

2/22/1980

**OREGON  
ENVIRONMENTAL QUALITY  
COMMISSION MEETING  
MATERIALS**



State of Oregon  
**Department of  
Environmental  
Quality**

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OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

February 22, 1980

Room 602  
Multnomah County Courthouse  
1021 Southwest Fourth Avenue  
Portland, Oregon

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TENTATIVE AGENDA

9:00 am CONSENT ITEMS

Items on the consent agenda are considered routine and generally will be acted on without public discussion. If a particular item is of specific interest to a Commission member, or sufficient public interest for public comment is indicated, the Chairman may hold any item over for discussion.

- A. Minutes of the January 18, 1980 Commission meeting.
- B. Monthly Activity Reports for December 1979 and January 1980.
- C. Tax Credit Applications.
- D. Request for authorization to conduct a public hearing to consider amendments to solid waste management rules that provide for landfill siting by the Department (OAR 340-61-005 through 61-060).
- E. Request for authorization to conduct a public hearing to consider amendments to Administrative Rules on State Financial Assistance to Public Agencies for Pollution Control Facilities for the disposal of solid waste (OAR 340-82-005 through 82-055).

9:10 am PUBLIC FORUM

- F. 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.

ACTION ITEMS

The Commission may hear testimony on this item at the time designated, but may reserve action until the work session later in the meeting.

- G. Contested Case Review - DEQ v. Eugene and Josephine Vogt, DEQ case number 05-SS-SWR-78-70.
- H. Request by Clatsop County for continuation of variances from rules prohibiting open burning dumps (OAR 340-61-040 (2)(c)).

(MORE)

- I. Request for approval of changes by Multnomah County and Jackson County to subsurface fees not specifically listed in OAR 340-72-010(1).
- J. Proposed adoption of amendments to exempt forestry operations from noise control regulations for industry and commerce (OAR 340-35-035).

INFORMATIONAL ITEMS

- K. Open Burning - Status report on rule revision and review of 1979 fall burning season.
- L. Guidelines for waste reduction programs (SB 925, Chapter 773, Oregon Laws 1979).

WORK SESSION

The Commission reserves this time if needed to further consider proposed action on any item on the agenda.

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Because of the uncertain time span involved, the Commission reserves the right to deal with any item at any time in the meeting except those items with a designated time certain. 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 Portland Motor Hotel, 1414 Southwest Sixth Avenue, Portland; and lunch in the DEQ Headquarters Offices, 522 Southwest Fifth Avenue.

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

February 22, 1980

On Friday, February 22, 1980, the one hundred eighteenth meeting of the Oregon Environmental Quality Commission convened in Room 602 of the Multnomah County Courthouse, 1021 Southwest Fourth Avenue, Portland, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chairman; Mr. Ronald Somers; Mr. Fred Burgess; and Mrs. Mary Bishop. Vice-Chairman Albert Densmore was absent. Present on behalf of the Department were its Director, William Young, and several members of the Department staff.

The 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 Southwest Fifth Avenue, Portland, Oregon.

BREAKFAST MEETING

All Commission members except Commissioner Densmore were present.

1. Proposal by Chem Nuclear, Inc. to change their corporate structure to a new company to operate the Arlington hazardous waste disposal site. Mr. Richard Reiter of the Department's Hazardous Waste Section, informed the Commission that Chem Nuclear, Inc. had formed a subsidiary that would take over operation of the Arlington site. Since it is a new company it would be necessary for the Commission to modify the license. The staff recommended, and the Commission agreed, that a public hearing be held at the April EQC meeting.
2. Report on feasibility of passing out information on energy conservation effects of proper car maintenance at DEQ vehicle inspection stations. Ms. Janet Gillaspie, of the Department's Public Affairs Office, reported on the type of information that will be available at the inspection stations. She showed the Commission a copy of a sign which will be posted at each station advertising the information available for persons who wish it.
3. Report on DEQ Goals and Objectives sessions held to date. Director Young reviewed the progress of these sessions to date and the schedule for the completion of the process.

4. Letter from House Interim Committee on Environment and Energy regarding the legislative intent of SB 925. The Commission was briefed on a recently received letter from the House Interim Committee on Environment and Energy regarding the legislative intent of SB 925 regarding solid waste reduction. The staff was instructed to get a more in-depth analysis of the legislative intent regarding the need for rule making for waste reduction requirements.
5. Status of field burning SIP amendment submittal. The Commission was briefed on a meeting that was held among the City of Eugene, the Oregon Seed Council and EPA Region X in Seattle. There was apparently a difference of opinion on the outcome of this meeting among the participants. The Commission was told that EPA would probably agree to a performance standard but would probably not approve the SIP submittal as presently constructed. The Commission requested a staff report at the March breakfast meeting regarding the status of this matter.

FORMAL MEETING

All Commission members except Commissioner Densmore were in attendance.

AGENDA ITEM A - MINUTES OF THE JANUARY 19, 1980 COMMISSION MEETING

AGENDA ITEM B - MONTHLY ACTIVITY REPORTS FOR DECEMBER 1979 AND JANUARY 1980

AGENDA ITEM C - TAX CREDIT APPLICATIONS

AGENDA ITEM D - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING TO CONSIDER AMENDMENTS TO SOLID WASTE MANAGEMENT RULES THAT PROVIDE FOR LANDFILL SITING BY THE DEPARTMENT (OAR 340-61-005 THROUGH 61-060)

AGENDA ITEM E - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING TO CONSIDER AMENDMENTS TO ADMINISTRATIVE RULES ON STATE FINANCIAL ASSISTANCE TO PUBLIC AGENCIES FOR POLLUTION CONTROL FACILITIES FOR THE DISPOSAL OF SOLID WASTE (OAR 340-82-005 THROUGH 82-055)

It was MOVED by Commissioner Somers, seconded by Commissioner Bishop and carried unanimously that the following actions be taken:

Agenda Item A - Minutes be approved as presented.

Agenda Item B - Monthly Activity Reports for December 1979 and January 1980 be approved as presented.

Agenda Item C - The following tax credit applications be approved:

T-1070	Louisiana-Pacific Corp.
T-1097	Butzin Orchard
T-1116	The Boeing Company
T-1134	Bohemia, Inc.

T-1136	Melrose Orchards, Inc.
T-1138	Peter Naumes Orchard
T-1139	Medford Pear Company
T-1140	Medford Pear Company
T-1144	West Harvard Furniture Co.
T-1145	Wild River Orchard, Inc.
T-1151	Bohemia, Inc.
T-1157	Georgia Pacific Corp.
T-1158	Georgia Pacific Corp.
T-1160	Gevurtz Furniture Company
T-1161	Harrison Peters
T-1162	Chembond Corporation
T-1165	Timber Products Company
T-1169	Bruce R. Kindler

And that Mr. Stephen C. Carter's request for preliminary certification for tax credit be denied.

Agenda Item D - Authorize the public hearing.

Agenda Item E - Authorize the public hearing.

#### LEGISLATIVE INTENT OF SB 925

Representative Wayne Fawbush appeared regarding the legislative intent of SB 925 relating to solid waste reduction. He said it was his opinion that the Legislature meant that rules be adopted regarding the waste reduction provisions of SB 925. The guidelines proposed by the Department were not adequate, he continued. He said that he felt there was adequate leeway in the law to allow for recycling, and that rules could be general and not specific. Representative Fawbush suggested that the Department's proposed guidelines could easily be changed to rules.

Chairman Richards said that the Commission would ask for an Attorney General opinion on the legislative intent of this bill. Representative Fawbush replied he thought that would be reasonable in light of the problems surrounding the bill. He suggested that the Commission look at what reasonably needed to be done along with the legislative intent. He said the intent was to get recycling into a statewide solid waste program.

#### PUBLIC FORUM

No one wished to appear on any subject.

AGENDA ITEM G - CONTESTED CASE REVIEW - DEQ v. EUGENE AND JOSEPHINE VOGT,  
DEQ CASE NUMBER 05-SS-SWR-78-70

No one was present representing Mr. and Mrs. Vogt. It was MOVED by Commissioner Somers, seconded by Commissioner Bishop and carried unanimously that the Department's exceptions on cross-appeal be adopted, and that they be incorporated into the Hearing Officer's Order to result in the Final Order of the Commission.

AGENDA ITEM H - REQUEST BY CLATSOP COUNTY FOR CONTINUATION OF VARIANCES  
FROM RULES PROHIBITING OPEN BURNING DUMPS (OAR 340-61-040(2)(c))

Clatsop County requested an extension of its variance from the Department's rules prohibiting open burning dumps. The County has been attempting to secure a sanitary landfill site or other alternative but none is yet available. The Commission may issue variances upon demonstrated need.

Summation

1. Until the landfill study has been completed and a landfill site identified, Clatsop County has little control over the continued operation of the open burning dumps. Once a landfill site has been identified that can be economically developed, the county should be expected to proceed promptly towards its implementation.
2. The lack of area at each of the three open burning sites prevents conversion of the sites to modified landfills.
3. Strict enforcement of the open burning prohibition would result in almost immediate closure of the three sites without any alternative available.
4. Completion of the landfill study is scheduled for mid-May 1980.
5. Provided that a landfill site is found, construction of the site should occur during the summer of 1980 and be completed by the fall of 1980.
6. Therefore, the requirements of ORS 459.225(3) are met.

Director's Recommendation

Based on the findings in the Summation, it is the recommendation that the Environmental Quality Commission grant an extension of variances to OAR 340-61-040(2) until November 1, 1980 for the Cannon Beach, Elsie, and Seaside disposal sites, subject to the following condition:

Open burning at the disposal sites is to be discontinued prior to the expiration date of the variance, if a practical alternative method of disposal becomes available.

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess and carried unanimously that the Director's recommendation be approved.

AGENDA ITEM 1 - REQUEST FOR APPROVAL OF CHANGES BY MULTNOMAH COUNTY AND JACKSON COUNTY TO SUBSURFACE FEES NOT SPECIFICALLY LISTED IN OAR 340-72-010(1)

House Bill 2111 adjusted fee schedules for the subsurface program. One provision in the bill allowed contract counties, with Commission approval, to charge fees for services related to the subsurface program which are not specifically listed in the schedule. In this agenda item, Multnomah and Jackson Counties seek Commission approval of fees for services related to the subsurface program.

Summation

1. Chapter 591, Oregon Laws 1979, provides that the Commission may approve fee schedules for services not specifically listed in that legislation.
2. Multnomah County and Jackson County have requested Commission approval of a fee schedule which includes services for which fees are not specifically listed in Chapter 591, Oregon Laws 1979.
3. The Commission may approve or deny the request in whole or in part.
4. Approval or denial of the proposed fees do not affect the remainder of the county's fee schedule.
5. Proposed fees appear reasonable when compared to the service to be provided.

Director's Recommendation

Based on the summation, it is recommended that the Commission approve the proposed fees for services not specifically listed in Chapter 591, Oregon Laws 1979, to wit:

Multnomah County

1. Compliance inspection for abandonment of subsurface system-- fee \$35.
2. New site evaluation for multiple residential site, first system--fee \$70, each additional system--fee \$50.

Jackson County

1. Preliminary site inspection--fee \$25.



It was MOVED by Commissioner Somers, seconded by Commissioner Burgess and carried unanimously that the Director's recommendation be approved.

AGENDA ITEM J - PROPOSED ADOPTION OF AMENDMENTS TO EXEMPT FORESTRY OPERATIONS FROM NOISE CONTROL REGULATIONS FOR INDUSTRY AND COMMERCE (OAR 340-35-035)

The 1979 Oregon Legislature approved Senate Bill 523 (Chapter 413, Oregon Laws 1979) exempting forestry operations from EQC noise control rules. This action necessitated amending existing rules that included standards for forestry operations.

A public hearing was held to consider a proposed exemption. The final recommendation will provide the exemption as specified in SB 523.

Summation

Drawing from the background, evaluation, hearing report, and SB 523, the following facts and conclusions are offered:

1. SB 523 adopted by the 1979 Oregon Legislature provides an exemption from Commission noise control rules for "forestry operations."
2. Alternative language to the Department's proposal to exempt "forestry operations" from existing noise rules was recommended during the hearing process. This language was further amended by the Department's legal counsel.
3. The proposed amendment would only exempt noise emissions from forestry operations on lands designated in SB 523.

Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt as a permanent rule the proposed amendment, to become effective upon its prompt filing with the Secretary of State.

It was MOVED by Commissioner Somers, seconded by Commissioner Bishop and carried unanimously that the Director's recommendation be approved.

AGENDA ITEM K - OPEN BURNING - STATUS REPORT ON RULE REVISION AND REVIEW OF 1979 FALL BURNING SEASON

This agenda item was presented to keep the Commission informed on the Department's activities concerning the domestic open burning issue.

The Department recognized the schedule proposed in the Director's recommendation was demanding. The time available may be too short for some local governments to generate complete plans for alternate disposal of yard trimmings. If cities and counties have difficulty in developing approvable plans, the Commission and the Department may wish to review the rule section which initiates a ban at the August meeting.

The Director's recommendation offers a schedule which will lead to adoption of a rule change in November to reword the rule for clarity, and redefine the area around Portland where the burning ban was to be in effect.

Director's Recommendation

It is recommended that the Commission approve the following schedule of action by the Department or provide direction for alternate action desired of the Department staff.

March-May, 1980	Receipt of programs and time schedules from local governments.
March-June, 1980	Rewrite open burning rules to improve clarity and revise boundaries for burning ban as necessary.
July-August, 1980	Approve local government plans for implementing ban.
August, 1980	Authorization for public hearings on open burning rules.
September, 1980	Hold public hearings around the state on new open burning rules.
November, 1980	Propose adoption of new open burning rules.

Mr. Owen P. Cramer testified in opposition to the Department's proposal in this matter. He indicated that steps could be taken to minimize the smoke impact of backyard burning with proper scheduling of burning times, and public education in the most efficient means of burning. Mr. Cramer said that backyard burning was essential to homeowners for yard maintenance. Mr. Cramer's written testimony is made a part of the Commission's record in this matter.

Ms. Jean Roy, Portland Air Quality Advisory Committee, outlined the work the Committee did on alternatives to open burning. Among these were chipping and composting the material with sewage sludge. She asked for a resolution from the Commission encouraging local jurisdictions to develop phase-out plans for open burning.

Commissioner Somers commended the Committee for their work on this matter. He said he understood their difficulty when faced with airshed problems and rapidly filling landfills.

It was MOVED by Commissioner Burgess, seconded by Commissioner Somers and carried unanimously that the Director's recommendation be approved.

AGENDA ITEM L - GUIDELINES FOR WASTE REDUCTION PROGRAMS (SB 925, CHAPTER 773, OREGON LAWS 1979)

Chapter 773, Oregon Laws 1979 (SB 925), established criteria for a waste reduction program. Waste reduction programs are required of local government when establishing a landfill in an exclusive farm use (EFU) zone or when receiving funds from the Pollution Control Bond Fund. The staff report discusses the rationale for developing guidelines expanding on the criteria instead of proposing rules.

Receipt of the previously-mentioned letter from the House Interim Committee on Environment and Energy, is made a part of the Commission's record on this matter.

Ms. Judy Roumpf, Oregon Environmental Council, testified that SB 925 was having to be implemented without guidance from the Commission. She said that OEC saw a need for the DEQ staff and budget to implement waste reduction programs. Ms. Roumpf felt that the proposed guidelines were very strong and more public education was needed before they became rules. She urged that while the Department was waiting for further information on the legislative intent, they implement the proposed guidelines.

Mr. Bruce Walker, Association of Oregon Recyclers, presented a letter from Mr. Bob French, Chairer of the DEQ Waste Reduction Task Force, which supported the adoption of rules. Mr. French's written statement is made a part of the Commission's record on this matter. Mr. Walker was complimentary of the guidelines but agreed with Mr. French that rules needed to be adopted.

It was MOVED by Commissioner Somers, seconded by Commissioner Bishop and carried unanimously that the Director be instructed to seek an Attorney General opinion on the legislative history of adoption of rules versus guidelines in regard to SB 925, and that a response be made to Senator Nancie Fadeley of the House Interim Committee on Environment and Energy.

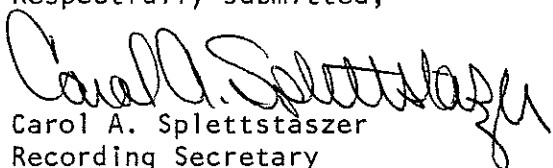
There being no further business, the formal meeting was adjourned.

LUNCH MEETING

All Commission members except Commissioner Densmore were in attendance.

1. Progress report on Program Evaluation Study. Mr. Chuck Crump, Executive Department, reported to the Commission that the Study was progressing well and they still estimated to complete it in June.
2. Report on DEQ audit of Tillamook County subsurface sewage program. The Commission was informed that the audit uncovered serious problems in the administration of the program. However, most of the problems were traceable to one person, who has since left the program. They were also told that many sites were found where systems were installed that should not have been. Staff indicated they would be following up on this matter.

Respectfully submitted,

  
Carol A. Spletstaszer  
Recording Secretary



## *Environmental Quality Commission*

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

### MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item B, February 22, 1980, EQC Meeting  
December, 1979 and January, 1980 Program Activity Reports

### Discussion

Attached are the December, 1979, and January, 1980, Program Activity Reports with the exception of January's Water Quality Division Section which will be included in the February Report. A new Section in the January Report is Civil Penalties Assessed.

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

Water Quality 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 logs of civil penalties assessed and status of DEQ/EQC 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 pages 2 and 3 of the report.

WILLIAM H. YOUNG

M. Downs:ahc  
229-6485  
02-08-80



Contains  
Recycled  
Materials

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

December, 1979

Month

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

AQD, WQD, SWD  
(Reporting Unit)

December, 1979  
(Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	Month	Fis.Yr.	Month	Fis.Yr.	Month	Fis.Yr.	
<u>Air</u>							
Direct Sources	<u>16</u>	<u>92</u>	<u>13</u>	<u>97</u>			<u>57</u>
<u>Water</u>							
Municipal	<u>43</u>	<u>498</u>	<u>51</u>	<u>514</u>			<u>17</u>
Industrial	<u>4</u>	<u>71</u>	<u>8</u>	<u>73</u>			<u>20</u>
<u>Solid Waste</u>							
General Refuse	<u>2</u>	<u>15</u>		<u>11</u>		<u>2</u>	<u>6</u>
Demolition	<u>1</u>	<u>4</u>	<u>3</u>	<u>4</u>	<u>1</u>	<u>1</u>	
Industrial	<u>1</u>	<u>8</u>		<u>5</u>			<u>5</u>
Sludge		<u>2</u>		<u>1</u>			
<u>Hazardous Wastes</u>							
<u>GRAND TOTAL</u>	<u>67</u>	<u>690</u>	<u>75</u>	<u>705</u>	<u>1</u>	<u>3</u>	<u>105</u>

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

December, 1979  
(Month and Year)

PLAN ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action
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Direct Stationary Sources

Tillamook (NC 1375)	Tillamook County Creamery Assoc. Whey evaporation plant	12/19/79	Approved
Jackson (NC 1444)	Husky Industries Off-gas system	08/01/79	Approved
Marion (NC 1486)	Siltec Corporation Mfg. Silicon Wafers	10/04/79	Approved
Multnomah (NC 1495)	Columbia Steel Casting Co. New shakeout system	11/28/79	Approved
Multnomah (NC 1496)	Columbia Steel Casting Co. Additional electric arc furnace	11/28/79	Approved
Multnomah (NC 1503)	Arco Petroleum Products Two floating roofs	12/06/79	Approved
Polk (NC 1509)	Gould Inc. Battery grid casting facility	11/20/79	Approved
Linn (NC 1514)	Teledyne Wah Chang Expansion of Columbium pilot plant	11/15/79	Approved
Linn (NC 1516)	Teledyne Wah Chang Extrusion bldg. Roto-Cyclone	11/20/79	Approved
Lake (NC 1517)	Oil-Dri Production Co. Fines washout system	12/10/79	Approved
Lake (NC 1518)	Oil-Dri Production Co. Dryer product roller mill	12/06/79	Approved
Linn (NC 1519)	Western Kraft Fan system on #2 washer row	12/04/79	Approved
Crook (NC 1522)	Clear Pine Mouldings, Inc. Wood waste dust control system	12/11/79	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

December 1979  
(Month and Year)

PLAN ACTIONS COMPLETED

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

Municipal Wastes Sources 51

Polk	Ashbrook Addition Phase VI Independence	12/3/79	PA
Marion	7th St. McNary-- Gerth Replacement, Salem	12/19/79	PA
Yamhill	Pioneer Pk Ph 1 & 2 Lafayette	12/4/79	PA
Washington	Tiburon Office Park Durham	12/4/79	PA
Jackson	Valley of Rogue St. Park	12/11/79	PA
Jackson	Ralls Lateral Extension BCVSA	12/21/79	PA
Deschutes	Tom Hall Subdivision Redmond	12/14/79	PA
Multnomah	N. Hamlin Ave-Willis-Hunt Portland	12/20/79	PA
Washington	Enschede Estates USA-Hillsboro	12/24/79	PA
Marion	Eagle Valley Salem	12/24/79	PA
Clackamas	Tax Lot 700 JO 627 Wilsonville	12/21/79	PA
Clackamas	Montebello Phase 2 Wilsonville	12/21/79	PA



## DEPARTMENT OF ENVIRONMENTAL QUALITY

## MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

December 1979  
(Month and Year)

PLAN ACTIONS COMPLETED - Continued

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
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Municipal Waste Sources - Continued

Lane	Fisher Plat Springfield	12/17/79	PA	
Josephine	Lateral "G" Josephine County	12/17/79	PA	
Yamhill	Portion of Dundee Townsite Dundee	12/26/79	PA	
Umatilla	Sunland Estates Add. Ph 2 Hermiston	12/29/79	PA	
Umatilla	Hermiston Orchards Add. Block, Hermiston	12/26/79	PA	
Marion	Indian School Rd.-Blossom Drive, Salem	12/27/79	PA	
Marion	7th St.-McNary-Gerth Replacement, Salem	12/27/79	PA	
Marion	Alley E of High St. NE Salem	12/27/79	PA	
Jackson	Crater Lake Ext. No. 1 BCVSA	12/27/79	PA	
Washington	Heather Park 2 USA	12/28/79	PA	
Washington	Heather Park 3 USA	12/28/79	PA	
Coos	Sea Pines Subdivision Bandon	12/28/79	PA	
Marion	Promontory Plaza Relocation Salem-Willow Lake	12/20/79	PA	

## DEPARTMENT OF ENVIRONMENTAL QUALITY

## MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

December 1979  
(Month and Year)

PLAN ACTIONS COMPLETED - Continued

* County	* Name of Source/Project	* Date of	* Action	* Action	* Action
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Municipal Waste Sources - Continued

Clackamas	Day Dream Ranch Townhouses Wilsonville	12/21/79	PA		
Lincoln	Gainer-Tax Lot 1100 Waldport	12/11/79	PA		
Washington	Tiburon Office Park Revised USA-Durham	12/18/79	PA		
Washington	Gentry Place USA-Rock Creek	12/19/79	PA		
Washington	Rosa Road USA-Rock Creek	12/19/79	PA		
Washington	Woodleaf Terrace USA-Rock Creek	12/19/79	PA		
Multnomah	Park Place Subdivision Multnomah County	12/20/79	PA		
Coos	Greenway Court-Major Partition, Bandon	12/6/79	PA		
Washington	Louisiana Pacific Hangers USA-Hillsboro	12/19/79	PA		
Multnomah	SE Martin-Private Property- Circle Ave., Portland	12/21/79	PA		
Marion	U.S. Housing/Center St. Apts., Salem	12/28/79	PA		
Lake	Shelter Resources-Blocks 62 & 63, Lakeview Add. Lakeview Suburban S.D.	12/27/79	PA		
Marion	KoosKoosKee Ph. 1 Revision Salem	12/27/79	PA		

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

December 1979  
(Month and Year)

PLAN ACTIONS COMPLETED - Continued

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
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Municipal Waste Sources - Continued

Clackamas	Boberg Rd. Sewer Wilsonville	12/21/79	PA	
Wasco	Columbia View Hts. 2nd Add. The Dalles	12/21/79	PA	
Clackamas	Meadowview Subdivision The Dalles	12/21/79	PA	
Washington	SW Prembrook-Tigard USA-Durham	12/24/79	PA	
Washington	Merlo Theatre Ext.sion USA	12/24/79	PA	
Multnomah	Flood Oak Industrial Pk Multnomah County	12/31/79	PA	
Lane	Gateway Pk Shopping Center Springfield	12/27/79	PA	
Multnomah	Dickinson Resubdivision Portland	12/27/79	PA	
Clatsop	49th St. Sewer-Birch to Ash, Astoria	12/27/79	PA	
Washington	Forest Glen III USA	12/31/79	PA	
Clackamas	Jo Terrace Subdivision Oak Lodge S.D.	12/31/79	PA	
Deschutes	Remington Arms Offsite Redmond	12/21/79	PA	
Klamath	Crater Lake Ext. No. 1 Crater Lake	12/27/79	PA	

PA = Provisional Approval

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

December, 1979  
(Month and Year)

PLAN ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
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INDUSTRIAL WASTE SOURCES (8)

Marion	Floyd Iverson Dairy, Gervais, Animal Waste	12/01/79	Approved	
Coos	Menasha, North Bend, Settling Basin Effluent Screen Showers	12/01/79	Approved	
Multnomah	Port of Portland, Upgrade Ballast Water Treatment	12/07/79	Approved	
Tillamook	Donald A. Wyss, Tillamook, Animal Waste Storage Tank	12/10/79	Approved	
Jackson	R. D. Murphy, Gold Hill, Hog Operation Holding Tank	12/12/79	Approved	
Multnomah	Boeing of Portland Waste Chemical Storage Building	12/19/79	Approved	
Benton	North Side Lumber Company Philomath, Spill Cont. Fuel Tanks	12/20/79	Approved	
Linn	Western Kraft, Albany, Replace Effluent Pipe Line	12/31/79	Approved	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

December, 1979  
(Month and Year)

PLAN ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	* *
Multnomah	MSD-Nash Pit New Demolition Site Construction & Operational Plans	12-21-79	Conditional Approval	
Multnomah	Vance Pit Closed Site Waste Relocation Plan	12-14-79	Letter Authorization Issued	
Multnomah	LaVelle Landfill Existing Demolition Site Gas Vent Construction Plan	12-26-79	Conditional Approval	
Washington	Durham Pits Proposed Landfill Feasibility Study	12-11-79	Department asked that Metro forego further consideration of this site until other alternatives are considered.	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

December, 1979  
(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			
<u>Direct Sources</u>							
New	2	25	3	19	23		
Existing	0	7	0	11	9		
Renewals	11	71	4	43	99		
Modifications	2	15	5	28	16		
Total	15	118	12	101	147	1932	1964
<u>Indirect Sources</u>							
New	1	12	1	24	7		
Existing	-	-	-	-	-		
Renewals	-	-	-	-	-		
Modifications	0	2	0	2	0		
Total	1	14	1	26	7	148	

Number of  
Pending Permits

Comments

38	To be drafted by Northwest Region
10	To be drafted by Willamette Valley Region
6	To be drafted by Southwest Region
4	To be drafted by Central Region
6	To be drafted by Eastern Region
1	To be drafted by Program Planning Division
33	To be drafted by Program Operations
14	Awaiting Next Public Notice
35	Awaiting the end of 30-day Noted Period
<u>147</u>	

21 Technical Assistances  
5 A-95's

## DEPARTMENT OF ENVIRONMENTAL QUALITY

## PERMITS ISSUED

## DIRECT STATIONARY SOURCES

COUNTY	SOURCE	PERMIT NUMBER	APPLIC. RECEIVED	STATUS	DATE ACHIEVED	TYPE OF APPLICATION
COLUMBIA	CROWN ZELLERBACH WOOD PRO	05	2064 06/21/79	PERMIT ISSUED	12/06/79	RHW
COLUMBIA	UNITED ASPHALT INC.	05	2576 07/12/79	PERMIT ISSUED	12/06/79	NEW
COOS	ROSEBURG LUMBER CO	06	0010 00/00/00	PERMIT ISSUED	12/06/79	MOD
CROOK	DCHOCO PELLET PLANT	07	0013 09/26/79	PERMIT ISSUED	12/06/79	MOD
CURRY	BROOKINGS PLYWOOD CO	08	0003 04/05/78	PERMIT ISSUED	11/26/79	RHW
KLAMATH	STUKEL ROCK & PAVING INC.	18	0050 12/12/78	PERMIT ISSUED	11/26/79	RHW
LINCOLN	PACIFIC TIMBER SALVAGE	21	0051 01/19/78	PERMIT ISSUED	11/26/79	NEW
MULTNOMAH	LINNTON PLYWOOD	26	2073 05/25/79	PERMIT ISSUED	11/26/79	RHW
MULTNOMAH	ACE GALVANIZING INC	26	2982 08/24/79	PERMIT ISSUED	11/26/79	MOD
MULTNOMAH	LEAVITT NU PACIFIC CO	26	3013 08/28/79	PERMIT ISSUED	12/06/79	NEW
WASHINGTON	WESTERN FOUNDRY COMPANY	34	1879 00/00/00	PERMIT ISSUED	11/27/79	MOD
WASHINGTON	OREGON REG. PRIMATE CTR.	34	2642 09/26/79	PERMIT ISSUED	12/06/79	MOD

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit)	December, 1979 (Month and Year)
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PERMIT ACTIONS COMPLETED

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

Indirect Source

Deschutes	Mountain View Mall 1553 spaces File No. 09-7923	12/03/79	Final Permit Issued
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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

December 1979  
(Month and Year)

SUMMARY OF WATER PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	Month	Fis.Yr.	Month	Fis.Yr.			
	* /**	* /**	* /**	* /**	* /**	* /**	* /**
<u>Municipal</u>							
New	0/1	1/4	1/0	1/3	1/8		
Existing	0/0	0/2	0/0	0/0	6/1		
Renewals	4/1	24/4	7/0	22/0	40/6		
Modifications	1/0	2/0	1/0	1/0	4/0		
Total	5/2	27/10	9/0	24/3	51/15	246/88	253/97
<u>Industrial</u>							
New	0/1	3/11	<sup>2/</sup> 1/4 <sub>1/</sub>	4/4	3/9		
Existing	0/0	0/1	0/1	3/3	1/1		
Renewals	1/2	57/9	4/0	39/0	72/9		
Modifications	0/0	2/0	0/0	1/0	5/0		
Total	1/3	62/21	5/1	47/7	81/19	410/134	414/144
<u>Agricultural (Hatcheries, Dairies, etc.)</u>							
New	0/0	2/3	0/0	1/3	3/0		
Existing	0/0	0/2	0/0	0/1	0/1		
Renewals	2/0	35/0	0/0	0/1	35/0		
Modifications	0/0	0/0	0/0	0/0	0/0		
Total	2/0	37/5	0/0	1/5	38/1	64/25	67/26
<u>GRAND TOTALS</u>	8/5	126/36	14/1	72/15	170/35	720/247	734/267

\* NPDES Permits

\*\* State Permits

1/

One State Permit Revoked

2/

One NPDES Application Withdrawn

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division	December 1979
(Reporting Unit)	(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Linn	Glory & Harding Coffee Sewage Disposal	12/14/79	NPDES Permit Renewed	*
Clackamas	Timberline Rim Rec. Club Sewage Disposal	12/14/79	NPDES Permit Renewed	*
Multnomah	Long Mile Rubber Co. Cooling Water	12/14/79	NPDES Permit Renewed	*
Multnomah	Koppers Co. Inc. Wood Preserving	12/14/79	NPDES Permit Renewed	*
Multnomah	Atlantic Richfield Co. Bulk Terminal (Linnton)	12/14/79	NPDES Permit Renewed	*
Linn	Marloc Corporation Plastic Lamination	12/14/79	NPDES Permit Renewed	*
Marion	City of Stayton Sewage Disposal	12/14/79	NPDES Permit Renewed	*
Marion	City of Mt. Angel Sewage Disposal	12/14/79	NPDES Permit Renewed	*
Umatilla	City of <sup>3</sup> Milton Freewater Sewage Disposal	12/14/79	NPDES Permit Renewed	*
Tillamook	Cloverdale Sanitary District Sewage Disposal	12/14/79	NPDES Permit Renewed	*
Crook	City of Prineville Sewage Disposal	12/26/79	NPDES Permit Modified	*
Lincoln	Newport Seafood Fish Processing	12/27/79	NPDES Application Withdrawn	*
Douglas	Brandy Bar Limited Sewage Disposal	12/28/79	NPDES Permit Issued	*
Linn	City of Sweet Home Sewage Disposal	12/28/79	NPDES Permit Renewed	*
Jefferson	Warm Springs Forest Prod. Madras Plywood	12/28/79	State Permit Revoked	*

## DEPARTMENT OF ENVIRONMENTAL QUALITY

## MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

December, 1979  
(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	FY	Month	FY			
<u>General Refuse</u>							
New	1	3	-	4	2		
Existing	-	-	-	-	11		
Renewals	1	12	4	13	17		
Modifications	1	13	1	12	11		
Total	3	28	5	29	41	163	165
<u>Demolition</u>							
New	-	-	-	-	1		
Existing	1	1	1	2	-		
Renewals	-	4	-	-	4		
Modifications	-	-	-	5	-		
Total	1	5	1	7	5	21	21
<u>Industrial</u>							
New	1	1	-	1	3		
Existing	-	-	-	-	-		
Renewals	3	12	-	2	14		
Modifications	-	1	1	1	-		
Total	4	14	1	4	17	98	98
<u>Sludge Disposal</u>							
New	-	-	-	1	-		
Existing	-	-	-	-	1		
Renewals	-	1	-	-	1		
Modifications	-	-	-	-	-		
Total	0	1	0	1	2	13	14
<u>Hazardous Waste</u>							
New	-	-	-	-	-		
Authorizations	31	66	27	70	13		
Renewals	-	-	-	-	-		
Modifications	-	-	-	-	-		
Total	31	66	27	70	13	1	1
<u>GRAND TOTALS</u>	39	114	34	111	78	296	299

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division

(Reporting Unit)

December, 1979

(Month and Year)

PERMIT ACTIONS COMPLETED

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

Domestic Refuse Facilities (5)

Curry	Port Orford Landfill Existing facility	12-04-79	Permit amended
Lane	Florence Landfill Existing facility	12-05-79	Permit renewed
Lane	Swisshome Transfer Site Existing facility	12-05-79	Permit renewed
Curry	Agness Transfer Site Existing facility	12-11-79	Permit renewed
Marion	McCoy Creek Landfill Existing facility	12-11-79	Permit renewed

Demolition Waste Facilities (1)

Multnomah	Vance Pit Renovation Existing facility	12-14-79	Letter authorization issued
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Industrial Waste Facilities (1)

Douglas	Horse Barn Landfill Existing wood waste site	12-12-79	Permit amended
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Sludge Disposal Facilities None

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

December, 1979  
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-NUCLEAR SYSTEMS, GILLIAM CO.

WASTE DESCRIPTION

* Date *	Type	Source	Quantity	
* * *	* * *	* * *	Present	Future

Disposal Requests Granted (26)

Oregon (7)

4	PCB transformers/ capacitors	Electric utility	15,000 lb.	20,000 lb/yr
17	Inorganic chemical sludge	Magnesium recovery	0	240,000 lb/yr
17	Paint sludge	Wall panel coating	325 drums	0
17	PCB transformers	Electrical service shop	2 units	0
17	Paint sludge	Paint manufacturer	150 drums	120 drums/yr
18	Contaminated chromic acid	Plating	3,500 gals	0
20	Spent plating bath containing cyanide	Plating	12 drums	0

Washington (16)

3	PCB transformers/ capacitors and contaminated articles	Energy research facility	55 cu ft	1,000 cu ft/yr
3	PCB transformers	Electric utility	510 cu ft	0
3	PCB transformers/ capacitors and contaminated articles	Electric utility	6,500 lb	3,000 lb/yr

Washington (cont.)

4	Hg contaminated demolition materials	Chemical plant	600 cu ft	0
4	Spent HCl cleaning solution	Industrial cleaning service	0	50,000 gals/yr
4	PCB capacitors	Electric utility	200 cu ft	0
11	PCB capacitors	Electric utility	3,000 lbs	0
11	PCB contaminated materials	Paper mill	16 drums	1 drum/yr
11	PCB transformers	Paper mill	400 cu ft	400 cu ft/yr
18	PCB contaminated materials	Al smelting plant	11 drums	13 drums/yr
18	PCB contaminated materials and capacitors	Electric utility	8,120 lbs	0
18	PCB capacitors/contaminated materials	Electric utility	200 cu ft	0
18	PCB transformers	Food processor	480 cu ft	0
20	PCB capacitors and contaminated materials	Electric utility	375 cu ft	0
20	Penta-chlorophenol wood preserving sludge	Transportation company	5,000 gals	10,000 gals/year
21	Unusable molluscicide	State agency	2,000 lbs	0

British Columbia (2)

3	PCB transformers/capacitors and contaminated solids	Electrical parts supplier	1,000 cu ft	50 ft/yr
21	PCB capacitors and contaminated solids	Mining	2,240 cu ft	0

Alaska (1)

14	PCB capacitors	Electric utility	220 cu ft	0
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Idaho (1)

11	PCB capacitors/ transformers	Electric utility	39 units	0
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DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

January, 1980

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

AQ, WQ, SW Divisions  
(Reporting Unit)

January, 1980  
(Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	Month	Fis.Yr.	Month	Fis.Yr.	Month	Fis.Yr.	
<u>Air</u>							
Direct Sources	<u>8</u>	<u>100</u>	<u>15</u>	<u>112</u>	<u>1</u>	<u>1</u>	<u>50</u>
<u>Water</u>							
Municipal							
Industrial							
<u>Solid Waste</u>							
General Refuse	<u>1</u>	<u>16</u>	<u>3</u>	<u>14</u>	<u>0</u>	<u>2</u>	<u>6</u>
Demolition	<u>0</u>	<u>4</u>	<u>0</u>	<u>4</u>	<u>0</u>	<u>1</u>	<u>0</u>
Industrial	<u>2</u>	<u>10</u>	<u>0</u>	<u>5</u>	<u>0</u>	<u>0</u>	<u>7</u>
Sludge	<u>0</u>	<u>2</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>Hazardous Wastes</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>GRAND TOTAL</u>	<u>11</u>	<u>132</u>	<u>18</u>	<u>136</u>	<u>1</u>	<u>4</u>	<u>63</u>

## DEPARTMENT OF ENVIRONMENTAL QUALITY

## MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

January, 1980  
(Month and Year)

PLAN ACTIONS COMPLETED

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

Direct Stationary Sources

Lane (NC 1418)	National Metallurgical Co. Replace hood and redirect to baghouse	08/27/79	Approved	
Multnomah (NC 1421)	Bird & Son Inc. of Mass. Replacement dip saturator	12/26/79	Approved	
Linn (NC 1431)	Farwest Farmers Co-op New seed and grain line	01/17/80	Approved	
Multnomah (NC 1437)	Chevron USA Inc. Internal floating roofs	07/27/79	Approved	
Linn (NC 1449)	Southwest Forest Industries Ionic scrubber for veneer dryer	07/13/79	Approved	
Klamath (NC 1461)	Weyerhaeuser Co. Oil to sander dust boiler conversion	12/31/79	Approved	
Benton (NC 1470)	Boise Cascade Corp. Wood fired veneer dryers	01/17/80	Approved	
Multnomah (NC 1479)	GATX Tank Storage Terminal Corp. Bottom loading and VOC recovery	01/22/80	Approved	
Multnomah (NC 1499)	North Pacific Grain Growers, Inc. Van for car pool	12/14/79	Denied (tax credit only)	
Hood River (NC 1508)	Walter Wells & Sons Two electric orchard fans	10/25/79	Approved	
Deschutes (NC 1523)	Willamette Industries, Inc. Baghouse and related equipment	12/17/79	Approved	
Deschutes (NC 1532)	Willamette Industries, Inc. Conveyors and storage bldg.	12/18/79	Approved	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

January, 1980  
(Month and Year)

PLAN ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Multnomah (NC 1536)	McCloskey Varnish Company Mfg. unsaturated polyester resins	01/22/80	Approved	*
Hood River (NC 1538)	Walter A. Schindler One orchard fan	12/17/79	Approved (tax credit only)	*
Deschutes (NC1540)	Brooks-Scanlon, Inc. Direct fired veneer dryer	01/21/80	Approved	*

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

February, 1980  
(Month and Year)

PLAN ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Marion	McCoy Creek Landfill Existing landfill Operational plan	01/03/79	Approved	*
Jackson	Prospect Landfill Existing landfill Updated operational plan	01/04/79	Approved	*
Baker	Richland Disposal Site Existing site Operational plan amendment	01/09/79	Approved	*

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

January, 1980  
(Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>			
<u>Direct Sources</u>							
New							
Existing							
Renewals							
Modifications							
Total							
<u>Indirect Sources</u>							
New	2	14	1	25	8		
Existing							
Renewals							
Modifications	0	2	0	2	0		
Total	<u>2</u>	<u>16</u>	<u>1</u>	<u>27</u>	<u>8</u>	149	

INFORMATION NOT AVAILABLE DUE TO  
COMPUTER BREAKDOWN

GRAND TOTALS

Number of  
Pending Permits

Comments

INFORMATION NOT AVAILABLE DUE TO  
COMPUTER BREAKDOWN

19 Technical Assistances  
8 A-95's

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

January, 1980  
(Month and Year)

PERMIT ACTIONS COMPLETED

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

Indirect Source

Marion	Christian Center Church 750 Spaces File No. 24-7933	01/11/80	Final Permit Issued
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## DEPARTMENT OF ENVIRONMENTAL QUALITY

## MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

January, 1980  
(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
	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>			
<u>General Refuse</u>							
New	-	3	1	5	1		
Existing	-	-	-	-	11		
Renewals	1	13	3	16	14		
Modifications	-	13	3	15	10		
Total	1	29	7	36	36	164	166
<u>Demolition</u>							
New	-	-	-	-	1		
Existing	-	1	-	2	-		
Renewals	-	4	-	-	4		
Modifications	-	-	-	5	-		
Total	0	5	0	7	5	20	20
<u>Industrial</u>							
New	1	2	1	2	3		
Existing	-	-	-	-	-		
Renewals	2	14	1	3	15		
Modifications	1	2	-	1	1		
Total	4	18	2	6	19	98	98
<u>Sludge Disposal</u>							
New	-	-	-	1	-		
Existing	-	-	-	-	1		
Renewals	-	1	1	1	-		
Modifications	-	-	-	-	-		
Total	0	1	1	2	1	13	14
<u>Hazardous Waste</u>							
New	-	-	-	-	-		
Authorizations	10	76	21	91	2		
Renewals	-	-	-	-	-		
Modifications	-	-	-	-	-		
Total	10	76	21	91	2	1	1
<u>GRAND TOTALS</u>	15	129	31	142	63	296	299

## MONTHLY ACTIVITY REPORT

Solid Waste Division (Reporting Unit)		January, 1980 (Month and Year)		
<u>PERMIT ACTIONS COMPLETED</u>				
* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*

Domestic Refuse Facilities (7)

Crook	Crook County Landfill Existing site	01/02/80	Permit amended
Klamath	Merrill Landfill Existing site	01/07/80	Permit amended
Lane	Five Rivers Landfill Existing site	01/08/80	Permit renewed
Lane	McKenzie Bridge Landfill Existing site	01/08/80	Permit renewed
Baker	Richland Disposal Site Existing facility	01/09/80	Permit amended
Grant	Hendrix Landfill Existing site	01/24/80	Permit renewed
Curry	Nesika Beach Transfer Station New facility	01/24/80	Permit issued

Demolition Waste Facilities - NoneIndustrial Waste Facilities (2)

Tillamook	Tillamook Hospital Landfill New wood waste site	01/25/80	Permit issued
Tillamook	Hallinan Road Landfill Existing wood waste site	01/25/80	Permit renewed

Sludge Disposal Sites (1)

Lane	Florence Sludge Site Existing facility	01/08/80	Permit renewed
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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

January, 1980  
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-NUCLEAR SYSTEMS, GILLIAM CO.

		<u>WASTE DESCRIPTION</u>			<u>Quantity</u>	
* Date *	Type	Source	Present	Future		
<u>Disposal Requests Granted (21)</u>						
<u>Oregon (6)</u>						
2	PCB transformers and flammable paint sludges	Paper mill	1,600 cu. ft.	0		
2	PCB capacitors and contaminated dirt	Electric utility	100 cu. ft.	0		
3	PCB capacitors	Electric utility	21,600 lbs.	0		
7	2.4D and DCP contaminated steel scraps	Pesticide manufacturing plant	6,000 lbs.	0		
22	PCB spill cleanup debris	Spill cleanup contractor	44 drums	0		
22	Tank car cleaning containing solvents, grease, pigments, etc.	Industrial cleaning service	13,700 gals.	490,000 gals./yr.		
<u>Washington (13)</u>						
2	PCB capacitors	Electric utility	15,000 lbs.	1,500 lbs./yr.		
2	PCB capacitors	Aluminum smelting plant	15 drums	580 units/yr		
2	PCB capacitors	Electrical service shop	9 drums	25 drums/yr		

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-NUCLEAR SYSTEMS, GILLIAM CO.

		<u>WASTE DESCRIPTION</u>			
*      *		*                      *	<u>Quantity</u>		*      *
* Date *	Type	* Source *	Present	* Future	*      *
*      *		*                      *		*      *	*      *
<u>Washington (cont.)</u>					
7	Unwanted aromatic naptha and cyclicimibazaline chemical product	Chemical company	29 drums		0
7	Toluene soaked absorbent pads	Chemical company	191 30-gal. drums		300 drums/yr
7	Unuseable Gestetner ink product containing glycerine and carbon black	Ink supplier	13,500 lbs.		0
7	Phenolic resins	Plywood manufacturer	54 drums		0
7	Nickel reformer catalyst	Coal liquefaction	15 drums		6 drums/yr
22	Ammunition shell rinse water	Federal agency	11,600 gals.		0
22	PCB capacitors	Electric utility	10,000 lbs.		5,000 lbs./yr
22	Coal tar distillates	Coal liquefaction	0		250,000 gals./yr
22	Chrome catalyst	Ammonia production	15,000 lbs.		37,000 lbs/yr
22	Flammable ink sludge	Paper company	25 drums		120 drums/yr
<u>Canada (2)</u>					
3	PCB capacitors and pesticide wastes	Government agency	938 cu. ft.		900 cu. ft. year
7	Pesticide cleanup debris	Spill cleanup service contractor	80 cu. yd.		0

CIVIL PENALTY ASSESSMENTS

Department of Environmental Quality  
1980

CIVIL PENALTIES ASSESSED DURING MONTH OF January, 1980:

<u>Name and Location of Violation</u>	<u>Case No. and Type of Violation</u>	<u>Date Received and Amount</u>
Scheler Corporation Marion County	AQ-WVR-80-15 Open field burning after cut off time	01/22/80 \$500
Lauren Karstens Linn County	AQ-WVR-80-03 Open field burning of 75 acres after cut off time	01/22/80 \$1,500
David Taylor Benton County	AQ-WVR-80-04 Open field burning of 43 acres after cut off time	01/22/80 \$860
Mid-Valley Farms, Inc. Linn County	AQ-WVR-80-13 Open field burning 110 acres without a permit	01/22/80 \$2,200
City of St. Helens Columbia County	WQ-NWR-80-02 Exceeded effluent limitations of NPDES permit	01/22/80 \$2,000
American-Strevell, Inc. Clackamas County	WQ-NWR-80-05 Negligently spilled 300 gallons of oil	01/22/80 \$500

STATUS OF PAST CIVIL PENALTY ACTIONS TAKEN IN 1980:

<u>Name</u>	<u>Case No.</u>	<u>Date Levied</u>	<u>Amount</u>	<u>Status</u>
None				

ACTIONS - for month of JANUARY

	LAST MONTH	PRESENT MONTH
Preliminary Issues . . . . .	5	4
Discovery . . . . .	1	1
Settlement Action . . . . .	2	2
Hearing to be Scheduled . . . . .	7	6
Hearing Scheduled . . . . .	4	1
HO's Decision Due . . . . .	5	7
Brief . . . . .	0	1
Inactive . . . . .	2	2
SUBTOTAL of Active Files		
	26	24
HO's Decision Out/Option for EQC Appeal . . . . .	2	0
Appealed to EQC . . . . .	4	4
EQC Appeal Complete/Option for Court Review . . . . .	3	0
Court Review Option Pending or Taken . . . . .	1	1
Case Closed . . . . .	8	7
TOTAL Cases		
	44	36

KEY

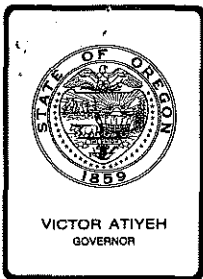
ACD Air Contaminant Discharge Permit  
 AQ Air Quality  
 AQ-NWR-76-178 Violation involving Air Quality occurring in Northwest Region in the year 1976; 178th enforcement action during 1976.  
 CLR Chris Reive, Investigation & Compliance Section  
 Cor Wayne Cordes, Hearings Officer  
 CR Central Region  
 Dec Date Date of either a proposed decision of hearings officer or a decision by Commission.  
 \$ Civil Penalty Amount  
 ER Eastern Region  
 Fld Brn Field Burning incident  
 RLH Robb Haskins, Assistant Attorney General  
 Hrngs Hearings Section  
 Hrng Rfrl Date when Investigation & Compliance Section requests Hearings Section to schedule a hearing  
 Hrng Rqst Date agency receives a request for hearing  
 JHR John Rowan, Investigation & Compliance Section  
 VAK Van Kollias, Investigation & Compliance Section  
 LKZ Linda Zucker, Hearings Officer  
 LMS Larry Schurr, Investigation & Compliance Section  
 MWR Midwest Region (now WVR)  
 NP Noise Pollution  
 NPDES National Pollutant Discharge Elimination System wastewater discharge permit  
 NWR Northwest Region  
 FWO Frank Ostrander, Assistant Attorney General  
 P At beginning of case number means litigation over permit or its conditions  
 PR Portland Region (now NWR)  
 PNCR Portland/North Coast Region (now NWR)  
 Prtys All parties involved  
 Rem Order Remedial Action Order  
 Resp Code Source of next expected activity on case  
 SNCR Salem/North Coast Region (now WVR)  
 SSD Subsurface Sewage Disposal  
 SW Solid Waste  
 SWR Southwest Region  
 T At beginning of case number means litigation over tax credit matter  
 Transcr Transcript being made of case  
Underlined Different status or new case since last month contested case log  
 WVR Willamette Valley Region  
 WQ Water Quality

January 1980  
DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrri	DEQ or Atty	Hrng Offcr	Hrng Date	Resp Code	Dec Date	Case Type & No.	Case Status
Faydrex, Inc.	05/75	05/75	RLH	LKZ	11/77	Hrngrs		03-SS-SWR-75-02 64 SSD Permits	Decision Due
Mead and Johns et al	05/75	05/75	RLH	LKZ		All		04-SS-SWR-75-03 3 SSD Permits	Awaiting dis- position of Faydrex
PGE (Harborton)	02/76	02/76	RPU	LKZ		Prtys		01-P-AQ-PR-76-01	Exceptions due 02-01-80
Jensen	<del>11/76</del>	<del>11/76</del>	RLH	LKZ	<del>12/77</del>	Resp	06/78	<del>61500 Fld Brn 05-AQ-SWR-76-232</del>	<u>Settlement approved by EQC 01-18-80, Civil Penalty reduced to combined \$6,500 fine for the 3 cases: 05-AQ-SWR-76-232, 16-AQ-SWR-77-320, 16-AQ-SWR-77-321</u>
Mignot	11/76	11/76	LMS	LKZ	02/77	Hrngrs	02/77	\$400 06-SW-SWR-288-76	Record on Review due at Court of Appeals on 02-20-80
Jones	04/77	07/77	LMS	Cor	06/09/78	Resp		96B Permit 01-SS-SWR-77-57	Case closed 01-21-80
Magness	07/77	07/77	LMS	LKZ	11/77	Dept		\$1150 Total 06-SS-SWR-77-142	Resp. appeal to EQC filed 01-08-80.
Grants Pass Irrig	09/77	09/77	RLH	LKZ	04/80	Prtys		\$10,000 10-WQ-SWR-77-195	Hearing set in Medford
Powell	11/77	11/77	RLH	LKZ	01/23/80	Resp		\$10,000 Fld Brn 12-AQ-WVR-77-241	Post-hearing briefing
Carl P. Jensen	12/77	01/78	RLH	LKZ		Prtys		618,600 Fld Brn 16-AQ-SWR-77-321	<u>Settlement approved by EQC 01-18-80, Civil Penalty reduced to combined \$6,500 fine for the 3 cases: 05-AQ-SWR-76-232, 16-AQ-SWR-77-320, 16-AQ-SWR-77-321</u>
Carl P. Jensen/ Haber-Khopfenstien	12/77	01/78	RLH	LKZ		Prtys		\$1200 Fld Brn 16-AQ-SWR-77-320	<u>Settlement approved by EQC 01-18-80, Civil Penalty reduced to combined \$6,500 fine for the 3 cases: 05-AQ-SWR-76-232, 16-AQ-SWR-77-320, 16-AQ-SWR-77-321</u>
Wah Chang	01/78	02/78	RLH	LKZ	11/27/79	Prtys		\$5500 17-WQ-WVR-77-334	<u>Settlement approved by EQC 01-18-80, Civil Penalty reduced to \$750</u>
Hawkins	03/78	03/78	FWD	LKZ	12/17/79	Hrngrs		\$5000 15-AQ-PR-77-315	Decision Due
Hawkins Timber	03/78	03/78	FWD	LKZ				\$5000 15-AQ-PR-77-314	No action pending hearing in companion case
Wah Chang	04/78	04/78	RLH	LKZ		Prtys		16-P-WQ-WVR-2849-J NEDES Permit (Modification)	Preliminary Issues
Wah Chang	11/78	12/78	RLH	LKZ		Prtys		08-P-WQ-WVR-78-2012-J	Preliminary Issues
Stimpson	05/78		FWD	LKZ	07/24/79	Hrngrs		Tax Credit Cert. 01-T-AQ-PR-78-010	Decision Due
Vogt	06/78	06/78	RPU	LKZ	11/08/78	Hrngrs		\$250 Civil Penalty 05-SS-SWR-78-70	To be before EQC at February meeting
Welch	10/78	10/78	RLH	LKZ		Dept		07-P-SS-CR-78-134	Discovery
Reeve	10/78		RLH	LKZ		Dept		06-P-SS-CR-78-132 & 133	Hearing deferred pending settlement
Bierly	12/78	12/78	VAK	LKZ	10/30/79	Prtys		\$700 08-AQ-WVR-78-144	Stipulation to be submitted to EQC for approval.
Wah Chang	02/79	02/79	RLH	LKZ		Hrngrs		\$3500 12-WQ-WVR-78-187	To be scheduled
Don Obrist, Inc.	07/79	07/79	RLH	LKZ		Dept		Solid Waste Permit Amendment 07-P-SW-213-NWR-79	Plans sent to Department for approval

January 1980  
DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rst	Hrng Rfrl	DEQ or Atty	Hrng Offcr	Hrng Date	Resp Code	Dec Date	Case Type & No.	Case Status
Melvin Johnson	06/79				10/05/79	Prtys		6100-19-SS-PR-77-35 6750-19-SS-PR-77-97	<u>Closed 01-03-80</u>
Richard I. Klinepier	09/79	09/79	JHR	LKS		Resp		00-P-SS-NWR-79-03 Subsurface sewage permit denied	<u>Stipulated Order of Dismissal signed. Case closed 01-25-80</u>
Gerald R. Callahan	09/79	09/79	CLR	LKZ	01/09/80	Hrngs		09-SS-ER-79-61 Civil Penalty of \$150	<u>Decision Due</u>
Walter A. Kruger	09/79	09/79	CLR	LKZ	01/30/80	Hrngs		11-AQ-NWR-79-97 Open Burning Civil Penalty of \$250	<u>Hearing postponed. To be rescheduled.</u>
Michael Barker	10/79	10/79	LMS	LKZ	12/06/79	Hrngs		12-SS-SWR-79-56 SS Permit revocation	<u>Decision Due</u>
Ernie Peter	10/79	10/79	CLR	LKZ	12/05/79	Hrngs		13-AQ-NWR-79-86 Open Field Burning Civil Penalty of \$500	<u>Decision Due</u>
Mallory & Mallory Inc.	11/79	11/79	JHR	LKZ	01/10/80	Hrngs		14-AQ-CR-79-101 Open Burning Civil Penalty	<u>Decision Due</u>
Bridenstone	11/08/79	11/20/79		LKZ		Resp		15-SS-SWR-79-60 Permit Denial	<u>Preliminary Issues</u>
Tidewater Barge Lines, Inc.	12-05-79	12-05-79	RLH	LKZ		Hrngs		16-WQ-ER-79-148 WQ Civil Penalty of \$5,000	<u>To be Scheduled</u>
M/V Toyota Mara No. 10	12-10-79	12-12-79	RLH	LKZ		Hrngs		17-WQ-NWR-79-127 Oil Spill Civil Penalty of \$5,000	<u>To be Scheduled</u>
Columbia-Resources Corp	12-03-79	12-12-79	CLR	LKZ		Hrngs		18-AQ-NWR-79-125 Civil Penalty of \$500	<u>To be Scheduled</u>
Columbia Sand & Gravel Pit	12-12-79	12-14-79		LKZ		Prtys		19-P-SW-329-NWR-79 Permit Denial	<u>Preliminary Issues</u>
Gary Forrette	12-20-79	12-21-79	RLH	LKZ		Hrngs		20-SS-NWR-79-146 Permit Revocation	<u>To be Scheduled</u>



## *Environmental Quality Commission*

Mailing Address: BOX 1760, PORTLAND, OR 97207

522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### MEMORANDUM

To: Environmental Quality Commission  
From: Director  
Subject: Agenda Item C, February 22, 1980, EQC Meeting

### TAX CREDIT APPLICATIONS

#### Director's Recommendation

It is recommended that the Commission take the following actions:

1. Issue Pollution Control Facility Certificates to:

T-1070	Louisiana-Pacific Corp.
T-1097	Butzin Orchard
T-1116	The Boeing Company
T-1134	Bohemia, Inc.
T-1136	Melrose Orchards, Inc.
T-1138	Peter Naumes Orchard
T-1139	Medford Pear Company
T-1140	Medford Pear Company
T-1144	West Harvard Furniture Co.
T-1145	Wild River Orchard, Inc.
T-1151	Bohemia, Inc.
T-1157	Georgia Pacific Corp.
T-1158	Georgia Pacific Corp.
T-1160	Gevurtz Furniture Co.
T-1161	Harrison Peters
T-1162	Chembond Corporation
T-1165	Timber Products Company
T-1169	Bruce R. Kindler

2. Deny Mr. Stephen C. Carter's request for Preliminary Certification for Tax Credit (see attached review report).

WILLIAM H. YOUNG

CASplettstaszer  
229-6484  
2/8/80  
Attachments



Contains  
Recycled  
Materials

PROPOSED FEBRUARY 1980 TOTALS

Air Quality	\$ 596,112
Water Quality	3,747,362
Solid Waste	2,257,548
Noise	<u>5,157</u>
	\$6,606,179

CALENDAR YEAR TOTALS TO DATE

Air Quality	\$ 253,201
Water Quality	10,463
Solid Waste	-0-
Noise	<u>-0-</u>
	\$ 263,664



Appl T-1070  
Date 1/24/80

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Louisiana-Pacific Corporation  
Columbia Corridor Division  
12655 Southwest Center Street, Suite 475  
Beaverton, Oregon 97005

The applicant owns and operates a lumber and plywood manufacturing plant at Tillamook, 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 is a hogged wood fired boiler, equipped with the required material handling equipment, and steam lines to the plywood plant and to the dry kilns. The applicant also included dry kilns in the plant modification program. The project included electrical, plumbing, foundation and building and engineering costs.

Request for Preliminary Certification for Tax Credit was made on January 5, 1977, and approved on August 2, 1977 and on November 18, 1977.

Construction was initiated on the claimed facility in November, 1977, completed in October, 1978, and the facility was placed into operation in September, 1978.

Facility Cost: \$2,143,611.03 (Accountant's Certification was provided).

3. Evaluation of Application

Prior to installation of the claimed facility, approximately 200 units per day of sawdust and bark wood wastes were incinerated in two modified wigwam burners (one at the sawmill and one at the plywood plant). The applicant entered a compliance agreement in March of 1977 to install a boiler to replace the two burners, one of which had been in violation of the opacity rule. Without the installation of the new boiler, all of the waste would have been landfilled. The boiler now consumes about 160 units of wood waste per day. The remainder is either sold or landfilled.

The company also requested certification for dry kilns which were installed with the boiler. The Environmental Quality Commission has previously determined that dry kilns are not eligible for tax credit under the provisions of ORS Chapter 459.

The cost of the total project for which application was made is \$2,143,611.03. This included the dry kiln costs of \$382,178.75. The cost of the remaining equipment is \$1,761,432.28. Following completion of the construction, the steam line developed leaks which necessitated repairs and replacements. The additional cost of these repairs was \$61,637.67. The total project cost (excluding the dry kilns) was \$1,823,069.95.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1973, as required by ORS 468.165(1)(c).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing solid waste.
- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 459, and the rules adopted under that chapter.
- e. The cost of the facility allocable to pollution control is 100 percent.
- f. Dry kilns are not eligible for certification.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$1,823,069.95 with 100 percent allocated to pollution control, be issued for the eligible portion of the facility claimed in Tax Credit Application number T-1070.

WHDana:cs  
229-5913  
February 12, 1980

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

---

1. Applicant

Butzin Orchard  
2166 Mason Road  
Hood River, Oregon 97031

The applicant owns and operates a fruit farming business at Hood River, 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 one Orchard Rite wind machine that provides approximately 10 acres of frost damage protection, serial No. 13WMWM7.

Request for Preliminary Certification for Tax Credit was made on February 1, 1979, and approved on March 12, 1979.

Construction was initiated on the claimed facility on May 3, 1979, completed on May 3, 1979, and the facility was placed into operation on May 3, 1979.

Facility Cost: \$12,536 (Accountant's Certification was provided).

3. Evaluation of Application

There is no law limiting the use of fuel oil fired heater to control frost damage to fruit trees, even though the heaters in the past produced a significant smoke and soot air pollution problem in the city of Hood River. The orchard farmers desire a secure long-range solution to frost control that includes the reduction or elimination of the smoke and soot nuisance.

One orchard fan serves ten acres and reduces the number of heaters that are typically required in the Hood River area to provide frost protection from 340 heaters to 100 perimeter heaters. Frost control is needed on an average of thirty hours per year.

The operating cost of a typical orchard fan is slightly greater than the savings in the cost of fuel oil to operate orchard heaters. The operating cost consists of the fuel cost using the fan, depreciation over ten years, and no salvage value plus the average interest at 9 percent on the undepreciated balance.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- 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 is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80 percent or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$12,536 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1097 R.

F. A. Skirvin:n  
(503) 229-6414  
February 6, 1980  
AN8939

Appl T-1116  
Date 12-18-79

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

---

1. Applicant

The Boeing Company  
Fabrication Division  
Box 20487  
Portland, OR 97220

The applicant owns and operates a metal surface conditioning plant at Gresham.

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

2. Description of Claimed Facility

The facility described in this application is a Mikro Pul baghouse to collect emissions from salt pot number 17. Collected material from the baghouse is disposed of in the city sewer system.

Request for Preliminary Certification for Tax Credit was made on June 21, 1977, and approved on July 15, 1977.

Construction was initiated on the claimed facility on July 13, 1977, completed on September 15, 1977, and the facility was placed into operation on September 15, 1977.

Facility Cost: \$36,809.75 (Accountant's Certification was provided).

3. Evaluation of Application

Prior to installation of this baghouse the company attempted to control emissions from the salt pots by installation of wet scrubbers, however, these did not comply with the Department's visible emission limits. The current system operates in compliance with all Department limits. The collected material has no economic value to the company. The primary purpose of the baghouse is air pollution control. Therefore, 80 percent or more of the cost is allocable to pollution control.

The applicant submitted additional information which changed the construction initiation date in the application.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165 (1) (a).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing air pollution.
- d. The facility was required by the Department of Environmental Quality and is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. Eighty percent or more of the cost is allocable to pollution control.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$36,809.75 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1116.

F. A. Skirvin:n  
(503) 229-6414  
December 24, 1979

AN8758

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

---

1. Applicant

Bohemia, Inc.  
Dexter Division  
2280 Oakmont Way  
Eugene, OR 97440

The applicant owns and operates a sawmill, and a related manufacturing plant at Trent, 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 is the asphalt paving of an existing log storage area.

Request for Preliminary Certification for Tax Credit was made on February 26, 1979, and approved on May 2, 1979.

Construction was initiated on the claimed facility on March 14, 1979 completed on September 27, 1979, and the facility was placed into operation on September 27, 1979.

Facility Cost: \$100,099.53 (Accountant's Certification was provided).

3. Evaluation of Application

Prior to paving, the log yard was a quagmire of mud during the winter months and dust in the summer. As a result, between 2 to 3 thousand cubic yards of soiled bark and wood was being landfilled each year. Now that paving has been completed, the log yard residue is cleaner and is salvageable as fuel. All of the wood waste generated in the paved area is now being utilized as hog fuel. In addition, the paving eliminated the mud and dust problems and reduced maintenance costs.

The applicant submitted a cost savings analysis which shows a net maintenance cost savings of \$6,700 annually. The value of the recovered bark is approximately \$12,000 per year. Therefore, it appears that a substantial purpose of the paving was to reclaim and utilize solid waste.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.

- b. Facility was constructed on or after January 1, 1973, as required by ORS 468.165(1) (c).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing solid waste.
- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 459, and the rules adopted under that chapter.
- e. The cost of the facility allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$100,099.53 with 100 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1134.

WHD:b  
SB0638  
(503) 229-5913  
January 23, 1980



State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

---

1. Applicant

Melrose Orchards, Inc.  
Box 996  
Medford, OR 97501

The applicant owns and operates a pear orchard at Medford, 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 four Orchard Rite wind machines. Serial Nos.: T648-351-314CD; T647-351-312CD; T711-351-311CD; and T712-351-310CD.

Request for Preliminary Certification for Tax Credit was made on February 17, 1978, and approved on April 3, 1978.

Construction was initiated on the claimed facility on April 1, 1978, completed on April 15, 1978, and the facility was placed into operation on April 15, 1978.

Facility Cost: \$46,400 (Accountant's Certification was provided).

3. Evaluation of Application

There is no law limiting the use of fuel oil-fired heaters to control frost damage to fruit trees, even though the heaters produced a significant smoke and soot air pollution problem in the Medford Air Quality Maintenance area. The orchard farmers desire a secure long-range solution to frost control that includes the reduction or elimination of the smoke and soot nuisance. Frost control is needed on an average of 50 hours per year of which one-third is considered heavy frost conditions using all heaters and two-thirds is light frost conditions using one-half the heaters.

In 1972, an orchard fan was installed in the Medford area and its performance was evaluated by the OSU Agricultural Experiment Station, which published a favorable report in July, 1978. Twenty-six (26) orchard fans were installed for the 1979 season in the Medford area. One orchard fan serves 10 acres and reduces the number of heaters required for frost protection from 340 heaters to 100 perimeter heaters, a 70 percent reduction. An orchard fan blows warmer air from above the trees--when there is a temperature inversion--down into the trees.

The operating cost of a typical orchard fan is slightly greater than the savings of the cost of fuel oil. The operating cost consists of the fuel cost using the fans, depreciation over seven years, and no salvage value, plus the average interest at 14 percent on the undepreciated balance.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- 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 is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80 percent or more.

5. Director's Recommendation

Based upon the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$46,400 with 80 percent or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1136.

F. A. Skirvin:hr  
(503) 229-6414  
January 22, 1980  
AH3013

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

Peter Naumes Orchard  
1770 Hanley Road  
Medford, OR 97501

The applicant owns and operates a pear orchard in Medford, 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 one Orchard Rite wind machine, Serial No. BF 61913 5860599 for frost protection.

Request for Preliminary Certification for Tax Credit was made on February 20, 1979, and approved on March 12, 1979.

Construction was initiated on the claimed facility on March 5, 1979, completed on March 20, 1979, and the facility was placed into operation on March 20, 1979.

Facility Cost: \$14,300 (Accountant's Certification was provided).

3. Evaluation of Application

There is no law limiting the use of fuel oil-fired heaters to control frost damage to fruit trees, even though the heaters produced a significant smoke and soot air pollution problem in the Medford Air Quality Maintenance area.

The orchard farmers desire a secure, long-range solution to frost control that includes the reduction or elimination of smoke and soot nuisance. Frost control is needed on an average of 50 hours per year of which one-third is considered heavy frost conditions using all heaters and two-thirds is light frost conditions using one-half the heaters.

In 1972, an orchard fan was installed in the Medford area and its performance was evaluated by the OSU Agricultural Experiment Station which published a favorable report in July 1978. Ten orchard fans were installed in 1978 and 16 in 1979 in the Medford area. One

orchard fan serves ten acres and reduces the number of heaters required for frost protection from 340 heaters to 100 perimeter heaters, a 70 percent reduction. An orchard fan draws warmer air from above the trees--when there is a temperature inversion--down into the trees.

The operating cost of a typical orchard fan is slightly greater than the savings in the cost of fuel oil. The operating cost consists of the fuel costs using the fan, depreciation over seven years, and no salvage value, plus the average interest at 14 percent on the undepreciated balance.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- 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 is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- e. The cost of the facility allocatable to pollution control is 80 percent or more.

5. Director's Recommendation

Based upon the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$14,300 with 80 percent or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1138.

F. Skirvin:h  
AH3015  
(503) 229-6414  
January 23, 1980

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

Medford Pear Co., Inc.  
Box 996  
Medford, OR 97501

The applicant owns and operates a pear orchard at Medford, 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 7 Orchard Rite wind machines for frost protection. Serial Nos.: E 371 574CD T321121, E 364 503CD T039021, E 371 580CD T841121, E 364 496CD T883121, E 364 500CD T873121, E 371 573CD T193121, E 371 582CD T383121.

Request for Preliminary Certification for Tax Credit was made on January 30, 1979, and approved on February 15, 1979.

Construction was initiated on the claimed facility on March 1, 1979, completed on March 20, 1979, and the facility was placed into operation on March 20, 1979.

Facility Cost: \$89,600 (Accountant's Certification was provided).

3. Evaluation of Application

There is no law limiting the use of fuel oil fired heaters to control frost damage to fruit trees, even though the heaters produce a significant smoke and soot air pollution problem in the Medford Air Quality Maintenance Area. The orchard farmers desire a secure long-range solution to frost control that includes the reduction or elimination of the smoke and soot nuisance. Frost control is needed on an average of 50 hours per year, of which one-third is considered heavy frost conditions using all heaters and two-thirds is light frost conditions using half the heaters.

In 1972, an orchard fan was installed in the Medford area and its performance was evaluated by the OSU Agricultural Experiment Station, which published a favorable report in July, 1978. Ten orchard fans were installed in the Medford area in 1978, and 16 in 1979.

One orchard fan typically serves ten acres and reduces the number of heaters required for heavy frost protection from 340 heaters to 100 perimeter heaters, a 70% reduction.

The operating cost of a typical orchard fan is slightly greater than the savings in the cost of fuel oil. The operating cost consists of the fuel cost using the fan, depreciation over seven years, and no salvage value plus the average interest at 14 percent on the undepreciated balance.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- 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 is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80 percent or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$89,600 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1139.

F. A. Skirvin:n  
(503) 229-6414  
January 28, 1980  
AN8905

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

Medford Pear Co., Inc.  
Box 996  
Medford, OR 97501

The applicant owns and operates a pear orchard at Medford, 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 six Orchard Rite wind machines, for frost protection. Serial Nos.:

T713-351-308CD; T714-351-306CD; T715-351-315CD; T716-324-466CD;  
T720-351-309CD; and T719-351-307CD.

Request for Preliminary Certification for Tax Credit was made on February 21, 1978, and approved on April 17, 1978.

Construction was initiated on the claimed facility on April 1, 1978, completed on April 15, 1978, and the facility was placed into operation on April 15, 1978.

Facility Cost: \$69,600 (Accountant's Certification was provided).

3. Evaluation of Application

There is no law limiting the use of fuel oil-fired heaters to control frost damage to fruit trees, even though the heaters produced a significant smoke and soot air pollution problem in the Medford Air Quality Maintenance area. The orchard farmers desire a secure long-range solution to frost control that includes the reduction or elimination of the smoke and soot nuisance. Frost control is needed on an average of 50 hours per year, of which one-third is considered heavy frost conditions using all heaters and two-thirds is light frost conditions using one-half the heaters.

In 1972, an orchard fan was installed in the Medford area and its performance was evaluated by the OSU Agricultural Experiment Station, which published a favorable report in July, 1978. Ten orchard fans were installed in 1978 and 16 in 1979 in the Medford area. One orchard fan serves 10 acres and reduces the number of heaters required

for frost protection from 340 heaters to 100 perimeter heaters. A 70 percent reduction. An orchard fan blows warmer air from above the trees--when there is a temperature inversion--down into the trees.

The operating cost of a typical orchard fan is slightly greater than the savings of the cost of fuel oil. The operating cost consists of the fuel cost using the fans, depreciation over seven years, and no salvage value, plus the average interest at 14 percent on the undepreciated balance.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- 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 is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- e. The cost of the facility allocatable to pollution control is 80 percent or more.

5. Director's Recommendation

Based upon the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$69,600 with 80 percent or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1140.

F. A. Skirvin:h  
(503) 229-6414  
January 23, 1980  
AH3016



State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

West Harvard Furniture Company  
2558 West Harvard Boulevard  
Roseburg, OR 97470

The applicant owns and operates a retail furniture store at Roseburg, 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 is a Kilkom Model KV-60 waste paper baler.

Request for Preliminary Certification for Tax Credit was made on September 14, 1979, and approved on November 7, 1979.

Construction was initiated on the claimed facility on October 16, 1979, completed on October 16, 1979, and the facility was placed into operation on October 16, 1979.

Facility Cost: \$7,000.00 (Copy of invoice attached).

3. Evaluation of Application

The applicant's furniture store generates approximately three to four tons of waste cardboard, from packing boxes each month. Prior to installation of the baler, the cardboard was being taken to the local landfill. Local waste paper recyclers were not willing to handle unbaled (loose) cardboard on a regular basis. With the installation of the baler, the applicant is now able to sell all the cardboard for recycling.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1973, as required by ORS 468.165(1)(c).

- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing solid waste.
- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 459, and the rules adopted under that chapter.
- e. The cost of the facility allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$7,000.00 with 100 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1144.

WHD:b  
SB0638.A  
(503) 229-5913  
January 23, 1980

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

Wild River Orchard, Inc.  
Box 996  
Medford, OR 97501

The applicant owns and operates a pear orchard at Medford, 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 an Overtree Sprinkler System used for both irrigation and frost protection of a pear orchard. The costs are:

Pump Unit	\$ 7,524
Pipe	52,253
Sprinkler	4,457
Transportation	1,946
Installation	17,236
Holding Pond Construction	11,874
Irrigation Canal	
Diversion	954
TOTAL UNIT COST	<u>\$96,244</u>

Request for Preliminary Certification for Tax Credit was made on October 18, 1978, and approved on November 29, 1978.

Construction was initiated on the claimed facility on December 1, 1978, completed on April 10, 1979, and the facility was placed into operation on April 10, 1979.

Facility Cost: \$96,244 (Accountant's Certification was provided).

3. Evaluation of Application

The claimed facility serves to provide frost protection for 40 acres of trees by replacing the need for some 1,100 orchard heaters burning fuel oil. In addition, the facility provides irrigation by sprinklers instead of by existing gravity flow ditches and some portable pipe.

The Environmental Quality Commission has previously certified overtree sprinkler systems located in the Medford area (Application Nos. T-212, T-339, T-476, T-579, and T-951).

In these applications the percent allocable to pollution control was based on the percentage of total operating time used for frost protection.

The average time the system is used for both purposes as submitted by the applicant is:

Irrigation--72 hours per year (6 irrigations at 12 hours per irrigation)

Frost protection--96 hours per year (16 nights at 6 hours per night--frost protection varies from 35 nights maximum to two nights least per year). This results in the system being used 43 percent of the time for irrigation and 57 percent for frost protection.

It is concluded that the facility operates to a substantial extent for reducing atmospheric emissions and that the portion of the cost allocable to pollution control should be 40 percent or more and less than 60 percent.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- 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 is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 40 percent or more but less than 60 percent.

5. Director's Recommendation

Based upon the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$96,244 with 40 percent or more but less than 60 percent allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1145.

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

Bohemia, Inc.  
Brownsville  
2280 Oakmont Way  
Eugene, OR 97440

The applicant owns and operates a wood products manufacturing plant at Brownsville, Oregon.

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

2. Description of Claimed Facility

The facility described in this application is a conversion from a wet log storage pond to a dry storage deck infeed and consisted of:

- a. Fill log pond.
- b. Modify pond log haul to dry deck infeed.
- c. Waste water collection, treatment, and recycle system.

Request for Preliminary Certification for Tax Credit was made April 5, 1979, and approved June 21, 1979. Construction was initiated on the claimed facility June 30, 1979, and the facility was placed into operation November 26, 1979.

Facility Cost: \$133,695. (Accountant's Certification was provided).

3. Evaluation of Application

The industrial waste water discharge, which previously reached the Calapooya River has been eliminated by the claimed facility so that the applicant claims the facility is 100 percent effective as a pollution control device. Staff has field inspected the claimed facility and has determined it is operating as designed.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165 (1) (a).

- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing water pollution.
- d. The facility was required by the Department of Environmental Quality and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$133,695, with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1151.

CKA:p  
(503) 229-5325  
February 7, 1980

WP0700

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

Georgia Pacific Corporation  
Toledo Paper Division  
1500 Southwest Fifth Avenue  
Portland, Oregon 97204

The applicant owns a plant manufacturing kraft board and paper at Toledo, Oregon.

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

2. Description of Claimed Facility

The facility described in this application is a timber piling and wood bulkhead constructed 835 feet along the effluent treatment lagoon dike adjacent to the Yaquina River.

Request for U.S. Army Corps of Engineers permit to construct the facility was made in March 1974. The office of the Governor approved the project for all interested state agencies, by letter to the Corps, July 8, 1974.

Notice of Intent to Construct was submitted to the DEQ by Georgia Pacific, by letter of October 3, 1974.

Preliminary Certification for Tax Credit was not required. Construction was initiated on the claimed facility November, 1974, and the facility was placed into operation at the final completion of secondary treatment system in March, 1978.

Facility Cost: \$87,600 (Accountant's Certification was provided).

3. Evaluation of Application

Georgia Pacific was required to expand waste water facilities for this mill to include secondary treatment. Construction was in progress during the period of 1975 to 1977 (Application T-1158) and would not have been possible without the bulkhead to strengthen and maintain lagoon dike stability along the Yaquina River.

4. Summation

- a. Facility was constructed under a certificate of approval to construct issued pursuant to ORS 468.175.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing water pollution.
- d. The facility was required by the Department of Environmental Quality and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 100%.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$87,600 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1157.

CKA:l  
(503) 229-5325  
2/8/80  
WL0786



State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

Georgia-Pacific Corporation  
Toledo Paper Division  
900 Southwest Fifth Avenue  
Portland, Oregon 97204

The applicant owns and operates a kraft board and paper manufacturing plant at Toledo, Oregon.

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

2. Description of Claimed Facility

The facility described in this application is a secondary waste treatment system for pulp mill waste waters by expansion of existing aerated stabilization basin, and includes:

- a. Dikes and earthwork including midfeather dike
- b. Relocate 6 existing aerators
- c. Install 15 additional aerators
- d. Nutrient and pH adjustment systems, storage tanks, piping, and instrumentation
- e. Additional 2000 KV Substation
- f. Industrial sewers
- g. Structural steel, concrete, instrumentation and power

Request for Preliminary Certification for Tax Credit was made March 28, 1977, and approved April 20, 1977. Construction was initiated on the claimed facility May 2, 1977, completed and placed into operation March 1, 1978.

Facility Cost: \$3,520,060.00 (Accountant's Certification was provided).

3. Evaluation of Application

Completion of the claimed facility was necessary in order that the plant comply with NPDES permit limits. Staff negotiations with the company and their engineers were conducted which established the need for the claimed facilities.

BOD and suspended solids removal efficiency, as shown in treatment data, has been in the 90 percent range since the claimed facility was placed into operation.

The facility has no other function than pollution control thus no income is derived from it.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1) (a).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing water pollution.
- d. The facility was required by the Department of Environmental Quality and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$3,530,060.00 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1158.

CKA;b  
WB0689  
(503) 229-5325  
January 29, 1980

Appl T-1160  
Date 2/1/80

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

Gevurtz Furniture Company  
6600 Southwest Bonita Road  
Tigard, Oregon 97223

The applicant owns and operates a retail furniture store at Tigard, 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 is a Freeman Model SDA-60" solid waste baler.

Request for Preliminary Certification for Tax Credit was made on June 30, 1979, and approved on November 7, 1979.

Construction was initiated on the claimed facility in August, 1979 completed in August, 1979, and the facility was placed into operation in August, 1979.

Facility Cost: \$6,838.72 (Copies of invoices were provided).

3. Evaluation of Application

The applicant's furniture store generates approximately three to four tons of waste cardboard from packing boxes each month. Prior to installation of the baler, the cardboard was being taken to the local landfill. Local waste paper recyclers were not willing to handle unbaled (loose) cardboard on a regular basis. With the installation of the baler, the applicant is now able to sell all the cardboard for recycling.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1973, as required by ORS 468.165(1)(c).

- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing solid waste.
- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 459, and the rules adopted under that chapter.
- e. The cost of the facility allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$6,838.72 with 100 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1160.

WHD:b  
SB0732  
(503) 229-5913  
February 1, 1980

- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing air pollution.
- d. The facility was required by the Department of Environmental Quality and is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control 80 percent or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$219,823 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1165.

F. A. Skirvin:n  
(503) 229-6414  
January 31, 1980  
AN8929

Appl T-1162  
Date 1/17/80

- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1) (a).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing water pollution.
- d. The facility was required by the Department of Environmental Quality and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- e. The portion of the cost of the claimed facility property allocable to pollution control is 100%.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$6,007.21 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1162.

CKA:b  
WB0634  
(503) 229-5325  
January 22, 1980

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

Chembond Corporation  
Box 270  
Springfield, OR 97477

The applicant owns and operates a plant, manufacturing synthetic resin for the wood products industry at Springfield, Oregon.

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

2. Description of Claimed Facility

The facility described in this application is a spill containment system for areas where phenolic resin is stored and transferred and where resin hauling trucks are loaded and consists of:

- a. concrete surfaced area at resin storage tanks
- b. curb containment diking
- c. collection sumps and pumps (2)

Request for Preliminary Certification for Tax Credit was made March 13, 1979, and approved March 21, 1979. Construction was initiated on the claimed facility September 27, 1979, completed and placed into operation November 28, 1979.

Facility Cost: \$6,007.21 (Accountant's Certification was provided).

3. Evaluation of Application

The facility provides containment of resin leaks and spills that may occur during resin transfer. Collected contaminated water is pumped to a waste water storage tank to be used in resin production. Water outside the curb is also collected then tested for contaminants prior to discharge to the storm sewer. The facility is functioning as intended.

Since no income is derived from recovered or reclaimed materials, the applicant claims 100% of the costs allocable to pollution control.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175 regarding Preliminary Certification.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- 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 is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80 percent or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$10,800 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1161.

F. A. Skirvin:n  
(503) 229-6414  
January 21, 1980  
AN8892



State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

Harrison Peters  
3735 Central Vale Road  
Hood River, Oregon 97031

The applicant owns and operates a fruit farming business at Hood River, 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 one (1) Orchard Rite wind machine that provides approximately ten (10) acres of frost damage protection.

Request for Preliminary Certification for Tax Credit was made on January 1, 1979, and approved on February 14, 1979.

Construction was initiated on the claimed facility on April 10, 1979, completed on April 10, 1979, and the facility was placed into operation on April 10, 1979.

Facility Cost: \$10,800 (Accountant's Certification was provided).

3. Evaluation of Application

There is no law limiting the use of fuel oil fired heaters to control frost damage to fruit trees, even though the heaters in the past produced a significant smoke and soot air pollution problem in the city of Hood River. The orchard farmers desire a secure, long-range solution to frost control that includes the reduction or elimination of the smoke and soot nuisance.

One orchard fan serves ten (10) acres and reduces the number of heaters that are typically required in the Hood River area to provide frost protection from 340 heaters to 100 perimeter heaters. Frost control is needed on an average of 30 hours per year.

The operating cost of a typical orchard fan is slightly greater than the savings in the cost of fuel oil to operate the orchard heaters. The operating costs consist of the fuel cost using the fan, depreciation over ten (10) years, and no salvage value plus the average interest at 9 percent on the undepreciated balance.

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

Timber Products Company  
Box 1669  
Medford, Oregon 97501

The applicant owns and operates a plywood plant in Medford, Oregon.

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

2. Description of Claimed Facility

The facility described in this application consists of two Burley scrubbers and water treatment system to control emissions from two veneer dryers.

Request for Preliminary Certification for Tax Credit was made on June 4, 1979, and approved on June 26, 1979.

Construction was initiated on the claimed facility on October 10, 1979, completed on October 31, 1979, and the facility was placed into operation on October 31, 1979.

Facility Cost: \$219,823.08 (Accountant's Certification was provided).

3. Evaluation of Application

The proposed facility is a veneer dryer control system to control emissions from the two existing dryers. The applicant has installed Burley Industry's scrubbers in order to meet the Department's emission limits for veneer dryers. Collected material from the scrubbers is added to the hogged fuel and burned in the company's boiler. It has no value as a fuel. The primary purpose of the scrubbers and water clarification tank is air pollution control. Therefore, 80 percent or more of the cost of these units is allocable to pollution control. The Department has inspected these scrubbers and determined that they are capable of meeting the Department's emission limits.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

---

1. Applicant

Bruce R. Kindler  
Box 02345  
Portland, Oregon 97202

The applicant owns and operates a refrigeration and dry storage warehouse at Portland, Oregon.

Application was made for tax credit for a noise pollution control facility.

2. Description of Claimed Facility

The facility described in this application is an acoustical enclosure for the warehouse refrigeration compressors. The warehouse is located at 927 Southeast Marion, Portland, Oregon. The cost of the enclosure was \$5,157.

Request for Preliminary Certification for Tax Credit was made on October 17, 1979, and approved on October 19, 1979.

Construction was initiated on the claimed facility on October 22, 1979, completed on November 5, 1979, and the facility was placed into operation on November 5, 1979.

Facility Cost: \$5,157.00

3. Evaluation of Application

The warehouse refrigeration compressors exceeded the DEQ noise standards prior to construction of the acoustical enclosure. The enclosure has brought the compressors into compliance with the noise standards. The enclosure is entirely for environmental noise pollution control. Thus, we gave the facility an 80 percent more allocation rating.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1977, as required by ORS 468.165(1)(b).

- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing noise pollution.
- d. The facility was required by the Department of Environmental Quality Noise Pollution Control Section, and is necessary to satisfy the intents and purposes of ORS Chapter 467, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80 percent or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$5,157 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1169.

JH:b  
NB0713  
(503) 229-6085  
February 1, 1980

State of Oregon  
Department of Environmental Quality

PRELIMINARY CERTIFICATION REVIEW REPORT

---

1. Applicant

Mr. Stephen C. Carter  
13735 Northeast Brazee Court  
Portland, OR 97230

The applicant is a private citizen. Preliminary certification is required for a solid waste pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a wood burning stove and heater for domestic use, a gasoline powered chain saw and a two-wheeled trailer.

It is estimated the facility will be placed in operation during February, 1980. The estimated cost of the facility is \$880.00.

3. Evaluation of Application

Wood wastes (slash) from logging operations and the like would be utilized for home heating purposes. However, in the staff's opinion, the statutes do not allow for pollution control tax credit for private citizens. ORS sections 316.097(5a), 317.072(5a) and 307.405(2a) state that the taxpayer must be the owner or lessee of a trade or business to be eligible for tax credit.

Mr. Carter has been advised of the above statutory requirements, but he is unwilling to withdraw his application. He contends that the Department of Environmental Quality has no authority to enforce statutes pertaining to the Department of Revenue and that Preliminary Certification should be granted on the basis of the facility's pollution control merits. The Department of Environmental Quality believes it would be improper to approve the application under these circumstances.

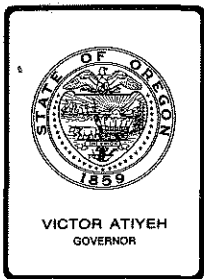
4. Summation

- a. The applicant is a private citizen who does not own or operate a business.
- b. The Department has determined that the erection, construction or installation does not comply with the applicable provisions of ORS Chapter 307, 316 and 317; therefore, the facility is not eligible for tax credit certification.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission issue an order denying the applicant's request for preliminary certification.

WHD:b  
SB0624  
(503) 229-5913  
January 23, 1980



## *Environmental Quality Commission*

Mailing Address: BOX 1760, PORTLAND, OR 97207

522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. D, February 22, 1980, EQC Meeting

Request for Authorization for Public Hearing to Consider Amendments to Solid Waste Management Rules that Provide for Siting of Landfills by the Department, OAR 340-61-005 through 61-085.

### Background

Chapter 773, Oregon Laws 1979 (SB-925), copy attached, requires the Commission to adopt rules:

1. To establish a procedure for local government units to request assistance from the Department in the establishment of landfill disposal sites under section 3 and to give notice of such requests.
2. To establish a procedure for obtaining public comment on determinations of need for landfill sites made by the Commission.
3. To provide for public hearings in the area affected by a proposed landfill disposal site to be established by the Department under section 4.

### Evaluation

The Department is proposing additions to solid waste program rules. These additions are required by recent legislation regarding Commission and Department involvement in siting new solid waste landfills (Chapter 773, Oregon Laws, 1979--SB 925).

A task force of persons present during committee hearings on the bill was appointed by the Department to assist in drafting rules consistent with legislative intent. In addition, legal counsel has reviewed the rules and assisted in final drafting.

The following amendments to OAR 340-61-005 through 61-085 are proposed:

340-61-015 would add policy direction regarding landfill siting statewide.



Contains  
Recycled  
Materials

340-61-021 (new section) would establish an application procedure for local government to request assistance.

340-61-022 (new section) would provide for public hearing on need for a landfill site.

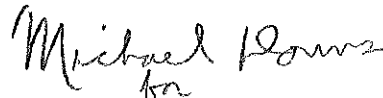
340-61-023 (new section) would provide for a public hearing in area to be affected by a proposed new landfill.

Summation

The Commission is being asked to authorize a public hearing. The proposed rule additions would 1) add policy regarding state assistance to local governments in siting a landfill, 2) establish a procedure for local government to apply for assistance, 3) provide for a public hearing to determine need for a landfill, and 4) provide for a public hearing in any area affected by a proposed landfill established by the Department.

Director's Recommendation

Based on the Summation, it is recommended that authorization for a public hearing be granted.

  
for  
WILLIAM H. YOUNG

Attachments:   Appendix A, Draft Rules  
                  Appendix B, Draft Statement of Need for Rulemaking  
                  Appendix C, Draft Fiscal Impact Statement  
                  Appendix D, Draft Hearing Notice  
                  Appendix E, Senate Bill 925

Robert L. Brown:pd  
229-5157  
February 5, 1980  
SP0751



APPENDIX A

PROPOSED REVISION TO OREGON ADMINISTRATIVE RULES, CHAPTER 340,  
SOLID WASTE MANAGEMENT

OAR 340-61-015. Whereas inadequate solid waste collection, storage, transportation, recycling and disposal practices cause nuisance conditions, potential hazards to public health and safety and pollution of the air, water and land environment, it is hereby declared to be the policy of the Department of Environmental Quality to require effective and efficient solid waste collection and disposal service to both rural and urban areas and to promote and support comprehensive county or regional solid waste management planning, utilizing progressive solid waste management techniques, emphasizing recovery and reuse of solid wastes and insuring highest and best practicable protection of the public health and welfare and air, water and land resources. In keeping with the Oregon policy to retain primary responsibility for management of adequate solid waste programs with local government units (ORS 459.015) and the Environmental Quality Commission's perception of Legislative intent under Chapter 773, Oregon Laws 1979, the Commission will look for, and expect, the maximum participation of local government in the planning, siting, development and operation of needed landfills. It is expected that local government will have carried out a good faith effort in landfill siting, including but not limited to public participation and Department assistance, before requesting the Department to site the landfill. Local government will be expected to assume or provide for responsibility in the ownership and/or operation of any Department/Commission sited landfill under anything but an extraordinary circumstance.

Request for Assistance

OAR 340-61-021

- (1) Applications for requests for assistance in siting landfills under Section 3, Chapter 773, Oregon Laws 1979, shall be in the form of a letter signed by the governing body of the city or county with attachments as necessary to fully describe the need and justification for the request, need for the site as outlined in the Department approved Solid Waste Management Plan and types of assistance required.
- (2) When the request for assistance includes Department siting of the landfill under Section 3, Chapter 773, Oregon Laws 1979, exhibits and information shall be submitted which document the following:
  - (a) The local government has an adopted, Department approved Solid Waste Management Plan which identifies the need for a landfill.
  - (b) The local government has re-evaluated the plan in consultation with the Department and has confirmed that siting a landfill in the immediate future is still needed.
  - (c) An explanation of why the local government is unable to proceed successfully to site the landfill, including a discussion of progress to date and the obstacles to be overcome.

- (d) All pertinent reports, plans, documents and records relative to the siting process to date will be made available to the Department at the Department's request.
  - (e) The local government has carried out an acceptable process for landfill siting (with technical assistance from the Department if requested) including a minimum of the following:
    - (A) Alternative sites have been identified and ranked as to probable acceptability based upon information sufficient to establish preliminary feasibility of each site.
    - (B) Information has been gathered on at least the two top ranked sites sufficient to satisfy the requirements of the "Feasibility Study Report" provided for in OAR 340-61-030. Certain requirements of the "Feasibility Study Report" may be waived, for the purposes of this section, by the Department upon a demonstration of prohibitive cost or legal constraint.
    - (C) A public participation process, including the use of a citizen's advisory committee, has been carried out in the siting effort, with public meetings and/or hearings held on the candidate sites.
  - (f) A statement of the local government's proposed planning and financial participation in the Department's siting process and proposed ultimate responsibility for construction and operation of the landfill.
- (3) The Department shall give reasonable public notice of each such request, including the prompt publication of a summary of such request in the Secretary of State's Bulletin.

Public Comment to Determine Need

340-61-022

Prior to the Commission making a determination of need for any landfill site under Section 4, Chapter 773, Oregon Laws 1979, the Department shall give prior reasonable public notice of, and hold a public informational hearing on, the need for the landfill site.

Public Hearing in Area Affected by Proposed Site

340-61-023

Prior to siting a landfill under Section 4, Chapter 773, Oregon Laws 1979, the Department shall give prior reasonable public notice of and hold a public informational hearing in the area affected by the proposed site.

APPENDIX B

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

In the Matter of the Adoption of                    )  
Amendments to the Solid Waste                    )  
Management Rules, OAR Chapter 340,            )  
Section 61-005 to 61-085                         )     STATEMENT OF NEED

The Environmental Quality Commission intends to adopt the Solid Waste Management rule amendments, OAR Chapter 340, Section 61-005 to 61-085.

- A. Legal Authority, Chapter 773, Oregon Laws, 1979.
- B. Need for Rule.

The proposed amendments are needed to establish policy regarding state assistance in landfill siting, provide a procedure for local government to request assistance and to provide for public hearings to determine need and inform persons in areas affected by proposed landfills.

- C. Documents Relied Upon. No documents, as of this date other than the recent legislation.

DEPARTMENT OF ENVIRONMENTAL QUALITY

By: Robert L. Brown  
Date: February 22, 1980

APPENDIX C

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

In the Matter of Adoption of )  
Amendments to the Solid Waste ) FISCAL IMPACT STATEMENT  
Management Rules, OAR Chapter 340, )  
Section 61-006 to 61-085 )

The Environmental Quality Commission intends to adopt the Solid Waste Management rule amendments, OAR Chapter 340, Section 61-005 to 61-085, to satisfy the requirements of Chapter 773, Oregon Laws 1979.

Agency costs in implementing the proposed rule could include any or all of the following:

1. Review and processing of applications could be handled in the normal office routine unless complications arose. In that case, up to 0.25 staff positions could be used.
2. Field work and possible hiring of consultants could be involved in technical assistance and actual siting of landfills. This could range as high as one full time employee and consulting contracts up to \$30,000 for each application.
3. Should the Department be required to do the actual construction and assume operation of a disposal site costs could range to above \$500,000. Money would initially come from pollution control bond fund and be repaid by a schedule of user fees established by the Commission.

Local government requesting assistance under OAR 340-61-021 will be required to have used an acceptable process in site search. Such a process may cost an average applicant \$25,000 to \$50,000. Grants are available from the Department for planning to cover the above costs and would be recoverable by use of a user fee after establishment of a landfill.

The general public, either through user charges, property taxes or other rates will eventually repay the above costs. This will increase their costs over what is presently paid. It is estimated that collection costs, for disposal, may increase as much as \$.50 to \$1 per month per 30 gallon can.

The above estimates are based on an examination of current consulting contracts, construction either present or recently completed and planning estimates of effect on rates done by local jurisdictions.

## APPENDIX D

NOTICE OF PUBLIC HEARING - Distributed 3-17-80  
- Hearing 4-21-80

### A CHANCE TO BE HEARD ABOUT AMENDMENTS TO SOLID WASTE MANAGEMENT RULES.

The Department of Environmental Quality is proposing amendments to the current Solid Waste Management Rules. The proposed modifications to the regulations cover policy direction in state assistance to local government in landfill siting, application procedure and hearing procedures.

#### What is DEQ Proposing?

Interested parties should request a copy of the complete proposed rule package. The major aspects of the proposed amendments are 1) policy regarding state involvement in siting of landfills, 2) application procedures for local government to request assistance from the Department in siting a landfill, 3) procedures for public hearing to determine need for new landfill, and 4) hearing procedure to inform persons in area affected by a proposed new landfill to be sited by the state.

#### Who is Affected by this Proposal?

Local governments and public at large.

#### How to Provide Your Information?

Written comments should be sent to the Department of Environmental Quality, Solid Waste Division, Box 1760, Portland, Oregon, 97207, and should be received by 5 p.m., April 22, 1980. Oral and written comments may be offered at the following public hearing:

City: Portland  
Time: 1:00 p.m.  
Date: April 22, 1980  
Location: 522 Southwest Fifth Avenue, Room 511

#### Where to Obtain Additional Information:

Copies of the rules may be obtained from Valerie Lee, Department of Environmental Quality, Solid Waste Division, 522 Southwest Fifth Avenue, Box 1760, Portland, Oregon, 97207, (503) 229-5913.

#### Legal References for This Proposal:

This proposal amends OAR 340-61-005 through 61-085 and is proposed under Chapter 773, Oregon Laws, 1979, (SB-925).

Need for Rule:

The proposed rule amendments are required by Chapter 773, O.L. 1979 to 1) provide an application procedure for local government to request state technical assistance and involvement in landfill siting, 2) provide for a public hearing to determine need for a landfill, and 3) to provide for public hearing in area affected by a proposed landfill to be established by the state.

Fiscal Impact:

The estimated fiscal impacts are that 1) staff of up to one additional employee (\$30,000) may be required plus consultant time equal to \$30,000 per project may be needed. State bond funds in the amount up to \$500,000 may be required to fund landfill siting and construction, 2) local governments applying for assistance may be required to spend \$25,000 to \$50,000 prior to applying, and 3) public rates in areas affected may increase by up to \$1 per month for disposal of wastes.

Further Proceedings:

After public hearing, the Environmental Quality Commission may adopt the rule identical to the proposed rules, adopt a modified rule on the same subject matter or decline to act. The Commission's deliberation should come in late May, as part of the agenda of a regularly scheduled Commission meeting.

OREGON LEGISLATIVE ASSEMBLY--1979 Regular Session

Enrolled

**Senate Bill 925**

Sponsored by COMMITTEE ON ENVIRONMENT AND ENERGY

CHAPTER..... 773

## AN ACT

Relating to solid waste disposal; creating new provisions; and amending ORS 215.213, 459.065, 459.245 and 468.220.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** Sections 2 to 6, 8a and 8b of this Act are added to and made a part of ORS 459.005 to 459.105.

**SECTION 2.** (1) The Legislative Assembly finds and declares that:

(a) The planning, location, acquisition, development and operation of landfill disposal sites is a matter of state-wide concern.

(b) Local government has the primary responsibility for planning for solid waste management.

(c) Where the solid waste management plan of a local government unit has identified a need for a landfill disposal site, the state has a responsibility to assist local government and private persons in establishing such a site.

(2) It is the intent of the Legislative Assembly that any action taken by the Environmental Quality Commission to establish a landfill disposal site under section 4 of this 1979 Act be recognized as an extraordinary measure that should be exercised only in the closest cooperation with local government units that have jurisdiction over the area affected by the proposed establishment of a landfill disposal site.

**SECTION 3.** Upon request by a city or county responsible for implementing a department approved solid waste management plan which identifies a need for a landfill disposal site, and subject to policy direction by the commission, the Department of Environmental Quality shall:

(1) Assist the local government unit in the establishment of the landfill including assisting in planning, location, acquisition, development and operation of the site.

(2) Site and issue a solid waste disposal permit pursuant to ORS 459.205 to 459.265 for a landfill disposal site within the boundaries of the requesting local government unit. Subject to the conditions set forth therein, any permit for a landfill disposal site authorized by the Environmental Quality Commission under this subsection shall bind the state and all counties and cities and political subdivisions in this state as to the approval of the site and the construction and operation of the proposed facility. Affected state agencies, counties, cities and political subdivisions shall issue the appropriate permits, licenses and certificates necessary to construction and operation of the landfill disposal site, subject only to condition of the site certificate. Each state or local government agency that issues a permit, license or certificate shall continue to exercise enforcement authority over such permit, license or certificate.

**SECTION 4.** (1) Upon its own motion or upon the recommendation of the department, the Environmental Quality Commission may determine that a landfill disposal site within the counties of Marion, Polk, Clackamas, Washington or Multnomah must be established in order to protect the health, safety and welfare of the residents of an area for which a local government solid waste management plan has identified the need for a landfill disposal site. In making its determination on the need for a landfill disposal site or, where applicable, on the location of a landfill disposal site, the commission shall give due consideration to:

(a) The legislative policy and findings expressed in ORS 459.015, 459.065 and section 2 of this 1979 Act, and particularly the policy that action taken under this section be exercised in cooperation with local government;

(b) The provisions of the solid waste management plan or plans for the affected area;

(c) Applicable local government ordinances, rules, regulations and plans other than for solid waste management;

(d) The state-wide planning goals adopted under ORS 197.005 to 197.430;

(e) The need for a landfill disposal site;

(f) The availability and capacity of alternative disposal sites or resource recovery systems and facilities;

(g) The time required to establish a landfill disposal site;

(h) Information received from public comment and hearings; and

(i) Any other factors the commission considers relevant.

(2) If the commission makes a determination under subsection (1) of this section that there is a need for a landfill disposal site within a plan area, the commission may adopt an order directing the local government unit responsible for implementing the plan to establish a landfill disposal site within a specified period of time. The order may specify a time schedule for the completion of the major elements required to establish the site. A local government unit directed to establish a landfill disposal site under this section may request assistance from the department or request that the department establish the disposal site as provided in section 3 of this 1979 Act.

(3) If the commission determines that the establishment of a landfill disposal site ordered by the commission under subsection (2) of this section is not being accomplished or that the completion of major elements has fallen behind the time schedule specified in the order, the commission may direct the department to establish the disposal site or complete the establishment of the disposal site undertaken by the local government unit. The commission may direct the department to establish or complete the establishment of a landfill under this section only if the commission finds that:

(a) The action is consistent with the state-wide planning goals relating to solid waste management adopted under ORS 197.005 to 197.430 and any applicable provisions of a comprehensive plan or plans; and

(b) The responsible local government unit is unable to establish the landfill disposal site ordered by the commission under subsection (2) of this section.

(4) If the commission directs the department to establish or complete the establishment of a landfill disposal site under subsection (3) of this section, the department may establish the site subject only to the approval of the commission and the provisions of the solid waste management plan adopted for the area and in consultation with all affected local government units. Notwithstanding any city, county or other local government charter or ordinance to the contrary, the department may establish a landfill disposal site under this subsection without obtaining any license, permit, franchise or other form of approval from a local government unit.

**SECTION 5.** In accordance with the requirements of ORS 183.310 to 183.500 and after public hearing, the commission shall adopt rules:

(1) To establish a procedure for local government units to request assistance from the department in the establishment of landfill disposal sites under section 3 of this 1979 Act, and to give notice of such requests.

(2) To establish a procedure for obtaining public comment on determinations of need for landfill sites made by the commission under section 4 of this 1979 Act.



(3) To provide for public hearings in the area affected by a proposed landfill disposal site to be established by the department under section 4 of this 1979 Act.

**SECTION 6.** Subject to policy direction by the commission in carrying out this 1979 Act, the department may:

(1) By mutual agreement, return all or part of the responsibility for development or operation of the site to the local government unit within whose jurisdiction the site is to be established, or contract with the local government unit to establish the site.

(2) To the extent necessary, acquire by purchase, gift, grant or exercise of the power of eminent domain, real and personal property or any interest therein, including the property of public corporations or local government.

(3) Lease and dispose of real or personal property.

(4) At reasonable times and after reasonable notice, enter upon land to perform necessary surveys or tests.

(5) Acquire, modify, expand or build landfill disposal site facilities.

(6) Subject to any limitations in ORS 468.195 to 468.260, use money from the Pollution Control Fund created in ORS 468.215 for the purposes of carrying out sections 3 and 4 of this 1979 Act.

(7) Enter into contracts or other agreements with any local government unit or private person for the purposes stated in subsection (1) of ORS 459.065.

(8) Accept gifts, donations or contributions from any source to carry out the provisions of sections 3 and 4 of this 1979 Act.

(9) Establish a system of fees or user charges to fund the operation and maintenance of a department owned landfill disposal site and to repay department costs.

Section 7. ORS 459.065 is amended to read:

459.065. (1) The Legislative Assembly finds that solid waste disposal is a matter of state-wide concern. The Legislative Assembly finds that carrying out the provisions of ORS 459.005 to 459.105 and 459.205 to 459.285 by cities, counties and metropolitan service districts is a matter of state-wide concern. In carrying out the provisions of ORS 459.005 to 459.105 and 459.205 to 459.285, a county or a city, or a metropolitan service district for one of its authorized functions, may enter into any agreement which the county, city or metropolitan service district determines is desirable, for any period of time, with the department, any local government unit or other person:

(a) For joint or regional franchising of service or the franchising or licensing of disposal sites.

(b) For joint preparation or implementation of a solid waste management plan.

(c) For establishment of a regional solid waste management system.

(d) For cooperative establishment, maintenance, operation or use of regional disposal sites, including but not limited to resource recovery facilities.

(e) For the employment of persons to operate a site owned or leased by the county, [or] city or metropolitan service district.

(f) For promotion and development of markets for energy and materials from resource recovery.

(g) For the establishment of landfill disposal sites including site planning, location, acquisition, development and placing into operation.

(2) Authority granted by ORS 459.005 to 459.105 and 459.205 to 459.285 to local government units is specific and is in no way intended to restrict the general authority granted under ORS 190.010 to 190.030, 190.110 and ORS chapters 203 and 268, and is in addition to and not in lieu of such authority.

Section 8. ORS 459.245 is amended to read:

459.245. (1) If the disposal site meets the requirements of ORS 459.005 to 459.105 and 459.205 to 459.285, the department shall issue the permit. Every completed application shall be approved or disapproved within 60 days after its receipt by the department. Except as provided in section 8a of this 1979 Act, if the department fails to act within the time allowed, the application shall be considered approved unless an extension of time is granted by the commission on a showing of good cause by the department.

(2) Disposal site permits shall be issued for a period not to exceed 10 years, to be determined by the department and specified in the permit.

(3) Subject to the provisions of ORS [*chapter 183*] 183.310 to 183.500, the department may refuse to renew a permit unless the disposal site and the facilities thereon meet the requirements of ORS 459.005 to 459.105 and 459.205 to 459.285 and the rules of the commission adopted pursuant thereto.

**SECTION 8a.** (1) Before issuing a permit for a landfill disposal site to be established after the effective date of this 1979 Act in any area zoned for exclusive farm use, the department shall determine that the site can and will be reclaimed for uses permissible in the exclusive farm use zone. A permit issued for a disposal site in such an area shall contain requirements that:

(a) Assure rehabilitation of the site to a condition comparable to its original use at the termination of the use for solid waste disposal;

(b) Protect the public health and safety and the environment;

(c) Minimize the impact of the facility on adjacent property;

(d) Minimize traffic; and

(e) Minimize rodent and vector production and sustenance.

(2) Before issuing a permit for a landfill disposal site established under section 3 or 4 of this 1979 Act, or for a disposal site established as a conditional use in an area zoned for exclusive farm use, the department shall require the local government unit responsible for solid waste disposal pursuant to statute or agreement between governmental units to prepare a waste reduction program and shall review that program in the manner provided in subsection (5) of this section. Such program shall provide for:

(a) A commitment by the local government unit to reduce the volume of waste that would otherwise be disposed of in a landfill through techniques such as source reduction, recycling, reuse and resource recovery;

(b) A timetable for implementing each portion of the waste reduction program;

(c) Energy efficient, cost-effective approaches for waste reduction;

(d) Procedures commensurate with the type and volume of solid waste generated in the area; and

(e) Legal, technical and economical feasibility.

(3) If a local government unit has failed to implement the waste reduction program required pursuant to this section, the commission may, by order, direct such implementation.

(4) The department shall report to each Legislative Assembly on the use made of this section, the level of compliance with waste reduction programs and recommendations for further legislation.

(5) A waste reduction program prepared under subsection (2) of this section shall be reviewed by the department and shall be accepted by the department if it meets the criteria prescribed therein.

(6) Notwithstanding subsection (1) of ORS 459.245, if the department fails to act on an application subject to the requirements of this section within 60 days, the application shall not be considered granted.

**SECTION 8b.** (1) Before issuing a permit for a landfill disposal site to be established under section 3 or 4 of this 1979 Act or for a disposal site established as a conditional use in an area zoned for exclusive farm use within the boundaries of Clackamas, Marion, Multnomah, Polk or Washington County, the department shall require that, to the extent legally, technically and economically feasible only solid waste from transfer stations or solid waste residues from resource recovery facilities will be deposited in the landfill. As used in this section, 'transfer station' means a site established for the collection and temporary storage of solid waste pending shipment in a compact and orderly manner to a landfill disposal site.

(2) Nothing in this section shall be construed to prohibit the department from allowing other solid waste to be deposited in the landfill in order to protect the public health and safety or the waters of this state during a temporary emergency condition.

Section 9. ORS 468.220 is amended to read:

468.220. (1) The department shall be the agency for the State of Oregon for the administration of the Pollution Control Fund. The department is hereby authorized to use the Pollution Control Fund for one or more of the following purposes:

(a) To grant funds not to exceed 30 percent of total project costs for eligible projects as defined in ORS 454.505 or sewerage systems as defined in ORS 468.700. A grant may be made under this paragraph only with the prior approval of the Joint Committee on Ways and Means during the period when the Legislative Assembly is in session or the Emergency Board during the interim period between sessions.

(b) To acquire, by purchase, or otherwise, general obligation bonds or other obligations of any municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, issued or made for the purpose of paragraph (a) of this subsection in an amount not to exceed 70 percent of the total project costs for eligible projects.

(c) To acquire, by purchase, or otherwise, other obligations of any city that are authorized by its charter in an amount not to exceed 70 percent of the total project costs for eligible projects.

(d) To grant funds not to exceed 30 percent of the total project costs for facilities for the disposal of solid waste, including without being limited to, transfer and resource recovery facilities.

(e) To make loans or grants to any municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, for planning of eligible projects as defined in ORS 454.505, sewerage systems as defined by ORS 468.700 or facilities for the disposal of solid waste, including without being limited to, transfer and resource recovery facilities. Grants made under this paragraph shall be considered a part of any grant authorized by paragraph (a) or (d) of this subsection if the project is approved.

(f) To acquire, by purchase, or otherwise, general obligation bonds or other obligations of any municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, issued or made for the purpose of paragraph (d) of this subsection in an amount not to exceed 70 percent of the total project costs.

(g) To advance funds by contract, loan or otherwise, to any municipal corporation, city, county or agency of the State of Oregon, or combination thereof, for the purpose of paragraphs (a) and (d) of this subsection in an amount not to exceed 70 percent of the total project costs.

(h) To pay compensation required by law to be paid by the state for the acquisition of real property for the disposal by storage of environmentally hazardous wastes.

(i) To dispose of environmentally hazardous wastes by the Department of Environmental Quality whenever the department finds that an emergency exists requiring such disposal.

(j) To acquire for the state real property and facilities for the disposal by landfill, storage or otherwise of solid waste, including but not limited to, transfer and resource recovery facilities.

(2) The facilities referred to in paragraphs (a) to (c) of subsection (1) of this section shall be only such as conservatively appear to the department to be not less than 70 percent self-supporting and self-liquidating from revenues, gifts, grants from the Federal Government, user charges, assessments and other fees.

(3) The facilities referred to in paragraphs (d), (f) and (g) of subsection (1) of this section shall be only such as conservatively appear to the department to be not less than 70 percent self-supporting and self-liquidating from revenues, gifts, grants from the Federal Government, user charges, assessments and other fees.

(4) The real property and facilities referred to in paragraph (j) of subsection (1) of this section shall be only such as conservatively appear to the department to be not less than 70 percent self-supporting and self-liquidating from revenues, gifts, grants from the Federal Government, user charges, assessments and other fees.

[(4)] (5) The department may sell or pledge any bonds, notes or other obligations acquired under paragraph (b) of subsection (1) of this section.

(6) Before making a loan or grant to or acquiring general obligation bonds or other obligations of a municipal corporation, city, county or agency for facilities for the disposal of solid waste or planning for such facilities, the department shall require the applicant to demonstrate that it has adopted a solid waste management plan that has been approved by the department. The plan must include a waste reduction program.

Section 10. ORS 215.213 is amended to read:

215.213. (1) The following nonfarm uses may be established in any area zoned for exclusive farm use:

- (a) Public or private schools.
- (b) Churches.
- (c) The propagation or harvesting of a forest product.
- (d) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale.
- (e) The dwellings and other buildings customarily provided in conjunction with farm use, referred to in paragraph (a) of subsection (2) of ORS 215.203.
- (f) Operations for the exploration of geothermal resources as defined by ORS 522.005.
- (g) A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under section 4 of this 1979 Act together with equipment, facilities or buildings necessary for its operation.

(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designate, in any area zoned for exclusive farm use:

- (a) Commercial activities that are in conjunction with farm use.
- (b) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005 or exploration, mining and processing of aggregate and other mineral resources or other subsurface resources.
- (c) Private parks, playgrounds, hunting and fishing preserves and campgrounds.
- (d) Parks, playgrounds or community centers owned and operated by a governmental agency or a nonprofit community organization.
- (e) Golf courses.
- (f) Commercial utility facilities for the purpose of generating power for public use by sale.
- (g) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by his invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.
- (h) Home occupations carried on by the resident as an accessory use within their dwelling or other buildings customarily provided in conjunction with farm use, referred to in paragraph (a) of subsection (2) of ORS 215.203.
- (i) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in subsection (2) of ORS 215.203. Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
- (j) The boarding of horses for profit.

(k) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.

(3) Single-family residential dwellings, not provided in conjunction with farm use, may be established, subject to approval of the governing body or its designate in any area zoned for exclusive farm use upon a finding that each such proposed dwelling:

(a) Is compatible with farm uses described in subsection (2) of ORS 215.203 and is consistent with the intent and purposes set forth in ORS 215.243; and

(b) Does not interfere seriously with accepted farming practices, as defined in paragraph (c) of subsection (2) of ORS 215.203, on adjacent lands devoted to farm use; and

(c) Does not materially alter the stability of the overall land use pattern of the area; and

(d) Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract; and

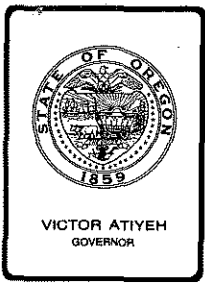
(e) Complies with such other conditions as the governing body or its designate considers necessary.

SECTION 11. The Land Conservation and Development Commission shall not consider the provisions of paragraph (k) of subsection (2) of ORS 215.213 as being consistent with any state-wide planning goal relating to the preservation of agricultural lands for the purpose of exempting a unit of local government from applying that goal to agricultural lands.

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Approved by the Governor July 25, 1979.

Filed in the office of Secretary of State July 25, 1979.



# *Environmental Quality Commission*

Mailing Address: BOX 1760, PORTLAND, OR 97207

522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

## MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item E, February 22, 1980, EQC Meeting

Request for Authorization for Public Hearing to Consider Amendments to the State Financial Assistance to Public Agencies for Pollution Control Facilities for the Disposal of Solid Waste Rules, OAR 340-82-005 through 82-055

### Background

Senate Bill 925 (Chapter 773, Oregon Laws 1979) requires that an applicant for funds for planning or construction of solid waste disposal facilities demonstrate that it has adopted a solid waste management plan, including a waste reduction program which has been approved by the Department. In addition, a portion of the State-EPA Agreement solid waste work plan is to provide a mechanism for pass-through of federal funds to local agencies. ORS 459 gives general authority, but existing rules address only Pollution Control Bonds. The Commission is being requested to authorize a public hearing for the purpose of considering rule additions (Appendix A) in the following area.

OAR 340-82-005. Add to purpose the pass-through of federal funds to designated agencies.

OAR 340-82-010. Add the definition of "Designated Agency."

OAR 340-82-030(7). Add the requirement of a Department-approved Solid Waste Management Plan, including a waste reduction program.

The addition of the waste reduction requirement to the application for funds procedure is necessary to inform applicants of the requirement under the law. The addition of wording regarding pass-through of federal funds is necessary to comply with federal regulation. If a mechanism is not provided the state plan may not be approved by EPA, resulting in withdrawal of federal funds.



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Evaluation

The Department is proposing addition to rules addressing funding of solid waste planning and construction projects. The waste reduction requirement would comply with a legislative change. The pass through of federal funds wording would allow a mechanism required under federal regulation for approval of the State Solid Waste Plan, a requirement for continued federal grants to the Department. The statement of need is attached as Appendix B. The draft Fiscal Impact Statement is attached as Appendix C. The draft Notice of Public Hearing is attached as Appendix D.

Summation

The Commission is being asked to authorize a public hearing. The proposed rule additions would: (1) add a mechanism for pass through of federal funds to local governments, and (2) add the requirement of a waste reduction program to application for funds.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission authorize public hearings to take testimony on the additions to Rules for State Financial Assistance to Public Agencies for Pollution Control Facilities for the Disposal of Solid Waste, OAR 340-82-005 through 82-055.

*Michael Downs*  
for  
William H. Young

Attachments: A - Draft Rule  
B - Draft Statement of Need for Rulemaking  
C - Draft Fiscal Impact Statement  
D - Draft Hearing Notice

Robert L. Brown:w  
229-5157  
January 30, 1980

SW0710

PROPOSED REVISION TO OREGON ADMINISTRATIVE RULES, CHAPTER 340  
STATE FINANCIAL ASSISTANCE TO PUBLIC AGENCIES  
FOR POLLUTION CONTROL FACILITIES FOR THE DISPOSAL OF SOLID WASTE

OAR 340-82-005 Purpose. The purpose of these regulations is to prescribe requirements and procedures for obtaining state financial assistance for planning and construction of pollution control facilities for the disposal of solid waste pursuant to Article XI-H of the Oregon Constitution[.], and to provide for pass-through of federal funds to designated agencies.

OAR 340-82-010 Definitions. As used in these rules unless otherwise required by context:

- (1) "Department" means Department of Environmental Quality. Department actions shall be taken by the Director as defined herein.
- (2) "Commission" means Environmental Quality Commission.
- (3) "Director" means Director of the Department of Environmental Quality or his authorized deputies or officers.
- (4) "Agency" means municipal corporation, city, county, or agency of the State of Oregon, or combination thereof, applying or contracting for state financial assistance under these rules.
- (5) "EPA" means U.S. Environmental Protection Agency.
- (6) "Designated Agency" means a governmental unit designated by the State as a planning or implementing solid waste agency, or both.

OAR 340-82-030 Application Documents. The representative of an agency wishing to apply for state financial assistance under these regulations shall submit to the Department three signed copies of each of the following completed documents:



- (1) Department Solid Waste Management Projects Grant-Loan application form currently in use by the Department at the time of the application for state financial assistance. This form will be provided by the Department upon request.
- (2) All applications for federal financial assistance to the solid waste projects for which state financial assistance is being requested.
- (3) Resolution of the agency's governing body authorizing an official of the agency to apply for state and federal financial assistance and to act in behalf of the agency in all matters pertaining to any agreements which may be consummated with the Department or with EPA or other federal agencies.
- (4) Five year projection of the agency's estimated revenues and expenses related to the project (on forms provided by the Department).
- (5) An ordinance or resolution of the agency's governing body establishing solid waste disposal user rates, and other charges for the facilities to be constructed.
- (6) A legal opinion of the agency's attorney establishing the legal authority of the agency to enter into a financial assistance agreement together with copies of applicable agency ordinance and charter sections.
- (7) A waste reduction plan which is consistent with Chapter 773, Oregon Laws 1979, Section 8a(2)(a) through (e)).

An application is not deemed to be completed until any additional information requested by the Department is submitted by the agency.

Applications for financial assistance for planning under ORS 468.220(1)(e) shall be on special forms provided by the Department and shall be accompanied by a resolution of the agency's governing body.

Before the Environmental Quality Commission

In the Matter of the Adoption of )  
Amendments to State Financial )  
Assistance to Public Agencies for )  
Pollution Control Facilities for )      STATEMENT OF NEED  
the Disposal of Solid Waste Rules,)  
OAR Chapter 340, Section 82-005 to)  
82055.                                    )

The Environmental Quality Commission intends to adopt Solid Waste Program rule amendments, OAR 340, Section 82-005 to 82-055.

- A. Legal authority. ORS 459 and Chapter 773, Oregon Laws, 1979.
- B. Need for rule. The proposed amendments are needed to implement a mechanism for pass through to local agencies of federal funds and to add requirements for applications for funds imposed by new legislation.
- C. Documents relied upon
  - 1. Public Law 94-580 (90 Stat. 2795)
  - 2. 40 CFR Part 256 (Guidelines for Development and Implementation of State Solid Waste Management Plans)

SW0710.B

Before the Environmental Quality Commission

In the Matter of the Adoption )  
of Amendments to State )  
Financial Assistance to Public )  
Agencies for Pollution Control )  
Facilities for the Disposal of )  
Solid Waste Rules, )  
OAR Chapter 340, Section )  
82-005 to 82-055. )

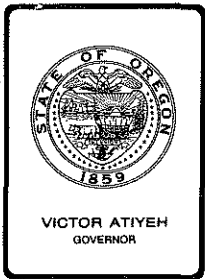
FISCAL IMPACT STATEMENT

The Environmental Quality Commission intends to adopt Solid Waste Program rule amendments, OAR 340, Section 82-005 to 82-055.

Department staff presently assist local governments in the preparation of applications for financial aid. The addition of the waste reduction program requirement should not affect present staffing patterns. At the present time no federal funds are available to pass through to local governments, so no impact on staffing will occur.

Waste Reduction Program preparation may have a substantial fiscal impact on applicants for funds. These proposed rules, however, do not increase fiscal impact over that contemplated by the statute. The Metropolitan Service District estimates that preparation of a complete waste reduction program will cost approximately \$30,000. Should federal pass-through funds become available, local governments could benefit to the extent of available funds. Authorization by Congress for fiscal '78 and '79 totaled \$155 million. Oregon's share would be approximately one (1) percent or \$1.5 million. However, only \$25 million was appropriated with no pass through provisions.

SW0710.C



# *Environmental Quality Commission*

Mailing Address: BOX 1760, PORTLAND, OR 97207

522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

Appendix D

\*\*\*\*\* Distributed: 3/17/80  
\* NOTICE OF PUBLIC HEARING \*  
\*\*\*\*\* Hearing: 4/21/80

## A Chance to Be Heard About

### Additions to Solid Waste Program Rules Regarding Financial Assistance to Local Governments

The Department of Environmental Quality is proposing additions to the current financial assistance to local governments rules. The proposed modifications to the regulations cover the area of pass through of federal funds and a change in application requirements mandated by new legislation.

#### What is DEQ Proposing?

Interested parties should request a copy of the complete proposed rule package. The major aspects of the proposed modifications are: (1) To provide a mechanism for the pass through of federal funds to local government, and (2) Require submission of a waste reduction program as part of application for state funding.

#### Who is Affected by This Proposal?

Local governments applying for funds for planning or construction of solid waste facilities.

#### How to Provide Your Information?

Written comments should be sent to the Department of Environmental Quality, Solid Waste Division, Box 1760, Portland, Oregon 97207, and should be received by April 21, 1980, 5 p.m. Oral and written comments may be offered at the following public hearing:

City: Portland  
Time: 1:00 p.m.  
Date: April 21, 1980  
Location: 522 S.W. 5th, Room 511



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**Where to Obtain Additional Information:**

Copies of the rules may be obtained from Valerie Lee, Department of Environmental Quality, Solid Waste Division, 522 Southwest Fifth Avenue, Box 1760, Portland, Oregon 97207 (503-229-5913).

**Legal References for This Proposal:**

This proposal amends OAR 340-82-005 through 82-055. This rule is proposed under the authority of ORS 459 and Chapter 773, Oregon Laws, 1979 (SB-925).

**Need for Rule:**

The proposed rule amendments are needed to (1) provide a mechanism for pass through of federal funds to local government units, and (2) add a waste reduction program requirement to application for state funds as required by recent legislation.

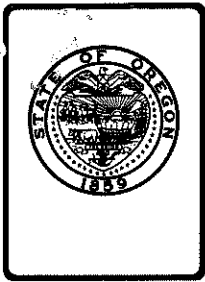
**Fiscal Impact:**

The estimated fiscal impacts are that (1) local governments will be required to prepare a waste reduction program prior to request for state funding of solid waste facility planning or construction, and (2) should federal pass through funding become available, a mechanism for distribution would be available.

**Further Proceedings:**

After public hearing, the Environmental Quality Commission may adopt the rule identical to the proposed rules, adopt a modified rule on the same subject matter, or decline to act. The Commission's deliberation should come in late May as part of the agenda of a regularly scheduled Commission meeting.

SW0710.D



## *Environmental Quality Commission*

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

### MEMORANDUM

To: Environmental Quality Commission

From: Hearings Section


Subject: Agenda Item G, February 22, 1980, EQC Meeting

Contested Case Review Hearing: DEQ v. VOGT, Eugene & Josephine  
Case No. 05-SS-SWR-78-80

Commission review of the hearings officer's order in DEQ v. VOGT was requested by both parties to the case. To assist you in preparing for review, I have enclosed these documents:

1. Findings of Fact, Conclusions of Law, and Final Order dated September 27, 1979.
2. Respondent's Brief and Written Exceptions.
3. Department's Answering Brief and Cross-Appeal Brief.
4. Department's Exceptions on Cross-Appeal.
5. Copies of the proofs of service of Notice of Violation and Intent to Assess Civil Penalty.
6. Copies of the proofs of service of Notice of Assessment of Civil Penalty.

Respectfully submitted,

  
Linda K. Zucker  
Hearings Supervisor

L.Zucker: ahe  
01-30-80  
229-5383

Enclosures (6)

cc: Department of Justice, Portland Office  
Richard A. Stark (Certified Mail/Return Receipt Requested)



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BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY )  
of the STATE OF OREGON, )  
 )  
Department, ) FINDINGS OF FACT, CONCLUSIONS  
v. ) OF LAW AND FINAL ORDER  
 ) No. SS-SWR-78-70  
 ) JACKSON COUNTY  
EUGENE C. VOGT, JOSEPHINE P. VOGT, )  
 )  
Respondents. )

BACKGROUND

This contested case matter involves a Notice of Assessment of Civil Penalty, hereinafter called "Notice," dated April 12, 1978, against Respondents in the amount of \$250. Department alleges three violations:

a) That from on or about March 12, 1978, through March 21, 1978, Respondents operated and used, and discharged sewage into an illegally constructed and unapproved subsurface sewage disposal system on Respondents' premises without first obtaining a Certificate of Satisfactory Completion in violation of OAR (Oregon Administrative Rules) 340-71-017(3).

b) On or about March 21, 1978, Respondents discharged inadequately treated sewage, thereby creating a health hazard.

c) From on or about November 21, 1977, through the date of notice Respondents violated a final order of the Commission.

An answer was filed on behalf of Respondents, and a further amended answer was filed by different counsel. The amended pleading contained affirmative answers, including allegations that the application was erroneously denied; that the system was legally constructed; that Department and its agent failed to issue or deny Respondent's application within 20 days of date of application; that the system in operation on

1 Respondents' property does not constitute a public health hazard; and that  
2 the refusal of a permit to Respondents and the assessment of a penalty  
3 constitute a taking of property without due process of law in violation  
4 of the Oregon and Federal Constitutions.

5 Post hearing briefs were filed on behalf of both Department and  
6 Respondents.

7 EVIDENTIARY RULINGS AND "OFFICIAL NOTICE"

8 Several rulings were reserved. Department on two occasions moved  
9 for summary judgment because the Respondents, through Mrs. Vogt, admitted  
10 the allegations contained in notice with respect to "use" of a system  
11 without a certificate of satisfactory completion. At this time the motions  
12 for summary judgment by Department are denied.

13 Respondents moved to dismiss Department's notice on the grounds that  
14 there had been no proof of use of the system during March, 1978, and no  
15 proof of service of the notice upon Respondents. They further moved to  
16 strike or dismiss allegations with respect to the creation of a health  
17 hazard on Respondents' property. Respondents' motions to dismiss for lack  
18 of proof of use , and proof of service are denied because "use" was  
19 admitted, and both Respondents personally appeared at the time of hearing.  
20 Service and jurisdiction will be discussed in more detail in the Opinion  
21 section of this order. Respondents' motion to dismiss allegations with  
22 respect to creation of a health hazard is hereby granted because there  
23 was a failure of proof by Department at time of hearing, and at hearing  
24 and in its post hearing brief Department withdrew such allegation, as well  
25 as the third allegation concerning violation of a Commission order.

26 Department requested that "official notice" be taken of Department's



1 fee schedule, and such notice is now taken, since Department's fee schedule  
2 is contained in ORS (Oregon Revised Statutes) 454.745 , and OAR 340-72-010  
3 through 340-72-020.

4 ISSUES

5 1) Did Respondents operate, use and discharge sewage into a  
6 subsurface sewage disposal system on their premises between March 12, 1978  
7 and March 21, 1978, without first obtaining a Certificate of Satisfactory  
8 Completion in violation of OAR 340-71-017(3)?

9 2) Did Department legally serve its Notice of Assessment of Civil  
10 Penalty on Respondents?

11 3) Does appearance at a contested case hearing by a party cure a  
12 defective service of Notice of Assessment, constitute a waiver of defective  
13 service, and confer jurisdiction?

14 FINDINGS OF FACT

15 1) At all times material herein, Respondents were the owners,  
16 contract purchasers or persons in control of the premises involved in this  
17 proceeding. The said premises contained a travel trailer used as a  
18 dwelling by Respondents. Respondents have used said trailer as a residence  
19 from late 1974 to date of hearing. The use was sporadic until 1975.

20 2) The said trailer contained a toilet and sink from which waste water  
21 was deposited into the subsurface sewage disposal system on said property  
22 during times material herein.

23 3) During latter 1973 through early 1975 Respondents personally  
24 constructed a subsurface sewage disposal system on the premises. The  
25 drainfields were completed in early 1975.

26 4) At the time of construction of the said system Respondents did

1 not apply for and did not have a permit to construct the system. No  
2 request for final inspection of the system was made by Respondents and  
3 no Certificate of Satisfactory Completion was obtained.

4 5) On or about November 15, 1977, Respondents applied for a permit  
5 for the system already constructed and located on their premises. The  
6 form provided by Department's contract agent indicated that the application  
7 was for a site evaluation only. Ex. 2. The notations concerning type of  
8 application were made by Department's agent. The check tendered by  
9 Respondents indicated thereon that payment was made for both a permit and  
10 site evaluation. Ex. A.

11 6) On or about November 22, 1977, Department representatives went  
12 to Respondents' property for the purpose of conducting a site evaluation.  
13 No evaluation was conducted because of inclement weather including rain  
14 and snow.

15 7) On or about November 30, 1977, Department representatives again  
16 visited Respondents' premises to conduct a site evaluation. Three test  
17 pits provided by Respondents contained water nearly to ground surface and  
18 Department representatives did not enter said pits. On said date  
19 Respondents' premises contained water at 13 inches below the ground surface  
20 in an auger hole dug by the Department representatives. One test pit  
21 contained water 8 inches from the surface of the ground and another  
22 contained water at 19 inches below ground level. On said date no futher  
23 tests or analyses were made nor were the same conducted at a subsequent  
24 time.

25 8) On or about November 4, 1978, a registered engineer, retained by  
26 Respondents, visited Respondents' premises and conducted an examination.

1 On said date no sewage existed on the ground surface. No soil or other  
2 tests were performed by Respondents' engineer.

3 9) Respondents used the system on the involved premises between the  
4 dates of March 12, 1978 and March 28, 1978, and deposited sewage and waste  
5 water into the existing subsurface system.

6 10) Both Respondents personally appeared at the hearing.

7 11) Department presented no evidence as to service of Notice of  
8 Violation and Intent to Assess Penalty, nor Notice of Violation and  
9 Assessment of Civil Penalty on Respondents.

10 12) Respondents did not discharge at any time material herein  
11 inadequately treated sewage onto the surface of the ground, and their  
12 system did not malfunction.

13 13) Respondents affirmatively stated in their answer certain  
14 allegations with respect to the legality of the system, lack of a health  
15 hazard, lack of proper notice of Department action, and the taking of  
16 property in violation of due process provisions of the United States and  
17 the State constitutions.

18 CONCLUSIONS OF LAW

19 1) Respondents violated the provisions of OAR 340-71-017(3) by using  
20 a subsurface sewage disposal system between March 12 and March 21, 1978,  
21 without first obtaining a Certificate of Satisfactory Completion.

22 2) Department failed to serve Respondents with Notice of Violation  
23 and Assessment of Penalty in a legally sufficient manner.

24 3) The failure of Department to legally serve its Notice of Assessment  
25 was waived and cured by personal appearance of Respondents at the contested  
26 case hearing, and Commission jurisdiction was thereby acquired.

1 4) The Commission has jurisdiction of the parties and the subject  
2 matter of this proceeding.

3 5) Respondents did not create a "health hazard" on their premises.

4 6) Respondents have the burden of proving their affirmative  
5 allegations and have failed to prove such allegations by a preponderance  
6 of the evidence.

7 OPINION

8 The issue of Department's alleged failure to notify Respondents of  
9 its action on the application, and the consequences thereof, was raised  
10 in Respondents' Answer, but was not argued in their Brief. The record  
11 is not clear as to when or in what manner Respondents received notification  
12 of the denial of their application, but it is not necessary to resolve  
13 this question. ORS 454.655(5)(a), (b) and (c) require Department action  
14 on an application within certain time periods, and failure to act results  
15 in the issuance of a permit by operation of law. However, ORS 454.655,  
16 read as a whole, deals with "proposed" construction, rather than a system  
17 already installed without a permit, and is not applicable in this  
18 proceeding. It would be illogical to hold that a permit automatically  
19 issues even if notification is not properly given, where a system has  
20 already been constructed without permit. OAR 340-71-017(3) requires a  
21 certificate of satisfactory completion prior to use or operation of a  
22 system completed on or after January 1, 1974, regardless of whether the  
23 construction was done with or without permit. The record does, however,  
24 indicate a lack of communication between the parties.

25 Mrs. Vogt was the only Respondent to testify at the hearing. She  
26 testified that the Notice of Assessment of Penalty was not received.

1 Department produced no signed receipt into evidence, nor other evidence  
2 of actual receipt.

3 Respondents' main contention in their post hearing brief was that  
4 the Department failed to demonstrate that the Notice of Violation and  
5 Assessment of Penalty were ever given to or received by the Respondents.  
6 This contention is adequately answered by reference to state statute and  
7 case law. ORS 14.010 provides that a natural person is not subject to  
8 jurisdiction unless he appears in court. Jurisdiction of a person is  
9 acquired by a general appearance in court. Felts v. Boyer , 73 OR  
10 83(1914). The same rationale applies to a contested case hearing. The  
11 proper procedure for testing an attempt to obtain personal jurisdiction  
12 is to appear "specially" for the sole purpose of quashing service of a  
13 summons, or in this proceeding, the Notice of Assessment. ORS 16.150;  
14 Whittier v. Woods , 57 Or 432 (1910). No special appearance was ever  
15 made to test jurisdiction, either prior to or at hearing, and the failure  
16 of Department to properly serve Respondents was thereby waived and cured  
17 by the appearance of Respondents at time of hearing.

18 ///  
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1 ORDER

2 The final order in this proceeding assessing a civil penalty in the  
3 sum of \$250 against Respondents, Eugene C. and Josephine P. Vogt, is  
4 attached hereto.

5  
6 Dated this 27<sup>th</sup> day of September, 1979.

7  
8 Respectfully submitted,

9 *Wayne Cordes*  
10 Wayne Cordes  
11 Hearings Officer

12 XN8174.10

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DEC 03 1970

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY )  
of the STATE OF OREGON, )  
 )  
Department, )  
v. )  
EUGENE C. VOGT, JOSEPHINE P. VOGT, )  
 )  
Respondents. )

No. SS-SWR-78-70  
JACKSON COUNTY  
BRIEF AND WRITTEN  
EXCEPTIONS

COMES NOW the Respondents and submit to the Court that  
the following Findings of Fact, Conclusions of Law, and Order  
should be entered in connection with the above captioned pro-  
ceedings.

BACKGROUND AND ISSUES

The Respondents accept the background information in  
pages 1 through 3 of the hearing officer's Order, and accepts the  
issues set forth on page 3.

FINDINGS OF FACT

Respondents accept the Findings of Fact 1 through 13,  
pages 3 through 5, except they add a sentence to Finding of Fact  
number 8 as follows, "The Respondent's engineer testified that,  
in his opinion from the inspection that he made of the premises  
and his knowledge as a soil engineer, there was not a health  
hazard of any nature in connection with the operation of the  
Respondent's subsurface sewage system."

CONCLUSIONS OF LAW

1. The Respondents violated the provisions of OAR 340-

1 71-017 (3) by using a subsurface sewage disposal system between  
2 March 12 and March 21, 1978, without first obtaining a cer-  
3 tificate of satisfactory completion. However, the rule set forth  
4 above is overly broad because it does not refer to a health  
5 hazard being present and, therefore, exceeds the authority set  
6 forth in the enabling statute.

7 2. Department failed to serve Respondents with notice  
8 of violation and assessment of penalty in a legally sufficient  
9 manner and, therefore, failed to sustain their burden of proof in  
10 this matter.

11 3. The failure to legally serve the Respondents was not  
12 cured by the personal appearance of the Respondents at the con-  
13 tested case hearing.

14 4. Respondents did not create "a health hazard" on  
15 their premises.

16 OPINION

17 The failure to prove that the Respondents were properly  
18 notified as alleged in the initial petition of the Department is  
19 fatal because it is a required item of proof for the Department  
20 to set forth. It is not a question of jurisdiction but an item  
21 of proof placed on the Department that is essential to their  
22 case. An analogy can be drawn to a traffic ticket where the  
23 State is required to prove that the offense occurred within  
24 Jackson County, Oregon, for instance, or that the officer was in  
25 uniform or that there was a valid arrest. The question is not  
26 one of jurisdiction, but one of proof in connection with a sta-



1 tute that is contrary to the common law and, therefore, strictly  
2 construed.

3 ORDER

4 The notice of assessment of civil penalty is hereby  
5 dismissed and the Respondents are to recover their costs incurred  
6 herein and their attorney's fees.

7 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1979.

8  
9  
10 \_\_\_\_\_  
11 HEARINGS OFFICER

12  
13 Respectfully submitted,

14 

15 RICHARD A. STARK  
16

17 I certify that on the 30th day of November  
18 1979, there was deposited in the United States Post Office at  
19 Medford, Oregon, a sealed envelope with first class postage pre-  
20 paid thereon addressed to: Van A. Kollias, Department of  
21 Environmental Quality, 522 SW Fifth Avenue, P. O. Box 1760,  
22 Portland, Oregon 97207. Said envelope contained a true copy of  
23 the foregoing document.

24 

25 Attorney for Respondent  
26

Hearing Section

JAN 1979

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY )  
OF THE STATE OF OREGON, )  
Department, )  
v. )  
EUGENE C. VOGT and JOSEPHINE P. VOGT, )  
Respondents. )

No. SS-SWR-78-70  
(Jackson County)  
DEPARTMENT'S  
ANSWERING BRIEF  
AND CROSS APPEAL  
BRIEF

I. BACKGROUND

This case was commenced before the Hearings Section of the Environmental Quality Commission by the assessment of a \$250 civil penalty against respondents for operation of a subsurface sewage disposal system without first obtaining a certificate of satisfactory completion in violation of OAR 340-71-017(3).

Respondents timely requested a hearing. The case came to issue on an amended answer in which respondents denied all the alleged facts and raised several affirmative defenses. The case was heard before Hearings Officer Wayne Cordes on November 8, 1978, who issued his Findings of Fact, Conclusions of Law and Final Order on September 27, 1979, affirming the civil penalty.

Respondents timely filed their Notice of Appeal to the Commission. Respondents subsequently filed their Brief and Written Exceptions. In that document respondents accepted (did not take any exception to) the Hearings Officer's

James A. Redden  
Attorney General  
500 Pacific Building  
Portland, Oregon 97204  
Telephone 229-5548

1 "background information" and all his findings of fact.  
2 However, respondents submitted their own form of proposed  
3 conclusions of law, opinion and order in lieu of Hearings  
4 Officer Cordes', thereby implicitly taking exception to the  
5 Hearings Officer's conclusions of law, opinion and order.

6 II. ISSUES

7 In comparing the Hearings Officer's conclusions of law,  
8 opinion and final order with respondents' proposal, it is  
9 clear that respondents raise only three legal issues regarding  
10 the Hearings Officer's decision.

11 Respondents contend that:

12 (1) The Department failed to prove at the  
13 hearing that it had adequately served the notices  
commencing this proceeding;

14 (2) Rule OAR 340-71-017(3) which prohibits  
15 use of a system prior to obtaining a certificate  
16 of satisfactory completion exceeds statutory  
authority because its application is not conditioned  
upon the actual existence of a health hazard; and

17 (3) Upon prevailing, they are entitled to an  
18 award of attorneys' fees and costs.

19 Respondents raise no other issue with the Hearings Officer's  
20 decision. In particular, respondents have abandoned their  
21 claim that their alleged application for a permit was errone-  
22 ously denied (Amended Answer, Second Affirmative Defense),  
23 that it was issued by operation of law (Amended Answer,  
24 Third Affirmative Defense), and that refusal to issue a

25 ///

26 ///

1 permit constitutes a taking in violation of the Oregon and  
2 United States constitutions. (Amended Answer, Fifth  
3 Affirmative Defense).

4 III. ARGUMENT

5 A. The Record Shows That the Department Served  
6 Copies of the Notices on Respondents; Respondents  
7 Waived Any Objection to the Adequacy of Service by  
8 Answering, Appearing and Defending on the Merits.

9 In his ruling, Hearings Officer Cordes found that the  
10 "Department presented no evidence as to service of Notice of  
11 Violation and Intent to Assess Civil Penalty, nor Notice of  
12 Violation and Assessment of Civil Penalty on Respondents."  
13 (Cordes, Findings of Fact, etc., p. 5 at finding 11). Based  
14 thereon, Hearings Officer Cordes concluded that the "Department  
15 failed to serve Respondents with Notice of Violation and  
16 Assessment of Penalty in a legally sufficient manner."  
17 (Cordes, Findings of Fact, etc., p. 5 at conclusion 2).  
18 However, Hearings Officer Cordes went on to rule that that  
19 "failure . . . was waived and cured by personal appearance  
20 of Respondents at the contested case hearing, and Commission  
21 jurisdiction was thereby acquired." (Cordes, Findings of  
22 Fact, etc., p. 5 at conclusion 3).

23 The Department has cross-appealed the Hearings Officer's  
24 finding of "no evidence" and his conclusion of failure to

25 ///

26 ///

1 effect legally sufficient service, although it agrees with  
2 the Hearings Officer's conclusion that the alleged defect  
3 was waived by respondents' appearance.

4       Apparently, the Hearings Officer overlooked the pleadings  
5 in this case. The Department's basic pleadings in this case  
6 are its (1) Notice of Violation and Intent to Assess Civil  
7 Penalty and Order Requiring Remedial Action No. SS-SWR-77-294  
8 and (2) Notice of Assessment of Civil Penalty No. SS-SWR-78-70.  
9 Both were submitted to the Hearings Section as pleadings  
10 after respondents filed their answer and prior to the hearing.  
11 Attached to each of the notices when they were submitted to  
12 the Hearings Section was at least one certificate of service.  
13 Each notice had attached thereto a "Certificate of Service  
14 (Mail)" signed by Gloria Davis, a former DEQ employee certifying  
15 that the notices were each sent by certified mail to both  
16 respondents at their home address. Also attached to the  
17 Notice of Intent was the United States Postal Service's  
18 "Receipt for Certified Mail" signed by Eugene C. Vogt on  
19 November 11, 1977. Also attached to the Notice of Assessment  
20 was a certificate of personal service on Eugene Vogt by a  
21 Jackson County Deputy Sheriff.

22       The Commission's rule regarding service of such notices,  
23 OAR 340-11-097, provides that such service may be made by  
24 personal service or by registered or certified mail.  
25 OAR 340-11-097(1). Regarding service by mail, service is  
26 perfected when the notice is posted. OAR 340-11-097(2).

1 Furthermore, an applicant for a DEQ permit "shall be con-  
2 clusively presumed able to be served at the address given in  
3 his application . . . ." Finally, and most importantly,  
4 service is proved "by a certificate executed by the person  
5 effecting service." OAR 340-11-097(4).

6 In this case, the record is clear from the certificates  
7 which have been part of the record in this case since before  
8 the hearing, that good service of each notice was effectuated.  
9 Certificates of service by certified mail show perfected  
10 service upon respondents at their address shown in their  
11 application (Ex 2) which, incidentally, continued to be  
12 their address at the time of the hearing. (Tr 7).

13 Admittedly, the certificates of service were not formally  
14 offered in evidence at the hearing. However, that was  
15 unnecessary. As was customary, they had previously (by  
16 months) been submitted to the record when the pleadings were  
17 entered into the record. Although the notices were never  
18 formally offered in evidence at the hearing, it is clear  
19 that Hearings Officer Cordes treated the notices as part of  
20 the record to define the issues of the case. Just as the  
21 notices became part of the record of the case by pre-hearing  
22 filing, so did the certificates of service attached thereto  
23 and thereby provided the necessary proofs of service. The  
24 same procedure is followed in the trial courts of this  
25 state. Once so filed, it was incumbent upon respondents,  
26 prior to answering and defending on the merits, to make a

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Attorney General  
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Portland, Oregon 97204  
Telephone 229-5548

1 special appearance to challenge the adequacy of service, as  
2 Hearings Officer Cordes correctly ruled.

3 The record is also clear that respondents received  
4 ample actual notice of the contents of those notices. This  
5 is evident from the Answer verified by respondent Josephine  
6 P. Vogt on May 22, 1978, and filed in this case on behalf of  
7 both respondents. In the caption of their Answer, respondents  
8 referred specifically to the Department's notices by the  
9 full names of those documents and by the case numbers and  
10 proceeded to deny the contents thereof and to raise specific  
11 affirmative defenses thereto. In light of their Answer, any  
12 contention that they did not actually receive the notices is  
13 simply incredulous.

14 Although Hearings Officer Cordes correctly ruled that  
15 respondents waived any objections they may have had to  
16 adequacy of service by personally appearing at the hearing,  
17 the respondents actually waived those objections at an  
18 earlier point. Respondents first waived those objections  
19 when they "appeared" in this case by filing their Answer to  
20 the notices specifically denying the Department's allegations  
21 and setting up affirmative defenses thereto. The Commission  
22 has so ruled in an analagous case, DEQ v. Wright. In that  
23 case the Commission and the Oregon Court of Appeals upheld  
24 Hearings Officer Peter McSwain's decision. DEQ v. Wright,  
25 42 Or App 617, \_\_\_ P2d \_\_\_ (1979). In that case respondent  
26 Wright tried to raise the issue of adequacy of service of

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1 the five-day notice after he had demurred to that notice on  
2 other grounds. Specifically relying on the demurrer, a  
3 pre-hearing filed certificate of service (by mail) and a  
4 United States Post Office certified mail return receipt,  
5 Hearings Officer McSwain held: "The inference is compelling  
6 that Respondent was notified . . . ." DEQ v. Wright, McSwain,  
7 Proposed Findings, etc., p. 9. Likewise, here the inference  
8 also is compelling that respondents actually received notice.

9 B. Rule OAR 340-71-017(3) Merely Repeats the  
10 Statutory Prohibition and Therefore Does  
11 Not Exceed Statutory Authority.

12 Respondents contend that OAR 340-71-017(3) exceeds  
13 statutory authority. OAR 340-71-017(3) prohibits the use of  
14 a new subsurface sewage disposal system without first obtain-  
15 ing a certificate of satisfactory completion. Respondents  
16 contend that Oregon statutes require that in order to prove  
17 a violation of that section the use of the system must also  
18 cause an actual health hazard. Since the rule is not so  
19 conditioned, respondents contend that it is overly broad and  
20 exceeds statutory authority.

21 The short answer to respondents' contention is that the  
22 rule merely repeats the substance of the authorizing statute.  
23 ORS 454.665(3) provides in pertinent part:

24 "No person shall operate or use any subsurface  
25 sewage disposal system . . . unless a certificate  
26 of satisfactory completion has been issued for  
the construction . . . ."



1 The statute does not require the actual existence of a  
2 failing system or other public health hazard to show a  
3 violation of the statute. Neither does the rule. Therefore,  
4 the rule clearly does not exceed the statute.

5 Furthermore, the statute and rule are reasonable. They  
6 serve a reasonable purpose. The statutory scheme envisions  
7 the Commission and the Department taking action to prevent  
8 public health hazards before they can occur, rather than  
9 merely responding to actual public health hazards. Therefore,  
10 the Commission has been authorized by the legislature to set  
11 standards for the construction and use of systems. Consistent  
12 with its preventative role, the Department has been given  
13 authority to review proposed systems prior to construction  
14 and permitted systems after construction and prior to use,  
15 to determine whether they comply with Commission standards.  
16 Of course, if they do not, the permit application or  
17 certificate is denied. The purpose is preventative. The  
18 statute and rule dictate that a person cannot use a  
19 constructed system until it is approved.

20 Respondents' theory, which would require the actual  
21 existence of a health hazard before a certificate could be  
22 denied, would turn the system on its head. It would prevent  
23 the fulfillment of the Department's and Commission's pre-  
24 ventative roles. It would require the Department and Commis-  
25 sion to allow a system to actually fail before they could  
26 take any remedial action. It would put the Department and

1 Commission in the role of after-the-fact reactors instead of  
2 before-the-fact preventors. Therefore, it would defeat the  
3 legislature's well thought out program to protect the public  
4 from public health hazards occurring at all. Respondents'  
5 interpretation is not reasonable and is not required.  
6 Pre-use review and certification is reasonable and is required.

7 C. The Commission Has No Authority to Grant Attorneys  
8 Fees and Costs to Respondents, Should They Prevail.

9 Should they prevail, respondents propose that the  
10 Commission pay their attorneys fees and costs in defending  
11 this case. The Commission has no authority to grant such  
12 fees and costs in a contested case proceeding.

13 The Commission is a creature of statute and therefore  
14 is limited to the powers granted to it by the legislature.  
15 The legislature has not granted any authority specifically  
16 to the Commission or generally to State administrative  
17 agencies to pay attorneys fees and costs to respondents in  
18 administrative contested case hearings. Such a statute  
19 would be extraordinary as it would reverse the normal  
20 "American Rule" that each party is responsible for paying  
21 his own attorney's fees and is not entitled to reimbursement  
22 from his opposing party upon prevailing. Aleyeska v.  
23 Wilderness Society, \_\_\_ US \_\_\_, 95 S Ct 39, \_\_\_ L Ed 2d,  
24 7 ERC 849 (1975). The only such authority which has  
25 been granted has been granted to the courts in their discretion  
26 "[u]pon judicial review . . . ." ORS 183.495.

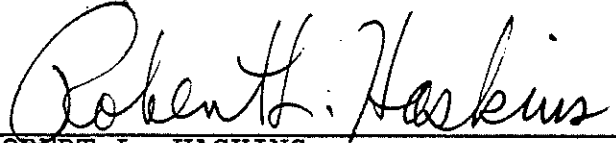
James A. Reidden  
Attorney General  
500 Pacific Building  
Portland, Oregon 97204  
Telephone 229-5548

1 IV. CONCLUSION

2 For all of the above reasons, the Commission should  
3 revise its Hearings Officer's decision according to the  
4 Department's proposal and as so revised adopt as the Commission's  
5 final order in this case.

6 Respectfully submitted,

7 JAMES A. REDDEN  
8 Attorney General

9 

10 ROBERT L. HASKINS  
11 Assistant Attorney General  
12 Of Attorneys for Department  
13 of Environmental Quality  
14 Trial Attorney/OSB# 69069

15  
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17  
18  
19  
20  
21 James A. Redden  
22 Attorney General  
23 500 Pacific Building  
24 Portland, Oregon 97204  
25 Telephone 229-5548  
26

ESB  
Hearing Station


JAN 26 1980

CERTIFICATE OF SERVICE

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I hereby certify that on the 4<sup>th</sup> day of January, 1980,  
I served a true copy of the foregoing Department's Answering  
Brief and Cross Appeal Brief upon respondents' attorney,  
Richard A. Stark, by then depositing in the United States  
Post Office at Portland, Oregon, a full, true, and correct  
copy thereof in a postage-paid, sealed envelope addressed to  
said attorney as follows:

Richard A. Stark  
Haviland & Stark  
Attorneys at Law  
837 East Main Street  
Medford, OR 97501

  
PAT SHAFER, Secretary

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

JAN 01 1980

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF OREGON,

Department,

v.

EUGENE C. VOGT and JOSEPHINE P. VOGT,  
Respondents.

No. SS-SWR-78-70  
(Jackson County)

DEPARTMENT'S  
EXCEPTIONS ON  
CROSS APPEAL

I. EXCEPTIONS.

The Department takes exception to Finding of Fact number 11), Conclusions of Law number 2) and 3), and Opinion page 7 lines 1, 2 and 15 of Hearings Officer Wayne Cordes' Findings of Fact etc., dated September 27, 1979.

II. ALTERNATIVE FINDING OF FACT, CONCLUSIONS OF LAW AND OPINION.

A. Alternative Finding of Fact.

The Department proposes an alternative Finding of Fact in lieu of the present Finding number 11), as follows:

"11) The Department served Respondents by mailing to them by certified mail a copy of Notice of Violation and Intent to Assess Civil Penalty and Order Requiring Remedial Action dated November 7, 1977, (No. SS-SWR-77-294, Jackson County) and Notice of Assessment of Civil Penalty dated April 12, 1978, (No. SS-SWR-78-70) appropriately addressed. Respondents actually received

///

///

1 those notices and timely filed their Answer responding  
2 specifically thereto."

3  
4 B. Alternative Conclusions of Law.

5 The Department proposes alternative Conclusions of Law  
6 in lieu of the present Conclusions number 2) and 3), as  
7 follows:

8 "2) Department's service on Respondents described  
9 in Finding of Fact number 11) above, was legally sufficient.

10 3) Respondent's objections to adequacy of service  
11 of the notices referred to in Finding of Fact number  
12 11) above were waived by their filing their Answer and  
13 by personally appearing at the contested case hearing  
14 and defending on the merits."

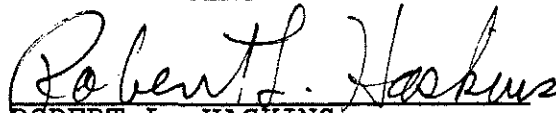
15 C. Alternative Opinion

16 The Department proposes that lines 1 and 2 of page 7 of  
17 the portion of the Hearings Officer's Findings of Fact etc.,  
18 under the heading "Opinion" be deleted and not be replaced.

19 The Department proposes that the word "alleged" be  
20 added between the words "the" and "failure" on page 7,  
21 line 15.

22 Respectfully Submitted,

23 JAMES A. REDDEN  
24 ATTORNEY GENERAL

25   
26 ROBERT L. HASKINS

Assistant Attorney General  
of Attorneys for Defendant

JAN 04 1980

CERTIFICATE OF SERVICE

1  
2  
3 I hereby certify that on the 4th day of January, 1980,  
4 I served a true copy of the foregoing Department's Exceptions  
5 on Cross Appeal upon respondents' attorney, Richard A. Stark,  
6 by then depositing in the United States Post Office at  
7 Portland, Oregon, a full, true, and correct copy thereof in  
8 a postage-paid, sealed envelope addressed to said attorney  
9 as follows:

10 Richard A. Stark  
11 Haviland & Stark  
12 Attorneys at Law  
13 837 East Main Street  
14 Medford, OR 97501

13   
14 PAT SHAFER, Secretary

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

CERTIFICATE OF SERVICE

(Mail)

STATE OF OREGON )  
COUNTY OF Multnomah ) SS

I, Gloria C. Davis, being a competent person over the age of eighteen (18) years, do hereby certify that I served Eugne C Vogt & Josephine P. Vogt by mailing by certified mail to Name of Party Same as above Certified Mail # 346376 (Name of Person to whom Document addressed)

(and if not the party, their relationship)

Notice of Violation & Intent to Assess Civil SS-SWR-77-294  
Penalty and Order Requiring Remedial Action - Jackson County

(Identify Document Mailed)

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

13345 Modoc Road, Central Point, Oregon 97502

his last known address, and deposited in the Post Office at Portland, Oregon, on the 7th day of November, 19 77, and that the postage thereon was prepaid.

  
Signature



1ms

### RECEIPT FOR CERTIFIED MAIL

No. 346376

No.

SENT TO Eugene C. & Josephine P. Vogt		POSTMARK OR DATE  Order-Warn.  1/4/77
STREET AND NO. 13345 Modoc Road		
P.O., STATE AND ZIP CODE Central Point, Oregon 97502 Jackson Co.		
OPTIONAL SERVICES FOR ADDITIONAL FEES		
RETURN RECEIPT SERVICES	<input type="checkbox"/> 1. Shows to whom and date delivered With restricted delivery	CONSULT POSTMASTER FOR FEES
	<input checked="" type="checkbox"/> 2. Shows to whom, date and where delivered With restricted delivery	
RESTRICTED DELIVERY		
SPECIAL DELIVERY (extra fee required)		

PS Form 3800 NO INSURANCE COVERAGE PROVIDED— (See other side)  
 Jan. 1976 NOT FOR INTERNATIONAL MAIL ☆ GPO: 1975-O-591-452

PS Form 3811, Jan. 1975

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

① 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:  
 Eugene C. Vogt & Josephine P. Vogt  
 13345 Modoc Road  
 Central Point, Oregon 97502

3. ARTICLE DESCRIPTION:  
 REGISTERED NO. | CERTIFIED NO. | INSURED NO.  
 | 346376 |

(Always obtain signature of addressee or agent)

I have received the article described above

SIGNATURE  Addressee  Authorized agent  
*Eugene C Vogt*

4. DATE OF DELIVERY: 1-11-77 POSTMARK: 1/11/77

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

☆ GPO: 1975-O-591-452

CERTIFICATE OF SERVICE

(Mail)

STATE OF OREGON )  
COUNTY OF Multnomah ) ss

I, Gloria C. Davis, being a competent person over the age of eighteen (18) years, do hereby certify that I served Eugene C. Vogt & Josephine P. Vogt by mailing by certified mail to Same as above Certified Mail # 346792  
(Name of Party)  
(Name of Person to whom Document addressed)

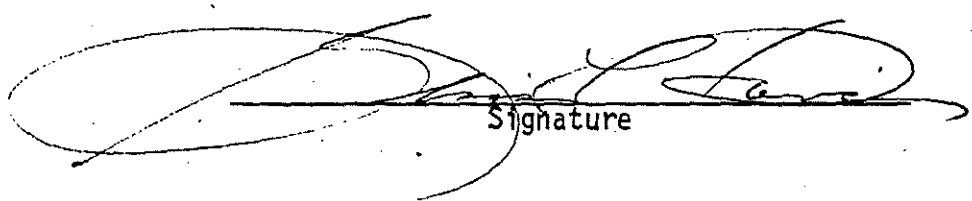
(and if not the party, their relationship)

SS-SWR-78-70  
Notice of Assessment of Civil Penalty - Jackson County  
(Identify Document Mailed)

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

13345 Modoc Road, Central Point, Oregon 97502

his last known address, and deposited in the Post Office at Portland, Oregon, on the 12th day of April, 1978, and that the postage thereon was prepaid.

  
Signature

OFFICE OF THE SHERIFF

STATE OF OREGON, }  
County of Jackson } ss.

LETTER

I hereby certify that I have served within ~~summons~~ within said County this 28th  
day of April, 19 78, on the within named Mr. Vogt (Eugene)

by delivering a true copy thereof prepared and certified to by me as Sheriff, together with a copy of the complaint,  
prepared and certified to by

XXXXXXXXXXXXXXXXXXXX Attorney for Plaintiff to Mr. Eugene Vogt

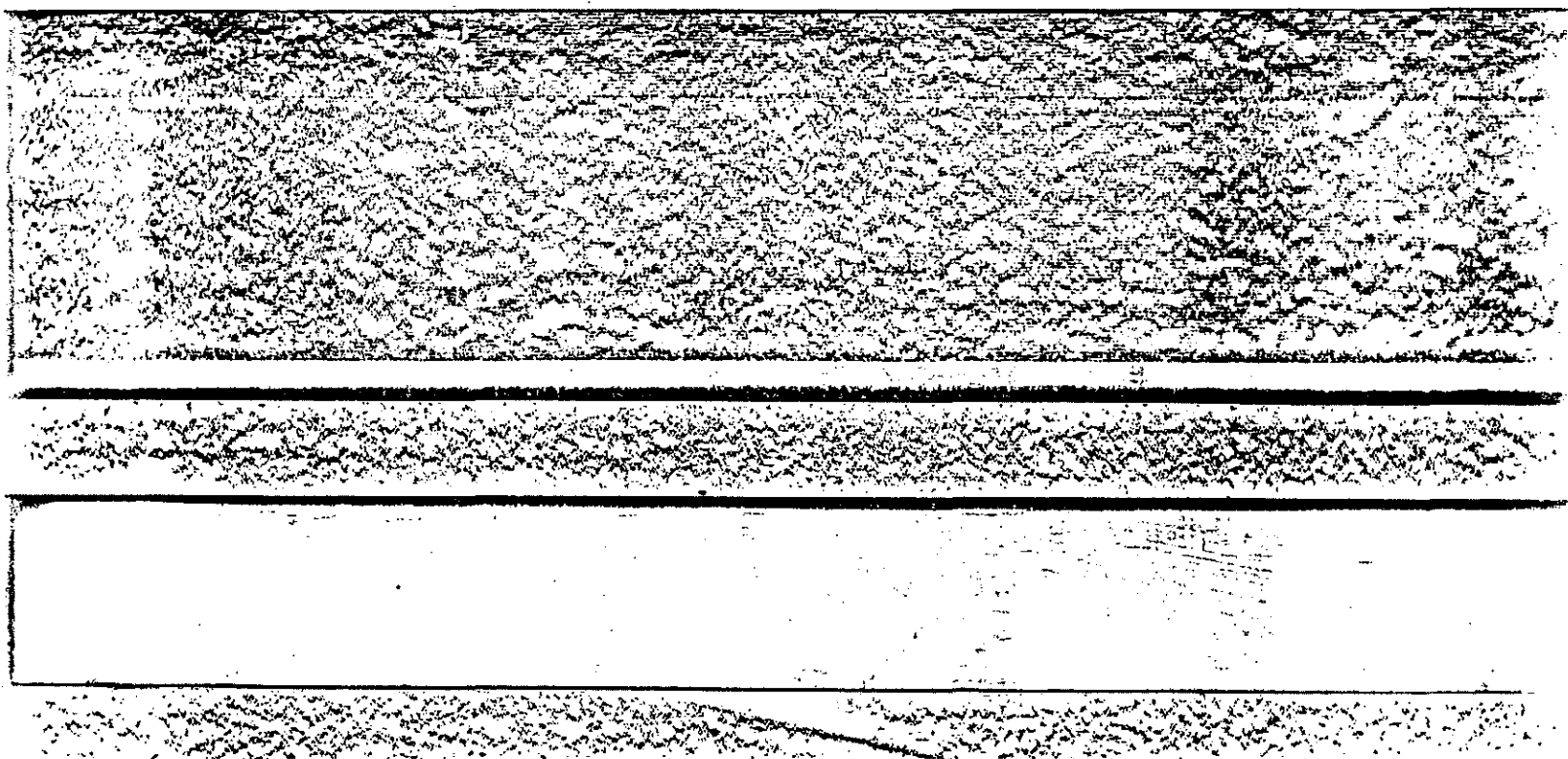
Personally and in Person.

Service Fee \$ \_\_\_\_\_  
Mileage \$ \_\_\_\_\_  
Total \$ n/c/ \_\_\_\_\_

DUANE D. FRANKLIN

Sheriff of Jackson County, Oregon  
DUANE D. FRANKLIN

By *[Signature]*, Deputy



MEMORANDUM


To: Environmental Quality Commission  
From: Hearings Section  
Subject: Agenda Item G, February 22, 1980, EQC Meeting

Contested Case Review Hearing: DEQ v. VOGT, Eugene & Josephine  
Case No. 05-SS-SWR-78-80

Commission review of the hearings officer's order in DEQ v. VOGT was requested by both parties to the case. To assist you in preparing for review, I have enclosed these documents:

1. Findings of Fact, Conclusions of Law, and Final Order dated September 27, 1979.
2. Respondent's Brief and Written Exceptions.
3. Department's Answering Brief and Cross-Appeal Brief.
4. Department's Exceptions on Cross-Appeal.
5. Copies of the proofs of service of Notice of Violation and Intent to Assess Civil Penalty.
6. Copies of the proofs of service of Notice of Assessment of Civil Penalty.

Respectfully submitted,

  
Linda K. Zucker  
Hearings Supervisor

L. Zucker: ahe  
01-30-80  
229-5383

Enclosures (6)

cc: Department of Justice, Portland Office  
Richard A. Stark (Certified Mail/Return Receipt Requested)

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY )  
of the STATE OF OREGON, )  
Department, ) FINDINGS OF FACT, CONCLUSIONS  
v. ) OF LAW AND FINAL ORDER  
EUGENE C. VOGT, JOSEPHINE P. VOGT, ) No. SS-SWR-78-70  
Respondents. ) JACKSON COUNTY

BACKGROUND

This contested case matter involves a Notice of Assessment of Civil Penalty, hereinafter called "Notice," dated April 12, 1978, against Respondents in the amount of \$250. Department alleges three violations:

a) That from on or about March 12, 1978, through March 21, 1978, Respondents operated and used, and discharged sewage into an illegally constructed and unapproved subsurface sewage disposal system on Respondents' premises without first obtaining a Certificate of Satisfactory Completion in violation of OAR (Oregon Administrative Rules) 340-71-017(3).

b) On or about March 21, 1978, Respondents discharged inadequately treated sewage, thereby creating a health hazard.

c) From on or about November 21, 1977, through the date of notice Respondents violated a final order of the Commission.

An answer was filed on behalf of Respondents, and a further amended answer was filed by different counsel. The amended pleading contained affirmative answers, including allegations that the application was erroneously denied; that the system was legally constructed; that Department and its agent failed to issue or deny Respondent's application within 20 days of date of application; that the system in operation on

1 Respondents' property does not constitute a public health hazard; and that  
2 the refusal of a permit to Respondents and the assessment of a penalty  
3 constitute a taking of property without due process of law in violation  
4 of the Oregon and Federal Constitutions.

5 Post hearing briefs were filed on behalf of both Department and  
6 Respondents.

7 EVIDENTIARY RULINGS AND "OFFICIAL NOTICE"

8 Several rulings were reserved. Department on two occasions moved  
9 for summary judgment because the Respondents, through Mrs. Vogt, admitted  
10 the allegations contained in notice with respect to "use" of a system  
11 without a certificate of satisfactory completion. At this time the motions  
12 for summary judgment by Department are denied.

13 Respondents moved to dismiss Department's notice on the grounds that  
14 there had been no proof of use of the system during March, 1978, and no  
15 proof of service of the notice upon Respondents. They further moved to  
16 strike or dismiss allegations with respect to the creation of a health  
17 hazard on Respondents' property. Respondents' motions to dismiss for lack  
18 of proof of use , and proof of service are denied because "use" was  
19 admitted, and both Respondents personally appeared at the time of hearing.  
20 Service and jurisdiction will be discussed in more detail in the Opinion  
21 section of this order. Respondents' motion to dismiss allegations with  
22 respect to creation of a health hazard is hereby granted because there  
23 was a failure of proof by Department at time of hearing, and at hearing  
24 and in its post hearing brief Department withdrew such allegation, as well  
25 as the third allegation concerning violation of a Commission order.

26 Department requested that "official notice" be taken of Department's

1 fee schedule, and such notice is now taken, since Department's fee schedule  
2 is contained in ORS (Oregon Revised Statutes) 454.745 , and OAR 340-72-010  
3 through 340-72-020.

4 ISSUES

5 1) Did Respondents operate, use and discharge sewage into a  
6 subsurface sewage disposal system on their premises between March 12, 1978  
7 and March 21, 1978, without first obtaining a Certificate of Satisfactory  
8 Completion in violation of OAR 340-71-017(3)?

9 2) Did Department legally serve its Notice of Assessment of Civil  
10 Penalty on Respondents?

11 3) Does appearance at a contested case hearing by a party cure a  
12 defective service of Notice of Assessment, constitute a waiver of defective  
13 service, and confer jurisdiction?

14 FINDINGS OF FACT

15 1) At all times material herein, Respondents were the owners,  
16 contract purchasers or persons in control of the premises involved in this  
17 proceeding. The said premises contained a travel trailer used as a  
18 dwelling by Respondents. Respondents have used said trailer as a residence  
19 from late 1974 to date of hearing. The use was sporadic until 1975.

20 2) The said trailer contained a toilet and sink from which waste water  
21 was deposited into the subsurface sewage disposal system on said property  
22 during times material herein.

23 3) During latter 1973 through early 1975 Respondents personally  
24 constructed a subsurface sewage disposal system on the premises. The  
25 drainfields were completed in early 1975.

26 4) At the time of construction of the said system Respondents did

1 not apply for and did not have a permit to construct the system. No  
2 request for final inspection of the system was made by Respondents and  
3 no Certificate of Satisfactory Completion was obtained.

4 5) On or about November 15, 1977, Respondents applied for a permit  
5 for the system already constructed and located on their premises. The  
6 form provided by Department's contract agent indicated that the application  
7 was for a site evaluation only. Ex. 2. The notations concerning type of  
8 application were made by Department's agent. The check tendered by  
9 Respondents indicated thereon that payment was made for both a permit and  
10 site evaluation. Ex. A.

11 6) On or about November 22, 1977, Department representatives went  
12 to Respondents' property for the purpose of conducting a site evaluation.  
13 No evaluation was conducted because of inclement weather including rain  
14 and snow.

15 7) On or about November 30, 1977, Department representatives again  
16 visited Respondents' premises to conduct a site evaluation. Three test  
17 pits provided by Respondents contained water nearly to ground surface and  
18 Department representatives did not enter said pits. On said date  
19 Respondents' premises contained water at 13 inches below the ground surface  
20 in an auger hole dug by the Department representatives. One test pit  
21 contained water 8 inches from the surface of the ground and another  
22 contained water at 19 inches below ground level. On said date no futher  
23 tests or analyses were made nor were the same conducted at a subsequent  
24 time.

25 8) On or about November 4, 1978, a registered engineer, retained by  
26 Respondents, visited Respondents' premises and conducted an examination.



1 On said date no sewage existed on the ground surface. No soil or other  
2 tests were performed by Respondents' engineer.

3 9) Respondents used the system on the involved premises between the  
4 dates of March 12, 1978 and March 28, 1978, and deposited sewage and waste  
5 water into the existing subsurface system.

6 10) Both Respondents personally appeared at the hearing.

7 11) Department presented no evidence as to service of Notice of  
8 Violation and Intent to Assess Penalty, nor Notice of Violation and  
9 Assessment of Civil Penalty on Respondents.

10 12) Respondents did not discharge at any time material herein  
11 inadequately treated sewage onto the surface of the ground, and their  
12 system did not malfunction.

13 13) Respondents affirmatively stated in their answer certain  
14 allegations with respect to the legality of the system, lack of a health  
15 hazard, lack of proper notice of Department action, and the taking of  
16 property in violation of due process provisions of the United States and  
17 the State constitutions.

18 CONCLUSIONS OF LAW

19 1) Respondents violated the provisions of OAR 340-71-017(3) by using  
20 a subsurface sewage disposal system between March 12 and March 21, 1978,  
21 without first obtaining a Certificate of Satisfactory Completion.

22 2) Department failed to serve Respondents with Notice of Violation  
23 and Assessment of Penalty in a legally sufficient manner.

24 3) The failure of Department to legally serve its Notice of Assessment  
25 was waived and cured by personal appearance of Respondents at the contested  
26 case hearing, and Commission jurisdiction was thereby acquired.

1 4) The Commission has jurisdiction of the parties and the subject  
2 matter of this proceeding.

3 5) Respondents did not create a "health hazard" on their premises.

4 6) Respondents have the burden of proving their affirmative  
5 allegations and have failed to prove such allegations by a preponderance  
6 of the evidence.

7 OPINION

8 The issue of Department's alleged failure to notify Respondents of  
9 its action on the application, and the consequences thereof, was raised  
10 in Respondents' Answer, but was not argued in their Brief. The record  
11 is not clear as to when or in what manner Respondents received notification  
12 of the denial of their application, but it is not necessary to resolve  
13 this question. ORS 454.655(5) (a), (b) and (c) require Department action  
14 on an application within certain time periods, and failure to act results  
15 in the issuance of a permit by operation of law. However, ORS 454.655,  
16 read as a whole, deals with "proposed" construction, rather than a system  
17 already installed without a permit, and is not applicable in this  
18 proceeding. It would be illogical to hold that a permit automatically  
19 issues even if notification is not properly given, where a system has  
20 already been constructed without permit. OAR 340-71-017(3) requires a  
21 certificate of satisfactory completion prior to use or operation of a  
22 system completed on or after January 1, 1974, regardless of whether the  
23 construction was done with or without permit. The record does, however,  
24 indicate a lack of communication between the parties.

25 Mrs. Vogt was the only Respondent to testify at the hearing. She  
26 testified that the Notice of Assessment of Penalty was not received.

1 Department produced no signed receipt into evidence, nor other evidence  
2 of actual receipt.

3 Respondents' main contention in their post hearing brief was that  
4 the Department failed to demonstrate that the Notice of Violation and  
5 Assessment of Penalty were ever given to or received by the Respondents.  
6 This contention is adequately answered by reference to state statute and  
7 case law. ORS 14.010 provides that a natural person is not subject to  
8 jurisdiction unless he appears in court. Jurisdiction of a person is  
9 acquired by a general appearance in court. Felts v. Boyer , 73 OR  
10 83(1914). The same rationale applies to a contested case hearing. The  
11 proper procedure for testing an attempt to obtain personal jurisdiction  
12 is to appear "specially" for the sole purpose of quashing service of a  
13 summons, or in this proceeding, the Notice of Assessment. ORS 16.150;  
14 Whittier v. Woods , 57 Or 432 (1910). No special appearance was ever  
15 made to test jurisdiction, either prior to or at hearing, and the failure  
16 of Department to properly serve Respondents was thereby waived and cured  
17 by the appearance of Respondents at time of hearing.

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1 ORDER

2 The final order in this proceeding assessing a civil penalty in the  
3 sum of \$250 against Respondents, Eugene C. and Josephine P. Vogt, is  
4 attached hereto.

5  
6 Dated this 27<sup>th</sup> day of September, 1979.

7  
8 Respectfully submitted,

9 *Wayne Cordes*  
10 Wayne Cordes  
11 Hearings Officer

12 XN8174.10  
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DEC 03 1979

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY )  
of the STATE OF OREGON, )  
 )  
Department, )  
 )  
v. )  
 )  
EUGENE C. VOGT, JOSEPHINE P. VOGT, )  
 )  
Respondents. )

No. SS-SWR-78-70  
JACKSON COUNTY

BRIEF AND WRITTEN  
EXCEPTIONS

COMES NOW the Respondents and submit to the Court that  
the following Findings of Fact, Conclusions of Law, and Order  
should be entered in connection with the above captioned pro-  
ceedings.

BACKGROUND AND ISSUES

The Respondents accept the background information in  
pages 1 through 3 of the hearing officer's Order, and accepts the  
issues set forth on page 3.

FINDINGS OF FACT

Respondents accept the Findings of Fact 1 through 13,  
pages 3 through 5, except they add a sentence to Finding of Fact  
number 8 as follows, "The Respondent's engineer testified that,  
in his opinion from the inspection that he made of the premises  
and his knowledge as a soil engineer, there was not a health  
hazard of any nature in connection with the operation of the  
Respondent's subsurface sewage system."

CONCLUSIONS OF LAW

1. The Respondents violated the provisions of OAR 340-

1 71-017 (3) by using a subsurface sewage disposal system between  
2 March 12 and March 21, 1978, without first obtaining a cer-  
3 tificate of satisfactory completion. However, the rule set forth  
4 above is overly broad because it does not refer to a health  
5 hazard being present and, therefore, exceeds the authority set  
6 forth in the enabling statute.

7 2. Department failed to serve Respondents with notice  
8 of violation and assessment of penalty in a legally sufficient  
9 manner and, therefore, failed to sustain their burden of proof in  
10 this matter.

11 3. The failure to legally serve the Respondents was not  
12 cured by the personal appearance of the Respondents at the con-  
13 tested case hearing.

14 4. Respondents did not create "a health hazard" on  
15 their premises.

16 OPINION

17 The failure to prove that the Respondents were properly  
18 notified as alleged in the initial petition of the Department is  
19 fatal because it is a required item of proof for the Department  
20 to set forth. It is not a question of jurisdiction but an item  
21 of proof placed on the Department that is essential to their  
22 case. An analogy can be drawn to a traffic ticket where the  
23 State is required to prove that the offense occurred within  
24 Jackson County, Oregon, for instance, or that the officer was in  
25 uniform or that there was a valid arrest. The question is not  
26 one of jurisdiction, but one of proof in connection with a sta-

1 tute that is contrary to the common law and, therefore, strictly  
2 construed.

3 ORDER

4 The notice of assessment of civil penalty is hereby  
5 dismissed and the Respondents are to recover their costs incurred  
6 herein and their attorney's fees.

7 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1979.

8  
9  
10 HEARINGS OFFICER

11  
12  
13 Respectfully submitted,

14 

15 RICHARD A. STARK  
16

17 I certify that on the 30th day of November,  
18 1979, there was deposited in the United States Post Office at  
19 Medford, Oregon, a sealed envelope with first class postage pre-  
20 paid thereon addressed to: Van A. Kollias, Department of  
21 Environmental Quality, 522 SW Fifth Avenue, P. O. Box 1760,  
22 Portland, Oregon 97207. Said envelope contained a true copy of  
23 the foregoing document.

24 

25 Attorney for Respondent  
26

Hearing Section

JAN 22 1980

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY )  
OF THE STATE OF OREGON, )  
 )  
Department, )  
 )  
v. )  
EUGENE C. VOGT and JOSEPHINE P. VOGT, )  
 )  
Respondents. )

No. SS-SWR-78-70  
(Jackson County)  
  
DEPARTMENT'S  
ANSWERING BRIEF  
AND CROSS APPEAL  
BRIEF

I. BACKGROUND

This case was commenced before the Hearings Section of the Environmental Quality Commission by the assessment of a \$250 civil penalty against respondents for operation of a subsurface sewage disposal system without first obtaining a certificate of satisfactory completion in violation of OAR 340-71-017(3).

Respondents timely requested a hearing. The case came to issue on an amended answer in which respondents denied all the alleged facts and raised several affirmative defenses. The case was heard before Hearings Officer Wayne Cordes on November 8, 1978, who issued his Findings of Fact, Conclusions of Law and Final Order on September 27, 1979, affirming the civil penalty.

Respondents timely filed their Notice of Appeal to the Commission. Respondents subsequently filed their Brief and Written Exceptions. In that document respondents accepted (did not take any exception to) the Hearings Officer's

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1 "background information" and all his findings of fact.  
2 However, respondents submitted their own form of proposed  
3 conclusions of law, opinion and order in lieu of Hearings  
4 Officer Cordes', thereby implicitly taking exception to the  
5 Hearings Officer's conclusions of law, opinion and order.

6 II. ISSUES

7 In comparing the Hearings Officer's conclusions of law,  
8 opinion and final order with respondents' proposal, it is  
9 clear that respondents raise only three legal issues regarding  
10 the Hearings Officer's decision.

11 Respondents contend that:

12 (1) The Department failed to prove at the  
13 hearing that it had adequately served the notices  
commencing this proceeding;

14 (2) Rule OAR 340-71-017(3) which prohibits  
15 use of a system prior to obtaining a certificate  
16 of satisfactory completion exceeds statutory  
authority because its application is not conditioned  
upon the actual existence of a health hazard; and

17 (3) Upon prevailing, they are entitled to an  
18 award of attorneys' fees and costs.

19 Respondents raise no other issue with the Hearings Officer's  
20 decision. In particular, respondents have abandoned their  
21 claim that their alleged application for a permit was errone-  
22 ously denied (Amended Answer, Second Affirmative Defense),  
23 that it was issued by operation of law (Amended Answer,  
24 Third Affirmative Defense), and that refusal to issue a

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1 permit constitutes a taking in violation of the Oregon and  
2 United States constitutions. (Amended Answer, Fifth  
3 Affirmative Defense).

4 III. ARGUMENT

5 A. The Record Shows That the Department Served  
6 Copies of the Notices on Respondents; Respondents  
7 Waived Any Objection to the Adequacy of Service by  
8 Answering, Appearing and Defending on the Merits.

9 In his ruling, Hearings Officer Cordes found that the  
10 "Department presented no evidence as to service of Notice of  
11 Violation and Intent to Assess Civil Penalty, nor Notice of  
12 Violation and Assessment of Civil Penalty on Respondents."  
13 (Cordes, Findings of Fact, etc., p. 5 at finding 11). Based  
14 thereon, Hearings Officer Cordes concluded that the "Department  
15 failed to serve Respondents with Notice of Violation and  
16 Assessment of Penalty in a legally sufficient manner."  
17 (Cordes, Findings of Fact, etc., p. 5 at conclusion 2).  
18 However, Hearings Officer Cordes went on to rule that that  
19 "failure . . . was waived and cured by personal appearance  
20 of Respondents at the contested case hearing, and Commission  
21 jurisdiction was thereby acquired." (Cordes, Findings of  
22 Fact, etc., p. 5 at conclusion 3).

23 The Department has cross-appealed the Hearings Officer's  
24 finding of "no evidence" and his conclusion of failure to

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1 effect legally sufficient service, although it agrees with  
2 the Hearings Officer's conclusion that the alleged defect  
3 was waived by respondents' appearance.

4       Apparently, the Hearings Officer overlooked the pleadings  
5 in this case. The Department's basic pleadings in this case  
6 are its (1) Notice of Violation and Intent to Assess Civil  
7 Penalty and Order Requiring Remedial Action No. SS-SWR-77-294  
8 and (2) Notice of Assessment of Civil Penalty No. SS-SWR-78-70.  
9 Both were submitted to the Hearings Section as pleadings  
10 after respondents filed their answer and prior to the hearing.  
11 Attached to each of the notices when they were submitted to  
12 the Hearings Section was at least one certificate of service.  
13 Each notice had attached thereto a "Certificate of Service  
14 (Mail)" signed by Gloria Davis, a former DEQ employee certifying  
15 that the notices were each sent by certified mail to both  
16 respondents at their home address. Also attached to the  
17 Notice of Intent was the United States Postal Service's  
18 "Receipt for Certified Mail" signed by Eugene C. Vogt on  
19 November 11, 1977. Also attached to the Notice of Assessment  
20 was a certificate of personal service on Eugene Vogt by a  
21 Jackson County Deputy Sheriff.

22       The Commission's rule regarding service of such notices,  
23 OAR 340-11-097, provides that such service may be made by  
24 personal service or by registered or certified mail.  
25 OAR 340-11-097(1). Regarding service by mail, service is  
26 perfected when the notice is posted. OAR 340-11-097(2).

1 Furthermore, an applicant for a DEQ permit "shall be con-  
2 clusively presumed able to be served at the address given in  
3 his application . . . ." Finally, and most importantly,  
4 service is proved "by a certificate executed by the person  
5 effecting service." OAR 340-11-097(4).

6 In this case, the record is clear from the certificates  
7 which have been part of the record in this case since before  
8 the hearing, that good service of each notice was effectuated.  
9 Certificates of service by certified mail show perfected  
10 service upon respondents at their address shown in their  
11 application (Ex 2) which, incidentally, continued to be  
12 their address at the time of the hearing. (Tr 7).

13 Admittedly, the certificates of service were not formally  
14 offered in evidence at the hearing. However, that was  
15 unnecessary. As was customary, they had previously (by  
16 months) been submitted to the record when the pleadings were  
17 entered into the record. Although the notices were never  
18 formally offered in evidence at the hearing, it is clear  
19 that Hearings Officer Cordes treated the notices as part of  
20 the record to define the issues of the case. Just as the  
21 notices became part of the record of the case by pre-hearing  
22 filing, so did the certificates of service attached thereto  
23 and thereby provided the necessary proofs of service. The  
24 same procedure is followed in the trial courts of this  
25 state. Once so filed, it was incumbent upon respondents,  
26 prior to answering and defending on the merits, to make a

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1 special appearance to challenge the adequacy of service, as  
2 Hearings Officer Cordes correctly ruled.

3 The record is also clear that respondents received  
4 ample actual notice of the contents of those notices. This  
5 is evident from the Answer verified by respondent Josephine  
6 P. Vogt on May 22, 1978, and filed in this case on behalf of  
7 both respondents. In the caption of their Answer, respondents  
8 referred specifically to the Department's notices by the  
9 full names of those documents and by the case numbers and  
10 proceeded to deny the contents thereof and to raise specific  
11 affirmative defenses thereto. In light of their Answer, any  
12 contention that they did not actually receive the notices is  
13 simply incredulous.

14 Although Hearings Officer Cordes correctly ruled that  
15 respondents waived any objections they may have had to  
16 adequacy of service by personally appearing at the hearing,  
17 the respondents actually waived those objections at an  
18 earlier point. Respondents first waived those objections  
19 when they "appeared" in this case by filing their Answer to  
20 the notices specifically denying the Department's allegations  
21 and setting up affirmative defenses thereto. The Commission  
22 has so ruled in an analagous case, DEQ v. Wright. In that  
23 case the Commission and the Oregon Court of Appeals upheld  
24 Hearings Officer Peter McSwain's decision. DEQ v. Wright,  
25 42 Or App 617, \_\_\_ P2d \_\_\_ (1979). In that case respondent  
26 Wright tried to raise the issue of adequacy of service of

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1 the five-day notice after he had demurred to that notice on  
2 other grounds. Specifically relying on the demurrer, a  
3 pre-hearing filed certificate of service (by mail) and a  
4 United States Post Office certified mail return receipt,  
5 Hearings Officer McSwain held: "The inference is compelling  
6 that Respondent was notified . . . ." DEQ v. Wright, McSwain,  
7 Proposed Findings, etc., p. 9. Likewise, here the inference  
8 also is compelling that respondents actually received notice.

9 B. Rule OAR 340-71-017(3) Merely Repeats the  
10 Statutory Prohibition and Therefore Does  
11 Not Exceed Statutory Authority.

12 Respondents contend that OAR 340-71-017(3) exceeds  
13 statutory authority. OAR 340-71-017(3) prohibits the use of  
14 a new subsurface sewage disposal system without first obtain-  
15 ing a certificate of satisfactory completion. Respondents  
16 contend that Oregon statutes require that in order to prove  
17 a violation of that section the use of the system must also  
18 cause an actual health hazard. Since the rule is not so  
19 conditioned, respondents contend that it is overly broad and  
20 exceeds statutory authority.

21 The short answer to respondents' contention is that the  
22 rule merely repeats the substance of the authorizing statute.  
23 ORS 454.665(3) provides in pertinent part:

24 "No person shall operate or use any subsurface  
25 sewage disposal system . . . unless a certificate  
26 of satisfactory completion has been issued for  
the construction . . . ."

1 The statute does not require the actual existence of a  
2 failing system or other public health hazard to show a  
3 violation of the statute. Neither does the rule. Therefore,  
4 the rule clearly does not exceed the statute.

5 Furthermore, the statute and rule are reasonable. They  
6 serve a reasonable purpose. The statutory scheme envisions  
7 the Commission and the Department taking action to prevent  
8 public health hazards before they can occur, rather than  
9 merely responding to actual public health hazards. Therefore,  
10 the Commission has been authorized by the legislature to set  
11 standards for the construction and use of systems. Consistent  
12 with its preventative role, the Department has been given  
13 authority to review proposed systems prior to construction  
14 and permitted systems after construction and prior to use,  
15 to determine whether they comply with Commission standards.  
16 Of course, if they do not, the permit application or  
17 certificate is denied. The purpose is preventative. The  
18 statute and rule dictate that a person cannot use a  
19 constructed system until it is approved.

20 Respondents' theory, which would require the actual  
21 existence of a health hazard before a certificate could be  
22 denied, would turn the system on its head. It would prevent  
23 the fulfillment of the Department's and Commission's pre-  
24 ventative roles. It would require the Department and Commis-  
25 sion to allow a system to actually fail before they could  
26 take any remedial action. It would put the Department and

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1 Commission in the role of after-the-fact reactors instead of  
2 before-the-fact preventors. Therefore, it would defeat the  
3 legislature's well thought out program to protect the public  
4 from public health hazards occurring at all. Respondents'  
5 interpretation is not reasonable and is not required.  
6 Pre-use review and certification is reasonable and is required.

7 C. The Commission Has No Authority to Grant Attorneys  
8 Fees and Costs to Respondents, Should They Prevail.

9 Should they prevail, respondents propose that the  
10 Commission pay their attorneys fees and costs in defending  
11 this case. The Commission has no authority to grant such  
12 fees and costs in a contested case proceeding.

13 The Commission is a creature of statute and therefore  
14 is limited to the powers granted to it by the legislature.  
15 The legislature has not granted any authority specifically  
16 to the Commission or generally to State administrative  
17 agencies to pay attorneys fees and costs to respondents in  
18 administrative contested case hearings. Such a statute  
19 would be extraordinary as it would reverse the normal  
20 "American Rule" that each party is responsible for paying  
21 his own attorney's fees and is not entitled to reimbursement  
22 from his opposing party upon prevailing. Aleyeska v.  
23 Wilderness Society, \_\_\_ US \_\_\_, 95 S Ct 39, \_\_\_ L Ed 2d,  
24 7 ERC 849 (1975). The only such authority which has  
25 been granted has been granted to the courts in their discretion  
26 "[u]pon judicial review . . . ." ORS 183.495.

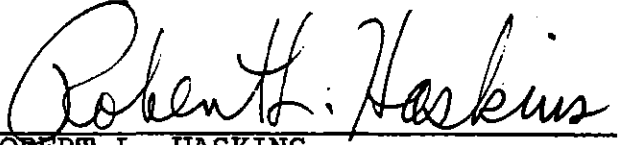


1 IV. CONCLUSION

2 For all of the above reasons, the Commission should  
3 revise its Hearings Officer's decision according to the  
4 Department's proposal and as so revised adopt as the Commission's  
5 final order in this case.

6 Respectfully submitted,

7 JAMES A. REDDEN  
8 Attorney General

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10 ROBERT L. HASKINS  
11 Assistant Attorney General  
12 Of Attorneys for Department  
13 of Environmental Quality  
14 Trial Attorney/OSB# 69069

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22 Attorney General  
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24 Portland, Oregon 97204  
25 Telephone 229-5548  
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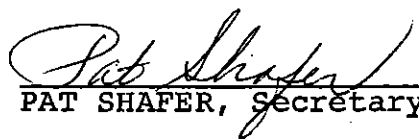
JAN 24 1980

CERTIFICATE OF SERVICE

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I hereby certify that on the 4<sup>th</sup> day of January, 1980,  
I served a true copy of the foregoing Department's Answering  
Brief and Cross Appeal Brief upon respondents' attorney,  
Richard A. Stark, by then depositing in the United States  
Post Office at Portland, Oregon, a full, true, and correct  
copy thereof in a postage-paid, sealed envelope addressed to  
said attorney as follows:

Richard A. Stark  
Haviland & Stark  
Attorneys at Law  
837 East Main Street  
Medford, OR 97501

  
PAT SHAFER, Secretary

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

JAN 14 1980

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY )  
OF THE STATE OF OREGON, )  
Department, )  
v. )  
EUGENE C. VOGT and JOSEPHINE P. VOGT, )  
Respondents. )

No. SS-SWR-78-70  
(Jackson County)  
  
DEPARTMENT'S  
EXCEPTIONS ON  
CROSS APPEAL

I. EXCEPTIONS.

The Department takes exception to Finding of Fact number 11), Conclusions of Law number 2) and 3), and Opinion page 7 lines 1, 2 and 15 of Hearings Officer Wayne Cordes' Findings of Fact etc., dated September 27, 1979.

II. ALTERNATIVE FINDING OF FACT, CONCLUSIONS OF LAW AND OPINION.

A. Alternative Finding of Fact.

The Department proposes an alternative Finding of Fact in lieu of the present Finding number 11), as follows:

"11) The Department served Respondents by mailing to them by certified mail a copy of Notice of Violation and Intent to Assess Civil Penalty and Order Requiring Remedial Action dated November 7, 1977, (No. SS-SWR-77-294, Jackson County) and Notice of Assessment of Civil Penalty dated April 12, 1978, (No. SS-SWR-78-70) appropriately addressed. Respondents actually received

///

///

James A. Redden  
Attorney General  
500 Pacific Building  
Portland, Oregon 97204  
Telephone 229-5548

1 those notices and timely filed their Answer responding  
2 specifically thereto."

3  
4 B. Alternative Conclusions of Law.

5 The Department proposes alternative Conclusions of Law  
6 in lieu of the present Conclusions number 2) and 3), as  
7 follows:

8 "2) Department's service on Respondents described  
9 in Finding of Fact number 11) above, was legally sufficient.

10 3) Respondent's objections to adequacy of service  
11 of the notices referred to in Finding of Fact number  
12 11) above were waived by their filing their Answer and  
13 by personally appearing at the contested case hearing  
14 and defending on the merits."


15 C. Alternative Opinion

16 The Department proposes that lines 1 and 2 of page 7 of  
17 the portion of the Hearings Officer's Findings of Fact etc.,  
18 under the heading "Opinion" be deleted and not be replaced.

19 The Department proposes that the word "alleged" be  
20 added between the words "the" and "failure" on page 7,  
21 line 15.

22 Respectfully Submitted,

23 JAMES A. REDDEN  
24 ATTORNEY GENERAL

25   
26 ROBERT L. HASKINS

Assistant Attorney General  
of Attorneys for Defendant

JAN 04 1980

CERTIFICATE OF SERVICE

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I hereby certify that on the 4th day of January, 1980,  
I served a true copy of the foregoing Department's Exceptions  
on Cross Appeal upon respondents' attorney, Richard A. Stark,  
by then depositing in the United States Post Office at  
Portland, Oregon, a full, true, and correct copy thereof in  
a postage-paid, sealed envelope addressed to said attorney  
as follows:

Richard A. Stark  
Haviland & Stark  
Attorneys at Law  
837 East Main Street  
Medford, OR 97501

  
PAT SHAFER, Secretary

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

CERTIFICATE OF SERVICE

(Mail)

STATE OF OREGON )  
COUNTY OF Multnomah ) ss

I, Gloria C. Davis, being a competent person over the age of eighteen (18) years, do hereby certify that I served Eugne C Vogt & Josephine P. Vogt by mailing by certified mail to Same as above Certified Mail # 346376  
(Name of Person to whom Document addressed)

(and if not the party, their relationship)

Notice of Violation & Intent to Assess Civil SS-SWR-77-294  
Penalty and Order Requiring Remedial Action - Jackson County

(Identify Document Mailed)

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

13345 Modoc Road, Central Point, Oregon 97502

his last known address, and deposited in the Post Office at Portland, Oregon, on the 7th day of November, 1977, and that the postage thereon was prepaid.

  
Signature

1ms

### RECEIPT FOR CERTIFIED MAIL

No. 346376

SENT TO Eugene C. & Josephine P. Vogt		POSTMARK OR DATE
STREET AND NO. 13345 Modoc Road		Order-Warn.  1/4/77
P.O., STATE AND ZIP CODE Central Point, Oregon 97502 Jackson Co.		
OPTIONAL SERVICES FOR ADDITIONAL FEES		
RETURN RECEIPT SERVICES	<input type="checkbox"/> 1. Shows to whom and date delivered With restricted delivery	CONSULT POSTMASTER FOR FEES
	<input checked="" type="checkbox"/> 2. Shows to whom, date and where delivered With restricted delivery	
RESTRICTED DELIVERY		
SPECIAL DELIVERY (extra fee required)		

PS Form Jan. 1978 3800 NO INSURANCE COVERAGE PROVIDED— (See other side)  
NOT FOR INTERNATIONAL MAIL ☆ 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:  
Eugene C. Vogt & Josephine P. Vogt  
13345 Modoc Road  
Central Point, Oregon 97502

3. ARTICLE DESCRIPTION:  
REGISTERED NO. | CERTIFIED NO. | INSURED NO.  
| 346376 |

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE  Addressee  Authorized agent  
*Eugene C. Vogt*

4. DATE OF DELIVERY: 1-1-77 POSTMARK: 1 1 77

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

☆ GPO: 1975-O-591-452

CERTIFICATE OF SERVICE

(Mail)

STATE OF OREGON }  
COUNTY OF Multnomah } ss

I, Gloria C. Davis, being a competent person over the age of eighteen (18) years, do hereby certify that I served Eugene C. Vogt & Josephine P. Vogt by mailing by certified mail to Name of Party Same as above Certified Mail # 346792  
(Name of Person to whom Document addressed)

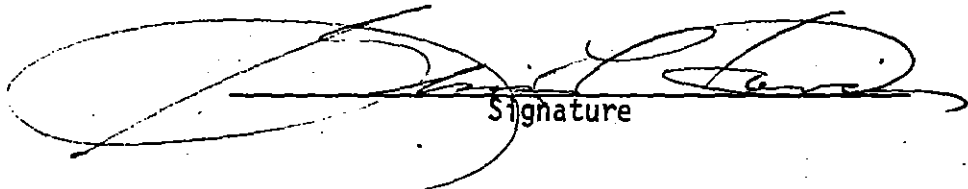
(and if not the party, their relationship)

SS-SWR-78-70  
Notice of Assessment of Civil Penalty - Jackson County  
(Identify Document Mailed)

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

13345 Modoc Road, Central Point, Oregon 97502

his last known address, and deposited in the Post Office at Portland, Oregon, on the 12th day of April, 1978, and that the postage thereon was prepaid.

  
Signature



# OFFICE OF THE SHERIFF

STATE OF OREGON, }  
County of Jackson } ss.

LETTER

I hereby certify that I have served within ~~summons~~ within said County this 28th  
day of April, 19 78, on the within named Mr. Vogt (Eugene)

by delivering a true copy thereof ~~prepared and certified to by me as Sheriff, together with a copy of the complaint~~  
~~prepared and certified to by~~

~~XXXXXXXXXXXXXXXXXXXX~~ Attorney for Plaintiff to Mr. Eugene Vogt

Personally and in Person.

Service Fee \$ \_\_\_\_\_

Mileage \$ \_\_\_\_\_

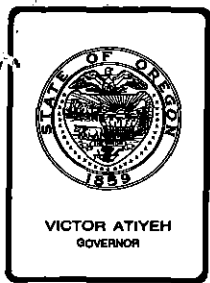
Total \$ n/c/

DUANE D. FRANKLIN

Sheriff of Jackson County, Oregon

DUANE D. FRANKLIN

By *[Signature]*, Deputy



## *Environmental Quality Commission*

Mailing Address: BOX 1760, PORTLAND, OR 97207

522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### MEMORANDUM

To: Environmental Quality Commission  
From: Director  
Subject: Agenda Item H, February 22, 1980, EQC Meeting

Request by Clatsop County for Extension of Variances from  
Rules Prohibiting Open Burning Dumps, OAR 340-61-040(2)(c)

### Background

For several years Clatsop County has been pursuing alternatives to the open burning dumps at Seaside, Cannon Beach and Elsie. During this time, the Environmental Quality Commission has granted a series of open burning variance extensions.

Following a planning study in 1974, Clatsop County examined numerous landfill sites, but found nothing acceptable. Several years were spent working on a joint composting project with Tillamook County and a private firm. However, that eventually fell through when there were no bidders for the composting franchise. Since that time the county has been pursuing incineration for waste reduction and sanitary landfilling. Both options have limitations but the county has concluded that a landfill is necessary even if incineration becomes economical. They are now in the final planning phase of their solid waste management program and have selected a consultant to locate an acceptable landfill. They have also applied for a \$33,874 planning grant which was approved by the State Emergency Board on February 1, 1980.

### Discussion

Clatsop County has selected a consulting firm to evaluate potential disposal sites and reexamine sites considered in previous planning efforts. It is anticipated that a reasonably acceptable site will be identified by mid-May 1980 which will allow construction to occur this summer. Construction should be completed by November 1, 1980.

The lack of area prevents the operation of the three burning dumps as modified landfills. The sites would fill up very rapidly if burning were stopped.



Contains  
Recycled  
Materials

No alternative facility will be available until a disposal site is located through the recently funded landfill search.

ORS 459.225(3) allows the Commission to grant a variance to the solid waste rules only if:

- a. Conditions exist that are beyond the control of the applicant.
- b. Special conditions exist that render strict compliance unreasonable, burdensome, or impractical.
- c. Strict compliance would result in substantial curtailment or closing of a disposal site and no alternative facility or alternative method of solid waste management is available.

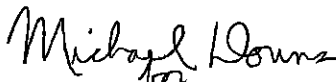
#### Summation

1. Until the landfill study has been completed and a landfill site identified, Clatsop County has little control over the continued operation of the open burning dumps. Once a landfill site has been identified that can be economically developed, the county should be expected to proceed promptly towards its implementation.
2. The lack of area at each of the three open burning sites prevents conversion of the sites to modified landfills.
3. Strick enforcement of the open burning prohibition would result in almost immediate closure of the three sites without any alternative available.
4. Completion of the landfill study is scheduled for mid-May 1980.
5. Provided that a landfill site is found, construction of the site should occur during the summer of 1980 and be completed by the fall of 1980.
6. Therefore, the requirements of ORS 459.225(3) are met.

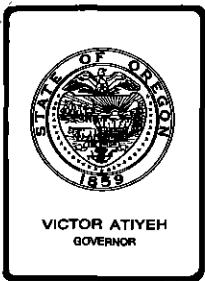
#### Director's Recommendation

Based on the findings in the Summation, it is the recommendation that the Environmental Quality Commission grant an extension of variances to OAR 340-61-040(2) until November 1, 1980 for the Cannon Beach, Elsie, and Seaside disposal sites subject to the following condition:

Open burning at the disposal sites is to be discontinued prior to the expiration date of the variance, if a practical alternative method of disposal becomes available.

  
WILLIAM H. YOUNG

Joe Schultz:n  
229-6237  
February 6, 1980



## *Environmental Quality Commission*

Mailing Address: BOX 1760, PORTLAND, OR 97207

522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. I, February 22, 1980, EQC Meeting

Subsurface Fees Not Specifically Listed in  
OAR 340-72-010(1) to be Charged by Multnomah County and  
Jackson County

### Background

In keeping with the provisions of Chapter 591 Oregon Laws 1979, (House Bill 2111), it is no longer necessary for the Commission to adopt rules pertaining to contract county subsurface fee schedules. Counties may adopt their own fee schedules within maximums established in that legislation.

Chapter 591 Oregon Laws 1979, further provides that, with approval of the Commission, contract counties may adopt fee schedules for services related to the subsurface program which are not specifically listed in the legislation.

The subsurface rules, specifically OAR 340-72-010(4), have been amended to provide for Commission approval of non-listed fees related to the subsurface sewage disposal program.

In accordance with the provisions of OAR 340-72-010(4), Multnomah County has requested Commission approval of fees for two related services which are not listed in OAR 340-72-010(1). Those services are:

- (1) Compliance inspection for abandonment of subsurface system, with a proposed fee of \$35.
- (2) New site evaluations for multiple residential sites, first system, proposed fee \$70, each additional system \$50.



Contains  
Recycled  
Materials

Jackson County has requested Commission approval of a fee for one related service which is not listed in OAR 340-72-010(1). That service is:

Preliminary site inspection, with a proposed fee of \$25.

#### Alternatives and Evaluation

Attachments A and B explain each of the proposed fees. Options available to the Commission are to approve or deny each county's request. Either one or all three of the proposed fees may be approved or denied. In the event of denial the county would not be able to charge the proposed fees; however, that would not affect the remainder of the county's fee schedule, which is in accordance with the statutes.

Fees proposed by both counties appear to be for appropriate services, related to the subsurface program. Staff evaluation of the proposed fees compared to fees for similar levels of service shows the proposed fees to be equitable. In the case of Multnomah county the compliance inspection for abandonment of a subsurface system is comparable to a final inspection of an installed system. That fee is \$40 compared to Multnomah county's proposed fee of \$35 for this abandonment inspection. In the case of the multiple residential site for multiple systems, a comparison to individual lot systems may be made. The proposed fee gives a fee break to the installer of multiple systems on one site.

In the case of Jackson county's proposed fee, the preliminary site inspection may be compared to a site evaluation. The preliminary site inspection would be less detailed. In Jackson county, the site evaluation fee is \$100, the proposed preliminary site inspection fee is \$25.

#### Summation

1. Chapter 591, Oregon Laws 1979, provides that the Commission may approve fee schedules for services not specifically listed in that legislation.
2. Multnomah County and Jackson County have requested Commission approval of a fee schedule which includes services for which fees are not specifically listed in Chapter 591 Oregon Laws 1979.
3. The Commission may approve or deny the request in whole or in part.
4. Approval or denial of the proposed fees do not affect the remainder of the county's fee schedule.
5. Proposed fees appear reasonable when compared to the service to be provided.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission approve the proposed fees for services not specifically listed in Chapter 591 Oregon Laws 1979, to wit:

Multnomah County

1. Compliance Inspection for abandonment of subsurface system -- fee \$35.
2. New site evaluation for multiple residential site, first system -- fee \$70, each additional system -- fee \$50.

Jackson County

1. Preliminary site inspection -- fee \$25.

*Michael Downs*  
for

WILLIAM H. YOUNG

- Attachments:
- A. Multnomah County's Subsurface Program Fee Schedule and Supporting Explanatory Document
  - B. Jackson County's Subsurface Program Fee Schedule and Supporting Explanatory Document

T. Jack Osborne  
229-6218  
February 12, 1980

XP0209



## OFFICE MEMORANDUM . . . DEPARTMENT OF ENVIRONMENTAL SERVICES

TO: T.J. OSBOURNE

9/24/79

Date

FROM: M.W. WHITFIELD

SUBJECT: REVIEW AND EVALUATION OF A FEE FOR APPROVAL  
BY E.Q.C.

According to Oregon Administrative Rules Chapter 340, Division 71, Paragraph 340-71-018 stipulations for the proper abandonment of subsurface systems are mandatory. In order to discharge our obligations toward proper compliance of this rule our section expends time and effort toward each abandonment as mandated in order to preclude future problems of physical and public health hazards.

Since the amendment to paragraph 340-72-010 (4) permits any agreement county with prior E.Q.C. approval to adopt fee schedules for related services I'm requesting that you consider and submit our proposal of charging a fee of \$35.00 for a "Compliance Inspection for Abandonment of Subsurface Systems".

The fee will help defray the expense for conducting the abandonment program and other re-occurring non fee supported activities provided as a public service.

In addition, Multnomah County consistently performs site evaluation on one site for multiple systems. We are requesting authorization to charge \$70.00 site evaluation on the first system and \$50.00 on each additional system. This will provide comparable revenues between small lot divisions and large multiple development.



OFFICE MEMORANDUM . . . DEPARTMENT OF ENVIRONMENTAL SERVICES

TO: BILL WHITFIELD

9/24/79

Date

FROM: HARDING CHINN

SUBJECT: PROPOSED FEE SCHEDULE FOR SUBSURFACE SEWAGE DISPOSAL PROGRAM

FEE SCHEDULE

I	Septic Tank and Disposal Fields	
	A. New site evaluation, 1st lot.....	\$120.00
	B. Each additional lot evaluated while on site.....	\$100.00
II	Seepage Pits, Cesspools or Holding Tanks	
	A. New site evaluation	
	1. Commercial site.....	\$120.00
	2. Industrial site.....	\$120.00
	3. Multiple residential site, 1st system.....	\$ 70.00
	Each additional system.....	\$ 50.00
	4. Single family residential site.....	\$ 70.00
III	Construction Installation Permit	
	1. Septic tank and drainfield.....	\$ 40.00
	2. Cesspool.....	\$ 40.00
	3. Septic tank and seepage pits.....	\$ 40.00
IV	Alteration of Septic Tank or Drainfield.....	\$ 25.00
V	Extension of Septic Tank or Drainfield.....	\$ 25.00
VI	Repair of Septic Tank or Drainfield.....	\$ 25.00
VII	Compliance Inspection for Abandonment of Subsurface System (1).....	\$ 35.00
VIII	Pumper Tank Inspection.....	\$ 25.00
	A. Each additional licensed truck on premise.....	\$ 10.00
IX	Evaluation of Existing System Adequacy (2).....	\$ 30.00
X	Annual Evaluation of Alternative System (when required).....	\$ 40.00
XI	Annual Evaluation of Temporary Mobile Home.....	\$ 25.00

FOOTNOTE:

- (1) Stipulations for the proper abandonment of disposal systems are mandatory as stated in D.E.Q. Administrative Rule 340-71-018. A fee for compliance inspection may be adopted as provided in House Bill 2111 providing the fee request is approved by the Environmental Quality Commission.
- (2) This fee is the same which is presently referred to as FHA/VA inspection for sewage disposal.



# DEPARTMENT OF PLANNING & DEVELOPMENT

December 17, 1979

T. Jack Osborn  
DEQ Portland  
P. O. Box 1760  
Portland, OR 97207

RE: New Fee Schedule for  
Subsurface Sewage Disposal  
Program

Dear Jack:

Enclosed is a copy of the formal order increasing subsurface program fees in Jackson County. The order was signed by the Board of Commissioners on December 12, 1979 and the new fee schedule takes effect on January 1, 1980. This action is in accordance with the requirements of House Bill 2111 and the new fee schedule adopted by the Environmental Quality Commission. We anticipate that the fees collected under this new schedule will offset about 65% of our program costs.

We do have one service related to the program which is not specifically listed in O.A.R. 340-72-010 (1) and which therefore needs the approval of the E.Q.C. This service is the Preliminary Site Inspection. This gives the applicant the opportunity to meet on-site with one of our field staff who will point out the most promising test pit locations. The fee is \$25.00 and is deducted from our site evaluation fee if application for a site evaluation is made within 90 days of the Preliminary Site Inspection. No applicant is required to apply for a Preliminary Site Inspection although we recommend it. This service has proved very popular with the public and has reduced our number of re-evaluations. We think it is a very worthwhile program.

Please call me if you have any questions.

Sincerely,

*Bradley W. H. Prior, R.S.*  
Bradley W. H. Prior, R.S.  
Supervising Sanitarian

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
DEC 21 1979

**WATER QUALITY CONTROL**

kc

*Planning*

BEFORE THE BOARD OF COMMISSIONERS  
COUNTY OF JACKSON, STATE OF OREGON

IN THE MATTER OF ADOPTING A FEE )  
SCHEDULE FOR SUBSURFACE SEWAGE )  
DISPOSAL PROGRAM SERVICES )

O R D E R .

WHEREAS, the Environmental Quality Commission has established increased maximum fees for subsurface sewage disposal services and has required each contract county to adopt a fee schedule within the maximum fees permitted, and,

WHEREAS, the Jackson County Board of Commissioners has reviewed the present relationship of fee resources to program costs and finds that fees currently offset only 50 percent of costs; and,

WHEREAS, the increases contained herein are either new fees for services previously performed without charge, or are consistent with the rate of inflation since fees were last raised on July 1, 1976; now, therefore,

IT IS HEREBY ORDERED that effective January 1, 1980, the following fee schedule is adopted for the services indicated therein:

New site evaluation; first lot	\$100
Each additional lot evaluated while on-site	\$100
Construction Installation permit (with favorable evaluation report)	\$ 40
Alteration Permit	\$ 40
Repair Permit	\$ 25
Extension Permit	\$ 25
Pumper Truck Inspection	\$ 25
Evaluation of Existing System Adequacy	
If field visit required	\$ 25
No field visit required	\$-0-
Annual evaluation of alternative system	\$ 25
Annual evaluation of temporary mobile home	\$ 25
Preliminary Site Inspection	\$ 25

A twenty-five dollar (\$25) fee shall be charged for renewal of an expired permit issued under ORS 454.655 in the event a field visit is required prior to renewal, otherwise a ten dollar (\$10) fee shall be charged.

Dated this 12th day of December, 1979, Medford, Oregon

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
DEC 21 1979

**WATER QUALITY CONTROL**

JACKSON COUNTY BOARD OF COMMISSIONERS

*Jon Deason*  
\_\_\_\_\_  
Jon Deason, Chairman

*Donald J. Schofield*  
\_\_\_\_\_  
Don Schofield, Commissioner

*John Keefe*  
\_\_\_\_\_  
John Keefe, Commissioner

ATTEST:

*Deanne M. Grieb*  
\_\_\_\_\_

By: Recording Secretary



## *Environmental Quality Commission*

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

### MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item J, February 22, 1980 EQC Meeting

Proposed Adoption of Amendments to Exempt Forestry Operations  
from Noise Control Regulations for Industry and Commerce,  
OAR 340-35-035.

### Background

Senate Bill 523, adopted by the 1979 Oregon Legislature, provided an exemption from Commission noise control rules for "forestry operations" as defined in the bill.

A public hearing was held on January 10, 1980 to obtain testimony on proposed amendments to existing noise rules that would exempt such "forestry operations".

A "Statement of Need for Rulemaking" was included in the Notice of Public Hearing and is attached to this report.

### Evaluation

All submitted testimony supported an exemption for "forestry operations" from noise control rules. Several persons suggested alternative language from that proposed by the Department.

Testimony from Associated Oregon Industries, Oregon Forest Industries Council, recommended rewording the proposed amendment, as the Department's proposal could include operations on lands not included within the statutory provisions. The Department's legal counsel reviewed the AOI proposal and recommended several minor amendments.

The Department has incorporated the Associated Oregon Industries recommendations as amended by legal counsel, as its recommended rule amendment proposal.

### Summation

Drawing from the background, evaluation, attached hearing report and Senate Bill 523, the following facts and conclusions are offered:

1. Senate Bill 523 adopted by the 1979 Oregon Legislature provides an exemption from Commission noise control rules for "forestry operations".



Contains  
Recycled  
Materials

2. Alternative language to the Department's proposal to exempt "forestry operations" from existing noise rules was recommended during the hearing process. This language was further amended by the Department's legal counsel.
3. The proposed amendment would only exempt noise emissions from forestry operations on lands designated in Senate Bill 523.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission adopt Attachment 1 as a permanent rule amendment to become effective upon its prompt filing with the Secretary of State.

*Bill*

WILLIAM H. YOUNG

John Hector/pw  
February 5, 1980  
503-229-5989

Attachments

1. Proposed Amendments to OAR 340-35-035
2. Hearing Report
3. Statement of Need for Rulemaking
4. Senate Bill 523, Oregon Legislative Assembly,  
1979 Regular Session
5. ORS 526.305 et seq.

Department of Environmental Quality  
February 22, 1980  
Proposed Amendments to  
Noise Control Regulations  
for Industry and Commerce  
OAR 340-35-035

New language is underlined and deleted language is [bracketed].

340-35-035

(5) Exemptions: Except as otherwise provided in subsection (1) (b) (B) (ii), the rules in section 35-035(1) shall not apply to:

(a) Emergency equipment not operated on a regular or scheduled basis.

(b) Warning devices not operating continuously for more than 5 minutes.

(c) Sounds created by the tires or motor used to propel any road vehicle complying with the noise standards for road vehicles.

(d) Sounds resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad only to the extent that such equipment or facility is regulated by pre-emptive federal regulations as set forth in Part 201 of Title 40 of the Code of Federal Regulations, promulgated pursuant to section 17 of the Noise Control Act of 1972, 86 Stat. 1248, Pub. L. 92-576; but this exemption does not apply to any standard, control, license, regulation, or restriction necessitated by special local conditions which is approved by the administrator of the EPA after consultation with the Secretary of Transportation pursuant to procedures set forth in section 17(c)(2) of the Act.

(e) Sounds created by bells, chimes, or carillons.

(f) Sounds not electronically amplified which are created by or generated at sporting, amusement, and entertainment events, except those sounds which are regulated under other noise standards. An event is a noteworthy happening and does not include informal, frequent or ongoing activities such as, but not limited to, those which normally occur at bowling alleys or amusement parks operating in one location for a significant period of time.

(g) Sounds that originate on construction sites.

(h) Sounds created in construction or maintenance of capital equipment.

(i) Sounds created by lawn care maintenance and snow removal equipment.

(j) Sounds generated by the operation of aircraft and subject to preemptive federal regulation. This exception does not apply to aircraft engine testing, activity conducted at the airport that is not directly related to flight operations, and any other activity not preemptively regulated by the federal government.

(k) Sounds created by the operation of road vehicle auxiliary equipment complying with the noise rules for such equipment.

(l) Sounds created by agricultural activities[,other than silviculture.]

(m) Sounds created by activities related to the growing or harvesting of forest tree species on forest land as defined in subsection (1) of ORS 526.324.



## *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 J, February 22, 1980 EQC Meeting

### Hearing Report Regarding Proposed Amendments to Exempt Forestry Operations from Noise Control Regulations

#### Background

Forestry operations were exempted from the Oregon Noise Control Act by ch 413, O. L. 1979 (to be codified in ORS Chapter 467). In October, 1979, the Environmental Quality Commission authorized the Department to hold a public hearing on a proposed rule amendment that would conform the Department's administrative rules to the above-cited legislative enactment.

The public hearing was held on January 10, 1980, at 2 pm in room 511 of the Yeon Building, 522 SW Fifth Avenue, Portland. No oral testimony was offered at that time. Written testimony received pursuant to the Department's proposed rule amendment is summarized below.

#### Summary of Testimony

United States Department of the Interior, Bureau of Land Management, E. J. Peterson, Acting State Director. The Bureau of Land Management supports the proposed amendments.

Burlington Northern. Kaleen Cottingham, Assistant Supervisor, Land Planning. Ms. Cottingham notes that Burlington Northern is supportive of the proposed amendments. She pointed out that forest land management includes a broad range of activities auxiliary to forest harvesting, and suggested that the rule amendment be modified to read:

"(m) Sounds created by forest management activities on designated forest land."

Georgia-Pacific Corporation. John McGhehey, Manager, Government Affairs. Mr. McGhehey stated that the proposed rule seems vague and confusing, and suggested two alternative wordings:

1. "(m) Sounds created by forestry operations."
2. "(m) Sounds created by forestry operations related to the growing or harvesting of forest area tree species on legally designated forest lands."



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Materials

Agenda Item J  
February 22, 1980  
EQC Meeting

Associated Oregon Industries. Richard L. Angstrom, Director, Oregon Forest Industries Council. Mr. Angstrom Stated that the Department's proposed wording has been circulated throughout the forest industry, and suggests the following rewording:

"(m) Sounds created by activities related to the growing or harvesting of forest tree species on land defined in subsection (1) or ORS 526.324."

Mr. Angstrom expressed concern that the Department's wording of the proposed rule does not clearly indicate which forestry lands are covered.

Northwest Pulp and Paper Association. Llewellyn Matthews. NWPPA supports the proposed amendment.

Recommendation

Your Hearing Officer makes no recommendations in this matter.

Respectfully submitted,



Jerry V. Jensen

Jerry Jensen/pw  
February 6, 1980  
503-229-6408

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(7), this statement provides information on the Environmental Quality Commission's intended action to adopt a rule.

1. Legal Authority

This rule may be amended pursuant to ORS 467.030.

2. Need for the rule.

1979 Legislative amendments to ORS Chapter 467 place existing rules in conflict with the statutes. These proposed rule amendments would conform the rule with the statute.

3. Principal documents relied upon in this rulemaking:

- a) 1979 Legislative Session; Senate Bill 523
- b) ORS 526.305 et seq.



## Senate Bill 523

Sponsored by Senators HANNON, HANLON, SMITH, THORNE, Representatives  
BYERS, GILMOUR, JONES

### SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

**Exempts agricultural and forestry operations from noise control statutes. Defines "agricultural operations" and "forestry operations."**

**Declares emergency, effective on passage.**

A BILL FOR AN ACT

Relating to noise control; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this Act is added to and made a part of ORS chapter 467.

SECTION 2. (1) Agricultural operations and forestry operations are exempt from the provisions of this chapter.

(2) As used in this section:

(a) "Agricultural operations" means the current employment of land and buildings on a farm for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural operations or any combination thereof including the preparation and storage of the products raised for man's use and animal use and disposal by marketing or otherwise by a farmer on such farm.

(b) "Forestry operations" means an activity related to the growing or harvesting of forest tree species on forest land as defined in subsection (1) of ORS 526.324.

SECTION 3. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

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management and use and forest harvest and utilization as they relate to the economic and social well-being of the people of Oregon.

[1961 c.297 §2(2); 1965 c.253 §31; 1965 c.433 §1; 1975 c.96 §1]

526.230 [Repealed by 1961 c.297 §12]

**526.235 State forest nursery; sale of nursery stock; disposition and use of sales receipts.** (1) A state forest nursery may be operated by the forester and the board to provide forest tree seedlings for the reforestation of forest land. Such nursery program is to provide for the growth, care and maintenance of nursery stock and for the sale of such stock to private, state and other public owners of forest land.

(2) Each year the forester shall determine the costs of nursery operation and shall offer nursery stock for sale to forest owners at prices that will recover actual costs.

(3) All revenues derived from the operation of the forest nursery shall be credited to the State Forestry Department Account.

(4) Notwithstanding ORS 291.238, the moneys credited to the State Forestry Department Account under subsection (3) of this section, shall be continuously available on a revolving basis exclusively for forest nursery purposes.

[1971 c.59 §2]

526.240 [Repealed by 1961 c.297 §12]

**526.245 Excess revenues from operation of state forest nursery during 1969-1971 biennium; disposition; use.** Upon July 1, 1971, and notwithstanding ORS 291.238, any revenues derived from the operations of the forest nursery in excess of nursery expenditures during the 1969-1971 biennium shall be credited to the State Forestry Department Account and shall be continuously available on a revolving basis exclusively for forest nursery purposes.

[1971 c.59 §3]

Note: 526.245 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

526.250 [Amended by 1953 c.324 §2; 1957 c.83 §10; repealed by 1961 c.297 §12]

526.260 [1953 c.376 §3; repealed by 1961 c.297 §12]

526.270 [1953 c.332 §3; repealed by 1961 c.297 §12]

## COUNTY FOREST LAND CLASSIFICATION

**526.305 Definitions for ORS 526.305 to 526.370.** As used in ORS 526.305 to 526.370, unless the context requires otherwise:

(1) "Committee" means a county forest land classification committee.

(2) "Governing body" means the board of county commissioners or county court of a county, as the case may be.

[1965 c.253 §33]

**526.310 County classification committees.** (1) The governing body of each county containing forest land may establish a county forest land classification committee of five persons, of whom one shall be appointed by the forester, one by the Director of Oregon Agricultural Experiment Station and three by the governing body. Of the members appointed by the governing body, one must be an owner of forest land or a representative thereof, and one must be an owner of grazing land or a representative thereof. Each appointing authority shall file with the forester the name of its appointee or appointees, and the persons so named shall constitute the committee for the county. Each member of the committee at all times is subject to replacement by the appointing authority, effective upon the filing with the forester by that authority of written notice of removal and the name of the new appointee.

(2) The committee shall elect from among its members a chairman and a secretary and may elect or employ other officers, agents and employes, as it finds advisable. It shall adopt rules governing its organization and proceedings and the performance of its duties, and shall keep written minutes of all its meetings.

(3) The governing body of the county may provide for the committee and its employes such accommodations and supplies and such county funds not otherwise appropriated as the governing body finds necessary for the proper performance of the committee's functions. The members of the committee shall receive no compensation for their services but the governing body may reimburse them for their actual and necessary travel and other expenses incurred in the performance of their duties.

[Amended by 1965 c.253 §34; 1967 c.429 §30]

**526.320 Investigation of forest lands by committees; determination of adaptability for particular uses.** Upon establishment of a committee under ORS 526.310, the

committee shall investigate and study all forest land within its county and determine which of the land is suitable primarily for the production of timber, which is suitable primarily for joint use for timber production and the grazing of livestock, and which is suitable primarily for grazing or other agricultural use. Such determination shall take into consideration climate, topography, elevation, rainfall, soil conditions, roads, extent of fire hazards, recreation needs, scenic values, and other physical, economic and social factors and conditions relating to the land involved.

[Amended by 1965 c.253 §35; 1967 c.429 §31]

**526.324 Classification of forest land by committee; publication.** (1) Upon the basis of its investigation and determination under ORS 526.320, a committee shall assign all forest land within its county to one of the following classes:

(a) Class 1, timber class, includes all forest land primarily suitable for the production of timber.

(b) Class 2, timber and grazing class, includes all forest land primarily suitable for joint use for timber production and the grazing of livestock, as a permanent or semipermanent joint use, or as a temporary joint use during the interim between logging and reforestation.

(c) Class 3, agricultural class, includes all forest land primarily suitable for grazing or other agricultural use.

(2) The committee first shall adopt a preliminary classification and upon its completion shall cause notice thereof to be published once a week for two consecutive weeks in a newspaper of general circulation in the county and to be posted in three public places within the county. The notice shall state the time and place for hearing or receiving objections, remonstrances or suggestions as to the proposed classification and the place where a statement of the preliminary classification may be inspected.

[1965 c.253 §37; 1967 c.429 §32]

**526.328 Hearing; final classification; reclassification.** (1) The committee shall hold a public hearing at the time and place stated in the notice published under subsection (2) of ORS 526.324, or at such other time and place as the hearing may then be adjourned to, to receive from any interested persons objections, remonstrances or suggestions relating to the proposed classification. Following the hearing the committee may make such changes in the preliminary classi-

fication as it finds to be proper, and thereafter shall make its final classification.

(2) All action by the committee in classifying or reclassifying forest land shall be by formal written order which must include a statement of findings of fact on the basis of which the order is made, and must include a map showing the classifications or reclassifications made. The original of the order shall be filed immediately with the county clerk of the county, who shall maintain it available for public inspection. A copy of the order certified by the secretary of the committee shall be sent to the board.

[1965 c.253 §38]

**526.330** [Repealed by 1965 c.253 §153]

**526.332 Appeal.** (1) Any owner of land classified under ORS 526.328 or 526.340 who is aggrieved by the classification may, within 30 days after the date of the order making the classification, appeal to the circuit court for the county. The appeal shall be taken by serving the notice of appeal on the secretary of the committee or, if the classification was made under ORS 526.340, on the State Forester, and by filing such a notice with the county clerk.

(2) The appeal shall be tried by the circuit court as a suit in equity.

[1965 c.253 §39]

**526.340 Classification by State Forester.** (1) In the event no classification of forest land is made by a committee within a county in which such land is situated because no committee was appointed or, if appointed, a committee did not act or acted in a manner inconsistent with law, the board may authorize the forester to make the study, investigation and determinations and to make the preliminary and final classifications that were otherwise to be made by a committee, and in the manner provided for a committee, including formal written order and findings of fact.

(2) Classifications by the forester have the same force and effect as though made by a committee for that county. However, classifications made by the forester cease to be effective if replaced by classifications made pursuant to ORS 526.328 by the appropriate committee.

[Amended by 1965 c.253 §40]

**526.350 Policy in administering forest and fire laws; contracts for care of forest land; fire control; burning permits.** (1) All forest laws relating to forest land classified

pursuant to ORS 526.328 or 526.340, and all rules promulgated under such laws, shall be so administered as best to promote the primary use for which that land is classified. Any contract by the board or the State Forester with any forest protective association or agency for the care of any such forest land shall provide that the care shall be in accord with the provisions of this section relating to that land.

(2) It shall be the policy of the board and the forester as to all forest land classified in:

(a) Class 1, to give primary consideration to timber production and reforestation, in preference to grazing or agricultural uses, not excluding, however, recreation needs or scenic values.

(b) Class 2, to give equal consideration and value to timber production and the development or maintenance of grazing, either as a temporary use for the interim between logging and reforestation or as a permanent or semipermanent joint use.

(c) Class 3, to give primary consideration to the development of grazing or agriculture, in preference to timber production.

(3) The forester, on forest land classified pursuant to ORS 526.328 or 526.340, shall administer the forest laws of this state in accordance with the policy stated in this section as it applies to the land involved.

[Amended by 1965 c.253 §41]

**526.360 State Forester to assist in developing forest land for agricultural uses; supervision of burning on class 2 and 3 lands; refusal of supervision or permit; liability for damage from burning.** (1) The board and the forester shall assist to the extent possible in developing, for grazing or agricultural uses, all forest land classified pursuant to ORS 526.328 or 526.340 for such uses, including the burning of brush or other flammable material for the purpose of:

(a) Removing a fire hazard to any property;

(b) Preparing seed beds; or

(c) Removing obstructions to or interference with the proper seeding or agricultural or grazing development or use of that land.

(2) Upon request of the owner or the agent of the owner of any forest land classified as class 2 or 3, the forester shall supervise burning operations thereon for any of the purposes stated in subsection (1) of this section. The owner or his agent shall supply such assistance as the forester may require while there is

danger of the fire spreading. The forester may, however, refuse to supervise burning or to issue any burning permit when such burning would create an unwarranted hazard.

(3) When any burning for any of the purposes stated in subsection (1) of this section on forest land classified as class 2 or 3 is started under the supervision of and supervised by the forester, no person shall be liable for property damage resulting from that burning unless the damage is caused by his negligence.

[Amended by 1965 c.253 §42; 1967 c.429 §33]

**526.370 Seeding agreements as condition of supervision of burning on class 2 or 3 lands; seeding at owner's expense on breach; lien; foreclosure.** (1) The forester may, as a condition precedent to supervising of any burning of class 2 or 3 lands, as provided in ORS 526.360, require the owner or his agent in control of the land involved to agree in writing to seed properly the land over which the burning operation is to be conducted, with such seed or seed mixtures as may be suitable for that area.

(2) In the event of failure by the owner or his agent to seed the property in accordance with such agreement, the governing body of that county may cause the seeding to be done and the cost thereof may be recovered by the governing body from the owner or his agent by legal action. The cost shall constitute a lien upon the land seeded. The governing body shall cause a written statement and notice of such lien, describing the land and stating the amount of the cost, to be certified under oath and filed in the office of the county clerk within 90 days following the completion of reseeded. The lien may be foreclosed, within six months after such filing, by suit, in the manner provided by law for foreclosure of liens for labor and material.

[Amended by 1965 c.253 §43]

526.410 [Repealed by 1953 c.138 §2]

526.420 [Repealed by 1953 c.139 §2]

## PROCESSING AND EXPORTING LOGS

**526.805 Processing of timber to be sold by state or local governments.** All timber, except white (Port Orford) cedar timber, sold by the State of Oregon, or any of its political subdivisions, shall be primarily processed in the United States unless the State Forestry Department has issued, pursuant to ORS 526.815, a permit for the pro-

DIRECTOR'S STATEMENT

AGENDA ITEM K - February 22, 1980 Meeting

Item K is presented to keep the Commission informed on the Department's activities concerning the domestic open burning issue.

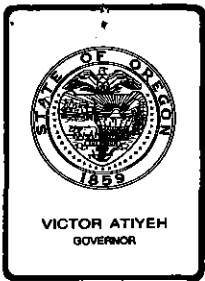
I would like to point out that we recognize the schedule proposed in the Director's recommendation is demanding. The time available may be too short for some local governments to generate complete plans for alternate disposal of yard trimmings. If cities and counties have difficulty in developing approvable plans, the Commission and the Department may wish to review the rule section which initiates a ban at the August meeting.

The Director's recommendation offers a schedule which will lead to adoption of a rule change in November to reword the rule for clarity and redefine the area around Portland where the burning ban is to be in effect. We ask that you specifically concur with this schedule or provide an alternate.

Mr. Bob Gilbert of our Northwest Regional Office and Mr. Doug Brannock of our Air Quality Staff are here to answer your questions. Jeanne Roy of the Portland Air Quality Advisory Committee is also in attendance and would like to make a short presentation.

LDB:nlb

2/21/80



## *Environmental Quality Commission*

Mailing Address: BOX 1760, PORTLAND, OR 97207

522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. K, February 22, 1980, EQC Meeting

Informational Report: Open Burning Status Report--Review of 1979 Fall Burning Season, Available Alternatives and Rule Revision

### Background

On June 29, 1979, the Environmental Quality Commission adopted the currently effective Rules for Open Burning and requested the Department to report back to the Commission with:

1. An evaluation of the fall open burning season.
2. An estimate of available alternatives to open burning.
3. A review of the rules to improve understandability.

#### 1. Domestic Open Burning Season, Fall, 1979

### Burning Days

The backyard burning season in the fall of 1979 started earlier than in previous years adding about three and a half weeks to the length of the season. The burning decision criteria were more restrictive than in previous years so the number of days in which burning was allowed was not significantly different than previous years. There were 37 days of burning allowed from October 1 to December 13, 1979, and 39 days from October 27 to December 17, 1978.

The hoped for good early season burning weather was not available this fall. While the first half of October was dry, it was mostly unsuitable for burning in the Portland area because of a combination of high east winds causing fire danger and poor ventilation on other days. After the rain started, ventilation factors improved, but the advantage of having dry material was lost.



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Materials

### Decision Criteria

The decision criteria were based on a calculation designed to control open burning in the Willamette Valley. Specific consideration was then given to the forecast for the Portland area, visibility in Portland and other valley locations and the 6 a.m. nephelometer measurement from downtown Portland. The nephelometer measurement is strongly indicative of fine particulate concentrations. With respect to the nephelometer measurement, unless it was clear from the forecast that excellent ventilation was expected, burning was prohibited in the Portland area when the nephelometer reading was 1.5 or greater. The nephelometer measurement has not been available in previous years. It is currently being used to help tailor the burn decision to the Portland area.

The staff has initiated the development of a new objective decision criterion. A series of complex factors have been developed involving pressure gradients, visibility observations, temperature lapse rates, atmospheric thicknesses, and jet stream locations. The combination of these factors shows some promise of being useful in making burn decisions in the Portland area. Much developmental work remains to be done before such a system is ready to use.

### Questionnaire

In an effort to assess the effect of the change in the burning season on the public and operations of local fire districts, a questionnaire was mailed to every affected fire district within the Willamette Valley. A total of 125 questionnaires were mailed out and 68 were returned. The results are tabulated in Attachment 1. There appears to be general public approval of the longer season. In Lane County the new rules actually shortened the burning season which met with objection from those areas.

Although nearly half of those responding to the questionnaire indicated the changes did not have much effect on the burning program or public response, about an equal number indicated there was a favorable improvement.

## 2. Development of Alternatives to Open Burning

The Department has been working with the Portland Air Quality Advisory Committee (PAQAC) in the development of alternatives to open burning in the Portland area. In September, 1979, DEQ's Solid Waste Division completed a report entitled "Alternatives to Open Burning of Domestic Yard Debris." Possible alternatives to open burning include:

### A. Pickup and haul to a landfill site.

This is considered the least desirable of all the alternative systems. It will be expensive and will add an estimated 800,000 or more cubic yards per year to our landfills in the Portland area. The pick-up and haul system would probably use a combination of public and private vehicles for hauling. This alternative will use a valuable portion of our landfill capacity, gasoline supply, tax dollars and manpower. Yet it is the only alternative which is now being used to any extent.



B. Air curtain pit incineration.

This is a slight modification of the previous alternative which would substitute incineration for the landfill. It has never been seriously tried in this area although one city has discussed the possibility. This disposal method does not promise to be any less expensive than the landfill but would avoid using valuable landfill space.

C. Chipping and utilization as a hogged fuel supplement.

This system would perhaps make the best economic sense but the required total energy program has not been laid out. It is doubtful if the energy recovered would equal the expenditure of energy and manpower involved in collection, chipping and transportation. A requirement of this system is that the supply needs to be guaranteed and regular in order to develop a market and use for the product. A centralized agency is also required to handle the collection, production and marketing. The requirements of supply, production and marketing have been the main hindrances to the development of a hogged fuel supply. There are no immediate prospects to use this waste material as a hogged fuel. MSD may eventually be in a position to start supplying a hogged fuel supplement but they are several years away from such a position.

D. Chipping and composting.

This alternative is favored by the Department's Solid Waste Division. It is probably adaptable to a smaller scale of operation than development of the hogged fuel supplement, but would require developing an end use or market for the finished compost. Some composting operations may be developed on a municipal scale but it is not likely that such operations will be in place by next year. We will know more about the extent to which composting will be used when more cities submit their plans later this spring.

An Open Burning Workshop to which all the city and county governments of the area were invited was held on September 13, 1979, at Portland State University. In October, 1979, the PAQAC recommended that the total ban on open burning be limited to the boundaries of the Metropolitan Service District (Metro). Attachment 2 is a copy of this recommendation and a copy of the Metro area boundary.

The Department has contacted all city and county governments within Clackamas, Multnomah, and Washington counties requesting a local plan to develop alternatives and establish compliance schedules. Responses have been received from Portland, King City, Tualatin, Clackamas County, Lake Oswego, Milwaukie, and Hillsboro; but approved alternative plans are not available at this time because plans must first be presented to city councils for local approval. The only city with an operational alternative in place is Gladstone. Gladstone uses a pick-up program utilizing their franchised garbage collectors. King City and Tualatin have proposed that if a ban is implemented this would be the alternative that they would choose.

Hillsboro has analyzed costs for purchase, maintenance, and operation for a chipper, truck, and sweeper. Their estimates do not include costs for composting, landfilling, incineration, enforcement, supervision, and other support. They estimate \$200,000 first year costs plus \$100,000 per year costs for future operation but they would be unable to implement the program before the fall of 1981.

The city of Portland is developing a comprehensive plan. It will not be available until after April 30, 1980. Other cities and counties are expected to respond too late for their comments to be included in this report.

The more rural areas generally have not developed any cost effective solid waste disposal alternative of their own and are not supportive of the ban because of the lack of acceptable alternatives. Generally those areas have larger individual problems with large volumes of solid waste.

Question Numbers 3 and 4 in Attachment 1 was an attempt to measure public awareness of the coming ban on open burning and efforts to develop alternatives. Although the precise results of the poll may not truly represent public knowledge, it is perhaps significant that fire chiefs perceive almost no public recognition of current efforts to provide alternatives to open burning. In a few of the districts where there is an applicable program underway to develop alternatives fire chiefs were unaware of those efforts by the city government in the area.

Recently the PAQAC recommended that "the December 31, 1980, open burning ban go into effect with the provision that the DEQ may give an extension to a city or county which has made a good faith effort in developing alternatives, excluding the use of sanitary landfills, and which has a DEQ approved work program but which will not have alternative disposal methods ready by that date."

The Department expects to review local governmental programs and time schedules to develop alternative disposal methods from February 15, 1980, to April 30, 1980. Based on these submittals the open burning rules will be revised according to the following schedule:

- |                   |   |
|-------------------|---|
| March-May, 1980   | - Receipt of programs and time schedules from local governments.                                    |
| March-June, 1980  | - Rewrite Open Burning Rules to improve clarity and revise boundaries for burning ban as necessary. |
| July-August, 1980 | - Approve local government plans for implementing ban.  |
| August, 1980      | - Authorization for public hearings on Open Burning Rules.  |
| September, 1980   | - Hold public hearings around the state on new Open Burning Rules.                                  |
| November, 1980    | - Propose adoption of new Open Burning Rules.   |

### 3. Rule Revision

The Commission requested the staff to investigate ways to make the open burning rules more understandable. Several approaches were considered which involved a rewriting and indexing system. None of these approaches seemed to totally fulfill the objective of simplifying the rules unless the geographical differences for various types of burning were eliminated. This was concluded to be undesirable. Part of the problem arises because the rules are written in terms of prohibiting a practice. If a practice is not specifically prohibited then by inference it is permitted. Beyond that, exceptions to the prohibited practices are listed. An outline of the types of burning and area definitions used in the rules serves to illustrate the problems:

#### I. Types of Burning

- A. Commercial Waste--Rule refers to area definition in II, A below
- B. Industrial Waste--Rule refers to entire state
- C. Construction and demolition wastes (includes nonagricultural land clearing)--Rule refers to area definition in II, A and II, B below.
- D. Domestic waste--Rule refers to area definitions in II, A, 5 and II, B below.
- E. Agricultural burning--Rule refers to a different section of the rules, "Agricultural Operations." OAR 340-26-005 through 26-030.
- F. Forest slash disposal--Rule refers to Smoke Management Plan operated by Department of Forestry under ORS 477.515
- G. Recreational and ceremonial fires--Permitted entire state
- H. Instructional fires, private and public--Permitted entire state
- I. Official weed abatement fires--Permitted entire state.

#### II. Area Definitions

- A. Open burning control area
  - 1. Cities with a population of 4,000 or more. There are 56 such cities in Oregon.
  - 2. Coos Bay area defined by township and range lines.
  - 3. Rogue Basin area defined by township and range lines.
  - 4. Umpqua Basin area defined by township and range lines.
  - 5. Willamette Valley area defined by certain counties.

- B. Special Control Areas in the Willamette Valley specifying areas around cities with a population of 1,000 and up, plus some specially defined areas in Multnomah and Washington Counties.

The rules are structured so that prohibited practices are listed separately for each type of burning such as commercial, industrial, or domestic with geographical application of the rule following each of these subheadings. The rule becomes complex because the geographical delineations are varied and inconsistent between subheadings. The situation does not become any clearer when one starts classifying geographical areas and describing the types of burning which can be done in each. In fact in the latter case the rules become more voluminous and cumbersome than before.

One answer to the problem would be to write a new legal description summary section to precede the open burning rule section. The description summary could be patterned after the do's and don'ts summaries put out by the Motor Vehicles Department or Fish and Wildlife. An example might be something like the following:

Domestic waste burning covers the burning of trash, waste, and yard trimmings which collect around your house from your normal activities. This is sometimes called "backyard burning." As a general rule, if you live anywhere in Oregon outside of the Willamette Valley and there are no local rules prohibiting burning, you may burn domestic waste anytime by obtaining a fire permit from your local fire department.

If you live in Multnomah, Clackamas, Washington, Yamhill, Polk, Marion, Linn, Lane, or Benton Counties, there may be rules making it illegal to burn domestic waste.

Backyard burning is always illegal if you are within the Metropolitan Service District around Portland in Multnomah, Clackamas, and Washington Counties.

If you are outside the Metropolitan Service District but within six miles of (city names) or within three miles of (city names) you may burn only yard trimmings during the spring and fall seasons, from March 1 to June 15 and from October 1 to December 15.

If you live in the Willamette Valley counties but are not included in one of the areas mentioned above, you may burn domestic waste any time by following the rules of your local fire District.

Alternatively, the open burning rules could be written with a separate section for each county like so many little states. In some cases counties could be grouped but each city of 4,000 or more population would have to be named. There are nine counties in the state which do not have at least one city of 4,000 or more population. This method of setting up the open burning rule would be quite lengthy and it might be difficult to make changes without error. It would have the advantage that almost anyone can determine which county he is in and could then find all of the types of burning listed for his county. A sample of this organization follows:

Definitions, types of burning.

- (1) Agricultural--(appropriate language)
- (2) Commercial: open burning of any commercial waste which includes waste which is generated...(etc).
- (3) Construction and Demolition: open burning of any construction or demolition waste which includes...(etc).
- (4) Domestic: open burning of any domestic waste which includes...(etc).
- (5) Industrial: open burning of any industrial waste which includes...(etc).

Burning Restrictions by County

Baker... (appropriate applicable text)

Benton... (appropriate applicable text)

Clackamas

- (1) Agricultural: See Rules for Agricultural Operations, OAR 340-26-005 through 26-030.
- (2) Commercial: Open burning of commercial waste is prohibited within Clackamas County.
- (3) Construction and Demolition: Open burning of construction and demolition waste is prohibited within six miles of the city limits of Canby, Gladstone, Happy Valley, Johnson City, Lake Oswego, Milwaukie, Oregon City, River Grove, Tualatin, West Linn, and Wilsonville and also within three miles of the city limits of Estacada and Sandy. Open burning of construction and demolition waste is permitted in all other portions of Clackamas county provided that a permit is obtained from the fire district having jurisdiction of the area.
- (4) Domestic:
  - (a) Open burning of domestic waste is prohibited at all times within the boundaries of the Metropolitan Service District.
  - (b) Outside the Metropolitan Service District but within the rural fire districts of Tualatin, Aurora, Canby, Beaver Creek, Clackamas County No. 56, Boring, and Sandy, the open burning of wood, needle, and leaf materials only from trees, shrubs, or plants from yard clean-up or the property at

which one resides, is permitted during the spring and fall burning periods established as commencing on the first day of March and terminating at sunset on the fifteenth day of June and commencing on the first day of October and terminating at sunset on the fifteenth day of December.

(c) In all other areas of Clackamas County open burning of domestic waste is permitted at any time.

- (5) Industrial: Open burning of industrial waste is prohibited at all times within Clackamas County.

(Similar sections will be necessary for Multnomah, Washington, Yamhill, Marion, Polk, Benton, Linn, Lane, and Jackson Counties.)

. . . (Other counties listed singly or grouped where possible)

Wasco

- (1) Agricultural: Agricultural open burning is not regulated by the Department in Wasco County.
- (2) Commercial: Open burning of commercial waste is prohibited within three miles of the city limits of The Dalles. Open burning of commercial waste is permitted in all other areas of Wasco County but is subject to the rules of the local fire district.
- (3) Construction and Demolition: Open burning of construction and demolition waste is prohibited within three miles of the city limits of The Dalles. Open burning of construction and demolition waste is permitted in all other areas of Wasco County but is subject to the rules of the local fire district.
- (4) Domestic: Open burning of domestic waste is permitted in all areas of Wasco County.
- (5) Industrial: Open burning of industrial waste is prohibited.

Director's Recommendation

It is recommended that the Commission approve the following schedule of action by the Department or provide direction for alternate action desired of the Department staff.

- |                   |   |
|-------------------|---|
| March-May, 1980   | - Receipt of programs and time schedules from local governments.                                    |
| March-June, 1980  | - Rewrite Open Burning Rules to improve clarity and revise boundaries for burning ban as necessary. |
| July-August, 1980 | - Approve local government plans for implementing ban.  |
| August, 1980      | - Authorization for public hearings on Open Burning Rules.  |
| September, 1980   | - Hold public hearings around the state on new Open Burning Rules.                                  |
| November, 1980    | - Propose adoption of new Open Burning Rules.   |

*Michael Young*  
for  
WILLIAM H. YOUNG

L.D. Brannock  
229-5836  
February 7, 1980  
AP0765.A(d)

- Attachment: 1 Questionnaire for Fire Districts  
2 Recommendation of the PAQAC With Map of the Metro Boundry

**ATTACHMENT 1**

**Questionnaire for Fire Districts**



ATTACHMENT 1

Department of Environmental Quality

Questionnaire for Fire Districts  
Willamette Valley

Backyard Open Burning 1979 Fall Season

Name of District 68 RETURNS

---

1. Does your fire district represent an urban or rural environment?

Urban 37

Rural 52

Comment SEVERAL DISTRICTS CONSIDERED THEMSELVES BOTH URBAN AND RURAL

2. Compared to previous years, how did people react to the burning season this fall?

A. Complaints about smoke.

More complaints 3

Fewer complaints 34

No change 30

Comment MOST FELT SMOKE COMPLAINTS WERE FEW AND PEOPLE WERE GETTING USED TO THE PROGRAM.

B. Complaints about not enough time to get burning done, too wet, etc.

More complaints 25

Fewer complaints 26

No change 15

Comment SOME FELT THERE WERE TOO MANY WET DAYS; OTHERS FELT THE LONGER SEASON PROVIDED MORE GOOD BURNING WEATHER.

C. People burning on prohibited days.

- More of a problem 7
- Less of a problem 28
- No change 32

Comment WHERE LESS OF A PROBLEM WAS INDICATED IT WAS CONSIDERED THAT THE LONGER SEASON MADE PEOPLE FEEL LIKE THEY HAD A BETTER CHANCE TO BURN. WHEN MORE OF A PROBLEM WAS INDICATED, IT WAS GENERALLY A VOLUNTEER DISTRICT WHERE THE LONGER SEASON MEANT A LENGTHENED SEASON FOR ANSWERING PHONES AND ISSUING PERMITS, ETC.

3. Do people understand it is likely that backyard burning will be permanently prohibited, after December 31, 1980, in the Portland area and after July 1, 1982, in many areas of the remainder of the Willamette Valley?

- Yes 12
- No 44
- Cannot say 13

Comment A VERY STRONG INDICATION OF PUBLIC IGNORANCE ON THIS MATTER. IN SOME CASES, IT WAS INDICATED THAT PEOPLE DO NOT BELIEVE A BAN WILL EVER BE INSTITUTED.

4. Is anything being done in your district to prepare for the time when open burning will be prohibited?

- Yes (describe below) 6
- No 51
- Cannot say 6

Describe/Comment THE SURPRISING THING ABOUT THIS ANSWER IS THAT EVEN IN GOVERNMENTAL JURISDICTIONS WHERE THERE IS SOME EFFORT AT ALTERNATIVES, THE FIRE DISTRICTS SEEM TO BE UNAWARE OF IT.

5. Did the lengthened burning period (one month earlier this fall) change attitudes about the open burning?

<input type="checkbox"/>	More understanding or tolerance	28
<input type="checkbox"/>	Less understanding or tolerance	6
<input type="checkbox"/>	No change in attitudes	30

Comment VERY LITTLE COMMENT. ANSWERS TENDED TO FOLLOW ANSWERS TO QUESTION 2.

6. Does your fire district issue fire permits for each backyard burning season?

<input type="checkbox"/>	Yes	Approximate number of permits for Fall 1979 _____	36
<input type="checkbox"/>	No		31

Comment LARGE DISTRICTS DO NOT ISSUE PERMITS. MOST DISTRICTS WHO ISSUE PERMITS ARE IN SMALL RURAL AREAS WITH ONLY A FEW RESIDENTS.

7. Was the open burning season easier or more difficult to manage this year compared to previous years?

<input type="checkbox"/>	Easier	29
<input type="checkbox"/>	More difficult	9
<input type="checkbox"/>	No change	25

Comment ANSWERS AGAIN FOLLOW ALONG LINES OF QUESTIONS 2 AND 5.

8. Describe any increases or decreases in work load for the fire district and any increase or decrease in problems for the fire district which result from the lengthening of the burning season.

Comment SOME SENTIMENT THAT LONGER SEASON MEANS NEED FOR MORE OFFICE STAFFING IN VOLUNTEER DISTRICTS.

9. Any other comments or observations about open burning program and rules and its effect upon fire districts.

Comments STRONG SENTIMENT EXPRESSED FROM RURAL AREAS FOR CONTINUED OPPORTUNITY TO BURN MOSTLY FOR REDUCTION OF FIRE HAZARD.

**ATTACHMENT 2**

**Recommendation of the PAQAC  
With Map of the Metro Boundary**

# Portland Air Quality Advisory Committee

P.O. Box 1760 —  
Portland, Oregon 97207  
(503) 229-6092

October 16, 1979

Dept. of Environmental Quality

RECEIVED  
OCT 24 1979

NORTHWEST REGION

William H. Young, Director  
Department of Environmental Quality  
P. O. Box 1760  
Portland, Oregon 97207

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

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
OCT 23 1979

OFFICE OF THE DIRECTOR

At our October 9 meeting, our committee passed a resolution which recommends a limiting of the area in which spring and fall burning of yard debris will be banned by December 31, 1980. The greatest need for a burning ban is in the urban areas; yet, the complaints of the rural areas keep a ban from going into effect. Therefore, the Open Burning Subcommittee felt that a boundary change in the rules will make compliance more likely.

Our committee's position on open burning is that alternative disposal methods need to be developed and coordinated. We would like to see the December 31, 1980 burning ban limited to an area which has a reasonable chance of providing alternatives by that deadline. After considering fire district, AQMA and MSD boundaries, the latter seemed most appropriate.

At our October 9 meeting we discussed the fact that fire districts would be split. Tom Bispham felt that the districts would be unhappy because people would complain to them. Our committee noted this disadvantage. However, the new law eliminating the requirement for fire departments to give permits for backyard burning will mean less contact between the departments and the public on this issue.

Another point made in favor of the resolution was that residents within the MSD boundaries must already have auto emission tests. They are aware that being in an area of urban density and receiving greater services, they must accept certain restrictions.

The attached resolution passed unanimously.

Sincerely,

  
Steve Lockwood, Chairman  
Portland Air Quality Advisory Committee

# Portland Air Quality Advisory Committee

P.O. Box 1760  
Portland, Oregon 97207  
(503) 229-6092

## RESOLUTION ON BACKYARD BURNING\*

WHEREAS, the MSD boundaries were determined on the basis of urban density, and backyard burning is a hazard to more people within these boundaries than without; and

WHEREAS, the Columbia Willamette Air Pollution Advisory Committee hearings in 1971 indicated that the urban areas generally favored no burning, and most of the resistance came from rural areas; and

WHEREAS, the MSD is the administrative body responsible for solid waste management within the boundaries and can coordinate solid waste alternatives to backyard burning; and

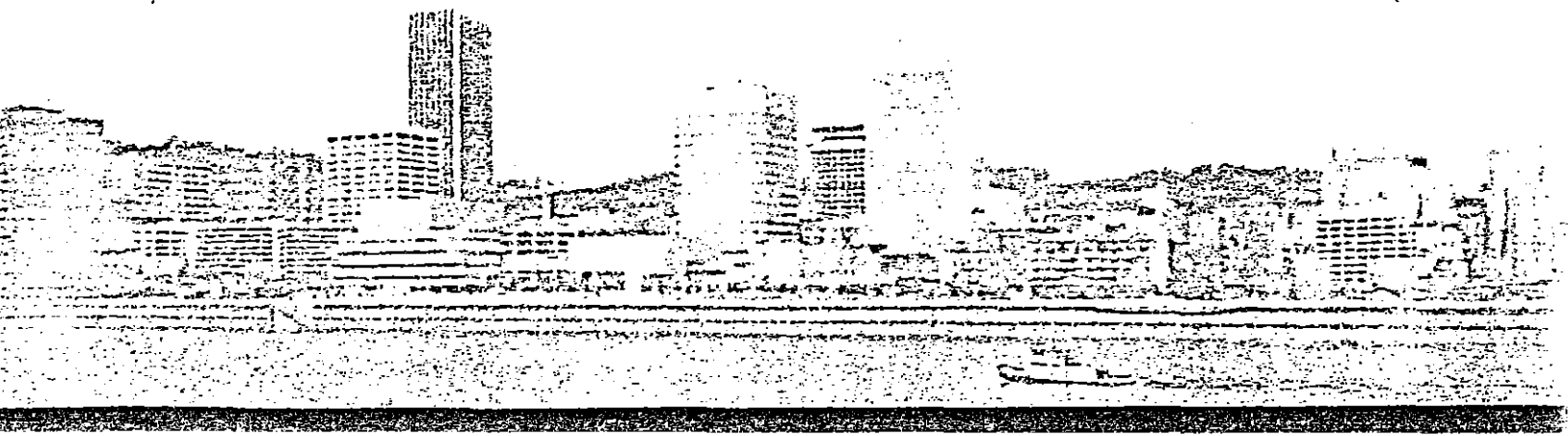
WHEREAS, disposal alternatives are more fully developed within the MSD than without: The whole area is serviced by garbage haulers; a number of wood chippers are available; some communities have leaf pickup; and Portland has neighborhood clean-ups;

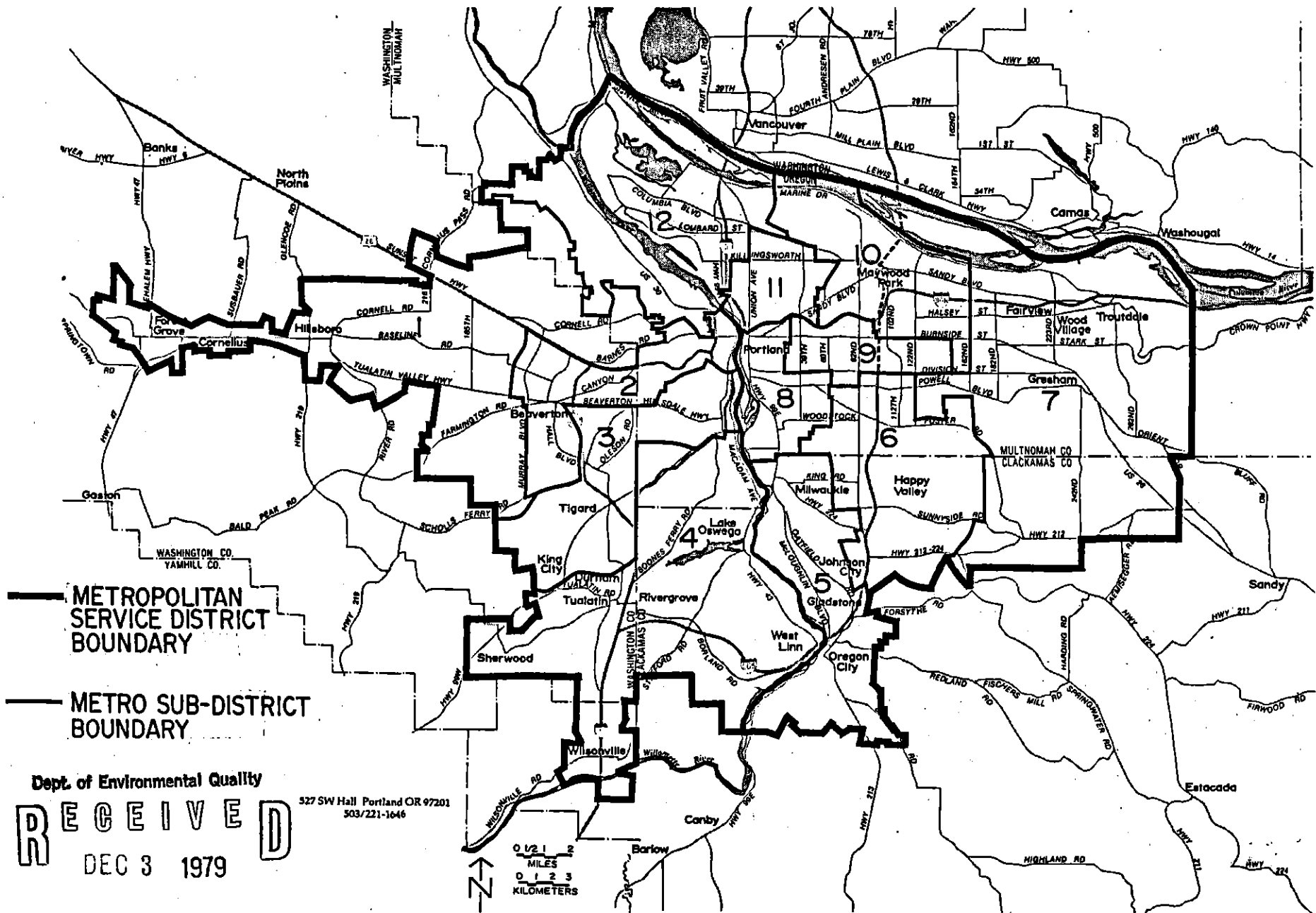
RESOLVED that the Air Quality Advisory Committee recommend to the DEQ and EQC that the open burning rules be amended so that the area in which backyard burning will be prohibited after December 31, 1980 be the MSD.

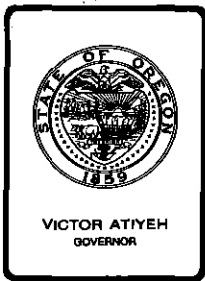
\* Backyard burning here refers to spring and fall burning of wood, needle, and leaf debris.

Adopted at the October 9th Portland Air Quality Advisory Committee Meeting.

  
Chairman







# *Environmental Quality Commission*

Mailing Address: BOX 1760, PORTLAND, OR 97207

522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

## MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item L, February 22, 1980, EQC Meeting

Informational Report: Waste Reduction Plan Guidelines

### Background

One of the requirements of Senate Bill 925 (Chapter 773, Oregon Laws 1979), is the preparation of a waste reduction program by local government under the following conditions:

1. Before the Department will issue a permit for a disposal site established with Department assistance under Section 3 of the Act, or have the Department establish a disposal site under Section 4 of the Act; (Section 8a)
2. Before a permit is issued for a disposal site established as a conditional use in an area zoned for exclusive farm use; (Section 8a), or
3. Before the Department can provide financial assistance to a local government for solid waste management. (Section 9)

This Act contains five general criteria of what should be provided for in a waste reduction program (Section 8a(2)(a) through (e)).

- a. A commitment by the local government unit to reduce the volume of waste that would otherwise be disposed of in a landfill through techniques such as resource reduction, recycling, reuse and resource recovery;
- b. A timetable for implementing each portion of the waste reduction program;



Contains  
Recycled  
Materials



- c. Energy efficient, cost-effective approaches for waste reduction;
- d. Procedures commensurate with the type and volume of solid waste generated in the area; and
- e. Legal, technical and economical feasibility.

The Department is instructed (Section 8a(5)) to review and accept local waste reduction programs based on these criteria. The Solid Waste Division has prepared a set of guidelines which better define the requirements of these criteria. This guidance material will be made available to local governments who are drafting waste reduction programs. It will also be used by the Division staff in their evaluation of whether a waste reduction program meets the criteria in the law, and is acceptable.

The Department utilized a special task force to assist it in the drafting of these waste reduction program guidelines. It was the consensus of that task force that:

"These guidelines are meant to be used to: 1) Assist local government and other persons in development, implementation and evaluation of waste reduction. 2) Assist the Department of Environmental Quality and the Environmental Quality Commission in evaluation of local government waste reduction programs. 3) Serve as a basis for the DEQ to report to the Legislature on: (1) the level of compliance with waste reduction programs, (2) the number of programs accepted and rejected and why, and (3) the recommendations for further legislation.

"These guidelines are developed on the premise that the DEQ shall base acceptance or non acceptance of a waste reduction program on criteria (a) through (e) (SB 925 Section 8a(2)(a) through (e), Chapter 773, Oregon Laws 1979) as further defined by these guidelines."

While the task force's product was guidelines and not rules, the Department concurs with the opinion of the task force on the emphasis which should be placed on these guidelines in achieving the level of waste reduction intended by the Legislature.

Under normal circumstances the Department would draft rules to clarify the requirements of this type of program. However, there has been much debate in this case as to whether it was legislative intent to write rules and the Department feels there would be considerable opposition to rule adoption. This would be counter productive based upon responses already received in a cooperative spirit.

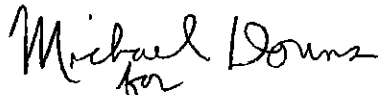
We are presenting this background and guidance material to you for your information. We expect that, as in the past, there will be a close cooperation between the Department and local government in the enactment of this legislation. The Department is planning to accept waste reduction programs which meet the criteria in the law. We are also planning to provide our guidance materials to local government to assist them in preparation of acceptable programs.

If, at some future time, the Department is faced with a substantial disagreement with a local government on the acceptability of a waste reduction program or with failure to implement a program, it would be our intent to request the Commission to order the local government to show cause why their program should be accepted.

At this time the Department has assisted one local government in the preparation of their waste reduction program. This local government has agreed to incorporate the guidelines developed by the task force into the implementation of their waste reduction program.

Director's Recommendation

It is recommended that the Commission approve the course of action outlined by the Department for implementation of the guidelines.

  
for  
William H. Young

Robert L. Brown:l  
SL0757  
229-5157  
February 7, 1980

Attachments: 2

1. SB 925
2. Waste Reduction Program Guidelines

OREGON LEGISLATIVE ASSEMBLY—1979 Regular Session

**Enrolled**  
**Senate Bill 925**

Sponsored by COMMITTEE ON ENVIRONMENT AND ENERGY

CHAPTER..... 773

**AN ACT**

Relating to solid waste disposal; creating new provisions; and amending ORS 215.213, 459.065, 459.245 and 468.220.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** Sections 2 to 6, 8a and 8b of this Act are added to and made a part of ORS 459.005 to 459.105.

**SECTION 2.** (1) The Legislative Assembly finds and declares that:

(a) The planning, location, acquisition, development and operation of landfill disposal sites is a matter of state-wide concern.

(b) Local government has the primary responsibility for planning for solid waste management.

(c) Where the solid waste management plan of a local government unit has identified a need for a landfill disposal site, the state has a responsibility to assist local government and private persons in establishing such a site.

(2) It is the intent of the Legislative Assembly that any action taken by the Environmental Quality Commission to establish a landfill disposal site under section 4 of this 1979 Act be recognized as an extraordinary measure that should be exercised only in the closest cooperation with local government units that have jurisdiction over the area affected by the proposed establishment of a landfill disposal site.

**SECTION 3.** Upon request by a city or county responsible for implementing a department approved solid waste management plan which identifies a need for a landfill disposal site, and subject to policy direction by the commission, the Department of Environmental Quality shall:

(1) Assist the local government unit in the establishment of the landfill including assisting in planning, location, acquisition, development and operation of the site.

(2) Site and issue a solid waste disposal permit pursuant to ORS 459.205 to 459.265 for a landfill disposal site within the boundaries of the requesting local government unit. Subject to the conditions set forth therein, any permit for a landfill disposal site authorized by the Environmental Quality Commission under this subsection shall bind the state and all counties and cities and political subdivisions in this state as to the approval of the site and the construction and operation of the proposed facility. Affected state agencies, counties, cities and political subdivisions shall issue the appropriate permits, licenses and certificates necessary to construction and operation of the landfill disposal site, subject only to condition of the site certificate. Each state or local government agency that issues a permit, license or certificate shall continue to exercise enforcement authority over such permit, license or certificate.

**SECTION 4.** (1) Upon its own motion or upon the recommendation of the department, the Environmental Quality Commission may determine that a landfill disposal site within the counties of Marion, Polk, Clackamas, Washington or Multnomah must be established in order to protect the health, safety and welfare of the residents of an area for which a local government solid waste management plan has identified the need for a landfill disposal site. In making its determination on the need for a landfill disposal site or, where applicable, on the location of a landfill disposal site, the commission shall give due consideration to:

(a) The legislative policy and findings expressed in ORS 459.015, 459.065 and section 2 of this 1979 Act, and particularly the policy that action taken under this section be exercised in cooperation with local government;

(b) The provisions of the solid waste management plan or plans for the affected area;

(c) Applicable local government ordinances, rules, regulations and plans other than for solid waste management;

(d) The state-wide planning goals adopted under ORS 197.005 to 197.430;

(e) The need for a landfill disposal site;

(f) The availability and capacity of alternative disposal sites or resource recovery systems and facilities;

(g) The time required to establish a landfill disposal site;

(h) Information received from public comment and hearings; and

(i) Any other factors the commission considers relevant.

(2) If the commission makes a determination under subsection (1) of this section that there is a need for a landfill disposal site within a plan area, the commission may adopt an order directing the local government unit responsible for implementing the plan to establish a landfill disposal site within a specified period of time. The order may specify a time schedule for the completion of the major elements required to establish the site. A local government unit directed to establish a landfill disposal site under this section may request assistance from the department or request that the department establish the disposal site as provided in section 3 of this 1979 Act.

(3) If the commission determines that the establishment of a landfill disposal site ordered by the commission under subsection (2) of this section is not being accomplished or that the completion of major elements has fallen behind the time schedule specified in the order, the commission may direct the department to establish the disposal site or complete the establishment of the disposal site undertaken by the local government unit. The commission may direct the department to establish or complete the establishment of a landfill under this section only if the commission finds that:

(a) The action is consistent with the state-wide planning goals relating to solid waste management adopted under ORS 197.005 to 197.430 and any applicable provisions of a comprehensive plan or plans; and

(b) The responsible local government unit is unable to establish the landfill disposal site ordered by the commission under subsection (2) of this section.

(4) If the commission directs the department to establish or complete the establishment of a landfill disposal site under subsection (3) of this section, the department may establish the site subject only to the approval of the commission and the provisions of the solid waste management plan adopted for the area and in consultation with all affected local government units. Notwithstanding any city, county or other local government charter or ordinance to the contrary, the department may establish a landfill disposal site under this subsection without obtaining any license, permit, franchise or other form of approval from a local government unit.

**SECTION 5.** In accordance with the requirements of ORS 183.310 to 183.500 and after public hearing, the commission shall adopt rules:

(1) To establish a procedure for local government units to request assistance from the department in the establishment of landfill disposal sites under section 3 of this 1979 Act, and to give notice of such requests.

(2) To establish a procedure for obtaining public comment on determinations of need for landfill sites made by the commission under section 4 of this 1979 Act.

(3) To provide for public hearings in the area affected by a proposed landfill disposal site to be established by the department under section 4 of this 1979 Act.

**SECTION 6.** Subject to policy direction by the commission in carrying out this 1979 Act, the department may:

(1) By mutual agreement, return all or part of the responsibility for development or operation of the site to the local government unit within whose jurisdiction the site is to be established, or contract with the local government unit to establish the site.

(2) To the extent necessary, acquire by purchase, gift, grant or exercise of the power of eminent domain, real and personal property or any interest therein, including the property of public corporations or local government.

(3) Lease and dispose of real or personal property.

(4) At reasonable times and after reasonable notice, enter upon land to perform necessary surveys or tests.

(5) Acquire, modify, expand or build landfill disposal site facilities.

(6) Subject to any limitations in ORS 468.195 to 468.260, use money from the Pollution Control Fund created in ORS 468.215 for the purposes of carrying out sections 3 and 4 of this 1979 Act.

(7) Enter into contracts or other agreements with any local government unit or private person for the purposes stated in subsection (1) of ORS 459.065.

(8) Accept gifts, donations or contributions from any source to carry out the provisions of sections 3 and 4 of this 1979 Act.

(9) Establish a system of fees or user charges to fund the operation and maintenance of a department owned landfill disposal site and to repay department costs.

Section 7. ORS 459.065 is amended to read:

459.065. (1) The Legislative Assembly finds that solid waste disposal is a matter of state-wide concern. The Legislative Assembly finds that carrying out the provisions of ORS 459.005 to 459.105 and 459.205 to 459.285 by cities, counties and metropolitan service districts is a matter of state-wide concern. In carrying out the provisions of ORS 459.005 to 459.105 and 459.205 to 459.285, a county or a city, or a metropolitan service district for one of its authorized functions, may enter into any agreement which the county, city or metropolitan service district determines is desirable, for any period of time, with the department, any local government unit or other person:

(a) For joint or regional franchising of service or the franchising or licensing of disposal sites.

(b) For joint preparation or implementation of a solid waste management plan.

(c) For establishment of a regional solid waste management system.

(d) For cooperative establishment, maintenance, operation or use of regional disposal sites, including but not limited to resource recovery facilities.

(e) For the employment of persons to operate a site owned or leased by the county, [or] city or metropolitan service district.

(f) For promotion and development of markets for energy and materials from resource recovery.

(g) For the establishment of landfill disposal sites including site planning, location, acquisition, development and placing into operation.

(2) Authority granted by ORS 459.005 to 459.105 and 459.205 to 459.285 to local government units is specific and is in no way intended to restrict the general authority granted under ORS 190.010 to 190.030, 190.110 and ORS chapters 203 and 268, and is in addition to and not in lieu of such authority.

Section 8. ORS 459.245 is amended to read:

459.245. (1) If the disposal site meets the requirements of ORS 459.005 to 459.105 and 459.205 to 459.285, the department shall issue the permit. Every completed application shall be approved or disapproved within 60 days after its receipt by the department. Except as provided in section 8a of this 1979 Act, if the department fails to act within the time allowed, the application shall be considered approved unless an extension of time is granted by the commission on a showing of good cause by the department.

(2) Disposal site permits shall be issued for a period not to exceed 10 years, to be determined by the department and specified in the permit.

(3) Subject to the provisions of ORS [chapter 183] 183.310 to 183.500, the department may refuse to renew a permit unless the disposal site and the facilities thereon meet the requirements of ORS 459.005 to 459.105 and 459.205 to 459.285 and the rules of the commission adopted pursuant thereto.

**SECTION 8a.** (1) Before issuing a permit for a landfill disposal site to be established after the effective date of this 1979 Act in any area zoned for exclusive farm use, the department shall determine that the site can and will be reclaimed for uses permissible in the exclusive farm use zone. A permit issued for a disposal site in such an area shall contain requirements that:

(a) Assure rehabilitation of the site to a condition comparable to its original use at the termination of the use for solid waste disposal;

(b) Protect the public health and safety and the environment;

(c) Minimize the impact of the facility on adjacent property;

(d) Minimize traffic; and

(e) Minimize rodent and vector production and sustenance.

(2) Before issuing a permit for a landfill disposal site established under section 3 or 4 of this 1979 Act, or for a disposal site established as a conditional use in an area zoned for exclusive farm use, the department shall require the local government unit responsible for solid waste disposal pursuant to statute or agreement between governmental units to prepare a waste reduction program and shall review that program in the manner provided in subsection (5) of this section. Such program shall provide for:

(a) A commitment by the local government unit to reduce the volume of waste that would otherwise be disposed of in a landfill through techniques such as source reduction, recycling, reuse and resource recovery;

(b) A timetable for implementing each portion of the waste reduction program;

(c) Energy efficient, cost-effective approaches for waste reduction;

(d) Procedures commensurate with the type and volume of solid waste generated in the area; and

(e) Legal, technical and economical feasibility.

(3) If a local government unit has failed to implement the waste reduction program required pursuant to this section, the commission may, by order, direct such implementation.

(4) The department shall report to each Legislative Assembly on the use made of this section, the level of compliance with waste reduction programs and recommendations for further legislation.

(5) A waste reduction program prepared under subsection (2) of this section shall be reviewed by the department and shall be accepted by the department if it meets the criteria prescribed therein.

(6) Notwithstanding subsection (1) of ORS 459.245, if the department fails to act on an application subject to the requirements of this section within 60 days, the application shall not be considered granted.

**SECTION 8b.** (1) Before issuing a permit for a landfill disposal site to be established under section 3 or 4 of this 1979 Act or for a disposal site established as a conditional use in an area zoned for exclusive farm use within the boundaries of Clackamas, Marion, Multnomah, Polk or Washington County, the department shall require that, to the extent legally, technically and economically feasible only solid waste from transfer stations or solid waste residues from resource recovery facilities will be deposited in the landfill. As used in this section, 'transfer station' means a site established for the collection and temporary storage of solid waste pending shipment in a compact and orderly manner to a landfill disposal site.

(2) Nothing in this section shall be construed to prohibit the department from allowing other solid waste to be deposited in the landfill in order to protect the public health and safety or the waters of this state during a temporary emergency condition.

Section 9. ORS 468.220 is amended to read:

468.220. (1) The department shall be the agency for the State of Oregon for the administration of the Pollution Control Fund. The department is hereby authorized to use the Pollution Control Fund for one or more of the following purposes:

(a) To grant funds not to exceed 30 percent of total project costs for eligible projects as defined in ORS 454.505 or sewerage systems as defined in ORS 468.700. A grant may be made under this paragraph only with the prior approval of the Joint Committee on Ways and Means during the period when the Legislative Assembly is in session or the Emergency Board during the interim period between sessions.

(b) To acquire, by purchase, or otherwise, general obligation bonds or other obligations of any municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, issued or made for the purpose of paragraph (a) of this subsection in an amount not to exceed 70 percent of the total project costs for eligible projects.

(c) To acquire, by purchase, or otherwise, other obligations of any city that are authorized by its charter in an amount not to exceed 70 percent of the total project costs for eligible projects.

(d) To grant funds not to exceed 30 percent of the total project costs for facilities for the disposal of solid waste, including without being limited to, transfer and resource recovery facilities.

(e) To make loans or grants to any municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, for planning of eligible projects as defined in ORS 454.505, sewerage systems as defined by ORS 468.700 or facilities for the disposal of solid waste, including without being limited to, transfer and resource recovery facilities. Grants made under this paragraph shall be considered a part of any grant authorized by paragraph (a) or (d) of this subsection if the project is approved.

(f) To acquire, by purchase, or otherwise, general obligation bonds or other obligations of any municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, issued or made for the purpose of paragraph (d) of this subsection in an amount not to exceed 70 percent of the total project costs.

(g) To advance funds by contract, loan or otherwise, to any municipal corporation, city, county or agency of the State of Oregon, or combination thereof, for the purpose of paragraphs (a) and (d) of this subsection in an amount not to exceed 70 percent of the total project costs.

(h) To pay compensation required by law to be paid by the state for the acquisition of real property for the disposal by storage of environmentally hazardous wastes.

(i) To dispose of environmentally hazardous wastes by the Department of Environmental Quality whenever the department finds that an emergency exists requiring such disposal.

(j) To acquire for the state real property and facilities for the disposal by landfill, storage or otherwise of solid waste, including but not limited to, transfer and resource recovery facilities.

(2) The facilities referred to in paragraphs (a) to (c) of subsection (1) of this section shall be only such as conservatively appear to the department to be not less than 70 percent self-supporting and self-liquidating from revenues, gifts, grants from the Federal Government, user charges, assessments and other fees.

(3) The facilities referred to in paragraphs (d), (f) and (g) of subsection (1) of this section shall be only such as conservatively appear to the department to be not less than 70 percent self-supporting and self-liquidating from revenues, gifts, grants from the Federal Government, user charges, assessments and other fees.

(4) The real property and facilities referred to in paragraph (j) of subsection (1) of this section shall be only such as conservatively appear to the department to be not less than 70 percent self-supporting and self-liquidating from revenues, gifts, grants from the Federal Government, user charges, assessments and other fees.

[(4)] (5) The department may sell or pledge any bonds, notes or other obligations acquired under paragraph (b) of subsection (1) of this section.

(6) Before making a loan or grant to or acquiring general obligation bonds or other obligations of a municipal corporation, city, county or agency for facilities for the disposal of solid waste or planning for such facilities, the department shall require the applicant to demonstrate that it has adopted a solid waste management plan that has been approved by the department. The plan must include a waste reduction program.

Section 10. ORS 215.213 is amended to read:

215.213. (1) The following nonfarm uses may be established in any area zoned for exclusive farm use:

- (a) Public or private schools.
- (b) Churches.
- (c) The propagation or harvesting of a forest product.
- (d) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale.
- (e) The dwellings and other buildings customarily provided in conjunction with farm use, referred to in paragraph (a) of subsection (2) of ORS 215.203.
- (f) Operations for the exploration of geothermal resources as defined by ORS 522.005.
- (g) A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under section 4 of this 1979 Act together with equipment, facilities or buildings necessary for its operation.

(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designate, in any area zoned for exclusive farm use:

- (a) Commercial activities that are in conjunction with farm use.
- (b) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005 or exploration, mining and processing of aggregate and other mineral resources or other subsurface resources.
- (c) Private parks, playgrounds, hunting and fishing preserves and campgrounds.
- (d) Parks, playgrounds or community centers owned and operated by a governmental agency or a nonprofit community organization.
- (e) Golf courses.
- (f) Commercial utility facilities for the purpose of generating power for public use by sale.
- (g) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by his invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.
- (h) Home occupations carried on by the resident as an accessory use within their dwelling or other buildings customarily provided in conjunction with farm use, referred to in paragraph (a) of subsection (2) of ORS 215.203.
- (i) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in subsection (2) of ORS 215.203. Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
- (j) The boarding of horses for profit.



(k) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.

(3) Single-family residential dwellings, not provided in conjunction with farm use, may be established, subject to approval of the governing body or its designate in any area zoned for exclusive farm use upon a finding that each such proposed dwelling:

(a) Is compatible with farm uses described in subsection (2) of ORS 215.203 and is consistent with the intent and purposes set forth in ORS 215.243; and

(b) Does not interfere seriously with accepted farming practices, as defined in paragraph (c) of subsection (2) of ORS 215.203, on adjacent lands devoted to farm use; and

(c) Does not materially alter the stability of the overall land use pattern of the area; and

(d) Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract; and

(e) Complies with such other conditions as the governing body or its designate considers necessary.

SECTION 11. The Land Conservation and Development Commission shall not consider the provisions of paragraph (k) of subsection (2) of ORS 215.213 as being consistent with any state-wide planning goal relating to the preservation of agricultural lands for the purpose of exempting a unit of local government from applying that goal to agricultural lands.

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Approved by the Governor July 25, 1979.

Filed in the office of Secretary of State July 25, 1979.

2/22/80

Summary of Work of Waste Reduction Task ForceI. Purpose

- A. It is the intent of the Commission that where local government requests funding, technical or landfill assistance under Chapter 773, Oregon Laws 1979, that the local government shall make a good faith effort toward development, implementation and evaluation of waste reduction programs.
- B. These are guidelines rather than rules. These guidelines define the criteria set out in Section 8a (2) of SB 925 (Chapter 773, Oregon Laws 1979). The Commission intends that these same criteria and guidelines apply to solid waste reduction under Section 9 of this same Act. An accepted waste reduction program will be required before issuance of a permit for a landfill under this act or before the issuance of Pollution Control Bond Fund monies to local government.
- C. These guidelines are meant to be used to:
1. Assist local government and other persons in development, implementation and evaluation of waste reduction programs.
  2. Assist the Department of Environmental Quality and Environmental Quality Commission in evaluation of local government waste reduction programs.

3. Serve as a basis for the DEQ report to the Legislature on:
  - (1) the level of compliance with waste reduction programs,
  - (2) the number of programs accepted and rejected and why,
  - and (3) the recommendations for further legislation.

D. These guidelines are developed on the premise that the DEQ shall base acceptance or non-acceptance of a waste reduction program on criteria (a) through (e) (SB 925 Section 8a (2) (a) through (e), Chapter 377, Oregon Laws 1979) as further defined by these guidelines.

## II. Guidelines

Each criteria shall be addressed with a written submittal with the following recommended materials included in or attached thereto.

The following guidelines represent minimum reasonable effort to comply with the criteria and are not meant to limit the scope of potential programs.

Criteria: Section 8a (2) (a)

"(a) A commitment by the local government unit to reduce the volume of waste that would otherwise be disposed of in a landfill through techniques such as source reduction, recycling, reuse and resource recovery;"

Guidelines:

1. A record of the official approval, adoption or inclusion into the adopted solid waste management plan of short and long-term goals, policies and objectives for a waste reduction program.
  
2. A statement of the following:
  - a. The techniques for waste reduction considered and those chosen for use in the program.
  
  - b. The resources committed to achieve the actions, including dollars, staff time and other staff and government resources.
  
  - c. The required waste reduction activities that are part of a governmentally regulated or funded collection, recycling, reuse, resource recovery or disposal of solid waste. Which requirements were considered as part of the waste reduction program? What are the reasons for acceptance or rejection of the requirements? What is the duration of time of the imposed requirements?
  
  - d. Where more than one local government unit has jurisdiction, the statement shall include all such jurisdictions.

Criteria: Section 8a (2) (b)

"(b) A timetable for implementing each portion of the waste reduction program;"

Guidelines:

1. A statement indicating:
  - a. The starting date and duration of each portion of the program.
  - b. How the program timetable is consistent with other activities and permits dealing with solid waste management in the affected area. The minimum acceptable duration for any activity shall be the length of time for any permit or funding requested.

Criteria: Section 8a (2) (c)

"(c) Energy efficient, cost-effective approaches for waste reduction;"

1. An identification of the highest and best use of solid waste materials.

- a. Cost effectiveness
    - (1) The markets and market values of solid waste materials.
    - (2) The value of diverting solid waste from landfills.
    - (3) The value of potential energy savings through waste reduction alternatives considered.
    - (4) The dollar/cost/savings of different alternatives considered.
  - b. Energy efficiency including a net energy analysis of the different waste reduction alternatives considered.
  - c. Materials savings and the effects on resource depletion.
  - d. Reduction of pollution from disposal sites and industrial processing.
- Criteria: Section 8a (2) (d)

"(d) Procedures commensurate with the type and volume of solid waste generates in the area;"

Guidelines:

1. A statement indicating the following:
  - a. The type and volume of waste generated in the area, including composition data.
  - b. Any special geographic conditions which have an impact on waste reduction efforts.
  - c. Efforts made to work joint programs with other localities or as part of a regional effort. At what level, regional or local, are the solid waste management efforts centered? At what level will the waste reduction plan be centered?

Criteria: Section 8a (2) (e)

"(e) Legal, technical and economical feasibility."

Guidelines:

1. A statement indicating the following:
  - a. The legal, technical and economic efforts which are necessary and have been undertaken to make waste reduction alternatives feasible.

- b. What is considered "feasible" and why.
  - c. A statement of the actions which will be taken to assure the flow of materials to make waste reduction alternatives feasible.
2. Examples may include, but are not limited to, flow control of solid waste for one or more uses, prohibiting the theft or unauthorized taking of material under flow control, market development, price supports and others.

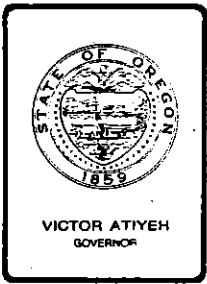
SW0298



## EQC BREAKFAST AGENDA

February 22, 1980

1. Proposal by Chem Nuclear Inc. to change their corporate structure to new company to operate Arlington hazardous waste disposal site.
2. Report on feasibility of passing out information at vehicle inspection stations on energy conservation effects of proper car maintenance.
3. Review of policy decisions that will be coming up for EQC action over the next six months.
4. Report on Goals & Objectives sessions held to date.
5. Progress report on Program Evaluation Study.



## Department of Environmental Quality

522 S.W. 5th AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5395

DATE: February 15, 1980

TO: The Oregon Environmental Quality Commission

FROM: William H. Young, Director *W. Young*

SUBJECT: Information signs at Inspection and Maintenance Stations

At its last meeting, the Commission inquired about the possibility of providing printed information brochures at the Inspection and Maintenance Stations in the Portland area.

Staff visited the St. Helens Road, Northeast, and 182nd Street stations to work out a system for providing information to the public without creating a litter problem or unnecessarily inconveniencing the inspectors.

Signs listing information available will be added to the St. Helens Road and Northeast stations. Racks containing the brochures will be mounted within easy reach for the inspectors.

Since the 182nd street station is soon to be remodeled, the "Information Available" signs will be added then.

Staff felt it would be best to start the system with a few stations in order to work out any bugs before adding the signs to all the Inspection and Maintenance Stations.

The permanent signs will read "DEQ Information Available", and the titles of the brochures will be listed. This would allow the signs to feature the most relevant information and to change brochures with issues.

It is anticipated that the signs will be installed by Summer of 1980.

SCHEDULE OF EVENTS, ENVIRONMENTAL QUALITY COMMISSION

AIR PROGRAM

FEBRUARY 1980

INFORMATIONAL:

Air Program Planning Conference - Silver Creek Falls, Feb. 26-28

Open Burning Status Report

RULE (OR PLAN) ADOPTION

Proposed Adoption - New Auto Amendments (Noise)

Proposed Adoption - Forestry Exemption (Noise)

SCHEDULE OF EVENTS, ENVIRONMENTAL QUALITY COMMISSION  
AIR PROGRAM

MARCH 1980

INFORMATIONAL:

Grants Pass Air Quality Update

Spring Open Burning season begins March 1

PUBLIC HEARING AUTHORIZATION:

Authorization to amend rules for Indirect Sources

Authorization to amend and adopt new VOC Rules

Authorization to adopt new rules re PSI Reporting and Public Information  
Criteria

Authorization to amend Lead rules

Authorization for Hearing on Motor Race rule. (Noise)

Authorization for Hearing on Vehicle Inspection rule. (Noise)

Authorization to revise Sulfite and Kraft Mill regulations

SCHEDULE OF EVENTS, ENVIRONMENTAL QUALITY COMMISSION

AIR PROGRAM

APRIL 1980

RULE (OR PLAN) ADOPTION

Proposed Adoption - New Motorboat Rule

(Noise)

SCHEDULE OF EVENTS, ENVIRONMENTAL QUALITY COMMISSION

AIR PROGRAM

MAY 1980

PUBLIC HEARING AUTHORIZATION

Authorization for Hearing on Willamette River-Eugene Boat  
Noise (possibly may be revised to status report only) (Noise)

Authorization for Portland, Eugene SIP TSP Strategies

Authorization for Revised SIP

Authorization to amend PSD Rules

RULE (OR PLAN) ADOPTION

Adoption of Proposed Amendments to the Motor Vehicle Emission  
Testing Rules (MVI)

Adoption of VOC rules

Adoption of PSI Reporting (et al)

SCHEDULE OF EVENTS, ENVIRONMENTAL QUALITY COMMISSION

AIR PROGRAM

JUNE 1980

INFORMATIONAL:

Program Status Report

(Noise)

PUBLIC HEARING AUTHORIZATION:

Authorization to amend Emergency Action Plan

Authorization for rules concerning the use of wood stoves

RULE (OR PLAN) ADOPTION:

Adopt Portland, Eugene SIP TSP Strategies

Adopt SIP Revisions\*

Adopt Lead SIP

Adopt Indirect Source Rules

Adopt PSD rules

\*Note: Adoption of SIP TSP strategies and revised SIP and PSD rules and Lead SIP may need most of an EQC meeting, so we should consider holding a separate meeting (ie. June 27) for this purpose.

SCHEDULE OF EVENTS, ENVIRONMENTAL QUALITY COMMISSION

AIR PROGRAM

JULY 1980

PUBLIC HEARING AUTHORIZATION

Authorization for Hearing on rule changes necessary for  
Alternative Plans of Local Governments (and Status Report)

Authorization for Medford SIP TSP Strategies

RULE (OR PLAN) ADOPTION

Adoption of Rules for Vehicle Inspection

(Noise)



SCHEDULE OF EVENTS, ENVIRONMENTAL QUALITY COMMISSION

AIR PROGRAM

AUGUST 1980

PUBLIC HEARING AUTHORIZATION

Authorization for Hearing on Housekeeping Amendments (Noise)

RULE (OR PLAN) ADOPTION

Adoption of Motor Race Rule (Noise)

Adoption of Emergency Action Plan

Adoption of Medford SIP TSP Strategies

SCHEDULE OF EVENTS, ENVIRONMENTAL QUALITY COMMISSION

AIR PROGRAM

SEPTEMBER 1980

PUBLIC HEARING AUTHORIZATION

Authorization for Hearing on Portland PTCF

Public Hearings in Portland, Coast, South and East of Mountains  
on Open Burning rule revision.

RULE (OR PLAN) ADOPTION

Adoption of Quiet River Rule (if May item requires) (Noise)

Adoption of rules concerning use of Wood Stoves

SCHEDULE OF EVENTS, ENVIRONMENTAL QUALITY COMMISSION

AIR PROGRAM

OCTOBER 1980

INFORMATIONAL

Fall Open Burning Season begins

PUBLIC HEARING AUTHORIZATION

Authorization of Hearing on Heat Pump Rule

10/50

SCHEDULE OF EVENTS, ENVIRONMENTAL QUALITY COMMISSION

AIR PROGRAM

NOVEMBER 1980

RULE (OR PLAN) ADOPTION

Adoption of Open Burning rule change

Adoption of Portland PTCP

SCHEDULE OF EVENTS, ENVIRONMENTAL QUALITY COMMISSION

AIR PROGRAM

DECEMBER 1980

INFORMATIONAL

Acceptance of Motor Vehicle Emission Testing Program Biennial  
Report

(MVI)

RULE (OR PLAN) ADOPTION

Adoption of Housekeeping amendments.

(Noise)



TO: Mike Downs

DATE: 1/3/80

FROM: Harold Sawyer

SUBJECT: Anticipated EQC Agenda Items - 1980

- February Addition of special subsurface fee categories for three counties.
- \*April Log Policy - Remainder of Coast.
- \*April-May Construction Grant Priority Criteria for FY 81 - Rule adoption.
- May Rule Adoptions - \*Plan Review Procedures, Pretreatment, \*Small Treatment Systems
- July-August Construction Grant Priority List for FY 81 - Rule adoption.
- August-Sept. State/EPA Agreement Review
- Sept.-October Restructured Subsurface Rules target for adoption.
- \*March-April Pre-budget review of Goals, Objectives and potential legislation.

\*involve policy issues





TO: Mike Downs

DATE: 1/15/80

FROM: Ernie Schmidt

SUBJECT: Anticipated Policy Issues & Other Items for EQC - 1980.

Solid Waste

- 1. Special/temporary rules for filling gravel pits re: groundwater (February).
- 2. General updating of solid waste subdivision 61 rules (June).
- 3. SB 925 rules (February-May).
- 4. SB 289 waste conservation program guidelines for PUC transportation exemptions (February).
- 5. Revise financial assistance rules, subdivision 82, to require waste reduction programs and provide for pass-through of RCRA funds (May).
- 6. Open Dump Variances (review).

- Clatsop County (February)
- Lake County (June)
- Lincoln County (June)
- Tillamook County (September)

- 7. Appeal of Columbia Sand & Gravel permit denial.
- 8. Metro landfill siting process.

Hazardous Waste

- 1. Rule adoption for hazardous waste treatment facilities, SB 76 (January-April).
- 2. DEQ applying for interim authorization under Subtitle C (hazardous waste) of the Resource Conservation and Recovery Act of 1976 (July-December).
- 3. Reissuance of a disposal site license to Chem-Security System, Inc., a wholly-owned subsidiary of Chem-Nuclear Systems, Inc. (May).
- 4. Determining a civil penalty schedule for violations of hazardous waste requirements (EPA at \$25,000 - Oregon at \$500) (August).



Contains Recycled Materials

Uncontrolled (abandoned) Hazardous Waste Disposal Site Survey  
--Progress Report--  
--February 15, 1980--

--Department of Environmental Quality--

Background:

Over the last several years, a number of incidents have been reported across the U.S.A. of sites containing large quantities of uncontrolled hazardous wastes (in drums, barrels, pits, ponds, lagoons, or landfills) posing threats to human health or the environment (Love Canal in New York, Valley of the Drums in Kentucky, etc.). With the exception of Oregon's experience with the abandonment of pesticide manufacturing wastes at Alkali Lake (60 miles north at Lakeview) in the early 1970's, it has been assumed that no such sites exist in Oregon. This assumption is in large part due to Oregon's low level of industrialization; particularly in the petroleum and chemical industries. One also needs to recognize that prior to the late 1960's much industrial waste was discharged to Oregon's public waters, rather than handled in some other manner such as land disposal or treatment for reuse.

Study Outline:

During discussions with Region X staff of the Environmental Protection Agency (EPA) last summer, however, it was concluded that some effort should be devoted toward verifying this assumption. Having to rely primarily on existing manpower to conduct such a study, the following limited efforts were initiated:

1. Internal staff discussions designed to identify defunct and existing industries or disposal sites likely to have generated, or which currently generate or contain hazardous wastes.
2. Selection and evaluation of candidate companies within specific industrial categories based on raw materials used, manufacturing processes employed and likely wastes produced. (During these initial discussions, three major industrial categories were eliminated from further consideration - (1) sawmill and plywood plants; (2) pulp and paper plants; and (3) urea and phenol formaldehyde resin plants - because of the Department's historical knowledge of these industrial categories and the Department's continuing program of routine air, water and/or solid waste compliance inspections).
3. Mailing a questionnaire to each of Oregon's 36 County Health Departments soliciting information from their staffs and/or files on uncontrolled (abandoned) hazardous waste disposal sites (of the seven responses received, no new uncontrolled hazardous waste sites were brought to our attention).
4. Nuclear wastes as a class of wastes were not considered since responsibility for their proper management rest with the state Health Division, Radiation Control Section, not DEQ.



Results:

This effort has resulted in 38 sites being investigated. Appendix 1 contains specific information on 36 investigations including a description of the type of investigation conducted (i.e., file search, site visit, sample collection). Two investigations documented incorrect initial information (Pope & Talbot, Wauna turned out to be Koppers, Wauna: Giles Lake industrial area was combined with Doane Lake Study Area). Please note when reviewing Appendix I that information on quantities was included only when we could document said information.

As stated earlier, the purpose of this survey was to locate any large quantities of uncontrolled hazardous wastes that may pose a threat to public health or to the environment. To date, the survey has not uncovered any large quantities of uncontrolled hazardous wastes that present an immediate threat to public health or the environment. What the survey is providing us with, however, is an opportunity to review some existing and historical disposal practices in the light of today's knowledge of hazardous materials/hazardous wastes. As the survey and evaluations continue, the practical effect will be to improve current management/disposal practices to avoid any long-term threat to public health or the environment that may otherwise have been allowed to occur.

In evaluating each of the 36 sites, the Department considered things such as types and quantities of waste; degree of hazard; degree of persistence; type of disposal method (i.e., disposal well, evaporative lagoon, disposal trench, landfill, etc.); soils and geology; surface and groundwater conditions; proximity to people and surrounding land uses (existing or potential). Based on the above criteria, the following conclusions have been reached:

Thirteen (13) investigations have been closed. No imminent health hazard or environmental problem identified.

Dant and Russell, North Plains  
Chevron Asphalt, Portland  
Pacific Carbide and Alloy Co., Portland  
Hercules, Inc., Portland  
J. H. Baxter and Co., Eugene  
L. D. MacFarland, Eugene  
John C. Taylor Lumber Sales, Sheridan  
Union Pacific Railroad, Hermiston  
Koppers, Wauna (Plant Closed)  
McCormick and Baxter, Portland  
American Timber and Trading Company, Portland (Plant Closed)  
Alkali Lake Disposal Site, Lakeview (Site Closed)  
J. H. Baxter and Company, The Dalles

Three (3) investigations have been closed but permanent record of information needed. No imminent health hazard or environmental problem identified.

Charles H. Lilly Company, Portland  
Nurnburg Scientific Company, Portland (Plant Closed)  
Wah Chang, Albany (Old Albany Landfill (Site Closed)  
Coffin Butte Landfill and Roche Road Landfill were used  
for disposal of pyrophoric (self-igniting) materials from  
Wah-Chang

Two (2) investigations have been closed but may be reviewed by EPA as part of an industry-wide evaluation.

Martin Marietta Aluminum Company, The Dalles  
Chempro, Portland

Two (2) investigations have been closed but current on-site waste management practices need improvement.

Perma Post Products, Hillsboro  
Allied Plating, Portland

Nine (9) investigations are continuing. Insufficient information, including lack of existing monitoring data, preclude a final judgement being made.

Nuway Oil, Portland  
Widing Transportation, Portland  
Stauffer Chemical, Portland  
United Chrome Products, Inc., Corvallis  
Miller Products, Portland (Plant Closed)  
Tektronix, Beaverton  
St. Johns Landfill, Portland  
Ace Galvanizing, Portland  
Crosby and Overton, Portland

Seven (7) investigations are continuing as part of the Doane Lake Area Study.

Rhone-Ponulenc, Portland  
Pennwalt, Portland  
N L Industries, Portland  
Koppers Company, Portland  
Industrial Air Products, Portland  
Gilmore Steel, Portland  
Northwest Natural Gas, Portland

While this study was underway, the House Subcommittee on Oversight and Investigations, (chaired by Bob Eckhardt) published a survey of process waste (all waste-both hazardous and non-hazardous) disposal practices by the 53 largest domestic chemical companies. A review of that report determined that of the 21 sites listed, we were already investigating seven (7). These seven are:

Chempro, Portland  
St. Johns Landfill, Portland (listed twice)  
Crosby and Overton, Portland  
Gasco (Northwest Natural Gas Property), Portland  
Hercules, Inc., Portland  
Stauffer, Portland (two sites listed)  
Pennwalt, Portland.

Of the remaining 11 sites (1 chemical waste disposal site, 5 municipal landfills, 1 fertilizer plant and 4 resin manufacturing plants), the Department was familiar with all eleven and determined no additional effort was needed. With 3 sites being listed twice, the Department was, therefore, either investigating or knowledgeable of all 21 sites listed in the Eckhardt report.

Future Action:

As described, it can be seen that a 100 percent survey/study of Oregon industries or landfills was not completed. Additional effort either on-going or being discussed by DEQ/EPA-Region X are:

1. EPA-Region X has contracted with Battelle Northwest to independently contact companies in Oregon to review their historical disposal practices. The Battelle Study is expected to be released in mid-March, 1980. Depending on information generated, additional DEQ/EPA work may be needed.
2. A public information campaign to solicit information directly from the public regarding knowledge they may have of uncontrolled or abandoned hazardous waste sites will be undertaken by EPA.
3. Additional site visits of all companies within certain industrial categories will be undertaken where earlier only candidate companies were investigated. Industrial categories have not been identified at this time.
4. A progress report to describe additional finding is planned for mid-June, 1980.

For further information, please contact Richard Reiter or Fred Bromfeld at 229-5913 (or 1-800-452-7213 toll free). If anyone has information on a site or sites they believe the Department should be investigating, please contact Richard Reiter or Fred Bromfeld at the numbers above or DEQ, Box 1760, Portland, Oregon 97207.

RPR:slw  
HS0766  
2/14/80

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Dant & Russell, Inc. 7755 W. Hillcrest North Plains, OR ----- Wood Processing	on-site  ----- off-site (St. Johns Land- fill) ----- off-site (Arlington Disposal Site)	sludge lagoon  ----- Municipal land- fill ----- chemical waste landfill	pentachloro- phenol; creosote  ----- Industrial sludge (10 truckloads) ----- industrial sludge (periodic shipments as needed)	organic toxic materials	1. No accumu- lation of un- controlled chemicals identified. 2. Sludge cur- rently being hailed to Arlington	no imminent health hazard or environ- mental problems identified. Un- controlled site investigation closed	File search; telephone contact
Chevron Asphalt Co. Standard Oil of California 5501 NW Front Portland, OR ----- asphalt manufacturer	off-site (St. Johns landfill)	municipal landfill	process sludge contaminated with oil	industrial sludge con- taminated with oil	1. No accumu- lation of un- controlled chemicals on- site 2. Process sludge disposed of at St. Johns landfill	No imminent health hazard of environ- mental problems identified. Un- controlled site Investigation closed	file search; telephone conversation

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Pacific Carbide & Alloys Co. 9901 N. Hurst Av. Portland, OR  Manufacturer of quicklime and calcium carbide	on-site	settling pond	calcium hydrate; calcium carbonate; carbon (10,000 cubic yards per year)	corrosive	1. No accumulation of uncontrolled chemicals on-site. 2. Waste lime sludges are marketed as agricultural soil conditioners.	no imminent health hazard or environmental problems identified. Uncontrolled site investigation closed	file search; site visit; sample collection
Hercules, Inc. 3366 NW Yeon Ave. Portland, OR  Manufacturer of coating agents for paper industry	off-site	contract with Crosby & Overton	settleable solids containing resins, fatty acids, wax, emulsifiers and starch	Industrial sludge	1. No accumulation of uncontrolled chemicals on-site. 2. Industrial sludge disposed of off-site via contract with Crosby & Overton	1. No imminent health hazard or environmental problem identified on-site. 2. Uncontrolled site investigation closed. 3. Evaluation of Crosby and Overton facilities scheduled.	file search; telephone conversation

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
J.H. Baxter & Co. 85 Baxter Street Eugene, OR  wood preserving	off-site Bethel-Danebo landfill	municipal landfill	pentachloro- phenol; creosote (up to 25,000 gallons per year)	organic toxic materials	1. No accumula- tions of un- controlled chemical on-site 2. Wastes cur- rently disposed of at Arlington Disposal Site	1. No imminent health hazard or environ- mental problems identified on- site. 2. Uncontrolled site investi- gation closed. 3. Followup on Bethel-Danebo landfill and Roto-Rooter con- tract scheduled.	personal interview
	off-site Arlington dis- posal site	chemical waste landfill					
	off-site	contract with Roto-Rooter or other pumper					
L.D. McFarland Company Highway 99N Eugene, OR  wood preserving	on-site	land spreading for dust control	pentachloro- phenol contam- inated sludge (3000 gallons per year)	organic toxic material	1. No accumu- lation of un- controlled chemicals on- site. 2. Negligible levels of penta- chlorophenol in soil and surface runoff water	1. No imminent hazard or en- vironmental problems identified. 2. Uncontrolled site investi- gation closed.	personal interview; site visit; sample collection

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
John C. Taylor Lumber Sales, Inc. (dba Sheridan Pressure Treated Lumber) Rock Creek Rd. off of Business Hwy 18 Sheridan, OR  wood preserving	on-site	storage in drums	pentachloro- phenol; creosote; arsenic, copper and ammonium salts (15-55 gallon drums per year)	organic and inorganic toxic materi- als	1. No accumu- lation of un- controlled chemicals on- site. 2. Drummed waste shipped to Arlington dis- posal site or firm in Kelso, Washington.	1. No imminent health hazard or environmental problems identi- fied on-site. 2. Uncontrolled site investi- gation closed. 3. Reference to Kelso, Washington site referred to EPA.	file search; telephone conversation
	off-site Arlington dis- posal site	chemical waste landfill	same as above				
	off-site Kelso, Washington	unknown at this time	same as above				
J.H. Baxter & Co. East of City The Dalles, OR  wood preserving	on-site	accidental spillage	pentachloro- phenol; creosote	organic toxic materials	no accumulation of uncontrolled chemical on-site	No imminent health hazard or environmental problems identified. Uncontrolled site investi- gation closed.	file search; telephone conversation

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Union Pacific Railroad Hinkle Rail Yards Kerniston, OR  railroad switch- ing and mainten- ance yard	on-site	land spreading	waste oil (80,000 gallons per year)	industrial sludge	1. No accumu- lation of un- controlled chemicals on- site. 2. Land spread- ing of waste oil discontinued in 1976.	No imminent health hazard or environmental problems identi- fied. Uncontrol- led site investi- gation closed	file search; site visit
Koppers, Wauna Wauna, OR  wood preserving	on-site	liquid waste recycled	pentachloro- phenol; creosote; copper, chrome, and arsenic salts	organic and inorganic toxic materials	1. Plant perma- nently closed in 1962. 2. Former site now part of Crown Zeller- bach paper mill site.	1. No Imminent health hazard or environmental problems identified. Uncontrolled site investi- gation closed.	telephone conversation



## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
McCormick and Baxter 6900 N. Edgewater Street Portland, OR  wood preserving	off-site Arlington disposal site	chemical waste landfill	pentachloro- phenol; creosote; copper, chrome and salts; boric acid; isopropyl ether liquid butane	organic and inorganic toxic materials	1. No accumulations of uncontrolled chemicals on-site. 2. Wastes currently hauled to Arlington disposal site.	No health hazard or environmental problem identified. Uncontrolled site investigation closed	file search; telephone conversation
American Timber & Trading Co. (Now Columbia Woodworking Co.) 6432 NE Columbia Blvd. Portland, OR  wood preserving	on-site	disposal wells	pentachloro-phenol; creosote; copper, chrome and arsenic salts	organic and inorganic toxic materials	1. Plant operated from 1962-1970. 2. Plant disposed of liquid wastes into disposal wells. 3. Former plant site now under warehouse with an address of 6510 Columbia Blvd.	1. No imminent health hazard or environmental problems identified. Uncontrolled site investigation closed	telephone conversation; site visit; sample collection



## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Charles H. Lilly Co. (Miller Products Co.) 7737 N.E. Killings- worth Portland, OR  formulator of commercial fertilizer and pesticide products	on-site	concrete pit with approxi- mate dimensions of 150' by 6' by 5' deep	DDT powder (2000 lbs) DDT liquid (200 gallons)  miscellaneous quantities of chlordane, lindane, kelthane, etc. as they may have been mixed with DDT product	organic toxic materials	1. One time disposal as a result of the ban on DDT. 2. Department of Agriculture and Department of Environ- mental Quality had reviewed burial site in 1977. 3. Current pesticide con- taminated wastes are hailed to Arlington dis- posal site.	1. Permanent record of one time disposal needs to be created. 2. No imminent health hazard or environmental problems identi- fied. 3. Uncontrolled site investi- gation closed.	file search; telephone conversation
	off-site Arlington dis- posal site	chemical waste landfill	miscellaneous discontinued pesticide products (50,000 pounds)				

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Nurnberg Scientific Company 3237 N. Williams Portland, OR  distributor of laboratory chemicals	on-site	filled in basement	fire damaged laboratory chemicals (unknown quantity of chemicals not salvageable)	miscellaneous acids; bases; oxidizers; flammables; cyanide	following major fire (1967) at- tempts were made to salvage as many chemicals as possible. Remainder of chemicals were buried in base- ment along with charred remains of building. Debris leveled & covered with dirt.	1. Permanent record of this information needs to be created. 2. No imminent health hazard or environmental problems identi- fied. Un- controlled site Investigation closed.	file search; telephone conversation; site visit

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Teledyne Wah Chang Teledyne Industries, Inc. 1600 Old Salem Road Albany, OR  manufacturer of non-ferrous metals	off-site Coffin Butte landfill	municipal landfill	stainless steel liners and furnace shield with adhering masses of zir- conium and magnesium; zirconium fines; metal chlorides, chlorinator residues, filter residues and used carbo- column materials; flammable liquids	pyrophoric materials;	1. No accumula- tion of uncon- trolled chemi- cals on-site. 2. Pyrophoric, reactive and flammable material dis- posed of in several area landfills. 3. Excavation of previously dis- posed of materia could result in spontaneous combustion or explosion.	1. Permanent record of off- site disposal information needs to be created. 2. No imminent health hazard or environmental problems identi- fied. Un- controlled site investigation closed.	file search
	off-site Roche Road landfill	demolition landfill		reactive materials;			
	off-site Albany landfill	municipal land- fill (now closed)		flammable materials			
	off-site Arlington dis- posal site	chemical waste landfill					
Martin Marietta Aluminum Co. 3313 West 2nd The Dalles, OR  manufacturer of aluminum	on-site	industrial landfill	potliners; carbon blocks; sludge from air scrubbers	industrial sludge	no accumulation of uncontrolled chemicals on- site	1. No health hazard or en- vironmental problem identi- fied on-site. 2. Uncontrolled site investi- gation closed. 3. The aluminum industry as an industrial category may receive a furthe evaluation by EPA	file search; telephone conversation

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Chempro 11535 N. Force St Portland, OR	on-site	sludge lagoon	process sludge contaminated with oil	industrial sludge con- taminated with oil	1. No accumu- lation of un- controlled chemicals on-site	1. No imminent health hazard or environmental problems identified.	file search; telephone conversation
Reprocessor of waste oil	off-site (Pasco, Washing- ton)	chemical waste landfill	oily sludge		2. Oily sludge currently being hailed to Arlington dis- posal site	2. Reference to Pasco, Washing- ton site referred to EPA for followup.	
	off-site (Arlington disposal site)	chemical waste landfill	oily sludge			3. Uncontrolled site investi- gation closed. 4. The chemical reprocessing industry as an industrial category may receive further EPA review.	
Permapost Products Company 25600 SW Tualatin Valley Hwy Hillsboro, OR	on-site	short-term holding/recircu- lation lagoon and long-term storage/ evaporation lagoon	pentachloro- phenol; creo- sote; copper, chrome and arsenic salts	organic and inorganic toxic materials	1. No accumu- lation of un- controlled chem- icals identified 2. Violations of state water pol- lution control facilities permit occurring.	1. No imminent health hazard or environmental problems identi- fied. Uncontrol- led site investi- gation closed.	
wood preserving	off-site (Vancouver, Washington)	metal container recycling firm	metal containers that contained copper, chrome and arsenic salts			2. Enforcement action being initiated to correct permit violations. 3. Reference to Vancouver, WA container recycling firm referred to EPA for followup	EPA

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Allied Plating 8135 NE Union Portland, OR  metal plating	on-site	evaporative/ seepage lagoon	cyanide; copper nickel; chrome; (up to 150 gallons per minute)	inorganic toxic materials	<ol style="list-style-type: none"> <li>1. No accumu- lation of un- controlled chemicals on- site.</li> <li>2. Because of expanding pro- duction capacity of lagoon be- coming inade- quate.</li> <li>3. Pretreatment and discharge to city sewer preferred dis- posal method.</li> </ol>	<ol style="list-style-type: none"> <li>1. No imminent health hazard or environmental problems identi- fied. Uncon- trolled site investigation closed.</li> <li>2. Negotiations toward the in- stallation of a pretreatment systems are on- going. Follow- ing pretreatment discharge to sewer will occur.</li> </ol>	file search; telephone conversation; site visit

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Nuway Oil 7039 NE 46th Portland, OR  rerefiner of used motor oil	on-site	settling lagoon	1. Clay sludge contaminated with oil (up to 70 tons per year) 2. acid sludge contaminated with oil (up to 90,000 gallons per year)	1. Industrial sludge con- taminated with oil. 2. Corrosive material	1. No accumula- tion of uncon- trolled chemi- cals on-site. 2. Clay sludge being disposed of on-site. 3. Acid sludge used for road base in Eastern Oregon and Washington. 4. Clay & acid sludges disposed of at St. Johns landfill.	1. Evaluation of clay sludge con- tinuing to determine chemi- cal contaminants. 2. Uncontrolled site investi- gation con- tinuing.	file search; telephone conversation; site visit; sample collection
	off-site (St. Johns landfill)	municipal landfill	clay and acid sludges				
	off-site (miscellaneous holes-North Portland)	filling in of depressions in North Portland	clay sludge				
	off-site (Eastern Oregon and Washington)	Used for road base material	acid sludge				



## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Widing Trans- portation Co., Inc. 10145 N. Portland Road Portland, OR  ----- transporter of commodities in- cluding hazardous materials and hazardous wastes	on-site	6-cell aeration/ gravity settling basin and 4-acre settling pond	liquids and sludges from cleaning inside of bulk carrier transport trucks (50,000 gallons of water con- taminated with urea and phenol formaldehyde glue resins, surfactants, oil, black liquor, & defoamer)	1. Organic and inorganic toxic materials 2. Sludges contaminated with oil. 3. Corrosive.	1. No accumula- tion of uncon- trolled chemicals on- site. 2. Following pretreatment some contamin- ated sludge stored on-site. 3. Following pretreatment some contamin- ated sludges hailed to Arlington dis- posal site.	1. Evaluation of water and sediments in 4-acre settling pond continuing to determine chemical con- taminants. 2. Uncontrolled site investigation continuing.	file search; telephone conversation; site visit; sample collection
	off-site (Arlington dis- posal site)	chemical waste landfill	liquids and sludges as de- scribed above (periodic ship- ments as needed)				

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Stauffer Chemical Corporation 4429 N. Suttle Rd Portland, OR  manufacturer of aluminum sulfate and formulator of commercial pesticide products	on-site	settling pond	alum sludge (900 tons per year)	corrosive; organic toxic materials	1. No ground water contamination detected in on-site monitoring wells adjacent to oxidation lagoon. 2. Pesticide contaminated wastes currently hauled to Wes-Con disposal site. 3. Alum sludge currently hauled to St. Johns landfill. 4. No good records exist relative to on-site chemical waste landfill.	1. Evaluation of on-site chemical waste landfill continuing. 2. Uncontrolled site investigation continuing.	file search; sample collections; site visit
	on-site	oxidation lagoon	pesticide contaminated wash water (2300 lbs per year)				
	on-site	chemical waste landfill	pesticide contaminated liquids and solids (100-200 tons)				
	off-site St. Johns landfill	municipal landfill	alum sludge				
	off-site Wes-Con disposal site	chemical waste landfill	pesticide contaminated waste (20-30 tons per year)				

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
United Chrome Products, Inc. Corvallis Airport Industrial Park Corvallis, OR	on-site	dry well	sludge contain- ing chrome (1000 gallons per year)	inorganic toxic material	1. No accumula- tion of uncon- trolled chemicals on-site. 2. Negligible amounts of chrome in sur- face runoff waters. 3. Sludge now hailed to Coffin Butte landfill	1. No imminent health hazard or environ- mental problems identified on or off site. 2. Further evaluation of on-site dry well planned. 3. Uncontrolled site investigation continuing.	file search; telephone conversation
metal plating	off-site Coffin Butte landfill	municipal landfill	same as above				
Miller Products Company Foot of SW Caruthers Portland, OR	on-site	settling pond	lime-sulfur sludge	corrosive industrial sludge	1. No accumula- tion of uncon- trolled chemicals on-site. 2. Plant closed in 1960 at this location. 3. Land where plant was located is now part of freeway system.	1. No imminent health hazard or environmental problem identified. 2. Old aerial photos will be examined to pin- point location of settling ponds. Un- controlled site investigation continuing.	file search; site visit
manufacturer of lime-sulfur and formulator of pesticides							

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Tektronics, Inc. NW Miliken Way Beaverton, OR  electronics manufacturing	on-site	evaporation pond/landfill	zinc, cadmium; nickel; copper; chrome; (56,000 gallons of sludge per year)	inorganic toxic materials	1. No accumula- tions of un- controlled chemicals on-site 2. Two sites have been used for landfilling of industrial sludge contain- ing heavy metals	Evaluation of environmental impacts of land filling contin- uing. Un- controlled site investigation continuing	file search; site visit
St. Johns Landfill 9393 N. Columbia Blvd. Portland, OR	on-site	municipal land- fill	5000-55 gallon drums of pesti- cide manufactur- ing residue  Miscellaneous industrial solid waste, industrial sludges and oily waste	organic and inorganic toxic materials	1. No accumula- tion of un- controlled chemicals on-site 2. Besides house- hold and commer- cial refuse, site has re- ceived miscel- laneous in- dustrial solid waste and in- dustrial sludges over the years.	Additional monitoring and testing of ground water scheduled to attempt de- tection of pesticide related contaminants. Uncontrolled site investigation continuing.	Industrial file searches; telephone contact; site visit; sample col- lection scheduled.

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Ace Galvanizing 805 NW 14th Portland, OR	on-site	disposal well	liquid waste high in zinc & iron. Sludge containing zinc	inorganic toxic material	1. No accumula- tion of un- controlled chemicals on-site 2. Disposal well may have been used for dis- posal of waste water. 3. Land in Wash- ington may have been used for land spreading of sludge con- taining zinc.	Evaluation of disposal well and identifica- tion of lands in Washington con- tinuing. Un- controlled site investigation continuing.	file search; site visit
metal plating	off-site farm land in Washington	land spreading					

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Crosby and Overton 5420 N. Lagoon Ave. Portland, OR  Industrial tank cleaning and servicing	on-site	temporary storage in steel tanks	ship bilge water (oil-water mixture)	organic and inorganic toxic materi- als; liquids and sludges contaminated with oil; Industrial sludges	1. No accumula- tion of uncon- trolled chemicals on-site. 2. Temporary storage of oil- water mixtures at Time Oil is practiced. 3. Direct hauling to recycle facilities or authorized dis- posal sites is practiced for most customer derived wastes.	1. No imminent health hazard or environmental problems identified. 2. Further evaluation of historical dis- posal practices/ sites con- tinuing. Un- controlled site investigation continuing.	site visit
	off-site recycle plants	recycling	varies by customer				
	off-site Arlington Dis- posal Site	chemical waste landfill	varies by customer				
	off-site St. Johns Land- fill	municipal land- fill	varies by customer				

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Rhone-Poulenc (formerly Rhoddia or Chipman Chem- ical) 6200 NW St. Helens Road Portland, OR  manufacturer and formulator of pesticides	on-site	Doane Lake	liquid wastes	organic toxic materials	1. No accumula- tion of uncon- trolled chemi- cals on site. 2. One municipal landfill and three chemical waste landfill, have been dis- posal of manu- facturing residues.	1. Evaluation continuing as part of Doane Lake area study. 2. Evaluation of St. Johns land- fill scheduled. 3. Pasco, Wash- ington reference referred to EPA for followup. 4. Twice a year monitoring of Alkali Lake con- tinuing by DEQ	file search; personal interview; site visit; sample collection.
	off-site St. Johns landfill	municipal landfill	manufacturing residues (5000-55 gallon drums)				
	off-site Alkali Lake landfill	chemical waste landfill	manufacturing residues (23,500-55 gallon drums)				
	off-site Pasco, Washington	chemical waste landfill	manufacturing residues				
	off-site Arlington dis- posal	chemical waste landfill	manufacturing residues (200 tons per year)				

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Pennwalt Chemical 6400 NW Front Av. Portland, OR  manufacturer of Industrial chemicals - principally chlorine	on-site	lagoons/landfill	brine purifica- tion sludge (1310 pounds per day)	Inorganic toxic materials	1. No accumula- tion of un- controlled chemical on-site 2. Some indus- trial sludge disposed of on- site. 3. Some indus- trial chemicals disposed of at Arlington dis- posal site.	Evaluation con- tinuing as part of Doane Lake area study	file search; site visit; sample collection
	off-site Arlington disposal site	chemical waste landfill	sodium arsenite; miscellaneous cleaning chemicals				
NL Industries 5909 NW 61st Av. Portland, OR  Secondary re- refining of lead and zinc	on-site	landfill	lead; zinc	inorganic toxic material	No accumulation of uncontrolled chemicals on-site	Evaluation con- tinuing as part of Doane Lake area study	file search; site visit; sample collection



## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Koppers Company 7540 NW St. Helens Road Portland, OR  manufacturer of pitch and electrobinding products	on-site	landfill	creosote re- siduals; pitch; phenols; oil and grease	Industrial solid waste and sludge	1. No accumula- tion of un- controlled chemicals on- site	Evaluation contin- uing as part of Doane Lake study area	file search; telephone conversation
Industrial Air Products (Division of Liquid Air Inc.) 6501 NW Front Av. Portland, OR  manufacturer of acetylene	on-site	landfill	10% lime slurry	corrosive	1. No accumula- tion of un- controlled chemicals on- site. 2. Lime slurry currently held in temporary holding pond and reused.	Evaluation contin- uing as part of Doane Lake area study	file search; site visit; sample collection

## UNCONTROLLED (ABANDONED) HAZARDOUS WASTE DISPOSAL SITE SURVEY

Name/ Business Type	Disposal Site Location	Type of Disposal	Waste Type/ Waste Quantity	Type of Hazard(s)	Finding(s)	Current Status	Type of Investigation
Gilmore Steel 6161 NW 61st Av. Portland, OR  steel fabrication coating and en- graving	on-site	landfill	rolling mill scale; melt furnace slag (7500 tons per year)	industrial solid waste	no accumula- tion of un- controlled chemicals on- site	evaluation con- tinuing as part of Doane Lake area study	file search; site visit; sample collection
Northwest Natural Gas St. Helens Road Portland, OR  manufacturer of oil and gas from petroleum	on-site	landfill	tar bottoms; naphthalenes	industrial sludges	1. Gasification plant ceased operation in early 1950's 2. No accumula- tion of un- controlled chemicals on- site	Evaluation con- tinuing as part of Doane Lake area study	personal interview; site visit; sample collection

RECEIVED FEB 1 8 1980

# Portland Air Quality Advisory Committee

P.O. Box 1760  
Portland, Oregon 97207  
(503) 229-6092

August 2, 1979

Item K  
Rec'd 2/22/80  
OO

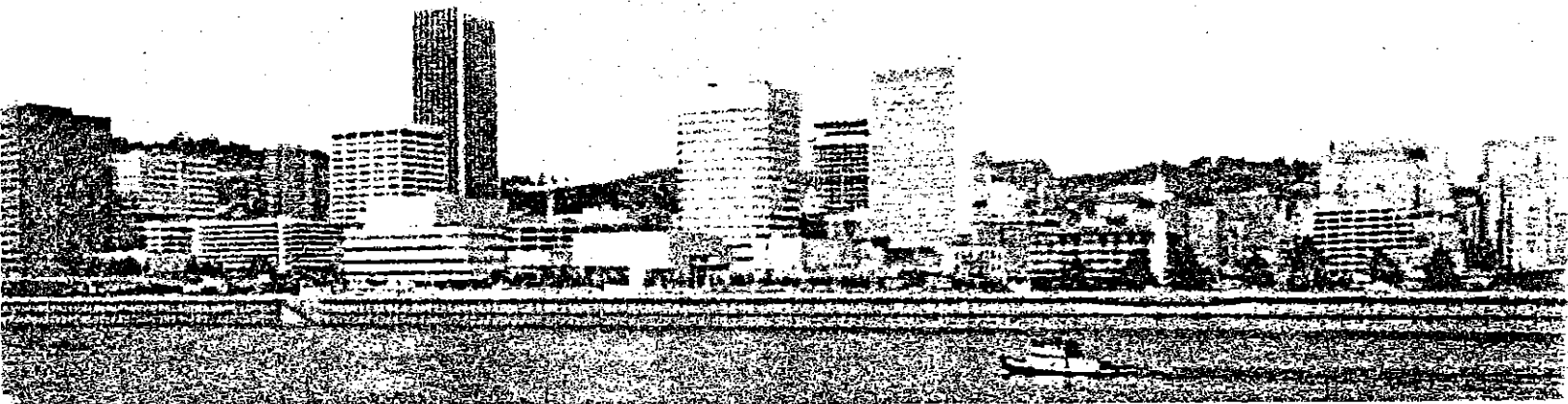
Metropolitan Service District  
527 Southwest Hall Street  
Portland, OR 97201

Gentlemen:

On June 29, 1979, the Environmental Quality Commission voted to end backyard burning within Multnomah, Clackamas, Washington and Columbia counties by the end of 1980. In order for this transition to be successful, cities and counties must determine which alternative disposal methods will be best for their residents. Enclosed is the report on alternatives to open burning prepared by the Department of Environmental Quality (DEQ) Solid Waste Division. Specific appendixes to the report can be obtained by calling Mark Hope, 229-5060.

Our Air Quality Advisory Committee was appointed because the 1977 Clean Air Amendments require an updated State Implementation Plan. We have 23 members: 5 from local governments; 3 from public agencies; 4 from industry/labor; 3 from public interest groups; a health expert; 4 from the public-at-large; and 3 nonvoting members from Washington state agencies. Our charge is to advise the DEQ and MSD of the most acceptable carbon monoxide, photochemical oxidant and particulate emission control strategies to attain compliance with air quality standards.

The Portland Air Quality Maintenance Area (AQMA) is classified as a nonattainment area for particulate matter which results in the DEQ requiring more restrictive regulation of new and modified industries in order to preserve the airshed.



August 2, 1979

Page 2

In looking at the particulate problem we have learned that the major contributor is no longer industry but transportation and vegetative burning. Released in April was a \$280,000 study done by the Oregon Graduate Center to accurately identify the sources of suspended particulate. It said,

"Vegetative burn sources (fireplaces, wood burning stoves, field and slash burning, backyard burning, etc.) were the second largest contributors to TSP (Total Suspended Particulates). The local vegetative burn sources (fireplaces, wood stoves and backyard burning) were the second largest source of fine particulates except for the southeast Portland commercial area..."

Since a large portion of the particulate from backyard burning is respirable (is inhaled deeply into the lungs), its health impacts relative to other sources are significant. A closing statement in the Oregon Graduate Center report indicates,

"Burning of vegetative material, although its contribution has a high level of uncertainty, is potentially one of the most serious present and future air pollution problems because its emissions are highly respirable, contain potential carcinogens and contribute significantly to visibility degradation."

We in the Portland metropolitan area have been negligent in phasing out backyard burning. The other major West Coast cities have prohibited this practice. Eugene is the only Oregon city to have done so. In 1970 the Columbia Willamette Air Pollution Authority (CWAPA) prohibited domestic rubbish outdoor burning in urban areas. In previous years it had successfully prohibited wigwam burners and large-scale land clearing burning in the metropolitan area. In the year following the adoption of this rule on domestic rubbish burning, CWAPA reported that compliance was good, but it received a significant number of complaints about solid waste problems, particularly from people with large acreages. An advisory committee, after holding hearings, recommended fall and spring burning periods for yard trimmings only for a limited time - until solid waste disposal alternatives could be developed. The situation has remained essentially the same from then until now.

No agency has taken on the task of developing alternatives during this 8-year period. We are now asking each community to work with the DEQ, the Metropolitan Service District (MSD) and the Advisory Committee in evaluating these alternatives to backyard burning and commit to implement a disposal program at the local or regional (MSD) level.

August 2, 1979

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In this endeavor we request you assign a specific person to work with us with the aim of establishing a commitment to implement an alternative open burning program by your entity starting perhaps as early as this fall. Please notify Mr. Tom Bispham of the DEQ, Northwest Region, at 229-5342 of your appointment.

We will be holding an Open Burning Workshop for your representative from 9:00 a.m. to 11:30 a.m. on September 13, 1979, at the Portland State University, Smith Center, Room 338, Portland, Oregon. The workshop will include a speaker from Berkeley on composting and a speaker from Salem on neighborhood involvement.

Your attention to this matter is most urgent, as we have such a short time frame in which our recommendation must be forwarded to the Environmental Quality Commission.

Very truly yours,

AIR QUALITY ADVISORY COMMITTEE

By: \_\_\_\_\_  
Jan Sokol, Vice Chairman

By: \_\_\_\_\_  
Jeanne Roy, Chairman  
Open Burning Subcommittee

WG:bdm

February 21, 1980

Rec'd 2/22/80  
OS  
Item 2

To the Environmental Quality Commission:

As chairer of the Department of Environmental Quality Waste Reduction Task Force, I would like to comment on the need for rules which strongly promote the Senate Bill 925 waste reduction requirements. I regret that I am unable to testify in person, however I am presenting the results of a two year solid waste study to the Salem City Club.

The Waste Reduction Task Force took the very strong position that acceptance or non-acceptance of local governments' waste reduction programs should be based upon the criteria in the law as further defined by the standards developed by the task force. In other words, waste reduction programs should not simply pay lip service to the rather vague criteria but must fully address the many aspects of waste reduction. The task force was very clear in its recommendation that no solid waste monies from the Pollution Control Fund nor landfill permits be granted unless a comprehensive waste reduction program is enacted by the local government.

There are two major concerns with an action of adopting waste reduction guidelines as opposed to rules:

1. Local government needs an incentive to adequately develop badly needed waste reduction programs. Budgetary and staff constraints limit the effort local government can put forth toward waste reduction programs. This is evident from the poor track record in the waste reduction field. Pollution Control Funds, landfill permits and other DEQ assistance would provide the incentive and wherewithal to enact waste reduction programs.

2. Adopting guidelines has no binding effect on the development of sufficient waste reduction programs. The DEQ Solid Waste Division Informational Report states, "The Department is planning to accept programs which meet the criteria in the law". A program could then be acceptable which barely touches on the bare bones of the criteria in the law and does not seriously address the issue of waste reduction. The task force thought this approach very unsatisfactory and unanimously recommended that the standards developed be required of local governments' proposals.

It is important to point out that the standards produced by the task force were not recommended as rules because the DEQ Solid Waste Division Administrator announced at the task force's first meeting that the DEQ had determined the legislation did not merit rules but guidelines. However, the task force indicated that the recommended standards be enforceable in order that effective waste reduction programs are enacted. Changing the informational guidelines to rules would result in significant benefits in solid waste management practices in our state.

page 2

It should be noted that the task force was comprised of individuals with technical expertise in the solid waste field who understand the many problems in this critical area. While the task force favored a required waste reduction program and developed its recommendations on a consensus basis, it was hardly a group entirely composed of recyclers. Of the nine member task force three members represented the garbage hauling industry, a city official was involved and a DEQ regional officer also participated.

I'm hoping these comments have been helpful to the important work of the Commission and progress will be made towards solving our difficult solid waste problems.

Sincerely,

A handwritten signature in cursive script that reads "Bob French".

Bob French  
Chairer, DEQ Waste Reduction Task Force  
(signed for by Bruce Walker)

1384 Manzanita Street NE  
Salem, Oregon 97303  
393-2976



(Retired forester and research meteorologist formerly with the U. S. Forest Service Forest Experiment Station in Portland. Specialized in application of meteorology to forest fire behavior, effects of burning, and development of the concept of smoke management for slash burning.)

I have the impression that, possibly due to EPA pressure, backyard burning (BYB) is doomed whether or not it makes a significant contribution to Portland's air quality. I hope this is not the case. Several steps can be taken to decrease any contribution BYB does make without prohibiting it.

*BYB is almost essential to owners of green or wooded areas.*

BYB is basically different from most polluting activities in that it can be turned on and turned off by scheduling. With proper scheduling that permits BYB on only those days when dispersion conditions are favorable, it is eliminated as a contributor to worst day situations and to already polluted airmasses.

BYB should not have an appreciable effect on air quality if it is properly scheduled. If there is a significant effect, this indicates only that the procedure for scheduling needs to be improved, and I understand DEQ is developing and improved objective procedure for scheduling burning to assure least impact of air quality. Smoke management requirements can be tightened.

If scheduling is optimum, then the prohibition of BYB should achieve little or no improvement in air quality, since BYB would already be limited to days when wind and mixing depth would prohibit smoke concentrations from occurring.

BYB is quite important, if not essential, to property owners that try to maintain a green area of woods, orchard, or just shade trees and shrubbery and are faced with pruning, replacement, and

some storm damage every year. And much of this may be not readily accessable to a road.

Rather than prohibition, I would suggest refinements in addition to tightening the procedure for selection of burn days. These include:

1. Encourage the burning of dry fuel. The present season limitations almost assure wet fuel and maximum smoke. Extending the season should permit not only assurance of drier fuel but provide a greater choice of favorable days and disperse what burning is done over a greater number of days.

2. Encourage residents to cover piles with plastic during rainy periods and uncover them for drying during dry weather.

3. Provide suggestions on burning. Burn from the top down, starting a fire on top of the pile with dry fuel. Firing most piles from the base produces much more smoke.

4. Encourage large, hot, flaming fires as opposed to small smouldering piles of damp leaves, for example.

5. Encourage the composting of leaf material or burning leaves only in combination with woody material to maintain flame.

6. Differentiate requirements between dense residential areas in low portions of the city and sparse residential that may be 1000 feet higher in elevation. Rural forested green space with lots 1/2 acre or larger can support a larger fire. that produces very little smoke, but sends it higher.

7. Provide penalties for visibility obstructing smoke crossing a traveled thoroughfare, smoke moving directly into recreation areas, schools, or directly into another's yard at surface levels.

I'm sure that with a little refinement and public education, the very small contribution of BYB to Portland's air pollution can be further reduced even below any very small impact it now may have.

State of Oregon  
Department of Environmental Quality  
P. O. Box 1760  
Portland, Oregon 97207

Management Services Div.  
Dept. of Environmental Quality

NOTICE OF ELECTION

RECEIVED  
MAR 17 1980

As provided by ORS 468.170(5), a person receiving a Pollution Control Facility Certificate shall make an irrevocable election to take the tax credit relief under ORS 316.097 (personal income tax), or ORS 317.072 (corporation excise tax), or the ad valorem tax relief under ORS 307.405, and shall notify the Department of Environmental Quality, within 60 days after the receipt of such certificate, of his election. This election shall apply to the facility or facilities certified and shall bind all subsequent transferees. Failure to make a timely notification shall make the certificate ineffective for any tax relief under ORS 307.405, 316.097 and 317.072.

Certificate Issued To: Bohemia, Inc.

Certificate No.: 1044 Application No.: T-1134 Date Issued: 02/22/80

As the official representative of the above named certificate holder, I hereby notify the Department of Environmental Quality that I have on this day made the irrevocable election to the (check one)

- Tax Credit Relief under ORS 316.097  
 Tax Credit Relief under ORS 317.072  
 Ad Valorem Tax Relief under ORS 307.405

Signed by:

Frederick G. Gent

Title:

Senior VP-Finance & Treasurer

Date:

March 12, 1980

State of Oregon  
Department of Environmental Quality  
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Portland, Oregon 97207

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Certificate Issued To: Bohemia, Inc.

Certificate No.: 1051 Application No.: T-1151 Date Issued: 02/22/80

As the official representative of the above named certificate holder, I hereby notify the Department of Environmental Quality that I have on this day made the irrevocable election to the (check one)

- Tax Credit Relief under ORS 316.097  
 Tax Credit Relief under ORS 317.072  
 Ad Valorem Tax Relief under ORS 307.405

Signed by: Frederick G. Gent  
Frederick G. Gent  
Title: Senior VP-Finance and Treasurer  
Date: March 12, 1980