truth, the whole truth and nothing but the truth, so help you God?

DEMARAY I do.

LAMB Thank you.

FRALEY Okay. Mr. Demaray, would you give us your full name, please.

DEMARAY Harry Milton Demaray.

FRALEY When were you employed by the Department?

DEMARAY Well, I was with the Mid-Willamette Air Pollution Authority until it was taken over by the Department in August of '75.

FRALEY Okay. How long were you--when did you start with Mid-Willamette Air Pollution Authority?

DEMARAY March 1974.

FRALEY Okay. What's been the nature of your work with the Department and the Mid-Willamette Valley Air Pollution Authority?

DEMARAY Almost entirely in air pollution enforcement.

FRALEY Okay. You--can you tell us what you observed on June 2, 1977?

DEMARAY Yes. I responded to a report by Terri that you just heard about. And I went out on South Liberty looking for the fire and located it on--I forget the address--but it must be here somewhere. I had a little trouble finding it at first. I drove beyond the site and came back in northbound on Liberty and then it was obvious. It was on the skyline and looked like it was on a ridge top. It was a huge bon fire and--

AXELL It was Camellia, wasn't it?

DEMARAY Yeah, Camellia Drive South. It was at the extreme end of Camellia. It was an undeveloped lot that apparently had been used for accumulated waste material.

FRALEY Okay. What type of material did you observe being burned?

DEMARAY Well, most of the material that was making the blaze was consumed by the time I got close enough

to get a good look at it. There was some lumber pieces remaining. There was some scraps of green carpeting, some cans--gallon cans, that had paint or cement in them--I don't know what--some kind of material that was burning very rapidly.

FRALEY Okay. Was anyone with you at the time?

DEMARAY No. I went out there alone.

FRALEY Okay. Did you interview anyone at the scene of the fire?

DEMARAY Yes. I ran into Mr. Ketner, I think it was. Harve Ketner. He was in the vicinity when I got there and I asked him if it was his fire.

HANEY Excuse me. I'm going to object to statements made by a third party that is not present on the grounds that it violates the hearsay rule.

LAMB All right.

FRALEY I would offer this some of the rule.

LAMB I'll consider the objection, but I think we're going to allow the hearsay of the testimony.

DEMARAY Mr. Ketner said no and he hadn't started the fire but he'd help me put it out if I wanted to. And he got a shovel out of his pickup and threw some dirt on it and it was pretty well burned out by then. It extinguished the fire.

FRALEY Okay, did you discuss anything with him about the fire? Other than what you've already stated to us?

DEMARAY Well, during the conversation...

HANEY Same objection, Mr. Referee.

DEMARAY He mentioned that he had an arrangement with Mr. Suniga to clean up the debris around his site and regularly does this. Other than that that's about all I have to say.

FRALEY Okay. Did you observe anyone else at the scene?

DEMARAY No, no one else at the scene--I interviewed some people.

FRALEY Okay. Who did you interview?

DEMARAY Mrs. Wes Barrett who lives across the street.

FRALEY Okay. Did she have any knowledge of what happened?

HANEY Same objection, Mr. Referee.

DEMARAY No, she did not. She didn't have any different knowledge of it.

LAMB Excuse me. Let me ask, Mr. Fraley, have you made any effort to ask that these witnesses be present, Mr. Ketner and...

FRALEY No, I have not.

LAMB No contact with them?

FRALEY Okay. Do you have any idea how much material was being burned or what was there?

DEMARAY Well, Mrs. Barrett did say that there had been quite a pile-up of carpet but I think appliance carpeting.

FRALEY Okay.

DEMARAY Accumulated at that site. And later in the day her husband called and reported that he'd seen somebody light the fire.

FRALEY Okay. To the best of your knowledge is this the first enforcement action that's been taken against Mr. Suniga?

DEMARAY No, no there's quite a list dating back to 1969.

HANEY Excuse me, Mr. Referee, I'm going to object to any testimony along that line. It seems to me that first you must decide whether or not a penalty is to be imposed and if one is to be imposed then you should consider the past conduct of Mr. Suniga, but I don't believe any testimony should be given at this point as to past conduct as an indication of whether or not he violated this specific law.

LAMB I think that's well taken. Mr. Fraley, what's your purpose in gaining?

FRALEY It was to lay groundwork as to the penalty and why the penalty was issued against Mr. Suniga.

LAMB Why the amount of the penalty?

FRALEY Why the amount was what it was.

LAMB That's an issue in this case.

HANEY Well, first I think we must decide whether a penalty is to be imposed and if a penalty is to be imposed then we can talk about the amount.

FRALEY Okay, I'll withdraw that question for this time.

I don't think I have any further questions of this witness right now.

LAMB All right. Thank you.

HANEY I don't have any questions.

FRALEY Okay. I don't--at this time I don't believe I have any other witnesses.

LAMB All right. Do you have any evidence you wish to put into the record other than the testimony?

FRALEY At this time, no.

LAMB All right. Mr. Haney?

HANEY Do I understand that the Department rests their case then?

FRALEY Yes.

LAMB Yes, the Department is resting their case.

HANEY Mr. Referee, I would move for a dismissal of the civil penalty against Mr. Suniga on the grounds and for the reason that there's been no proof in this hearing that he owns the property on which the burning took place. And I certainly believe that that has got to be shown and that there is no proof that he himself or any of his employees participated in a fire which may have taken place. There simply has not been prima facie case proven by any stretch of the imagination under any rules that we can talk about.

FRALEY Okay. I would offer an evidence then. Certified copy of the deed showing the property in question being owned by Mr. Suniga.

HANEY Excuse me, Mr. Referee, the Department has rested their case and it's too late now to introduce documents.

LAMB ...why you didn't offer these earlier when I asked you if you had further witness, documentation and evidence to offer.

FRALEY My only defense is that I'm--well, I guess I'm not quite as well acquainted with the rules--the ground rules.

LAMB I'm going to note your motion. I'm not going to ground you this time. I'll preserve your objection, however. I that there is sufficient

flexibility under the Administrative Procedure Act to allow this evidence to come in at this time, but I will note your objection and your motion.

HANEY Are you denying the motion, Mr. Referee?

LAMB Yes.

HANEY And are you allowing those documents to be introduced after they've rested their case?

LAMB Yes, I am. Mr. Fraley, do you have additional--does the Department now rest its case?

FRALEY Well, in view of this I would like to call one additional witness then. Is that within the bounds or not?

HANEY I'm going to have to object. I do realize that Mr. Fraley is not an attorney and that does put him at some disadvantage but that certainly not the fault of Mr. Suniga or myself and I believe we are entitled to the same rules and procedures that would take place assuming that Mr. Fraley were an attorney. He should know how these hearings operate and it's unfair for him to call a witness, let alone offer a document after they have rested their case.

LAMB Yes. I understand your objection. I think I'll reserve ruling on that for this time, but our purpose here is to construct a record and as the Department is present and willing to give this evidence, I think that we should take it and I'll reserve for the time being your objection and will rule on that at a later time, Mr. Haney; but since we're all here I think we'll allow the Department to proceed.

FRALEY Okay. I would like to call Mr. Suniga, please.

LAMB Mr. Suniga, do you solemnly swear that the testimony that you are about to give in this matter is the truth, the whole truth and nothing but the truth, so help you God?

SUNIGA Yes.

LAMB Thank you.

FRALEY Okay. Mr. Suniga, would you give us your full

name, please.

SUNIGA George R. Suniga.

FRALEY Okay and what do you do for a living?

SUNIGA I'm a contractor, developer.

FRALEY Okay. On June 2, there was testimony that a fire occurred on a building construction site which presumed to be yours. Did you own or control the property in Lot 1, Block 4, Sprague Heights Subdivision, which is located at 1556 Camellia Drive South in Salem at that time.

SUNIGA Excuse me, what lot again?

FRALEY Lot 1, Block 4.

SUNIGA Yes, I did.

FRALEY To your knowledge is that the lot on which the fire occurred?

SUNIGA I wouldn't know. I didn't know anything about the fire.

FRALEY Okay. Is it customary to pile construction debris up a construction site?

SUNIGA Absolutely.

FRALEY It is? What is the--strike that. Have you ever thought about instead of piling this up, getting a container, like a drop box or something to put it in?

SUNIGA Those drop boxes are not that readily available. You have to--you do have to order those things in advance and they're not that readily available.

FRALEY Okay.

SUNIGA You can use them--I've got two or three of them contracted for at the present time, but those things are not that readily available.

FRALEY I see. How long had you been operating in this subdivision?

SUNIGA A year.

FRALEY And within that period of a year you had no opportunity to get a drop box?

SUNIGA We didn't. No, we didn't.

FRALEY Did you try?

SUNIGA Yes, we did.

FRALEY Did you?

SUNIGA Mmhm.

FRALEY I don't think I have any further questions of this witness.

HANEY I don't have any questions of Mr. Suniga right now.

LAMB Thank you, Mr. Suniga.

FRALEY Okay. I would also like to call Mr. Wes Barrett, please.

LAMB Mr. Barrett, do you solemnly swear that the testimony you are about to give in this matter is the truth, the whole truth and nothing but the truth, so help you God?

BARRETT Yes, sir.

HANEY Same objection to this witnesss as I had to Mr. Suniga, Mr. Referee. I don't believe it's fair to call any additional witness after they've rested.

LAMB Thank you. Mr. Haney, I'll note that too.

FRALEY Okay. Mr. Barrett, would you give us your full name, please.

BARRETT Wes D. Barrett.

FRALEY Okay and what is your operation?

BARRETT I'm a real estate broker.

FRALEY And what--where do you reside? Your residence.

BARRETT My residence is 5285 Parker Court South.

FRALEY Okay. Where is that with regard to the fire that occurred on June 2.

BARRETT Directly across the street.

FRALEY Okay. Can you tell us what you observed that day?

BARRETT Well, there's been a pile of rubbish there and many people moving in every month could set a couple more people moving into these houses. I'm not personally acquainted with everyone that moves into a house immediately and I believe that it's probably been the habit of some of these people, kind of irritated me, to pile the rubbish out there anyway, adding their own packing boxes and personal garbage and I had observed people dumping things there. Of course, I hadn't realized that ultimately a pile would disappear...On this

particular morning and I usually don't get out that early in the morning, but I did have some early appointments and I was in that little bathroom right off the utility room there. Normally, I'd be in the bathroom off the master bedroom. I didn't want to wake my wife up early and I was brushing my teeth at the time and kind of glancing out the window and there was a man came up here it looked to be the rubbish from on these car baskets and he was dumping his things on there and it looked like a cigarette ashtray out of the car also, dumping more paper on this huge pile. This was probably before seven o'clock cause I had an early appointment. And this continued and the next thing, I looked up and there's some flames coming and the guy's going--I don't know who he was. I know he was wearing a sport coat and slacks. Evidently, he was getting ready to go early in the morning and thought he'd get rid of his trash at one of the new houses on the street. I don't--maybe it was an afterthought he had the same feeling I had when he set the darn thing off. I think that's what it was.

FRALEY Okay. Do you have any knowledge as to whether he was an employee of Mr. Suniga?

BARRETT I would doubt that his employees wear business suits. No. I know most of the employees of George Suniga. Of course I'm in the real estate business and do become acquainted with...had been an old fellow that carried the trash away and lead owner and the framer. I'm well acquainted with these people. It was not one of his workers.

FRALEY Could it have been a--does he--do you have any knowledge, does he have any salesmen or any representatives like that that may have been dressed in a--.

BARRETT No. George--all of his property is listed through real estate brokers. He does no direct marketing of his houses himself. He is the builder and developer and the place is always...with real

estate brokerages.

FRALEY Okay, thank you.

LAMB Mr. Haney?

HANEY No questions of Mr. Barrett right now, Mr. Referee.

FRALEY All right. I think the Department will rest its case now.

LAMB All right, Mr. Fraley.

HANEY Mr. Referee, I have the same motion that I had prior. I don't believe that the Department has proven a prima facie case. I assume that they are attempting to hold Mr. Suniga responsible under rule 23-040(3), which in essence says that any person who owns or controls the property on which open burning occurs shall be considered the person responsible for the open burning. I don't believe that the Department intends that rule to be one which imposes strict liability on a property owner. The inference that they're attempting to draw from that rule is not correct in that they are assuming or presuming that the person who owns the property is the one that is responsible for the fire and that presumption is just not legally correct under our due process laws. There was a case just recently that went to our Court of Appeals, involving Marion County, the Mid-Willamette Valley Air Pollution Authority, and Lariette and Building Company. I was involved somewhat in that appeal. That decision from the Court of Appeals did not decide the question of a property owner being responsible, unfortunately, and I don't believe that it's been decided by our Court of Appeals. But certainly all the rules of law that I know anything about would indicate that to hold Mr. Suniga responsible under the proof that we have had so far is just totally not allowable under our laws and regulations, especially our Constitution.

LAMB Thank you. You rest your case.

HANEY No, I don't rest my case. I made my motion again,

I assumed following another...

LAMB Yes.

HANEY ...Resting by the Department.

LAMB Fine. All right. On that motion and your objection to the Department resting their case and then reopening it, when we deliberate and make Findings of Fact and Conclusions of Law I'm going to decide those questions. For the time being I've chosen to allow that evidence to come in and then a final decision on this will be made in our own findings and if then you object to that you have the option to appeal to the Commission. I note your motion. I'm going to deny it at this time.

HANEY I would call Mr. Suniga as a witness then, please, for myself.

LAMB Yes. Thank you. Mr. Suniga, do you swear that the testimony you are about to give in this matter shall be the truth, the whole truth, and nothing but the truth, so help you God?

SUNIGA Yeah.

LAMB Thank you.

HANEY Mr. Suniga, you do realize that at sometime there was a fire located in the subdivision that we're talking about. Is that true?

SUNIGA (unintelligible)

HANEY Did you light that fire?

SUNIGA No, I did not.

HANEY Do you know who did?

SUNIGA No, I do not.

HANEY Did you participate in instructing anyone to light that fire?

SUNIGA No, I did not.

HANEY Did you know that the fire was going to be lit?

SUNIGA No, I did not.

HANEY Do you know whether or not the fire was actually lit with regard to some debris of yours?

SUNIGA No, I didn't know anything about it until I got the citation in the mail.

HANEY Did you know anything about it prior to that time?

SUNIGA No, I did not.

HANEY Were you contacted by anyone from the Department of Environmental Quality prior to the time you received the notice?

SUNIGA I don't recall, frankly.

HANEY How many employees do you have that regularly work for you and that would have been in that area during that period of time?

SUNIGA Two, Mr. Haney.

HANEY Do any of those employees wear sport coats and suits?

SUNIGA Probably one.

HANEY Did you come to that property on June 2, 1977?

SUNIGA Not to the best of my knowledge.

HANEY Is it common practice, and I believe Mr. Fraley asked you, for you in the construction business to stack debris from the construction work on possibly a vacant lot?

SUNIGA Sure it is.

HANEY What do you do with that debris at some time in the future?

SUNIGA We haul it off a lot of times and bury it. If it's like cardboard, materials that would cause sediment at a later date. If we do substantial backfilling around buildings we'd bury it in the backyard.

HANEY What did you intend to do with this debris?

SUNIGA Bury it. We buried a lot of debris on that end--on the end lot on Camellia Street. We buried a lot of concrete and bricks, metal cans, debris from the building...

HANEY How many people were living in that subdivision at that time, Mr. Suniga, do you recall?

SUNIGA Well, I would estimate that probably 90% of the subdivision was building and just a minimum number of lots that were not building.

HANEY Did you build all of the homes in that subdivision?

SUNIGA Yes.

HANEY No one else built any spec homes in there?

SUNIGA There was one house that was built by another builder. I sold a lot out to him to be built and I would say at that time...Okay there was my son-in-law built one house at that time. Other than that I built...

HANEY How many homes are in the subdivision? How many lots?

SUNIGA Fifty-four.

HANEY So people moving in a regular basis.

SUNIGA Probably two people a week. Two families, excuse me, a week.

HANEY That's all I have.

LAMB Okay. Mr. Fraley, do you need to question?

FRALEY Looking back to June 2 or in that area, did you call in and talk to Mr. Demaray at all about that?

SUNIGA Yes, I did.

FRALEY Do you remember what the details of that discussion were?

SUNIGA I think essentially what we've discussed here that I didn't know anything about the fire and that I didn't feel that I should be responsible. I wasn't aware of apparently of what the statutes are at the time, which I am now. Basically, that's the discussion we had.

FRALEY Didn't you tell him that you'd gone out to the site a noon and talked with Mr. Kenton?

SUNIGA That could possibly, yes.

FRALEY So you were at the site during that day then?

HANEY I think he indicated that he doesn't recall. He's not trying to pull a fast one on us, but...

FRALEY Well, I just--I'm just trying to establish the facts. I don't think I have any further questions.

LAMB Thank you. Thank you, Mr. Fraley. Mr. Haney?

HANEY Yes, I call Wes Barrett again, if I might, please.

LAMB Mr. Barrett, you're still sworn and under oath.

HANEY Mr. Barrett, you've previously given testimony. There's just a couple of other questions I would like to ask you. Did you see this individual well enough, that you assumed lit the fire, to recognize

him?

BARRETT No, I couldn't say that I would recognize him. It was--at that time there was new neighbors moving in around there and I'm unfamiliar. I know it wasn't Fred...is a close friend of mine across the street. I know it wasn't Fred. The fella at that next house, it was unoccupied at that time. I really wouldn't know who it was. I know it wasn't Ron Britton from up the street.

HANEY If that person would have been Mr. Suniga, would you have been able to recognize him?

BARRETT Oh yes, I certainly would know George Suniga.

HANEY Is it a true statement that you don't have any idea who that individual was?

BARRETT That's true.

HANEY And is it a true statement that you observed a fire burning shortly after you saw that individual dump something on the pile of debris.

BARRETT That's true. What appeared to me at the time it was one of these basket things that hang in the car. I have one in my car and it looked full of that type of litter from a car and looked like he had an ashtray from a car and what--could well he accidentally got the fire going with that ashtray. That the next thing I knew there was--I was brushing my teeth and of course I wasn't looking out the window and I looked back up and the guy was going on over the hill. I don't know where his car was and there was small fire going and the first that you know it came up--there was a pile of debris there and it really made a big flame. I imagine it--I left along in there so there was--I imagine it burned out.

HANEY What time was it that you saw it?

BARRETT I don't...It probably burned out in half an hour or so.

HANEY That's all I have.

LAMB Thank you.

FRALEY I don't have anything.

LAMB All right. We'll close this hearing and you're

off the record.

ROBERT W. STRAUB
GOVERNOR

Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Hearing Officer

Subject: Agenda Item No. I(b), November 17, 1978 EQC Meeting

Contested Case Review: DEQ v. Randall Taylor (LQ-MWR-76-138)
Motion to Dismiss

Attached hereto are copies of the Department's Motion to Dismiss and background documents deemed relevant to assist the Commission and the parties in dealing with the Motion. Should Respondent file written resistance to the Motion, we will forward the same under separate cover.

It has been the suggestion of the Chairman that the parties each be given five minutes to be heard orally, should they desire.

Respectfully submitted,

Peter W. McSwain

Peter W. McSwain

PWMc:cs

Attachments

cc: Mr. Randall Taylor
Mr. Robert Haskins
Mr. Fred Bolton
Mr. Van Kollias
Mr. John Borden
Mr. Daryl Johnson

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

October 17, 1978

Hearings Section
Department of Environmental Quality
522 S. W. 5th Avenue
Yeon Building
Portland, Oregon 97201

Re: Randall Taylor v. Department of Environmental Quality
No. LQ-MWR-76-138

Gentlemen:

Enclosed for filing is our Motion to Dismiss with Certificate of Service attached.

Sincerely,

Robert L. Haskins (byhk)

Robert L. Haskins
Assistant Attorney General

hk
cc: R. Randall Taylor w/enc.
William H. Young w/enc.
Fred Bolton w/enc.
T. Jack Osborne w/enc.
John Borden w/enc.
Daryl Johnson w/enc.

Management Services Div.
Dept. of Environmental Quality
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OCT 19 1978

Management Services Div.
Dept. of Environmental Quality
RECEIVED
OCT 19 1978

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY of the State of Oregon, Department, vs. RANDALL TAYLOR, Respondent.	)	No. LQ-MWR-76-138 MOTION TO DISMISS

The Department moves the Commission for an order dismissing Respondent's request for Commission review of the proposed order of the presiding officer in the above-captioned matter, for the reason that Respondent has defaulted for his failure to diligently prosecute his appeal.

DATED this 17th day of October, 1978.

JAMES A. REDDEN
Attorney General

Robert L. Haskins (by ltr)
ROBERT L. HASKINS
Assistant Attorney General
Of Attorneys for Department

POINTS AND AUTHORITIES

It appears from the Commission's files and records in this contested case that Respondent, by order of the Commission announced at its meeting of February 24, 1978 was granted through March 26, 1978, to file with the Commission

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

and serve upon the Department his written exceptions, arguments and alternative findings of fact, conclusions of law and final order. This order followed the Department's February 9, 1978 Supplemental Motion to Dismiss for failure to prosecute and the February 24, 1978 hearing before the Commission thereon.

Respondent did not meet this time limitation and instead, by letter dated March 16, 1978, requested an additional 30 day extension in which to file exceptions. The extension request was granted by the Department's Director.

In a letter dated April 21, 1978, Respondent requested an additional extension in order to allow Respondent time to file an application for mitigation of the civil penalty. Specifically, Respondent requested an extension of 20 days, to begin running after the Director ruled on his request for mitigation. On April 27, 1978, the Director ordered the extension as requested.

After more than four months elapsed, during which Respondent failed to file any application for mitigation, the Department moved for a modification of the extension order, whereby Respondent would have a 30 day time limit to file his exceptions, etc., regardless of any application for mitigation. In an order dated September 5, 1978, this motion was gratned, by Director Young, giving Respondent 30 days from the order date to file his exceptions, etc. The 30 day extension has expired and Respondent neither filed exceptions and argument nor has

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

Respondent requested additional time to do so.

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

Under the rules of the Commission, the Respondent in a contested case must diligently prosecute his appeal by timely filing of exceptions, alternative findings of fact, conclusion of law and proposed order with the Commission. OAR 340-11-132(4). The history of the case clearly shows that Respondent has failed to comply with this rule.

Respondent began his appeal by filing an untimely request for Commission review, and failure to file exceptions, etc. before the date required by rule. The Commission, in its discretion, allowed Respondent an extension to file arguments on appeal. More than six months have now passed since the original extension was granted, and Respondent has failed to produce any exceptions to the proposed findings of fact, conclusions of law, and final order. Instead, Respondent, an attorney, has apparently used this time to take advantage of the Director's discretion to grant extensions, and thereby thwart a final determination of the case.

Now it appears that Respondent is in default, as he has made no further effort to prosecute the appeal.

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

The only conclusion to be drawn from Respondent's failure to either file exceptions, etc., or request yet another extension is that he has abandoned his appeal. Thus Respondent is in default for his failure to diligently prosecute his appeal in compliance with the rules of the Commission. There appearing no set of circumstances justifying a continuance of this matter, the Commission should issue a final order dismissing Respondent's request for review and adopting and affirming the hearing officer's proposed findings of fact, conclusions of law and final order and opinion.

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 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's attorney of record, R. Randall Taylor, at 25038 McCutcheon Avenue, P. O. Box 247, Veneta, Oregon 97487, his last known address, and deposited in the Post Office at Portland, Oregon, on the 17th day of October, 1978, and that the postage thereon was prepaid.

Holly Ketter

HOLLY KETTER
Secretary

file

CERTIRIED MAIL
Return Receipt Requested

October 30, 1978

Mr. R. Randall Taylor
25038 McCutcheon Avenue
P. O. Box 247
Veneta, Oregon 97487

Re: Randall Taylor v. Department of Environmental Quality, No. LQ-MWR-76-138

Dear Mr. Taylor:

On October 19, 1978, the Department filed a Motion to Dismiss your request for Commission review of the presiding officer's proposed order in this matter.

We intend to place this matter on the agenda of the November 17, 1978 Commission meeting in Eugene.

Please file with the Commission (at the above address) such resistance as you may have to the Motion. In order to be assured of due consideration by the Commission you should file not later than November 14, 1978. You will be notified of the time and place where you may be heard orally on this matter, hopefully not to exceed five (5) minutes.

Please inform this office promptly if you have questions or objections regarding the arrangements set forth above.

Sincerely,

Peter W. McSwain
Hearing Officer

PWMc:cs
cc: Robert Haskins
William Young
Fred Bolton
T. Jack Osborne
John Borden
Daryl Johnson

RECEIPT FOR CERTIFIED MAIL

No. 34733

SENT TO
R. Randall Taylor

STREET AND NO.
P. O. Box 247

P.O., STATE AND ZIP CODE
Veneta, OR 97487

POSTMARK OR DATE
10/30/78

OPTIONAL SERVICES FOR ADDITIONAL FEES

RETURN RECEIPT SERVICES
1. Shows to whom and date delivered ..... With restricted delivery .....
2. Shows to whom, date and where delivered With restricted delivery .....

RESTRICTED DELIVERY .....

SPECIAL DELIVERY (extra fee required) .....

CONSULT POSTMASTER FOR FEES

PS Form 3800 Jan. 1976

NO INSURANCE COVERAGE PROVIDED— NOT FOR INTERNATIONAL MAIL

(See other side)

☆ GPO: 1975—O-591-452

TAYLOR AND TAYLOR
ATTORNEYS AT LAW
88124 TERRITORIAL ROAD
MAILING ADDRESS: P.O. BOX 247
VENETA, OREGON 97487

R. RANDALL TAYLOR
R. SCOTT TAYLOR

TELEPHONE
(503) 935-2246

October 18, 1978

Management Services Div.
Dept. of Environmental Quality
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OCT 20 1978

Hearings Section
Department of Environmental Quality
522 S.W. 5th Avenue
Yeon Building
Portland, Oregon 97201

Re: Randall Taylor v. Department of Environmental Quality -- No. LQ-MWR-76-138

Gentlemen:

Enclosed herein please find Exceptions which I would ask be filed regarding the above entitled matter.

Very truly yours,

R. RANDALL TAYLOR

RRT/js

Enclosure

cc: Mr. Robert L. Haskins w/ encl.

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALTIY of the State of Oregon, Department, vs. RANDALL TAYLOR, Respondent.	No. LQ-MWR-76-138

EXCEPTIONS

I

Respondent was denied due process of law.

POINTS AND AUTHORITIES

Findings of facts, conclusions and order were decided and entered by Hearing Officer Lamb. This matter tried and submitted to Hearing Officer McSwain. Lamb was substituted because the workload called for reassignment, but his opinion was based upon an incomplete record. McSwain was present for a view of the situs, during which time background evidence was submitted. The testimony at the hearing was based upon such an understanding.

RANDALL TAYLOR, Respondent.

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

STATE OF OREGON
County of _____ } ss.

I, _____ swear or affirm I am the _____ and I believe the foregoing _____ to be true.

_____

Subscribed on oath or affirmation before me this _____ day of _____, 19____.

(SEAL)

_____

Notary Public for State of Oregon
My Commission Expires: _____

I certify that the foregoing _____ is a true, exact and full copy of the original.

Dated: _____, 19____.

_____

Attorney for _____

I certify that on _____, 19____, I personally served a true, exact and full copy of the within _____, on _____, Attorney of record for the _____ by leaving the copy with his clerk in his absence at his office at _____, Oregon.

_____

Attorney for _____

I certify that on _____, 19____, I personally served a true, exact and full copy of the within _____, on _____, Attorney of record for the _____.

_____

Attorney for _____

I certify that I served the foregoing Exceptions on Robert L. Haskins by depositing a true, full and exact copy thereof in the United States Post Office at Veneta, Oregon on October 18, 19 78, enclosed in a sealed envelope, with postage paid, addressed to:

Mr. Robert L. Haskins
Assistant Attorney General
Department of Justice
500 Pacific Building
520 S.W. Yamhill
Portland, OR 97204

Attorney(s) of record for the Department.

_____

Attorney for Respondent.

TAYLOR AND TAYLOR
ATTORNEYS AT LAW
88124 TERRITORIAL ROAD
MAILING ADDRESS: P. O. BOX 247
VENETA, OREGON 97487
PHONE 935-2246

Kellas

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
RECEIVED
SEP 1 1978
OFFICE OF THE DIRECTOR

August 30, 1978

Mr. William H. Young, Director
Department of Environmental Quality
Yeon Building
522 S. W. 5th Avenue
Portland, Oregon 97204

Re: DEQ v. Randall Taylor
Before the Environmental Quality Commisssion
Number LQ-MWR-76-138

Dear Mr. Young:

Enclosed for filing and your consideration are an original Motion to Modify Order and an original and two copies of a proposed Order with Certificates of Service attached.

On April 27 of this year you granted the request of Respondent Taylor for an extension to file exceptions, arguments and proposed alternative findings of fact, conclusions of law and proposed order. By letter dated April 21, 1978, Respondent requested an extension based on his representation that he intended to file an application for mitigation. Respondent thereupon indicated that his application for mitigation would be filed with you by April 26, 1978. Specifically, Respondent requested the extension for 20 days after you took action on his mitigation application. By your letter of April 27, 1978 you granted the extension as requested.

A problem arises, however, in that a condition precedent to the running of the extension period, that is, the application for mitigation, is a matter solely within Respondent's control. He can omit to file the application and effectively hold up the case indefinitely. Indeed, no application has been made, now approximately four months from the granting of the extension. He has had sufficient time to make his application and get his answer.

Therefore, we respectfully move that, pursuant to OAR 340-11-132(4), your April 27, 1978 grant of extension

be modified to specify a 30-day limit within which respondent must file his exceptions, etc., regardless of any application for mitigation.

If you grant our motion, kindly sign the enclosed original proposed Order, arrange to serve, by mail, copies of the Order upon me and Respondent, execute the original certificate of service attached to the original Order, and finally, file in the Commission's records in this case, the executed original Order with the executed Certificate of Service attached.

Sincerely,

Robert L. Haskins

Robert L. Haskins
Assistant Attorney General

hk
Enc.
cc: Fred Bolton w/enc.
T. Jack Osborne
John Borden
Daryl Johnson
Randall Taylor w/enc.

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY, Department, vs. RANDALL TAYLOR, Respondent.	)	No. LQ-MWR-76-138 MOTION TO MODIFY ORDER

The Department moves the Director for an Order modifying a previous grant of extension of time in the above-captioned matter for the reason that it appears from the Department's files and records in this contested case that Respondent recived an extention of time to file exceptions, alternative findings of fact, conclusions of law and order, contingent upon Departmental action on Respondent's application for mitigation, which application Respondent has not filed. Respondent's omission to file said application has resulted in the unwarranted abatement of the subject proceeding. Therefore, the Department respectfully moves the Director to modify his April 27, 1978 Order granting Respondent the extension to specify a 30-day time limit within which Respondent must file his exceptions, etc., regardless of any application for mitigation.

POINTS AND AUTHORITIES

The Director may grant and modify an extension of time to file with the Commission and serve upon the other parties written exceptions and arguments to a proposed order.

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

OAR 340-11-132(4). For the purpose of facilitating Commission review of this case, modification of the previous Order appears appropriate.

On April 27th of this year Director William H. Young granted the request of Respondent Randall Taylor for an extension to file exceptions, alternative findings of fact, conclusions of law and proposed order. By letter dated April 21, 1978, Respondent requested the extension in order to allow Respondent time to file with the Director a letter requesting mitigation. Respondent indicated that his application for mitigation should be completed by April 26, 1978. Specifically, Respondent requested the extension for 20 days after the Director ruled on his request for mitigation. By letter of April 27, 1978, the Director granted the extension as requested.

However, the order, as granted, lodges within Respondent's sole control a condition precedent to the running of the extension period, that being the application for mitigation. Respondent can omit to file the application and effectively hold up the case indefinitely. Indeed, the Department's records indicate that Respondent has failed to make application, and that his failure continues to date, now more than four months from the granting of the extension. Respondent has had a sufficient amount of time to make his application and get his answer.

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

Therefore, the Department respectfully moves the Director for an order modifying the previous grant of extension, specifying a 30-day time limit within which Respondent must file his exceptions, etc., without regard to Respondent's application for mitigation.

Dated this 30 day of August, 1978.

JAMES A. REDDEN
Attorney General

By Robert L. Haskins
ROBERT L. HASKINS
Assistant Attorney General
Of Attorneys for Department

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

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing Motion on Respondent, Randall Taylor. I further certify that said copy was placed in a sealed envelope addressed to said Respondent, at 25038 McCutcheon Avenue, Veneta, Oregon 97487, his last known address, and deposited in the Post Office at Portland, Oregon, on the 31st day of August, 1978, postage prepaid.

Holly Ketter

HOLLY KETTER
Secretary

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

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY, OF THE STATE OF OREGON Department, v. RANDALL TAYLOR Respondent.	)	No. LQ-MWR-76-138 ORDER

This matter came before the Director upon Motion of the Department through one of its attorneys, Robert L. Haskins, Assistant Attorney General, for an order modifying an extension of time granted Respondent. It appears that the Director, on April 27, 1978, granted Respondent a 20-day extension of time in which to file his written exceptions, alternative findings, conclusions and order, said extention to run from the date of Departmental approval or denial of Respondent's application for mitigation. It further appears that Respondent has been dilatory in making such application, thereby unduly frustrating the process of appeal in this case. Finally, it appears necessary to qualify the above-mentioned extension so as to facilitate the Commission's review of this matter.

NOW, THEREFORE, pursuant to OAR 340-11-132(4), it is hereby

ORDERED that the Department's Motion be allowed and that Respondent file with the commission and serve upon the Department his exceptions, arguments, proposed findings,

///

///

conclusions and order within 30 days from the date of this Order, irrespective of Respondent's application for mitigation.

Dated this 5 day of ~~August~~ September, 1978.

William H. Young

WILLIAM H. YOUNG, Director
Department of Environmental Quality

CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing Order were served on the following Respondent and attorney of record for Department. I further certify that the copies were placed in sealed envelopes addressed to said Respondent and attorney at their last known addresses as follows, and were deposited in the United States Mail at Portland, Oregon postage pre-paid on the 5 day of ~~August~~ Sept. 1978:

Mr. Randall Taylor (Respondent)
25038 McCutcheon Avenue
Veneta, Oregon 97487

Mr. Robert L. Haskins
Assistant Attorney General
Department of Justice
(Of Attorneys for Department)
500 Pacific Building
Portland, Oregon 97204

Janeth Shaw

ROBERT W. STRAUB
GOVERNOR

Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

April 27, 1978

Mr. R. Randall Taylor
P. O. Box 247
Veneta, Oregon 97487

Re: DEQ v. R. Randall Taylor
No. LQ-MWR-76-138

Dear Mr. Taylor:

Your April 21, 1978, request for additional time to file exceptions and arguments in this matter is granted. Mr. Haskins, counsel for the Department, ddoes not oppose your request but would like similar consideration if the need arises.

Sincerely,

WILLIAM H. YOUNG
Director

PWM:jas

cc: Robert Haskins, Esq.

Mc Swain

TAYLOR AND TAYLOR
ATTORNEYS AT LAW
88124 TERRITORIAL ROAD
MAILING ADDRESS: P.O. BOX 247
VENETA, OREGON 97487

R. RANDALL TAYLOR
R. SCOTT TAYLOR

TELEPHONE
(503) 935-2246

April 21, 1978

William H. Young
Dept. of Environmental Quality
P.O. Box 1760
Portland, OR 97207

Re: DEQ v. R. Randall Taylor
No. LQ-MWR-76-138

Dear Mr. Young:

I notified your secretary yesterday that I would be writing this letter requesting an extension in which to file my exceptions. Due to a heavy case load this month, I have been unable to prepare my letter to you requesting a mitigation of the fine which has been assessed against me.

I expect to have my letter to you prepared by the 26th day of April. However, that does not allow you sufficient time to make your ruling before my written exceptions would be due. Therefore, I would request that I submit my letter of mitigation to you on April 26th and allow twenty days after your ruling in which to file my exceptions.

Thank you for your consideration of this matter.

Very truly yours,

R. Randall Taylor

R. RANDALL TAYLOR

RRT/js

cc: Robert Haskins
Dept. of Justice
100 State Office Bldg.
Salem, OR 97310

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
APR 24 1978
OFFICE OF THE DIRECTOR

R. Randall Taylor, Esq.
Taylor and Taylor
P. O. Box 247
Veneta, Oregon 97487

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

Dear Mr. Taylor:

This is to inform you that your March 16, 1978, request for an extension of time to and including April 26, 1978, in which to file exceptions and arguments in the above-captioned matter is granted.

Sincerely,

WILLIAM H. YOUNG
Director

WC:jas

cc: Robert Haskins
T. Jack Osborne
Daryl Johnson
Fred Bolton
Roy Burns

Mc Swain

TAYLOR AND TAYLOR
ATTORNEYS AT LAW
88124 TERRITORIAL ROAD
MAILING ADDRESS: P.O. BOX 247
VENETA, OREGON 97487

R. RANDALL TAYLOR
R. SCOTT TAYLOR

TELEPHONE
(503) 935-2246

March 16, 1978

William H. Young
Dept. of Environmental Quality
P.O. Box 1760
Portland, OR 97207

Re: DEQ v. Randall Taylor
No. LQ-MWR-76-138

Dear Mr. Young:

After my telephone conversation today with your secretary, I was informed that there is an Order requiring me to make an appearance by March 26. At this time I would request an extension until April 26, 1978 in which to file my exceptions.

My request is based upon the fact that I desire to submit in letter form a request for remission of the fine which has been assessed against me.

I have no objection to allow the Department thirty (30) days after the filing of my exception in which to file its own.

Thank you for your consideration.

Very truly yours,

R. RANDALL TAYLOR

RRT/js

cc: Robert Haskins
Dept. of Justice
100 State Office Bldg.
Salem, OR 97310

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
MAR 21 1978
OFFICE OF THE DIRECTOR

P. O. Box 1760, Portland, Oregon 97207

R. Randall Taylor, Esq.
Taylor and Taylor
P. O. Box 247
Veneta, Oregon 97487

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

Dear Mr. Taylor:

As you are aware, counsel for the Department has moved that the Department be allowed thirty days after the filing of your exceptions and arguments in which to file its own.

This type of request is customarily granted to alleviate a party who is in an "answering" position from having to blindly anticipate the issues to be raised.

Unless you have resistance to the motion which, along with supporting reasons, is filed in writing in this office within ten days of this mailing, the Department's motion will be granted and an order issued to implement it.

Sincerely,

Original Signed By
William H. Young

MAR 14 1978

William H. Young
Director

PWM:jas
cc: Robert Haskins
T. Jack Osborne
Daryl Johnson
Fred Bolton
Roy Burns

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
RECEIVED
MAR 8 1978
OFFICE OF THE DIRECTOR

March 7, 1978

William H. Young, Director
Department of Environmental Quality
522 S. W. Fifth Avenue
Yeon Building
Portland, Oregon 97201

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

Dear Mr. Young:

Enclosed for filing and your immediate consideration is the original Motion to Director for Extension of Time in Which to File Exceptions, Etc., With Commission, with certificate of service attached. The reasons for the motion are set forth within the motion. Please be advised that unless the motion is granted, the Department's brief will be due on March 27, 1978.

Also enclosed for your consideration are the original and two copies of a form of order granting our motion, with certificate of service attached. Should you grant the motion and adopt our order, the original is for filing in the Commission's records. The copies should be served by your staff by mailing one copy to me and one copy to Respondent's attorney. After mailing those copies, the person who mailed them should date and sign the attached certificate of such service and file it with the original order in the Commission's files.

Your prompt response to this matter will be greatly appreciated.

Sincerely,

Robert L. Haskins

Robert L. Haskins
Assistant Attorney General

pjv
Enclosures

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

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY OF THE STATE OF OREGON, Department, v. RANDALL TAYLOR, Respondent.	)	No. LQ-MWR-76-138 MOTION TO DIRECTOR FOR EXTENSION OF TIME IN WHICH TO FILE EXCEPTIONS, ETC., WITH COMMISSION

The Department moves the Director for an order granting the Department an extension of time in which to file its exceptions, arguments, and proposed findings, conclusions and order in the above-captioned matter, for the following reasons:

I

At its regular meeting of February 24th, 1978, the Environmental Quality Commission granted respondent an extension of time in which to file his written exceptions, arguments and alternative findings of fact, conclusions of law and final order in the above-captioned case until March 27, 1978.

II

The Department cannot know precisely which findings and conclusions Mr. Taylor objects to, nor does it know what alternate findings, conclusions and order Mr. Taylor will propose.

III

The Department is therefore prejudiced in the preparation

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

of its arguments until after respondent files his exceptions, etc.

IV

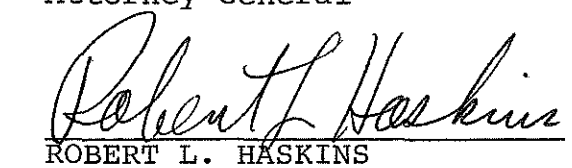
Should respondent fail to file written exceptions on or before March 27, 1978, it would make further argument and briefing in the subject case moot.

Therefore, the Department now requests that it be allowed 30 days after respondent's exceptions, etc., are filed in which to file its exceptions, arguments and proposed findings, conclusions and order regarding the hearing officer's proposed ruling.

POINTS AND AUTHORITIES

The Director may, within his discretion, allow further time to the parties to file exceptions, arguments and proposed findings regarding the proposed order. OAR 340-11-132(4).

JAMES A. REDDEN
Attorney General



ROBERT L. HASKINS
Assistant Attorney General
Of Attorneys for Department

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 Motion To Director For Extension Of Time In Which To File Exceptions, Etc., With Commission upon Randall Taylor, Respondent, on March 7, 1978, by mailing to him a copy of same in a sealed envelope addressed to Randall Taylor at Taylor and Taylor, P. O. Box 247, Veneta, Oregon, 97847, his last known address. I further certify that I placed said copy in the U. S. Mail at Portland, Oregon on the 7th day of March, 1978, prepaying the postage thereon.

Peggy J. Viamonte

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

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

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY of the STATE OF OREGON, Department, v. RANDALL TAYLOR, Respondent.	)	No. LQ-MWR-76-138
	)	O R D E R

This matter came before the Director upon the motion of the Department through one of its attorneys, Robert L. Haskins, Assistant Attorney General, for an order granting the Department an extension of time in which to file its exceptions, arguments, and proposed alternative findings, conclusions and order in the above-captioned matter. It appears that at its meeting of February 24, 1978, the Environmental Quality Commission granted Respondent an extension of time in which to file his written exceptions, etc., in the above-captioned matter until March 27, 1978.

It appears further that the Department does not now know what findings and conclusions Respondent objects to, and what findings, conclusions and order he will propose and that the Department is therefore prejudiced in the preparation of its arguments until after Respondent files his exceptions, etc. Finally it appears that should Respondent fail to file written exceptions, etc. the filing of the Department's arguments might be rendered moot.

Now therefore, pursuant to OAR 340-11-132(4), it is hereby ORDERED that the Department's motion be allowed and that the Department therefore be given 30 days after Respondent's exceptions, etc., are timely filed in which to file and serve the Department's exceptions, arguments, and proposed findings, conclusions and order in the above-captioned matter.

Dated this 29 day of March, 1978.

William H. Young

William H. Young, Director
Department of Environmental Quality

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Order upon Respondent, Randall Taylor, and Robert L. Haskins, of attorneys for the Department, by mailing to them copies thereof. I further certify that said copies were placed in sealed envelopes addressed to them at the following addresses:

Randall Taylor
Taylor & Taylor
P. O. Box 247
Veneta, OR 97847

Robert L. Haskins
Department of Justice
500 Pacific Building
520 S. W. Yamhill
Portland, OR 97204

and deposited same in the U. S. Mail at Portland, Oregon, on the 30 day of March, 1978, and that the postage thereon was prepaid.

Janeth Shaw

JAMES A. REDDEN
ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
100 State Office Building
Salem, Oregon 97310
Telephone: (503) 378-4400

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
MAR 13 1978
OFFICE OF THE DIRECTOR

March 10, 1978

William H. Young, Director
Department of Environmental
Quality
522 S. W. Fifth Avenue
Portland, Oregon 97204

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

Dear Mr. Young:

At its regularly scheduled monthly meeting held on February 24, 1978, in the City Council Chambers of the Salem City Hall in Salem, Oregon, the Environmental Quality Commission denied the Department's motions to dismiss in the above-captioned contested case. Further the Commission issued an order requiring Respondent Taylor to file written exceptions, etc., with the Commission by March 26, 1978.

Enclosed for your consideration is an original proposed form of order which incorporates and makes a formal record of the Commission's action taken upon the Department's motions and the order requiring Respondent Taylor to file timely written exceptions, etc.

Also enclosed are two copies of the form of order with certificate of service attached. Should you adopt our form of order, the original is for filing in the Commission's records. The copies should be served by your staff by mailing one copy to me and one copy to Respondent. After mailing those copies, the person who mailed them should date and sign the attached certificate of such service and file it with the original order in the Commission's files.

Your prompt response to this matter will be greatly appreciated.

Sincerely,

Robert L. Haskins

Robert L. Haskins
Assistant Attorney General

pjbv
Enclosures

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

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY OF THE STATE OF OREGON, Department, v. RANDALL TAYLOR, Respondent.	)	No. LQ-MWR-76-132
	)	O R D E R

Following reasonable notice to the parties this matter came regularly before the Commission for hearing at its regularly scheduled monthly meeting on February 24, 1978, in the City Council Chambers of the Salem City Hall in Salem, Oregon, upon the written motions of the Department to dismiss Respondent's request for Commission review of the hearing officer's Proposed Findings of Fact, Conclusions of Law and Final Order in the subject contested case on the grounds that the request was not timely filed and that Respondent failed to diligently prosecute his purported appeal.

Assistant Attorney General Robert F. Haskins represented the Department and presented argument to the Commission at the hearing. Respondent appeared and presented argument to the Commission at the hearing. Based on the arguments of counsel and the record in this case

NOW THEREFORE, IT IS HEREBY ORDERED that the Department's motion to dismiss and supplemental motion to dismiss Respondent's request for Commission review be and hereby are denied; and Respondent shall be and hereby is granted

through March 26, 1978, to file with the Commission and serve upon the Department his written exceptions, arguments and alternative findings of fact, conclusions of law and final order.

Dated this 14 day of March, 1978.

ENVIRONMENTAL QUALITY COMMISSION

By William H. Young
William H. Young, Director
Department of Environmental Quality
Pursuant to OAR 340-11-136(2)

Original Signed By
William H. Young

MAR 14 1978

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Order upon Respondent, Randall Taylor, and Robert L. Haskins, of attorneys for the Department, by mailing to them copies thereof. I further certify that said copies were placed in sealed envelopes addressed to them at the following addresses:

Randall Taylor
Taylor & Taylor
P. O. Box 247
Veneta, OR ~~97847~~ 25038 McCutcheon 97487

Robert L. Haskins
Department of Justice
500 Pacific Building
520 S. W. Yamhill
Portland, Oregon 97204

and deposited same in the U. S. Mail at Portland, Oregon, on the 16 day of March, 1978, and prepaying the postage thereon.

Janeth Shaw

ROBERT W. STRAUB
GOVERNOR

Environmental Quality Commission

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

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

Peter McSwain

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

Contains Recycled Materials

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

of the

STATE OF OREGON

Department of Environmental Quality	)	
v.	)	No. LQ-MWR-76-138
Randall Taylor Respondent	)	

SUMMARY

This matter was heard on December 2, 1976 in Eugene, Oregon. It involves the alleged discharge of sewage into an intermittent unnamed creek, tributary to Fern Ridge Reservoir, headwaters of the Long Tom River (waters of the State) in violation of ORS 164.785(1), 468.720(1)(a) and 468.770(1). The discharge allegedly originated from a dwelling under Respondent's control and located at Tax Lot #2108, Section 6, Township 17 South, Range 5 West, Willamette Meridian, Lane County, Oregon.

Present at the hearing, the Respondent, an attorney, was represented by himself. Department was represented by Mr. Jan Sokol.

Evidence was taken and the matter was continued under a prior agreement by the parties that the hearing would reconvene so the Department could call on additional witnesses known by the parties to be unavailable for the December 2, 1976 hearing.

On April 8, 1977 the parties agreed to submit this matter for decision on the record to date, thereby making it unnecessary to reconvene the previously scheduled April 12, 1977 hearing.

The present proposal, though made by a hearing officer substituted to the case, follows a complete review of the record in this matter.

Management of the current hearings workload called for reassignment of this case.

ISSUES

At issue are whether the Respondent committed the violation and, if so, whether $500 is a reasonable assessment, given the aggravating and or mitigating circumstances attendant prior to July 8, 1976.

PROPOSED FINDINGS OF FACT

1. At all times herein material Respondent, Mr. R. Randall Taylor, has operated and maintained a septic tank and drainfield serving a dwelling in Tax Lot #2108, Section 6, Township 17 S., Range 5 W, Willamette Meridian, in Lane County, Oregon. The above said property has been and is owned by Respondent at all times herein material.

2. On or about May 25, 1976, the then existing disposal system in the field was failing in that raw sewage was being discharged upon the surface of the ground. During rainy periods the system would fail and cause effluent to be surfaced upon the ground.

3. During several visits to the site of the allegedly failing system, and particularly in May and June of 1975 and thereafter, Departmental Representatives found inadequately treated sewage effluent discharging onto the land from Respondent's Subsurface Sewage Disposal System. On June 22, 1976, Mr. Larry Schurr, Special Investigator for the Department of Environmental Quality observed Respondent's drainpipe discharging onto Respondent's neighbor's land. He also observed said discharge entering into an intermittent unnamed creek, which is a tributary to Fern Ridge Reservoir and headwaters of the Long Tom River.

4. Official notice is taken of the fact that the Long Tom River is part of the waters of the State of Oregon.

5. During a period of at least one year prior to the time of hearing the

above-mentioned drainfield has occasionally discharged sewage onto the surface of the ground and released sewage which was carried into a small intermittent stream which is a tributary to Fern Ridge Reservoir. Also, occasionally during this period, raw sewage was apparent under Respondent's fence accumulating on the property of his neighbor, Mr. Lee Plumber.

6. On two or more occasions Respondent and Department discussed remedial measures to contain the effluent. Corrective efforts were undertaken sometime between November 1975, and January 1976, when two drainpipes, known as fingers were put into the drainfield. This measure was ineffective and the puddling effect recurred.

7. Also in late 1975, Respondent attempted to abate the pollution by digging a drain ditch. However, within 3 to 4 weeks the drainfield broke open again.

8. As a matter of ultimate fact it is here entered that from May 1975 to late summer 1976 Respondent continued in his failure to repair the subsurface sewage disposal system under his operation and control.

9. On May 11, 1976, Defendant was served with a Notice of Violation and Required Remedial Action (LQ-MWR-76-91) in which the Department alleged that on or before 4/16/75 Respondent's subsurface sewage disposal system failed and caused sewage to discharge onto the surface of the ground creating a public health hazard. In addition, Department alleged that Respondent discharged sewage into waters of the State in violation of ORS 467.770 and 164.785. Respondent requested a hearing in timely fashion and the order never became final or enforceable.

10. The proceeding for a civil penalty was commenced by the service upon Respondent of a "Notice of Violation and Intent to Assess Civil Penalty" dated May 28, 1976 (No. LQ-MWR-76-117), which was hand delivered to Respondent

on June 10, 1976. Respondent was notified that if those alleged violations continued or occurred five days after receipt of the notice that the Department would assess a civil penalty upon Respondent for any subsequent violation. In its Notice, Department also advised Respondent that his sewage system failed and ordered Respondent to obtain a permit to repair from the Department or its authorized representative and to make all corrections necessary to bring his subsurface sewage disposal system into compliance with the rules of the permit. Respondent was also ordered to have his system inspected by the DEQ prior to backfilling any excavations, and to obtain a "Certificate of Satisfactory Completion" from the DEQ or its authorized representative.

11. Subsequent to the five day notice in this case and the remedial action order in No. LQ-MWR-76-91, the Department contended that Respondent committed another violation on June 22, 1976. For this alleged violation the DEQ assessed a civil penalty of $500 against Respondent.

12. Respondent contested the assessment of this civil penalty by an "Answer and Plea in Abatement", received by the Department on August 2, 1976. Respondent contended that the issues were presently before the Environmental Quality Commission, referring to proceeding No. LQ-MWR-76-91 regarding the remedial action order, and that therefore the"Department cannot properly maintain any assessment of a civil penalty until the final order is obtained." (Respondent's Exhibit #___)

13. At the time and place of the hearing, on Respondent's Plea in Abatement, Department through its representative, Mr. Larry Schurr, resisted Respondent's motion to continue, arguing the same to have been taken for the purpose of delay.

14. Your hearing officer denied Respondent's Plea in Abatement and set the hearing for reconvening on December 2, 1976.

CONCLUSIONS

1) Pursuant to Oregon Administrative Rules and Statute, Respondent may be assessed a civil penalty for the discharge of pollutants where they may be carried into waters of the State.

2) Respondent committed an ongoing violation of ORS 164.785(1), 468.720(1)(a), and 468.770(1), from May 1975 to late summer 1976, during which time he was aware of the administrative and civil proceedings underway.

3) There are present in the history of the matter under review aggravating circumstances in the repeated and serious nature of the violation.

4) We conclude also that Respondent was dilatory in taking steps toward correcting the violation. The cost to the State of Oregon has been substantial by way of investigation and the long process of correction of the cited violation.

5) The $500 penalty assessed by the Department in this matter is appropriate.

OPINION

The evidence in this matter is conclusive with regard to the discharges from Respondent's Subsurface Sewage Disposal System over the period of more than one year. Ample uncontradicted testimony proffered by Respondent and his neighbor as well as Department's employees, make plain the nature of the effluent, its scope, recurrence and intermittent accumulation for a protracted period and its run-off into the waters of the State. The permitting of these discharges is violative of ORS 164.785(1), 468.720(1)(a), and 468.770(1).

The Record knows of no substantial effort made by Respondent to abate the problem here in issue although he was repeatedly advised and admonished to do so by the Department of Environmental Quality. Nor did Respondent act to

comply with the order of the Department's Remedial Order to obtain a permit to repair and make corrections necessary to bring his subsurface sewage disposal system into compliance with the rules, statutes, and conditions of said permit. Respondent did discuss the matter with his neighbor, and members of the Department's staff, but was dilatory in remedial efforts and continued in his failure to repair the subsurface sewage disposal system under his operation and control.

We have concluded that given the repeated nature of this offense, its having been repeatedly brought to Respondent's attention, and the health hazards attendant for well over a year, the Respondent was appropriately assessed a penalty pursuant to Oregon's environmental laws.

Evaluating the aggravating and mitigating circumstances on the record, and mindful that it is highly probable that this forum is rather less capable of judgment in this area than is the Director, it is our opinion that the sum of money assessed by the Director as penalty is a reasonable assessment.

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

of the

STATE OF OREGON

Department of Environmental Quality, Department	)	
v.	)	ORDER NO. LQ-MWR-76-138 Lane County
Mr. Randall Taylor, Respondent	)	

The Commission hereby orders, as proposed by the hearing officer, that Respondent, Mr. Randall Taylor, is liable to the State of Oregon in the sum of $500 pursuant to hearing on an assessment of a civil penalty by the Director of the Department on July 7, 1976 and that the State of Oregon have judgment for and recover the same.

The Commission hereby further orders that if neither party nor the Commission requests review of this order within 14 days of its service upon them, the order shall become a final order of the Environmental Quality Commission of the State of Oregon which shall have added to the caption the words "NOW FINAL" and, if unsatisfied for more than 10 days after becoming final, may be filed in copy form with the clerk of any county, whereupon execution may be issued upon it as provided by ORS 468.135.

Dated this Twenty Second day of November, 1977

Respectfully submitted,

Hearing Officer

CERTIFICATE OF SERVICE

I, Peter McSwain, hereby certify that on December 13, 1977, I served the foregoing Proposed Findings of Fact, Conclusions of Law and Final Order

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

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

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

Peter W. McSwain

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

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

Robert Haskins
Assistant Attorney General
Department of Justice
Portland Division
500 Pacific Building
520 S.W. Yamhill
Portland, Oregon 97204

ROBERT W. STRAUB
GOVERNOR

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, November 17, 1978 EQC Meeting. Clatsop Plains Subsurface Sewage Disposal Rules - Proposed Adoption of Technical Amendments

Background

Please see the background materials in the attached Hearing Report.

Statement of Need for Rulemaking

1. ORS 454.625 is relied upon in adopting the proposed amendment(s)

2. The Commission may determine the need to permanently change from April 1, 1977 to October 27, 1977 the date after which parcels could be formed at the expense of a developable parcel of less than one acre and still recieve a permit for a disposal system. This would keep those who innocently transferred parcels prior to the October 28, 1977 rule relaxation from being damaged. The proposed permanent rule, adopted as a temporary rule on June 30, 1978, would simply change the dates in the rule. See Attachment A to the Hearing Report.

   The Commission may find a need to allow administrative ease in handling, within prescribed bounds, unforeseen circumstances of hardship. The proposal that went to public hearing would allow the Director, or his representative to waive certain rule requirements under conditions akin to those set forth in many typical zoning ordinances for a variance.

3. Principally prepared by the Agency and/or relied upon in considering the need for and in preparing the rule are the reports of the staff and the hearings records before the Commission and pertaining to the subsurface sewage rules in the "Clatsop Plains" area in the Commissions meetings of April 1, 1977, October 21, 1977, June 30, 1978 and November 17, 1978.

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Evaluation

With regard to the temporary rule (Attachment A of the Attached Hearing Report) there was no testimony offered. Nevertheless, it is deemed appropriate to adopt it as a permanent rule. There is no reason not to leave open the option of installing a system to those who might have innnocently formed parcels at the expense of undersized developable parcels prior to the October 28, 1977 minimum density allowance in certain areas of Clatsop Plains. To fail to perpetuate the rule might cloud the legitimacy of any permits that might have been issued during the tenure of the temporary rule.

With regard to the "variance " language that went to public hearing (Attachment B of the Attached Hearing Report) it has been since June of 1978 since any unforeseen hardships under the rule have come to the attention of the County or the Department. While there have not recently been discovered hardships that would, under the language that went to hearing, be eligible for relief, it is felt that adoption of the language into the rules might result in undue and time consuming pressures on sanitarians to grant relief in situations not covered by the rules. The testimony of one of the witnesses at the hearing would tend to be a case in point. It is felt the language should not be adopted as a rule.

Summation

Requisite public notice public participation, filing with legislative counsel, statement of need preparation, and Land Use coordination notice procedures have been undertaken to facilitate the adoption of the temporary rule as a permanent rule or the adoption of the "variance" language as a permanent rule. It appears appropriate to adopt the former but not the latter.

Director's Recommendation:

It is the Director's recommendation that, based on the summation above, the Commission take action as follows:

1. Adopt as a permanent rule Attachment A of the Hearing Report, such rule to be filed with Legislative Counsel and the Secretary of State before its expiration as a temporary rule.

2. Adopt as its final Statement of Need for Rulemaking the Statement of Need incorporated in this report, such statement to be filed with the rule as set forth above.

Bill

WILLIAM H. YOUNG

PWM/pm
229-5383
Nov. 3, 1978

Attachments: Attachment A: Hearing Report

ROBERT W. STRAUB
GOVERNOR

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 Amendments to OAR 340-71-020(7); Rules for new onsite sewage disposal in "Clatsop Plains."

CAUTION A general discussion of the proposed amendments follows. The discussion is in terms more general than the proposals are worded. Reading the discussion is not a substitute for carefully reading the proposed amendments if you are likely to be affected by them.

BACKGROUND In April of 1977, after a public hearing in Seaside, the Commission adopted a rule which prohibited permission for new or expanded on-site subsurface sewage disposal systems (usually septic tank-drainfield facilities) in the area of Clatsop County generally known as Clatsop Plains. This area (whose exact political bounds are specifically set forth in the rule) is characterized by sand dunes of great depth and 30 to 40 percent voids through which a potentially invaluable groundwater supply can be found at varying depths from the surface of the land. This water supply (aquifer) is, from what measurements are presently available , subject to increasing infiltration of nitrates with increasing use of conventional on-site disposal methods. The presence of nitrates in domestic water supplies is the subject of a federal drinking water standard of ten parts per million. The potential development in the Clatsop Plains Area was found to constitute a significant risk of contamination. With its adoption of the rule the Commission stated its intention to consider such alternatives as might later be proposed by local government or in the light of further information regarding the risk of contamination.

In late 1977 the Commission modified the rule, at the request of Clatsop County , to allow development not to exceed one acre/family density equivalent of sewage treatment in certain unincorporated areas covered by the original prohibition. The rule was modified again in June of 1978 to allow for one acre density development of systems to serve planned unit developments under the Unit Ownership law. At that time it was discovered that there was the need to change from April 1, 1977 to October 27, 1977 the date after which a one acre parcel could not recieve a permit if it was formed at the expense of a developable parcel of less than one acre. The Commission adopted a temporary rule to do this (Attachment A hereto) There was question as to the need for some "variance type" language in the rule to meet unexpected circumstances of hardship.

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A public hearing on the issue of making the temporary rule permanent and incorporating some variance language into the rule was authorized by the Commission, held in Astoria on October 12, 1978, and is the subject of this hearing report.

SUMMARY The hearing, after requisite public notice, was commenced at 7:30 p.m. on October 12, 1978 in the Clatsop County Courthouse in Astoria, Oregon. Present were some twelve persons, including Mr. Kent Mathiot of the State Water Resources Department and Mr. Don Bramhall of the DEQ's Tillamook office. Technical questions were dealt with off the record and informally. Formal testimony was offered by the following two witnesses:

Mr. John Pase, representing Clatsop County,spoke in favor of the language intended to provide administrative flexibility in the nature of a variance. He urged, however, that the language be supplemented with specific criteria to determine what densities might be found "significantly greater" than those now allowed under the rule.

Mr. Lawrence H. Ballman of Warrenton testified in favor of adopting a rule which would allow him, a property owner of long standing in the area of Smith Lake (still an area under total prohibition) to build an additional home in order to live near an aged parent.

RECOMMENDATION Your hearing Officer Makes no recommendation in this matter.

Respectfully submitted,

Peter McSwain

Peter McSwain

Hearing Officer

PWM/pm
Attachments

HEARING REPORT ATTACHMENT A
Adopted by EQC
6/30/78 Temp.

DEPARTMENT OF ENVIRONMENTAL QUALITY

TEMPORARY AMENDMENT TO
CHAPTER 340, OREGON ADMINISTRATIVE RULES
SUBSURFACE AND ALTERNATIVE SEWAGE DISPOSAL
CLATSOP PLAINS MORATORIUM

OAR 340-71-020(7)(e) is hereby amended to read as follows:

(e) The restrictions set forth in paragraphs (B) through (D) of subsection (b) and in subsection (c) above shall not apply to prohibit permits for systems to serve one single family dwelling per parcel of land of less than one acre if such parcel's legal description was on file in the deed records of Clatsop County prior to [~~April 2~~] October 28, 1977, either as a result of conveyance or as part of a platted subdivision.

PROPOSED AMENDMENTS TO OAR 340-71-020(7)

Section 1

The following language is hereby added to and made a part of OAR 340-71-020(7):

(g) The Director or his authorized representative may issue a subsurface sewage disposal system construction permit for a new system that does not comply with one or more of the provisions of OAR 340-71-020(7)(b) through 340-71-020(7)(e) where the applicant adequately demonstrates the following are true:

(A) Special and unusual circumstances which are both beyond the control of the permit applicant or his predecessors and uncommon to other properties in general render such compliance unduly burdensome or unreasonable; and

(B) The systems will not result, either by itself, or in conjunction with existing, planned, or expected systems, in a density or densities significantly greater than one acre per family unit equivalent of on-site treatment of sewage and will not threaten health hazard or the quality of waters of the state.

(h) In seeking approval of a system pursuant to subsection (g) of this section, the burden shall be upon the applicant to demonstrate the presence of the circumstances set forth in subsection (g) of this section by clear and convincing proof.

ROBERT W. STRAUB
GOVERNOR

Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. K November 17, 1978, EQC Meeting

Proposed Modification of the Chem-Nuclear License for Operation of the Arlington Hazardous Waste Disposal Site

Background

On August 25, 1978, the Department received Commission approval to conduct public hearings on its proposal to modify the Chem-Nuclear license. The present license was issued March 2, 1976, but it has since become evident that certain license modifications were necessary for better oversight of the disposal operation.

Public hearings were held in Arlington on October 16, 1978 (attendance: 1) and in Portland on October 24, 1978 (attendance: 5). The only testimony offered was by a Chem-Nuclear representative at the latter hearing who concurred with the proposed modifications.

The authority for the license modifications is OAR 340-62-040(2). Public hearings were not specifically required but were felt to be advantageous in view of the general public interest in hazardous waste disposal sites.

Evaluation

The major proposed areas of change from the old license are listed below. Nos. 1-12 (No. 9 incomplete) were presented to the Commission on August 25. Nos. 13 and 14 have been added subsequently and were presented by the Department at the public hearings; No. 15 was added after the hearings.

1. Condition A8 changed and old C7 deleted. The basic changes are twofold: (1) The State cannot seize the property without compensation (C7), and, (2) the cost to the State (should we purchase the property) is based upon a calculated "present value" rather than the book value; i.e., it considers inflation (A8). A calculation (attached) shows the present value to be about $714,000 compared to a book value (excluding depreciation) of about $571,000.
2. New A9 added; deleted old Section F.
3. B7 changed.
4. B12 changed.
5. New B13 added.

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6. B15 (old B14) changed. Note that incinerator need not be on-site.
7. B17 (old 16) changed.
8. B19 added.
9. C3 changed. The annual license fee has been changed to reflect current monitoring costs. The $4,324 fixed fee will be raised to $7,175 for FY 1980 with subsequent increases to reflect the cost of inflation.
10. C4 changed.
11. C5 changed. Note last statement on pollution insurance.
12. Section E changed to allow the Department flexibility to design a monitoring program pertinent to the wastes being disposed.
13. New B20 - B23 added.
14. D1 changed. Old D2 included in D1.
15. New D2 added and old D4 included in Section E.

A copy of the present license is attached for reference.

Summation

The proposed license modifications more closely reflect the current site operation which has evolved over the past 2 1/2 years. Most of the changes involve only a clarification of language or licensee responsibility; but there is a significant change in the basis for land transfer to the State.

The only applicable public comment received was Chem-Nuclear's concurrence in the proposed modifications.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission issue the modified Chem-Nuclear license.

Bill

WILLIAM H. YOUNG

Fred Bromfeld:mm
229-5913
October 30, 1978
Attachments: (4) Proposed license
Present license
Site "present value" calculation
Hearing Officer Report

ROBERT W. STRAUB
GOVERNOR

Department of Environmental Quality

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207

October 30, 1978

To: Environmental Quality Commission

From: Hearing Officer

Subject: Hearings Report: Public Hearings to Consider Modifications to the Chem-Nuclear License for Operation of the Arlington Hazardous Waste Disposal Site

Summary

Pursuant to public notice, hearings were held before the undersigned at 2:00 p.m. on October 16, 1978 in the cafetorium of Arlington Elementary School, Arlington, and at 1:00 p.m. on October 24, 1978 in the Department's conference room 511, Portland.

Over 100 hearings notices were mailed with a special effort made to include all Gilliam County people who had previously expressed interest in the site.

One person, a representative of Chem-Nuclear, was present at the Arlington hearing. No testimony was offered.

Five people were present at the Portland hearing: two from Chem-Nuclear, two from Chempro (a Portland waste recovery outfit), and one from the Oregon Department of Geology and Mineral Industries.

Summary of Testimony

The only testimony was offered by Mr. Patrick Wicks of Chem-Nuclear. He concurred with the proposed modifications and noted that the lack of attendance at the hearings indicated that the public has no fear of the site operation and is generally satisfied with it. He pledged that Chem-Nuclear would remain a good neighbor and operate in a responsible manner.

Recommendation

Based upon the hearings testimony, it is recommended that the Commission issue the modified Chem-Nuclear license.

Respectfully submitted

Fred S. Bromfeld
Hearing Officer

FSB:mm

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DEQ-1

HAZARDOUS WASTE DISPOSAL SITE LICENSE

Department of Environmental Quality
522 S.W. 5th Ave. P.O. Box 1760
Portland, Oregon 97207
Telephone: (503) 229-5913

Issued in Accordance with the Provisions of

ORS CHAPTER 459

ISSUED TO:

(licensee)
Chem-Nuclear Systems, Inc.
P.O. Box 1866
Bellevue, Washington 98009

LOCATION: (PROPERTY DESCRIPTION)
S1/2 of NE1/4, SE1/4, of Section 25 and N1/2 of NE1/4 of Section 36, T2N, R20E, W.M.

ISSUED BY THE ENVIRONMENTAL QUALITY COMMISSION

WILLIAM H. YOUNG

Director, Department of Environmental Quality

Effective Date

REFERENCE INFORMATION

Facility Name: Oregon Pollution Control Center and Hazardous Waste Repository

County: Gilliam

Operator: Chem-Nuclear Systems, Inc.
P. O. Box 1866
Bellevue, Washington 98009

Until such time as this license expires or is modified or revoked, Chem-Nuclear Systems, Inc. is herewith authorized to establish and operate a site for the treatment, storage, and disposal of hazardous wastes as now or hereafter defined by ORS 459.410 and rules of the Department of Environmental Quality. Such activities must be carried out in conformance with the conditions which follow. This license is personal to the licensee and non-transferable.

LICENSE CONDITIONS

A. GENERAL CONDITIONS

A1. Authorized representatives of the Department of Environmental Quality (hereinafter referred to as the Department) shall have access to the site at all reasonable times for the purpose of inspecting the site and its facilities, the records which are required by this license, or environmental monitoring.

A2. The Department, its officers, agents and employees shall not have any liability on account of the issuance of this license or on account of the construction, operation or maintenance of facilities permitted by this license.

A3. The issuance of this license does not convey any property right or exclusive privilege, except pursuant to the lease for the State owned portion of the site, nor does it authorize any injury to private property or any invasion of personal rights, nor any violation of Federal, State or local laws or regulations.

A4. The Department may revise any of the conditions of this license or may amend the license on its own motion in accordance with applicable rules of the Department.

A5. Transportation of wastes to the site by or for the licensee shall comply with rules of the Public Utility Commissioner of Oregon, the State Health Division and any other local, State or Federal agency having jurisdiction.

A6. A complete copy of this license and approved plans and procedures shall be maintained at the site at all times.

A7. The licensee shall not conduct, or allow to be conducted, any activities that are not directly associated with the construction, operation or maintenance of the waste management facilities at the site as authorized by this license, without prior written approval from the Department for such other activities.

A8. The licensee shall not sell or otherwise dispose of any portion of the site without prior written approval from the Department. This condition shall survive the expiration, revocation, suspension or termination of the license for a period of two years during which time the Department shall have exclusive right and option to purchase all of the site and improvements thereon, not theretofor deeded to the State. Purchase from licensee shall be in accordance with Appendix I to this license which sets forth the basis and conditions for such purchase.

A9. The plans and procedures approved under Section F of the superseded license (dated March 2, 1976) are hereby approved.

LICENSE CONDITIONS

B. SPECIAL CONDITIONS

Management of the site, including all activities related to treatment, storage and disposal of wastes at the site, construction and maintenance of facilities at the site, and monitoring and maintenance of records concerning operation of the site shall conform with the following conditions:

B1. No construction activities related to waste management at the site may be undertaken by the licensee until the Department has approved in writing final plans for facilities proposed by the licensee.

B2. Following written approval by the Department of final detailed engineering plans, the licensee shall proceed expeditiously with construction of the approved facilities.

B3. No waste management facility may be used by the licensee until the Department has inspected the site and certified in writing that the facility is satisfactory and complies with the approved final detailed engineering plans.

B4. Operation of the site shall not be discontinued without the approval of the Department, except for temporary work suspension caused by conditions beyond the control of the licensee such as, but not limited to, labor disputes, weather conditions, equipment failure, shortages of materials or unavailability of qualified personnel. In the case of a temporary discontinuance of disposal activities which exceed 5 working days, the licensee will notify the Department in writing, giving the reason for the shut down and the estimated duration of the temporary closure. During any temporary discontinuance of disposal activities, the licensee shall maintain the security and integrity of the site.

B5. Conditions B1, B2, B3, and B4 and other conditions of this license shall apply to present facilities and operations and to any subsequent facilities and operations proposed by the licensee.

B6. Waste handling, storage, disposal, treatment, monitoring and other waste management activities at the site shall comply with procedures and plans approved by the Department and other conditions of this license.

B7. The licensee shall assume all liability for containment, clean-up, and rectification of the conditions caused by any spill, fire, accident, emergency or other unusual condition that may occur:
(a) At the site;
(b) During the transportation of waste by the licensee to the site;
(c) During the authorized transportation of waste by others to the site, if:
    (1) The licensee is made aware of the incident; and,
    (2) The incident occurs on the following access routes to the site:
        (i) State 19 from Olex to its junction with I-80 (including all of Arlington South of I-80 but excluding the flood diversion canal or the Columbia River.)
        (ii) Blalock Canyon Road
        (iii) Cedar Spring Road from Rock Creek to its Junction with State 19.

LICENSE CONDITIONS

B8. Before use of the site for disposal is terminated, the licensee shall restore the site to its original condition, to the extent reasonably practicable. No less than one year prior to intended closure of the site the licensee shall submit detailed plans for the Department's approval indicating steps to be taken to properly close and restore the site. No action toward closure shall be taken without prior written approval from the Department.

B9. Upon completion of each burial trench, a granite or concrete marker shall be erected at the end of the trench. To such trench markers shall be attached a bronze or stainless steel plate which shall contain the following information: a trench identification number; dimension of the trench and its location relative to the marker; volume of waste buried; and dates of beginning and completion of burial operations.

B10. The licensee may at any time propose in writing for the Department's consideration changes in previously approved facilities or procedures, or the addition of new facilities or procedures.

B11. The licensee is authorized to accept and dispose at the site only those wastes for which specific treatment and disposal procedures or research programs have received prior approval by the Department. This authorization may be revoked if the Department finds the acceptance or disposal of such wastes to constitute a threat to the public health or welfare or the environment. The storage, treatment or disposal of wastes at the site shall be conducted only in facilities approved by the Department.

B12. Except as provided in Condition B13, all requests for waste treatment, storage or disposal must be submitted in writing to the Department and include the following information (if applicable):
(a) Name, location and business of the waste generator and contact person at the generator.
(b) Process in which waste was generated and/or marketable products arising from that process.
(c) Volume, chemical and physical nature of the waste.
(d) Manner in which waste is packaged for shipment.
(e) Proposed treatment and/or disposal procedure.

The Department may require written confirmation of (a) to (d) from the waste generator. A separate request must be made for each waste source and for each waste whose annual volume increases by more than 50 percent over that receiving prior approval from the Department. The Department will submit a written response to the licensee no later than 14 days following receipt of a request, however, a request is not complete until the Department has received all information necessary to arrive at an informed decision.

LICENSE CONDITIONS

B13. The Department may give verbal approval for the treatment, storage or disposal of certain wastes including, but not limited to, the following:
(a) Wastes generated within the Pacific Northwest that do not exceed 2000 lbs./250 gallons from a single source within a single year.
(b) Wastes resulting from an accident or spill for which storage may not be feasible or may pose an unusual hazard.
(c) Wastes that have been given prior approval, but are received in a different form or package or for which a different but equivalent disposal procedure is requested.

B14. If the Department determines that any specific waste originating in Oregon should be disposed at the site, based on unavailability or infeasibility of alternative disposal methods or other factors, the licensee shall provide disposal for such waste under treatment or disposal procedures directed by the Department utilizing existing site facilities and equipment. In the event that treatment or disposal procedures directed by the Department require additional facilities or equipment, the obligation of the licensee shall depend upon financial commitments by the waste generator satisfactory to licensee.

B15. By March 1, 1979, the licensee shall submit a report to the Department which outlines the feasibility of adding incineration facilities to its operation. This report shall include an analysis of: the types and volumes of organic wastes that would be amenable to incineration; volumes of such wastes that have been disposed at the site by other means; conceptual design for appropriate incineration facilities including capital and operating costs, method of feed, hourly feed rate, and hours of operation; quantity and character of air contaminants to be emitted and proposed monitoring equipment, if any; and other information pertinent to the incineration facilities.

B16. The licensee shall designate a site superintendent and shall advise the Department of the name and qualifications of the superintendent. The superintendent shall be in charge of all activities at the site within his qualifications. The licensee shall also advise the Department of the individual to be contacted on any problem not within the site superintendent's qualifications. The licensee shall immediately notify the Department if any change is made in these designated individuals.

B17. The licensee shall not open burn any wastes or materials at the site, except for uncontaminated refuse and scrap and in compliance with State and local open burning rules, without prior written approval by the Department.

B18. As provided in agreements or contract between the licensee, the Department, and other persons, ownership may be retained by other persons over certain wastes disposed at the site by the licensee. Such agreeements shall further provide that the Department shall not be liable for any expenses associated with future recovery or re-disposal of such wastes and that following any future recovery or re-disposal operations, the site shall be returned to a condition satisfactory to the Department.

LICENSE CONDITIONS

B19. Wastes shall be managed on the site in a manner so as to prevent the reaction of incompatible materials which may cause a fire or explosion, the release of noxious gases, or otherwise endangering public health or the environment.

B20. Wastes shall be consigned to treatment or disposal as rapidly as practicable.

B21. The licensee shall designate a specific area(s) for the storage of wastes. Wastes shall not be stored in other than a storage area.

B22. All containers of waste on site shall be identified sufficiently to assure rapid positive identification of their contents.

B23. The licensee shall participate in the manifest system when it is implemented.

LICENSE CONDITIONS

C. FINANCIAL

C1. On March 15, 1976, the licensee posted a surety bond executed in favor of the State of Oregon in the amount of $75,000 and for a term ending April 15, 1977. Each year thereafter, for 11 years on or before April 15, the surety bond shall be renewed or a new surety bond filed with the State of Oregon in the amount of $75,000 less the amount of the cash bond posted with the Department (condition C2). Each such surety bond shall be posted concurrently with the cash bond.
The surety bond shall be forfeited to the State of Oregon by a failure of the licensee to perform as required by this license, to the extent necessary to secure compliance with the requirements of this license, and shall indemnify the State of Oregon for any cost of closing the site and monitoring it and providing for its security after closure.

C2. On June 27, 1977, the licensee posted a cash bond, as provided by ORS 459.590(2)(f), with the Department in the amount of $18,750. Thereafter, annual additions to the cash bond shall be posted by the licensee in the amount of $5,625, for 10 years on or before April 15. Bills, certificates, notes, bonds or other obligations of the United States or its agencies shall be eligible securities deemed equivalent to cash. The cash value at the time of posting shall not be less than the required bond amount. Interest earnings on the cash bond shall be paid annually to the licensee, except for the amount necessary to offset inflationary increase in monitoring, security and other costs to be funded by the cash bond. Such inflation is to be measured by changes in the consumer price index with 1977 as the base year, and is to be computed upon the entire amount deposited in the cash bond.

C3. The licensee shall pay the Department an annual license fee within 30 days after July 1 each year. The amount of such fee shall be adequate for the Department to maintain an adequate monitoring and surveillance program for the disposal site; and will be determined by the Department as part of its biennial budgeting process.

C4. Prior to disposal, treatment or permanent storage of any wastes thereon, the licensee shall deed land used specifically for such purpose to the State. Within 60 days after completion of any new on-site roads, the licensee shall deed such roads to the State.
Within 30 days after deeding of these properties to the State, a lease between the licensee and the Department for these properties shall be executed. The lease shall be maintained for the duration of this license.

LICENSE CONDITIONS

C5. The licensee shall maintain ordinary liability insurance for operation of the site, with respect to all types of wastes, in the amount of not less than $1,000,000. Such insurance shall also be maintained by the licensee in the amount of not less than $1,000,000 to cover transportation by the licensee of all types of wastes to the site. The licensee shall notify the Department by a Certificate of Insurance within 7 days of any new policy or policy change and shall provide a certified copy of such policy or change within 90 days. All such insurance policies shall provide that such insurance shall not be cancelled or released except upon 30 days prior written notice to the Department. Environmental impairment liability insurance in a like amount shall be required when the Department determines that it is practicably available.

C6. The licensee shall submit copies of audited annual reports, Form 10-K reports to the S.E.C., and unaudited quarterly management reports for the Arlington operation, within 30 days after completion by the licensee. These reports and, except as specifically provided in this license, other reports required by the license or requested by the Department shall be treated as confidential to the extent permitted by Oregon laws and rules.

LICENSE CONDITIONS

D. RECORDKEEPING AND REPORTING

D1. The licensee shall maintain records and submit monthly reports to the Department including but not limited to: quantity and type of waste received; generator; request number; date of waste receipt; name of carrier; fee collected; and the applicable of: storage location; date of waste treatment; date of placing in pond and pond number; date of burial, burial trench number, and location coordinates in trench.
Every shipment of waste received must be clearly traceable from its time of receipt to its placement in a pond or a burial trench.
The licensee shall also submit a monthly public information report on a form approved by the Department which will be available for public inspection.

D2. All site records pertaining to the receipt, treatment, storage, and disposal of wastes are to be kept for at least 3 years and turned over to the Department at (or before) the termination of site operation. Such records shall be treated as confidential to the extent permitted by Oregon laws and rules.

D3. The licensee shall maintain survey records for each burial trench, referenced to the nearest U. S. Coast Guard bench mark, to define the exact location and boundaries of each trench. Within 60 days after completion of a trench, the licensee shall forward the required marker information and a copy of the survey records to the Department.

LICENSE CONDITIONS

E. ENVIRONMENTAL MONITORING

The licensee shall conduct chemical and biological environmental monitoring in accordance with a program designed jointly with the Department. This program will be reviewed annually by both parties and is to include at least the following:

E1. On-site deep wells (Nos. B-1, B-2, B-3, B-4, B-5, and B-6) will be checked for the presence of water annually about May 1. A water sample will be obtained by a mutually agreed procedure from each well in which water is observed.

E2. Monitoring wells in the pond and burial area will be checked monthly (or as otherwise determined by the Department) for the presence of water. A water sample will be obtained by a mutually agreed procedure from each well in which water is observed.

E3. A sampling of the resident vertebrate population and of vegetation will be performed annually.

E4. All samples required above will be analyzed in accordance with the jointly designed program and for wastes relative to those that were disposed. Such analysis may include but not be limited to total organic carbon, pH, specific conductance, heavy metals, chlorinated hydrocarbons, phenolics, cyanide, or other chemical species.

E5. The monitoring program in effect at any time preceding or during the period of this license shall remain in effect until a new program has been jointly agreed upon.

E6. All findings and results from the licensee's environmental monitoring program shall be reported to the Department within 15 days of their availability.

E7. The Department may require special monitoring when it is deemed that conditions may exist to threaten the public health or welfare or the environment. The cost of such monitoring will be determined by both parties on a case-by-case basis.

LICENSE HW-1

APPENDIX 1

CONDITIONS FOR PURCHASE OF

CHEM-NUCLEAR POLLUTION CONTROL CENTER

Pursuant to Licenst HW-1 condition A8, the following specifies the basis and conditions under which the Department may purchase the Chem-Nuclear Pollution Control Center:

1. In the event of expiration, revocation, suspension or termination of License HW-1 issued by the Department for Chem-Nuclear's Pollution Control Center (site) near Arlington, Oregon, except for reason specified in Paragraph 6 hereof, the Department shall have exclusive right and option to purchase from Chem-Nuclear all of the site and improvements thereon not theretofor deeded to the State.

2. "Site", hereunder shall include all real property within the legal description noted on License HW-1.

3. "Improvements", hereunder shall include trenches, ponds, fencing, signs, roads, water supply, monitoring wells and devices, and any other items specially designated in Exhibit A attached hereto and hereby made a part hereof. Improvments shall not include any rented or leased equipment, furniture, tools, mobile firefighting equipment, vehicles, tractors, graders, dozers, loaders, forklift trucks, trucks and other mobile equipment and their accessories.

4. Purchase of said site and improvements shall be at the adjusted price shown in Exhibit A attached hereto. Full cash payment shall be due on closing. Closing costs shall be shared equally, except that Chem-Nuclear shall not pay in excess of $2000 of such costs.

5. If the Department determines that it will not purchase the site and improvements, it shall advise Chem-Nuclear in writing as soon as possible of such determination and shall release Chem-Nuclear from the Department's exclusive right and option under License HW-1 condition A8.

6. When the License HW-1 expires or is terminated due to utilization of the site to its full capacity, as determined by the Department, all of the site and improvements shall be deeded to the Department at no cost.

7. Additions to, or deletions from, the foregoing and Exhibit A attached hereto may be made at any time for the purpose of adding new facilities or deleting obsolete or retired facilities or for other mutually agreeable purpose. Said addition or deletion shall be executed by submission of a written response from the other party agreeing to the requested change. Said additions or deletions may be executed only by the President of Chem-Nuclear and the Director of the Department.

8. The foregoing provisions and conditions shall survive the expiration, revocation, suspension, or termination of License HW-1 for a period of two years.

EXHIBIT A to APPENDIX 1 of LICENSE HW-1

Category	Item	Base Cost(C),$	Base Year	Adjusted Price,$
Site	Site Real Property	1,800	1970	C x F1 x F3
		63,924	1972	C x F1 x F3
	Site Development	93,080	1970	C x F1 x F3
		81,943	1971	C x F1 x F3
		65,348	1972	C x F1 x F3
		10,953	1973	C x F1 x F3
		13,291	1974	C x F1 x F3
		6,628	1976	C x F1 x F3
Improvements	Burial Trenches	112,616	1976	C x F1 x F2a x F3
	Evaporation Ponds	8,500	1976	C x F1 x F2b x F3
	Evaporation Ponds Liners	16,374	1976	C x F1 x F2c x F3
	Fencing, Signs & Roads	3,721	1970	C x F1 x F3
		4,430	1972	C x F1 x F3
		2,844	1973	C x F1 x F3
		60,854	1976	C x F1 x F3
		7,528	1978	C x F1 x F3
	Water Wells & Systems	1,693	1972	C x F1 x F2b x F3
		2,622	1975	C x F1 x F2b x F3
		4,908	1976	C x F1 x F2b x F3
	Septic Systems	1,320	1975	C x F1 x F2d x F3
		1,068	1976	C x F1 x F2d x F3
	Monitoring Devices	299	1976	C x F1 x F2d x F3
		1,026	1977	C x F1 x F2d x F3
	Miscellaneous	388	1975	C x F1 x F3
		3,665	1976	C x F1 x F3

Adjustment Factor

F1 = The consumer price index for the purchase agreement month divided by the consumer price index for the base year. Consumer price indexes to be used are those for urban wage earners and clerical workers in Portland, Oregon.

F2 = A variable factor as follows:
F2a = Fraction of capacity unused
F2b = 1 if serviceable; 0 if not
F2c = 1-(years in use ÷ 5) if serviceable; 0 if not
F2d = 1-(years in use ÷ 10) if serviceable; 0 if not

F3 = Fraction of land not deeded to Oregon

ENVIRONMENTALLY HAZARDOUS WASTE DISPOSAL SITE LICENSE

Department of Environmental Quality
1234 S.W. Morrison Street
Portland, Oregon 97205
Telephone: (503) 229-5913

Issued in Accordance with the Provisions of

ORS CHAPTER 459

ISSUED TO:

(Licensee)
Chem-Nuclear System, Inc.
P.O. Box 1866
13401 Bellevue-Redmond Road
Bellevue, Washington 98009

LOCATION:
S 1/2 of NE 1/4 of Section 25 and
N 1/2 of NE 1/4 of Section 36, T2N, R20E, W.M.

ISSUED BY THE ENVIRONMENTAL QUALITY COMMISSION

LOREN KRAMER
Director, Department of Environmental Quality

MAR 2 1976
Effective Date

REFERENCE INFORMATION

Facility Name: Oregon Pollution Control Center and Hazardous Waste Repository

County: Gilliam

Operator: Chem-Nuclear Systems, Inc.
P.O. Box 1866
Bellevue, Washington 98009

Until such time as this license expires or is modified or revoked, Chem-Nuclear Systems, Inc. is herewith authorized to establish, operate and maintain a site for the disposal and handling of environmentally hazardous wastes as defined by ORS 459.410 and rules of the Department of Environmental Quality, except any radioactive material. Such activities must be carried out in conformance with the requirements, limitations, and conditions which follow. This license is personal to the licensee and non-transferable.

State of Oregon
Dapart of Environmental Quality

LICENSE CONDITIONS

A. GENERAL CONDITIONS

A1. Authorized representatives of the Department of Environmental Quality (hereinafter referred to as the Department) shall have access to the site at all reasonable times for the purpose of inspecting the site and its facilities and the records which are required by this license.

A2. The Department, its officers, agents and employees shall not have any liability on account of the issuance of this license or on account of the construction, operation or maintenance of facilities permitted by this license.

A3. The issuance of this license does not convey any property right or exclusive privilege, except pursuant to the lease for the State owned portion of the site, nor does it authorize any injury to private property or any invasion of personal rights, nor any violation of Federal, State or local laws or regulations.

A4. The Department may revise any of the conditions of this license or may amend the license on its own motion in accordance with applicable rules of the Department.

A5. Transportation of wastes to the site by or for the licensee shall comply with rules of the Public Utility Commissioner of Oregon, the State Health Division and any other local, State or Federal Agency having jurisdiction.

A6. A complete copy of this license and approved plans and procedures shall be maintained at the site at all times.

A7. The licensee shall not conduct, or allow to be conducted, any activities that are not directly associated with the construction, operation or maintenance of the disposal facilities at the site as authorized by this license, without written approval from the Department for such other activities.

A8. The licensee shall not sell or otherwise dispose of any portion of the site without prior written approval from the Department. This condition shall survive the expiration, revocation, suspension or termination of the license for any reason other than those specified in condition C7 for a period of two years during which time the Department shall have exclusive right and option to purchase all of the site and improvements thereon not theretofor deeded to the State at book value of the site and improvements on the books of the licensee, net of depreciation and depletion.

State of Oregon
Dapart of Environmental Quality

LICENSE CONDITIONS

B. SPECIAL CONDITIONS

Management of the site, including all activities related to processing, treatment handling of storage and disposal of wastes at the site, construction and maintenance of facilities at the site, and monitoring and maintenance of records concerning operation of the site shall conform with the following conditions, limitations and provisions:

B1. No construction activities related to waste disposal facilities at the site may be undertaken by the licensee until the Department has approved in writing final plans for facilities proposed by the licensee.

B2. Following written approval by the Department of final detailed engineering plans, the licensee shall proceed expeditiously with construction of the approved facilities.

B3. No disposal activity may be undertaken by the licensee until the Department has inspected the site and certified in writing that the facilities provided for disposal activities are satisfactory and comply with approved final detailed engineering plans.

B4. Following certification of the site and facilities (condition B3), the licensee shall commence operation of the site and facilities as soon as possible thereafter. Operation shall not be discountinued without the approval of the Department, except for temporary work suspension caused by conditions beyond the control of the licensee such as, but not limited to, labor disputes, weather conditions, equipment failure, shortages of materials or unavailabilty of qualified personnel. In the case of a temporary discontinuance of disposal activities which exceed 5 working days, the licensee will notify the Department in writing, giving the reason for the shut down and the estimated time of the temporary closure. During any temporary discontinuance of disposal activities, the licensee shall maintain the security and integrity of the site.

B5. Conditions B1, B2, B3, and B4 and other conditions of this license shall apply to initial facilities and operations and to any subsequent facilities and operations proposed by the licensee.

B6. Transportation, handling, disposal, treatment, monitoring and other activities at the site shall comply with procedures and plans approved by the Department and other conditions of this license.

B7. In the event of fires, accidents or emergencies that occur at the site, or during transportation of wastes to the site, the licensee shall employ emergency procedures approved by the Department. The occurrence of any fires, accidents, emergencies or other unusual conditions at the site, or in connection with transportation of wastes to the site, shall be reported, to the Department as soon as possible such that the Department can monitor or direct clean up or other activities necessary to rectify conditions resulting from the incident. If deemed necessary, the Department may require special precautions to be taken during or as the result of fires, accidents or emergencies.

State of Oregon
Dapart of Environmental Quality

LICENSE CONDITIONS

B8. Before use of the site for disposal is terminated, the licensee shall restore the site to its original conditions, to the extent reasonably practicable. No less than one year prior to intended closure of the site the licensee shall submit detailed plans for the Department's approval indicating steps to be taken to properly close and restore the site.

B9. Upon completion of each burial trench, a granite or concrete marker shall be erected at the end of the trench. To such trench markers shall be attached a bronze or stainless steel plate which shall contain the following information: a trench identification number; dimension of the trench and its location relative to the marker; volume of waste buried; and dates of beginning and completion of burial operations.

B10. The licensee may at any time propose in writing for the Department's consideration changes in previously approved facilities or procedures, or the addition of new facilities or procedures.

B11. The licensee is authorized to accept and dispose at the site only those chemical wastes for which specific treatment and disposal procedures or research programs have been approved by the Department. Treatment and disposal of chemical wastes at the site shall be conducted only in facilities approved by the Department.

B12. Within 14 days after receipt of a written request for service from a waste generator or source specifying the volumes and chemical and physical composition of wastes requiring disposal, if treatment and diposal procedures have not been previously approved by the Department, the licensee shall forward a copy of such request to the Department together with either:

A. Proposed treatment and disposal procedures; or

B. A proposed research program for development of disposal procedures and the time required for completion; or

C. A determination that the wastes should not be accepted at the site and the reasons therefor.

The Department shall review such requests in a timely fashion and shall submit a written response to the licensee no later than 14 days following receipt of a request.

Any treatment or disposal procedures or research programs which are approved by the Department pursuant to such requests shall be undertaken by the licensee as soon as practicable.

LICENSE CONDITIONS

B13. Notwithstanding the provisions of condition B12., item c., if the Department determines that any specific waste, other than radioactive waste, originating in Oregon should be disposed at the site, based on unavailability or unfeasibility of alternative disposal methods or other factors, the licensee shall provide disposal for such waste under treatment or disposal procedures directed by the Department utilizing existing site facilities and equipment. In the event the treatment or disposal procedures directed by the Department require additional facilities or equipment, the obligation of licensee shall depend upon financial commitments by the waste generators satisfactory to licensee.

B14. No less than 24 months and no more than 36 months after the effective date of this license, the licensee shall submit a report to the Department which outlines the feasibility of adding incineration facilities at the site. This report shall include an analysis of: the types and volumes of organic wastes that would be amenable to incineration; volumes of such wastes that have been disposed at the site by other means; conceptual design for appropriate incineration facilities including capital and operating costs; method of feed, hourly feed rate, hours of operation, quantity and character of air contaminants to be emitted and proposed monitoring equipment, if any; and other information pertinent to incineration.

B15. The licensee shall designate a site superintendent. The licensee shall advise the Department of the name and qualifications of the superintendent. The superintendent shall be in charge of all activities at the site within his qualifications. The licensee shall also advise the Department of the individual to be contacted on any problem not within the site superintendent's qualifications. The licensee shall immediately notify the Department if any change is made in these designated individuals.

B16. The licensee shall not open burn any wastes or materials at the site, without prior written approval by the Department.

B17. The licensee shall not receive, store or dispose of any radioactive wastes at the site.

B18. As provided in agreements or contract between the licensee, the Department and other persons, ownership may be retained by other persons over certain wastes disposed at the site by the licensee. Such agreements shall further provide that the Department shall not be liable for any expenses associated with future recovery or re-disposal of such wastes and that following any future recovery or re-disposal operations, the site shall be returned to a condition satisfactory to the Department.

C. BONDING, FEE, LEASE AND INSURANCE CONDITIONS

C1. On or before April 15, 1976, the licensee shall file a surety bond executed in favor of the State of Oregon in the amount of $75,000 and for a term no longer than April 15, 1977. Each year thereafter on or before April 15, for eleven years, the surety bond shall be renewed or a new surety bond filed with the State of Oregon, in the amount of $75,000 less the amount of cash bond posted with the Department, in accordance with condition C2 of this license, as of the date of renewal or filing of such surety bond. Each such surety bond shall be approved in writing by the Department prior to its execution. Such surety bond shall be forfeited to the State of Oregon by a failure of licensee to perform as required by this license, to the extent necessary to secure compliance with the requirements of this license, and shall indemnify the State of Oregon for any cost of closing the site and monitoring it and providing for its security after closure.

C2. On or before April 15, 1977, the licensee shall post a cash bond, as provided by ORS 459.590(2)(f), with the Department in the amount of $18,750. Thereafter, annual additions to the cash bond shall be posted by the licensee in the amount of $5,625, for each of the next 10 years, on or before April 15. The following shall be eligible securities deemed equivalent to cash: bills, certificates, notes, bonds or other obligations of the United States or its agencies. The cash value at the time of posting shall not be less than the required bond amount.

Interest earnings on the cash bond shall be paid annually by the Department to the licensee, except for the amount necessary to offset inflationary increases in monitoring, security and other costs to be funded by the cash bond.

C3. The licensee shall pay a license fee to the Department in the amount of $1,081 within 30 days after the effective date of this license. Thereafter, the licensee shall pay the Department an annual license fee of $4,324 within 30 days after July 1 each year.

C4. Within 30 days after the effective date of the license, and prior to disposing any wastes thereon, the licensee shall deed the following properties at the site to the State: chemical disposal area, potliner resource recovery area and chemical evaporation ponds. Within 60 days after completion of on-site roads, the licensee shall deed such roads to the State.

Within 30 days after deeding of these properties to the State, a lease between the licensee and the Department for these properties shall be executed. The lease shall be maintained for the duration of this license.

LICENSE CONDITIONS

C5. The licensee shall maintain liability insurance for operation of the site, with respect to all types of wastes, in the amount of not less than $1,000,000. Liability insurance shall also be maintained by the licensee in the amount of not less than $1,000,000 to cover transportation of all types of wastes to the site. The licensee shall provide the Department with certified copies of such insurance policies within 30 days after the effective date of this license and of all policy changes within 30 days after each such change. All such insurance policies shall provide that such insurance shall not be cancelled or released except upon 30 days prior written notice to the Department.

C6. The licensee shall submit copies of: Audited Annual Report, Form IO-K Report to the S.E.C., and unaudited quarterly management reports for the Arlington operation. Any reports shall be treated as confidential to the extent permitted by Oregon laws and rules. These reports shall be submitted to the Department within 30 days after completion by the licensee.

C7. The licensee shall convey title for the entire site to the State, except for those portions previously owned by the State, in the event of any one of the following circumstances:

a. Expiration of the license due to failure of the licensee to seek renewal.

b. Termination or expiration of the license due to utilization of the site to its full capacity, as determined by the Department.

c. Default by the licensee of any provision of this license that remains uncorrected after 30 days written notice.

This condition shall survive the expiration or termination of the license.

LICENSE CONDITIONS

D. RECORDS AND REPORTING CONDITIONS

D1. The licensee shall maintain records and submit monthly reports to the Department indicating quantities and types of wastes received, stored and disposed at the site and fees collected therefor. Such reports shall be on forms approved by the Department.

D2. The licensee shall maintain records, on forms approved by the Department, indicating the type, quantity and location of wastes which have been buried in burial trenches at the site. Such records shall be submitted to the Department biannually.

D3. The licensee shall maintain survey records for each burial trench, referenced to the nearest U.S.G.S. bench mark to define the exact location and boundaries of each trench. Within 60 days after completion of trenches, the licensee shall forward the required marker information and a copy of survey records to the Department.

D4. All findings and results from the licensee's environmental monitoring program shall be recorded on appropriate forms and shall be reported to the Department quarterly.

E. ENVIRONMENTAL MONITORING CONDITIONS

The licensee shall conduct a chemical and biological environmental monitoring program approved by the Department, including but not limited to:

E1. On-site dry test wells (wells number B-1, B-2, B-3, B-4, B-5, and B-6) will be checked annually when the water table in the area is at its highest level. Water samples will be obtained from each well in which water is observed.

E2. Monitoring wells in each chemical burial trench will be checked quarterly for the presence of water. If water is observed, a water sample will be taken and the Department will be notified immediately. If no water is observed, a sample of sediment (soil) from the monitoring well will be obtained biannually. Once per year, a sample of soil from trench monitoring wells will be sent to the Department.

E3. All water and soil samples required by items a. and b. above will be analyzed for zinc, copper, arsenic, cadmium, chromium, lead, mercury, cynaides, chemical oxygen demand, total organic carbon, chlorides, specific conductance, chlorinated hydrocarbons and phenols using procedures approved by the Department.

E4. A sample of the resident vertebrate population and of vegetation will be obtained annually. These samples will be analyzed for zinc, copper, arsenic, cadmium, chromium, lead, mercury, cyanides, chlorinated hydrocarbons and phenols.

LICENSE CONDITIONS

F. APPROVED PLANS AND PROCEDURES

As referred to in conditions F1., F2. and F3., the licensee's management plans shall mean the licensee's June 14, 1974 Program for Management of Hazardous Materials and revisions and additions thereto submitted to the Department by letters of September 24, 1974, December 31, 1975 and January 8, 1976.

F1. The following general plans and procedures are approved:

a. Location of facilities at the site as described on Licensee's Plot Plan (Drawing No. 1), dated December 29, 1975.

b. Security plans as described on pages 4 and 5 of the licensee's management plans, except that a three strand barb wire fence shall be maintained around the perimeter of the site.

c. Firefighting procedures as described on pages 6 and 7 of the licensee's management plans, except that the requirements of condition B7 shall also apply.

d. Fire and water systems as described on page 2 and Figure G-5 of the licensee's management plans as amended January 8, 1976.

e. Operations center as described on page 2 and Figure G-4 of the licensee's management plans.

f. Machine and storage building as described on page 1 and Figure G-2 of the licensee's management plans.

F2. The following plans and procedures for transportation, handling, disposal and treatment of chemical wastes are approved:

a. Chemical staging area (drum storage pad) and tank farm as described on pages 2 and 3 and Figure C-1 of the licensee's managment plans.

b. Chemical process building as described on page 1 and Figures G-3 and C-4 of the licensee's management plan, except that only facilities for office, laboratory, sanitary facilities and emergency shower are approved.

c. Evaporation ponds, 3 only, as described on page 17 item 1, and Figure C-5 of the licensee's management plans.

d. Chemical burial trench, 3 only, as described on page 14, item 1, and Figure C-2 of the licensee's management plans, with the following additions and exceptions:

(1) Trench floor and gravel ditch to be sloped at 1 foot per 100 feet toward trench entrance. Trench floor also to be sloped toward gravel ditch at 1 foot per 100 feet and gravel ditch to be placed at trench edge rather than trench center.

(2) 3 sample pipes (monitoring wells) shall be placed in each trench. Location and design of such wells shall be approved by the Department and shall be in place before disposal of wastes in trench is begun.

(3) An earthern berm of 2 feet minimum height or ditch of 2 feet minimum depth, shall be maintained along the uphill edge of an active trench (stockpiling of excavated soil along the uphill edge will satisfy this requirement). A drainage ditch of 2 feet minimum depth shall be maintained adjacent to each end of the trench.

(4) Equipment operating in a trench shall not travel on or across the gravel ditch.

(5) Final mounding of completed trenches is to extend 2 feet beyond the trench edge. Suitable vegetation is to be established and maintained on completed and mounded trenches.

e. Procedures for the pickup and transportation of chemical wastes as described on pages 55 and 56 of the licensee's management plans.

SITE PRESENT VALUE CALCULATION

The following calculations show the present site purchase cost according to Appendix I. They are based on the May 1978, consumer price index and the assumption that all the site improvements are serviceable.

Item	Base Cost(C), $	Base Year	Adjusted Price,$		EST 7/78 Cost
Site Real Property	1,800	1970	C x F1 x F3	(1800)(1.732)(.9169) =	2859
	63,924	1972	C x F1 x F3	(63924)(1.641)(.9169) =	96182
Site Development	93,080	1970	C x F1 x F3	(93080)(1.732)(.9169) =	147818
	81,943	1971	C x F1 x F3	(81943)(1.659)(.9169) =	126901
	65,348	1972	C x F1 x F3	(65348)(1.641)(.9169) =	98325
	10,953	1973	C x F1 x F3	(10953)(1.540)(.9169) =	15466
	13,291	1974	C x F1 x F3	(13291)(1.373)(.9169) =	16732
	6,628	1976	C x F1 x F3	(6628)(1.174)(.9169) =	7135
Burial Trenches	112,616	1976	C x F1 x F2a x F3	(112616)(1.174)(.625)(.9169) =	75965
Evaporation Ponds	8,500	1976	C x F1 x F2b x F3	(8500)(1.174)(1)(.9169) =	9150
Evaporation Ponds Liners	16,374	1976	C x F1 x F2c x F3	(16374)(1.174)(.6)(.9169) =	10575
Fencing, Signs & Roads	3,721	1970	C x F1 x F3	(3721)(1.732)(.9169) =	5909
	4,430	1972	C x F1 x F3	(4430)(1.641)(.9169) =	6666
	2,844	1973	C x F1 x F3	(2844)(1.540)(.9169) =	4016
	60,854	1976	C x F1 x F3	(60854)(1.174)(.9169) =	65506
	7,528	1978	C x F1 x F3	(7528)(1.000)(.9169) =	6902
Water Wells	1,693	1972	C x F1 x F2b x F3	(1693)(1.641)(1)(.9169) =	2547
Septic Systems	2,622	1975	C x F1 x F2b x F3	(2622)(1.253)(1)(.9169) =	3012
	4,903	1976	C x F1 x F2b x F3	(4908)(1.174)(1)(.9169) =	5283
	1,320	1975	C x F1 x F2d x F3	(1320)(1.253)(.7)(.9169) =	1061
	1,068	1976	C x F1 x F2d x F3	(1068)(1.174)(.8)(.9169) =	920
Monitoring Devices	299	1976	C x F1 x F2d x F3	(299)(1.174)(.8)(.9169) =	258
	1,026	1977	C x F1 x F2d x F3	(1026)(1.088)(.9)(.9169) =	921
Miscellaneous	388	1975	C x F1 x F3	(388)(1.253)(.9169) =	446
	3,665	1976	C x F1 x F3	(3665)(1.174)(.9169) =	3945
	$ 570,823				$ 714,300

ROBERT W. STRAUB
GOVERNOR

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, November 17, 1978 EQC Meeting

208 Nonpoint Source Project - Request For Approval To Add New Elements to Statewide Water Quality Management Plan

Background

The 208 program has been brought before the Commission on several occasions. First, status reports were provided for the Commission at the April 1977 and May 1978 meetings. Second, the designation of the Metropolitan Wastewater Management Commission (Eugene Area) to construct and operate a regional sewage treatment plant in Eugene was presented as an informational item at the July 1977 meeting. Third, a proposed agreement between the Department and the Oregon State Forestry Department was presented as an informational item at the April 1978 meeting. Fourth, the Governors certification of 208 areawide plans was presented as an informational item at the July 1978 meeting.

Introduction

The Commission adopted the initial Statewide Water Quality Management Plan for Oregon in December 1976. The plan was prepared over several years and emphasized the control of point sources of waste. The plan, as adopted, consisted of four volumes and supporting documents:

I. Beneficial Uses, Policies, Standards, and Treatment Criteria;

II. Presently Identified Needs and Proposed Action Program for individual River Basins in Oregon 1976;

III. Narrative Summary;

IV. Summary of Testimony from Public Hearings;

Nineteen Supporting basin planning documents.

At the December 20, 1976 meeting, the Commission took the following specific actions on the Statewide Water Quality Management Plan for Oregon: Volume I was adopted with some amendments as Administrative Rules to be incorporated into Subdivision 1 of Division 4 of OAR Chapter 340; Volumes II, III, IV and the supporting documents were approved along with one amendment to Volume III.

Contains Recycled Materials

One of the amendments to Volume I recognized that the deadlines for plan adoption prevented thorough involvement by local government in the development and review of the plan. The Department was directed to review the contents of the plan with affected local governments and to use their comments and suggestions in preparing amendments for consideration by the Commission not later than December 1977. The Department fulfilled this directive by sending out considerable review material, soliciting comments, and meeting with local governments. One comment was received. The Department reported back its findings to the Commission in December 1977. No plan amendments were proposed or adopted.

November 1978 Addition To The Statewide Water Quality Management Plan

A few months prior to the adoption of the point source oriented Water Quality Management Plan, the 208 project was initiated. This project is viewed by the Department as the means for developing the initial non-point source elements of the overall plan. The project is now at its end and the individual elements are near completion.

The November 1978 addition to the Statewide Water Quality Management Plan for Oregon consists of Volumes V, VI, VII and supporting documents. These volumes include a narrative summary (Volume V), a proposed Non-point Source action program (Volume VI) and a summary of public involvement (Volume VII). No new regulations are proposed for adoption. Existing laws and regulations provide an adequate basis for implementation of the completed elements.

Volume V. Nonpoint Source Narrative Summary

Volume V summarizes the eleven plan elements addressed in the initial 208 project. Contained within this summary is a description of the project work completed within each element.

Volume VI. Nonpoint Source Action Program

Volume VI sets forth proposed actions and future needs to control non-point sources of pollution identified through the 208 project. Attachments, to provide supplemental information are included.

Volume VII. Summary of Public Involvement (1976-1978)

Volume VII summarizes the public involvement carried out through the 208 project. This includes committee meetings, public meetings, media contacts, brochures and other pertinent material.

It should be recognized that Volumes V, VI and VII are only the starting point on the development of a comprehensive non-point source control plan. Additional proposed actions will be submitted to the Commission in the future. The nonpoint source elements of the overall plan will evolve slowly as funds become available and new projects are undertaken.

Summation

1. The Commission adopted the Statewide Water Quality Management Plan in December 1976.

2. A project to develop initial nonpoint source plan elements was initiated in October 1976. The project is essentially complete.

3. A substantial public involvement program was undertaken as a part of the project.

4. The State's Water Quality Management Plan, as well as any additions or modifications, must be submitted to EPA for approval.

5. The Commission must approve the plan prior to submittal to EPA.

6. The proposed additions to the State's plan include Volume V (nonpoint source narrative summary), Volume VI (nonpoint source action program), and Volume VII (summary of public involvement).

7. Existing laws and regulations provide an adequate basis for implementation of completed elements.

Director's Recommendation

Based on the summation, the director recommends that the Commission:

A. Approve Volumes V, VI, VII and supporting documents as the November 1978 addition to the Statewide Water Quality Management Plan for Oregon.

B. Authorize the Director to transmit the three volumes and supporting documents to EPA together with the certification that these volumes and documents are an official addition to the Statewide Water Quality Management Plan for Oregon.

Bill

WILLIAM H. YOUNG

Thomas J. Lucas:nrj
229-5284
November 1, 1978
Attachments - 16
Nonpoint Source Narrative Summary (Vol. V)
Nonpoint Source Action Program (Vol. VI)
Attachments A through M
Summary of Public Involvement (Vol. VII)

ROBERT W. STRAUB
GOVERNOR

Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. M, November 17, 1978, EQC Meeting

Appeal of Subsurface Disposal Requirement by Sunrise Village - Bend

Background

On May 26, 1978, the Department received a proposal from Sunrise Village for a planned unit development to be located in the southwest corner of the Bend Urban Growth Boundary along Century Drive. The proposal called for a portion of the development (about 120 units) to be served by a community sewage collection and disposal system. The disposal system would consist of a septic tank, dose tank and drainfield.

The Department responded to the proposal by stating we would consider issuance of a permit for the disposal system as long as the system was interim and ultimate connection to the Bend regional sewage system was assured. We requested that Sunrise Village provide the Department with a signed sewer agreement between the City of Bend and the developer stating that the system would be connected to the regional sewer system when available.

The City and Sunrise Village have been unable to come to agreement. The City did not want to enter into a sewer agreement because they were unsure if they would be able to provide a sewer to the area. In addition, if the City provided sewer service, the development would have to annex. The City wanted to be sure that, if they were to annex the development, it would meet City standards.

To satisfy their concerns, the City offered the following terms for a sewer agreement.

1. Sunrise Village would build a sewer interceptor to Phase I of the Bend sewer project.

2. Sunrise Village would annex to the City when requested.

3. Sunrise Village would build their water system to City specification and would turn it over to the City at annexation.

4. The development would comply with all City development standards and would be inspected by the City during construction.

5. The City would operate and maintain the interim sewage disposal system until Phase I of the Bend sewer project was ready for operation.

Sunrise Village was unable to agree to these terms. As a result, they have been unable to satisfy the Department's requirement that their sewage disposal system be ultimately connected to the Bend sewer system.

Recently, the City of Bend has offered a sewer agreement to the C.J. John Shopping Center, another proposed development in the Bend Urban Growth Area. This agreement contained the following major components:

1. The developer would give the City $20,000 to develop a sewer plan for a segment of the UGB. The plan would investigate alternatives for interim disposal systems as well as the location of the final sewers. The plan would take three months to complete.

2. The City would guarantee sewer service to the developer so that construction of the development could start as soon as practicable. The developer would install the interim system designated by the plan. The City would operate and maintain the interim system until ultimate connection to the Bend sewer system occurred. No specific date for ultimate connection would be set.

Evaluation

The Department believes that any community sewage disposal system to be constructed inside the Bend Urban Growth Boundary should be a part of the regional sewerage plan and should be ultimately connected to the Bend regional sewer system. This belief is based on the following:

1. Only the Bend regional sewer system will be able to provide reliable long-term, effective sewer service. We doubt that a homeowner's association as proposed by Sunrise or a sanitary district can provide this assurance of service.

2. We are unsure that large subsurface disposal systems will function reliably over the long term (30 to 40 + years). We, therefore, believe that they should only be considered as interim systems.

3. The state and federal governments have invested many millions of dollars to provide the Bend area with a sewage collection and treatment system. We believe use of the system should be encouraged. We do not believe we should allow small community sewage disposal systems to proliferate in the Bend Urban Growth Area when a more desirable alternative will be available soon.

The Department also believes that the requirement for ultimate connection to the Bend sewer system is not unreasonable. The sewer agreement with C.E. John, recently proposed by the City of Bend, could also be applied to Sunrise Village. The city's agreement should not place an unreasonable burden upon Sunrise Village.

Summation

Sunrise Village of Bend has submitted a proposal for a community sewage collection and disposal system to serve a planned unit development located inside the Bend Urban Growth Boundary. The development would not be served by the Bend sewer system now under construction, but it could be served when a sewer is extended out to the area.

The Department would approve the proposal if the following conditions are met:

1. The sewage disposal facility would be under the control of a municipality.

   OAR 340-71-030(4) states:

   > "Multiple Service. Where a water-carried subsurface or alternative sewage disposal system will serve more than one (1) lot or parcel, such a system shall be under the control of a municipality as defined in ORS 454.010(3)."

2. The plans and specifications for the proposed sewage disposal facility are submitted to the Department for review and, in the review, the Department finds that:

   a. System is properly designed and meets applicable rules.

   b. Assurance of proper operation and maintenance is evident so that a health hazard and water pollution will not be created.

3. The Department finds that applicable land-use planning requirements will not be violated. (OAR 340-71-015(6).)

The Department has required that Sunrise Village enter into a sewer agreement with the City of Bend to assure ultimate connection to the Bend regional system. We believe connection is necessary to assure reliable, long-term, effective sewage disposal. We are not confident that large subsurface disposal systems will perform effectively for the long term. The city has the staff and equipment to assure proper maintenance and operation of city's sewerage facilities. We do not believe Sunrise Village will be able to provide the same level of maintenance and operation.

Currently the Sunrise Village proposal does not meet Goal 11 of Statewide Planning Goals and Guidelines. Goal 11 calls for the coordinated development of public facilities with all other urban facilities and services.

Goal 11, Guideline A, Section 5 states:

> "A public facility or service should not be provided in an urbanizable area unless there is provision for the coordinated development of all the other urban facilities and services appropriate to that area."

By requiring an agreement between proposed developments inside the Urban Growth Boundary and the city, the Department is assured that Statewide Planning Goal 11 will be achieved.

The City of Bend has recently proposed a sewer agreement to C.E. John for sewer service to a development also inside the UGB, but outside the service area of Phase 1 of the Bend sewer project. We believe a similar agreement could be utilized to resolve our concerns with the proposed sewage system for Sunrise Village.

Director's Recommendation

Based upon the summation, it is recommended that the Environmental Quality Commission direct the Department to not permit a community sewage disposal system for Sunrise Village unless such system is a part of the overall regional sewerage plan and would be connected to the Bend regional sewerage system at some future time. The Commission should also direct the Department staff to work with the City of Bend and Sunrise Village to reach agreement for ultimate connection of the sewage system to the regional system.

Bill
WILLIAM H. YOUNG

Richard J. Nichols:dmc
382-6446
November 1, 1978
Enclosures

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
NOV

Sunrise Village
Along the Deschutes River

BEND DISTRICT OFFICE 2151 N. E. FIRST STREET, BEND, OREGON 97701

October 30, 1978

City of Bend
City Hall
P. O. Box 431
Bend, Oregon 97701

RECEIVED
NOV 06 1978
Water Quality Division
Dept. of Environmental Quality

Attention: Mr. Art Johnson

Re: Sunrise Village

Sir:

I am writing you on behalf of the Mammoth Lakes Corporation, developers of Sunrise Village. As you are probably aware, our project has been stymied since June of this year due to the Department of Environmental Quality's insisting we obtain a sewer agreement with the city and our being unable to comply in particular with two of the cities stipulations for said agreement. Specifically, we haven't any water to deed the city as although we have contributed $60,000. in development costs, M.R.S. owns the well and reservoir and is unwilling to relinquish them. It is also prohibitorily expensive for Sunrise Village on its own to construct a dry line sewer collection system and extend an interceptor line to meet the Phase I sewer system.

Two recent events have occured which may offer a solution to our dilemma. We respectfully request you consider their application to our case. They are as follows.

1. The city of Bend, Brooks Resources and C. E. John Construction Company are near to completing a sewer agreement of a kind the Department of Environmental Quality thinks might have application to our case.

2. Our water delivery system is to be built to city standards and M.R.S. has agreed to allow us to disconnect at any time and deed the delivery system to the city.

Please be assured it is our every intention to cooperate to the best of our ability with all concerned to the end that our development is both an asset and source of pride to the Bend community. However, excepting for some help from the city we are faced with deviating from our plan and downgrading the project by putting everything on septic tanks.

Your efforts and concerns are much appreciated. I am at the disposal of you and your staff as the need may be.

Very truly yours,

Tim Ward

Tim Ward
Vice President
Mammoth Lakes Corporation

CC: Richard J. Nichols
Bill Smith

State of Oregon

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

DEPARTMENT OF ENV... RECEIVED OCT ... 1978

and return

To: Bill Young via Fred Bolton

Date: October 26, 1978

From: Dick Nichols, Central Region

Subject: S - Bend
Deschutes County

The City of Bend made a giant stride towards extension of the Bend sewer project into the Phase II area. The sewer committee at their morning meeting offered the following proposal to C. E. John:

1. C. E. John would provide $20,000 to the City to conduct a sewer study of the northern segment of the Phase II area. This study would determine not only the ultimate plan for sewering the area, but would also determine interim disposal methods to be used until final sewers are installed.

2. So that C. E. John could proceed with their project, the City would agree to provide the company with sewer service when the shopping center was completed and ready for business. This sewer service would consist of an interim disposal system (as determined by the above plan) which would be operated and maintained by the City of Bend until connection is made to the Bend sewerage system. The City would commit to connecting the interim system to the Bend sewer project at some future date. This date would not be specified.

I told the committee that we found this approach acceptable. I based this decision on the following:

1. The interim disposal system will be a part of the over-all sewer plan for the Bend urban growth area.

2. With the City of Bend operating and maintaining the system, we can be assured the interim system will be ultimately connected to the Bend project and that the interim system will be properly constructed, operated and maintained.

I believe this covers our basic concerns with development and sewage disposal in the Bend area.

Though disposal wells could be considered as an interim disposal system, the City of Bend and C. E. John recognize that disposal wells are not an option for the C. E. John site because of the relatively shallow water table in the area. Disposal wells could be considered for those areas in the Northern segment of Phase II, which are not over the shallow water table. The City recognizes that disposal wells are

currently prohibited outside the Bend city limits and that only the EQC could change this. I think the City also recognizes that the EQC would not approve extension of the disposal well boundary into Phase II unless the City showed the wells would be phased out by a scheduled date.

Hopefully, this approach to the sewers in the Phase II area of Bend is acceptable to you. I propose to handle other development projects in a similiar manner.

In C. E. John's case, I intend to follow-up on the City's proposal in the following manner:

1. Upon receipt of a letter from the City of Bend stating that they will provide C. E. John with sewer service, that they will operate and maintain the interim disposal system until it is connected to the Bend System and that the City commits itself to ultimate phase-out of the interim system, I will inform the county that the Department has no objection to issuance of a building permit to C. E. John. We would allow issuance of the building permit conditioned on the following:

    a. Operation of the shopping center would not start until an approved, interim disposal system was installed.

    b. The plans for the interim system shall be approved in writing by DEQ. A copy of the sewer agreement between C. E. John and the City of Bend must be submitted with the plans.

    c. If the interim system is an on-site septic tank and drainfield, the system would have to be owned by the City of Bend and would be operated by a letter permit from DEQ. Any other interim system whether disposal well, package STP, or whatever, would require a WPCF permit issued to the City of Bend.

RJN:sm

cc: Harold Sawyer, Water Quality

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
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OCT 25 1978

BEND DISTRICT OFFICE

Sunrise Village
Along the Deschutes River

2151 N. E. FIRST STREET, BEND, OREGON 97701

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT 27 1978

WATER QUALITY CONTROL

October 25, 1978

Department of Environmental Quality
2150 Studio Road
Bend, Oregon 97701

Attention: Richard J. Nichols, Regional D.E.Q. Manager

Dear Mr. Nichols:

On October 12, 1978 you telephonically informed me of your decision to hold to the position of requiring Sunrise Village to obtain an agreement with the city of Bend for a future sewage connection before you would approve our planned community sewer system.

Your stated reasons, as I understood them, were that the Department of Environmental Quality has a large investment in the Bend regional sewer system and Sunrise Village should be a part of it because in being so it would likely induce the orderly development of potential downstream projects and avoid the risks and management problems over the long term with respect to the reliability of a community sewer system. In view of your decision I hereby formally request an appeal at the earliest possible time with the Environmental Quality Commision.

It is our contention as supported by the text of Ross Mathers letter of September 27, 1978 that there is legal, moral, and practical justification for exempting us from the city sewer agreement policy due to the policies being implemented subsequent to our accomplishing in good faith and at considerable expense of time and money, an environmentally sensitive development plan based on and evolving around a sewage disposal method originally recommended by Mr. Borden of your office.

Furthermore, insisting we obtain the city sewer agreement is counter productive in that we are unable to meet the cities requirements of giving them the water system as we don't own it or funding (which the city recognizes would not be justifiable even for them) a sewer interceptor line nearly two miles to the Bend phase one sewer system for a maximum 121 single family residential homes within a 233 acre development. Therefore, we would have no alternatives to abandoning our plan, a high standard community sewer system and to the detriment of the environment and all concerned; put everything on individual septic tanks. We also disagree that Sunrise Villages being on the city system is integral to the systems orderly development in that no one is up-stream from us and as a negative by product, high down-stream density would be encouraged. Lastly, ours is to be a community association with the resources, management and enforcement powers to indefinately operate and maintain a community sewer system or until, which time it was clearly right and feasible for us to be on the city system.

Your earliest attention to this matter is appreciated. Please advise us of any developments as they might concern us.

Sincerely,

Tim Ward

Tim Ward

TW/sb

ROBERT W. STRAUB
GOVERNOR

WQ

Department of Environmental Quality

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

October 17, 1978

Sunrise Village
2151 N. E. First Street
Bend, Oregon 97701

SSSD - Sunrise Village
Deschutes County

Attention: Mr. Ross Mather, President

Gentlemen:

We have reviewed your letter of September 27, 1978. We have also conferred with Mr. Tim Ward of your company.

I believe that our staff understands your position in this matter. However, we still cannot approve your plans for a community sewage disposal system until we can be assured that it will ultimately become part of the regional sewerage system at a scheduled date.

Considerable funds are being invested to supply the Bend area with a regional sewerage system. Large developments in that area must plan to use this method for sewage disposal. The Department feels that a large drainfield is not the best sewage disposal alternative over the long term. We need to be assured that our approvals of disposal methods are not faced with problems in the future. Ultimate connection to regional sewerage system will provide this assurance.

If you need additional assistance on this matter, please call Mr. Dick Nichols (382-6446) in our Bend office.

Sincerely,

William H. Young

William H. Young
Director

hk

cc: Central Region Office, Bend
Water Quality Division, Portland
Deschutes County Planning Dept.
Deschutes County Sanitarian Dept.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
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ROBERT W. STRAUB
GOVERNOR

Department of Environmental Quality
CENTRAL REGION
2150 N.E. STUDIO ROAD, BEND, OREGON 97701 PHONE (503) 382-6446

October 9, 1978

Deschutes County Planning Commission
Courthouse Annex, Room 102
Bend, OR 97701

S - Bend
Proposed Holiday Inn--
Holidome

Gentlemen:

We have not received notice from Deschutes County on the proposed zone change for the proposed Holiday Inn - Holidome complex on Highway 20 near Cooley Road. However, we have been contacted by interested citizens who have given us some information on the proposed project.

Based on admittedly scant information, we submit the following comments:

1. We have not been informed on how sewage from the complex will be disposed of. We know that the complex is outside the urban growth boundary and, consequently, sewer service to this area by the City of Bend sewerage system is not even being contemplated at this time.

   We believe a large complex, such as this one, should be located to take advantage of the new Bend sewer project. Before we will consider an interim sewage disposal system for the proposed complex, we will have to be shown that the interim system is a part of the overall sewerage plans for the Bend area and that it would be phased out and connected to the Bend system by a known specified date. Because the only area assured to have future sewer service is that contained in the Phase I area of the Bend sewer project, currently we will only approve those interim systems that will be phased out with the completion of Phase I.

2. The complex would be located over a known perched water table that serves as a source of domestic water. Use of disposal wells to dispose of surface runoff from the complex may impact the quality of the water in this perched water table.

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3. If the parking lot exceeds 1000 lots, an indirect air contaminant discharge permit must be applied for prior to construction.

Sincerely,

Richard J. Nichols
Regional Manager

RJN:dmc

cc:Water Quality Division
:Fred Bolton

Sunrise Village
Along the Deschutes River
2151 N. E. FIRST STREET, BEND, OREGON 97701

September 27, 1978

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT 3 1978
OFFICE OF THE DIRECTOR

State of Oregon
Department of Environmental Quality
522 SW Fifth Street
P. O. Box 1760
Portland, Oregon 97207

Attention: William H. Young, Director
Fred Bolton, Regional Operations Administrator

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT 19 1978
WATER QUALITY CONTROL

Re: Sunrise Village
Dechutes County

Gentlemen:

The purpose of this letter is to document certain information relative to the planning, development and environmental preservation of the 233 acres comprising the above referenced project. As the owner of this property I feel that there was a very important sequence of events that transpired prior to the Departments decision to require that developments using community waste treatment facilities have an agreement with the city to accommodate future sewer connection. Following is a documentation of these events that I urge you to consider:

1. In early 1976 I had the opportunity to purchase the subject property located two miles from the Bend city limits and bordered by the Deschutes River. Since I felt it first necessary to evaluate the development possibilities for the property, I then negotiated an option to purchase.

2. In February of 1977 I brought a potential investor, Mr. Martin West, to Bend. We met with Lorin Morgan and Jim Morrison of the Deschutes County Planning Staff. We were informed that the property was located within the growth boundary and was shown as a Development Alternative on the Bend Area General Plan. The Comprehensive Plan did not discourage a Planned Development that would provide the full service facilities required for an urban development. We were further advised that the ultimate authority as to our method of sewage disposal was the Department of Environmental Quality.

3. At the same time (February, 1977) we visited John E. Borden, Regional Manager of the Department of Environmental Quality. I informed him that it was our plan to provide a community waste treatment facility for the project. We discussed various methods and it was Mr. Borden's opinion that the Department would prefer a central common septic tank and drain field system. This type of system has been employed in other Bend urban developments. This concept would also provide a collector system that would facilitate a connection to Century Drive should the City of Bend decide to extend its facilities at some future undetermined date.

4. Through substantial reliance on the above information and advice, Mr West and I decided to purchase the property and proceed with master planning. Upon the recommendation of Mr. Bill Smith, president of Brooks Resources, in April of 1977 we engaged the professional land planning firm of Hall Goodhue and Haisley to develop a Master Plan. George Cook Engineering was also retained as was the legal firm of Gray, Fancher, Holmes and Hurley.

5. On May 11, 1977 the Deschutes County Planning Commission approved our request to change the zoning from A-1 Exclusive Agriculture to PD, Planned Development. The Master Plan indicating a community waste treatment facility was incorporated into the approval.

6. On October 3, 1977 we exercised our option and concluded the land purchase at a price of $524,700.00.

7. On December 13, 1977, Preliminary Plat #389, Phase I of Sunrise Village, was approved at a public hearing before the Deschutes County Hearing Officer. On April 18, 1978, Preliminary Plat #415, Phase II, was approved in a similar manner. On June 22, 1978, Preliminary Plat #444, Phase III, was approved. All three plats, involving approximately 200 residential lots, were engineered and designed according to the approved Master Plan which included a private sewer system to serve the smaller lots.

8. In the winter of 1977-78 site work was commenced and roads were graded according to the approved plan. Work on a joint community water system was started including well drilling and the installation of a 500,000 gallon storage tank. The system is now operational. To date, in addition to the land cost, in excess of $220,000 has been paid out by the developers and an additional $600,000 has been committed. All of this was done in good faith and through complete reliance by the developer that the recommended method of sewage disposal would receive tha approval of the Department of Environmental Quality.

9. In January of 1978 engineering was started on the Final Plat of Phase I, the River Bluff Section. All lot boundaries for the 82 lots were surveyed and monuments were set. In the spring, Mr. Dave Williams of George Cook Engineering accompanied Mr. Bob Free of the Department of Environmental Quality on an inspection of the proposed location of the community sewage treatment facilities. Mr Free concurred that soil conditions were suitable for installation of the proposed system. In July when the Final Plat was ready for recording we were advised that the Department of Environmental Quality would not approve the Final Plat until the development had an agreement with the city to accommodate a future sewage connection.

10. On January 27, 1978 the Final Plat for the River Bluff Section of Sunrise Village was signed by the Deschutes County Board of Commissioners and was recorded. An agreement was executed by the developers and the commissioners in which the developers agreed not to commence construction of the community sewage system until plans for the system have been approved by the Department of Environmental Quality.

11. On July 26, 1978 we received staff recommendations from the Bend City Sewer Committee setting forth certain conditions that would have to be met before the city would grant an agreement. It is estimated that the cost to satisfy these conditions would amount to in excess of $1,500,000. On August 4 I had a lenghty conversation with one of the members of the city sewer committee. It was his opinion that the best solution for all concerned would occur if the Department would alter its position of requiring an agreement with the city.

12. During August and September we have conducted extensive soil tests on the property and have attempted to redesign the plat so that each lot could accomodate an individual septic tank and drain field. The conclusions are not only not feasible for the development but potentially could have a disastrous impact on the natural environment. The removal of thousands of trees would be necessitated to accommodate the drain fields. In contrast, the community drain field was planned for an open, treeless area that was to be converted to a green meadow through the presence of underground drain fields.

In summary, we earnestly request that you consider this appeal and allow Sunrise Village to proceed in its original concept which we have proven has priority over recent Department decisions. We have offered to post any necessary financial

guarantees to assure the continued maintenance and operation of the facility. Not only will the environment be forever preserved but a workable system for central sewage collection would be provided for the future benefit of the community and the Department of Environmental Quality. Untimely duplication costs would be avoided. The city sewer system which apparently does not have sufficient capacity for existing high density areas would not be further burdened by having to provide services to a distant, low density community that lies on the edge of the urban growth boundary and is not an integral part of the city's annexation plans regarding the continuity of sewer services

Very truly yours,

Ross Mather

Ross Mather
President, Sunrise Village

CC: Richard J. Nichols
John E. Borden
Gray, Fancher, Holmes and Hurley

Exhibits attached:

1) Master Plan and Summary as approved with zone change.
2) Notification of zone change approval.
3) Staff recommendations for Phase I.
4) Hearing Officers decision on Phase I.
5) Hearing Officers decision on Phase II.
6) Hearing Officers decision on Phase III.
7) Subdivision Agreement.
8) Agreement with Commissioners.
9) City Sewer Committee Staff Recommendations.
10) August 24 article from Bend Bulletin.

ROBERT W. STRAUB
GOVERNOR

Department of Environmental Quality
CENTRAL REGION
2150 N.E. STUDIO ROAD, BEND, OREGON 97701 PHONE (503) 382-6446

August 9, 1978

Mr. John Glover
Deschutes County Health Department
Courthouse Annex
Bend, OR 97701

S - Bend
S - Bend Phase II

Dear Mr. Glover:

In July 1978, the City of Bend signed a contract for construction of the first segment of the Bend sewerage system. The Department considers this as the start of construction. Therefore, the sewage disposal well boundary for the City of Bend is expanded in accordance with the letter signed by William Y. Young, Director of DEQ, on May 16, 1978.

To assure that proposed developments meet the requirements of our May 16, 1978 letter and to facilitate DEQ county review, the following procedure should be used:

1. For developments with dry sewers that would be served by interim, individual septic tanks and drill holes.

    a. The developer will submit the following information to the Bend office of DEQ:

        1. Proof that the development is inside the current Bend city limits or in the process of annexing;

        2. Proof that the development would be served by Phase I of the Bend sewerage system and would be activated concurrently with the rest of the city system;

        3. Proof that a sewer service agreement has been signed between the developer and the City of Bend;

        4. DEQ would review and approve dry sewer lines prior to construction of sewer. If this has already been done, the developer will submit proof that the plans have been approved by DEQ.

    b. This office will then issue a letter to Deschutes County stating that the development qualifies to be served by disposal well.

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c. The county then evaluates each lot to determine if a drainfield (with or without replacement area at county's discretion) can be installed, or whether it must be served by disposal well. Permits would be issued as appropriate. Also, at this same time, the county can sign off on the real estate disclosure and forward to the DEQ Bend office for our sign-off.

II. For developments that would be served by a community septic tank and disposal well.

Our rules (OAR 340-71-020(4)) state that sewage disposal systems for multiple lots must be under the control of a municipality, as defined by ORS 454.010(3). Consequently, since these developments can only qualify for our disposal well agreement by being in the City of Bend or in the process of annexing to Bend, the only way for us to approve a community system is if the City of Bend will assume responsibility. If and when they do this, DEQ, the city and county will work out the details for approving such proposals.

If you have questions or comments on this matter, please call me.

Sincerely,

Richard J. Nichols
Regional Manager

RJN:dmc

cc:City of Bend - John Hossick
:Deschutes County - Bill Monroe
:Water Quality Division
:Fred Bolton, Regional Operations
:Bob Free

ROBERT W. STRAUB
GOVERNOR

Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. F, November 18, 1977, EQC Meeting

Public Sewerage Considerations Within Bend Urban Growth Boundary

Background

1. Since the early 1900s, central Oregonians have been disposing septic tank effluent down lava fissures and dry wells (sewage disposal wells) rather than using conventional drainfields. This practice prompted a study of disposal well practices in 1968 by FWPCA. FWPCA (predecessor to the EPA) concluded that continued discharges of septic tank wastes to disposal wells pose a potential threat to groundwater quality. Accordingly, the EQC adopted regulations on May 13, 1969 to phase out disposal wells for inadequately treated wastes. Exhibit A illustrates the general concepts.

2. The concept of the regulations was to phase out existing sewage disposal wells in rural areas by January 1, 1975, but to allow new wells in populated areas where an acceptable sewerage construction program had been approved by DEQ. The latter areas would be classed by DEQ as "permit authorized areas" within which DEQ (or a county Health Department) could issue temporary disposal well permits. After January 1, 1980, no new disposal wells would be permitted in the "authorized" areas, and existing wells at that time would be sealed and abandoned.

3. To qualify as a permit authorized area, applicants had to agree to sewerage construction thus:

a. Hire consulting engineer by July 1, 1969
b. Submit preliminary engineering report by January 1, 1971
c. Start construction by August 1, 1971
d. Complete construction by January 1, 1980
e. Submit annual reports to DEQ which show reasonable progress

4. Madras, Culver, Metolius, Redmond, and Bend were designated permit authorized areas. The status today of each is as follows:

a. Madras--city sewerage system complete in 1976--urban area sewerage planning (Step I) in progress
b. Metolius--system complete 1975
c. Culver--sewerage system complete 1976
d. Redmond--system under construction--about 40% complete
e. Bend--Sewerage Planning (Step I) complete within Urban Growth Boundary (UGB). Final design (Step II) underway within current city limits (Phase I), but not within the UGB outside the city limits (Phase 2). There is no design or sewerage construction proposal pending for the Phase 2 area at this time.

5. Overall, Bend's sewerage project has been beset with delays since 1969. To date, the following sewerage planning has occurred:

a. Report on a Preliminary Study of a Sewage Collection and Treatment Facilities--CH2M 1967 (sewage treatment plant serving about 10% of Bend constructed in 1970)
b. Report on Cost Updating of a Proposed Sewerage System for Bend, Oregon--Clark & Groff 1972
c. Preliminary Design and Final Plans for East Pilot Butte Interceptor Sewer--Clark & Groff and city staff 1972-1974 (not built)
d. Study of the Feasibility of Accepting Privy Vault Wastes at the Bend Treatment Plant--Clark & Groff 1973 (built)
e. Preliminary Report Sewerage Study (for the City of Bend)--Century West, paid for by Brooks Resources 1974
f. Sewerage Facilities Plan, City of Bend, Oregon--Stevens, Thompson & Runyan, Inc. and Tenneson Engineering Corp. 1976--approved by DEQ and EPA
g. Supplemental Environmental Impact Assessment Draft, 23 September 1977--BECON
h. Step II underway for Phase I of ST&R plan

6. All the central Oregon sewerage projects have been complicated by rock excavation and local financing difficulties, but each community has overcome these obstacles. Bend overwhelmingly passed a $9,000,000 bond issue. Bend experienced some additional time delays due to:

a. Analysis of experimental vacuum and pressure sewer systems
b. Excessive cost discussions before accurate cost estimates were actually pinned down.

Indeed, cost estimate inaccuracy is largely responsible for Bend's decision to return to the E-Board for more hardship funding, but that is covered under a separate Commission agenda item.

7. Because Bend's annual reports showed progress towards sewerage construction (although behind schedule) DEQ has renewed their permit authorized status for sewage disposal wells each year through present.

8. Believing sewerage construction to be in the offing, DEQ authorized several dry sewer projects with "interim" drainfield and disposal well facilities. The facilities plan addresses the entire urban area, but due to cost projections it soon became clear that an immediate project was likely only inside the city limits. Unfortunately, most current subdivision activity (and homesite construction) is actually occurring within the Urban Growth Boundary (UGB), but outside Bend city limits. The Phase I sewerage project will not serve construction outside the city limits.

9. DEQ recognized this dilemma as early as 1973, and began tentative negotiations with city and county officials (staffs and commissions) to jointly participate in sewerage planning and construction within the UGB. Although the city and county both endorsed the facilities plan on October 6, 1976. Deschutes County has not implemented any of its recommendations.

The facilities plan includes an adopted Urban Growth Boundary (UGB) which influenced the plan. A quotation from the facilities plan describes the relation of the City of Bend General Plan to sewerage service:

> "Since 1970 rapid population growth in the Bend area has occurred mostly in Deschutes County rather than the City. Population growth within the City has occurred mainly because of annexation policies.
>
> "Flexibility has been a major objective in establishing the plan and it has provided for alternate population densities in outlying areas to accommodate future growth trends which are difficult to anticipate at this time. The major determining factor for higher densities will be the provision for sewering. It is important to recognize that proper land use planning should precede sewerage planning. The plan would provide a north-south center strip of industrial and commercial activities with varying types of residential activities extending from this central core. The greatest population densities would be located in the central area with lower densities toward the outer edges of the urban area."

10. Much of the growth outside the city, but inside the UGB (i.e. the Phase 2 area) actually has occurred with little or no regard for how sewerage connections would be made except as inadvertantly regulated by DEQ by "indirect" planning strategies. Examples are shown in Exhibit B. The City of Bend is powerless to implement planning decisions outside their city limits.

11. By 1976, the interface conflict and Phase 2 growth without sewers was obviously serious. DEQ continued meetings with city and county officials. The city was becoming conspicuously concerned about their possible "inheritance." Thus on June 1, 1977 and July 5, 1977, DEQ was successful in conducting joint sewerage policy planning sessions among City-County-DEQ.

At the July 5, 1977 meeting, it seemed appropriate to turn initiative for further meetings over to local officials since planning is a local function. Deschutes County requested a follow-up meeting on September 12, 1977. At that meeting with the County Commission DEQ volunteered that it was unable to justify continued sewerage "concessions" in the Phase 2 area, since no sewerage implementing authority, such as a County Service District, was operational there. The concept of a septic tank moratorium to halt conflicts with the sewerage plan was discussed.

A joint City-County urban planning commission concept was proposed (Exhibit C), but Deschutes County felt that to be a premature move. Instead, a joint committee to study differing building standards between city and county was extablished (Exhibit D). Intensive development continued in the Phase 2 area without sewerage services, except for Choctaw Village Sanitary District.

Bend changed its annexation policy after forming a citizens' group to study subdivision standards (Exhibit E).

12. Unlike many urban growth areas, Deschutes County planning ordinances permit development at low (up to 5 acre lot sizes) as well as high densities within the UGB. This aggravates sewerage construction by permitting "leap-frogging" densities. For example, on a given radius from Bend you might encounter 1000 feet of 1/3 acre lots, then 1000 feet of 2-1/2 acre lots, then 2000 feet of 1/2 acre lots, etc. The net result is expensive ultimate sewerage service to urban densities not immediately adjacent to Bend's existing urban densities.

13. The key item lacking is local coordination such as a City Utility Board, a County Service District, or some form of equivalent control.

Evaluation

1. Sewerage construction in Bend proper (Phase I) will not likely be complete and available at the city limits until at least 1981.

2. At least 230 sewage disposal wells exist in the Phase 2 area which are not now scheduled for phase out by a sewerage system although the facilities plan shows how that could be done.

3. There are not many alternatives for sewage disposal in the Phase 2 area other than dry or wet community sewers due to:

a. Unavailability of a municipal sewerage system
b. Disposal wells not permitted per Oregon Administrative Rules (OAR) 340-44-005 through 44-045
c. Shallow soils often prevent drainfield construction
d. Package sewage treatment plants are not viable unless they have a large number of service connections

e. Experimental septic systems are costly, and encourage low density
f. Alternate systems usually turn out to be big and costly drainfields

Thus, through Geographic Region Rule A which allows drainfield construction in shallower soils in central Oregon, DEQ has actually aggravated the planning and sewerage construction costs by allowing these systems which, in turn, encourage low density development.

4. DEQ has documented 28 surfacing sewage failures in the Craven Road-Cessna Drive area adjacent to Bend, which generally have no alternative for repair other than a regional sewerage system. The city is unwilling to annex because the water system does not meet city specifications, and the county has discussed an LID. But nothing has happened. DEQ attended several local meetings to develop interest in annexation, LID's or a County Service District with no success. The sewage continues to surface.

5. DEQ is pressured daily for sewage disposal well repair permits within the UGB. Short of vacation of the premises, drillhole repairs are the only immediate option (although illegal), since a regional sewerage system is not available and drainfields are usually not possible due to small lot sizes and/or shallow soils. Authorization of such repairs actually undermines support for regional sewerage construction since the problem is moved out of sight but not solved by such repairs.

6. DEQ is pressured daily to approve compromise subsurface systems within the UGB for many subdivisions. In so far as has been possible, DEQ has agreed to complex terms to facilitate sewerage planning, allow interim facilities, not aggravate densities, and to prevent high denial rates. Unfortunately, lacking regional sewerage systems, the "interim" facilities become "permanent"--they are not designed to function permanently, and usually do not.

7. Since federal construction grants were projected based on regional sewerage facilities, there is risk of losing such funding if the Phase 2 area is developed without a sewerage system.

Summation

1. The UGB was adopted by the City of Bend and the Deschutes County Commission on June 2, 1976. The facilities plan was adopted by City of Bend and Deschutes County Commission on October 6, 1976, and is the approved sewerage services component within the UGB. The Oregon Department of Land Conservation and Development has not yet adopted the UGB.

2. Since there is no implementing mechanism or authority for sewerage services within the UGB and outside the Bend city limits, DEQ has been unable to develop guidelines consistent with the facilities plan which do not aggravate sewerage construction in that area.

3. Thus a question exists as to whether DEQ and its contract agent, Deschutes County Health Department, can continue septic tank approvals in the Phase 2 area when such approvals are or may be in conflict with local plan elements. To what extent are DEQ actions controlled by planning laws is a key question.

4. Possible DEQ alternatives range as follows:

a. No action--continue septic tank and drainfield approvals/denials without regard to local planning.

b. Obtain a written program from the Deschutes County Commission which shows how DEQ and the Commission can work together to insure that Phase 2 sewerage construction occurs in accordance with the approved facilities plan and its amendments, which show proposed trunk sewer locations. The program shall diagram an implementation strategy which addresses:

1) Who will plan collector sewers;
2) When sewerage facilities will be constructed;
3) How sewerage facilities will be financed;
4) Who will implement planning, design and construction;
5) How development will be handled in the interim to insure that it does not impair implementation.

c. Restrict subsurface sewage disposal systems in the Phase 2 area until at least one of the following occurs:

1) Deschutes County forms a County Service District to design and construct sewerage facilities in the Phase 2 area to accommodate any county approvals in the UGB; or
2) An equivalent public body is formed to regulate these activities in accordance with regional sewerage planning.

Director's Recommendation

1. The Director recommends that the Commission direct the staff to work with the Deschutes County Commission to obtain a written agreement outlining how DEQ and the County Commission can work together to solve the problems discussed in this report, and further direct the staff to schedule a public hearing on November 29, 1977 in Bend to take testimony on the proposed working agreement between DEQ and the County and on other alternative causes of action the EQC could pursue.

2. The Director recommends no further action at this time, but suggests that the Commission consider findings from the November 29 hearing at its next meetirg.

Bill

WILLIAM H. YOUNG

John E. Borden
382-6446
11/2/77

Attachments: A through F

Statement of General Motors Corporation

to

The Environmental Quality Commission

of the

State of Oregon

Regarding Proposed Revision to Noise Regulation

November 17, 1978

My name is Edwin Ratering; I am Director of Vehicular Noise Control of the Environmental Activities Staff of General Motors Corporation.

It sometimes seems in a hearing such as this, that commission members and representatives of industry presenting testimony are cast in an adversary relationship. I don't look on the situation in that manner since it is our common goal to satisfy the same people. It is your intent, I am sure, to act in the best interests of the citizens of this state. Inasmuch as your citizens are our customers or potential customers we have a common interest for acting in a fashion that will satisfy the same group of people.

With that in mind, it is our objective to place before you the facts relating to our petition requesting the State of Oregon to rescind further reduction of the sound level of passenger cars and light trucks.

A number of factors must be considered in evauating whether an environmental regulation is of sufficient value to warrant implementing.

Is there a problem that is corrected by the regulation? Is there sufficient benefit in relation to the cost of regulation? Is there technology available to provide the desired improvement? Is the regulation responsive to the wishes of the citizens?

In our petition to Oregon and in our communications with the Oregon Department of Environmental Quality, we have addressed these questions. We have conducted extensive test programs in support of our position.

It is worthwhile to once again review the reasons for our request and also to appraise the regulation as to its merit in resolving this environmental issue.

The major motor vehicle noise problem is caused by poorly maintained and modified vehicles and not cars and light trucks as manufactured today. This is confirmed by data from the California Highway Patrol which reports 99.8% of their enforcement actions were caused by modified, defective or otherwise inadequate exhaust systems. The Florida Highway Patrol similarly reports that 84% of their enforcement actions are caused by modified or defective exhaust systems. At the Noise Control Institute conducted at the University of Colorado in October, 1978, Mr. James Adams, the Environmental Protection Officer for Boulder, Colorado, reported that 100% of their motor vehicle enforcement proceedings were against modified and defective vehicles. This Noise Control Institute was well attended by state and local noise control officials. There was no identification of automobiles or light trucks as manufactured as a major source of annoyance, but there was recognition by that group that modified or defective motor vehicles can constitute a noise problem. The Oregon regulation does nothing to correct what has been identified as the major noise source relative to motor vehicles.

The Oregon requirement for 75dB automobiles and light trucks tested at WOT will not result in a perceptibly quieter environment. This is true in the main because motor vehicles are driven at WOT less than 1/2% of the time. This has been clearly established during extensive tests and that data has been made available to this Commission. Motor vehicles are most frequently cruising (63%) or engaged in urban acceleration (15%) (22% deceleration or idle) and the engine related sound level generated is about the same level as tire noise. Reducing WOT sound levels will not reduce tire noise. It is clear that at least 85% of the time, engine related noise levels are not a substantive factor with respect to motor vehicle noise. Even if, with precision instruments, there are some measurable reductions in urban acceleration sound levels when WOT sound levels are reduced, which may be true on some vehicles, the impact on average motor vehicle sound levels will not be discernible by the listener in the city. Tire noise dominates with the exception of those modified or poorly maintained vehicles. This is apparent to an observer standing

along the Portland Expressways. Nevertheless, there would be a cost associated with reducing WOT noise levels to 75dB. In this case, the cost would be without a concomitant benefit and therefore does not meet the criteria for meritorious regulation. It would not be in the best interests of your citizens or our customers. It would be purely inflationary.

The technology required to reduce sound levels to 75dB should not be treated lightly. In order to assure compliance at the current 80dB regulated level, there are already 12 tire options normally made available on our light truck line that are not made available by GM in those jurisdictions with the 80dB regulation. These tires tend towards the more aggressive treads popular on recreational vehicles or for use in snow. Some users feel these tires are required for mobility or safety under certain circumstances but as a result of the 80dB regulation they are not available.

A 75dB regulation will impact availability of tires and other options to an even greater degree. Inevitably, some vehicles will require quite extensive changes to attain a 75dB level and it may not be economically sound to produce those vehicles for a limited market. In addition to these technical problems, there are other factors that must be considered in designing automobiles in this era.

Regulations governing exhaust emissions, fuel economy and noise levels may sometimes produce design requirements which run counter to each other and yet we are called upon to solve all of these problems in an optimum fashion. More restrictive exhaust mufflers may reduce exhaust noise but such mufflers would increase backpressure with an adverse effect on fuel economy and durability. Engine shields reduce engine noise but they add weight which impacts fuel economy. Federal regulations require fuel economy which will result in smaller engines with four or six cylinders.

These smaller engines work harder and tend to operate at higher sound levels. Diesel engines, which are more fuel efficient, also tend to be noisier. The Oregon staff report relating to our petition states that the question of energy conservation was not fully addressed by the industry. Very true! We have not yet determined how to attain the Federally mandated fuel consumption requirement of 27.5 mpg by 1985. We are here asking that we be given time to develop solutions to these various problems. GM is making the effort. In 1977 we spent 1.25 billion dollars to meet regulations, and that does not include the hardware installed on the cars. It does not include the spending to improve fuel economy. Automotive News reports that the American automotive industry is projecting an expenditure of 78.5 billion dollars through 1985. Most of this money is for redesign necessary to meet the Federal fuel economy standard of 27.5 mpg by 1985.

We feel that we must discuss certain aspects of the staff report submitted to you. This report states that 80% of a sample of 1977 vehicles tested by the EPA would pass the 75dBA test without modification.

The EPA report should not, in our view, be used as a basis for regulation. We have already found discrepancies in the sound levels which EPA reports. For example, they report a Blazer testing at 68.9dB at WOT and our tests show sound levels 10dB higher. They report a Firebird at 71.8dB and our tests on the same vehicle report 75.9dB. These discrepancies must be resolved before the report can be considered as authoritative.

Further, the context of the staff report indicates that vehicles averaging 75dBA comply with the law. But the regulations specify that 75dBA is a "not to exceed level" which means that design goals and thus average levels would have to be 2 to 3dB below this. On that basis, substantially less of the cars would meet the 75dB criterion.

The staff report quotes testimony by an engineering consultant who calculated, without test data apparently, that the 75dB standard would

reduce the protrusion of 55dB traffic sound levels from 400 feet to 200 feet. This is a misinterpretation. It completely ignores the dominance of tire noise, which of course would not change. The testimony in question was replete with errors, presented no factual data to support claims and was thoroughly discredited in industry responses. We have strong objections to using such testimony in support of regulations and the conclusion that the 75dB standard could reduce impacted land by as much as one half near major traffic corridors.

The Oregon staff report uses 55dBA as an objective to attain through regulation of motor vehicle noise. The 55dB level is obtained, of course, from the EPA "Levels Document," The "Levels Document," according to EPA, was published to present information and the levels discussed should not be construed as standards or regulations. The Levels Document states that, "not all of the scientific work that is required for basing such levels of environmental noise on precise objective factors has been completed."

The staff report observes that "EPA (U.S.) is moving slowly towards the adoption of standards for light duty vehicles, but it may fail to identify this category as a major noise source if state and local standards are continued to be rescinded."

Oregon need not fear that rescinding their standards will lessen the Federal effort because the Noise Control Act of 1972 requires that standards issued by the EPA must be "based on criteria...requisite to protect the public health and welfare, taking into account...the degree of noise reduction achievable through application of the best available technology, and the cost of compliance." Indeed the EPA is moving slowly and it would be irresponsible to act in haste and ignore the direction of the Congress in the Act. There were 14,217,117 new motor vehicles registered in the U.S. in 1977. The economic impact of regulating these vehicles is enormous. Unnecessary or ill advised regulation is inflationary and contrary to the

interests of our country. We feel Oregon should take note of the substantial investigative effort that EPA is conducting prior to proposing regulations on passenger cars and light trucks. It is precisely why we are here asking Oregon to rescind effectivity of their 75dB level. Until these studies have been completed it is premature to arbitrarily establish regulated levels.

I would be pleased to answer any questions you may have.

3BJG/1107/1
11/14/78

11/17/78

Oregon Women for Agriculture

TO: Oregon Environmental Quality Commission

FROM: Linn-Benton Women for Agriculture, Deanna Dyksterhuis, Pres., Rt. 3 Box 541, Corv., and Liz VanLeeuwen, Leg. Ch., 27070 Irish Bend Lp., Halsey 97348.

RE: Field burning rules and the State Implementation Plan

Dear Commissioners:

As we understand the test results, field burning --except for a very brief period-- has very little adverse impact on the air quality of the Willamette Valley. If we understand correctly, you have the authority to re-write the SIP in such a way that this one segment is not singled out for special attention. To keep all elements in a balanced perspective, we request that you remove the designation of field burning as a polluntant from the new State Implementation Plan.

We also ask that you remove the acreage limitations on field burning and allow the growers to utilize the favorable burning days in such a way as to get the maximum acreage burned with a minimal total smoke intrusion impact. 50,000 acres burned in the right way on the right day can cause less of a problem than several scattered fields totalling 500 acres burned on the wrong day.

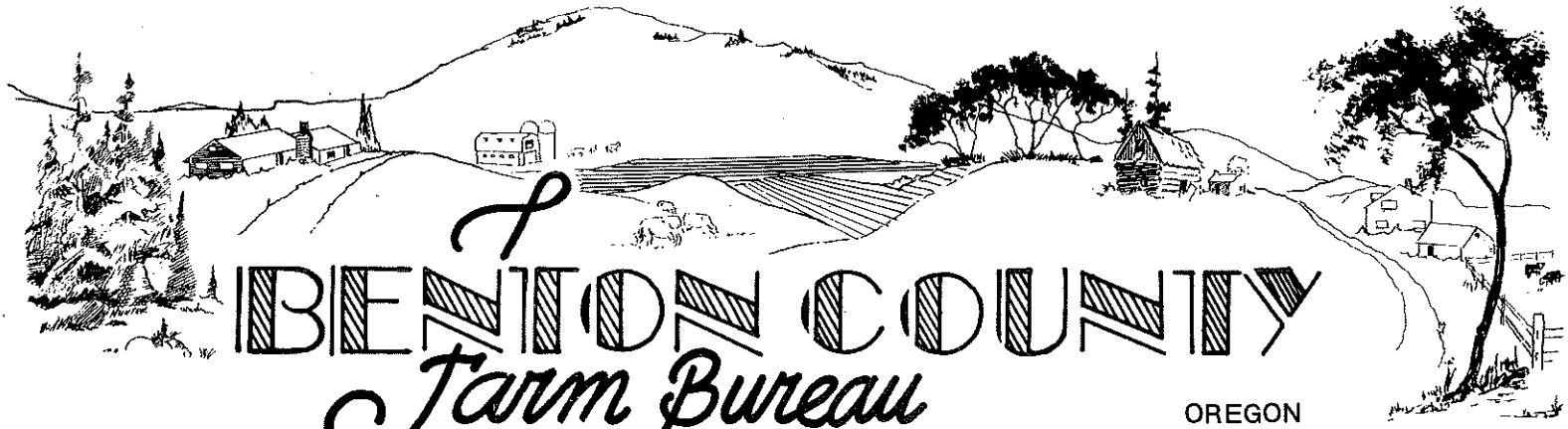
I am personally very closely associated with much of the experimental work done in field burning and straw utilization, as we were one of the first to try baling off and selling the straw and then propaning the field. (The first field that Doug Brannock of the DEQ ever observed being propane flamed was ours.) For three years the experimental sanitizing machines have been used on some of the fields we farm. One of my sons worked for three summers operating -- or trying to operate -- these field burning machines. Part of this year's experimental burning done by your staff took place on our fields with our crew providing the major fire control and other assistance. Thank goodness, tests showed what we already knew about the most efficient way to burn a field-- our perennial fields show considerable burn out damage from the strip fire and back lighting techniques.

Since you are responsible for areas of the environment in addition to air quality, We would like to remind us all that fire is a natural sanitizer. If we have to substitute unnatural means to accomplish all the fire does in one whoosh, we get all the rest of the environment involved. More of several different chemicals must be used to control weeds, insects, disease, and to clean up or break down the refuse and also to provide the shock treatment needed to start the new productive cycle on the perennial grasses. Without burning, more tillage is necessary and this causes more dust and more soil movement and erosion in our wet valley. All this resulting in more soil and chemicals possibly going into our waters.

Burning of annual grasses at night in large adjacent tracts, and burning of all stubble possible before rain would really help lessen the undesirable features of field burning.

We know there is a real movement on world wide to slow down population, but lets not regulate out of business the production of the seeds which become the calcium and protein supply and the personal air filters for those of us who do populate the earth.

Sincerely,
Liz VanLeeuwen



BENTON COUNTY Farm Bureau

OREGON

November 17, 1978 Environmental Quality Hearing
Recommendations For 1979 Field Burning Regulations

Speaking for myself and the many farmers and their families who make up the membership of the Benton County Farm Bureau, it is necessary to continue burning fields after the coming harvest. The only presently feasible alternative to replace field burning is to subdivide the farmland where the grass is being grown. The resulting development would destroy the open spaces and green fields which help make this valley one of the best places in the country in which to live.

According to DEQ records, in 1978 the particulate level in the air from field burning was a barely significant part of the total particulate in the valley air. It reached these levels only in a few places on a few of the days during the time when grass fields were burned in the valley. We feel that it is better to have low levels of particulate for a few days from field burning than to greatly increase automobile and industrial pollution as a result of forcing families in the grassland areas out of farming.

The real problem is not the number of acres being burned, but the reduction in air quality from the field burning. It has been possible in recent years to time burning so as to have

favorable wind conditions to disperse the smoke. It would benefit all of us living in the valley to have rules which would allow more acres to be burned when conditions are better. This would reduce the number of days of field burning each season. It would also reduce smoke by allowing more burning when the straw is drier and burns cleaner early in the season.

Reducing field burning will bring greatly increased use of chemicals on the land. More herbicides will be needed to kill weeds from seeds which presently are burned up with the straw. The plant residue left after harvest is an excellent growing area for insects, fungi, and bacteria which attack the grass plants. Burning removes this plant residue far more effectively than any machine now available. Toxic chemicals would be necessary to control the growth of the destructive insects, fungi, and bacteria which would result from ineffective removal of plant residue from the field. Uncontrolled fungus and bacteria plant diseases reduce the quality as well as quantity of seed produced on a field. Largely as a result of field burning, far less spraying is done on grass seed that almost any other valley crop.

We feel more research should be done on ways to burn fields. There is evidence that night burning may be effective in reducing the smoke problem. Also, faster ignition and burning techniques may result in the smoke lifting away from the ground. This will help eliminate traffic hazards on the roadways near the field being burned. These and other new ideas should be investigated

for improving the problem.

In summary, it will benefit the Willamette Valley if field burning is continued at the level of the past two years, until desirable alternatives are found. This will help maintain the open green fields which add to the scenic beauty of this area and reduce the pressure for subdivision of the farm land. We feel more emphasis should be placed on air quality rather than setting a rigid acreage level to be burned. Thus we urge that more burning be allowed on suitable days earlier in the season to reduce the dense smoke from late season burning. Since burning, a natural process, greatly decreases the need for spraying the fields, it is desirable as a way to reduce the use of chemicals. We urge that field burning be continued as it is the best solution available for the problems at hand. Thank you for your consideration.

Wesley C. Miller

Wesley C. Miller, President

BENTON COUNTY FARM BUREAU
Rt. 3, Box 554-B
Corvallis, Oregon 97330

AIR QUALITY RESOLUTION

Whearas, no feasable alternative has been found for field burning, forest slash burning, back yard burning, as well as auto emissions industrial emissions, and many other forms of air polution and,

Whearas, atmospheric conditions have much more influence on air quality than do acreage limitations, now therefore be it

Resolved, by Linn County Pomona Grange request that the new regulations presently being formulated by the Environmental Quality Commission, permit any necessary burning at such times as the air quality of the Valley will not be adversaly affected to a dangerous degree.

This resolution approved by Linn County Pomona Grange meeting this 16th day of November, 1978 and to be presented to the E. Q. C. hearing to be held in Eugene Nov. 17th 1978.

John Cameron, Master
Edna Oeder, Secretary

THE LEAGUE OF WOMEN VOTERS OF CENTRAL LANE COUNTY

Affiliated with the League of Women Voters of Oregon and of the United States

November 17, 1978

To: Environmental Quality Commission

From: League of Women Voters of Oregon
League of Women Voters of Central Lane County

Re: Proposed Permanent Rule Revision to Agricultural Burning Rules, OAR chapter 340, Sections 26-005 - 26-030.

The League of Women Voters supports adoption of the revisions to the field burning rules proposed by the Department of Environmental Quality. These revisions are a step towards improved air quality in the Willamette Valley. The increased caution and monitoring that resulted from the 1978 temporary rules appears to have reduced smoke intrusions. We favor adoption of rules that promote the goals of the Federal Clean Air Act.

As a group we do not have the expertise to comment on techniques of burning or specific figures. However, we do support the concept of acreage limitation, and specificly, no increase in acres to be burned. This rule encourages planning and coordination between growers and governmental agencies. We note that preliminary test results show no measureable impact on Federal particulate standards due to the number of acres burned this season. However, considering the nature of the results and the unusual weather conditions this season acreage limitation should be retained as a control element.

Resolution of the smoke intrusions in the Lebanon and Sweet Home Areas should be completed before the 1979 burning season. The experience of Eugene - Springfield this summer would indicate that such problems can be considerablly reduced.

The League commends the progress towards clean air that is represented in these proposed revisions. We recognize the increased restrictions have limited the burning time for growers. For the benefit of growers and public alike we urge, as we have in the past, that additional resources and energy be directed towards developing alternatives to open field burning.

Janet Calvert, president
1062 Woodside Dr.
Eugene Or. 97401

Brightest spot in Oregon's future

ALBANY AREA CHAMBER OF COMMERCE

POST OFFICE BOX 548 • ALBANY, OREGON 97321 • PHONE (503) 926-1517

Presentation - Environmental Quality Commission
Eugene, Oregon
November 17, 1978

Mr. Chairman, Members of the Commission:

My name is James L. Carnes. I am here today representing the Albany Area Chamber of Commerce, the Agriculture, Natural Resource and Rural Affairs Committee.

This committee recommends to the Commission that the 1979/80 field burning rules be based on air quality and not on acreage limitations, and that field burning NOT be singled out and designated as a single pollutant contributor in the State Implementation Plan for the Clean Air Act as being revised by the State of Oregon.

Further, we wish to present to the Commission at this time, copies of documented Resolutions and Letters of Support in which the said booklet is titled "Look Who's Supporting Oregon's Grass Seed Industry" with particular reference to Section 5 under "Opinion Makers" pages 11 and 13 - which are the last two pages in the booklet.

On page 11, Section 5 (next to last page) this letter was written by Dr. Benjamin H. Bonnlander, Physician/Internal Medicine, who is also the County Health Officer for Linn County, and Dr. James L. Erickson who is a Physician/Surgeon and at this time works in the Emergency Room of the Albany General Hospital and formerly practised medicine in Springfield, Oregon.

The Agriculture, Natural Resource and Rural Affairs Committee of the Albany Area Chamber of Commerce contend that with the individual Resolutions of Support from 42 Chambers of Commerce throughout Oregon; Resolutions of Support from 56 cities in the Willamette Valley - including 5 in Lane County and 16 County Boards of Commissioners and 44 Fire Districts and in addition to the Port of Portland, the Western Environmental Association, the Oregon State Board of Agriculture and many others that the Environmental Quality Commission strongly consider it's obligation to review the facts of field sanitation by open field burning in the Willamette Valley as a pollutant contributor compared with other pollutant contributors.

Since the DEQ has documented evidence that pollution from open field burning is far less than other measured sources of pollution, it is the opinion of the Albany Area Chamber of Commerce Agricultural, Natural Resources and Rural Affairs Committee that unless all sources of pollution are measured and restricted on an equal basis that it is not realistic for open field burning to remain as a part of the State Implementation Plan of the Clean Air Act for the State of Oregon.

James L. Carnes
Vice-Chairman

Merle Manning
Chairman

OREGON SEED COUNCIL

Telephone 503 585-1157

2100 LANCASTER DR. N.E.
SALEM, OREGON 97303

Official Hand in

Statement on Field Burning Rules presented to
The Environmental Quality Commission
on November 17, 1978
By David S. Nelson for the Oregon Seed Council

Mr. Chairman, members of the Commission my name is Dave Nelson. I represent the Oregon Seed Council and we appreciate the opportunity to present this statement concerning specific items in the proposed field burning rules for 1979/80.

Since the summer of 1975 the Grass Seed Industry and the field burning problem has been treated differently from any other industry in the state. The Commission and the Department have been following the practice of not only telling the industry that it must keep field burning smoke from being a problem in the City of Eugene but have been telling the industry exactly how they are to accomplish that objective. They have, in fact, been making the day to day decisions as to what the growers should burn or not burn.

The field burning rules have been getting more and more restrictive over the past four (4) years and have now gotten to the place where it is extremely difficult for a grower to be able to do even his allowed burning. Your rules for the 1979/80 burning season go even further than the 1978 rules as far as making it difficult to burn fields. Many of the rules do little if anything to improve the Smoke Management program. They simply make it more difficult for a grower to get his burning done in a safe efficient method.

Approximately a year ago I asked Director Young how the Department would look at the results of the monitoring program that was being proposed for summer of 1978. His response was something to the

effect that since we do not have any information about the impact on air quality standards concerning field burning, this would be the best information and the most information, therefore it would be used heavily for recommendations to the legislature and drafting rules. The report is now at the Department and, as you are probably well aware, it says that there is no measurable impact on attainment of standards attributable to field burning. Let me call your attention to another report. It was a study of field burning impact on air quality standards conducted by the Department staff in the month of September 1977. That report also concluded that there was no correlation of violation of the TSP standards and field burning.

The Department and the Commission dismissed that earlier study saying that it was inconclusive. Now its two for two. Both reports state that there is no impact on attainment of standards that can be attributed to field burning. The proposed rules also apparently dismiss the results of the second report and continue to impose increasingly more stringent regulation on field burning. The staff report now even states that while there is little if any impact on standards that we should be more stringent because field burning is a "nuisance". There are serious questions raised by that statement. First, does the Department have authority to declare a nuisance and then to regulate it? Secondly, is the Department regulating every other industry in Oregon that has an emissions " nuisance" value?

The staff report is full of subjective evaluation that should be commented on. Those comments follow on a point by point basis:

1. Page 2 states that the DEQ affected a compromise. That is com- completely wrong because there was no compromise.
2. Page 2 reports 8 hours of nephalometer reading in excess of 2.4 x 10^{-4} B-scat. The information I have heard is that it should be closer to 6.5 or 7.0 hours.
3. Page 4 states that burning was satisfactory under the 1978 rules and the rules and their implementation prevented measurable impact on air quality standards. The facts from the monitoring

study indicates that the rules had nothing to do with preventing measurable impact. The fact is that without any rules there would be little measurable impact on the standards.

4. Page 5. The statement about " nuisance" is highly argumentative and of questionable reason for regulation.
5. Page 5 states that the standard is "inadequate". Inadequate to do what? Health complaints pointing at field burning occur when there is no field burning and when other sources of smoke impact Eugene. It is similar to the "radio wave" problem. The federal standards are designed to protect health at the Primary standards level and aesthetics at the Secondary level. It's questionable at best to include a statement that the standards are inadequate because one industry does not measurably impact the standards.
6. Page 5 states that there is uncertainty with regard to the continued compliance with the standards. That is a very thin statement used to try to justify not eliminating the annual acreage limit entirely. It flies in the face of the monitoring report that shows no measurable impact on the standards.
7. Page 5 states that the use of the nephalometer as a pressure device to prevent intrusions of smoke was useful. That's questionable in that we have always worked very hard to make sure that the DEQ authorizes burning only when there would be minimum impact.
8. Page 8 indicates that 3,000 acres would be burned under the special technique. If there are 50 miles of grass fields alongside North/South highways there would be 8,000 acres in the ¼ mile strip. If the staff truly expects to burn only 3,000 of those acres then that becomes a ban on field burning in those areas rather than a management program.
9. Page 8 striplighting is being retained even though it is admitted that the major impact on residential area results from low energy, low low level smoke and it is admitted that 15% of a stripfire burn is low level, low energy smoke. The particulate emissions saving will be totally offset by the low level, low energy smoke that the staff estimates at 15%. We would estimate the low level, low energy smoke at closer to 25% of the smoke.

10. Page 9 states that staff is investigating use of commercial radio to advise the public of burning plans. We used commercial radio on paid adds for the period from 1970 to 1976. They were broadcast at 8:00 a.m. and at 1:00 p.m. primarily to advise growers of burning conditions before the aquisition of the radio system. The advisories were useful and necessary to growers but only confused the public as burning is authorized when its raining or when no burning is being conducted. If the intent is to advise motorists on I-5 of potential hazards there are better more effective ways to do it than by commercial radio.
11. Page 10 states that field burning had no measurable impact on the federal health and welfare standards for particulates. The staff added " under the program operated last year". The report shows that even under worst case situation there is no significant impact. The staff is still trying to offset what the report shows and make field burning look as bad as possible.
12. Page 10 #3 states that special priority burning routinely caused high nephalometer readings. That's totally inaccuarate as the staff report states earlier that there were a total of only 8 hours of high readings. Those 8 hours (if there were that many) were the result of two separate instances, one on July 11 and the other on July 27. There were no routine high nephalometer readings.
13. Page 11 indicates that the Department is going to do something to try to protect Lebanon and Sweet Home from serious smoke intrusion from field burning. We agree that we need to give considerable thought to the Lebanon area. We do not think that enough thought has been given to the Lebanon area and therefore the rules should not lock anything in until we have a much better idea of what could be done.

Oregon Seed Council recommendations:

1. TOTAL ACREAGE: Acreage limitations should be discontinued. The acreage burned during any given year should be the sum of the acreage burned on each individual day on which burning is authorized. The annual limit serves only to cause a severe hardship on growers and plays no role in reducing particulate. To the contrary it does serve to increase particulate from tillage dust. The monitoring report shows that 65+% of the particulate problem

in the southern Willamette Valley was dust. In fact, on the one summer day where the standards were exceeded (August 3rd) 92% of the particulate causing the exceedence was dust. Dust is from unpaved roads and parking lots, paved roads and parking lots and tillage, in addition to natural sources. The dust is accumulating as you go further south the report said. The goal of eliminating field burning will result in a increase in tillage and thereby an increase in dust. The annual acreage limitation requires a significant increase in tillage and is directly contrary to attainment of standards in Eugene-Springfield.

2. Nephalometer Standards: These standards serve only to reduce the amount of burning when an accident or an act of God causes smoke to drift into Eugene. It is as was discussed above a hinderance to attainment of standards by potentially causing greater tillage on a bad year thereby increasing Eugenes particulate problem. The nephalometer is a useful tool but should not be the foundation of a rule. There is no visablitiy standard and if and when there is it must be applied to all sources of emissions causing the visibility reduction.
3. Moisture Content Rule: There is no justification for the moisture content rule. The rule serves only, again, to reduce the amount of overall burning that can take place. The rule was originally conceived to be applied by the grower on his own field using a handy method devised by the Department. Since there is no handy method of determining fuel mositure the rule should have been dropped as Director Young indicated might happen in his letter to the EPA last spring.

   The significance of the rule on particulate emissions is best described as a 10% reduction of "no measurable impact".
4. We support the restructuring of the special south valley priority burning and believe that it can be accomplished if sufficient flexibility is given to the program coordinator and he is not strapped with rules that make it impossible for him to use good times and conditions that may not meet all of the rule requirements. We are, in addition, concerned that so much caution will

be applied that the growers will be accidently put out of business.

5. Backfires and Striplighting should be eliminated from the rules because the savings is again 10% of "no measurable impact" while the negative includes alot of low level, low energy smoke that has been identified as the biggest problem. In addition to the low level smoke problems it is very slow and reduces the amount of burning that can be accomplished by growers in the time period allowed for burning. Because it is so slow it will cause violations of the fires out time. We are continually striving to burn only during the good times of the good days. That also means that we need to be able to use the fastest techniques. The rules should encourage rapid ignition instead of requiring very slow lighting techniques.
6. Requirements on Fire Districts: We support easing the paperwork requirement on fire districts as much as possible. The fire chiefs provide an invaluable service to the program and to the whole valley. They are called on to do too much for too little reimbursement. The 1979 legislation needs to consider more money for the RFPD's.
7. Lebanon-Sweet Home: We support the proposed meetings between the Oregon Seed Council and the Department to discuss improvements that can be made to better protect Lebanon and Sweet Home.
8. Experimental Burning: This is my annual pitch that experimental burning was intended to find better ways of burning or lighting and the legislature did not intend to limit the amount of experimental burning that would take place. The limit in the rules should be eliminated.
9. Hardship: The entire hardship procedure is a sham and should be rewritten to say that "no hardship permits will be issued". This section will have to be completely over hauled in the next legislative session so that it cannot be so badly miscontrued.

In addition I have gone through the actual rules and red penciled in a number of recommended changes. Some of the changes are technical others are gramatical. We hope that they will be considered by the commission in your process of adopting rules prior to the first of the year.

Or. Seed Council Changes in Red

Attachment I

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 servicing 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).

"[----]" represents material deleted
Underlined material represents proposed additions

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

(8) "Ventilation Index (VI)" means a calculated value used as a criterion of atmospheric ventilation capabilities. The Ventilation Index as used in these rules is defined by the following identity:

$$VI = \frac{\text{Mixed depth (feet)}}{1000} \times \text{Average wind speed through the mixed depth (knots)}$$

(9) [~~(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 portion 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.

(10) [~~(9)~~] "Commission" means the Environmental Quality Commission.

(11) [~~(10)~~] "Local Fire Permit Issuing Agency" means the County Court or Board of County Commissioners or Fire Chief or 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.

(12) [~~(11)~~] "Open Field Burning Permit" means a permit issued by the Department pursuant to ORS 468.458.

(13) [~~(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.

(14) [~~(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).

(15) [~~(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.

(16) "Backfire Burning" means a method of burning fields in which the flame front does not advance with the existing surface winds. The method requires ignition of the field only on the downwind side.

(17) "Into-the-Wind Strip Burning" means a modification of backfire burning in which additional lines of fire are ignited by advancing directly into the existing surface wind after completing the initial backfires. The technique increases the length of the flame front and therefore reduces the time required to burn a field

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

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

(20) [~~(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.

(21) [~~(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.

(22) [~~(19)~~] "Approved Pilot Field Sanitizer" means any field burning device that has been observed and endorsed by 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.

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

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

(25) [~~(22)~~] "Approved Alternative Facilities" means any land, structure, building, installation, excavation, machinery, equipment or device approved by 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 or Proof There of.

(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 or be able to readily demonstrate authority to burn at all times during the burning operation and said permit shall be made available for at least one year after 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 appropriate authority.

(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, cuttings 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, cuttings 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) Fuel conditions shall be limited as follows:

(a) All debris, cuttings 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.

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

Delete

~~(c) After August 15, 1978, no field shall be burned having a lose straw~~ moisture content exceeding 12% wet weight basis except such moisture content restrictions may be waived by the Department when unlimited ventilation conditions exist. If the Department finds that under this moisture content rule, enforcement has caused or is likely to cause a reduction in excess of 50% of the acreage that remains to be burned in compliance with the remaining rules, this moisture content rule shall not be enforced. The Department may, on a field by field basis, prohibit ~~burning of fields containing high moisutre content stubble and/or regrowth material which, when burned, would result in excessive low level smoke.~~

(4) [~~(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.

(5) [~~(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.

(6) No person shall conduct open burning which results in a direct smoke and/or ash nuisance for adjacent residential communities, schools, or other smoke sensitive areas.

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.

(3) 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.

(b) Emission Standards for Approved Pilot Field Sanitizers.

(A) Approved pilot field sanitizers shall be required to demonstrate the capability of sanitizing a representative harvested grass or cereal grain field with an accumulative straw and stubble fuel load of not less than 1.0 ton/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;

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

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

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

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

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

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

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

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

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

(3) Experimental field sanitizers 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 operator of the field sanitizers shall report to the Department the locations of operation of experimental field sanitizers.

(b) 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. 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, or

(c) One of the following conditions exist:

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

(B) The field has been flailchopped, 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 feepaid acres and shall be issued in accordance with the priorities established by subsection 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 suballocated 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(6) and (7), the maximum acreage to be open burned under these rules:

(a) During 1978, shall not exceed ~~180,000~~ 280,000 acres.

~~(b) If by August 15 of each year, the average of total cumulative hours of~~ nephelometer readings exceeding 2.4×10^{-4} B-scat units at Eugene and Springfield, which have been determined by the Department to have been significantly caused by field burning, equals or exceeds 13 hours, the maximum acreage to be open burned under these rules shall not exceed 150,000 acres and the sub-allocation to the fire permit issuing agencies shall be reduced accordingly, subject to the further provisions that:

Delete

(A) Unused permit allocations may be validated and used after the 150,000 acre cut-off only on unlimited ventilation days as may be designated by the Department, and

(B) If by August 15, 1978, the total acreage burned exceeds 120,000 acres, the Commission may establish a further acreage limitation not to exceed 15,000 acres over and above the 150,000 acre limitation and authorize permits to be issued pursuant thereto, in order to provide growers of bentgrass seed crops

~~and other late maturing seed crops opportunity to burn equivalent to that~~ Delete
afforded growers of earlier maturing crops.

(c) [~~(b)~~] During 1979 and each year thereafter shall be determined and established by the Commission [~~by January 1 of 1979 and~~] by January 1 of each odd year [~~thereafter~~]. [~~This determination~~] The Commission 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) 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) Acres burned on any day by approved field sanitizers and approved experimental field sanitizers and propane flamers shall not be applied to open field burning acreage allocations or quotas, and such 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) 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 the Department shall suballocate 110 percent of the total acre allocation established by the Commission, as specified in Section 26-013(1), to the respective growers on a pro rata share basis of the individual acreage registered as of April 1 to the total acreage registered as of April 1.

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

(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 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 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)~~] (6) and [~~(8)~~] (7) of this subsection no fire district shall allow acreage to be burned in excess of their allocations assigned pursuant to (b), (c) and (d) above.

(6) [~~(7)~~] 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). Such experimental open burning shall be conducted only as may be specifically authorized by the Department and will be conducted for gathering of scientific data, or training of personnel or demonstrating specific practices. The Department shall maintain a record of each experimental burn and may require a report from any person conducting an experimental burn stating factors such as:

1. Date, time and acreage of burn.
2. Purpose of burn.
3. Results of burn compared to purpose.
4. Measurements used, if any.
5. Future application of results of principles featured.

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

(~~a~~)(b) For experimental open burning the Department may assess an acreage fee equal to that charged for open burning of regular acres. Such fees shall be segregated from other funds and dedicated to the support of smoke management research to study variations of smoke impact resulting from differing and various burning practices and methods. The Department may contract with research organizations such as academic institutions to accomplish such smoke management research.

(7) [~~(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.

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, a mixing depth greater than 3500 feet, ~~and relative humidity less than 50 percent~~.

(b) Marginal Class S conditions: Forecast southerly winds.

(c) Prohibition conditions: Forecast northerly winds, a mixing depth of 2500 ~~3500~~ feet or less, ~~and/or relative humidity greater than 50 percent~~.

(d) Unlimited Ventilation conditions: A mixing depth of ~~4000~~ 4000 feet or greater and a ventilation index of 32.5 or greater.

(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 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.

(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, except by special permission from the department.

(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. Burning may also be authorized by the Dept. under extraordinary circumstances.

(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[.] except that no acreage located within the permit jurisdictions of Aumsville, Drakes Crossing, Marion County District 1, Silverton, Stayton, Sublimity, and the Marion County portions of the Clackamas-Marion Forest Protection District shall be burned upwind of the Eugene-Springfield non-attainment area.

(B) South Valley: one priority area quota for priority area burning may be issued in accordance with Table 1.

(c) Marginal Class S Conditions. Unless specifically authorized by the Department on days classified as Marginal Class S conditions, burning shall be limited to the following:

(A) North Valley: One basic quota may be issued in accordance with Table 1 in the following permit jurisdictions: Aumsville, Drakes Crossing, Marion County District 1, Silverton, Stayton, Sublimity, and the Marion County portion of the Clackamas-Marion Forest Protection District. One priority area quota my 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 priority acreage may be burned on the upwind side of any city, airport, or highway within the same priority areas.

(B) No south priority acreage [may] shall be burned upwind of [~~any city, airport, or highway within a priority area unless the mixing height is forecast greater than 4,000 feet.~~] the Eugene-Springfield non-attainment area unless when burned the resultant smoke is effectively passed over the city at no less than 3000 feet above mean sea level.

[~~(C) All south priority acreages located upwind of the Eugene-Springfield priority area shall be burned using backing fire or into the wind strip lighting techniques, except as provided by 26-015(4)(c).~~]

(e) Restrictions on burning techniques.

~~(A) All annual grass seed crops, cereal crops, and if so directed by the Department, bentgrass crops shall be burned using into the wind strip burning methods except when unlimited ventilation conditions exist.~~

~~(B) [(c)] The Department shall require acreages to be burned using [back-fire] backfire or into the wind strip[lighting] burning techniques when, in the Department's judgment, use of such techniques will reduce adverse effects on air quality.~~

A. The Department may require special lighting Techniques when in the Dept's judgement They will reduce smoke impact on Population centers.

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

TABLE 1

FIELD BURNING ACREAGE QUOTAS

NORTH VALLEY AREAS

County/Fire District	Quota	
North Valley Counties	Basic	Priority
Clackamas County		
Canby RFPD	50	0
Clackamas County #54	50	0
Clackamas - Marion FPA	[50] 100	0
Estacada RFPD	75	0
Molalla RFPD	50	0
Monitor RFPD	50	0
Scotts Mills RFPD	50	0
Total	[375] 425	0
Marion County		
Aumsville RFPD	[50] 100	0
Aurora-Donald RFPD	50	50
Drakes Crossing RFPD	[50] 100	0
Hubbard RFPD	50	0
Jefferson RFPD	225	50
Marion County #1	[~~100~~] 200	50
Marion County Unprotected	50	50
Mt. Angel RFPD	50	0

TABLE I

(continued)

County/Fire District	Quota	
North Valley Counties	Basic	Priority
Marion County (continued)		
St. Paul RFPD	125	0
Salem City	50	50
Silverton RFPD	~~[300]~~ 600	0
Stayton RFPD	~~[150]~~ 300	0
Sublimity RFPD	~~[250]~~ 500	0
Turner RFPD	50	50
Woodburn RFPD	125	50
Total	~~[1675]~~2575	~~[200]~~ 350
Polk County		
~~[Polk County Non-District]~~ Amity #2	50	0
Southeast Rural Polk	400	50
Southwest Rural Polk	125	50
Total	575	100
Washington County		
Cornelius RFPD	50	0
Forest Grove RFPD	50	0
Forest Grove, State Forestry	50	0
Hillsboro	50	0
Washington County RFPD #1	50	50
Washington County FPD #2	50	50
Total	300	150

TABLE 1

(continued)

County/Fire District	Quota	
North Valley Counties	Basic	Priority
Yamhill County		
Amity #1 RFPD	125	50
Carlton RFPD	50	0
Dayton RFPD	50	50
Dundee RFPD	50	0
McMinnville RFPD	150	75
Newberg RFPD	50	50
Sheridan RFPD	75	50
Yamhill RFPD	50	50
Total	600	325
North Valley Total	4475	875

TABLE 1

(continued)

SOUTH VALLEY AREAS

County/Fire District South Valley Counties	Basic	Quota Priority
Benton County		
County Non-District & Adair	350	175
Corvallis RFPD	175	125
Monroe RFPD	325	50
Philomath RFPD	125	100
Western Oregon RFD	100	50
Total	1075	500
Lane County		
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	150
Santa Clara RFPD	50	50
Thurston-Walterville	50	50
West Lane RPD	50	0
Total	1225	550
Linn County		
Albany RFPD (inc. N. Albany, Palestine, Co. Unprotected Areas)	625	125
Brownsville RFPD	750	100

TABLE 1

(continued)

County/Fire District	Quota	
South Valley Counties	Basic	Priority
Linn County (continued)		
Halsey-Shedd RFPD	2050	200
Harrisburg RFPD	1350	50
Lebanon RFPD	325	325
Lyons RFPD	50	0
Scio RFPD	175	50
Tangent RFPD	925	325
Total	6250	1225
South Valley Total	8550	2275

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 auxilliary 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 Williamette 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 468.480, 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 ORS 468.150, approved 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.

H BURKITT PROJECT MANAGEMENT

P.O. Box 8549
Portland, Oregon 97207

To: Oregon Department of Environmental Quality

From: Oregon Seed Council

Date: November 17, 1978

Subject: Evaluation of Interim Report on "Willamette Valley Field and Slash Burning Impact - Air Surveillance Network Data Evaluation".

SUMMARY:

The Department of Environmental Quality in participation with the Environmental Protection Agency contracted for the services of AeroVironment Inc. of Pasadena, California, to assist in analyzing and interpreting data collected through the Willamette Valley Field and Slash Burning Impact Air Surveillance Network, as well as several field burning smoke plume fly-throughs with an extensively instrumented aircraft. Physical, chemical and elemental analysis of the samples collected and utilized in the interim report were performed by the DEQ laboratory, the Oregon Graduate Center and the University of California at Davis.

Data presented in this interim report distinguishes the various elemental relationships of particulates and the probable type of source where generated - i.e. process equipment, motor vehicles, road dust, space heating, field and slash burning, etc. This was accomplished by identifying the elemental composition of the collected particulate from combustion sources via ratios of Pb, S, Cl and K to Willamette Valley soil components of Al, Si, Ca and Fe. By grouping the Willamette Valley aerosols into six categories, a signature, or "fingerprint", was developed with the soil particulates constituting about two-thirds of the total mass.

All data presented to date clearly indicates that there is "no statistically meaningful changes in particulate matter concentrations between burning and no-burning days".

DISCUSSION:

Researchers concerned with the determination of where particulates originate are able to classify the probable source by identifying each element through particle-induced X-ray emission (PIXE) spectroscopy and X-ray fluorescence analysis. This was

Lincoln Tower, Suite 1005 2211 S.W. First Avenue
Portland, Oregon 97201
(503) 227-0336

done for the period July to mid-August, 1978, with the results presented in Tables 6-1 through 6-10.

Table 6-1 clearly illustrates by comparing 2,259 samples collected on no-burn days against 247 samples for burn days that there is virtually no difference in the mean mass (ug/m^3) of particulate matter collected using the Hi Volume, Low-Volume and Stacked Filter Unit (SFU) samplers for coarse and fine particulates. Table 6-2 further breaks down by elemental constituents one sample from the second stage of a SFU to compare fine particulate mass to total particulate mass collected by a Low-Volume sampler. Again, no significant differences are apparent except that the sulfur (S) mass is lower for burn days than for no-burn days. It is theorized by those providing the interpretive analyses that greater valley ventiliation may occur on burn days, however, no data exists to substantiate this. Potassium (K) which may be associated with smoke from combustion sources and titanium (Ti) mass loadings were slightly higher, but, the margin of error in the samples probably negates any differences. The analysis of the Oregon Graduate Center aircraft samples for fine particulate taken by penetrating smoke plumes from field burning lacked the presence of any potassium (See Table 6-5). As a consequence, a value of 1.00 was assigned to the total mass in order to make the data consistent with previously collected sample results. Further investigation appears necessary to determine why K was not present in the field burning smoke plumes in order to assure that the method for determining the impacts of field burning smoke, if, in actuality there are any, are correct.

Finally, this interim report utilizes the data given in Tables 5-3, 6-5 through 6-10 and Figure 6-1 for a case study period of August 1-15, 1978, at Lebanon. This study analyses the changes in the potassium level and the K/Ca and K/Fe ratios for fine particles collected by a Stacked Filter Unit. By simple calculation it is demonstrated that field burning smoke in close proximity to the sampling site, with little opportunity for dillution, probably contributed, on August 11, 1978, roughly 6% of the total mass collected. This August 11, 1978, incident at Lebanon is the worst case. Based on this evidence, the DEQ staff and others have concluded that no measurable impact on TSP standards exists from field burning.

It can be concluded from the data collected and presented in this interim report that the absence of any measurable impact on TSP values from field burning is significant especially when rules are being considered which will regulate this activity. There appears to be a high degree of variation between sampling sites only a few miles apart, like Eugene and Springfield, with no correlation of TSP emitted from field or slash burning. This may be an indication of other stationary or natural phenomena that may be occurring which has yet to be identified.

Table 4-2 reports the 1977 violations of the 24 hour TSP standard of 150 ug/m^3. Sixty-four percent (64%) of last year's violations of ambient air quality standards occurred outside of the field burning season and only one (1) in the Eugene/ Springfield area on August 11, 1977, occurred during the field burning season with a value of 167 ug/m^3 as compared to the January 7, 1977, values of 255 ug/m^3 and 238 ug/m^3 for Eugene station #8 and Springfield station #9, respectively.

Based on the above data collected by the DEQ and its contractors, the EQC now has before it a set of rules for regulating field burning that bear no scientific evidence as a reason for adoption, nor, that if adopted, they will provide any degree of enhancement to ambient air quality in the Willamette Valley.

Specifically, a limitation on acreage amounts for a given season is totally unsupported by this study or any preceding it. This proposed rule is simply a political rouge to overcome objections from the concerned citizens of Eugene. Certainly, they must be protected, as both federal and state laws provide, but not in this manner. After all, where is any evidence that this limitation will protect ambient air quality? Certainly not in this report! Remember, ambient air quality as exhibited in the worst case at Lebanon, may be affected adversely by only about 6% if the sampling site is located in close proximity to the fields being burned.

The EQC would be best advised to adopt a meteorlogical ventilation index to determine, on some correlative basis, the number of acres on any given day that could be burned with a minimal ambient air influence on any populated areas. This has been done in the past on a rather successful basis and should be continued as an on-going program, however, it should be kept in mind that occasionally a forecast is "blown". This is particularly evident where programs are in a "learning state".

At this time no standard, practical method exists for determining the loose straw moisture content. Until there is, the EQC should not adopt a rule that is un-enforceable. After all, who is going to make a determination of whether or not a field was burned in violation of this rule after all the evidence is reduced to ash?

It is suggested that up-wind burning of the Eugene/ Springfield area continue to be given special consideration. No one wants to impact any populated area with an inordinate amount of smoke even though no TSP standards are violated. From field ignition study efforts during the 1978 field burning season, the head-fire method appears to develop rapid plume energy, and, as such, should be employed as the best known method to get the plume up and out of the valley.

Back-firing and strip-lighting techniques do not belong in a regulation. Commission and department policy has always left the selection of technology to the industry being regulated. It is the responsibility of industry to comply with the administrative rules setting emission limitations. No changes in this policy are warranted based on this report. As suggested by the DEQ staff, back-firing as a field burning technique should be eliminated from practice due to development of low heat energy resulting in poor plume rise and lingering smoke in the vicinity. Strip lighting is only a method and appears to take longer to ignite. In most cases, as the strip-lighted fire approached the 50-60% burn of the field it begins to behave like a back-fire. The result is again a lingering smoky condition during the completion of the field burn.

CONCLUSION:

The DEQ staff, its contractors and the EQC are to be commended for undertaking this thankless and laborious task of identifying the influence of Willamette Valley field burning on TSP standards. As illustrated by the data collected, no measurable impact on TSP values can be attributed to field burning during the season. Field burning has not been identified as a cause for exceeding any TSP daily or annual standards.

The EQC should adopt rules, but only rules supported by sound scientific evidence. The rules proposed today do not have the support of this evidence and therefore, should be modified accordingly.

PORT PRESENTATION TO

ENVIRONMENTAL QUALITY COMMISSION

In response to the petition filed with the Environmental Quality Commission concerning noise reduction at Portland International Airport, the Port of Portland made these points before the EQC today:

1. Aircraft noise is recognized as a problem in the vicinity of Portland International Airport by the Port. A master plan study begun by the Port in April 1977 had and still has as one of its objectives:

   > To minimize potential noise impacts through land use and zoning in the vicinity area through noise abatement operational procedures.

2. Passenger forecasts and current passenger loads indicate that the number of passengers traveling through Portland International Airport are and will be increasing at a faster rate than airlines operations. This is contrary to the petitioner's statements. For the nine-month period through September 1978, compared to the same period in 1977, there was a 13.6 percent increase in passengers,

while commercial operations decreased by 1.2 percent. This trend is expected to continue on into the 1980s and beyond.

3. During the master plan, sixteen noise monitoring sites were operated in the vicinity area both on the Oregon and on the Vancouver, Washington, side of the Columbia River. Through these sites, it was determined that the noise contours--the maps "made of cumulative aircraft noise"--have decreased since an earlier 1972 study. In other words, less land area is affected by substantial amounts of airport noise than in 1972. Contours drawn for 1985 aircraft noise, based on the aircraft technology and projections of aircraft activity, are even smaller for 1985, and remain the same until the year 2000.

4. Land use guidelines relating to noise around Portland International Airport were developed through the master plan study process by the Port. Port of Portland noise measurements show that we meet these guidelines in terms of uses available today and also the guidelines determined for land use in the vicinity area by the Department of Enviornmental Quality.

5. The airport noise contours for 1977 show minimal (70 units) residential housing in the vicinity area with significant aircraft noise impact (above Ldn 65/NEF 30).

6. In addition, the Port also analyzed aircraft operating procedures for the year 2000 to determine what, if any, impact they would have on noise at the airport:

A. Examine noise from helicopter operations and routes over Vancouver. (New routes are being implemented.)

B. Consider alternate locations for engine run-up areas. (To reduce adverse noise impacts, the OANG has recently installed a new engine run-up pad away from the noise-sensitive area near the end of Runway 28R.)

C. Determine the impact of military jet aircraft operations. (A long-term lease and national defense policies prevent much change here.)

D. Analyze effect of higher aircraft approach altitudes to Runway 20 on Vancouver. (The highest possible approach slope is being used now.)

E. Displace the threshold by 500 feet to the south on Runway 20. (Not feasible.)

F. Consider changes in existing flight patterns to maximize takeoff and landing flight paths along the Columbia River and over other undeveloped areas. (Some have already been changed.)

G. Consider preferential runway use system. (This type of system is already in operation to minimize noise impacts over Vancouver.)

H. Consider realignment or construction of new runways. (Although these alternatives might be mitigation measures, they are contrary to the objectives of the current master plan study and therefore were not technically evaluated.)

I. Consider the effect of a nighttime curfew between 10 p.m. and 7 a.m. (Negligible reduction in present noise contours would result.)

J. Consider alternative takeoff and landing procedures for noise abatement. (FAA and the Air Transport Association are doing a national study for implementation on a nationwide basis.)

K. Consider changes in runway utilization patterns. (Negligible noise reduction results, and would increase flights over residential areas.)

7. Noise regulations, as proposed in the petition, which would require the airport to meet industrial and commercial noise standards, do not do what they are intended. Even with the airline aircraft retrofitting for noise abatement that will be required by the federal government in the year 1985, aircraft noise cannot be restricted to the airport boundaries.

8. Further, the noise abatement policy of the Federal Aviation Administration, which has jurisdiction over noise at airports in the United States, specifies the kind of actions which may be taken at airports regarding noise by the airport proprietor, by local governments, by the Federal Aviation Administration and by the airlines.

There is a question as to the authority of the State of Oregon and FAA regarding aircraft noise regulation.

9 The Port recommends that the Environmental Quality Commission postpone action which would institute the kind of industrial and commercial requirements asked for in the petition. The Port further asks that the EQC consider statewide airport noise regulations specifically designed for airports, rather than putting industrial, commercial or other types of existing noise regulations into effect on land uses such as airports.

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STATEMENT TO THE ENVIRONMENTAL QUALITY COMMISSION

OCTOBER 27, 1978

FOR THE RECORD, I AM THOMAS E. NELSON, MANAGER OF AIR & WATER QUALITY FOR TELEDYNE WAH CHANG ALBANY. MY STATEMENT TODAY WILL COVER THOSE ISSUES WHICH REMAIN UNRESOLVED IN THE DRAFT OF THE RENEWAL NPDES PERMIT BEFORE YOU. THERE HAVE BEEN MANY MEETINGS AND CONFERENCES ON THE MATTER SINCE THE PUBLIC HEARING IN AUGUST. EVEN SO, SEVERAL ISSUES OF CONSIDERABLE SUBSTANCE REMAIN UNRESOLVED.

THE MAJOR ISSUE REMAINS TO BE THE DISCHARGE LIMITS FOR VARIOUS CHEMICAL PARAMETERS. THE PROPOSED UPSET PROVISION ALSO IMPINGES ON THIS PROBLEM. EARLY IN THE PERMIT DRAFTING PROCESS TWCA PROPOSED DISCHARGE LIMITS WHICH WE KNOW TO BE REFLECTIVE OF THE CAPABILITIES OF OUR TREATMENT SYSTEM UNDER USUAL AND ORDINARY CONDITIONS. THE DEPARTMENT HAS PROPOSED LIMITS WHICH WE ARE CAPABLE OF ACHIEVING ONLY DURING PERIODS OF OPTIMUM OPERATION. THEREFORE, WE CONTEND AND CONTINUE TO REQUEST THAT AN UPSET PROVISION BE INCLUDED IN ORDER TO APPROPRIATELY ACCOUNT FOR THOSE OCCASIONS WHEN OUR SYSTEM SUFFERS AN EXCURSION FROM THE OPTIMUM. OTHERWISE, WE MOST CERTAINLY WILL BE PLACED IN A POSITION OF LEGAL JEOPARDY DUE TO FREQUENT AND UNAVOIDABLE UPSETS FROM THE OPTIMUM OPERATIONAL LEVEL. PLEASE NOTE ON PAGE 2 OF THE STAFF REPORT ON THE 8TH LINE FROM THE BOTTOM OF THE PAGE THAT THE STAFF HAS RECOGNIZED THE NEED FOR AN UPSET PROVISION. THE UPSET PROVISION CONTAINED IN THE DRAFT BEFORE YOU HAS SOME FLAWS WHICH ARE IN NEED OF CORRECTION OR CLARIFICATION. FOR EXAMPLE, THERE IS A NEED TO ADDRESS OPERATOR ERROR WHICH IS NOT DUE TO NEGLIGENCE ON THE PART OF THE PERMITTEE. IN ADDITION, (b)(iv) SHOULD READ:

"THAT THE UPSET COULD NOT HAVE BEEN PREVENTED BY REASONABLE MEANS; AND".

DURING THE LIFE OF OUR PREVIOUS NPDES PERMIT, TWCA WAS INFORMED THE AMMONIA-NITROGEN LIMIT WAS A TECHNOLOGY-BASED STANDARD DUE TO THE FACT THAT THE EPA HAD SET THAT LIMIT AFTER CONDUCTING TWO STUDIES AT THE TWCA PLANT. IT NOW APPEARS IN THE STAFF REPORT BEFORE YOU THAT ALL PARAMETERS ARE BEING DESIGNATED AS BPT. THE PROCESS BY WHICH A LIMIT IS DESIGNATED AS BPT-RELATED SEEMS TO BE NOT ONLY HIGHLY VARIABLE, BUT ALSO CAPRICIOUS. WE STILL DO NOT UNDERSTAND HOW THE AMMONIA-NITROGEN LIMIT CAN BE CLAIMED AS THE OUTCOME OF BPT. THEREFORE, WE ARE AT A LOSS TO UNDERSTAND THE RATIONALE FOR THE DESIGNATION OF BPT ON THE OTHER PARAMETERS. IN FACT, WE HAVE SEEN NO COMPELLING SCIENTIFIC OR TECHNICAL ARGUMENT WHICH IS SUPPORTIVE OF THE PROPOSED LIMITS. THE REASON IS MOST CERTAINLY NOT WATER QUALITY-RELATED.

THE POINTS WHICH I HAVE RAISED ABOVE ARE THE MAJOR ISSUES OF SUBSTANCE. SEVERAL OTHER PROBLEMS REMAIN WITH THE PERMIT. I WOULD BE HAPPY TO GO OVER THOSE POINTS AT THIS TIME OR SUBMIT TO YOU AN AMENDED COPY FOR YOUR CONSIDERATION.

November 17, 1978

Joe B. Richards, Chairman
Grace S. Phinney, Vice-Chairman
Albert H. Densmore
Jacklyn S. Hallock
Ronald M. Somers

HEARING ON OREGON ENVIRONMENTAL COUNCIL PETITION -- NOVEMBER 17, 1978

Related to the petition proposing the regulation of airport and aircraft noise by amending the regulations for industrial and commercial noise sources, the Port of Portland wishes to emphasize the following issues:

- The Portland International Airport Master Plan has provided the vehicle for a sound and thorough review of noise and includes recommendations for mitigative action.

- The intended regulation of airport and aircraft noise could not be accomplished with the approach proposed by the Oregon Environmental Council.

Therefore, we recommend that the Environmental Quality Commission delay action on the petition and during that delay collect sufficient information to:

- Define the legal parameters for state regulation of airport noise, particularly regarding federal preemption.

- Set the objectives to be achieved in the regulation before hearings are held.

- Identify the technical differences, if any, between Port and DEQ staff.

- Provide ample notice to all affected parties, including all airports in the state.

The Port of Portland is willing to assist in this effort in any way appropriate.

Lloyd Anderson
Executive Director
Port of Portland

IN THE COURT OF APPEALS OF THE STATE OF OREGON

INTERNATIONAL COUNCIL OF SHOPPING CENTERS; OREGON STATE HOMEBUILDERS ASSOCIATION; WESTERN ENVIRONMENTAL TRADE ASSOCIATION, INC.; ASSOCIATED FLOOR COVERING CONTRACTORS; ASPHALT PAVEMENT ASSOCIATION OF OREGON; WASHINGTON SQUARE, INC., Petitioners, v. OREGON ENVIRONMENTAL QUALITY COMMISSION, JOE B. RICHARDS, DR. MORRIS CROTHERS, DR. GRACE S. PHINNEY, JACKLYN L. HALLOCK, RONALD M. SOMERS, Commissioners; OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY and WILLIAM H. YOUNG, Director, OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY, Respondents.	Case No. CA 5767 AMENDED PETITION FOR JUDICIAL REVIEW OF THE VALIDITY OF ADMINISTRATIVE RULES PURSUANT TO ORS 183.400

Petitioners seek judicial review of those Administrative Rules or Regulations, hereinafter in this Petition referred to as the "Rules for Indirect Sources" or "the Indirect Source Regulations," adopted by Respondent Oregon Environmental Quality Commission on or about November 22, 1974, as subsequently amended on or about February 28, 1975, on or about March 12, 1976, and on or about August 11, 1976, and known or identified as OAR Chapter 340, Sec. 20-100 through 20-135.

At all times mentioned herein, the status of Petitioners was and is as follows: Petitioner, International Council of Shopping Centers, was and is a voluntary membership organization organized as a not-for-profit corporation under the laws of the state of Illinois, with principal offices in New York City, New York, and with members throughout the United States and certain foreign countries, including the Oregon members thereof, who at all times mentioned herein, were and are owners, developers or builders of shopping centers, or operators of retail businesses within shopping centers, within the state of Oregon, such shopping centers being treated by Respondents as falling within the definition of indirect source as contained in Sec. 20-110 of the Rules for Indirect Sources. Petitioner, Oregon State Homebuilders Association, was and is a voluntary membership organization organized under and pursuant to the laws of the state of Oregon, whose members are directly engaged in the construction, within the state of Oregon, of those indirect sources falling under the definition

contained in Sec. 20-110(14)(g) of the Rules for Indirect Sources, as well as the residential subdivisions that are treated by Respondents as falling under and within the requirements of the Rules for Indirect Sources. Petitioner, Western Environmental Trade Association, Inc., was and is a voluntary membership organization organized under and pursuant to the laws of the state of Oregon, composed of business organizations, labor organizations and professional persons. who do business within the state of Oregon, such organizations and individuals being directly involved in the ownership, development or construction of the various types of indirect sources as defined in the Rules for Indirect Sources or as treated by Respondents covered by such Rules. Petitioner, Associated Floor Covering Contractors, was and is a voluntary, unincorporated membership association consisting of floor covering contractors doing business in the state of Oregon who take part in the construction of indirect sources as defined in Sec. 20-110(14)(b), (c), (d), (e), (f), (g), (h), (i) and (j) of the Indirect Source Regulations, as well as those additional improvements treated by Respondents as covered by such Regulations. Petitioner, Asphalt Pavement Association of Oregon, was and is a voluntary membership organization, organized under and pursuant to the laws of the state of Oregon, whose members construct highways, roads, parking facilities and the paved portion of airports, all of which such improvements constitute indirect sources within the definition of an Indirect Source as contained in Sec. 20-110(14) of the Rules for Indirect Sources. Petitioner, Washington Square, Inc., was and is a Washington corporation doing business in, and qualified to do business in, the state of Oregon and owning a substantial portion of a shopping center located in Washington County, Oregon. With the exception of Petitioner, Washington Square, Inc., all Petitioners have ten or more members in their association doing business within the state of Oregon and all such Petitioners are suing on behalf of their Oregon members. Petitioner, Washington Square, Inc., is suing on its own behalf.

Petitioners are adversely affected by the Indirect Source Rules as follows:

(a) Compliance with the Rules for Indirect Sources causes and will cause the Oregon members of Petitioner, International Council of Shopping Centers, increased construction costs and increased operational costs, and has in some instances caused potential tenants or other occupants to be unwilling to enter into a lease or other occupancy agreement for space in one or more shopping centers owned or operated by Petitioner's members.

(b) In several instances, certain of the members of Petitioner, Western Environmental Trade Association, Inc., have been substantially delayed in carrying out their desire to participate in the construction, operation or development of indirect sources due to the requirements of, and cost for compliance with, the Rules for Indirect Sources. During the periods of time covered by these delays, the cost for constructing and operating indirect sources rose significantly, resulting in increased costs to, and decreased profits for, those of Petitioner's members involved in such construction or operation.

(c) Compliance with the Rules for Indirect Sources has required and will continue to require the members of Petitioner, Oregon State Homebuilders Association, to expend additional front-end costs and suffer delays in the construction of improvements covered by the Rules for Indirect Sources, therefore increasing Petitioner's members' construction costs for such improvements and accordingly increasing the costs of such improvements to the general public and decreasing the Petitioner's members' potential market for those improvements.

(d) The existence of the Rules for Indirect Sources has caused potential builders or developers of improvements covered by such Rules to either postpone the construction of such improvements or modify the floor space involved therein in such a manner as to decrease the amount of work and profit otherwise to be gained by the members of Petitioner, Associated Floor Covering Contractors.

(e) The Rules for Indirect Sources have caused the owners or developers of improvements covered thereby to postpone or modify the construction of the improvements in such a way as to affect the amount of work available to, and the profits otherwise to be gained by, the members of Petitioner, Asphalt Pavement Association of Oregon.

(f) Compliance with the predecessor of the present Indirect Source Regulations, which said preceding Regulations were much less demanding and involved in their requirements than the present Regulations, caused Petitioner, Washington Square, Inc. to incur additional costs in the approximate amount of $200,000.00 to date, which but for these Regulations would not have been incurred. Petitioner, Washington Square, Inc., may need to apply for additional Indirect Source Construction Permits under the present Rules for Indirect Sources; and due to the increased requirements of such present Rules, as opposed to their predecessor, Petitioner anticipates even greater additional costs directly related to complying with the provisions of the present Regulations.

Petitioners ask that the Court declare the sections of the Rules for Indirect Sources listed below, and therefore the Rules for Indirect Sources themselves, invalid for the following reasons:

(1) The Rules for Indirect Sources, and in particular the finding and declaration stated in Section 20-100 thereof that "the regulation of Indirect Sources is necessary to control the concentration of air contaminants which results from Motor Vehicle Trips and/or Aircraft Operations associated with the use of Indirect Sources" were adopted without compliance with applicable rulemaking procedures, as they were adopted without a statement by the Respondent, Environmental Quality Commission, of the factual basis for, and reasoning from such factual basis resulting in, the promulgated declaration and rules.

(2) The finding by Respondent Environmental Quality Commission in Section 20-105 of the Rules for Indirect Sources that "the complexity or magnitude of Indirect Sources require statewide regulation," and, therefore, Respondent Commission "assumes or retains jurisdiction thereof," was adopted without compliance with applicable rulemaking procedures, because the Respondent Commission set forth neither the factual basis nor the reasoning for such finding.

(3) The determination of those Indirect Sources as to which there must be an application for Indirect Source Construction Permits for Parking Facilities or other Indirect Sources with Associated Parking set out in Section 20-115(2)(a), (b) and (c) were adopted without compliance with applicable rulemaking procedures because the Respondent Commission set forth neither a factual basis nor reasoning therefrom as to how it concluded that such approved Indirect Source Construction Permits should be required for such Indirect Sources but not for other parking facilities of other sizes and in other geographic areas.

(4) The provision of Section 20-129(1)(a)(H) requiring measurement and estimation of lead concentrations for Indirect Sources other than highway sections and airports resuling in total parking capacity of 1000 or more vehicles was adopted without compliance with applicable rulemaking procedures because Respondent Commission set forth neither a factual basis nor reasoning therefrom as to why it may reasonable require such measurement and estimation.

(5) The requirements of Sections 20-129(1)(a)(J), 20-129(1)(c)(L), 20-129(1)(d)(K) and 20-129(1)(d)(N) were adopted without compliance with applicable rulemaking procedures because Respondent Commission set forth neither the factual basis for nor reasoning therefrom in support of its conclusion that facility-by-facility review of air quality impact on a regional basis can be successfully accomplished.

(6) The provisions for application requirements for Parking Facilities and other Indirect Sources with Associated Parking, other than Highway Sections and Airports, Sections 20-129(1)(a) and 20-129(1)(b), were adopted without compliance with applicable rulemaking procedures because the Respondent Commission set forth neither a factual basis nor reasoning therefrom as to the reasonableness of requiring applicant information when parking areas will total 1000 or more spaces that is different from that information required when resulting parking areas will total 150 to 1000 spaces, regardless of whether any such parking areas are within or without areas in which air quality is or may become a serious problem requiring more stringent controls of sources of air contamination.

DATED this ____ day of JUNE, 1977.

COONS, COLE & ANDERSON

Bruce H. Anderson
Of Attorneys for Petitioners
101 E. Broadway, Suite 303
Eugene, Oregon 97401
Telephone: (503) 485-0203

Thursday, November 16, 1978

TO: Board of Directors, Greater Medford Chamber of Commerce

FROM: Air Quality Task Force (Business/Economic Development Council); Gordon Dotson, Chairman

SUBJECT: Air Quality testimony for November 17 EQC meeting

At their November 14 meeting, members of the Air Quality Task Force developed and approved the following testimony to be given before the Oregon Environmental Quality Commission meeting November 17 in Eugene, on behalf of the Greater Medford Chamber of Commerce:

The Environmental Quality Commission (EQC) is in the process of implementing the federal clean air act amendments of 1977. As a part of that process the EQC has adopted rules and is considering proposed rules to implement the clean air act. These rules called "control strategies" apply to particulates (TSP), volatile organic compounds (VOC) and carbon monoxide (CO). It appears that as a result of these rules certain long-standing basic economic relationships in the community are going to be altered. In addition it is very apparent that the burden of improving air quality has not been equitably distributed throughout the community. For example, industry, which contributes approximately 20 percent of the TSP emissions is bearing 100 percent of the control strategy burden. Although 75 percent of the traffic on Central Avenue in Medford is through traffic, the Oregon Department of Transportation would have the downtown merchants bear the full burden of speeding up that traffic by eliminating a substantial amount of parking on Central Avenue.

In particular the Chamber has the following areas of concern:

1. Economic Impact. The EQC and in some cases the Oregon legislature must evaluate the impact of these rules upon the community,

100 percent of the control strategy burden. In addition, as a result of adopting standards more stringent than the federal standards and the failure to equitably spread the burden, it appears that the EQC will now impose an offset policy on industry which could have serious adverse economic implications not only on industry but on the entire community. The argument may be posed that the EQC does not have the authority to regulate the other sources of emission. Such an answer is no more than an expedient designed to avoid the political problems of enforcing an air quality program on a community-wide basis. If the EQC does not have the authority to adopt comprehensive regulations, then the question arises as to whether the EQC is the appropriate agency to implement the clean air act. On the other hand, there is no reason why the EQC could not adopt a state implementation plan (SIP) that would require legislative ratification due to its comprehensive nature.

4. Request for an Extension. Because of the extremely short time period in which these regulations have been developed, the piecemeal approach taken by the DEQ and for the numerous reasons set forth above, it is imperative that the EQC reevaluate its implementation program and seek from the Oregon legislature direction in regard to the general policy decisions posed by the clean air act. It is in the best interests of the citizens of Jackson County and of the citizens of the state of Oregon for the EQC to request that the federal government grant it an extension of time in which to adopt the implementation plan for the state of Oregon.

kj

SOUTHER, SPAULDING, KINSEY, WILLIAMSON & SCHWABE
ATTORNEYS AT LAW
12TH FLOOR STANDARD PLAZA
1100 S. W. 6TH AVENUE
PORTLAND, OREGON 97204
TELEPHONE 503-222-9981
CABLE ADDRESS: "ROBCAL"
ROBERT T. MAUTZ (1905-1969)

CALVIN N. SOUTHER
BRUCE SPAULDING
WILLIAM H. KINSEY
WAYNE A. WILLIAMSON
JOHN L. SCHWABE
WENDELL WYATT
GORDON MOORE
KENNETH E. ROBERTS
FORREST W. SIMMONS
JAMES B. O'HANLON
DOUGLAS M. THOMPSON
JAMES R. MOORE
A. ALLAN FRANZKE
ROLAND F. BANKS, JR.
GINO G. PIERETTI, JR.
DOUGLAS J. WHITE, JR.
JOHN B. SOUTHER
ROCKNE GILL
JAMES A. LARPENTEUR, JR.
JAMES F. SPIEKERMAN
ROBERT G. SIMPSON
RIDGWAY K. FOLEY, JR.
THOMAS M. TRIPLETT
ROBERT E. JOSEPH, JR.
STEPHEN B. HILL
PAUL N. DAIGLE
ROBERT T. HUSTON
KENNETH D. RENNER
KENNETH E. ROBERTS, JR.

DONALD JOE WILLIS
J. LAURENCE CABLE
MICHAEL D. HOFFMAN
JAMES D. HUEGLI
HENRY C. WILLENER
TERRY C. HAUCK
MARK H. WAGNER
JOHN G. CRAWFORD, JR.
DON K. LLOYD
NEVA T. CAMPBELL
JOHN E. HART
ROGER A. LUEDTKE
ROY D. LAMBERT
E. J. SIMMONS
DAVID K. McADAMS
W. A. JERRY NORTH
JAMES T. WALDRON
ROBERT D. DAYTON
DAVID W. AXELROD
ANCER L. HAGGERTY
DELBERT J. BRENNEMAN
ROBERT W. NUNN
RODERIC S. MacMILLAN
JAMES E. BENEDICT
STEVEN H. PRATT
DONALD A. HAAGENSEN
RUTH J. WAXMAN
RALPH V. BAKKENSEN
ELIZABETH K. REEVE

EDWIN D. HICKS
COUNSEL

To: Oregon Environmental Quality Commission
Hearing on Agricultural Burning Rules
November 17, 1978
City Council Chamber
Eugene, Oregon

From: Donald A. Haagensen
For the Oregon Seed Council

OREGON, THE CLEAN AIR ACT AND FIELD BURNING RULES

Congress through the Clean Air Act enacted legislation designed to protect and enhance air quality in the United States. In order to achieve this goal Congress set forth specific responsibilities for both the Federal Government and the individual states.

Foremost among the responsibilities for the Federal Government (through the Environmental Protection Agency) was the duty to identify air pollutants which could endanger public health or welfare. 42 U.S.C. §7408. Once identified, national ambient air quality standards were to be established for each pollutant to protect the public health (primary standards) and to protect the public welfare (secondary standards). 42 U.S.C. §7409.

Among the pollutants identified by the EPA was particulate matter, a pollutant produced from numerous sources including field burning. The EPA set standards to control particulate matter based upon total suspended particulate (TSP) present in the air. The standards are (40 C.F.R. §§50.6, .7):

	Primary	Secondary
Annual:	75 micrograms per cubic meter	60 micrograms per cubic meter
24-hour:	260 micrograms per cubic meter	150 micrograms per cubic meter

The primary and secondary annual standards are standards which are not to be exceeded as an annual geometric mean. The 24-hour standards are to be exceeded no more than once per year.

Once pollutant standards are established the primary responsibility for controlling air quality through use of those standards falls to the individual states. The Clean Air Act directs that:

> "Each State shall have the primary responsibility for assuring air quality within the entire geographic area comprising such State by submitting an implementation plan for such State which will specify the manner in which national primary and secondary ambient air quality standards will be achieved and maintained within each air quality control region in such State." 42 U.S.C. §7407.

The state implementation plan (SIP) to be submitted by each state must contain certain information, including

emission limitations and timetables for compliance, which show that the state will meet the national ambient air quality standards. 42 U.S.C. §7410(a)(2)(B). The state through its SIP may also take "such other measures as may be necessary to insure attainment and maintenance of such primary or secondary standard, including, but not limited to, transportation controls, air quality maintenance plans, and preconstruction review of direct sources of air pollution." 42 U.S.C. §7410(a)(2)(B). This section provides a grant of authority to each state to determine in its own discretion what strategies to use to meet the Act's air quality standards.

In August of 1977 Congress amended the Clean Air Act. The amendments divided state air quality areas into two groups, those attaining federal air standards and those not attaining federal standards. For each group the states were required to submit revisions to their SIPs.

Non-Attainment Areas

Oregon identified three areas in the state where the TSP standards were not being met. 43 Fed. Reg. 9028 (1978). The remainder of the state was identified as having TSP levels better than the national standards. Of the three non-attainment areas only one, the Eugene-Springfield Air Quality Maintenance Area (AQMA), has ever been suggested as having possible impacts from particulate matter produced by field burning.

Under the non-attainment provisions of the Clean Air Act Oregon has the duty to submit a revision for particulate matter to its SIP for the Eugene-Springfield AQMA. The revision must provide for attainment of the primary and secondary TSP standards "as expeditiously as practicable" but in no case later than December of 1982 for the primary standard. 42 U.S.C. §7502(a)(1). The revision must provide for the implementation of all reasonably available control measures, require reasonable further progress in making incremental reductions in emissions of particulate matter, and include an inventory of particulate matter sources. 42 U.S.C. §7502(b).

Oregon's revision must also contain a permit requirement for the construction and operation of new or modified "major stationary sources." 42 U.S.C. §7502(b)(6). A "source" is "any structure, building, facility, equipment, installation or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control)." 43 Fed. Reg. 26,380, 26,382 (1978), to be codified at 40 C.F.R. §51.24(b)(4). A "major stationary source" is "any stationary facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant (including any major emitting facility or source of fugitive emissions of any such pollutant, as determined by rule by the [EPA] Administrator)." 42 U.S.C. §7602(j). The

Administrator has not designated any fugitive emission sources as major stationary sources.

None of these requirements for non-attainment area revisions dictate that Oregon adopt a particular scheme of regulation for field burning. Further, none of these requirements dictate that Oregon include a particular scheme of regulations for field burning in its SIP revision or even any regulations at all. The choice of emission limitations, schedules of compliance and other measures necessary to meet the non-attainment area revision requirements is left to Oregon. 42 U.S.C. §7502(b)(8).

The EPA supports these conclusions in its criteria for approval of non-attainment area SIP revisions. 43 Fed. Reg. 21,673 (1978). The EPA criteria provide:

> "The January 1979 [non-attainment] plan revisions dealing with particulate matter must contain all the necessary emission limitations and legally enforceable procedures for traditional sources. . . . Where control of non-traditional sources (e.g., urban fugitive dust, resuspension, construction, etc.) is necessary for attainment, the plan shall contain an assessment of the impact of these sources and a commitment on the part of the state to adopt appropriate control measures, this commitment shall take the form of a schedule to develop, submit, and implement the legally enforceable procedures, and programs for controlling non-traditional particulate matter sources. These schedules must include milestones for evaluating progress and provide for attainment of the primary standards by no later than December 31, 1982, and attainment of the secondary standards as expeditiously as practicable." 43 Fed. Reg. at 21,676 (1978). (emphasis added).

Communications with the EPA group responsible for preparation of these criteria indicate that field burning of grass seed crops as a type of open agricultural burning is a non-traditional source. In the EPA's view non-traditional sources in non-attainment areas need only be controlled to the extent necessary to meet the Clean Air Act schedules set up for attainment.

Attainment Areas

The field burning operations of the grass seed farmers in the Willamette Valley occur in areas that are attaining the national TSP air standards. For these attainment areas and all attainment areas in the state the 1977 amendments to the Clean Air Act require a particulate matter revision to Oregon's SIP. The revision must contain emission limitations and any other measures necessary to prevent significant deterioration (PSD) of air quality in attainment areas. 42 U.S.C. §7471.

To ensure prevention of significant deterioration, the revision must require that specified allowable incremental increases in pollution above 1977 levels are not exceeded. For an area such as the Willamette Valley the maximum allowable increases in TSP are: (a) 19 micrograms per cubic meter on an annual geometric mean basis and (b) 37 micrograms per cubic meter on a twenty-four standard basis which is not to be exceeded more than once a year. 42 U.S.C. §7473(b)(2). In addition, an attainment area revision must ensure that TSP values will not increase above the national ambient air quality standards. 42

U.S.C. §7473(b)(4).

The PSD provisions of the Clean Air Act require that states implement a permit program for any "major emitting facilities" which are to be constructed. 42 U.S.C. §7475. The Act requires the owner or operator of such a facility to demonstrate before obtaining a permit that emissions from the facility will not contribute to air pollution in excess of the PSD increments and the national ambient air standards for the area.

A major emitting facility is:

> "any of the following stationary sources of air pollutants which emit, or have the potential to emit, one hundred tons per year or more of any air pollutant from the following types of stationary sources: [open agricultural burning not listed]. Such term also includes any other source with the potential to emit two hundred and fifty tons per year or more of any pollutant." 42 U.S.C. §7479.

A source is defined as "any structure, building, facility, equipment, installation or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control)." 43 Fed. Reg. 26,380, 26,383 (1978).

None of these requirements for attainment area revisions dictate that Oregon adopt a particular scheme of regulation for

field burning. None of the requirements dictate that Oregon include a particular scheme of regulations for field burning in its SIP revision or even any regulations at all. The choice of emission limitations and other measures necessary to meet the attainment area revision requirements is left to Oregon. 42 U.S.C. §7471.

The DEQ Proposed Field Burning Rules

The DEQ in its Memorandum to the EQC recommending the adoption of proposed rules evaluates the present state of knowledge regarding field burning and national particulate standards:

> "the 180,000 acre limitation in conjunction with the 1978 burning rules resulted in no measureable impact on federal particulate standards due to field burning. Though this seems to indicate greater annual acreage limitations are feasible from the standpoint of meeting federal standards, two factors may argue in favor of continued limitations on burning. First, DEQ results are preliminary and staff could not, based on these results, justify major relaxations in burning rules or limitations and guarantee continued compliance. Second, the need to minimize the nuisance effects of field burning is a far more stringent operational criterion than compliance with federal standards." Memorandum at 5.

The DEQ has also stated that its present intention is to submit as part of its SIP revisions in 1979 all of the field burning rules adopted by the EQC.

Such a submission, however, would not only be incorrect and unwarranted but a surrender of state power. The

Clean Air Act is not based upon subjective evaluations of the need to minimize the nuisance effects of particulate matter. The Act is based upon objective maximum TSP levels that must be attained and maintained. The EPA has neither the authority nor the standards necessary to evaluate an SIP revision based on ability to minimize nuisance effects. Nuisance effects from particulate matter, if they are a valid air pollution criteria, are solely a matter of state concern.

By submitting rules designed to minimize nuisance effects as part of an SIP revision, the state relinquishes its control over those rules and sets the rules "in concrete" as federally enforceable rules. Such a procedure is warranted where required by federal law but borders on humuliating subservience when not so required.

Such a procedure also means that each year as new burning rules are adopted, these rules must be submitted to the EPA and approved before they replace the prior rules. The state and the grass seed farmers are thus annually placed in an impossible situation. Decisions are made and rules are passed not on the basis of well-reasoned, scientific evaluations but instead on last-minute subjective estimates of what is needed to satisfy the particular interest group holding the biggest club. Equity, reasonableness and fundamental fairness require more.

Oregon's 1979 SIP Revisions

The SIP revisions to be submitted by Oregon should contain what is required by the Clean Air Act. The Clean Air Act does not require that rules regulating field burning by grass seed farmers be included in the revisions, but leaves the decision to the discretion of the state.

With regard to the non-attainment revision for the Eugene-Springfield AQMA, if, based upon scientific evidence, it can be concluded that particulate emissions from field burning by grass seed farmers have no measurable impact on attainment of national TSP standards in the AQMA, then the SIP revision should contain no field burning rules.*

If, on the other hand, based upon scientific evidence the regulation of field burning by grass seed farmers was necessary to attain TSP standards in the AQMA, then regulations should be included in the SIP revision. The regulations, however, should reflect solely controls necessary to ensure attainment of national standards. The regulations submitted in the revision should not reflect state criteria not required by the Clean Air Act.

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*For the sake of brevity, only the non-attainment revision is discussed. A similar discussion would apply to the attainment revision based upon a scientific evaluation of whether regulation of particulate emissions from field burning by grass seed farmers would have a measurable impact on meeting PSD requirements.

Ideally the regulations would establish in detail the goals of the smoke management program and set up a general framework for the types of techniques that could be used to reach these goals. The specific techniques to be used on a day-to-day basis would be left to be resolved yearly with the restriction only that the techniques used fall within the general framework and meet the specific goals of the smoke management program. This type of framework would allow flexibility in the field burning program so that a full-scale SIP revision would not be needed every time an improved smoke management technique was discovered or an inappropriate technique was discarded.

Such a regulatory framework is not without precedent. At present slash burning in national, state and private forests in Oregon is regulated pursuant to a smoke management plan which is approved by the DEQ and the State Forester. ORS §477.515. According to the DEQ this plan is incorporated by reference in the present Oregon SIP. The plan sets forth goals for smoke management but does not delineate the exact techniques to be used on a day-to-day basis. These techniques are left to the discretion of the State Forester or are contained in regulations which are not a part of the Oregon SIP.

Testimony before the EQC on Proposed Field Burning Regulations

Good ~~afternoon~~ morning, my name is John Vlastelicia. I am the Director of the Oregon Operations Office of the Environmental Protection Agency, Region 10.

Let me begin by making it clear that I am not here to present EPA's position either for or against the proposed regulation. In short, the information necessary for either the State or EPA to evaluate the regulation's acceptability under the Federal Clean Air Act is not yet available. Rather, my purpose is to make sure that the relationship between this proposed action and Federal Clean Air Act requirements is understood and to outline our concerns about any proposed regulation for field burning. EPA's basic concern is that the final State Implementation Plan (SIP) regulations demonstrate attainment and maintenance of the National Ambient Air Quality Standards (NAAQS).

The relevent requirements of the Clean Air Act can be divided into two areas that must be dealt with immediately and several other areas which should be considered because they will impact this decision when they become effective. The current requirements are SIP revisions for non-attainment areas and protection of the Prevention of Significant Deterioration (PSD) increments. The three other areas which should be considered are: (1) the use of dispersion techniques (possibly including smoke management) to attain and and maintain NAAQS; (2) remedying and preventing visibility impairment in the mandatory Class I areas; and (3) the development of a fine particulate standard.

The most immediate and critical requirement is the SIP revision for the Eugene/Springfield non-attainment area which is to be submitted to EPA by January 1, 1979. This SIP revision must demonstrate attainment of the NAAQS by 1982 through control of those sources impacting the non-attainment area. The State's decision on the control of field burning is only a part of this total SIP revision package. As such, any field burning regulation can only be approved in context with the total strategy. Anticipated delays in final adoption of the State Implementation Plan may inhibit EPA's consideration of any field burning regulation revision. Unless the SIP is revised, the current SIP would still be in effect, limiting burning to 50,000 acres by Federal law.

[redacted] without submission of approvable SIP requirements before the 1979 Field Burning Season begins, once again the interested parties will be facing the alternatives of litigation, or an acceptable Interim Strategy.

As you may recall, the 1978 Interim Strategy, allowing up to 180,000 acres to be burned, was accepted by the Regional Administrator so that the interested parties could conduct the studies necessary to to define the impact of field burning and investigate methods to reduce that impact without legal confrontation. The results of these studies were to be used to develop the permanent control strategy for field burning as well as the Eugene/Springfield non-attainment area SIP revision, both of which were to be submitted by January 1, 1979.

At this time, I would like to briefly discuss two concerns we have with regard to the development of this specific regulation. The first concern is that the proposed regulations would result in a substantial increase in emissions over

those allowed by both the current SIP and the 1978 Interim Strategy. Emissions from field burning during the 1979 and possibly 1980 seasons would be much greater than that allowed under the approved SIP or the 1978 Interim Strategy. I must point out that the 1978 Interim Strategy was accepted by EPA because it employed all reasonable measures and both the emissions and air quality impact under the strategy were expected to be about the same as that which would result under the current SIP. The same is not true for these proposed regulations. Therefore, in the absence of an approvable SIP revision or demonstration that NAAQS and PSD increments will not be violated as a result of the proposed regulation, the Administrator would be faced with enforcing the current 50,000 acre SIP limitation.

Second, the regulation was developed without the final results of the many studies done this year to determine the air quality impact of field burning and to develop methods for reducing that impact. We recognize that state law requires new acreage limitations be set by January 1, 1979, but we do not feel it is appropriate to develop permanent SIP regulations without the benefit of the study results nor possible outside the context of the overall SIP strategy for attaining and maintaining the NAAQS. Again, any proposed SIP revision for field burning must contain a demonstration that the revision will not interfere with attainment and maintenance of NAAQS nor cause or contribute to violations of applicable PSD increments. Presumably, this demonstration will be based on the results of the studies now underway.

The second Clean Air Act requirement which must be considered today is EPA's regulations for the prevention of significant deterioration (PSD). These

regulations require a State Implementation Plan revision which could result in air quality deterioration to include a demonstration that the revision will not cause or contribute to a violation of the applicable increment. Therefore, any proposed SIP revision for field burning must show that an increase in emissions over that allowed in the current SIP will not cause or contribute to violations of the Class II increments in the Willamette Valley or the Class I increments in any of the 5 Class I areas adjacent to the Willamette Valley. Additionally, any increase in emissions allowed for grass burning would consume part of the allowable air quality increment available for growth in other industries.

Other requirements of the Clean Air Act may be relevent to this issue but implementing regulations must be promulgated before the extent of relevence can be determined. First, the use of a smoke management plan to attain and maintain the NAAQS may be prohibited by Section 123 of the Clean Air Act. However, since the implementing regulations for this section are only in the proposal stage, and it is not clear yet whether smoke management plans are covered by the prohibition of Section 123, I am mentioning this only to point out a potential area of conflict. In any case, it should be recognized that the emphasis of the Clean Air Act is on attaining standards through continuous emission reductions and not through the use of dispersion techniques.

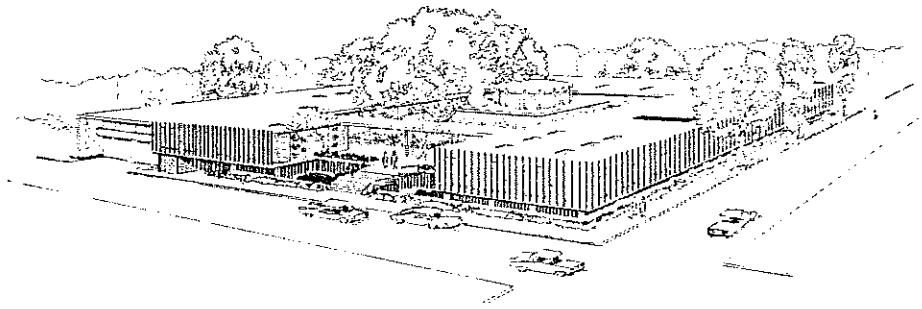
A second, longer range requirement is that of visibility protection for the mandatory Class I areas. The current smoke management plan directs smoke away from the population centers and if possible, out of the Willamette Valley. This approach increases the likelihood that the smoke would impair visibility in the mandatory Class I areas adjacent to the Willamette Valley. When final

regulations are promulgated implementing the visibility goal, the State may well find the need to consider field burning, and slash burning as well, in its SIP regulations for visibility protection.

The last long-term requirement likely to affect field burning is EPA's intent to promulgate a fine or respirable particulate matter standard within the next few years. This will undoubtedly result in additional control strategies for sources of fine particulates, such as field and slash burning.

In closing, I wish to reiterate that EPA's prime concern is that the State develop strategies to attain and maintain the NAAQS. Since the State of Oregon has, in the past, controlled field burning to some degree (i.e. the current SIP), any proposed relaxation of that control (such as a less stringent acreage limitation) must be accompanied by a demonstration that such action would not cause or contribute to violations of the NAAQS or PSD increments.

CITY
OF
EUGENE



OFFICE OF THE CITY MANAGER
503/687-5010

P.O. BOX 1967

EUGENE, OREGON
97401

TESTIMONY BEFORE THE ENVIRONMENTAL QUALITY COMMISSION REGARDING THE PROPOSED REVISIONS TO THE AGRICULTURAL BURNING RULES

NOVEMBER 17, 1978

ALTHOUGH THE CITY OF EUGENE WILL MAKE A NUMBER OF SUGGESTED MODIFICATIONS TO THE PROPOSED RULES, IT GENERALLY SUPPORTS THE APPROACH THAT RULES SIMILAR TO THE TEMPORARY RULES OF 1978 ARE JUSTIFIED FOR THE NEXT FEW YEARS.

THE 1978 TEMPORARY RULES WERE THE RESULT OF RATHER LENGTHY NEGOTIATIONS AMONG THE CITY, THE SEED INDUSTRY, AND DEQ. ALTHOUGH A COMPROMISE POSITION ON THE PART OF THE CITY OF EUGENE, AND A POSITION WITH WHICH THE SEED INDUSTRY DID NOT AGREE, THE 1978 RULES WERE SUCCESSFUL FROM THE STANDPOINT OF AIR QUALITY IN THE EUGENE/SPRINGFIELD AREA. THERE WERE APPROXIMATELY 10 TO 15 HOURS OF SMOKE INTRUSION DUE TO FIELD BURNING, COMPARED TO AN AVERAGE OF 43 HOURS OF SMOKE INTRUSION FOR THE PREVIOUS FIVE SEASONS.

ALTHOUGH THE WEATHER WAS RATHER UNUSUAL THIS SUMMER, WITH A RATHER LENGTHY PERIOD OF RAIN, THE TOTAL NUMBER OF USABLE BURNING

DAYS WAS NOT SUBSTANTIALLY DIFFERENT FROM PREVIOUS SEASONS. THE FIRST SIX WEEKS OF THE SEASON INCLUDED UNUSUALLY DRY WEATHER, WITH AN EXTRAORDINARY NUMBER OF "UNLIMITED VENTILATION DAYS". UPON OUR ANALYSIS OF FIELD BURNING DATA FOR 1978, WE HAVE CONCLUDED THAT THE DRAMATIC REDUCTION IN THE AIR QUALITY IMPACT OF FIELD BURNING ON THE EUGENE/SPRINGFIELD AREA WAS PRIMARILY CAUSED BY THE REVISED SMOKE MANAGEMENT PLAN. IN PARTICULAR, THE NEW RESTRICTIONS ON BURNING IN THE SOUTH VALLEY AND SILVERTON HILLS AREAS, AND THE EXTENSIVE USE OF THE NEPHELOMETER, IN CONNECTION WITH THE ACREAGE RELEASE SYSTEM, SIGNIFICANTLY REDUCED THE NUMBER OF SMOKE INTRUSIONS DURING THE 1978 SEASON. HOWEVER, THE STRIP-LIGHTING AND MOISTURE REQUIREMENTS WERE INEFFECTIVE THIS SUMMER.

OUR ANALYSIS OF DEQ EMISSION TESTS PRODUCED WHAT WE BELIEVE IS RATHER ALARMING INFORMATION. THIS DATA INDICATES THAT A REDUCTION OF ONLY TWO PERCENT IN THE AVERAGE STRAW MOISTURE WHEN 180,000 ACRES OF FIELDS ARE BURNED WOULD REDUCE THE PARTICULATE EMISSIONS BY 5500 TO 6800 TONS. THIS POTENTIAL REDUCTION IS EVEN GREATER THAN THE PREVIOUSLY ESTIMATED <u>TOTAL</u> OF 4000 TONS EMISSIONS, WHICH WAS BASED ON AN ESTIMATED 12 POUNDS PER TON OF RESIDUE. IT APPEARS THAT THE DATA INDICATES AN EMISSION RATE OF 171 POUNDS PER TON AT THE 12 PERCENT STRAW MOISTURE LEVEL. THIS WOULD MEAN THAT 180,000 ACRES OF FIELD BURNING COULD PRODUCE OVER 55,000 TONS OF PARTICULATE. IF DEQ'S DATA IS CORRECT, IT IS ADDITIONAL JUSTIFICATION FOR MAINTAINING AND IMPROVING ITS SMOKE MANAGEMENT PROGRAM.

ALTHOUGH THE CITY OF EUGENE GENERALLY SUPPORTS THE PROPOSED RULES, IT FEELS THAT THERE ARE A NUMBER OF AREAS IN WHICH THEY COULD BE MODIFIED TO INSURE THE CONTINUED SUCCESS OF THE SMOKE MANAGEMENT PROGRAM IN FUTURE YEARS. THESE RECOMMENDATIONS, SIX IN NUMBER, FOCUS ON WAYS TO IMPROVE THE RULES AND MAKE THEM MORE EFFECTIVE, FLEXIBLE, EASIER TO ADMINISTER AND TO ALLOW FOR SOME ADDITIONAL BURNING OPPORTUNITIES. THE FOLLOWING RECOMMENDATIONS INCLUDE (1) A MODIFICATION TO THE ACREAGE RELEASE SYSTEM, (2) A REVISION OF THE MOISTURE CONTENT RESTRICTION, (3) OBJECTIONS TO THE CONTROLLED UP-WIND BURNING IN CERTAIN SOUTH VALLEY PRIORITY AREAS, (4) EXTENSION OF THE STRIPLIGHTING REQUIREMENT, (5) SUPPORT FOR ADDITIONAL PROTECTION FOR EAST VALLEY COMMUNITIES, AND (6) SUPPORT FOR FUTURE ACTIONS WHICH WOULD PLACE ADDITIONAL RESPONSIBILITY AND ACCOUNTABILITY IN THE SEED INDUSTRY IN THE MANAGEMENT OF ITS OWN AIR QUALITY PROBLEMS.

1. UNTIL THERE IS MORE EXPERIENCE WITH THE ACREAGE RELEASE SYSTEM OR NEW METHODS OF REGULATING BURNING ARE DEVELOPED, THE CITY BELIEVES THE RELAXATION OF THE PRESENT LIMITATIONS CANNOT BE JUSTIFIED. THE CURRENT RULE ALLOWS FOR THE FULL 180,000 ACRES TO BE BURNED, IF LESS THAN 13 HOURS OF SMOKE INTRUSIONS ARE RECORDED BY THE NEPHELOMETER BEFORE AUGUST 15. THE USE OF A SINGLE FIXED CUT-OFF DATE IS TOO INFLEXIBLE, AND DOES NOT PROVIDE FOR ANY PROTECTION AGAINST INTRUSIONS DURING THE LATTER PART OF THE SEASON WHEN INTRUSIONS ARE MORE LIKELY TO OCCUR. THE CITY RECOMMENDS A REFINED ACREAGE RELEASE SYSTEM WHICH WOULD REQUIRE THAT THE MAXIMUM ACREAGE BURNED BE REDUCED BY 10,000, IF MORE THAN 5 HOURS OF SMOKE INTRUSION OCCUR IN THE FIRST 4 WEEKS OF THE SEASON, AND THAT THE MAXIMUM LIMITATIONS BE REDUCED BY 30,000 ACRES IF MORE THAN 16 HOURS OF INTRUSIONS OCCUR IN THE FIRST 8 WEEKS OF THE SEASON. THE MAXIMUM REDUCTION WOULD REMAIN 30,000 ACRES.

2. A PRELIMINARY ANALYSIS OF THE DATA COLLECTED DURING THE OPEN BURNING EMISSIONS TESTS THIS SUMMER DEFINITELY SHOWS THAT STRAW MOISTURE IS A MAJOR FACTOR AFFECTING THE AMOUNT OF EMITTED PARTICULATE. ALTHOUGH THE STRAW MOISTURE CONTENT RESTRICTIONS ARE AN EFFECTIVE WAY OF REDUCING PARTICULATE EMISSIONS, THE 12% MOISTURE RESTRICTION SHOULD BE DROPPED IN FAVOR OF A MORE EFFECTIVE AND STREAMLINED METHOD. IT IS RECOMMENDED THAT BURNING BE ALLOWED ONLY WHEN THE RELATIVE HUMIDITY IS BELOW 50%; THAT BURNING BE DEFERRED FOR UP TO 4 DAYS AFTER HEAVY RAINS; THAT THE DEFERRAL PERIOD BE SHORTENED FOR FIELDS THAT HAVE BEEN FLUFFED; THAT THE MOISTURE RESTRICTIONS NOT BE LIFTED ON "UNLIMITED VENTILATION DAYS"; AND THAT THE MOISTURE RESTRICTIONS BE MAINTAINED ON SOUTH WIND DAYS TO PROTECT THE EAST VALLEY COMMUNITIES.

3. THE CITY STRONGLY SUPPORTS THE NEW BURNING RESTRICTIONS IN EASTERN MARION COUNTY AND THE SOUTH VALLEY PRIORITY AREAS, AND THE RESTRICTIONS ON BURNING UP-WIND OF HIGHWAY PRIORITY AREAS. SUCH BURNING, EVEN WITH SPECIAL LIGHTING TECHNIQUES, IS VERY RISKY. HOWEVER, THE CITY DOES OBJECT TO THE NEW PROPOSAL FOR DEQ TO CLOSELY CONTROL BURNING IN THE SOUTH VALLEY PRIORITY AREAS WITH THE HOPE THAT THE SMOKE WILL PASS OVER THE EUGENE/SPRINGFIELD AREA. ALTHOUGH THIS NEW PROPOSAL PRESENTS AN IMPROVEMENT OVER PREVIOUS RULES, IT STILL HAS THE SAME BASIC PROBLEM WHICH COULD RESULT IN UNINTENTIONAL INTRUSIONS INTO THE EUGENE/SPRINGFIELD AREA.

4. THE CITY RECOMMENDS GREATER USE OF INTO-THE-WIND STRIP-LIGHTING. WE ALSO BELIEVE THAT IT SHOULD BE APPLIED TO BOTH ANNUALS AND PERENNIALS LATER IN THE SEASON, WHEN SIGNIFICANT REGROWTH HAS OCCURRED AND WHEN IT SEEMS THAT IT WILL NOT PRODUCE MORE BURNOUT THAN CONVENTIONAL METHODS. THE USE OF SINGLE LINE BACKFIRING IS NOT RECOMMENDED SINCE WE BELIEVE THAT STRIPLIGHTING ACHIEVES THE SAME RESULTS, BUT WITHOUT THE BACKFIRES' ATTENDANT LOSS OF PLUME RISE. IT IS ALSO SUGGESTED THAT THE GROWERS IN THE USE OF STRIP-LIGHTING BE ALLOWED TO USE A HEADFIRE FOR THE LAST TEN PERCENT OF THE FIELD BURNING, SO AS TO REDUCE THE SEVERITY OF THE LOW INTENSITY FIRE PHASE.

5. THE CITY IS SUPPORTIVE OF PROCEDURAL CHANGES WHICH WILL REDUCE THE IMPACT IN THE REST OF THE WILLAMETTE VALLEY AND, IN PARTICULAR, IN THE EAST VALLEY COMMUNITIES. WE BELIEVE THAT MANY OF THE SUGGESTIONS WHICH WE HAVE MADE HERE THIS MORNING WILL ALSO HAVE THE IMPACT OF REDUCING SMOKE IMPACT IN THOSE COMMUNITIES. THE CITY SUPPORTS FUTURE PROCEDURAL CHANGES TO REDUCE THAT IMPACT, AND SUGGESTS THE POSSIBILITY OF SOME TYPE OF ACREAGE RELEASE SYSTEM WHICH WOULD APPLY IN ALL THE METROPOLITAN AREAS OF THE VALLEY.

6. THE CITY RECOMMENDS THAT EQC AND ITS STAFF STRIVE IN FUTURE YEARS TO PLACE ADDITIONAL RESPONSIBILITY AND ACCOUNTABILITY IN THE SEED INDUSTRY IN THE MANAGEMENT OF ITS OWN AIR QUALITY PROBLEMS. THIS WOULD PLACE THE SEED INDUSTRY IN A POSITION WHICH WOULD BE MORE SIMILAR TO THE RESPONSIBILITIES ASSUMED BY OTHER INDUSTRIES THROUGHOUT THE STATE IN AIR QUALITY MATTERS. WHILE AT THIS TIME DEQ HAS ASSUMED BOTH MAJOR MONITORING AND OPERATIONAL ROLES, THIS IS CERTAINLY A UNIQUE SITUATION BECAUSE OF THE SEVERITY OF THE AIR POLLUTION PROBLEM. WE SUPPORT THE CONTINUED EXPLORATION BY EQC OF THE FEASIBILITY OF MOVING IN THE FUTURE TO MORE NORMAL RESPECTIVE ROLES OF DEQ AND THE OREGON SEED INDUSTRY. THE CITY'S POSITION IN THIS MATTER IS PREDICATED ON THE ASSUMPTION THAT ANY NEW APPROACH TO A SMOKE MANAGEMENT PROGRAM WOULD INCLUDE ADEQUATE PERFORMANCE STANDARDS OR PENALTIES TO PROTECT EUGENE'S AIR QUALITY.

IN SUMMARY, THE CITY OF EUGENE'S PRIMARY OBJECTIVE IS THE IMPROVEMENT AND THE MAINTENANCE OF CLEAN AIR IN THE EUGENE/SPRINGFIELD AREA. IN COMPARISON TO PREVIOUS YEARS, THE 1978 BURNING SEASON WOULD HAVE TO BE CONSIDERED TO BE A RELATIVE SUCCESS, AS FAR AS AIR QUALITY IN EUGENE/SPRINGFIELD. WE SUPPORT THE CONTINUATION OF THIS "SUCCESS" AND OFFER THE AFOREMENTIONED MODIFICATIONS TO YOUR PROPOSED RULES AS METHODS TO INSURE THE CONTINUATION OF AN EFFECTIVE SMOKE MANAGEMENT PROGRAM FOR AGRICULTURAL BURNING.

ATTACHED TO THIS PRESENTATION IS ADDITIONAL TECHNICAL INFORMATION PREPARED BY THE CITY'S ENVIRONMENTAL ANALYST IN SUPPORT OF THE AFOREMENTIONED RECOMMENDATIONS.

RESPECTFULLY SUBMITTED,

ROBERT J. ELFERS, REPRESENTING
THE CITY OF EUGENE

M E M O R A N D U M

November 16, 1978

TO: Environmental Quality Commission

FROM: Terry Smith, Environmental Analyst, City of Eugene

SUBJECT: TECHNICAL COMMENTS ON PROPOSED PERMANENT RULE REVISIONS TO AGRICULTURAL BURNING RULES

Evaluation of the 1978 Burning Season

By the end of the 1978 burning season, Eugene and Springfield had experienced 10 to 15 hours of smoke intrusions due to field burning. This compares to an average of 43.5 hours of smoke intrusions from field burning for the 1973 through 1977 seasons. A dramatic reduction in the air quality impact of field burning on Eugene and Springfield was achieved.

A review of the meteorological conditions for this season shows that the rule changes were a major factor in reducing the air quality impact of field burning. The first six weeks of this season were dominated by unusually dry weather with numerous unlimited ventilation days and three or four south wind days. About two-thirds of the total burning for the season was accomplished during this period. Both of the intrusions which occur during this period were the result of mistaken weather forecasts. A long succession of rainy, humid weather began August 12 and lasted through September, preventing most burning. This shifted the remaining third of the burning accomplished into the dry weather during late September and October. This second burning period, though dry, was characterized by poorer atmospheric ventilation. One smoke intrusion occurred during this period which may have been caused by field burning.

The Effect of the Rule Changes

Under the pre-1978 burning rules two types of smoke intrusions occurred: Intrusions caused by unpredicted weather changes and intentional intrusions produced by acreage releases under some north winds in South Valley Priority and Silverton Hills areas. Some of these intentional intrusions were also more intense than expected. Had pre-1978 rules been in effect last season, Eugene and Springfield would have again experienced smoke intrusions from these two areas in spite of the unusual weather. As the staff report indicates, even small quota releases in the special South Priority Areas upwind of Eugene-Springfield were sufficient to send nepholometer readings above the 2.4 value. Clearly then, the new restrictions on burning in the Priority and Silverton Hills areas significantly reduced the number of smoke intrusions during the 1978 season.

Unintentional intrusions caused by weather changes will occur under any set of rules. The probability of such an occurrence is a function of the number of days in which there is burning, the acreage burned, and the stability or predictability of the weather patterns occurring during the burning season. Although burning was interrupted by the long period of rain, the total number of usable burning days was not substantially different from previous seasons. On the other hand, most burning was accomplished during periods when the Pacific high pressure system was especially persistent. The only period when this was not the case was also the rainy period when burning was precluded. Finally, the total acreage burned for the season was just over 152,000 acres. It seems that the total effect of these factors would be a reduction in the probability of an unintentional intrusion. This reduction cannot be quantified, unfortunately, but only two unintentional intrusions occurred and one of these was only one-half hour long.

As the staff report points out, the acreage release system incorporated into the temporary rules and extensive use of the nephelometer were also factors which reduced the number of smoke intrusions. After observing the operation of the smoke management program and monitoring the field burning radio broadcasts during the season, we would agree with this conclusion.

The 12-percent straw moisture rule which took effect after August 15, had a small effect during the season. The rule effectively restricted burning on a few occasions during the middle of the season. The into-the-wind strip-lighting rule had no effect this year due to an almost complete lack of compliance by growers and lack of enforcement by the Department when the rule was invoked.

Apparently then, the new restrictions on burning in the South Valley Priority and Silverton Hills areas were about as effective as the unusual weather in reducing the air quality impact of field burning on Eugene-Springfield. The acreage release system was also effective but as the rules are now written, the moisture and strip-lighting requirements are not being used effectively.

Evaluation of Proposed Permanent Rules

Our evaluation of the proposed rules supports most of the concepts discussed by the Department's staff report to the Commission. In general, the rules are satisfactory but this report will focus on ways of improving the rules to make them more effective, more flexible, easier to administer, and allow for some additional burning opportunities. The recommendations include a modification of the acreage release system to give two releases, a streamlining and extension of the moisture content restriction, objections to the controlled upwind burning in certain South Valley Priority areas, extension of the strip-lighting requirement, and support of the need for additional protection for east valley communities.

Since stable weather was partially responsible for reducing the impact of field burning, it is felt these improvements are necessary to keep the impact small in seasons when more adverse weather conditions occur. Even though field burning had a small impact in Eugene-Springfield this season, the intense impact which occurred in Lebanon and Sweet Home on a few occasions is a reminder of what can happen when smoke management is unsuccessful.

Acreage Limitations

The staff position on the need to retain the 180,000-acre limitation is sound and is supported by the analysis given above on the role weather played in keeping smoke out of Eugene and Springfield. Until there is more experience with these rules or new methods of regulating burning are developed, a relaxation of the present limitation cannot be justified.

As indicated, the nephelometer was a useful tool in the operation of the program this summer. Last year's temporary rules mandated the use of this instrument in the first part of the season. This rule would allow the full 180,000 acres to be burned if less than 13 hours of smoke intrusions were recorded by the nephelometer before August 15. The Department continued to use the nephelometer after August 15 in formulating burn releases.

After analyzing burning and smoke intrusion records from past seasons, it is now clear that there are two operational problems with the present release system. The use of a single, fixed cut-off date is inflexible and does not institutionalize any protection against intrusions during the latter part of the season when intrusions are more likely to occur. We therefore recommend the following modification to this rule: If, by four weeks after the start of the burning season (defined as the first days growers actually conduct burning), over five hours of intrusions are recorded by nephelometers in Eugene and Springfield, the maximum acreage limitation will be reduced by 10,000 acres; and if, by 8 weeks after the start of the season, over 16 hours of intrusions are recorded, the limitation will be reduced by 30,000 acres but the maximum reduction in the limitation is not to exceed 30,000 acres. The justification for this modification follows.

During the 1969 through 1977 burning seasons, the average starting date for burning was July 12, with the standard deviation of that date being +7.3 days. Starting dates ranged from July 1 to July 21. Obviously, any smoke intrusion standard established for August 15 is more easily achieved during a season that starts on July 21 than during a season that starts 20 days earlier. Also, the occurrence of an intrusion, not the date it occurs, is the significant factor. The flexible cut-off times are recommended for this reason and they are more equitable to the growers. During an average season that begins July 12, the first cut-off would occur August 10 and the second would occur September 6.

From an analysis of field burning smoke intrusion incidents from 1973 to 1977, it was found that, on the average, the first smoke intrusion occurs two weeks after the start of the season while succeeding intrusions occur four, five, and six weeks, etc., after the first burn. Obviously, a performance standard based on a single fixed date provides no formal protection against the intrusions which typically occur later in the season. Such protection was provided this year, informally, by the more extensive use of the nephelometer and the proposed modification would formalize this activity. Table 1 shows the cumulative hours of smoke intrusion during the first four and first eight weeks of the five previous seasons examined along with some relevant summary statistics. The five- and 16-hour standards for the four and eight-week cut-off periods were derived by subtracting one standard deviation from the mean values found for the previous seasons.

The question of how strict these standards are and how easily they can be achieved must be addressed. As Table 1 shows, a strong correlation (correlation coefficient = 0.98) exists between the number of hours of smoke intrusions in the first eight weeks of a season and the total acreage burned during that season. A linear regression model was fit to this data. Although the accuracy of a model fit to so few data points is questionable, this model predicts that if 180,000 acres are burned in a season with average weather using pre-1978 burning rules, 24 hours of smoke intrusions would occur in Eugene and Springfield during the first eight weeks of the season. Testimony at previous hearings and experience this season indicate about half of the smoke intrusions which occurred under the old rules were intentional intrusions from the South Valley Priority and Silverton Hills areas. Since the 1978 rules eliminated this group of intrusions, we can reasonably expect that burning 180,000 acres with average weather and the new rules would produce about 12 hours of intrusions in the first eight weeks of the season. During the 1978 season, 8 hours of intrusions occurred in the first eight weeks. Unusually adverse weather could cause the standard to be exceeded and would lead to a reduction in the total burn.

It is worth noting that in principle, the above procedure could be elaborated to develop an extremely flexible performance standard which could be used to regulate the total burn allowed during a season by the meteorology of the season.

Moisture Content Restrictions

A preliminary analysis of data collected during the open burning emissions tests this season, shows that straw moisture is a major factor affecting the amount of particulate emitted from a burning field. The strong influence of moisture on emissions was predicted during last year's hearings from similar tests on rice straw in California. This summer's data seems to indicate that the influence of moisture on emissions from grass straw is about seven times stronger than was found for rice straw. If a complete analysis of the data

supports this finding, then straw moisture restrictions are a most effective means for reducing the impact of field burning. This data indicates that a reduction of only two percent in the average straw moisture when fields are burned would reduce the particulate emissions from burning 180,000 acres by 5,500 to 6,800 tons. [These high values also reflect the overall higher emission rate measured this summer using the improved methods recommended by the City during hearings for last season. Previously, the emission rate for particulate from burning grass fields was thought to be about 12 pounds per ton (lbs/t) of residue but this summer's measurements found the emissions from a headfire to be 171 lbs/t at 12 percent straw moisture. This would lead us to believe field burning in the 180,000 acre range would produce over 55,000 tons of particulate not the 4,000 tons previously estimated. This compares to 16,000 ton/year inventoried emissions from the Eugene-Springfield AQMA.]

These emission reductions are only meaningful, in the short term at least, where human exposure from smoke intrusions occur. Therefore, moisture is useful but less important than the direction the wind is blowing when a field is burned in controlling the impact of field burning on nearby air quality. As has been pointed out, intrusions are going to occur as long as there is burning of large amounts of acreage. The most immediate effect of a moisture restriction, then, would be to reduce the intensity of the intrusions which do occur. (The same is true for the discussion of striplighting which follows.) For this reason we believe the maximum moisture limitation should be further restricted. Data from previous years shows that a more restrictive limitation is feasible, and we believe that permanent rules should be made simpler and less costly to administer.

Several things are apparent from this season's research activities. First, until the straw has been mechanically compacted by heavy rains, straw moisture remains in equilibrium with atmospheric relative humidity during the afternoon burning period. The Department's report on moisture content of grass residues, for example, shows that grass straw moisture is typically less than eight percent after 12 noon when humidity is less than 50 percent. Under these conditions, afternoon relative humidity is an effective way of predicting straw moisture, and the 50-percent relative humidity limitation now in the rules is more restrictive than a 12-percent straw moisture limitation.

After the straw has been compacted by rains, the relationship between moisture and relative humidity is no longer so strong. Several days are required for the straw to dry to 12 percent and the practice of fluffing the straw speeds drying and improves burning. Experience also shows that when straw moisture is high, plume rise from headfires is insufficient to take advantage of unlimited ventilation conditions.

Based on these findings we recommend:

1. That the 12-percent straw moisture limitation be dropped and that no burning be allowed in an area until the relative humidity is less than 50 percent at the nearest reporting station.

Table 1

Hours of B_{scat} > 2.4 from field burning averaged for Eugene and Springfield during the first four and eight weeks of the 1973 through 1977 burning seasons.

Season	Acres Burned	Hours First Four Weeks	Hours First Eight Weeks
1977	172,000	12	25
1976	165,000	4.5	15.5
1975	185,000	7.5	27.5
1974	283,000	10	65
1973	262,000	6	48
	Average=213,400 Acres	Average=8 hours ±3 hours	Average=36.2 hours ±20 hours

Correlation between acres burned and hours of high B_{scat} during first eight weeks:

Correlation Coefficent r=.98

For a perfect correlation, r=± 1

Linear Regression Model fit to data for eight weeks:

Hours of High B_{scat}= .0003555(acres burned)-39.7

2. That burning in an area be deferred one drying day (defined as a day with relative humidity less than 50 percent and no rainfall during the 24 hours) for each 0.10 inch rainfall received at the nearest reporting station with a maximum of four days deferred.

3. That the required drying time may be reduced by one or two days for those fields that have been fluffed.

4. That the moisture restriction not be lifted on unlimited ventilation days.

5. Finally, we question the wisdom of removing the moisture restriction on south wind days as now allowed by the rules. East valley communities are often heavily impacted on south burn days and retaining the moisture restriction on those days would reduce that impact.

Restrictions on Burning Upwind of Eugene and Springfield

We strongly support the staff position on the usefulness of the new burning restrictions in eastern Marion County and the South Valley Priority areas in reducing smoke intrusions. We also support a return to the pre-1978 restrictions on burning upwind of highway priority areas. Such burning, even with special lighting techniques, is very risky.

As the rules are written, we do not support the staff proposal for closely controlled burning in the South Valley Priority areas. Aiming the smoke to go over Eugene and Springfield amounts to trying to shoot the apple off a person's head. This obviously increases the probability of someone being shot with an arrow or of an unintentional smoke intrusion occurring. The pre-1978 rules governing the South Priority Areas used a similar concept; upwind burning would be allowed when it was thought that visibility would not be reduced below 12 miles. As has been pointed out several times, the impact of intentional intrusions was frequently greater than desired. The new proposal represents an improvement but still has the same basic problem and, therefore, seems unwise.

Requirements for Strip-lighting of Annuals and Cereals

We generally agree with the staff recommendation on backfiring and into-the-wind strip-lighting but will recommend some refinements in the strip-lighting rules. The City staff has not recommended the use of single-line backfiring since strip-lighting achieves the same results but without backfire's attendant loss in plume rise. We also agree that under most field conditions, the last 10 percent of a strip-lit field burns as a backfire. The low-level smoke produced during this stage of a strip-light may be more severe than the low-intensity phases of a conventional headfire.

However, the open burning emissions tests clearly demonstrate that for grass straw, backfiring cuts particulate emissions in half. This is identical to the experience with California rice straw. No tests were conducted to measure emissions from strip-lit grass fields but limited data from rice straw shows that emissions from strip-lighting are nearly as low as single-line backfires. We, therefore, believe that strip-lighting can play a useful role in reducing the impact of field burning under some circumstances. We also believe that growers should be encouraged by the Department to make greater use of strip-lighting and that they be allowed to headfire the last tenth of a field burning under a strip-light to reduce the severity of the low-intensity stage of the fire.

There are two circumstances where the emissions reduction potential of strip-lighting is advantageous: When ventilation conditions are less than ideal and when no fire has good plume rise due to high fuel moisture and high regrowth conditions. The proposed rules effectively deal with the first situation but do not address the second one. Last season during the first few weeks that burning resumed after the rainy period, headfires burned slowly with limited plume rise and substantial ground level smoke, even on unlimited ventilation days. At that time, most fields had high regrowth and a large number of fields had straw above 12-percent moisture content. In an experiment conducted by City staff during this period, strip-lighting seemed to have about the same plume rise and burned more rapidly than a conventional headfire but produced a plume with lower visual opacity. We, therefore, recommend that the permanent rules include a provision which requires strip-lighting of all fields during the last part of the season when regrowth has become large enough to markedly affect plume rise.

We are recommending strip-lighting be used both on annuals, as now required, and on perennial grasses late in the season for two reasons. Research at OSU has shown that late-season burning with conventional headfires reduces seed yield in some perennial varieties an average of 20 percent. The high regrowth that exists in these varieties late in the season makes the plant more susceptible to injury and slows flame propogation, substantially increasing plant-flame contact and burnout. Field observations indicate that the flame propagation rate of a strip-light is about the same as a headfire under these field conditions. We, therefore, do not believe that strip-lighting late in the season will produce significantly more burnout than headfiring. Lastly, it has been difficult for the Department to enforce a strip-lighting regulation only on annuals as it is difficult to identify violators. Requiring strip-lighting on all varieties late in the season will eliminate some of this difficulty.

One last concern is the effect of wind speed on plume rise. Field observations show that even a backfire has substantial plume rise when surface winds are minimal. Experience also shows that moderate-to-high surface winds will adversely affect plume rise from a strip-light and that still higher winds will bring even a headfire plume down to the ground. For a number of reasons, burning is not usually allowed when high surface winds exist. More experience will be needed to determine if these limitations are sufficient to prevent the inappropriate use of strip-lighting.

Procedural Changes to Reduce the Smoke Impact in East Valley Communities

After observing the severe smoke intrusion in Lebanon on August 11, the City staff supports the Department's proposal to reduce this impact. These proposals should be discussed widely so they can be made most efficient. It should also be pointed out that the proposed changes described above would also reduce the smoke impact in these communities. Again, in principle, it is possible to extend the acreage release system described above to limit the impact of burning in all metropolitan areas of the Valley.

TS:sp/PW1a5

A STATEMENT TO THE ENVIRONMENTAL QUALITY COMMISSION

Good morning, my name is Robert W. Buscho, Fire Marshal for the City of Portland.

Our position is simple and straightforward: that open burning should be allowed during this aftermath of a severe winter storm. I refer to both types of burning: on site or location and backyard.

Granted this material may not be a fire hazard now but if allowed to accumulate and dry out, it could be a severe problem and public nuisance throughout the city next summer.

I think it's reasonable to allow Portland's citizens, who were hit hard by the recent ice storm, to burn for a short period of time however, only trees, limbs, brush and vegetation they may have on property. This is just good public relations to allow them to clean up yards now, weather permitting. It will also release us from a tremendous financial impact later if the city does not have to haul an additional mass of material left on city streets and curbs.

We support a short "open burning" period during this emergency and consider it as the only viable solution to a very difficult problem facing many homeowners. I am confident it can be done quickly and safely.

Robert W. Buscho
Fire Marshal
City of Portland

NOV 78

ROBERT W. STRAUB
GOVERNOR

Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

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

October 30, 1978

Mr. Roy Burns, Director
Water Pollution Control Division
Environmental Management Department
125 E. 8th Ave.
Eugene, OR 97401

RE: WQ-River Road-Santa Clara Area
Lane County
Willamette Valley Region

Dear Roy:

Thanks for your October 24, 1978 memo. Due to the busy EQC agenda on October 27 in Salem, the status of the River Road-Santa Clara groundwater study was not discussed.

I will bring it to the Commission's attention during the EQC breakfast November 17 in Eugene.

Sincerely,

John E. Borden

John E. Borden, P.E.
Regional Manager

JEB/wr

cc: FMBolton, Carol Splettstaszer
cc: Daryl Johnson, Larry Lowenkron
cc: Gary Messer

Record

11/17/78

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11/17/78

THE IMPACT OF OREGON'S FRANCHISED AUTOMOBILE DEALERS ON THE STATE ECONOMY

PREPARED FOR OADA/OREGON AUTOMOBILE DEALERS ASSOCIATION BY THE NADA ECONOMIC ANALYSIS DEPARTMENT

SUMMARY OF RESULTS

In 1977, Oregon's 397 dealers had a total operating profit of 2.35% of total sales. They had total sales of $1.88 billion, exceeding the previous year's total by 22% and accounting for 22% of Oregon's retail sales. New vehicle department sales accounted for $1.12 billion, while the used vehicle department accounted for $467 million, and service and parts over $290 million.

Oregon dealers sold an estimated 119,788 new cars and 70,060 new trucks, representing increases over last year of 16.8 and 15.2 percent respectively. Used vehicle sales exceeded 239,000 units, and service departments handled over 2.8 million repair orders.

Oregon franchised dealers employed 11,610 people in 1977, accounting for 7.2% of total retail employment. They paid out a total of $128 million in wages and salaries.

The dealers also paid over $22 million in total federal taxes, and over $3.7 million in state, local and real estate taxes. Finally, in addition to providing sales and service to the community, the Oregon dealers contributed over $900,000 to charitable and civic organizations in 1977.

INTRODUCTION

The purpose of this study is to provide the Oregon Automobile Dealers Association with current data on Oregon franchised new car and truck dealers. State and local data are presented, with an analysis of dealer impact on the economy at both levels.

Local data have been grouped into three regions based on state planning districts, as defined by the Oregon State Government. "Region I", the northwestern counties, is made up of the first and second planning districts. It includes the Portland S.M.S.A., plus Columbia, Clatsop and Tillamook Counties. The area contains about 44% of the state's population. The Portland S.M.S.A. alone contains over 40% of the state's population, and

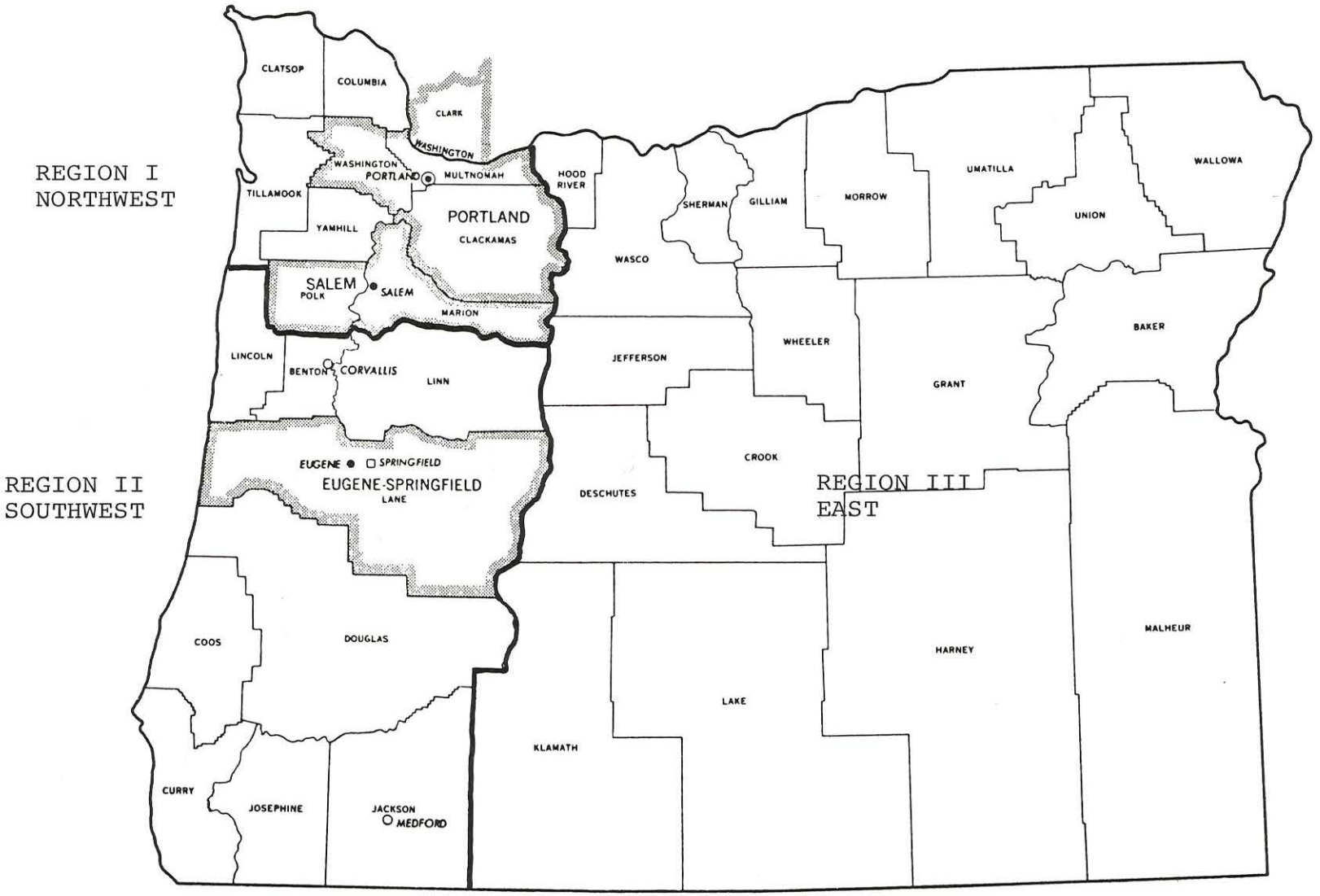


FIGURE 1
OREGON

its per capita personal income is significantly higher than the state average. "Region II", the southwestern counties, is made up of planning districts three through eight. It includes the Salem and Eugene-Springfield S.M.S.A.'s, and all the counties south of them, and it contains about 42% of Oregon's population. "Region III", the eastern counties, includes all of the counties east of Regions I and II, about two-thirds of the state's land area, and 13.1% of the population. Figure 1 details the divisions.

The data used in this study were collected from government sources (both federal and state), industry sources, and from NADA data files. In addition, a survey requesting full year 1977 financial and tax data was mailed May 9, 1978, to all 397 Oregon franchised dealers. A copy of the questionnaire is shown as Figure 5. Responses were received from 93 dealers for a response rate of 23.4%. Since NADA's data files contain data on all Oregon dealers, it was possible to control for non-response bias.

INDUSTRY PROFILE

There were 397 franchised new car dealers in Oregon at the beginning of 1978. Over 73% of these dealers were concentrated in the western third of the state, and most of them around Portland, Salem, and Eugene-Springfield S.M.S.A.'s. Though the present number of franchised dealers is as high as its ever been (there were 395 dealers in 1969), 397 represents a recovery from the early 1970's when the number dropped to less than 370. In much of the country there has been a reduction in the number of dealers over the past ten years resulting in larger unit sales per dealer. In Oregon, new unit sales per dealer have increased to their

highest level (478 in 1978), but the increase is a result of increasing total sales across the state, not a loss of dealers.

In addition to significantly increasing unit sales, Oregon dealers are responsible for servicing a steadily growing vehicle population. In 1968, a total of 1,242,368 vehicles were registered in the state, or 3,169 per dealer. By 1977, total registrations had increased 48% to 1,844,000, or 4,645 per franchised dealer. (See Table 5.) Nationwide registrations increased 42% for the same time period.

The franchised dealers of Oregon sell all types of vehicles -- domestic, imports, and trucks. Of the 397 dealers 224 (56%) handle domestic makes only, 39 (10%) handle both domestic and imports, 96 (24%) handle imports only, and 38 (10%) are exclusive truck dealers. Oregon is somewhat unique with its high percentage of exclusive import dealers. Nationally, only about 15% of all dealers sell imports only. The high percentage of import dealers is reflected in sales where 36% of the passenger cars sold were imports. This represents a difference in the tastes of Oregonians, and is a result of the heavy volume of Japanese cars that come through the port in Portland. The northwestern and southwestern regions contain higher proportions of exclusive import dealers (29.3% and 26.7% respectively), while the eastern region contains a higher proportion of exclusive domestic dealers (61.9%). (See Table 1.)

Employment. Oregon dealers employed 11,610 people in 1977, of whom 20.5% worked in the new vehicle department, 13.6% in the used vehicle department, 41.8% in the service department, 10.9% in the parts department, 1.4% in leasing and rental, and 11.8%

respectively. The southwest region average selling price was $5,797. This low average price is caused by a large volume of small imported cars and a large percentage of fleet sales in the Southwest.

The used vehicle department was most important to dealers in the southwestern and eastern regions where used vehicle sales accounted for 27.2% and 25.3% of total sales respectively, significantly higher than in the northwestern region (20.39%). Nationally, used car sales account for about 20.4% of the dealers total sales. In Oregon, this figure is 24.8%, indicating the relative importance of used car sales in the state. Used vehicle departments accounted for the sale of 239,153 used cars and trucks in 1977, at a value of over $467 million. The average dealer's used vehicle department sold 602 used cars and trucks at a value of $1,176,488.

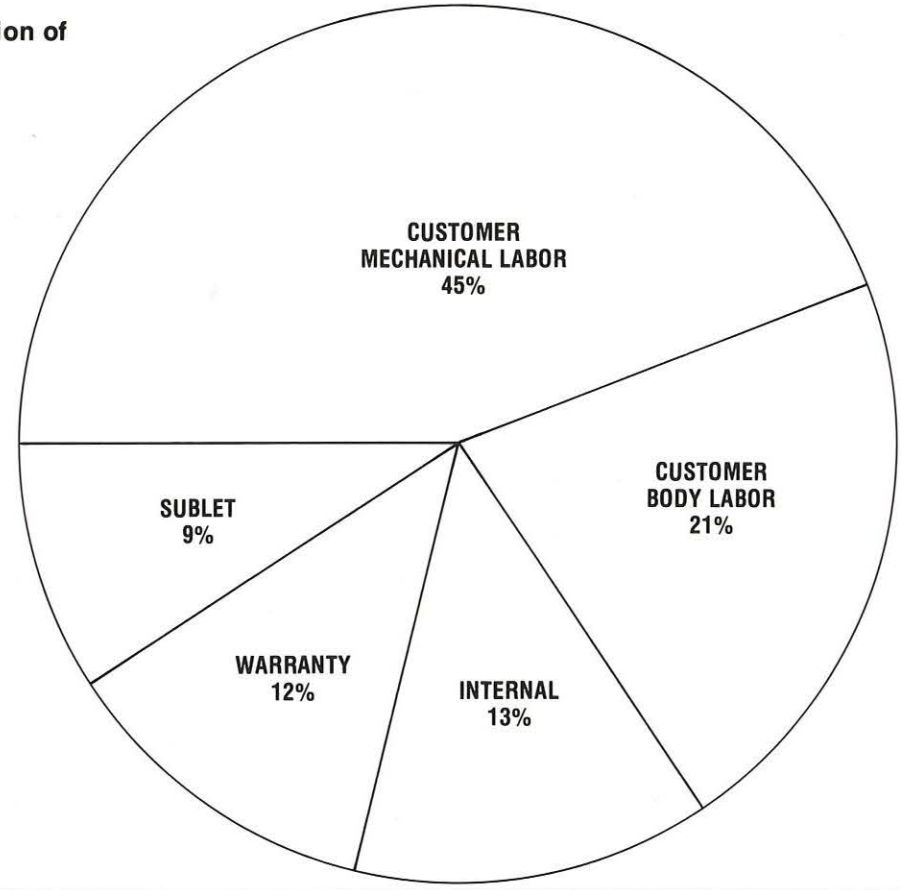
With 1,844,000 vehicles registered in 1977, it is not surprising that the average Oregon dealer had total service and parts sales of $730,985, or 15.4 percent of total sales. The national average is 14.6%. As well as with all other sales categories, the Northwest had the highest average service and parts sales, $1,192,874, or 16.9% of total sales. Service and parts sales accounted for 14.1% of total sales in the Southeast region, and 15.7% in the East.

Service departments accounted for 49.2 percent of Oregon's franchised dealer service and parts sales in 1977. An estimated 2,809,550 repair orders were processed, and $143 million in service sales were taken in. The average Oregon dealer processed 7,077 repair orders and had service sales of $359,338. Figure 3 shows a percentage breakdown of service sales by type. Warranty

FIGURE 3

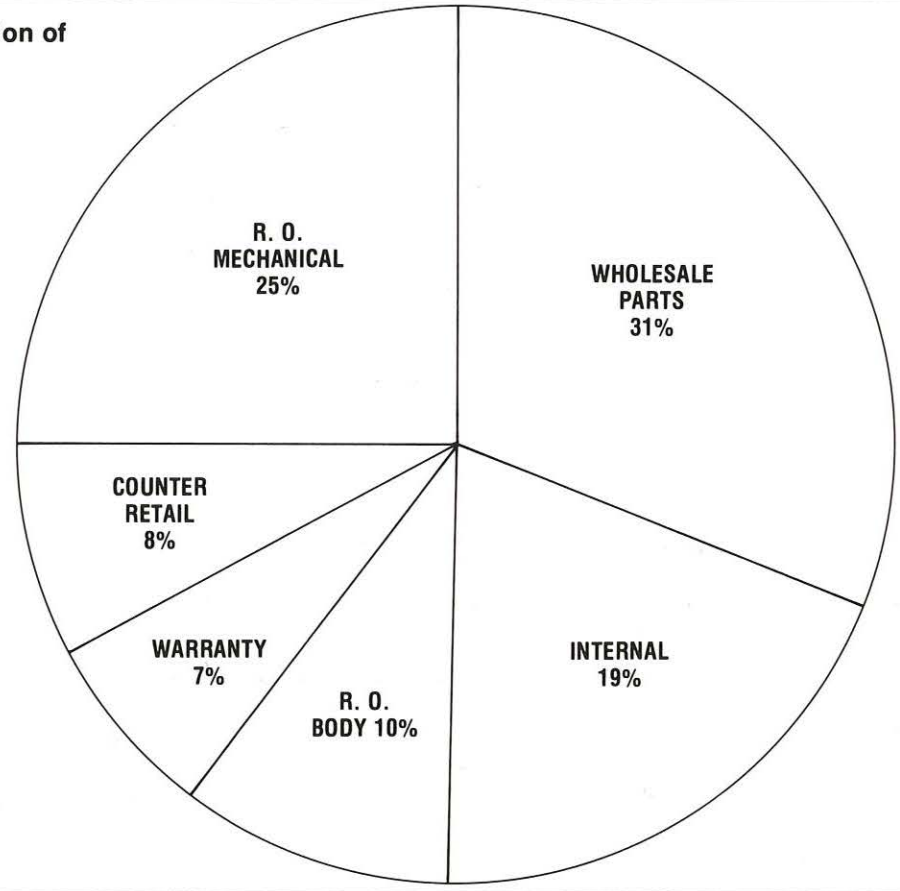
OREGON

Percent Distribution of Service Sales by Type



A

Percent Distribution of Parts Sales by Type



B

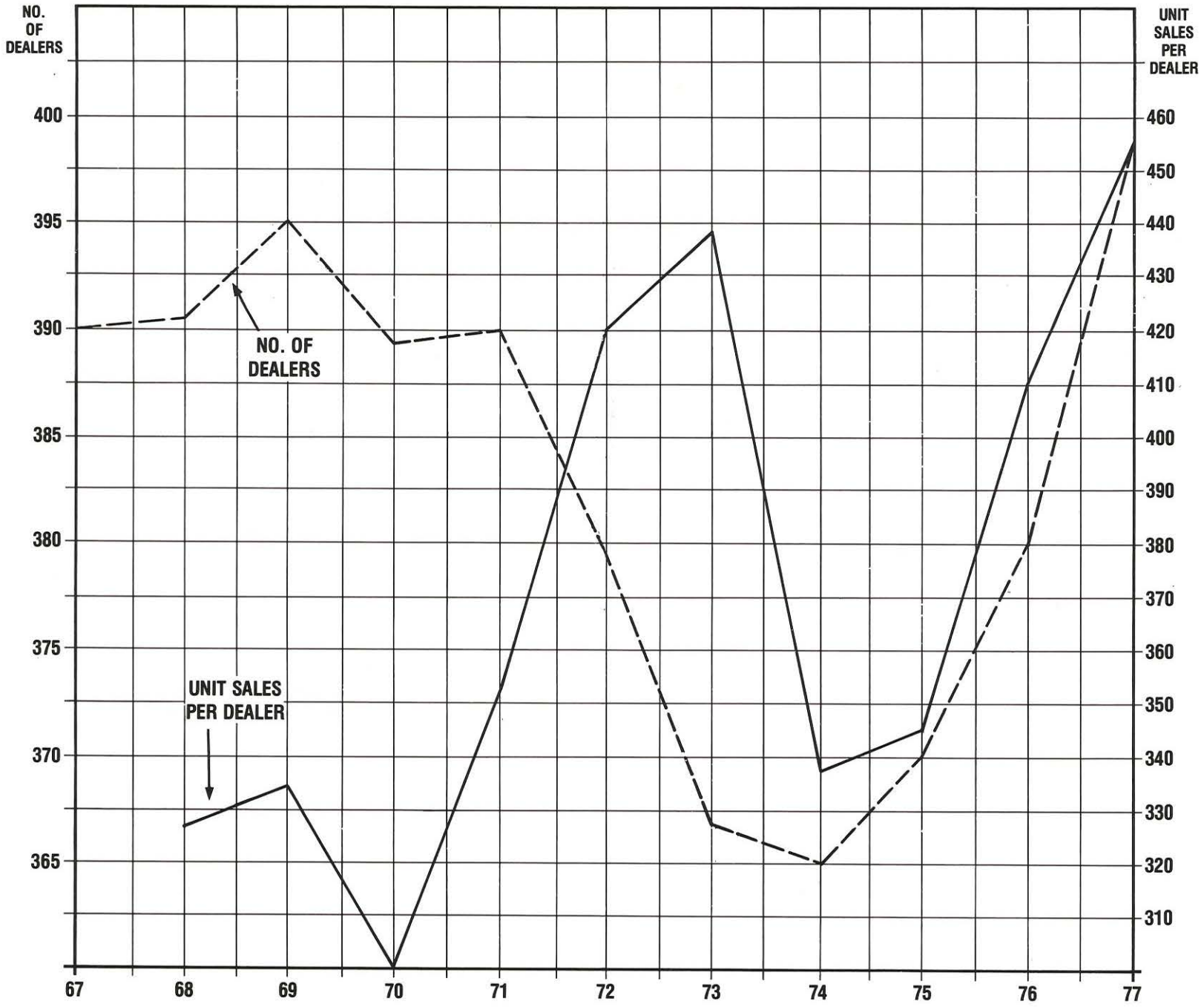
in administration. These employees were paid an estimated $128.6 million in total wages and salaries, with the average dealer paying out $321,291 to 29 employees, and and the average employee receiving an estimated $11,079 per year. The average number of employees per dealer varied significantly from region to region. The dealers around Portland (Region I) averaged 53 employees per dealer and had an average annual payroll of $585,703 per dealer. The southwest region averaged 23 employees per dealer and $253,644 annual payroll, while the more rural eastern region averaged 13 employees and $147,563 annual payroll. (Employment data are contained in Table 2.)

Sales. In 1977, a total of 429,001 new and used cars and trucks were sold by Oregon's franchised dealers, yielding a dollar sales volume of $1.88 billion. The average dealer sold 1,081 new and used vehicles, and had a total dollar sales volume of $4,734,359. Dealers in the Northwest had the highest average sales volume ($7,070,959), followed by the Southwest ($4,303,533), and East ($2,875,087). Nationally, the average dealer had total sales of $4,025,672 in 1977. (Sales data are contained in Table 3.)

The dealers in northwest Oregon also accounted for the largest percentage of new unit sales (43%). Statewide, Oregon's franchised dealer new vehicle departments sold 189,848 new cars and trucks, at a value of $1.12 billion. The average dealer's new vehicle department sold 478 new cars and trucks at a value of $2,826,888. This represents an average new vehicle selling price of $5,911, compared to a national average of $6,120. Both the Northwest and East were very close to this national average, $6,109 and $6,129

FIGURE 2

OREGON UNIT SALES PER DEALER



labor sales accounted for 11.8% of total service sales, above the national average of 8.64%. The survey of Oregon dealers indicates that the warranty labor rate for most dealers was fairly close to the customer labor rate, though the latter was higher. Respondents had an average warranty labor rate of $15.81, which was 93% of their customer labor rate of $17.00. The difference was greatest in the northwest region where the warranty rate ($16.40) was only 91% of the customer rate ($17.95). Labor rates averaged $17.10 customer and $16.01 warranty in the southwest region, and $15.78 customer and $14.78 warranty in the East. Statewide, customer mechanical and customer body labor constituted about 44.8% and 20.9% of total service sales, respectively. Internal service sales were higher than the state average (13.4%) in the Southwest (15.1%) and East (17.1%), probably due to greater used car reconditioning.

Parts sales accounted for 50.8% of total service and parts sales and totaled over $148 million for all Oregon dealers in 1977. The average Oregon dealer had parts sales of $372 thousand, of which 7.0 percent was warranty sales, compared to an 8.5 percent national average. Figure 3 shows a percentage breakdown of parts sales by type.

IMPACT ON OREGON ECONOMY

Oregon's dealers had a total operating profit in 1977 that amounted to 2.35% of total sales. (The national average was 2.12%.) Good profit performance leads to increases in those variables (sales, local expenditures, charitable contributions, etc.) which make franchised new car dealers an important segment of the business community at the state and local level. But just how important are the dealers?

Franchised dealers contributed to the economic well being of the community through the purchase of local resources necessary for dealership operations. Oregon dealers had expenses of over $240 million in 1977. They paid more than $18 million in rent, about $18 million for advertising, and over $4 million for heat, light, and power. In addition to these necessary contributions to the Oregon economy, Oregon dealers contributed over $900 thousand to charitable and civic organizations.

In 1977, Oregon franchised dealer sales accounted for over 22% of total retail sales. By Region, this ratio ranged from a high of 27.9% in the eastern region, to a low of 20.5% in the Northwest. In 1977, franchised automobile dealers ranked second only to grocery stores in terms of this sales ratio, and therefore, are very important to state and local retail sales. (See Table 4.)

Oregon franchised dealers are also important at the state and local level in terms of employment. They employ more than 7 percent of Oregon's retail employees. By Region, this employment ratio ranges from a high of 7.6% in the Northwest, to a low of 6.6% in the Southwest. Dealers in the East employed 7.4% of all retail employees.

Because of the relative importance of dealers with respect to each of the variables mentioned above, growth of the state economy is also a function of dealer sales. In 1977, Oregon dealers' total dollar sales increased by 22%, leading to an 8.9% increase in total retail sales and 13.4% increase in personal

income. The increase in personal income was the seventh largest recorded among the fifty states.

Another measure of the economic importance of franchise dealers is the taxes they pay. In 1977, Oregon franchise dealers paid an estimated $21.8 million in total federal taxes, and over $3.7 million in state, local and real estate taxes. (There is no state sales or excise tax on automobiles in Oregon.)

According to survey results, Oregon dealers are relatively optimistic about their own future profits, significantly more so than they are about the national economy. When asked to indicate on a scale of one to five what they expected for the next twelve months in regards to their dealership's profits before taxes and in regards to the national economy, the following responses were given:

	Substantial Decline				Substantial Improvement
	1	2	3	4	5
Dealership Profits	3.5%	16.3%	45.4%	26.7%	8.1%
National Economy	7.1%	26.2%	54.8%	9.5%	2.4%

Dealer optimism is a closely watched indicator of future car sales. That 35% of Oregon's dealers expect to improve on 1977 profits is a good sign, both for the dealers and for Oregon's economy.

TABLE 1

NUMBER OF FRANCHISED NEW CAR AND TRUCK DEALERS*

REGION	TOTAL	HANDLING DOMESTIC MAKES ONLY	HANDLING BOTH DOMESTIC AND IMPORTED MAKES	HANDLING IMPORTED MAKES ONLY	HANDLING TRUCKS ONLY
Region I (Northwestern Counties)	116	65 (56.0%)	12 (10.4%)	34 (29.3%)	5 (4.3%)
Region II (Southwestern Counties)	176	94 (53.4%)	12 (6.8%)	47 (26.7%)	23 (13.1%)
Region III (Eastern Counties)	105	65 (61.9%)	15 (14.3%)	15 (14.3%)	10 (9.5%)
STATE TOTAL	397	224 (56.4%)	39 (9.8%)	96 (24.2%)	38 (9.6%)

* Captive Imports are counted as Domestics

TABLE 2

EMPLOYMENT, WAGES AND SALARIES

REGION	TOTAL WAGES AND SALARIES (000)	TOTAL EMPLOYEES	WAGES AND SALARIES PER EMPLOYEES	EMPLOYEES PER DEALER	WAGES AND SALARIES PER DEALER
Region I (Northwestern Counties)	$ 68,129	6,165	11,051	53	$585,703
Region II (Southwestern Counties)	44,487	4,034	11,028	23	253,644
Region III (Eastern Counties)	16,016	1,411	11,351	13	147,563
STATE TOTAL	$128,632	11,610	11,079	29	$321,291

TABLE 3

DEALERSHIP AND DEPARTMENT SALES AVERAGES

REGION	TOTAL SALES PER DEALER	NEW VEHICLE DEPT. SALES PER DEALER	USED VEHICLE DEPT. SALES PER DEALER	SERVICE AND PARTS SALES PER DEALER
Region I (Northwestern Counties)	7,070,959	4,442,684 (62.8%)	1,435,405 (20.3%)	1,192,874 (16.9%)
Region II (Southwestern Counties)	4,303,553	2,525,755 (58.7%)	1,170,136 (27.2%)	607,661 (14.1%)
Region III (Eastern Counties)	2,875,087	1,698,314 (59.1%)	726,822 (25.3%)	449,951 (15.6%)
STATE TOTAL	4,734,359	2,826,886 (59.7%)	1,176,488 (24.9%)	730,985 (15.4%)

TABLE 4

RELATIONSHIP OF FRANCHISED NEW CAR DEALERS (FNCD)

TO TOTAL RETAIL TRADE

REGION	TOTAL FNCD SALES (Millions)	TOTAL RETAIL SALES (Millions)	FNCD SALES AS % OF RETAIL SALES	TOTAL FNCD EMPLOYEES	TOTAL RETAIL EMPLOYEES	FNCD EMPLOYEES AS % OF RETAIL EMPLOYEES
Region I (Northwestern Counties)	$ 820	$4,009	20.5%	6,165	81,502	7.6%
Region II (Southwestern Counties)	757	3,296	23.0%	4,034	60,970	6.6%
Region III (Eastern Counties)	302	1,082	27.9%	1,411	19,083	7.4%
STATE TOTAL	$1,879	$8,387	22.4%	11,610	161,550	7.2%

TABLE 5

NEW CAR SALES AND TOTAL REGISTRATIONS

	NUMBER DEALERS AS OF 12/31	TOTAL NEW UNITS SOLD	NEW UNITS SOLD PER DEALER	TOTAL VEHICLE REGISTRATIONS	TOTAL VEHICLE REGISTRATIONS PER DEALER
1968	392	128,872	329	1,242,368	3,169
1969	395	132,633	336	1,334,521	3,379
1970	389	114,405	294	1,369,233	3,520
1971	390	137,395	352	1,431,732	3,671
1972	378	155,222	411	1,500,000	3,968
1973	367	160,711	438	1,605,880	4,376
1974	365	123,370	338	1,579,736	4,328
1975	370	131,236	345	1,627,592	4,399
1976	380	155,830	410	1,790,746	4,712
1977	397	181,380	456	1,844,000	4,645

FIGURE 4 (A)

OREGON IMPACT STUDY

Economic Analysis Department
8400 Westpark Drive, McLean, Virginia 22101

OADA

1. IN WHAT COUNTY ARE YOU LOCATED?_____ C. 16-17

2. ARE YOU A MEMBER OF THE OREGON AUTOMOBILE DEALERS ASSOCIATION?

[1]Yes [2]No C. 18

3. ARE YOU A MEMBER OF THE NATIONAL AUTOMOBILE DEALERS ASSOCIATION?

[1]Yes [2]No C. 19

4. TOTAL WAGES AND SALARIES PAID BY YOUR DEALERSHIP IN 1977? $ □,□□□,□□□ C. 20-26

5. WHAT WERE YOUR TOTAL PERSONAL AND DEALERSHIP CONTRIBUTIONS TO CHARITABLE AND CIVIC ORGANIZATIONS IN 1977? $ □□,□□□ C. 27-31

6. WHAT IS YOUR CURRENT CUSTOMER MECHANICAL LABOR RATE? $ □□.□□ C. 32-35

7. WHAT IS YOUR CURRENT WARRANTY MECHANICAL LABOR RATE? $ □□.□□ C. 36-39

8. ARE ANY OF YOUR SERVICE DEPT. EMPLOYEES COVERED BY A COLLECTIVE BARGAINING AGREEMENT?

[1]Yes [2]No C. 40

9. ARE YOU CURRENTLY INVOLVED IN THE LEASING OF NEW VEHICLES?

[1]Yes [2]No (If no, skip to question 12) C. 41

10. IF SO, DO YOU HAVE A SEPARATE CORPORATION FOR LEASING?

[1]Yes [2]No C. 42

11. HOW MANY UNITS DO YOU HAVE ON LEASE? □□□□ C. 43-46

12. IN YOUR MARKET AREA, HOW MANY DEALERS OTHER THAN YOURSELF HANDLE YOUR PRIMARY MAKE?

[1] None [4] Three-Five

[2] One [5] Over Five

[3] Two C. 47

13. INDICATE THE FORM OF OWNERSHIP OF YOUR DEALERSHIP.

[1] Sole proprietorship [2] Partnership [3] Corporation C. 48

14. ON A SCALE OF ONE TO FIVE, (WITH "1" REPRESENTING SUBSTANTIAL DECLINE AND "5" SUBSTANTIAL IMPROVEMENT), INDICATE WHAT YOU EXPECT FOR THE NEXT 12 MONTHS IN REGARDS TO:

	Substantial Decline				Substantial Improvement	
a. Your dealership's total profits before taxes	[1]	[2]	[3]	[4]	[5]	C. 49
b. The national ecomony in general	[1]	[2]	[3]	[4]	[5]	C. 50

15. DO YOU FAVOR LEGISLATION CREATING A DEALER-MANUFACTURER LICENSING LAW?

[1] Yes [2] No C. 51

OVER

FIGURE 4 (B)

OREGON IMPACT STUDY

The information below should be taken directly from your financial statement.
Use year to date data for the full year 1977.
All information will be held confidential. Do not display cents.

TOTAL DEALERSHIP

	Card	Field	AMOUNT
Total Assets	2	1	
Net Worth		2	
Total Sales		3	
Total Gross		4	
Total Expense		5	
Total Operating Profit		6	
Profit Before Taxes		7	
Profit After Taxes		8	
Total Floor Plan Interest	3	1	
Total Repossession Losses		2	
Total Advertising		3	
Total Rent & Equivalent		4	
Heat, Light & Power		5	
Indirect or Admin. Expense		6	

PERSONNEL

	Card	Field	NUMBER
New Vehicle Dept.	4	1	
Used Vehicle Dept.		2	
Service Dept.		3	
Parts & Access. Dept.		4	
Lease & Rental Dept.		5	
Administrative Employees		6	
Total Employees		7	

NEW VEHICLE DEPARTMENT

	Card	Field	AMOUNT
New Vehicle Sales - Dollars	5	1	
New Vehicle Gross		2	
New Units Sold		3	
New Car Retail Sales - Dollars		4	
New Car Retail Units		5	
New Car Fleet Sales - Dollars		6	
New Car Fleet - Units		7	
New Truck Retail Sales-Dollars		8	
New Truck Retail - Units	6	1	
Total New Vehicle Dept. Exp.		2	

USED VEHICLE DEPARTMENT

	Card	Field	AMOUNT
Used Vehicle Sales - Dollars	7	1	
Used Vehicle Gross		2	
Used Units Sold		3	
Used Car Retail Sales - Dollars		4	
Used Car Retail - Units		5	
Used Truck Retail Sales-Dollars		6	
Used Truck Retail - Units		7	
Total Used Vehicle Dept. Exp.		8	

SERVICE & BODY SHOP

	Card	Field	AMOUNT
Total Service Dept. Sales	8	1	
Total Service Dept. Gross		2	
Cust. Mech. Labor Sales		3	
Cust. Body Labor Sales		4	
Warranty Claim Labor Sales		5	
Internal Labor Sales		6	
Sublet Repair Sales		7	
Total Number of R.O.'s		8	
Total Service Dept. Expense	9	1	

PARTS & ACCESSORIES DEPARTMENT

	Card	Field	AMOUNT
Total P&A Sales	9	2	
Total P&A Gross		3	
P&A R.O. Mech. Sales		4	
P&A R.O. Body Sales		5	
P&A Warranty Claim Sales		6	
P&A Wholesale Sales		7	
P&A Counter Retail Sales		8	
P&A Internal Sales	10	1	
Total P&A Dept. Expense		2	

TAXES

	Card	Field	AMOUNT
Payroll Taxes	10	3	
Real Estate Taxes		4	
Federal Taxes		5	
State and Local Taxes		6	

This report was prepared for the Oregon Automobile Dealers Association by the NADA Economic Analysis Department:

Thomas C. Webb, Manager
Robert A. Howes, Project Leader
Walter J. Bottiny

Manuscript prepared by: Stephanie Reuter

Record

11/17/78

please scan

11/17/1978

LOOK WHO'S SUPPORTING OREGON'S GRASS SEED INDUSTRY!

CHAMBER OF COMMERCE

Monmouth-Independence Area
CHAMBER OF COMMERCE

Harney County
CHAMBER OF COMMERCE

Roseburg Area Chamber of Commerce

PORTLAND
CHAMBER OF COMMERCE

Brookings-Harbor
Chamber of Commerce
Phone 469-2213 • P.O. Box 940 • Brookings, Oregon 97415

KLAMATH COUNTY CHAMBER OF COMMERCE
KLAMATH FALLS, OREGON 97601
TELEPHONE: AREA CODE 503 / 884-5193

...pital City...
SALEM AREA
CHAMBER OF
COMMERCE

Port of Portland
Box 3529 Portland, Oregon 97208
503/233-8331
TWX 910-464-6151

FOREST GROVE CHAMBER OF COMMERCE 1933 21st Avenue, Forest Grove, Oregon 97116

Madras-Jefferson County
CHAMBER of COMMERCE

Hood River County Chamber of Commerce

THE DALLES AREA CHAMBER OF COMMERCE

Corvallis Area Chamber of Commerce
350 S.W. Jefferson Street Corvallis, Oregon 97330 Phone: 757-1505

LAKE OSWEGO CHAMBER OF COMMERCE
500 Fourth Street
Lake Oswego, Oregon 97034
636-3634

BANDON
CHAMBER OF COMMERCE

Brightest spot in Oregon's future
ALBANY AREA
CHAMBER
OF COMMERCE

ON THE OLD OREGON TRAIL
ONTARIO
CAPITAL OF EASTERN OREGON
Chamber of Commerce
MOORE HOTEL BUILDING
ONTARIO, OREGON
97914

NEWPORT
Chamber of Commerce

"LOOK WHO'S SUPPORTING OREGON'S GRASS SEED INDUSTRY"

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"LOOK WHO'S SUPPORTING OREGON'S GRASS SEED INDUSTRY"

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"LOOK WHO'S SUPPORTING OREGON'S GRASS SEED INDUSTRY"

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6	Canby RFPD #62
7	Scotts Mills RFPD
8	Jefferson RFPD
9	Corvallis RFPD
10	Monroe RFPD
11	Southeast Rural Polk
12	Southwest Rural Polk
13	Aumsville RFPD
14	Albany RFPD
15	Harrisburg RFPD
16	Sweet Home RFPD
17	Creswell RFPD
18	Junction City RFPD
19	Cottage Grove RFPD
20	Sublimity RFPD
21	Estacada RFPD
22	Clackamas County Fire District #54
23	Clackamas County Fire District #55
24	Drakes Crossing RFPD
25	Pleasant Hill RFPD
26	Silverton RFPD
27	Benton County Open
28	Benton-Adair RFPD
29	Carlton RFPD
30	Aurora-Donald RFPD
31	Amity RFPD
32	St. Paul RFPD
33	Scio RFPD
34	Halsey-Shedd RFPD
35	Lebanon RFPD
36	Coburg RFPD
37	Lane County, Veneta RFPD
38	Brownsville RFPD
39	Philomath RFPD
40	Cornelius RFPD
41	Forest Grove RFPD
42	Sheridan RFPD
43	Tangent RFPD
44	Washington County Fire Dept. #2

"LOOK WHO'S SUPPORTING OREGON'S GRASS SEED INDUSTRY"

Section IV

LANE COUNTY GRANGES *

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2	Dorena Grange No. 835
3	Four Oaks Grange No. 528
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8	Lorane Grange No. 54
9	Goldson Grange No. 868
10	Walterville Grange No. 416
11	London Grange No. 937
12	Willakenzie Grange No. 498
13	Elmira Grange No. 523
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20	Junction City Grange No. 744
21	Long Tom Grange No. 866
22	Coburg West Point Grange No. 535
23	Hebron Grange No. 845
24	Thurston Grange No. 853
25	Creswell Grange No. 496

* Note: These Granges represent 25 of the 26 Lane County Granges

"LOOK WHO'S SUPPORTING OREGON'S GRASS SEED INDUSTRY"

Section V

OPINION MAKERS

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1.	Port of Portland
3	Western Environmental Trade Association (WETA)
4	Oregon Cow Belles
5	Agripac, Inc.
7	Oregon Wheat League
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8	Lane County Farm Bureau
9	Oregon State Board of Agriculture
11	Benjamin H. Bonnlander, M.D.
13	James L. Erickson, M.D.

SECTION I

CHAMBERS OF COMMERCE

Brightest spot in Oregon's future

ALBANY AREA CHAMBER OF COMMERCE

POST OFFICE BOX 548 · ALBANY, OREGON 97321 · PHONE (503) 926-1517

February 18, 1977

To: All Oregon Chamber of Commerce Presidents & Managers

The decision as to whether grass seed production is to continue as a viable part of Oregon agriculture will soon be made by the 1977 Oregon Legislature. Hundreds of growers, the agri-businesses which they support and the main street merchants and professional men in their home towns all are face to face with a stark economic reality. Unless this session of the legislature takes corrective action to ease field burning restrictions, a sixty-million-dollar industry will be destroyed and the state of Oregon will be several times that amount poorer in the process.

In 1976, the Agriculture and Rural Affairs Committee of the Albany Area Chamber of Commerce recognized that action was needed to prepare for the struggle which will take place in the 1977 session of the Oregon Legislature on the open field burning issue. To that end, a campaign was instituted by this committee that resulted in the promulgation of the enclosed resolution by the Albany Chamber of Commerce and the offer to have a team make a presentation of the issues before any Chamber in Western Oregon that would request it. A number of Chamber did so request.

We now appeal again to our neighboring Chambers, as well as those in Central and Eastern Oregon, that they respond to the Albany Area Chamber of Commerce with a resolution or document indicating their support in order that we may marshall this evidence in package form for presentation to legislators and state officials.

We must recognize that over the years the grass seed growers, on an average basis, have been and are contributing to a research and development fund from which millions of dollars have been spent on alternative methods for the elimination of straw and field sanitizing other than open field burning. To date, in spite of intensive testing and experimenting, no practical solution, either chemical or mechanical, has been forthcoming.

The Smoke Management Program, a cooperative effort between the Department of Environmental Quality and the growers, has demonstrated that field burning is reasonably compatible with air quality standards and that the industry is keenly aware of its responsibility to keep it that way. Now, we must convince the legislature to change present laws which require a rapid phase-out of field burning.

May we reiterate that the 1977 legislature is in session and, therefore, time is of the essence. We ask for your response in the immediate future.

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no other crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that the Albany Area Chamber of Commerce go on record in support of new legislation in lieu of Senate Bill 311 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE ALBANY AREA CHAMBER OF COMMERCE ON THIS 18th day of February, 1977, (Adopted by the Board of Directors)

J. T. Peterson

J. T. Peterson, President

RESOLVED: That the foregoing resolution is recommended by members of the Agriculture and Rural Affairs Committee for adoption to the Board of Directors of the Albany Area Chamber of Commerce this 19th day of January, 1977.

AGRICULTURE AND RURAL AFFAIRS COMMITTEE

Merle H. Manning

Merle Manning, Chairman

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no other crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that the Linn County Chamber of Commerce go on record in support of new legislation in lieu of Senate Bill 311 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE LINN COUNTY CHAMBER OF COMMERCE on this 15th day of February, 1977.

Bill Jordan, President

RESOLVED: That the foregoing resolution is recommended for adoption by the Linn County Chamber of Commerce, by members of the Agriculture and Rural Affairs Committee of the Albany Area Chamber of Commerce, this 19th day of January, 1977.

AGRICULTURE AND RURAL AFFAIRS COMMITTEE

Merle Manning, Chairman

PORTLAND
CHAMBER OF COMMERCE
824 S. W. FIFTH AVENUE • PORTLAND, OREGON 97204
AREA CODE 503 228-9411

March 10, 1977

J. T. Peterson, President
Albany Area Chamber of Commerce
P.O. Box 548
Albany, Oregon 97321

Dear Mr. Peterson:

The Portland Chamber and of course the Agriculture Committee, heartily agree with your Agriculture Committee and the Albany Chamber's resolution dealing with the grass seed industry. We have devised and presented programs supportive of the grass seed industry for the past several years. For example, our 1976 Agricultural Forum featured Bob Lorence's presentation on the need to sustain the grass seed industry.

I am enclosing a copy of the Portland Chamber's Agriculture Committee's position relative to the grass seed industry. This, and additional supportive material will be directed to members of both the Senate and House Agricultural and Natural Resource Committees. As you note this letter clearly states that the grass seed industry is an important segment of the state's agricultural economy. Extensive research has not produced a practical alternative to field burning. Managed open field burning is and can remain an acceptable practice.

The Albany Chamber has the Portland Chamber's support in maintaining a viable grass seed industry.

Sincerely,

Robert K. Ganger

Robert K. Ganger, Manager
Area Development Department

RKG:nle
Enc.

PORTLAND CHAMBER OF COMMERCE

POSITION STATEMENT

The Portland Chamber of Commerce supports a viable grass seed industry which includes a continuing open field burning program.

In 1975 the Portland Chamber went on record in support of an extension to the bill that would severely restrict the amount of acreage that could be burned by grass seed producers in the Willamette Valley. At that time the Committee pointed out that while an intensive research effort had been undertaken to develop a machine to accomplish the sanitizing of the fields, an economic program from that research had not yet evolved. This is still the case today.

At this time the situation is even more critical. If the 1977 session of the Oregon legislature does not take corrective action, there is a very real threat that a 60 million dollar (farm gate value) industry will be destroyed.

The need for remedial action was further highlighted by recent revelations from the Environmental Protection Agency that its own field burning data do not support a tightening of the phase-out schedule for open field burning in the Willamette Valley. We refer you to the enclosed copy of the editorial from the February 27, 1977 Oregonian.

The grass seed industry in Oregon employs approximately 11,000 people and generates an estimated $200 million annually into the Oregon economy. In this time of high unemployment, we question whether the members of the legislature want to add additional Oregonians to unemployment rolls.

A report from the Oregon Agricultural Experiment station released within the past month states: "On the basis of the best information available, we conclude that the application of improved burning, cultural practices and atmospheric forecasting can sustain a grass seed industry in the Willamette Valley". The report states further that a management program could permit the burning of as much as 300,000 acres in any one year.

Considering that Oregon produces a major portion of the grass seed used throughout the world, it is unrealistic to expect buyers not to look elsewhere as grass seed acreage in Oregon is reduced. Likewise it is unrealistic for Oregon to assume that these markets would return at a later date. Competition is strong now and is growing steadily.

The Agriculture Committee of the Portland Chamber of Commerce therefore strongly urges the current session of the Oregon legislature to adopt new legislation in lieu of Senate Bill 311 so that this vital Oregon industry may continue to be a significant part of the Oregon economy.

Hood River County Chamber of Commerce

March 10, 1977

J.T. Peterson, President
Albany Area Chamber of Commerce
P.O. Box 548
Albany, Oregon 97321

Dear Mr. Peterson,

At the March 2, 1977 Hood River County Chamber of Commerce Board of Directors meeting approval was given your resolution in support of continued open field burning.

Our Board of Directors concur that the economic benefit to the Willamette Valley specifically, and all of Oregon generally, justifies its continuence.

Every effort should be directed toward the furtherance of a cooperative program of smoke management between the growers, the seed industry and the DEQ. Air quality for all citizen's of the Willamette Valley is a prime consideration and continued research programs must be ongoing.

Sincerely,

Hugo Shibahara
President, Hood River County Chamber of Commerce

cc: Senator Ken Jernstedt
Representative Wayne Fawbush
Govenor Bob Straub
Corvallis Area Chamber of Commerce

Port Marina Park, Hood River, Oregon 97031
Telephone (503) 386-2000 or 386-2004

Corvallis Area Chamber of Commerce
350 S.W. Jefferson Street Corvallis, Oregon 97330 Phone: 757-1505

2-17-77

POSITION STATEMENT

The Grass Seed Industry and Field Burning

The Corvallis Area Chamber of Commerce supports the Willamette Valley grass seed industry as a viable and vital contributor to the Valley and the state economy. When all positive and negative environmental factors are considered, today's balance is on the positive side and will only become more positive in the future. We share the serious doubts of many as to whether or not the industry can retain its viability under existing law.

The Corvallis Area Chamber of Commerce recommends to the Governor and Legislators that laws be enacted that do not lead to the loss of this industry. The act should allow continued open field burning at not less than the acreage allowed in 1976 managed under an intensive innovative and workable smoke management program that will minimize the effect on air quality. The act should encourage continued research and other efforts to find better solutions to the problem.

FIVE YEARS
ACCREDITED
CHAMBER OF COMMERCE

ON THE OLD OREGON TRAIL

ONTARIO

CAPITAL OF
EASTERN OREGON

Chamber of Commerce

MOORE HOTEL BUILDING
ONTARIO, OREGON
97914

POSITION STATEMENT

RE: The Grass Seed Industry and Field Burning in Oregon

The Ontario Chamber of Commerce recognizes that the grass seed industry in the Willamette Valley plays an important part in the State's economy. Smoke management, as now practiced by the grass seed industry, has been proven effective in improving the environment. Under the smoke management program of last year, field burning contributed very little to air pollution of the Valley.

The Ontario Chamber of Commerce therefore recommends to the Governor and Legislators that laws be enacted to allow continued open field burning at not less than the acreage allowed in 1976 managed under an intensive innovative and workable smoke management program that will further minimize the effect on air quality. Research and other efforts to find better solutions to the problem of air quality should be encouraged, not have laws passed to ban the buring entirely and therefore destroying an entire industry.

R. Roy Probasco,
Executive Secretary

Brookings - Harbor
Chamber of Commerce

Phone 469-2213 • P.O. Box 940 • Brookings, Oregon 97415

February 24, 1977

TO WHOM IT MAY CONCERN:

I urge that the legislature give serious consideration to the Albany Area Chamber of Commerce's request for an exception to the Department of Environmental Control's faze-out program for clearing of grass seed fields by burning.

Consider that the grass seed industry is of great importance to Oregon as a whole as well as the Albany area, and plays a role in world food supply.

Consider also that burning is a method of clearing fields used from prehistoric days to present time in all parts of the world and sanitizes the soil as no other method currently known can.

Thoughtful consideration of this vital issue will be appreciated.

Thank you,

Clifton Cutter

Clifton Cutter
President

Roseburg Area Chamber of Commerce

RIVERSIDE PARK NORTH
PHONE (503) 672-2648

POST OFFICE BOX 1026
ROSEBURG, OREGON 97470

March 4, 1977

Mr. J.T. Peterson, President
Albany Chamber of Commerce
PO Box 548
Albany, Oregon 97321

Dear Mr. Peterson,

The Board of Directors of the Roseburg Area Chamber of Commerc, at their regular meeting of March 1, 1977, passed a motion to support the Albany Chamber of Commerce resolution relating to new legislation that will legalize the continued use of open field burning for the grass seed growers as dated the 18th day of February 1977.

The adopted resolution is enclosed with this letter.

Sincerely,

H.E. Totman
President

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level.

WHEREAS, the end use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no other crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that the Roseburg Area Chamber of Commerce go on record in support of new legislation in lieu of Senate Bill 311 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE ROSEBURG AREA CHAMBER OF COMMERCE on this 1st day of March, 1977.

H.E. Totman, President

RESOLVED: That the foregoing resolution is unanimously supported by the Board of Directors of the Roseburg Area Chamber of Commerce

Charles R. Adams, Manager

"SILVERTON, OREGON . . . . . A BEAUTIFUL PLACE TO LIVE"

Chamber of Commerce

P. O. Box 257

Phone 873-5615

Albany Area Chamber of Commerce
P.O. Box 548
Albany, Oregon 97321

The Silverton Area Chamber of Commerce Board of Directors has voted unanimously to support the Albany Area Chamber of Commerce Resolution regarding the easing of field burning restrictions.

We feel that until an alternate and practical method can be found to sanitize the fields, the burning must continue. Grass production is not only an important industry to Oregon but in this area, it has vast importance as a watershed protection.

Bill Gragg, President

Jack Keys, Manager

The foregoing letter was adopted by unanimous approval of the Silverton Area Chamber of Commerce Board of Directors on March 4, 1977.

Imprint of South Falls, one of the 10 spectacular water cascades in Silver Falls State Park

NEWPORT
Chamber of Commerce

555 S. W. COAST HWY., NEWPORT, ORE.
TELEPHONE 265-2462

March 2, 1977

Albany Area Chamber of Commerce
P OBox 548
Albany, Oregon 97321

Gentlemen:

The Board of Directors of the Newport Chamber of Commerce voted at the February 25, 1977 meeting to go on record to support your resolution for new legislation in lieu of Senate Bill 311 that will legalize the continued use of open field burning under a cooperative smoke management program between the growers and the DEQ.

Sincerely,

Newport Chamber of Commerce

Bob Spangler, President

Bob Spangler

BS:sd

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not sutied for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no other crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that the Stayton Area Chamber of Commerce go on record in support of new legislation in lieu of Senate Bill 311 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE STAYTON AREA CHAMBER OF COMMERCE on this 25th day of February, 1977.

Fred H Graham

Fred Graham, President

FOREST GROVE CHAMBER OF COMMERCE 1933 21st Avenue, Forest Grove, Oregon 97116

March 2, 1977

Mr. J.T. Peterson, President
Albany Area Chamber of Commerce
P.O. Box 548
Albany, Oregon 97321

Dear Mr. Peterson:

The Greater Forest Grove Area Chamber of Commerce through its Board of Directors has on this day adopted the Resolution of the Albany Area Chamber of Commerce in regard to field burning. In support of this Resolution the Forest Grove Chamber of Commerce is sending its Resolutions to our Washington County legislators in both the House and the Senate.

Forest Grove has both major grass seed growers in the area as well as a major seed distributing firm here and the value to our economy makes it necessary that grass seed production be continued as a viable part of Oregon agriculture.

Sincerely,

Tim Schauermann

Tim Schauermann
President

BEAUTIFUL BEACH AT BANDON-BY-THE-SEA

BANDON IS THE CRANBERRY CAPITAL OF OREGON

BANDON CHAMBER OF COMMERCE

REPRESENTING A COMMUNITY OF

Recreational, Industrial and Agricultural Interests

BANDON, OREGON

Feb. 28, 1977

Mr. J.W. Peterson
President Albany Area Chamber of Commerce
P.O. Box 548
Albany, Oregon 97321

Dear Mr. Peterson:

The Bandon Chamber of Commerce in meeting assembled Tuesday, February 22, 1977 unanamously voted to support legislation which would save our grass seed industry from destruction.

We have gotten to the poing where jobs are of vital importance to the welfare of Oregon and despite some discomfort and disturbance caused by industry it is the lifeblood of our state.

We read of recent reports by an Oregon State College authority that the grass seed land smoke was not near as much a contributor to the smoke problem in the valley as other smoke outlets.

Let our farmers continue to burn what is necessary to save the industry until proper alternatives are found.

We feel that our legislature must preserve our economy and legislation to please the ecologists which virtually destroy industries must not be enacted.

Our membership talked on this problem for some time and feel that we are pleased to lend our support to this matter.

Sincerely yours,
Roland L Parks
Roland L. Parks
Secretary

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no other crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that the Nyssa Chamber of Commerce go on record in support of new legislation in lieu of Senate Bill 311 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE NYSSA CHAMBER OF COMMERCE this 8th day of March, 1977.

Ralph Lawrence, Secretary

THE DALLES AREA CHAMBER OF COMMERCE

P. O. Box 460
The Dalles, Oregon 97058

March 7, 1977

Albany Area
Chamber of Commerce
Albany, Oregon 97321

At the March 7 meeting of the directors of The Dalles Area Chamber of Commerce, the following statement in answer to your letter of February 18 regarding field burning, was approved as recommended by the Ag-Forrestry Committee:

We, The Dalles Area Chamber of Commerce, interested in agriculture as a whole, could not, at this point, take a firm stand on whether it is right to burn or not to burn but that it should be recognized that agricultural production has its need for ability to allow burning in specific instances where production relies upon this method of purification. Also agreed that as present technology has not come up with a better method of purification and that present smoke management and control programs, if properly administered and followed, contain the smoke problem as well as possible, that the area should be given more time to develope different methods.

The committee fully recognizes the necessity of controlling air pollution but agrees that a $200,000,000 industry should not be put in jeopardy by imposing impossible restriction.

Sincerely,

THE DALLES AREA CHAMBER OF COMMERCE

Norman M. Scott
President

Burt Ackley
Chairman, Ag-Forrestry Committee

LAKE OSWEGO CHAMBER OF COMMERCE
500 Fourth Street
Lake Oswego, Oregon 97034
636-3634

February 28, 1977

Mr. J. T. Peterson, President
Albany Area Chamber of Commerce
P. O. Box 548
Albany, Oregon 97321

Dear Mr. Peterson:

The Resolution of the Agriculture and Rural Affairs Committee of the Albany Area Chamber of Commerce, concerning grass seed production in Oregon, was read and considered by the Board of Directors of the Lake Oswego Chamber of Commerce.

The Lake Oswego Chamber of Commerce is on record as supporting the position of the Albany Area Chamber of Commerce, and especially in regard to supporting "new legislation in lieu of Senate Bill 311 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ..." etc.

Because of the pressure of time we hope our statement of support, via letter, will be a sufficient demonstration of our support of your position.

Sincerely,

(Mrs.) Dee Denton
Manager

DD:fm

On The Oregon Coast Highway U.S. 101

Family Vacation Paradise

CHAMBER OF COMMERCE

YACHATS, OREGON 97498

Gem of the Oregon Coast

March 8, 1977

Albany Area Chamber of Commerce
P.O. Box 548
Albany, Oregon 97321

Dear Chamber Members:

The Board of Directors of The Yachats Area Cahamber of Commerce supports the Albany Chamber in its effort to procure new legislation in lieu of Senate Bill 311 to allow continued open field burning as proposed.

It is our belief that the economy of this state must be maintained. It is our belief that the DEQ and some of our other lettered agencies in some instances tend to go too far.

We hope that we may have the support of the Albany Chamber in our contention and that of other coastal chambers that LCDC has gone too far with its demands for the coast. It is our opinion that generally local coastal communities, county governments, etc., have a greater knowledge of most environmental needs than does LCDC. Many of us spent much time and effort in the in depth study made by the now eliminated OCC and DC whose findings were largely ignored by LCDC.

We are informing our legislators of our support of your resolution.

Sincerely,

Richard D. Gwillim

Richard D. Gwillim
Secretary

KLAMATH COUNTY CHAMBER OF COMMERCE
KLAMATH FALLS, OREGON 97601
TELEPHONE: AREA CODE 503 / 884-5193

March 10, 1977

Albany Area Chamber of Commerce
P. O. Box 548
Albany, Oregon 97321

Attn. Merle Manning, Chm. Ag and Rural Affairs Committee

The Klamath County Chamber of Commerce Ag Committee submits the following resolution in support of new legislation in lieu of Senate Bill 311.

RESOLUTION

WHEREAS, it has been established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, making the valley one of the few areas of the world with these conditions;

AND WHEREAS, This enables seed growers to be a major source of the marketable seed for the world, generating approximately $200 million to the Oregon Economy;

AND WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for worldwide be retained by growers to obtain their share of the world market;

AND WHEREAS, to attain the required purity of the seed crops the fields that produce them must be sanitized;

AND WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

AND WHEREAS, the end use, worldwide of processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wood supply and one of the prime sources of vegetable protein;

AND WHEREAS, Klamath County is one of the leading areas of both beef and lamb production in the State of Oregon, as well as being the home of one of the largest dairies in Oregon'

AND WHEREAS grass protects and beautifies the environment which is essential to the general welfare of all citizens;

NOW THEREFORE BE IT RESOLVED, that the Klamath County Chamber of Commerce Board of Directors and the Agriculture Committee of the Chamber go on record in support of new legislation in lieu of Senate Bill 311 that would legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ which, as has been demonstrated can result in satisfactory air quality in the Willamette Valley.

Dennis Roach, President

Harney County

CHAMBER OF COMMERCE

PHONE (503)-573-2636

18 "D" Street
BURNS, OREGON 97720

February 22, 1977

Mr. J. T. Peterson, President
Alabany Chamber of Commerce
P.O.B. 548
Albany, Oregon 97321

Dear Mr. Peterson,

It is most obvious that in order to maintain economic stabibilty and any semblance of self determination, we must use every means and total effort to help ourselves and one another.

The resolution presented by Mr. Manning's Ag and Rural Affairs Committee supporting legislation in lieu of SB311 appears to consider most DEQ requirements and is cooperative with smoke management control.

We support this resolution and will lend any assistance we can for corrective legislation. We are asking our legislators to assist in changing the existing laws under SB311 (1975).

Sincerely,

Bob Pepperling per Mel Basch

Bob Pepperling, President

BP:nb

Monmouth-Independence Area

CHAMBER OF COMMERCE

March 4, 1977

Mr. J. T. Peterson
Albany Chamber of Commerce
Box 548
Albany, OR 97321

Dear Mr. Peterson:

We have studied your field burning proposal in detail, we have always supported field burning unless a better substitute is found.

At a general meeting held this date we voted to accept your proposal that new legislationbe made in lieu of house bill 311, and that field burning be legalized to be controlled under a cooperative plan.

Sincerely,

James G. Boyer

James G. Boyer, Executive Director

Madras - Jefferson County
CHAMBER of COMMERCE

PHONE
475-2432 (AREA CODE 503)

BOX 770
MADRAS, OREGON 97741

POSITION STATEMENT

GRASS SEED INDUSTRY AND FIELD BURNING

The Madras-Jefferson County Chamber of Commerce supports the Willamette Valley Grass Seed Industry as a viable and vital contributor to the Valley and the State economy. Our organization is interested since the grass seed industry is also of significant and vital importance to Eastern Oregon as a portion of its economy.

The Jefferson County Chamber believes that field burning in the grass industry is being singled out as creating a problem when many segments of economy are contributing to the problem. Legislation when enacted should control all pollutants contributing to the problem.

When all enviromental factors are considered the impact of the grass seed industry on the Oregon economy is on the positive side of the ledger. Any legislation that further restricts field burning may well ruin this industry in the State.

The Madras-Jefferson County Chamber of Commerce recommends the Governor and the Legislature enact laws to allow continued open field burning of not less than the acreage allowed in 1976 managed under an intensive, innovative and workable smoke management program that will minimize the effect on air quality.

Since field burning is not the only industry which is contributing to the problems that are besetting the Willamette Valley, any legislation should encourage two things.

1. Continued research on means of minimizing the effect of smoke damage from field burning to the enviroment and the alternative means of crop management.

2. Means of controlling pollutants from all industries and other public activities to minimize their effect on air quality of the state and especially in the Willamette Valley.

TILLAMOOK COUNTY CHAMBER of COMMERCE

2105 FIRST STREET – TILLAMOOK, OREGON 97141
PHONE 842-7525

May 24, 1977

Dear Sirs:

The Board of Directors of the Tillamook County Chamber of Commerce, in a unanimous decision voted to join with the Albany Chamber of Commerce resolution, relating to legislation that will legalize the continued use of open Field Burning for the Grass Seed Growers of the Willamette Valley.

Sincerely,

L.E. Andrus
Manager

Oregon's Capital City...

SALEM AREA CHAMBER OF COMMERCE

March 22, 1977

Senator John Powell, Chairman
Agriculture & Natural Resources Committee
Capitol Building
Salem, Oregon 97310

Dear Senator Powell:

As the result of an extensive study done by the Salem Area Chamber of Commerce Agriculture/Food Processing Task Force during the legislative session in 1975 (see attached letter 2-25-75) when the field burning problem was being discussed, and as a result of the lack of economically feasible alternatives to field burning being found, our organization lends its support to SB 535 for the following reasons:

1. This legislation would renew the open field burning under an organized smoke management program. In our opinion, this is a more practical and feasible way to implement field burning limitations.

2. We agree with the bill's stipulation that $2 per acre for burning is much more economically sound than the graduated cost system under existing law, SB 311.

3. Establishment of an Oregon Agricultural Commission consisting of seven members appointed by the director of the Department of Agriculture, as proposed in the new legislation, seems to us to be a very workable plan. In this connection, the seven members should be carefully selected in order to carry out a meaningful and effective program for study, research and development of alternatives to open field burning.

4. With the continuing portent of an "energy crunch," and with the large amounts of fuel that are necessary to operate the large field sanitizing machines, it appears that alternative methods still need to be pursued.

220 Cottage Street N.E. • Post Office Box 231 • Salem, Oregon 97308 • Telephone 503 / 581-1466

We are pleased to support this legislation at a time when a sound economy and jobs are extremely important. This is particularly true in the case of the grass seed industry since it generates approximately $200 million annually to the Willamette Valley and to Oregon and provides an estimated 11,000 jobs. We strongly urge your committee to release SB 535 with a "do pass" recommendation. We hope that our suggestions and support will be of assistance to you in considering this important legislation. It is also requested that this information be included as part of the record at hearings on SB 535.

Sincerely,

Tom Paulus
President

TP/cm
cc: Governor Robert Straub
Jason Boe, Senate President
Philip Lang, Speaker of the House
Marion County Legislators
Agriculture & Natural Resources Committee

PENDLETON CHAMBER OF COMMERCE

37 S.E. DORION PENDLETON, OREGON 97801 AREA 503 276-7411

March 24, 1977

Albany Chamber of Commerce
P.O. Box 548
Albany OR 97321

Gentlemen:

This letter is being written under the direction of a unanimous vote of the Board of Directors on March 23, 1977 at which time they join your Chamber in the following action:

> "Be it resolved that the Pendleton Chamber of Commerce goes on record in support of new legislation that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and others. We do this because we feel the present restrictions are threatening to destroy a major Oregon industry."
>
> "For the Board of Directors"

Sincerely,

Reggie Brown

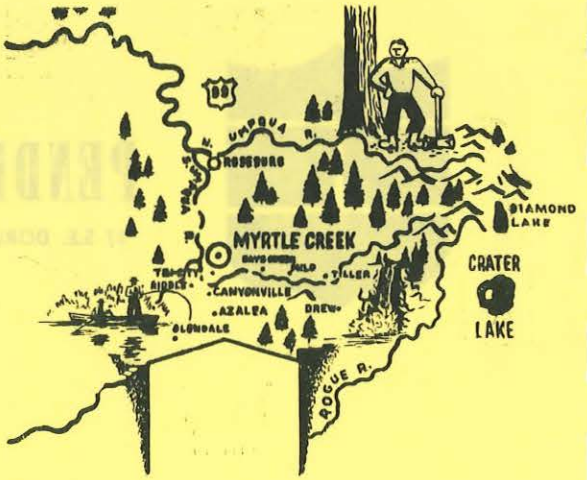
Reggie Brown
President

sjj

CHAMBER of COMMERCE

MYRTLE CREEK, OREGON

March 21, 1977



Merle Manning, Chairman
Agriculture and Rural Affairs Committee
Albany Area Chamber of Commerce
P.O. Box 548
Albany, Oregon 97321

Dear Mr. Manning:

Please be advised that in regular session March 1, 1977, the Myrtle Creek Chamber of Commerce voted to endorse your resolution concerning open field burning for presentation to the 1977 session of the state legislature.

We trust you will make this information available to all parties concerned.

Sincerely,

Michael Hallinan

Michael Hallinan
Secretary

cc: Sen. Jason Boe
Rep. Bill Markham

McMinnville
CHAMBER of COMMERCE
528 Third Street
McMINNVILLE, OREGON
Telephone 472-6196

Position Statement proposal for approval from the Board of Directors

The Grass seed Industry and Field Burning

The McMinnville Chamber of Commerce's Agricuture Committee recommends to the Board and to the Governor that laws be enacted that do not lead to the loss of the Grass Seed Industry.. The act should allow continued open field burning at not less than the acreage allowed in 1976 managed under an intensive innovative and workable smoke management program that will minimize the effect on air quality. The act should encourage continued research and other efforts to find better solutions to the problem.

The McMinnville Chamber of Commerce Board of Directors voted to support the attached Albany Chamber of Commerce resolution at their monthly Board meeting held March 15th, 1977 at the Safari Resturant.

Dr. Paul Jahnke

Dr. Paul Jahnke
Chamber of Commerce President

City of Diversified Enterprise

DALLAS AREA CHAMBER OF COMMERCE

375 Main Street

P.O. Box 377 Phone 623-2564

DALLAS, OREGON 97338

A. CURT LAMB, Manager

March 22, 1977

J. T. Peterson, President
Albany Area Chamber of Commerce
Box 548
Albany, Oregon 97321

Dear Mr. Peterson:

The Dallas Area Chamber of Commerce is deeply concerned about the legislation concerning one of the most important agri-businesses in Oregon. Grass seed growers of the Willamette Valley create $60,000,000 dollars in an industry that is vital to the economy of Oregon, not only in the fact the 11,000 jobs it creates but in the final use of dollars earned by them is spent in the areas in which they live.

To face the stark economic reality that Oregon faces this is no time for agri-business to be harrassed by economic penalties for the burning of their fields for the purpose of sanitizing to guarantee high production of high quality grass seed that Oregon is known for. We hope that through corrective legislation past unrealistic environmental acts will be corrected to set this industry on a progressive and growing future.

It has been proved field burners of the present are still totally inadequate to take care of the job of field burning. Research in mass volume acreage where fields could be burned off in a few days compared to months must be followed up.

We of the Dallas Area Chamber of Commerce go on record in support of new legislation in lieu of Senate Bill 311 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE DALLAS AREA CHAMBER OF COMMERCE on this 22nd day of March, 1977.

A. Curtis Lamb

A. Curtis Lamb, Manager

DALLAS SMILEROO BICENTENNIAL

Chamber of Commerce
P.O. Box 35
Canby, Oregon 97013
PHONE 266-4600

April 6, 1977

Governor Robert L. Straub
Senators Walter Brown, Richard Groener, Kenneth Jernstedt, Anthony Meeker
Representatives Ted Achilles, Roger Martin, Curt Wolfer, Glen Whallon,
Ed Lindquist, Wayne Fawbush and Jack Sumner

Gentlemen:

The Canby Area Chamber of Commerce strongly supports the Willamette Valley's multi-million dollar grass seed industry as a vital part of the economy of Oregon.

We recommend that the Oregon Legislature and Governor allow open field burning at not less than the 1976 allowable acreage, under a practical smoke management program to minimize air pollution. Continuation of research and other efforts to find better solutions to the problem should be encouraged.

This industry is much too valuable economically to Oregon to be sacrificed.

Let us have no laws to destroy it.

Sincerely,

CANBY AREA CHAMBER OF COMMERCE
Duane L. Weeks, President

by Myra Weston, Secretary

cc: Corvallis Area Chamber of Commerce
Albany Chamber of Commerce

JUNCTION CITY
CHAMBER OF COMMERCE

P. O. Box 401 Junction City, Oregon

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one the prime sources of vegetable protein;

WHEREAS, no other crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that the Junction City Chamber of Commerce go on record in support of Senate Bill 535 in lieu of Senate Bill 311 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE JUNCTION CITY CHAMBER OF COMMERCE on this 13th day of April, 1977.

Tom O'Neil

Tom O'Neil President

NORTH BEND Chamber of Commerce
IN THE HEART OF THE GOLD COAST OF OREGON LOCATED BY THE BRIDGE
TELEPHONE 756-4711
NORTH BEND, OREGON 97459

March 28, 1977

Albany Chamber of Commerce
P.O. Box 548
Albany, Oregon 97321

Dear Sirs:

In response to your letter and resolution, we have considered the issue of field burning and its affects to the Albany area.

At our board of directors meeting held Friday, March 25th those directors present agreed that the North Bend Chamber of Commerce would go on record in support of your chamber's resolution.

In view of the importance of the grass seed industry to the Albany area, we can certainly understand what a loss to your economy a complete ban on field burning would cause.

We agree with your resolution that the smoke management program, which has the approval of the Department of Environmental Quality and seems to be successfully working at present, be continued, thus allowing the grass seed industry to remain an important part of Oregon's economy.

Sincerely,

Virginia Prentice

Virginia Prentice, President
NORTH BEND CHAMBER OF COMMERCE

Hillsboro
Chamber of Commerce
174 East Main Street
Hillsboro, OR 97123

April 29, 1977

Senator Blaine Whipple
State Capitol Building
Salem, Oregon 97301

Dear Senator Whipple:

Our Chamber Legislative Committee urges your support and vote for SB 535.

We voted to support this bill. We support reasonable field burning to protect the grass seed industry.

Perhaps teeth can be put into the enforcement of this with the industry pretty well policing itself.

We all must do everything we can to protect an industry and not to destroy one.

Sincerely yours,

HILLSBORO CHAMBER OF COMMERCE
LEGISLATIVE COMMITTEE

Jim Sullivan

Jim Sullivan, Chairman

Dale Halm

Dale Halm, Director

JS/DH/af
cc: Senator Victor Atiyeh
Senator Del Isham
Rep. Mark Gardner

HILLSBORO
Chamber Of Commerce
P.O. Box 394
Hillsboro, Ore. 97123

Enterprise Chamber of Commerce

Enterprise, Oregon 97828

"In The Heart of the Beautiful Wallowa Valley"

May 3, 1977
Enterprise, Oregon

Representative Robert Brogoitti
Room No.368, State Capitol
Salem, Oregon 97310

Dear Bob:

We request that you favorably consider SB 535, to reduce restrictions on grass burning in the Willamette Valley. We are concerned by the continuing proliferation of laws and regulations that increase the cost of doing business or in some cases make it impossible to continue in business. We believe that current laws and regulations governing grass burning fall into this category.

Certainly everyone shares concern for our environment, but we must also start considering the economic impact of actions designed to protect our environment. In some instances the adverse economic impact will make the action counterproductive in the long run. We believe this is the case with the restrictions on grass burning. Grass is vitally needed in our continuing efforts to improve our environment, so let's not kill the grass industry for a questionable short term improvement in air quality. We use the term questionable because burning is a natural process. Man can improve upon nature by controlling the times that he burns to coincide with favorable meteorological conditions. Thus, greatly lessoning the adverse affect on air quality. Therefore, we feel that a yes vote on SB 535 will prove to be an affirmative action for both the economy and the environment.

Sincerely,

Don Swart
President
Enterprise Chamber of Commerce

DS:msr
cc

RESOLUTION

Whereas, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

Whereas, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

Whereas, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

Whereas, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

Whereas, to attain the required purity of the seed crops the fields that produce them must be sanitized;

Whereas, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

Whereas, the end use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

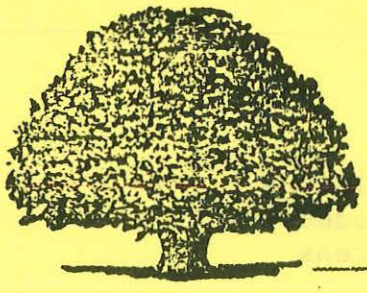
Whereas, no other crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that the Enterprise Chamber of Commerce go on record in support of SB535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE ENTERPRISE CHAMBER OF COMMERCE on this 2nd day of May, 1977.

Don Swart

Don Swart, President



Myrtle Point Chamber of Commerce

IN THE HEART OF THE FAMOUS MYRTLEWOODS

Myrtle Point, Oregon

May 16, 1977

Representative Ed Stevenson
House of Representatives
Salem, Oregon 97310

Dear Representative Stevenson:

This letter is being written under the direction of a unanimous vote of the Myrtle Point Chamber of Commerce on May 16, 1977.

> "Be it resolved that the Myrtle Point Chamber of Commerce goes on record in support of new legislation that will legalize the continued use of open field burning, under a cooperative smoke management program between growers and others. We do this because we feel the present restrictions are threatening to destory a major Oregon industry.."

We ask you to lend your assistance for corrective legislation.

Sincerely,

Jim Myers

Jim Myers, president
Myrtle Point Chamber of Commerce.

cc: Albany Chamber of Commerce

JM/sf

RESOLUTION

WHEREAS, it is established that the soil and climate of selected areas of the State of Oregon are nearly perfect for the production of grass seed, and these areas are among only a few such areas in the world which are suitable;

WHEREAS, the Oregon grass seed industry is a major source of marketable seed for the world, and generates an estimated $200,000,000 annually to the Oregon economy;

WHEREAS, the Oregon grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, to retain the required purity of the seed crops the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economically feasible method that will replace open field burning, and that universal application of current mobile field sanitizers would be damaging to air quality by keeping smoke at ground level;

WHEREAS, the production of grass seed is an essential element of erosion control, and enhances and protects our environment;

BE IT RESOLVED, therefore, that the La Grande-Union County Chamber of Commerce supports the concept of new legislation in lieu of Senate Bill 311 which would,

a) legalize the continued use of open field burning within the Willamette Valley and elsewhere under a cooperative smoke management program between the growers and D.E.Q.,

b) increase the acreage allotment eligible to use open field burning to 235,000 acres, and

c) emphasize continued research to develop economically feasible alternatives to open field burning.

ADOPTED BY THE LA GRANDE-UNION COUNTY CHAMBER OF COMMERCE on the 5th day of May, 1977.

Steve Pearson, Chairman
Resource Council

Lyle Richards, President
La Grande-Union County
Chamber of Commerce

Baker County Chamber of Commerce

490 CAMPBELL STREET - P. O. BOX 69 - (503) 523-5855

BAKER, OREGON 97814

April 7, 1977

To: Honorable Robert Smith
Oregon State Senator
District 30

Honorable Max Simpson
Oregon State Representative
District 59

We, the Board of Directors of the Baker County Chamber of Commerce, oppose any further ban on agricultural open field burning due to no satisfactory alternative and the economic impact of wiping out a multi-million dollar industry in the State of Oregon.

In addition, we oppose banning or prohibiting studded tires in Eastern Oregon and therefore do not support SB 233.

BOARD OF DIRECTORS
BAKER COUNTY CHAMBER OF COMMERCE

John C. Allen, Jr., President

cc: Albany Chamber of Commerce

THE GRANTS PASS & JOSEPHINE COUNTY CHAMBER OF COMMERCE

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no other crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that the Grants Pass & Josephine County Chamber of Commerce go on record in support of new legislation in lieu of Senate Bill 311 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE GRANTS PASS & JOSEPHINE COUNTY CHAMBER OF COMMERCE BOARD OF DIRECTORS on this 28th day of February, 1977.

Cal Wade, President

John T. McMahan, Manager

Astoria Area / Chamber of Commerce

Port of Astoria Bldg.
Foot of Portway St.
Astoria, Oregon 97103
(503) 325-6311

May 9, 1977

Albany Area Chamber of Commerce
P. O. Box 548
Albany, Oregon 97321

Attention: Mr. Merle Manning, Chairman
Agriculture and Rural Affairs Committee

Dear Mr. Manning:

By unanimous vote of our Board of Directors, the Astoria Area Chamber of Commerce supports your resolution and the necessary legislation to extend open field burning by the grass seed industry.

We believe the grass seed industry is very important to the State of Oregon and to the Willamette Valley. The elimination of this industry would be very detrimental.

The economic benefits are very significant. Erosion of farm soil would be substantially increased if the seed growers are forced to terminate.

It has been proven by the Oregon State University and the Department of Environmental Quality that open field burning can be conducted with virtually no pollution.

We have discussed this with our legislative representatives. We offer you our continued support in any way that we can assist.

Very Sincerely,

ASTORIA AREA CHAMBER OF COMMERCE

Roy Hammond
Executive Director

RH:mr

cc: Sen. Charles Hanlon
Rep. Ted Bugas

Lane County Chamber of Commerce, Inc.

OREGON'S SECOND MARKET

COTTAGE GROVE
CRESWELL
EUGENE
FLORENCE
JUNCTION CITY
MCKENZIE RIVER
OAKRIDGE
SPRINGFIELD
WEST LANE
Coburg

May 18th 1977

Junction City Chamber of Commerce

Junction City, Oregon

To Whom it May Concern:

The May 17th meeting of the Lane County Chambers of Commerce polled the attending members as to the results of each Chambers' vote on the resol= lution to support the passage of Senate Bill #535 on Field Burning.

The results are as follows:

Coburg	Voted to support the passage of S.B. #535
Creswell	" " " " " "
Eugene	Voted that they would take no position.
Florence	Voted to support the passage of S.B. #535
Junction City	Presented the resolution in support
McKenzie River	Voted to support the passage of S.B. #535
Oakridge	" " " " " " "
Springfield	Voted that they would take no position
West Lane	Voted that they would support passage of S.B. #535

Respectfully submitted,

Elinore Durnell

ED/sl

Elinore Durnell, President

SECTION II

CITY AND COUNTY OFFICIALS

LEBANON

As elected officials of Willamette Valley cities and towns, we, the undersigned, urge passage of Senate Bill 535 to

1) remove the acreage limitations imposed by the phase-down law on open field burning, and to

2) improve the DEQ's highly successful, intensive, smoke management program.

We recognize the sad, but true, fact that alternatives to open burning have not "panned out". The restrictions on open field burning were set by the 1975 legislature with visions of straw markets, burning machines and other "solutions" becoming possible.

We are aware the field sanitizer machine, upon which so much hope has been placed, is not yet economical. But most significant of all, research has shown that the pollution caused by the machines has not been an improvement over open field burning as related to air quality.

We recognize, again, that the stumbling block of much of the research into alternatives is economics. For instance, profitable markets for straw do not exist.

We realize that while there has been much research, chemicals have not been developed to protect and sanitize the grass seed plants the way burning does.

We also recognize that much of the valley acreage is unsuitable for other crops due to poor soil conditions and poor drainage.

We support SB 535 because the bill recognizes that during proper weather conditions, many acres of grass seed fields can be burned with little harm to air quality.

The bill recognizes the DEQ's success at keeping smoke out of population centers in recent years.

The bill provides for more funds to improve the intensive smoke management program.

We are greatly concerned that the current law (a gradual phase-down of acreage allowed to be burned) would mean the end to grass seed production in Oregon. This would mean economic and environmental damage to the state.

We realize the loss of a basic industry would affect wholesale and retail trade, transportation, schools, contractors and other support industries throughout the state.

We see the possible environmental damage that would come from soil erosion if attempts were made to grow other crops on this land. We abhor the thought of the environmental damage that would result from increased commercial and residential sprawl on land sold by grass seed farmers - forced out of business by the phase down.

To protect our valley and its economic health, we urge the 1977 Legislature to support and pass Senate Bill 535.

NAME	CITY	TITLE
W. F. Speris	Lebanon	Mayor
Walt Shields	Lebanon	Councilor
Betty M Collins	Lebanon	Councilor
Lyle Winters	Lebanon	Councilor
	Lebanon	

ALBANY

As elected officials of Willamette Valley cities and towns, we, the undersigned, urge passage of Senate Bill 535 to

1) remove the acreage limitations imposed by the phase-down law on open field burning, and to

2) improve the DEQ's highly successful, intensive, smoke management program.

We recognize the sad, but true, fact that alternatives to open burning have not "panned out". The restrictions on open field burning were set by the 1975 legislature with visions of straw markets, burning machines and other "solutions" becoming possible.

We are aware the field sanitizer machine, upon which so much hope has been placed, is not yet economical. But most significant of all, research has shown that the pollution caused by the machines has not been an improvement over open field burning as related to air quality.

We recognize, again, that the stumbling block of much of the research into alternatives is economics. For instance, profitable markets for straw do not exist.

We realize that while there has been much research, chemicals have not been developed to protect and sanitize the grass seed plants the way burning does.

We also recognize that much of the valley acreage is unsuitable for other crops due to poor soil conditions and poor drainage.

We support SB 535 because the bill recognizes that during proper weather conditions, many acres of grass seed fields can be burned with little harm to air quality.

The bill recognizes the DEQ's success at keeping smoke out of population centers in recent years.

The bill provides for more funds to improve the intensive smoke management program.

We are greatly concerned that the current law (a gradual phase-down of acreage allowed to be burned) would mean the end to grass seed production in Oregon. This would mean economic and environmental damage to the state.

We realize the loss of a basic industry would affect wholesale and retail trade, transportation, schools, contractors and other support industries throughout the state.

We see the possible environmental damage that would come from soil erosion if attempts were made to grow other crops on this land. We abhor the thought of the environmental damage that would result from increased commercial and residential sprawl on land sold by grass seed farmers - forced out of business by the phase down.

To protect our valley and its economic health, we urge the 1977 Legislature to support and pass Senate Bill 535.

NAME	CITY	TITLE
Raymond A. Dean	Albany	Councilman III
Richard S. Olsen	Albany	" Ward I
Orval H. Hayne	Albany	" Ward I
[illegible]	Albany	Mayor
		Councilman II
J.W. Greene	albany	" " II
Mrs Hamid Keepe	albany	" " III

SILVERTON

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We also recognize that much of the valley acreage is unsuitable for other crops due to poor soil conditions and poor drainage.

We support SB 535 because the bill recognizes that during proper weather conditions, many acres of grass seed fields can be burned with little harm to air quality.

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We see the possible environmental damage that would come from soil erosion if attempts were made to grow other crops on this land. We abhor the thought of the environmental damage that would result from increased commercial and residential sprawl on land sold by grass seed farmers - forced out of business by the phase down.

To protect our valley and its economic health, we urge the 1977 Legislature to support and pass Senate Bill 535.

NAME	CITY	TITLE
[illegible]	[illegible]	[illegible]
Edward Pfeifer	Silverton	City Councilman
Lloyd E. Taylor	Silverton	City Councilman
Victor F. Costanzo	Silverton	City Councilman
John M. Middlemiss	Silverton	City Councilman
[illegible]	[illegible]	[illegible]
Ed Trapp	Silverton	City Engineer
Patricia Lanham	Silverton	Accounting Clerk
Carol Petersen	Silverton	Finance Officer
Fred R. Parkinson	Silverton	MAYOR

ST. PAUL

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NAME	CITY	TITLE
Albert Bernard	St Paul Ore	Pres City Council
[illegible]	St Paul Ore	Mayor
Andrew J. Fiegi	St Paul Or	Councilman
William F. Smith	St Paul Ore	Councilman
Bill Miller	St Paul Ore	Councilman

JUNCTION CITY

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NAME	CITY	TITLE
[illegible]	[illegible]	[illegible]
E. A. Ivey	JUNCTION CITY	COUNCILMAN
[illegible]	[illegible]	Councilman
John E. Mooney	Junction City	Councilman
Larry Crowley	Junction City	Councilman
Floyd C. [illegible]	JUNCTION CITY	COUNCILMAN
[illegible]	[illegible]	[illegible]

HALSEY

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NAME	CITY	TITLE
Larry Sarfe	Halsey	Mayor
Edward Thompson	Halsey	Councilman
Linda F. Conrad	Halsey	Councilperson
Marvin Sawyer	Halsey	Council-man
Buster Stiles	Halsey	Councilman
Charles R Hill	Halsey	Councilman
Lowell M. Campfield	Halsey	Councilman
Alice F. Cockell	Halsey	City Recorder

MONROE

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NAME	CITY	TITLE
[illegible]	Monroe	Mayor
[illegible]	[illegible]	Councilman
[illegible]	Monroe	Councilwoman
[illegible]	Monroe	Councilman
[illegible]	[illegible]	Councilman
[illegible]	Monroe	Councilman
[illegible]	Monroe	Councilwoman

City of Corvallis
INCORPORATED JANUARY 1857

CORVALLIS CITY HALL
501 S.W. MADISON AVENUE
POST OFFICE BOX 1083
CORVALLIS, OREGON 97330

ADMINISTRATIVE OFFICES

CITY MANAGER 757-6901
MAYOR 757-6901
PERSONNEL 757-6902
PUBLIC WORKS DIRECTOR 757-6903

April 5, 1977

Senator John Powell
Member, Senate Agricultural
and Natural Resources Committee
Senate Room 212
State Capitol Building
Salem, Oregon 97310

The Honorable Senator Powell:

This is written to inform you of the action taken by the Corvallis City Council at their regular meeting of April 4, 1977. At that time, Council moved to endorse passage of Senate Bill 535. Their action was prompted by a review of the issue over the past two weeks and the conclusion that this constituted a good compromise with advantage to both sides of this emotional issue. I was instructed to pass this official City position on to you and other appropriate individuals indicating the City Council's position.

If you wish any further information or have any questions please contact me.

Very truly yours,

C. Dean Smith

C. Dean Smith
City Manager

CDS:ns

FOREST GROVE

RESOLUTION NO. 77-33

RESOLUTION EXPRESSING SUPPORT FOR SENATE BILL 535

WHEREAS, the soil, terrain, and climate of the Willamette Valley are almost perfect for production of grass seeds; and

WHEREAS, this suitable environment enables Oregon seed growers to produce a major portion of the marketable seed for the world, and has developed into an industry estimated to generate approximately $200 million to the Willamette Valley and Oregon economy annually; and

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 Oregon jobs; and

WHEREAS, it is essential that the high quality for which Willamette Valley grass seed is noted world-wide must be retained by growers to keep their share of the world market; and

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized; and

WHEREAS, the continuous research into portable field sanitizing equipment during the past several years has not yet produced an economical, feasible alternative to open field burning.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. The Mayor and City Council support the passage of Senate Bill 535, and endorse continued open field burning under a cooperative smoke management program between the growers and the Department of Environmental Quality, State of Oregon.

PRESENTED AND PASSED This 25th day of April, 1977.

I. M. Burnett, Recorder

APPROVED By the Mayor this 25th day of April, 1977.

David Saucy, Jr., Mayor

FOREST GROVE

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NAME	CITY	TITLE
Gudrun W. Klein	Forest Grove	Council
[illegible]	[illegible]	Mayor
[illegible]	[illegible]	[illegible]
Roger Pelton	Forest Grove	City Council
[illegible]	Forest Grove	City Council

DALLAS

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NAME	CITY	TITLE
[illegible]	Dallas	City Council
Victor E. Friesen	Dallas	City Council
Kenneth L. Woods	Dallas	Mayor
Steven Hamilton Bosch	Dallas	City Council
Eileen Mirza	Dallas	City Council
Frank Kottleson	Dallas	City Councilman

MONMOUTH

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NAME	CITY	TITLE
Richard D Enbon	Monmouth	Mayor
Patricia A Jaffery	Monmouth	Councilwoman
Evelyn Veatch	Monmouth	Councilman
Bruce Caldwell	Monmouth	Councilman

INDEPENDENCE

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NAME	CITY	TITLE
John L. Mostbert	Independence	Mayor
Phillip H Darling	Independence	Councilman
Charles L. Harris	Independence	Councilman
Nancy Greer	Independence	Councilwoman
Lyle Sleig	Independence	Councilman
Alan F Dodge	Independence	Councilman
Richard M. Stapleton	Independence	Councilman

SUBLIMITY MILL CITY

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NAME	CITY	TITLE
Jack Gries	Sublimity, Oregon	Rec-Treasurer
George R Bradley	Sublimity Ore.	Councilman
Benjamin J. Hagbaum	Sublimity Ore	Councilman
Clayton Hyslinger	SUBLIMITY, ORE	MAYOR
Gordon L. Burns	Sublimity, Ore	Councilman
Jack Hoffman	Sublimity Ore.	Councilman
Mike C. McClain	Mill City, Or	Councilman
Warren Doffin	Mill City	Councilman
Clayton L. Fuester	Mill City	Councilman
Linda Lynn Caley	Mill City	Councilperson
Ruth A Chant	Mill City	City Recorder

MILLERSBURG

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NAME	CITY	TITLE
[illegible]	Millersburg	Councilman
Barry E. Holsworth	Millersburg	Councilman
Norbert Jeorin	Millersburg	Council man
F. L. Christensen	Millersburg	Councilman
Clayton Wood	Millersburg	Mayor

TANGENT

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NAME	CITY	TITLE
Marta Hansen	Tangent	Councilman
Howard Morrill	Tangent	Councilman
Don Harrold	Tangent	Councilman
Ronald L Partridge	Tangent	Councilman
Jim Mueller	Tangent	Mayor 4/14/77

COBURG

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We are aware the field sanitizer machine, upon which so much hope has been placed, is not yet economical. But most significant of all, research has shown that the pollution caused by the machines has not been an improvement over open field burning as related to air quality.

We recognize, again, that the stumbling block of much of the research into alternatives is economics. For instance, profitable markets for straw do not exist.

We realize that while there has been much research, chemicals have not been developed to protect and sanitize the grass seed plants the way burning does.

We also recognize that much of the valley acreage is unsuitable for other crops due to poor soil conditions and poor drainage.

We support SB 535 because the bill recognizes that during proper weather conditions, many acres of grass seed fields can be burned with little harm to air quality.

The bill recognizes the DEQ's success at keeping smoke out of population centers in recent years.

The bill provides for more funds to improve the intensive smoke management program.

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We realize the loss of a basic industry would affect wholesale and retail trade, transportation, schools, contractors and other support industries throughout the state.

We see the possible environmental damage that would come from soil erosion if attempts were made to grow other crops on this land. We abhor the thought of the environmental damage that would result from increased commercial and residential sprawl on land sold by grass seed farmers - forced out of business by the phase down.

To protect our valley and its economic health, we urge the 1977 Legislature to support and pass Senate Bill 535.

NAME	CITY	TITLE
[illegible]	Coburg	Councilman
Harold Robbins	Coburg	Councilman
Gus Nadquist	Coburg	Councilman
Robert J Kaiser	Coburg	Mayor
[illegible]	Coburg	Councilman
Geraldine Myers	Coburg	Councilwoman

HILLSBORO

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Larry E. Johnson Mayor H. Clifton

Senate Bill 535 relating) CITY OF SALEM
to field burning)

RESOLUTION NO. 77-107

WHEREAS the grass seed industry in Marion and Polk Counties represents 38,650 acres and $8,918,000 in gross cash receipts, which like food processing is a significant economic factor in the Salem area;

WHEREAS sanitizing equipment, still in testing phase has failed as a feasible alternative to open burning;

WHEREAS significant advances in research of smoke management, communications and meterological controls allow open burning during suitable weather conditions under proper control with little harm to air quality;

WHEREAS industry viability and retention of grass seed acreage contributes to compliance with Section 208 of the Federal Water Quality Act through soil erosion control;

WHEREAS a complete phase-down of open burning threatens the demise of the grass seed industry;

WHEREAS retention of acreages in grass seed relieves pressure for land use changes;

WHEREAS, Senate Bill 535 would allow a more realistic acreage burning limitation with a smoke management program;

BE IT RESOLVED THAT THE CITY OF SALEM support passage of Senate Bill 535 as amended April 19, 1977 for the economic benefit and environmental protection of the Salem area.

ADOPTED at Salem, Oregon April 25, 1977

ATTEST: Betty J. Marsh /s/
City Recorder

City of Cottage Grove

400 Main Street Cottage Grove, Oregon 97424

May 11, 1977

OFFICE OF THE MAYOR:

Mr. Merle Manning
c/o Chamber of Commerce
P.O. Box 548
Albany, Oregon 97321

Dear Mr. Manning:

This letter is to advise you that the Cottage Grove City Council has, by a 4-2 vote, indicated their support for the passage of Senate Bill 535.

In granting their support, the Council expressed concern about the negative economic impact that would be created by the loss of the valley seed industry.

Very truly yours,

Darrel Williams

Darrel Williams
Acting Mayor

DW:gm

cc: City Council

SISTERS

As elected officials of Willamette Valley cities and towns, we, the undersigned, urge passage of Senate Bill 535 to

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We are aware the field sanitizer machine, upon which so much hope has been placed, is not yet economical. But most significant of all, research has shown that the pollution caused by the machines has not been an improvement over open field burning as related to air quality.

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We also recognize that much of the valley acreage is unsuitable for other crops due to poor soil conditions and poor drainage.

We support SB 535 because the bill recognizes that during proper weather conditions, many acres of grass seed fields can be burned with little harm to air quality.

The bill recognizes the DEQ's success at keeping smoke out of population centers in recent years.

The bill provides for more funds to improve the intensive smoke management program.

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We realize the loss of a basic industry would affect wholesale and retail trade, transportation, schools, contractors and other support industries throughout the state.

We see the possible environmental damage that would come from soil erosion if attempts were made to grow other crops on this land. We abhor the thought of the environmental damage that would result from increased commercial and residential sprawl on land sold by grass seed farmers – forced out of business by the phase down.

To protect our valley and its economic health, we urge the 1977 Legislature to support and pass Senate Bill 535.

NAME	CITY	TITLE
Peggy Barbeau	Sisters, Ore	Councilwoman
Lou F. Weaver	Sisters, Ore.	Councilman
George Sprout	Sisters Ore	Mayor
William C. Smith	Sisters Or.	Councilman
N H Barker	Sisters, Oregon	Councilman

PHILOMATH

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NAME	CITY	TITLE
Dale L. Collins	Philomath, Ore.	MAYOR
James R Nyman	Philomath Ore	Councilman
Ly C S. Daugherty	Philomath Ore	Councilman
Jean Thomason	Philomath Oreg	City Council
Bonnie Craft	Philomath, Oreg	Council woman
Edward C Chapman	PHILOMATH, ORE	COUNCILMAN
Gerald R. Millard	PHILOMATH ORE	COUNCILMAN

BROWNSVILLE

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To protect our valley and its economic health, we urge the 1977 Legislature to support and pass Senate Bill 535.

NAME	CITY	TITLE
Ralph W. Sheffer	Brownsville	Mayor
[illegible]	"	Councilman
[illegible]	"	"
[illegible]	"	"

HARRISBURG

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NAME	CITY	TITLE
Billy Lathaus	Harrisburg	Mayor
Don C Jenson	Harrisburg	Councilman
Ron H Lee	HARRISBURG	COUNCILMAN
L. F. Moffett	Harrisburg	Councilman.
Gary A. Isom	Harrisburg	Councilman
Charles R. Pogue	Harrisburg	Councilman

SWEET HOME

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NAME	CITY	TITLE
John Makler	Sweet Home	Councilman
R Blair Kirtz	Sweet Home	Mayor
Lawrence E Barton	Sweet Home	Councilman
Ralph Cadenhead	Sweet Home	Councilman
Robert A. Branch	Sweet Home.	Councilman
Ralph E. Wood DDS	Sweet Home.	Councilman
Edward H. Burhop, O.D.	Sweet Home	Councilman
Earl W. McFarlane	Sweet Home	Attorney

CRESWELL

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NAME	CITY	TITLE
Edna McCluskey	Creswell	Councilman
William E Mullan	Creswell	Councilman
Henry A Hare	Creswell	Council
Joe Estes	Creswell	Council
F H Campbell	Creswell	Council

AUMSVILLE

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NAME	CITY	TITLE
Joel F. MATHIAS	Aumsville	MAYOR
Marlene H. Loyd	Aumsville	City Councilman
Gary K. Bates	Aumsville	City Councilman

STAYTON

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NAME	CITY	TITLE
Wayne L. Lacewan	Stayton Ore.	Mayor
[illegible]	Stayton, Ore	Councilman
[illegible]	Stayton Or	Councilman
[illegible]	Stayton, Ore	Councilman
[illegible]	Stayton Ore	Councilman

MT. ANGEL

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To protect our valley and its economic health, we urge the 1977 Legislature to support and pass Senate Bill 535.

NAME	CITY	TITLE
Paul Proebsch	Mt Angel	councilman
Edwin J Bovermann	Mt. Angel	"
Patrick D. Huebsch	Mt. Angel	"
Leonard Stutzke	Mt. Angel	councilman
Robert J Diehl	Mt Angel	"
Leonard N. Fisher	Mt. Angel	Mayor

CITY OF OAKRIDGE

OAKRIDGE, OREGON 97463

OFFICE OF THE MAYOR

May 13, 1977

Albany Chamber of Commerce
P. O. Box 548
Albany, Or. 97321

Attn: Merle Manning

Dear Sir:

The Oakridge city council in its regular meeting of May 5, 1977 voted 5 to 1, with all members present to support SB 535.

The council took this action after considerable debate in which the economic consideration, concerns with the environment, and other related matters were discussed.

Sincerely,

Lawrence J. Stolcup
for
Ronel M. Paddock
Mayor
City of Oakridge

RMP:ls

cc: James Weaver

VENETA

RESOLUTION NO. 148

As elected officials of the City of Veneta Council and by motion passed by four members present at a council meeting held on May 10, 1977, we urge passage of Senate Bill 535 to remove acreage limitations imposed by the phase-down law on open field burning, and to improve the DEQ's highly successful, intensive smoke management program.

We believe the field sanitizer machines are not yet economical and that pollution caused by the machines has not provided substantial improvement over open field burning as related to air quality.

We support Senate Bill 535 because the bill recognizes that during proper weather conditions, many acres of grass seed fields can be burned with little harm to air quality.

There has been success in keeping smoke out of population centers under the DEQ program.

The bill provides for more funds to improve the intensive smoke management program.

We are concerned that the current law creating a gradual phase-down of acreage allowed to be burned would mean the end to grass seed production in Oregon which would mean economic and environmental damage to the state.

We believe that further research can develop chemicals, straw markets and other developments to protect and sanitize the grass seed plants as successfully as burning does. While this research continues, the industry must be protected as a valuable resource of our state.

We feel that the Willamette Valley land must be used for such crops to attain the greatest land use values, both from an economic and employment standpoint. Environmental damage will be caused if this valuable agricultural property is sold for commercial and residential sprawl.

We urge the 1977 Legislature to support and pass Senate Bill 535.

ADOPTED BY THE CITY COUNCIL OF VENETA on May 10, 1977.

Richard Gutman

Richard Gutman, Mayor

ATTEST:

Doris T. Duffield, Recorder

JEFFERSON

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NAME	CITY	TITLE
Toivo Vilkman	Jefferson	Mayor

WOODBURN

As elected officials of Willamette Valley cities and towns, we, the undersigned, urge passage of Senate Bill 535 to

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We recognize the sad, but true, fact that alternatives to open burning have not "panned out". The restrictions on open field burning were set by the 1975 legislature with visions of straw markets, burning machines and other "solutions" becoming possible.

We are aware the field sanitizer machine, upon which so much hope has been placed, is not yet economical. But most significant of all, research has shown that the pollution caused by the machines has not been an improvement over open field burning as related to air quality.

We recognize, again, that the stumbling block of much of the research into alternatives is economics. For instance, profitable markets for straw do not exist.

We realize that while there has been much research, chemicals have not been developed to protect and sanitize the grass seed plants the way burning does.

We also recognize that much of the valley acreage is unsuitable for other crops due to poor soil conditions and poor drainage.

We support SB 535 because the bill recognizes that during proper weather conditions, many acres of grass seed fields can be burned with little harm to air quality.

The bill recognizes the DEQ's success at keeping smoke out of population centers in recent years.

The bill provides for more funds to improve the intensive smoke management program.

We are greatly concerned that the current law (a gradual phase-down of acreage allowed to be burned) would mean the end to grass seed production in Oregon. This would mean economic and environmental damage to the state.

We realize the loss of a basic industry would affect wholesale and retail trade, transportation, schools, contractors and other support industries throughout the state.

We see the possible environmental damage that would come from soil erosion if attempts were made to grow other crops on this land. We abhor the thought of the environmental damage that would result from increased commercial and residential sprawl on land sold by grass seed farmers - forced out of business by the phase down.

To protect our valley and its economic health, we urge the 1977 Legislature to support and pass Senate Bill 535.

NAME	CITY	TITLE
William S Wilson	Woodburn	
M. Hensley	Woodburn Or.	City Councilor
Walter Wirfs	Woodburn Or.	Councilman
Stanley R. Lui	"	Mayor
Jack Davis		Councilman
Harvey Burris		Finance Dir.
Max L Pope	"	City Administrator

BOARD OF COUNTY COMMISSIONERS

KLAMATH COUNTY OREGON

COUNTY COURTHOUSE -:- KLAMATH FALLS, OREGON 97601

April 7, 1977

We are aware that the Legislature is again considering the issue of field burning. Decisions must be based on facts not fears.

The EPA has now admitted its figures on field burning did not support a recommendation that the State tighten up on grass seed field burning.

Field burning is not a dominant factor in causing smoke and air pollution in the Springfield-Eugene area. In fact, State studies show that under the smoke management program less than 3% of the total air pollution was caused by field burning.

Unless the Legislature acts this session to increase the burning quotas, Oregon faces the loss of a substantial part of a major industry. The facts now indicate that slash and other burnings, together with automobiles, are the real air problems in the Willamette Valley and not the small smoke contributions from the grass seed growers.

We respectfully request your support of SB 535.

Sincerely,

BOARD OF COUNTY COMMISSIONERS

/s/ Lloyd Gift
Lloyd Gift
Chairman of the Board

/s/ Nell Kuonen
Nell Kuonen
County Commissioner

/s/ Raymond P. Thorne
Raymond P. Thorne
County Commissioner

Letter sent to:

Senator Heard
Senator Hannon
Representatives:
Gary Wilhelms
Kip Lombard
Sam Johnson

GILLIAM COUNTY

CONDON, OREGON 97823

COUNTY OFFICIALS

COUNTY JUDGE

COMMISSIONERS

ASSESSOR

CLERK-RECORDER

DISTRICT ATTORNEY

JUSTICES OF THE PEACE

SHERIFF

SCHOOL SUPT.-TAX COLLECTOR

ROAD DEPARTMENT

PLANNING DEPARTMENT

April 6, 1977

Mr. Merle W. Manning, Chairman
Agriculture and Rural Affairs Committee
Albany Area Chamber of Commerce
P.O. Box 548
Albany, Oregon 97321

Dear Mr. Manning,

We would like to go on record as being in support of Senate Bill 535 as a move in the right direction for Oregon's grass seed industry. Although we are not directly involved with the grass seed industry here in Gilliam County, we are concerned and wholeheartedly support the needs of one of Oregon's vital industries.

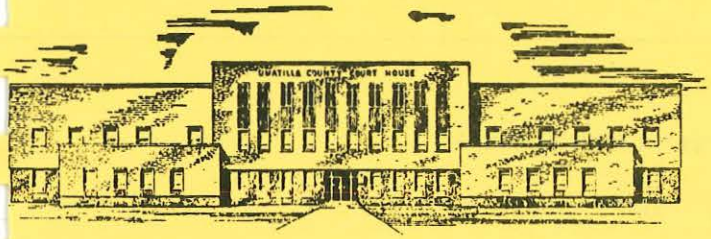
GILLIAM COUNTY COURT

Gilliam County Judge

County Commissioner

County Commissioner

GCC/sm



UMATILLA COUNTY
BOARD OF COMMISSIONERS

F. K. "Woody" Starrett
Barbara Lynch
Ford Robertson

P.O. Box 1427
Ph: 503 276-7111

216 Southeast 4th
Pendleton, Oregon 97801

J. Dean Fouquette, Administrative Assistant

April 11, 1977

Mr. Robert Barrett
Albany Chamber of Commerce
P.O. Box 687
Albany, Oregon 97321

Dear Mr. Barrett:

Attached you will find a resolution which supports Senate Bill 535 relating to field burning. The Commissioners feel the issues at hand involved in this Senate Bill will affect our area in the long run, in addition to creating an adverse hardship on those counties directly involved.

Sincerely,

Marcia Wells
Secretary

mw

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR UMATILLA COUNTY

In the Matter of Expressing)
Support for Senate Bill 535) R E S O L U T I O N
Relating to Field Burning)

WHEREAS, Umatilla County has a very limited grass seed producing industry; and

WHEREAS, Umatilla County is primarily dependant upon production of wheat and other related crops; and

WHEREAS, there is concern regarding dry land wheat farming and the adverse affect which will be brought about if the Willamette Valley is forced to go to the raising of wheat crops;

WHEREAS, if field burning limitations are implemented in the Valley, this would affect the economics and agricultural stability of Umatilla County; now, therefore,

BE IT RESOLVED, the Umatilla County Board of Commissioners supports the passage of Senate Bill 535 relating to field burning and realizes how important its passage is, not only to our County, but those counties which will feel the affect.

DATED this 8th day of April, 1977.

UMATILLA COUNTY
BOARD OF COMMISSIONERS

F. K. STARRETT, CHAIRMAN

BARBARA LYNCH

FORD ROBERTSON

Mack Arch on the Curry Coast
COUNTY OF CURRY
P.O. Box 746
Gold Beach, Oregon 97444

Michael Fitzgerald
Chairman

L.R. Williams
Commissioner

Jack R. Waldie
Commissioner

April 4, 1977

Albany Area Chamber of Commerce
Merle Manning
Box 548
Albany, Oregon 97321

Dear Mr. Manning:

We are pleased to join with our colleagues in Marion, Linn, Benton and Yamhill counties in support of Senate Bill 535 and ask that you copy and disperse from the attached original as you deem appropriate.

Sincerely,

Michael Fitzgerald

Mack Arch on the Curry Coast
COUNTY OF CURRY
P.O. Box 746
Gold Beach, Oregon 97444

Michael Fitzgerald
Chairman

L.R. Williams
Commissioner

Jack R. Waldie
Commissioner

April 4, 1977

TO INTERESTED OREGON LEGISLATIVE COMMITTEE MEMBERS

The Curry County Board of Commissioners supports Senate Bill 535, written in the interest of continuing the Oregon grass seed industry.

Besides the base support for a wide variety of Curry County livestock, grass-seeding of logged-over ground yields a substantial annual measure of protection from erosion.

Curry County feels the well being of the grass seed industry in Willamette Valley counties is in our own best interest as well, since it provides a low cost source of this vital product.

Michael Fitzgerald Jack Waldie Les Williams

COUNTY OF CLACKAMAS
BOARD OF COMMISSIONERS
OREGON CITY, OREGON 97045
655-8581

ROBERT SCHUMACHER, Chairman
RALPH GROENER, Commissioner
STAN SKOKO, Commissioner

April 5, 1977

Mr. Merle W. Manning, Chairman
Agriculture & Rural Affairs Committee
Albany Chamber of Commerce
P. O. Box 548
Albany, Oregon 97321

Dear Mr. Manning:

Enclosed is a copy of a Resolution relating to field burning. If you have any further questions, please feel free to contact me.

Sincerely,

Mike Bateson
Management Analyst

MB/ls
Enc.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF CLACKAMAS COUNTY, STATE OF OREGON

RESOLUTION NO. 77-454

WHEREAS, the grass seed industry is vital to the economic well-being of Clackamas County and the State of Oregon; and

WHEREAS, the current phaseout and ban on open field burning is generally ineffective; and

WHEREAS, there are no economically viable alternatives for disposing of grass seed residue; and

WHEREAS, Senate Bill #535 represents a workable and realistic solution to the current system,

NOW, THEREFORE, BE IT RESOLVED that the Clackamas County Board of Commissioners endorses Senate Bill #535 and urges the Senate Committee on Agriculture and Natural Resources to take action to send the bill to the Senate floor with a "do pass" recommendation.

DATED this 29th day of March, 1977.

Chairman

Commissioner

BCC

Commissioner

FILED

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MARION COUNTY, OREGON 77 MAR 10 AM 10: 31

In the Matter of expressing) support for Senate Bill) 535 relating to field) burning)

R E S O L U T I O N

WHEREAS, the Marion County Grass Seed Industry produced gross cash receipts for 1976 totaling $5,563,000 from 24,100 acres of land, 2/3 of which is hilly terrain where crop alternatives are few; and

WHEREAS, the County of Marion has been and will be most adversely affected both agriculturally and economically by severe limitations of allowable field burning of these grass seed fields; and

WHEREAS, expected relief through the use of field sanitizing equipment has not been achieved, nor has this concept been demonstrated to be within the operating profit margin of most Oregon Grass Seed Growers; and

WHEREAS, significant advances in smoke management and research into the meteorology of the Willamette Valley have been made in the last few years leading to a promise of better meteorological controls in the future during the short period when sanitizing is necessary; and

WHEREAS, for 364 days of the year each acre of our bent grass acreage in the hills (and some fine fescue acreage) naturally contributes to erosion control and the aesthetic and atmospheric quality of the environment, while simultaneously acting to eliminate possible point-source pollution in these hilly areas that would be in conflict with Section 208 of the Water Quality Act if planted to crops requiring more irrigation; and,

WHEREAS, the pressure for land use change resulting from the removal of thousands of acres of grass seed fields from active production would result in immeasurable social-economic and environmental change; now, therefore,

BE IT RESOLVED that the Marion County Board of Commissioners support the passage of Senate Bill 535 relating to field burning and recognizes the beneficial effect such passage will have on the continued health of a significant agricultural industry in the Willamette Valley.

Dated at Salem, Oregon, this 10th day of March 1977.

BOARD OF COUNTY COMMISSIONERS
FOR MARION COUNTY, OREGON

Chairman

Commissioner

Commissioner

LINN COUNTY BOARD OF COMMISSIONERS

March 7, 1977

TO LINN COUNTY LEGISLATORS.

We, the Linn County Board of Commissioners are aware that the Legislature is again considering the issue of field burning. What happens this year could prove disastrous to one industry in Oregon, and we ask ourselves which industry will be next. Decisions based on all of the facts, and without federal intervention, must prevail. Let the Courts prove that Oregon's Air standards do not meet the provision of the Clean Air Act. Let's also deal with the Constitutionality of not only of legislating against a specific industry, but also, a specific area of the State.

Oregon has led the nation in cleaning up it's environment without federal mandates and with judgment and foresight. If a $104,000,000 seed industry can be legislated out of existence because of what federal administrators allege is bad for our environment, is this not the first step in eliminating all industry, one by one, in the whole United States? It is apparent to us that the alternatives, other than smoke management, have been failures. Smoke management, properly done, and with required flexibility, can result in acceptable air quality and could prove beneficial to the seed-grass industry and to the public.

This industry uses little or no energy, electrical or natural gas, or other than natural rainfall. We have been advised in recent months that industries who do have these high energy requirements can expect energy cut-backs which could result in a rise in unemployment. We question if the huge amounts of energy required by proto-type business is a wise use of energy.

To ban field burning would reduce crop yields by some 50%; thus the industry would become non-competitive with grass seed growers throughout the world. The seed is grown in poorly-drained soils where most other crops will not survive or where their production would be so poor as to make it not economically feasible to farm these lands. What are the 240,000 acres to be used for should the

industry be forced out of existence? Some 110,000 acres is in Linn County and this loss could prove to be economically catastrophic to us in the loss of jobs, taxes, and other revenues, since the land is of little value except for seed production. Will it have to be foreclosed upon, broken up and sold for homes, and if so, this could prove to be another financial and environmental disaster since most land would violate land-use planning?

May we respectfully suggest that field burning through smoke management, without reducing seed production, be adopted. Such legislation could insure the livability of valley residents, as well as the continuation of the grass seed industry.

LINN COUNTY BOARD OF COMMISSIONERS

Vernon Schrock
Chairman

Ian h. Tinn
Commissioner

Mary Keenan
Commissioner

IN THE BOARD OF COUNTY COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of expressing)
support for Senate Bill #535) RESOLUTION No. 77-6
relating to field burning. ~)

WHEREAS, the Yamhill County Grass Seed Industry produced gross cash receipts for 1976 totaling $1,019,000 from 5300 acres of land, 2/3 of which is hilly terrain where crop alternatives are few; and

WHEREAS, the County of Yamhillhas been and will be most adversely affected both agriculturally and economically by severe limitations of allowable field burning of these grass seed fields; and

WHEREAS, expected relief through the use of field sanitizing equipment has not been achieved, nor has this concept been demonstrated to be within the operating profit margin of most Oregon Grass Seed Growers; and

WHEREAS, significant advances in smoke management and research into the meteorology of the Willamette Valley have been made in the last few years leading to a promise of better meteorological controls in the future during the short period when sanitizing is necessary; and

WHEREAS, for 364 days of the year each acre of our bent grass acreage in the hills (and some fine fescue acreage) naturally contributes to erosion control and the aesthetic and atmospheric quality of the environment, while simultaneously acting to eliminate possible point-source pollution in these hilly areas that would be in conflict with Section 208 of the Water Quality Act if planted to crops requiring more irrigation; and,

WHEREAS, the pressure for land use change resulting from the removal of thousands of acres of grass seed fields from active production would result in immeasurable social-economic and environmental change; now, therefore,

BE IT RESOLVED that the Yamhill County Board of Commissioners support the passage of Senate Bill #535 relating to field burning and recognizes the beneficial effect such passage will have on the continued health of a significant agricultural industry in the Willamette Valley.

Dated at McMinnville, Oregon, this 16th day of March 1977.

ATTEST:

WANDA CATT
County Clerk

Patricia A. Mullen
Patricia A. Mullen
Deputy

APPROVED AS TO FORM:

Robert S. Willoughby, Legal Counsel

YAMHILL COUNTY BOARD OF COMMISSIONERS

Ted Lopuszynski
Chairman /s/ Ted Lopuszynski

Colin Armstrong
Commissioner /s/ Colin Armstrong

John P. Macaulay
Commissioner /s/ John P. Macaulay

WASHINGTON COUNTY, OREGON
ANALYSIS OF PROPOSED STATE LEGISLATION HB _____ SB 535

REVIEWER: WASHINGTON COUNTY BOARD OF COMMISSIONERS Date March 23, 1977

Please review the attached legislation, complete this summary form, and return it to the County Administrator's Office as quickly as possible (within 48 hours) where it will be used for legislative activities and kept on file for reference purposes. You may want to retain a copy of the bill. Please return the original. If you have additional remarks and/or information, it can be attached to this report as a supplemental memorandum or report. Please call if you have questions.

Bruce Thomson, Rm 418, ext 833

Recommend that County		Impact of Bill on County			
		Program		Fiscal	
Support	XX	Major		Major	
Oppose		Minor	X	Minor	XX
Seek Amendments		None		None	
Take No Action					

BILL SUMMARY AND COMMENTS:

SUMMARY:

Deletes annual limitations on maximum total registered acreage allowed to be burned pursuant to field burning regulations. Declares that economically feasible alternatives to field burning have not been found although public policy is to reduce air pollution by smoke management and research. Requires Environmental Quality Commission to adopt smoke management and research. Abolishes Oregon Field Sanitation Committee and establishes Oregon Agricultural Reaearch Commission, consisting of seven members appointed by Director of Department of Agriculture, to implement program for study, research and development of alternatives to open field burning.

Prohibits burning in Multnomah, Washington, Clackamas, Marion, Polk, Linn, Benton and Lane Counties unless acreage registered and permits issued in accordance with smoke management program. Changes fees for registration of acreage and permits for burning. Restricts use of such fees. Makes related changes.

Deletes civil penalties for certain acts and classifies violation of certain burning restrictions as Class A misdemeanor.

Repeals provisions relating to field burning on marginal days, to Oregon Field Sanitation Committee, to powers of Department of Environmental Quality, to maximum acreage permitted to be burned, and to use of fees.

COMMENTS:

Senate Bill 535 will lift the present limitations on open field burning as they are presently stipulated by ORS 468.475. This bill is of concern to a number of citizens within the County, as the Grass Seed Industry is an important part of not only Oregon's, but also Washington County's economic base.

Local fire district departments within the County have for years been able to

WASHINGTON COUNTY, OREGON
ANALYSIS OF PROPOSED STATE LEGISLATION HB_____ SB 535

REVIEWER: WASHINGTON COUNTY BOARD OF COMMISSIONERS Date March 23, 1977

Please review the attached legislation, complete this summary form, and return it to the County Administrator's Office as quickly as possible (within 48 hours) where it will be used for legislative activities and kept on file for reference purposes. You may want to retain a copy of the bill. Please return the original. If you have additional remarks and/or information, it can be attached to this report as a supplemental memorandum or report. Please call if you have questions.

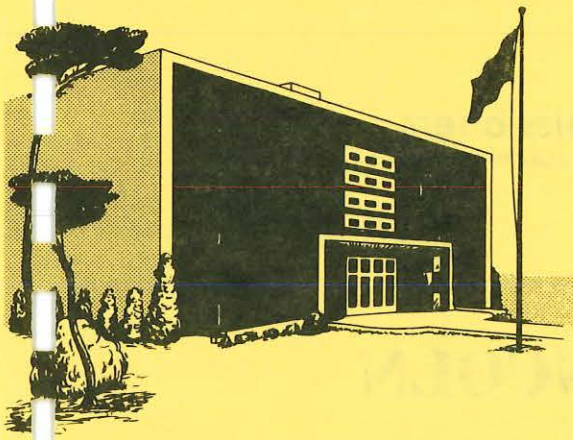
Bruce Thomson, Rm 418, ext 833

Recommend that County		Impact of Bill on County			
		Program		Fiscal	
Support	XX	Major		Major	
Oppose		Minor	XX	Minor	XX
Seek Amendments		None		None	
Take No Action					

BILL SUMMARY AND COMMENTS:

COMMENTS CONTINUED:

manage field burning under the present well managed smoke control program. This aspect, coupled with the economic impact upon the County if field burning is severely restricted, points to endorsement of SB 535. Recognizing that concerted efforts are now being made to find viable alternatives to field burning, the Board of Commissioners of Washington County strongly supports SB 535.



Board of County Commissioners
ANDY ZEDWICK, CHAIRMAN - JACK W. POSTLE - ALBERT R. STRAND

COUNTY OF LINCOLN

Newport, Oregon 97365

May 10th, 1977

Albany Chamber of Commerce
P. O. Box 548
Albany, Oregon 97321

Gentlemen:

Enclosed is a copy of a letter mailed to each of our Legislators asking for the support of Senate Bill 535, relating to field burning in the Valley.

We hope this will aid in the fight to continue field burning until some more satisfactory method, agreeable to the farmers, can be arrived at.

Very truly yours,

BOARD OF COUNTY COMMISSIONERS

Andy Zedwick, Chairman

Jack W. Postle, Commissioner

Albert R. Strand, Commissioner

1-Encl.
v

Board of County Commissioners

ANDY ZEDWICK, CHAIRMAN - JACK W. POSTLE - ALBERT R. STRAND

COUNTY OF LINCOLN

Newport, Oregon 97365

April 5th, 1977

Albany Chamber of Commerce
P. O. Box 548
Albany, Oregon 97321

Dear Sirs:

In the matter of expressing support for Senate Bill 535, relating to field burning, the Lincoln County area is dependent upon successful grass seed industry in the Willamette Valley.

Due to the moist climate, this County cannot produce it's own seed and due to the better control meteorologically it may now be possible to field burn.

Therefore Lincoln County Board of Commissioners goes on record in support of the passage of Senate Bill #535, because of the need to continue an industry that furthers the availability of seed to this County and upon planting, produces clean air in abundance to more than make up for the loss at the time of a few hours it takes for Field Burning.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Andy Zedwick
Chairman

Commissioner

Albert R. Strand
Commissioner

ARS:v

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR THE STATE OF OREGON FOR THE COUNTY OF BENTON

In the Matter of Expressing)
Support for Senate Bill)
535 Relating to Field Burning)

RESOLUTION

WHEREAS, the Benton County Grass Seed Industry produced gross cash receipts for 1976 totaling $4,106,000 from 21,180 acres of land; and

WHEREAS, the County of Benton has been and will be most adversely affected both agriculturally and economically by severe limitations of allowable field burning of these grass seed fields; and

WHEREAS, expected relief through the use of field sanitizing equipment has not been achieved, nor has this concept been demonstrated to be within the operating profit margin of most Oregon Grass Seed Growers; and

WHEREAS, significant advances in smoke management and research into the meteorology of the Willamette Valley have been made in the last few years leading to a promise of better meteorological controls in the future during the short period when sanitizing is necessary; and

WHEREAS, for 364 days of the year each acre of our grass seed crops naturally contribute to erosion control and the aesthetic and atmospheric quality of the environment; and

WHEREAS, the pressure for land use change resulting from the removal of thousands of acres of grass seed fields from active production would result in immeasurable social-economic and environmental change; now, therefore,

BE IT RESOLVED that the Benton County Board of Commissioners support the passage of Senate Bill 535 relating to field burning and recognizes the beneficial effect such passage will have on the continued health of a significant agricultural industry in the Willamette Valley.

Dated this 16th day of March, 1977.

Signed this 17th day of March, 1977.

Dale A. Schrock
Chairman

Barbara Ross
Commissioner

Larry Callahan
Commissioner

RECEIVED APR 4 1977

Field Burning

The County of Malheur

VALE, OREGON

April 1, 1977

Linn County
Board of Commissioners
Vernon Schrock
Ian Timm
Mary Keenan
P. O. Box 100
Albany, Oregon 97321

Dear Commissioners:

The Malheur County Court hereby support and endorse your seed field burning legislative SB 535.

A letter will be forwarded to Senator Smith and Representative Jones and Simpson regarding our endorsement.

Yours truly,

MALHEUR COUNTY COURT

Roy Hirai

Roy Hirai
Malheur County Judge

March 31, 1977

TO: Honorable Robert Smith
Oregon State Senator
District 30

Honorable Max Simpson
Oregon State Representative
District 59

We, the Baker County Court, are aware that the Legislature is again considering the issue of field burning.

It is our understanding that to ban field burning would reduce crops by 50% and that a $104,000,000 seed industry could very well be legislated out of existence. Although Baker County does not have a substantial seed industry, it is very agricultural oriented and as such has a great interest in the total agriculture of the State of Oregon.

If the field burning is banned in the Willamette Valley, will the wheat stubblefields of Eastern Oregon be the next ban?

Oregon needs the agriculture economic base, therefore, may we respectfully suggest that field burning through smoke management without reducing seed production be adopted. Such legislation could insure the continuation of a grass seed industry in Oregon, thereby continuing the income greatly needed by this state by the agricultural segment.

BAKER COUNTY COURT:

By: Dennis L Fuller
County Judge

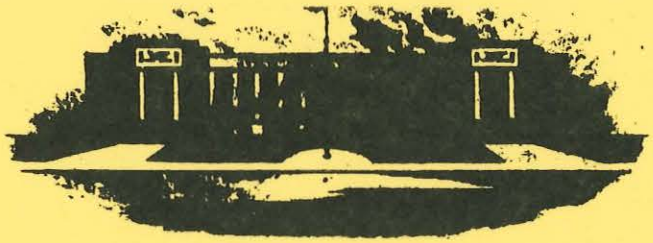
By: George V. Nicholson
County Commissioner

By: Fred W Bunger
County Commissioner

cc: Albany Chamber of Commerce
Baker County Chamber of Commerce

COMMISSIONERS
F. E. KNIGHT
CHAS. D. BAILEY
G. J. SIMMONS

COUNTY COUNSEL
W. A. McMINIMEE



P. O. BOX 266
TILLAMOOK, OREGON 97141
(503) 842-5511

TILLAMOOK COUNTY
BOARD OF COMMISSIONERS

March 21, 1977

Senator Del Isham
State Capitol Building S210
Salem, Oregon 97310

Dear Senator Isham:

Enclosed are two pages expressing the Linn County Commissioners feeling on the field burning issues. We hope you can find time to really study and lend your full support to solving this issue so as to assure the continuation of the seed business so badly needed in Oregon and the benefits derived therefrom throughout the Nation.

The treatment we, as one of the Coastal Counties, have received from state and federal regulations leaves us nothing else to do but support them in their efforts for self preservation, a sound economic base and continued local county control.

We have faith in county government and have every reason to believe that the Linn County Commissioners are doing the right thing.

Again, we urge your support.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

Chas. D. Bailey
Chairman

Commissioner

F. E. Knight
Commissioner

cc: Linn County
Commissioners

DOUGLAS

BEFORE THE BOARD OF COUNTY COMMISSIONERS

In the Matter of expressing support for Senate Bill 535 relating to field burning	))))	RESOLUTION

WHEREAS, the sheep and cattle industry of Douglas County uses somewhere around 40 tons of ryegrass seed annually for pasture development and renovation. Loss of the Willamette Valley industry would undoubtedly increase the cost of the seed considerably.

WHEREAS, the Willamette Valley ryegrass industry provides a sizable outlet for local feeder lambs. Loss of this market would create a heavy financial impact on the local industry.

WHEREAS, ryegrass seed is used heavily on ditch banks, road cuts and other soil stabilization jobs in and about Douglas County. Increasing the cost of seed which would certainly result from unwise restrictions on this seed industry would be significant.

WHEREAS, esthetically burning is of considerable importance. The green field visible along I-5 all winter would be brown stuble instead; Many people do not realize this.

WHEREAS, the heavy energy using field burners have proved to be almost totally inadequate for this important field sanitation job.

WHERAS, smoke management has kept the impact of field burning to an almost insignificant level. Many residents don't realize that field burning although very visible for a short period of time is relatively insignificant as a contributer of air pollution in the Willamette Valley - particularly Eugene.

WHEREAS, plant disease control is an important benefit of burning. Burning old grass destroys sites that harbor disease organisms and destroys the organisms themselves. Many rusts, smuts and leaf and stem diseases are effectively controlled by burning. These plant diseases can seriously reduce pasture production and produce additional disease problems for livestock. For example, facial eczema is a sheep disease produced by spores from grasses infested with certain funguses. The practice of burning eliminates the buildup of disease producing funguses and thereby serves to control this livestock disease.

WHEREAS, periodic burning of pastures actually reduces the fire hazard. If pastureland remains unburned for a number of years and a heavy undermat of grass, brush and weeds is allowed to accumulate the danger of an uncontrolled fire spreading to residential property is significantly increased.

BE IT RESOLVED that Douglas County Board of Commissioners support the passage of Senate Bill 535 relating to field burning and recognizes the beneficial effect such passage will have on the continued health of a significant agricultural industry in the Willamette Valley as well as Douglas County.

DATED at Roseburg, Oregon this 13th day of April 1977.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, OREGON

Bill Vian

Bill Vian, Commissioner

John T. Truett

John T. Truett, Chairman

Paul Makinson

Paul Makinson, Commissioner

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR POLK COUNTY, OREGON

In the Matter of Expressing)
Support for Senate Bill 535)
Relating to Field Burning.)

RESOLUTION NO. 298

WHEREAS, the Polk County grass seed industry produced gross cash receipt totaling $4,647,000.00 from 18, 180 acres of land; and

WHEREAS, the County of Polk has been and will be most adversely affected both agriculturally and economically by severe limitations of allowable field burning of these grass seed fields; and

WHEREAS, expected relief through the use of field santizing equipment has not been achieved, nor has this concept been demonstrated to be within the operating profit margin of most Oregon Grass Seed Growers; and

WHEREAS, significant advances in smoke management and research into the meteorology of the Willamette Valley have been made in the last few years leading to a promise of better meteorological controls in the future during the short period when sanitizing is necessary; and

WHEREAS, for 364 days of the year each acre of our grass seed crops naturally contribute to erosion control and the aesthetic and atmospheric quality of the environment; and

WHEREAS, the pressure for land use change resulting from the removal of thousands of acres of grass seed fields from active production would result in immeasurable social-economic and environmental change;

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Polk County

Board of Commissioners supports the passage of Senate Bill 535 relating to field burning and recognizes the benficial effect such passage will have on the continued health of a significant agricultural industry in the Willamette Valley.

Dated at Dallas, Oregon, this 1st day of ~~March~~ April, 1977.

POLK COUNTY BOARD OF COMMISSIONERS

Alan W. Miller, Chairman

Henry A. (Hank) Dougherty, Commissioner

Walter R. Gjersvold, Commissioner

(RESOLUTION - 2)

BEFORE THE BENTON COUNTY PLANNING COMMISSION FOR THE STATE OF OREGON FOR THE COUNTY OF BENTON

In the Matter of Expressing Support for Senate Bill 535 Relating to Field Burning) RESOLUTION

WHEREAS, LCDC goals and guidelines require preserving agricultural lands; and

WHEREAS, some pollution results from all human activity; and

WHEREAS, 1975 legislation bases acreage reduction on acreage contemplated to be burned by a mobile field incinerator to be perfected in the interim; and

WHEREAS, this machine has not been developed into a viable alternative at this time; and

WHEREAS, significant advances in smoke management and research into the meteorology of the Willamette Valley have been made in the last few years leading to a promise of better meteorological controls in the future during the short period when sanitizing is necessary; and

WHEREAS, for 364 days of the year each acre of our grass seed crops naturally contribute to erosion control and the aesthetic and atmospheric quality of the environment; and

WHEREAS, the pressure for land use change resulting from the removal of thousands of acres of grass seed fields from active production would result in immeasurable social, economic, and environmental change; now therefore,

BE IT RESOLVED that the Benton County Planning Commission support the passage of Senate Bill 535 relating to field burning and recognizes the beneficial effect such passage will have on the continued health of a significant agricultural industry in the Willamette Valley.

Dated this 30th day of March, 1977

Signed this 30th day of March, 1977.

Chairman

Commissioner

Commissioner

Commissioner

Commissioner

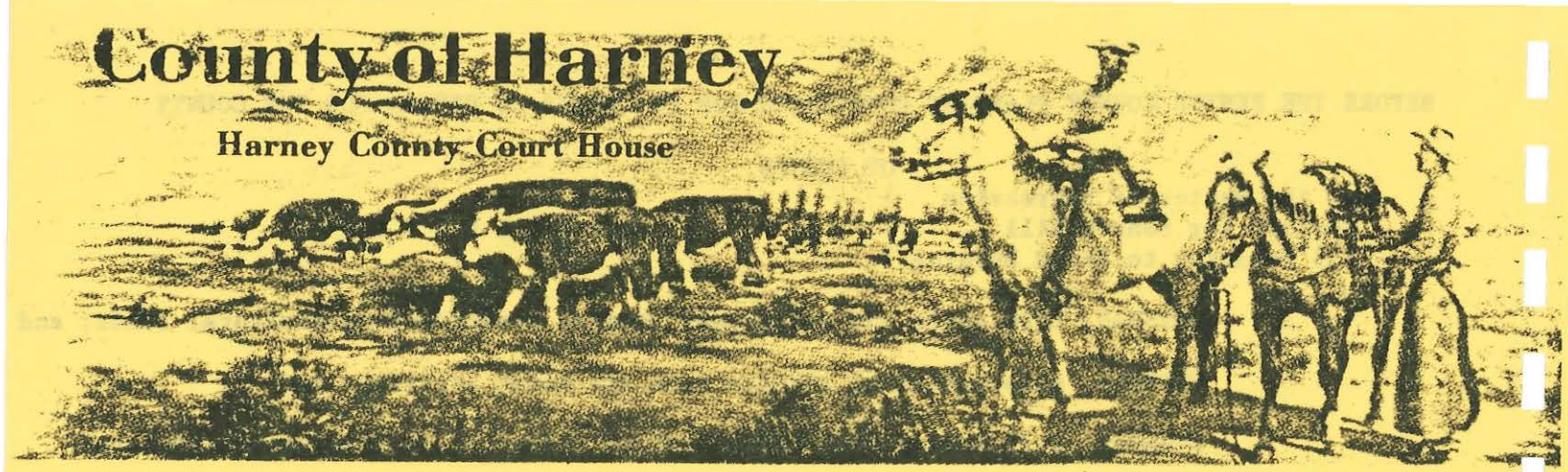
Commissioner

Commissioner

Commissioner

County of Harney

Harney County Court House



JUDGE DALE WHITE
COMM. GEORGE PURDY
COMM. FRANK G. WHITE

May 17, 1977

AREA CODE 503-573-6356
P.O. BOX 1147 BURNS, OREGON 97720

Mr. J. T. Petersen, President
Albany Area Chamber of Commerce
P. O. Box 548
Albany, Oregon 97321

Dear Mr. Petersen:

The County Court for Harney County, at its meeting of May 4, 1977, voted to support your resolution of continued open field burning for the Willamette grass seed industry. The economic benefit of the seed industry to the State of Oregon justifies continued field burning until research has produced an economical and feasible alternative.

Harney County supports the proposition of continued open field burning under a cooperative smoke management program between the growers and the Department of Environmental Quality.

Sincerely,

Dale White

Dale White
Harney County Judge

DW: ed

FILED
MAY 27 1977
COUNTY CLERK
Deputy

IN THE COUNTY COURT OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF EXPRESSING)
SUPPORT FOR SENATE BILL 535) RESOLUTION
RELATING TO FIELD BURNING.)

WHEREAS, the climatic and soil conditions of the Willamette Valley are especially suited for the production of grass seeds, and

WHEREAS, LCDC goals and guidelines are oriented toward the preservation of agricultural lands, and

WHEREAS, no method has been developed thus far to provide a practical, economical and effective replacement for field burning, and

WHEREAS, the present smoke control programs for field burning if properly administered will result in a relatively insignificant contribution to air pollution in the Willamette Valley as compared to pollution from other sources that are continuous for 24 hours a day, 365 days a year, and

WHEREAS, the industry provides several thousand jobs for Oregon workers.

THEREFORE, BE IT RESOLVED that the Wasco County Court go on record as supporting Senate Bill 535, which will legalize the continued use of open field burning, recognizing the beneficial effect it will have on the grass producing industry of the Willamette Valley and the resulting economy of the State of Oregon.

Adopted this 25th day of May, 1977.

WASCO COUNTY COURT

H. B. Elder, County Judge

James A. Underhill, Sr., Commissioner

John Conroy, Commissioner

APPROVED AS TO FORM:

~~Bernard L. Smith~~ Deputy
District Attorney for Wasco
County, Oregon

SECTION III

WILLAMETTE VALLEY FIRE DISTRICTS

FIRE DISTRICT: STAYTON RFPD DATE: May 20 1979

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
George A. Crosier	Stayton RFPD	Lt.
Howard Lee Myers	Stayton Fire Dept.	Batt. Chief
Reginald E. Regier	Stayton RFPD	Fire Chief
John R. Haselton	Stayton RFPD	ENG.

FIRE DISTRICT: MARION COUNTY #1 DATE: May 20, 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Paul D. Fredrickson	MCFD #1	Asst. Ch/Fire Marshal
James R. King	MCFD #1	Fire Inspector
Larry K. Kreshel	MCFD #1	Fire Chief

FIRE DISTRICT: MT. ANGEL RFPD DATE: May 20, 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Victor Hoffman	Mt Angel Rural	Chief
Ronald J Schmidt	Mt Angel Rural	Battalion Chief
Joseph B Spaeth	Mt Angel Rural	Asst Chief
Richard J Smith	Mt Angel, OR	Asst. Chief

FIRE DISTRICT: MONITOR RFPD DATE: May 20, 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Wilbert Homann	Monitor	Asst. Chief
Ron Damon	Monitor	Chief
Clarence Medack	Monitor	fire mann

FIRE DISTRICT: HUBBARD RFPD DATE: May 20, 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Frank Lobert	Hubbard	Chief
Jack Berkey	"	Ass Chief
Robert Bench	"	First Captain

FIRE DISTRICT: CANBY RFPD DATE: May 20, 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Smith French	CANBY FIRE DIST. 62	Fire Chief
Jack Stark	Canby Fire Dist. 62	Fire Marshal
Ken Stafford	Molalla RFPD #73	Fire Chief

FIRE DISTRICT: SCOTTS MILLS RFPD DATE: May 20, 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
A. Cavilieri	Scotts Mills	Chief
Harold W. Stallman	Scotts Mills	Asst. Chief
Richard Bidwell	Scotts Mills	Capt.

FIRE DISTRICT: JEFFERSON RFPD DATE: May 20, 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
[illegible]	Jefferson RFPD	Fire Chief
Clarence E Sutter	Jefferson RFPD	Asst Chief
Edmund R Riches	Jefferson F.P.D.	fireman

FIRE DISTRICT: CORVALLIS RFPD DATE: 5/17/77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Wallie Blackaert	City of Corvallis	Fire Chief
Gary R. Hill	City of Corvallis	Asst. Fire Chief
Alvin L. Hillers	City of Corvallis	CAPTAIN

FIRE DISTRICT: MONROE RFPD DATE: 5/18/77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Douglas albin	Monroe	Fire Chief
Edgar Walden	monroe	Fireman
Bill Oakes	Monroe	Captain
Ferdinand Campbell	MONROE	Fireman
Thomas D. Reader	Monroe,	Fireman
Michael J. Steffl	Monroe,	Fireman
Chester B. Reader	Monroe	Fireman
Edison T. Cobe	Monroe	Captain
Harold McCallum	Monroe	captain

FIRE DISTRICT: SOUTHEAST RURAL POLK DATE: 5/19/77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
[illegible]	[illegible]	[illegible]

FIRE DISTRICT: AURORA-DONALD RFPD DATE: MAY 20 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Wayne York	Aurora Rural Fire Dist.	Chief
Robert J. Wilson	Aurora Rural Fire Dist	Fireman
L B Hanson	P O Box 124 Aurora	
Willis Matthews	Rt. 3 Box 975	Aurora
Linwood Cromwell	Donald	Orey
Charles W Jasperson	Aurora Rural Fire Dist	Fireman

FIRE DISTRICT: AUMSVILLE RFPD DATE: MAY 20 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Lee Bales	Aumsville RFD	Chief
Ryan Bishop	Aumsville RFD	Fire Fighter
Kyle Small	Aumsville RFD	Member
Walt Bishop	Aumsville RFD	Member

FIRE DISTRICT: albany DATE: May/77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
James C. Wyeon	Albany	Fire Chief
J. E. Anderson Jr.	Albany	Fire Capt.
Ralph D. Knight	Albany	Fire Asst
Dan F. Tubbs	Albany	Fire Captain
James F Moore	albany	asst Chief
Ray H. Bidwell	Albany	Fire Lieut.
J. E. Gallaway Jr.	Albany	Fire Lieut

FIRE DISTRICT: HARRISBURG RFPD DATE: May/77.

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Larry A. Ison	H.V.F.D.	Director & Fireman
Hubert H. Christensen	H.V.F.D.	Fireman & Director
Wayne A. Stucki	H.V.F.D	Fireman & Director, Captain
[illegible]	H.V.F.D	Fire Chief
Donald L. Pedrick	H.V.F.D	Captain
Dan Madsen	H.V.F.D	Fireman
David L. Patterson	H.V.F.D	Captain
Scott R. Lyda[illegible]	H.V.F.D	Equip. Chief

FIRE DISTRICT: SWEET HOME RFPD DATE: May 16, 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Ronald Fogle	Sweet Home R.F.D	Asst. Chief
Roger Hallingsett	Sweet Home FD	Asst Chief
Gerald Worley	Sweet Home R.F.D.	Chief

FIRE DISTRICT: CRESWELL RFPD DATE: May/77.

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Gerald P. Turner	Creswell	Asst. Chief
Rod Turner	Creswell	Capt.
Ray E. Mabry	Creswell	Fireman.
Roger Mc Clary	Creswell	Capt
Ronald Sigler	Creswell	Lieutenant
John Wyatt	CRESWELL	Fireman
Calvin E. Taylor	Creswell	Fire chief

FIRE DISTRICT: JUNCTION CITY RFPD DATE: May/77.

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Eugene A Nelson	JC	Fireman
Clifford Montero	J.C.	Fireman
Alec Van Dusen	J.C.	Captain
Eric C. Jacobsen	J.C.R.F.D	Chief
Donald A Sylte	JCRFD	Fireman
James L Cook	J.C.R.F.D	LIEUTENANT
Lyle G. Albertson	JCFD	Fireman/Fireman

FIRE DISTRICT: Cottage Grove DATE: May/77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Roy I. Stayton	South Lane Co.	Fire Chief
S. William Benedict III	City of Cottage Grove	Firefighter
James D. Prescott	Cottage Grove	Fireman. Volunteer
Ralph Conklin	Cottage Grove	[redacted]
Wm. F. Newman	City of Cottage Grove	Firefighter
Robert Coppedge	City of Cottage Grove	Firefighter
Bruce A. Fonk	SLRFPD	asst. Chief
Stephen D. Allen	SLRFPD	Fire Inspector

FIRE DISTRICT: SUBLIMITY RFPD DATE: May 20, 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Eugene Whitten	Sublimity	Fire Chief
Delbert J. Wittes	Sublimity	Asst Fire Chief

FIRE DISTRICT: ESTACADA RFPD DATE: May 20, 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Charles Leeson	ESTACADA	Captain
Mutual Col	ESTACADA	LIEUTENANT
Randy Heberman	Estacada	Fire Fighter
Ky N. Jeffries	Estacada	Fire Chief
Barry L. Jennings	Estacada	Fire Fighter
Ronald Boles	Estacada	Meat Cutter
[illegible]	Estacada	[illegible]

FIRE DISTRICT: CLACKAMAS CO. FIRE DIST. #54 DATE: 5-16-77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Everett L. Buttolph	Clackamas Co. #54	Fire Chief
Thomas L. Kellar, Jr.	" "	Firefighter
Robert Raney	" "	Firefighter
Mark D. McTimmons	" "	Vol.
Mark R. Summers	" "	Vol.
Ted A. Cook	" "	CAPTAIN
David A. Rydmark	" "	Fire Fighter

FIRE DISTRICT: CLACKAMAS Co. Fire Dist # 55 DATE: 5-16-77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
L L Bigelow	Beavercreek #55	Fire Marshal
Don Bishop	"	Firefighter

FIRE DISTRICT: DRAKES CROSSING RFPD DATE: May 20, 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
[illegible]	Drakes Crossing	asst. Chief
[illegible]	Drakes Crossing	Chief
[illegible]	Drakes Crossing	Capt.
Larry W. Barter	Drakes Crossing	Lieutenant

FIRE DISTRICT: PLEASANT HILL RFPD #1 DATE: May 77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
[illegible]	Pleasant Hill	Chief
E.D. Mathews	Pleasant Hill	Asst Chief

FIRE DISTRICT: SILVERTON RFPD DATE: May 20, 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Larry Carpenter	Silverton	Chief
Albert L. Thomas	Silverton	Asst Chief
Floyd N. Robinson	Silverton	Lt.
Warren E. King	Silverton	Lt.
Allen Dostie	SILVERTON	CAPT
David M. Kemper	Silverton	Capt
Richard F. Kemp	Silverton	Lt.

FIRE DISTRICT: BENTON COUNTY OPEN DATE: 5/19/77

As elected officials of Benton County, Oregon responsible for issueing burning permits in the areas of Benton County outside the limits of any organized fire district, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Dale Shelbrock	open	Bd C. Chairman
Leroy Callahan	Corvallis	County Commissioner

FIRE DISTRICT: PHILOMATH RFPD DATE: 5/17/77.

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Stanley D. Phelps	Philomath Fire Dept.	asst. Chief
Keith K Boggs	Philomath Fire Dept	asst Chief
James D Stinson	Philomath Fire Dept	Chief

FIRE DISTRICT: CARLTON RFPD DATE: 5/19/77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
B.L. Tenn	Carlton	Chief
Jack R. Eichhorn	Carlton	Capt
Raymond R. Ratie	Carlton	Ass Chief
[illegible] Eichhorn	Carlton	Capt

FIRE DISTRICT: SOUTHWEST RURAL POLK DATE: 5/19/77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
[signature]	S.W. Polk Co. F.D.	Chief
[signature]	Dallas	Asst. Chief
[signature]	1289 SW Lawrence Douglas	Batt. Chief

FIRE DISTRICT: AMITY RFPD DATE: 5-18-77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Elmer L Chesney	Amity Rural	Chief
Kenneth K Gambee	Amity Rural	Captain
William L Carpenter	Amity Rural	Captain
Samuel C. White	Amity Rural	Lieutenant
Hunter A Adkins	Amity Rural	Captain
Warren D Johns	Amity Rural	Lieutenant
Floyd E James	Amity Rural	asst. Chief
Steve Christenson	Amity Rural	Captain

FIRE DISTRICT: ST. PAUL RFPD DATE: MAY 20 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Albert Bernard	St Paul, Ore	Chief
Joe Berlant	St Paul Ore	Asst Chief

FIRE DISTRICT: SCIO RFPD DATE: May/77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Edward A. Ries	Scio Rural	Chief

FIRE DISTRICT: HALSEY-SHEDD RFPD DATE: 17 May 1977

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Larry Parker	Halsey Shedd	Chief
Richard Miller	Shedd FD	Asst chief
Vernon Wetherell	Halsey Shedd	Asst. chief
Albert Pinthat	Peoria	asst. Chief

FIRE DISTRICT: LEBANON RFPD DATE: May/77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Larry L. Arnold	Lebanon	Captain
William Fuller	LEBANON	FIRE CHIEF
Danny L. Williams	LEBANON	CAPTAIN
Donald F. Powell	LEBANON	ENGINEER
Joseph M. Spena	Leban	Lieutenant

FIRE DISTRICT: COBURG RFPD DATE: May/77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
[illegible]	Coburg Rural	Chief
Robert Bauer	Coburg Rural	Fireman
Darrel D Prater	Coburg R.F.d	CAPTAIN
Darwin Hayes	Coburg Rural	Fireman
[illegible]	Coburg Rural	Fireman
Betty J Mann	COBURG RURAL	ASS Chief

FIRE DISTRICT: LANE COUNTY, Veneta DATE: May/77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Wayne Hunter	Veneta	Chief
Stan Sanders	Veneta	Capt.

FIRE DISTRICT: BROWNSVILLE RFPD DATE: May/77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Jerry A. Anthony	Brownsville	Chief
[illegible]	Brownsville	Asst. Chief
Lyman Neal Kees	BROWNSVILLE	ASST. CHIEF
Doral W. Etter	Brownsville	Captain
Ben P. Hanson	Brownsville	Captain
Frank W. Stever	Brownsville	Captain

FIRE DISTRICT: BENTON NON-DIST. & ADAIR DATE:

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Dennis L. Hamm	Adair RFPD	Chief
Dave Campbell	Adair RFPD	Captain
Charles D Harris	Adair RFPD	Training Off.
Wayne E Yeager	Adair RFD	Adair Fire Dist Board Member
Chas. L. Fox	Adair RFD	Board Member
David R Hancock	Adair RFD	Fire fighter

FIRE DISTRICT: CORNELIUS RFPD DATE: 5/20/77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
[illegible]	Cornelius RFPD	[illegible]
David F. Aering	Cornelius R.F.P.D.	Board Chairman Rural

FIRE DISTRICT: FOREST GROVE RFPD DATE: 5/23/77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Charles Ross	Forest Grove	Asst. Chief

FIRE DISTRICT: SHERIDAN RFPD DATE: 5/19/77

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Gene Smail	Sheridan	Chief
Ronald E. Cooley	Sheridan	Lt.
Harold Lovell	Sheridan	Asst Chief
Robert D. Cole	Sheridan	2nd Asst Chief
Ronald Stuck	Sheridan	Capt.
Kenneth Erickson	Sheridan	Lt.
Walter Krauthoefer	Sheridan	
Maurice Sumner	Sheridan	Lt.

FIRE DISTRICT: TANGENT RFPD DATE:

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Dale McDowell	Tangent RFPD	Chief
Joe Bobbles	Tangent	Fir
Julian B. Nutter	Tangent RFPD	Asst Chief
Steve Scarborough	Tangent RFA	Capt
Arlen C Sawyer	Tangent	Insp Offic

FIRE DISTRICT: WASHINGTON CNTY, FPD #2 DATE:

As elected, appointed and volunteer fire-fighting officials of the Willamette Valley Fire Districts and towns, we the undersigned urge passage of Senate Bill 535 as a means of maintaining control of a potentially serious fire hazard which is created each year when an estimated 700,000 tons of combustible material (dry grass straw) accumulates on fields near farm buildings and homes as well as adjacent to rural roads and cities.

We believe that:

1. This potentially serious fire hazard is now minimized with strictly controlled field burning practices and that burning should continue until (a) feasible alternatives for burning are developed and (b) markets for the residue are developed.

We offer our support for passage of SB 535.

Name	Fire District	Title
Robert Kindel Jr.	North Plains	Captain

SECTION IV

LANE COUNTY GRANGES

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Lowell Grange No. 745 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Lowell Grange ON THIS 13 day of May, 1977

Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Dorena Grange No. 835 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Dorena Grange #835 ON THIS 13th day of May, 1977

Donald A. Rowe
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Four Oaks Grange No. 528 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Four Oaks ON THIS 9th day of May, 1977

Cloyd B. Makinson
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Irving Grange No. 377 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Irving Grange #377 ON THIS 7th day of May, 1977

Dale H. Harris
Master

Ida May Harris
Secretary

Daryl Ross

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Mohawk Grange No. 922 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Mohawk #922 ON THIS 6 day of May, 1977

Cliff Stout
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Pleasant Grange No. 561 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Pleasant Grange ON THIS 2 day of May, 1977

Lucille A Jackson
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Spencer Creek Grange No. 755 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Spencer Creek #755 ON THIS 16th day of May, 1977

Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Scio Grange No. 554 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Scio Grange ON THIS 6th day of May, 1977

Michael L. Jenks
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Goldson Grange No. 868 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Goldson Grange ON THIS 6 day of May, 1977

Harold Schaffer
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Walterville Grange No. 416 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Walterville Grange ON THIS 3rd day of May, 1977

Cleo H. Carter
Master

Anita M. Reinhart, Secy.

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Loudon Grange No. 737 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Loudon Grange ON THIS 6 day of May, 1977

Thomas F Martin
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Willakenzie Grange Grange No. 498 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Willakenzie Grange ON THIS 6th day of May, 1977

Eugene H. Atwood
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Elmira Grange No. 523 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Elmira Grange #523 ON THIS 7th day of May, 1977

James D Haynes
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Crow Grange No. 450 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Crow Grange ON THIS 4th day of May, 1977

Roy A. Reginald
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Mahawk McKenzie Grange No. 747 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Mahawk McKenzie ON THIS 28th day of April, 1977

Charles W. Cramer
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Central Grange No. 360 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Central Grange 360 ON THIS 13 day of MAY, 1977

John Follett
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Franklin Grange No. 751 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Franklin Grange ON THIS 4-27-77 day of _____, 1977

Raymond C Vetter
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Triangle Grange No. 533 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Triangle Grange #533 ON THIS 26th day of April, 1977

Herschel E. Dodge
Master
acting
Ruby A Jones Secy.

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Jasper Grange No. 532 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Jasper Grange #532 ON THIS 26 day of April, 1977

Wayne L Rempp
Master

Dorothy H Parker
Secretary

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Junction City Grange No. 744 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Junction City Grange ON THIS 13 day of May, 1977

Christine Agnes
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Long Tom Grange No. 866 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Long Tom Grange ON THIS 6th day of May, 1977

Clovis Buchanan
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Coburg West Point Grange No. 535 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE West Point Grange ON THIS 27 day of April, 1977

Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Hebron Grange No. 845 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Hebron Grange ON THIS 7th day of May, 1977

Robert A. Williamson
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Thurston Grange No. 855 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Thurston Grange #855 ON THIS 5th day of May, 1977

Archie Foster
Master

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end,use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

WHEREAS, no othere crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Creswell Grange No. 496 go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Creswell Grange #496 ON THIS 27th day of April, 1977

Gary L. Underwood
Master

SECTION V

OPINION MAKERS

March 21, 1977

Port of Portland
Box 3529 Portland, Oregon 97208
503/233-8331
TWX: 910-464-6151

Senator John Powell
P. O. Box 92
Ackerman Road
Halsey, OR 97348

Dear Senator Powell:

The impact of grass seed exports is particularly important to our trade with Northern Europe, Scandinavia and Japan.

During the past seven years, total grass seed exports across Port of Portland docks averaged over 22,000 tons per year. Tonnage, by year, is as follows:

1970	21,960
1971	22,586
1972	24,980
1973	25,993
1974	27,334
1975	19,203
1976	17,742

The importance of seed exports to the Port's European steamship lines, Johnson ScanStar and Euro-Pacific, goes beyond sheer volume. Three factors make a cargo attractive for a steamship line: volume to help fill the vessel; revenue to contribute toward profit; and predictability to allow good vessel operational planning. Grass seed satisfies all three criteria for the steamship lines: it has been amongst their top three-volume commodity, an extremely good revenue generator, and very predictable in terms in shipping season, volume and bookings.

As an example, in 1974 some 17,400 tons were shipped via Portland to Europe, accounting for 15 percent of Portland's total trade with Europe. During that season, seed accounted for nearly 30 percent of the containerized Portland exports to Europe.

To our port, one additional factor is vital. The general production area for grass seed is in good proximity to our Port. Geograhpically, we could and should serve as their logical export port.

Due to these factors, grass seed exports are crucial to our efforts to maintain the frequency of European steamship service and make a positive contribution to our overall export tonnage volume.

Sincerely,

George Nakata
Deputy Director
Trade Development

cc: Senator John Powell
Chairman, Agriculture & Natural Resources
Room S 212
State Capitol Building
Salem, OR 97310

Senator Michael Thorne
Room 5206
State Capitol Building
Salem, OR 97310

MD102C

SUITE 200 / 2400 SOUTHWEST FOURTH AVENUE / PORTLAND, OREGON 97201 / (503) 221-0357

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SECOND VICE PRESIDENT
CHARLES LUEBBERT
Vice President
Freightliner
THIRD VICE PRESIDENT
LEE CALDWELL
Sub-district 4 Director
United Steelworkers of America
FOURTH VICE PRESIDENT
HAL McCALL
Bohemia Lumber
FIFTH VICE PRESIDENT
JOHN BALL
Western States Regional
Council No. 3
International Woodworkers of America
SIXTH VICE PRESIDENT
WHITEY HOWARD
Seneca Sawmill
SEVENTH VICE PRESIDENT
LOWELL JONES
President
Lowell Jones Co.
SECRETARY
CLANCY STANDRIDGE
Government Affairs
General Telephone Company
TREASURER
DON MANZER
Partner
Wolf & Company
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Lumber, Production
and Industrial Workers
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Western Council Lumber,
Production & Industrial Workers
DEAN C. BRICE
Pacifc Power & Lght
WYLIS BUCHER
Bucher Realty
HENRY BUEHNER
Attorney
BERNARD "Bud" BYERS
State Representative
R. W. "Bill" deWEESE
Odyssey Productions, Inc.
DAVE DOELEMAN
Gibson-Bowles Realty
FRANKLIN DRAKE
Donald M. Drake Company
JOE M. EDGAR
Joint Council Teamsters
Union No. 37
S. H. ELLINGSON
Ellingson Lumber Company
CHARLES L. FOSTER
International Paper Company
WESLEY A. FRANKLIN
Attorney
FRANK GILCHRIST
Gilchrist Timber Company
EDITH GREEN
JACK HAZLITT
Commerce Mortgage Company
ROY HOWARD
Real Estate Data Services, Inc.
SAM JOHNSON
S. S. Johnson Company
JACK KEGG
IBEW Local No. 125
EARL KIRKLAND
Columbia Pacific
Building Trades
Council
CHUCK LANDSKRONER
NINA
JERRY LAUSMANN
KOGAP Lumber Company
BILL LESH
Publishers' Paper
IRV LUITEN
Weyerhaeuser Corporation
E. J. MANEY
Hanna Nickel Smelting Company
WENDELL MANNING
Grass Seed Grower
W. W. MARSH
Rockey/Marsh Public Relations
CARL MASON
H. C. Mason & Associates, Inc.
J. H. McCLAIN
Teledyne Wah Chang Albany
LYNN NEWBRY
Medford Corporation
KENNETH NOVACK
Schnitzer Industries
E. E. PATTERSON
Grande Ronde Hospital
FRED A. PHILLIPS
Cattleman
S. E. PITTMAN
Bohemia, Inc.
ORAN ROBERTSON
Fred Meyer
JOE RUDD
Architect
DON STAUDEMEIR
District Council of Carpenters
JOHN THOMPSON
Georgia-Pacific
F. D. "Duke" WIEDEN
Portland General Electric
LEONARD WILDISH
Wildish Sand & Gravel
TOM WILLISCROFT
Menasha Corporation
WENDELL WYATT

WETA Resolution

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for the production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetable protein;

BE IT RESOLVED, therefore, that the Western Environmental Trade Association of Oregon go on record in support of new legislation in lieu of Senate Bill 311 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE WESTERN ENVIRONMENTAL TRADE ASSOCIATION BOARD OF DIRECTORS on this 24th day of February, 1977.

Lynn Engdahl

Lynn Engdahl, Executive Director

Oregon
Cow Belles

May 14, 1977

Dear Governor Straub & Members of the Oregon Legislature;

We the members of the Lane County Cow Belles understand the potential long term pollution problem which we face in the Willamette Valley.

We believe the problem will NOT be solved by putting the farmers out of business with the unworkable law now in effect. According to DEQ reports very few "smoky" days in 1976 were actually attributed to field burning. Besides that the seed growers are already funding extensive research to alleviate the problem. They are also following an intensive smoke management program.

We believe a smoke management program, until feasible alternatives are developed, is the proper way to attain long range air quality goals. Therefore, we urge you to support SB 535.

Sincerely,

Polly Owen, president
Lane County Cow Belles

agripac, inc.

P.O. BOX 5346 / SALEM, OREGON 97304 / PHONE (503) 363-9255

May 3, 1977

The Honorable Robert W. Straub
Governor of Oregon
State Capitol Building
Salem, Oregon 97310

Dear Governor Straub:

Agripac, Inc. is a fruit and vegetable processing and marketing cooperative with headquarters in Salem. Processing plants are located in Salem, Junction City and Eugene. The company is owned by the three hundred member-growers who deliver their crops for processing and marketing. The members are located up and down the length of the Willamette Valley from Washington to Lane Counties.

At last month's regular Board of Director's Meeting, Senate Bill #535, the Field Burning Bill, was discussed. This letter is the result of that discussion. We as a Board are concerned about the impact of the limitation and/or reduction of the number of acres allowed to be utilized for grass seed production. Our concern is this: limitation of acreage below the amount that will keep the seed industry a viable, healthy industry will cause an imbalance in the Willamette Valley agricultural economy. When the grass seed growers look to alternate crops, the result will be damaging to all other segments of the agricultural economy.

The number of profitable crops or alternate crops available to the Willamette Valley grower is very limited. Row crops no longer provide the profits once enjoyed. As other geographical areas improve the quality of their product and have other advantages such as lower freight costs to the populous markets, lower labor costs, lower environmental costs, the Willamette Valley grower-processor is finding it difficult to market profitably. Our market share is shrinking and the geographical areas where we can compete is limited. As a result, we are not looking for additional crops nor increasing the acreage in the crops we now process. If the acreage now in seed production has to look to alternate crops, the balance now enjoyed in the Valley will be disrupted and the results are obvious. Farmers will be forced to unprofitable crops and ultimately be forced out of business. Only the very large farmer enjoying the economies of scale will survive. The small family farm will not be able to compete.

We urge you to consider these factors in your deliberation concerning the Field Burning Bill. The fullest amount of acreage possible is necessary

COPY

to substantiate and sustain the grass seed industry. The acreage involved and the grower has no viable alternative to the present utilization. Seeking an alternative will have an adverse effect on the total agricultural area's economy.

Passage of Senate Bill #535 is a step in the right direction in providing economic stability for the farmers in the Willamette Valley.

Yours very truly,

AGRIPAC, INC.

Wallace Glen Detering
Chairman of the Board

cc: Leonard E. Kunzman
Director of Agriculture

OREGON WHEAT LEAGUE
OREGON CATTLEMEN

March 31, 1977

Mrs. Gale Miller
Corvallis, OR 97330

Dear Mrs. Miller:

Enclosed is a petition supporting SB 535. I could have filled several more had they been available at an earlier date.

It was my pleasure to share the podium with Mr. Burt Hawkins, President of the Oregon Cattlemen, during their Legislative Breakfast recently and we expressed support for the grass seed industry urging legislators to approach the field burning question in a pragmatic manner by considering the air quality question through smoke management programs. I pointed out the fact that particulate from field burning is but a small part of the total air pollutants and were present during a very limited period of the year. Also addressed was the economic impact the grass seed industry contributes in the Oregon business community.

The Oregon Wheat League has in its Legislative Blue Book a recommendation supporting the grass seed industry and their burning problem. This book is delivered to each legislator during the session.

I have long been an advocate of unity in agriculture and believe we are at long last becoming a united industry. It was towards this end and because of my concern with the Oregon Legislature, the Agricultural Political Action League (APAL) was formed last March a year ago. I would hope you and other farmers like you will support our efforts to elect knowledgable legislators.

With best wishes, I remain

Sincerely yours,

/s/
Earl Pryor

cc: Merle W. Manning
Jack Cushman

LANE COUNTY FARM BUREAU

RESOLUTION

WHEREAS, it is established that the soil and climate of the Willamette Valley are almost perfect for production of grass seeds, and a great deal of the soils are not suited for other crops, the valley is one of the few areas of the world that has this climate;

WHEREAS, this enables the seed growers to be a major source of the marketable seed for the world and has developed into an industry that is estimated to generate approximately $200,000,000 to the Willamette Valley and Oregon economy annually;

WHEREAS, the grass seed industry and its satellite industries are responsible for an estimated 11,000 jobs in the Oregon economy;

WHEREAS, it is essential that the high quality which the Willamette Valley grass seed is noted for world wide, must be retained by growers to obtain their share of the world market;

WHEREAS, to attain the required purity of the seed crops, the fields that produce them must be sanitized;

WHEREAS, the continuous research during the past several years has yet to establish an economical, feasible method that will replace open field burning and that universal adoption of current mobile field sanitizers would be damaging to the air quality of the Willamette Valley by keeping smoke at ground level;

WHEREAS, the end use, world wide, of the processed grass seeds affects the bulk of the human race in production of grass needed to produce pounds of beef, gallons of milk, dairy produce, pounds of lamb, the wool supply, and one of the prime sources of vegetables protein;

WHEREAS, no other crop does more to protect and beautify the environment than grass seed production;

BE IT RESOLVED, therefore, that Lane County Farm Bureau go on record in support of Senate Bill 535 that will legalize the continued use of open field burning, under a cooperative smoke management program between the growers and the DEQ, which, as has been demonstrated, can result in satisfactory air quality in the Willamette Valley.

ADOPTED BY THE Lane County Farm Bureau on this 3rd day of May, 1977.

Michael Kanzon
president

Emma Endicott
secretary

STATE DEPARTMENT OF AGRICULTURE
Salem, OR
Wk. 3/21/77

BOARD OF AGRICULTURE BACKS OPEN FIELD BURNING

The State Board of Agriculture unanimously supported a resolution backing any legislation that would extend open field burning by the grass seed industry Thursday at the conclusion of a two-day meeting in Salem.

The extension would remain in effect until an economically feasible alternative to open burning could be developed.

The resolution, offered by board member Robert Humphreys, Sublimity, stated that the grass seed industry in the Willamette Valley is threatened with extinction unless legislation is passed by the current legislative session allowing open field burning with proper smoke management. It said the law now in effect was developed on the assumption that "economically feasible alternatives to open field burning would be available to take care of the acreage cutback." This statement refers to the requirement of phasing down the number of acres each year on which open burning is permitted until open field burning is eliminated. The presumption was that suitable mechanical burners would be developed and used by the grass seed industry.

Humphreys' resolution also said large sums of money have been expended on research and the alternatives are not yet available.

He said the grass seed industry is important to the environment in the valley and its elimination would be truly detrimental. He said

(more.....)

grass fields, except for a brief period in late summer, contribute significantly to the high oxygen content of Oregon's atmosphere. He also said that the density of the grass serves to hold soil in place and prevent soil erosion on the uneven terrain of the valley.

"Without this industry, erosion of our fertile farm soils would be substantially increased and silt pollution in streams and rivers would become a problem," Humphreys said.

He said the smoke management program developed by grass seed growers, the Department of Environmental Quality and Oregon State University "has proved open field burning can be conducted with virtually negligible pollution."

BENJAMIN H. BONNLANDER, M.D., M.P.H.
PHYSICIAN – INTERNAL MEDICINE
PROFESSIONAL PLAZA, SUITE A-1
ALBANY, OREGON 97321
926-2235

March 29, 1977

TO WHOM IT MAY CONCERN:

As a physician and internist in Albany and as Linn County Health Officer, I wish to state my position on the field burning issue.

Apart from cigarette smoking, which has proven to be the major hazard to human health and over which we are exerting minimal improvement in prevention of human disease, there are other air pollutants in the Willamette Valley, in particular industrial pollutants, exhaust fumes ~~and~~, (in particular, carbon monoxide) and, finally, field burning and slash burning.

No one has yet carried out or published an objective study on the health hazards of field burning in humans. This practice has been used for thousands of years throughout the world and is practiced extensively on other continents. The products of field burning are generally natural organic components, and most of the side effects are temporary and due to local irritation of mucous membranes and the bronchial airways.

We have far more proven objective data on the hazards of industrial pollutants and exhaust fumes in terms of both chronic and acute medical illness and hazard. It is virtually impossible to separate the combination of these above-mentioned pollutants during the summer, during which time inversion atmospheric conditions trap them, as well as byproducts of field burning in the Willamette Valley. While field burning is the most visible and impressive, it is probably the least toxic and least harmful in the long term.

Patients who suffer from allergies and upper or lower respiratory infections are reacting not only to field or slash burning, but undoubtedly to numerous other chemicals and noxious compounds present, as explained above.

I feel that until further scientific controlled studies have been done where these substances are examined either separately or in combination, we have no medical proof that field burning, per se, is harmful to human health and, until such time as state and local authorities are able to take steps

to control cigarette smoking, industrial air pollutants, all forms of exhaust fumes and slash burning, it is unjustified to arbitrarily select one industry and one source of contamination as the culprit and thereby eliminate a major form of agriculture in our region.

Benjamin H. Bonnlander, M.D.

BHB/se

James L. Erickson, M. D.
Physician and Surgeon
P. O. Box 338
Brownsville, Oregon 97327

April 21, 1977

TO WHOM IT MAY CONCERN:

I am a practicing physician in the Willamette Valley. I am concerned over the issues of open field burning and the alleged health effects therefrom. I have worked in emergency room services over the past six years in three hospitals in the Willamette Valley. I have also been in private practice for two years in the heart of the Willamette Valley in Brownsville, OR.

During the six years of my practice which included three years in Springfield, I was unable to make observations of significant health effect upon the population seeking services at the Emergency Room as a result of field burning smoke. To be sure, there are people who have respiratory allergies who have had exacerbations of their disease as a result of smoke of all kinds; however, on only one or two occasions in my memory have I had occasion to believe that field burning smoke was directly responsible for precipitating an attack of asthma or respiratory crisis.

This is not to say that none has had such crises or symptoms precipitated; however, the Emergency Room would seem to be the place where significant severe medical crisis would find itself and, in my experience, this has not occurred.

I am more concerned about the particulate pollutants and the photochemical pollutants which are generated on or near the ground and tend to stay there as opposed to the field burning smoke which tends to rise above the layer of air which is breathed by the human population.

I feel that a great deal of concern over field burning arises from the fact that field burning smoke is highly visible and that it arises from the activities of the minority of the population, mainly the grass seed farmers, who provide a convenient scapegoat for the concerns of environmentally and medically conscious people.

I speak not only as a physician but as an environmentalist myself, having been a long time member of the Sierra Club, The Environmental Defense Fund and other environmentally concerned organizations. I have made an effort to find scientific studies linking the actual smoke from field burning to the respiratory disease rate and have been unable to satisfy myself that such studies do exist.

In short, I feel that the process of banning field burning as means of improving air quality in the Willamette Valley would be medically unfounded and would not be in the best interests of my patients or the rest of the people in the area.

Sincerely,

James L. Erickson, M. D.

CC: Jack Cochran, Sr.