

OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

November 21, 1980

Conference Room
Department of Fish and Wildlife
506 S. W. Mill Street
Portland, Oregon

REVISED 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 October 17, 1980, Commission meeting.
- B. Monthly Activity Report for October, 1980.
- C. Tax Credit Applications.
- D. Request for authorization to conduct a public rulemaking hearing regarding a permanent geographic regional rule for the lands overlaying the North Florence Dunal Aquifer, OAR 340-71-030(11).
- E. Request for authorization to hold a public hearing to consider amendments and additions to standards of performance for new stationary sources, OAR 340-25-505 to -535.
- F. Request for authorization to conduct public hearings on amendments to rules governing subsurface sewage disposal and nonwater-carried sewage disposal facilities schedule of civil penalties, OAR 340-12-060.
- G. Request for authorization to conduct a public hearing on the proposed revision to the emission limits in the State Implementation Plan for the boiler at the Weyerhaeuser Company plant in Bly, Oregon.

9:10 am PUBLIC FORUM

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

9:15 am ACTION ITEMS

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

(MORE)

- J. Request by Clatsop County for extension of variances from rules prohibiting open burning dumps, OAR 340-61-040(2)(c).
- K. Proposed adoption of noise control regulations for motor sports facilities (OAR 340-35-040), amendments to definitions (OAR 340-35-015), and approval of procedure manual (NPCS-35).
- L. Certain territory contiguous to City of Albany--Certification of plans for sewerage system as adequate to alleviate health hazard, ORS 222.898.
- M. Petition by Norman Pohl to amend OAR 340-71-015(8), pertaining to prior construction permits or approvals.

~~H. Continuance of hearing appeal from subsurface variance denial - Irving Damitz, Lincoln County.~~

Withdrawn at request of appellant

INFORMATIONAL ITEMS

- N. Proposed joint meeting with Water Policy Review Board regarding minimum stream flows on the Willamette River.
- O. Emission reduction credits (banking and trading).
- P. Pollution control bond financing--status report.
- Q. Solid Waste tax credits.

WORK SESSION

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

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. Any one 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 S. W. Sixth Avenue, Portland; and lunch in the 14th floor conference room at the DEQ Headquarters, 522 S. W. Fifth Avenue, Portland.

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED TWENTY-SEVENTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

November 21, 1980

On Friday, November 21, 1980, the one hundred twenty-seventh meeting of the Oregon Environmental Commission convened in the Conference Room of the Department of Fish and Wildlife, in Portland, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chairman; Mr. Fred J. Burgess; Mrs. Mary V. Bishop; Mr. Ronald M. Somers. Commissioner Albert H. Densmore was absent. Present on behalf of the Department were its Director, William H. 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 Office of the Director of the Department of Environmental Quality, 522 Southwest Fifth Avenue, Portland, Oregon. Written information submitted at this meeting is hereby made a part of this record and is on file at the above address.

BREAKFAST MEETING

The breakfast meeting convened at 7:30 a.m. at the Portland Motor Hotel in Portland. Present were Commissioners Richards, Burgess, Bishop, and Somers and several members of the Department staff.

1. Ozone rule changes. Spencer Erickson, Supervisor of DEQ's Air Monitoring and Planning, reported that the staff is proposing to delay full-scale public hearings on possible changes to the state ozone standards pending the outcome of several suits against EPA regarding the federal ozone standard and further information from EPA regarding the health effects of ozone. A written report was distributed to the Commission members. The delay would probably be until March or April 1981.
2. Governor's proposed budget. Bill Young, Director of DEQ, answered the Commission's questions about the status of the proposed budget for the 1981-83 biennium. The staff agreed to send copies of the Governor's budget to the Commission members when it becomes public. The staff was asked to have an analysis of the effect of the loss of federal funds on the 1981-83 budget ready for the December EQC meeting.
3. Future EQC meeting dates. The Commission decided to try scheduling meetings at six-week intervals rather than the customary monthly schedule. They said they would prefer to meet in the Portland area for the balance of the winter months, with the exception of the March meeting which they asked to be held in Salem, if possible.
4. Chairman Joe Richards asked about the status of the Mead and Johnson contested case. Hearing Officer Linda Zucker responded.

5. Metropolitan Wastewater Management Commission. Bill Young informed the Commission members of the status of MWMC's bond sale and that a meeting was scheduled for later this same day to discuss with MWMC and others the details of this sale. The Commission members were invited to attend.
6. Bill Young informed the Commission that the Order in the case of the San Rafael pit (Land Reclamation, Inc., vs. DEQ) is being modified and that it would be available for Commission consent later during the formal meeting.

FORMAL MEETING

Commissioners Richards, Bishop, Burgess, and Somers were present for the formal meeting.

AGENDA ITEM A - MINUTES OF THE OCTOBER 17, 1980, MEETING

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR OCTOBER 1980

AGENDA ITEM C - TAX CREDIT APPLICATIONS

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

Agenda Item A - Minutes approved as presented.

Agenda Item B - The Monthly Activity Report approved as presented.

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

T-1235	Edward Hines Lumber Co.
T-1243	Weyerhaeuser Co.
T-1251	North Santiam Veneer, Inc.
T-1267	McCloskey Varnish Co., NW
T-1270	Willamette Industries, Inc.
T-1277	Evans Products Co.
T-1279	Willamette Industries, Inc.
T-1280	Willamette Industries, Inc.
T-1282	Willamette Industries, Inc.
T-1283	Willamette Industries, Inc.
T-1285	M. Goe & Son, Inc.
T-1286	Willamette Industries, Inc.

Issue Pollution Control Facility Certificate to Tax Credit Application T-1274, Publishers Paper Company for a Venturi-type sulfur dioxide adsorption system installed on the recovery furnace at their paper mill in Newberg. In connection with this same facility, reduce the amount certified on Pollution Control Facility Certificate 181 from \$6,405,622 to \$6,305,622 because portions of the originally certified facility have been taken out of service.

It was MOVED by Commissioner Somers, seconded by Commissioner Bishop, and carried unanimously that the following requests for public hearings be approved (Agenda Items D through G):

AGENDA ITEM D - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC RULE MAKING HEARING REGARDING A GEOGRAPHIC REGIONAL RULE FOR THE LANDS OVERLAYING THE NORTH FLORENCE DUNAL AQUIFER OAR 340-71-030(11).

Director's Recommendation

1. Based upon the Summation, it is recommended that the Commission authorize a public rule making hearing to take testimony on the question of whether to adopt a permanent geographic regional rule for the lands overlaying the North Florence Dunal Aquifer in Lane County, OAR 340-71-030(11).

AGENDA ITEM E - AUTHORIZATION TO HOLD A PUBLIC HEARING TO CONSIDER AMENDMENTS AND ADDITIONS TO STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES, OAR 340-25-505 to -535.

Summation

1. Seventeen new federal standards of Performance for New Stationary Sources and amendments to older standards have been adopted by EPA since the Commission adopted the original twelve such federal standards in 1975.
2. In order for the Department to administer these standards, the Commission must either adopt or declare inapplicable the new federal standards as State Standards and amend the existing ones. In the Department's annual agreement with EPA, we have agreed to do this before July 1, 1981.
3. If the Commission does not proceed toward adoption, dual regulatory responsibilities will develop, with certain new projects being subjected to both State and Federal plan review, emission limits, and enforcement.

Director's Recommendation

It is recommended that the Commission authorize a public hearing to be held to consider the attached amendments and additions to OAR 340-25-505 through -535.

AGENDA ITEM F - REQUEST FOR AUTHORIZATION TO CONDUCT PUBLIC HEARINGS ON AMENDMENTS TO RULES GOVERNING SUBSURFACE SEWAGE DISPOSAL AND NONWATER-CARRIED SEWAGE DISPOSAL FACILITIES SCHEDULE OF CIVIL PENALTIES, OAR 340-12-060

Summation

1. The Commission is required to adopt by rule a schedule of civil penalties for certain violations as outlined in ORS 468.140.
2. The current schedule of civil penalties governing subsurface and nonwater-carried sewage disposal facilities violations has not been amended since 1974. The current schedule does not realistically reflect today's economy nor does it assist the Department in its goal

of protecting the public health by providing a more effective enforcement mechanism.

Director's Recommendation

Based upon the summation, it is recommended that the Commission authorize public hearings to take testimony on the question of amending rules pertaining to the subsurface and nonwater-carried sewage disposal facilities schedule of civil penalties (OAR 340-120-60), and adopting the proposed schedule as a replacement.

AGENDA ITEM G - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON A PROPOSED REVISION TO THE EMISSION LIMITS IN THE STATE IMPLEMENTATION PLAN FOR THE BOILER AT THE WEYERHAEUSER COMPANY PLANT IN BLY, OREGON.

Summation

1. On August 31, 1979 the Commission granted a variance to Weyerhaeuser Company in Bly to operate the boiler in excess of the regulatory emission limit.
2. In order to avoid being subject to EPA enforcement action and non-compliance penalties, the SIP must be modified to include the variance limits and a limit to insure non-degradation of the area air quality.
3. A public hearing is required by EPA as part of the SIP revision process.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission authorize a public hearing on the proposed revisions to the State Implementation Plan to include special emission limits for the boiler at the Weyerhaeuser Company plant in Bly, Oregon.

AGENDA ITEM H - PUBLIC FORUM. No one chose to appear.

AGENDA ITEM N - PROPOSED JOINT MEETING WITH WATER POLICY REVIEW BOARD REGARDING MINIMUM STREAM FLOWS ON THE WILLAMETTE RIVER.

The Commission concurred with the request for a special meeting involving the Environmental Quality Commission; the Water Policy Review Board; Fish and Wildlife; the Governor's office; and the Corps of Engineers. The DEQ staff will arrange for the meeting, which will be held during one of the Commission's regular meetings, if possible.

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

Summation

1. Several alternative landfill sites have been identified and the County has initiated action to acquire the top-rated site. The process is now in the hands of the federal government and beyond the County's control.

2. The lack of suitable area at each of the three open burning sites prevents their conversion to modified landfills. Denial of the variance extension would result in closure of the sites.
3. There is currently no alternative site available, although the Astoria site could be operated as a modified landfill until construction is completed on the new county-wide landfill.
4. Clatsop County, on behalf of its open dump at Elsie and privately operated dumps at Seaside and Cannon Beach, has requested a two-year variance extension.
5. As an alternative, the Commission could require that the applicants cease burning and haul to the Astoria Landfill by not later than November 1, 1981.
6. The Commission recently denied a similar request for a variance extension partly because an interim regional landfill was potentially available.
7. The Department finds that the applicant's request meets the requirements of ORS 459.225(3), by which the Commission may grant a variance, as follows:
 - 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 at this time.

Director's Recommendation

Based on the findings in the Summation, it is recommended that the Commission grant an extension of variances to OAR 340-61-040(2), until November 1, 1981, for the Cannon Beach, Elsie, and Seaside disposal sites, subject to the following condition:

"By not later than June 1, 1981, Clatsop County shall report to the Department the identity of the regional landfill site it has secured including a time schedule to complete final engineering plans and specifications, start construction, and complete construction. In addition, the operators of the above open dumps shall submit a progress report on June 1, 1981, detailing their plans of hauling to the Astoria Landfill as an interim measure as soon as practicable but by no later than November 1, 1981."

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

AGENDA ITEM J - PROPOSED ADOPTION OF NOISE CONTROL REGULATIONS FOR MOTOR SPORTS VEHICLES AND FACILITIES, OAR 340-35-040; AMENDED DEFINITIONS, OAR 340-35-015; AND PROCEDURE MANUAL, NPC5-35

Summation

Drawing from the background and evaluation presented in this report, the following facts and conclusions are offered:

1. Motor vehicle racing noise continues to cause impacts detrimental to the health, safety or welfare of citizens residing near motor sports facilities.
2. The proposed rule has the following significant features:
 - a. Nine major racing vehicle categories, including autos, motorcycles, motorboats and go karts must install and maintain an adequate muffler system and not exceed specific noise emission limits.
 - b. New proposed facilities must define noise impacts so that local land use decisions may have the benefit of such information.
 - c. Practice sessions must be conducted within an approved plan to mitigate noise impacts.
 - d. Curfew limits are established to limit nighttime impacts.
 - e. Monitoring of noise emissions and inspection of mufflers are required by the facility owner or event promotor.
 - f. Fuel burning drag race vehicles (top fuel and funny cars) and facilities with a two mile buffer zone are exempt.
 - g. Exceptions may be allowed under specific conditions with recommendations from a racing advisory committee.
 - h. The effective date would be January 1, 1982, to allow for a phase in period for these requirements.
3. The proposal was developed through the cooperation and efforts of the Motor Sports Conference Inc., an organization of various motor racing interests throughout the State.
4. Opposition to muffler and noise emission requirements was expressed by several groups that believed specific racing facilities should be exempt from any rules due to the large number of competitors or local citizens supporting the facility, or because measures were taken before rule making to partially mitigate noise.
5. Constructive testimony resulted in several amendments to the proposal including the following:
 - a. Motorcycle events are provided with a stationary test procedure similar to that used by various sanctioning bodies.

- b. Emission limits were added for go karts similar to limits for other racing vehicles.
 - c. The exemption for fuel burning vehicles must be reviewed prior to January 31, 1985, to determine whether muffler technology has been developed.
 - d. Facilities controlling noise impacts by the muffler and emission limit requirements may be exempted from curfew, and monitoring and reporting as a means to relax the rule burden to such facilities.
6. Minimal economic impacts would result from this proposal as:
- a. Sound monitoring equipment for this purpose can be as low as \$40.00.
 - b. Muffler inspections and some emission monitoring would be conducted during the normal technical inspection conducted on all racing vehicles.
 - c. Trackside emission monitoring would be conducted on each vehicle during practice or racing and continuous monitoring is not required.
 - d. Cost of mufflers suitable for racing is not excessive.

Director's Recommendation

Based on the Summation, it is recommended that the Commission take action as follows:

- 1. Adopt Attachment A as its final Statement of Need for Rulemaking.
- 2. Adopt Attachment B as a permanent rule. Attachment B includes:
 - a. Proposed Amended Definitions, OAR 340-35-015.
 - b. Proposed Noise Control Regulations for Motor Sports Vehicles and Facilities, OAR 340-35-040.
 - c. Proposed Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, Manual NPC-35.

Jim Dale, National Hotrod Association, appeared and requested additional time to review the latest rule proposals.

Nancy Chapman, Portland Noise Review Board, appeared and spoke in strong support of the amended regulations.

Dale LaFollette, City Bureau of Parks and Manager of Portland International Raceway, appeared and told the Commission that most groups who use the PIR are satisfied with the rules with a few minor exceptions.

Jim Rockstad, International Raceways, Inc., Kent, Washington, appeared and spoke in general support of the rules but expressed some concerns regarding the variance provisions.

Frank Hall, Vice President of the American Hotrod Association, appeared and spoke in general support of the rules.

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

LAND RECLAMATION, INC., vs. DEQ:

Richard Brownstein, counsel representing Land Reclamation, Inc., appeared and expressed several concerns regarding the form of the proposed Order and suggested numerous changes to be made in the proposed format.

Frank Ostrander, Assistant Attorney General, appeared on behalf of DEQ and answered several questions put to him by the Commission.

The Commission indicated it did not wish the Court to decide the case on an issue of an incomplete application on the part of Land Reclamation, Inc.

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess, and carried unanimously that the amended Order be approved.

AGENDA ITEM K - CERTAIN TERRITORY CONTIGUOUS TO CITY OF ALBANY -
CERTIFICATION OF PLANS FOR SEWERAGE SYSTEM AS ADEQUATE TO ALLEVIATE HEALTH
HAZARD, ORS 222.898

Summation

1. On December 1, 1978, the State Health Division issued a health hazard annexation order for the Draperville-Century Drive area northeast of Albany. A certified copy of the order was given to the City of Albany.
2. The City of Albany was directed to submit a preliminary plan and time schedule for abating the health hazard.
3. A preliminary plan was submitted by Albany February 21, 1979. The plan was not adequate and was disapproved by the Commission at the April 27, 1979, meeting.
4. The City was directed to submit a completed Step 1 application by July 1, 1979, and to complete a facility plan report within 6 months of receiving a Step 1 grant.
5. The City of Albany completed a facility plan report and adopted alternative 2B on July 9, 1980. The documents were transmitted to the Department on August 12, 1980.
6. ORS 222.898 requires the Commission to certify to the City its approval if it considers the proposed facilities and time schedule adequate to remove or alleviate the health hazard.

7. The Department staff have reviewed the facility plan and time schedule and consider it approvable. The sanitary sewers proposed will reduce (alleviate) the health hazard within the area to be annexed.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission approve the proposal of the City of Albany and certify said approval to the City.

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

AGENDA ITEM L - PETITION TO AMEND RULES PERTAINING TO SUBSURFACE SEWAGE DISPOSAL, PRIOR APPROVAL PERMITS OR APPROVALS, OAR 340-71-015(8)

Summation

OAR 340-11-047 provides that any person may petition the Commission requesting a rule amendment.

A petition for an amendment to OAR 340-71-015(8) has been received from Mr. Norm Pohll of Lane County.

ORS 454.657 provides that the Commission may grant specific variances from the particular requirements of any rule or standard pertaining to subsurface sewage disposal systems.

Director's Recommendation

Based upon the summation it is recommended that:

1. The Commission deny the petition to amend OAR 340-71-015(8).
2. The Commission affirm a variance application under ORS 454.657 to be the appropriate mechanism for dealing with Mr. Pohll's situation.

A letter from the petitioner was received by the Department just prior to this meeting requesting that the Commission table this request to amend rules so that the matter could be considered at a later date.

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

LUNCH MEETING

AGENDA ITEM O - INFORMATIONAL ITEM: EMISSION REDUCTION CREDITS, BANKING AND TRADING.

Lloyd Kostow, Air Quality Program and Development Planning section, was present to answer any Commission questions on the informational report submitted to them on this subject. Staff was asked to consult with the Attorney General to determine whether a formal opinion is necessary regarding the proposed SIP submittal on new sources, including the portion

on banking and trading. If the staff determines that an opinion is indeed desirable, it should be formally requested.

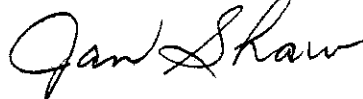
AGENDA ITEM P - INFORMATIONAL ITEM: POLLUTION CONTROL BOND FINANCING--
STATUS REPORT.

After discussion of this item, the Commission concurred that staff should (1) determine whether financing of a study is available in some other form; (2) search for additional funds; (3) request cost-sharing with communities; and (4) proceed with the project to secure proposals, spending not more than \$10,000 for the study.

AGENDA ITEM Q - INFORMATION REPORT: SOLID WASTE TAX CREDITS. Ernie Schmidt, administrator of the Solid Waste Division, reviewed the informational staff report for the Commission and indicated that the staff would be before the Commission at its December meeting to request policy guidance.

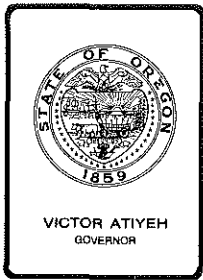
There being no further business, the meeting was adjourned.

Respectfully submitted,



Jan Shaw
Recording Secretary

JS:f
DF161 (2)



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 B, November 21, 1980, EQC Meeting
October, 1980 Program Activity Report

Discussion

Attached is the October, 1980, Program Activity Report.

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 relevant to air contaminant 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 page 2 of this report.

WILLIAM H. YOUNG

M. Downs : ahe
229-6485
11-07-80



Contains
Recycled
Materials

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

October, 1980

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

AQ, WQ, SW Divisions
(Reporting Unit)

October, 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>6</u>	<u>30</u>	<u>4</u>	<u>55</u>	<u>0</u>	<u>0</u>	<u>47</u>
<u>Water</u>							
Municipal	<u>58</u>	<u>188</u>	<u>76</u>	<u>242</u>	<u>0</u>	<u>0</u>	<u>25</u>
Industrial	<u>11</u>	<u>33</u>	<u>10</u>	<u>26</u>	<u>0</u>	<u>0</u>	<u>17</u>
<u>Solid Waste</u>							
General Refuse	<u>3</u>	<u>7</u>	<u>4</u>	<u>8</u>	<u>0</u>	<u>0</u>	<u>5</u>
Demolition	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>
Industrial	<u>2</u>	<u>5</u>	<u>1</u>	<u>5</u>	<u>1</u>	<u>1</u>	<u>6</u>
Sludge	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</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>80</u>	<u>263</u>	<u>98</u>	<u>336</u>	<u>1</u>	<u>1</u>	<u>102</u>

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

October, 1980
(Month and Year)

PLAN ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Lane (NC 1647)	Emerald Forest Products Burley Scrubber	08/22/80	Approved	*
Multnomah (NC 1662)	Cargill Company, Inc. New Conveyor System	09/26/80	Approved	*
Portable (NC 1644)	Morse Brothers Cement Treated Base Plant	10/01/80	Approved	*
Clackamas (NC 1651)	Oregon Portland Cement Lime Scales Yard Paving	10/08/80	Approved	*

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

October, 1980
(Month and Year)

PLAN ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
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MUNICIPAL WASTE SOURCES (76)

Douglas	Hanna Sand Filters Douglas County	10/1/80	P.A.	
Crook	Treatment Lagoon Prineville	10/1/80	P.A.	
Jackson	Jacksonville Extensions Jacksonville	10/1/80	P.A.	
Clackamas	SWR Exten. Lat. 2A-6-2 Oak Lodge S.D.	10/6/80	P.A.	
Lincoln	Collect System PH.2 Lincoln City	10/6/80	P.A.	
Columbia	STP Interim Improvement Scappoose	10/7/80	P.A.	
Deschutes	Sunset PH. #1 Collect. Bend	10/7/80	P.A.	
Douglas	Unit 'D' Press. System Glide	10/7/80	P.A.	
Clackamas	Tele Monitor Pump Station Milwaukie	10/8/80	P.A.	
Coos	Shelly Rd. Estates Coquille	10/8/80	P.A.	
Jackson	Shasta Ave. Sewer Eagle Point	10/9/80	P.A.	
Lane	"T" Street Sewer 1200 Blk. Springfield	10/9/80	P.A.	
Jackson	Century Village Unit 2 Medford	10/9/80	P.A.	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit)	October, 1980 (Month and Year)
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PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES Continued

Jackson	Cleopatra Subdivision Medford	10/9/80	P.A.
Multnomah	N.W. Fairfax Ter. Sewers Portland	10/10/80	P.A.
Multnomah	48th Ave. Henry St.- Bybee St., Portland	10/10/80	P.A.
Clackamas	Charbonneau E. Third Add. Wilsonville	10/10/80	P.A.
Yamhill	Fleishauer Meadows McMinnville	10/10/80	P.A.
Polk	Fir Oaks Estates Ph. 1 Monmouth	10/10/80	P.A.
Lane	Hayden-Lo Sewer Springfield	10/10/80	P.A.
Clackamas	'T' Neighborhood Sewers Wilsonville	10/10/80	P.A.
Clackamas	'Q' Neighborhood Sewers Wilsonville	10/10/80	P.A.
Lane	L.J.H. Park Sewers Springfield	10/10/80	P.A.
Tillamook	Reddekopp Subdivision Sewers, Pacific City Sanitary District	10/13/80	P.A.
Deschutes	Contract No. 34 Bend	10/15/80	P.A.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit)	October, 1980 (Month and Year)
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PLAN ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action
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MUNICIPAL WASTE SOURCES Continued

Deschutes	Contract No. 35 Bend	10/15/80	P.A.
Lane	MWMC East Bank Interceptor Eugene-Springfield	10/15/80	P.A.
Deschutes	Contract No. 33 Collect-Treatment, Bend	10/145/80	P.A.
Yamhill	Fir Ridge Revised Sewers McMinnville	10/15/80	P.A.
Wasco	E. Maupin Water-Sewer S.E. Partition, McMinnville	10/15/80	P.A.
Clackamas	Wood Villa Subdivision Milwaukie	10/15/80	P.A.
Clackamas	Timberlee Dr. L.I.D. 194 Oswego	10/15/80	P.A.
Clackamas	Douglas Circle L.I.D., Winston	10/15/80	P.A.
Douglas	East Side Sewer L.I.D., Winston	10/15/80	P.A.
Clackamas	Olivers Addition No. 9 Canby	10/16/80	P.A.
Tillamook	Wheeler Subdivision Lat. F-2 N.T.C.S.A.	10/16/80	P.A.
Malheur	Elbow Heights Sewers Ontario	10/16/80	P.A.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit)	October, 1980 (Month and Year)
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PLAN ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action
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MUNICIPAL WASTE SOURCES Continued

Klamath	College Ind. Park System Klamath Falls	10/16/80	P.A.
Josephine	Oak Knoll Vil. Sewers Grants Pass	10/16/80	P.A.
Columbia	Strawberry Ridge Sewers Scappoose	10/16/80	P.A.
Marion	Elm St. Sewer Canby	10/16/80	P.A.
Clackamas	Jefferson Parkway Ext. CCSD #1	10/16/80	P.A.
Yamhill	Yamhill River Bridge Dayton	10/16/80	P.A.
Multnomah	Cistina Bush Park Gresham	10/16/80	P.A.
Multnomah	S.E. Lexington St. Sewer Portland	10/16/80	P.A.
Benton	34th Industrial Park Albany	10/17/80	P.A.
Lane	Greenwood St. Sewers Florence	10/17/80	P.A.
Linn	City Sewer Extension Sweet Home	10/17/80	P.A.
Lane	Rock Ridge P.U.D. Eugene	10/17/80	P.A.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit)	October, 1980 (Month and Year)
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PLAN ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
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MUNICIPAL WASTE SOURCES Continued

Douglas	McGuire Hts. No. 1 Douglas County	10/17/80	P.A.	
Benton	Linda St. Extension Corvallis	10/17/80	P.A.	
Jackson	KTVL T.V. Station Medford	10/17/80	P.A.	
Douglas	Broyhill Plaza N.R.S.D.	10/17/80	P.A.	
Marion	Dairy Queen Sewer Canby	10/17/80	P.A.	
Washington	Harney Valley Sewer U.S.A.	10/17/80	P.A.	
Douglas	Doyle St. Sewer Extension Reedsport	10/20/80	P.A.	
Clackamas	Clackamas Industrial L.I.D., CCSD No. 1	10/20/80	P.A.	
Washington	Sorenson Estates U.S.A.	10/20/80	P.A.	
Yamhill	Woodview Village Sewers Newberg	10/20/80	P.A.	
Marion	Jafco Shopping Center Salem	10/20/80	P.A.	
Multnomah	No. Richards St. Sewer Portland	10/21/80	P.A.	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit)	October, 1980 (Month and Year)
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PLAN ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
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MUNICIPAL WASTE SOURCES Continued

Deschutes	The Pines Condo's Sunriver	10/21/80	P.A.	
Multnomah	S.E. 135th Ave. Sewers Oak Lodge S.D.	10/22/80	P.A.	
Douglas	Hall-Shigley Sewers Winston	10/22/80	P.A.	
Washington	Summerfield No. 14 U.S.A.	10/22/80	P.A.	
Lane	MWMC Contract E-16 Eugene-Springfield	10/22/80	P..A.	
Lane	MWMC Contract E-22 Eugene-Springfield	10/22/80	P.A.	
Clackamas	Jennings Retail Center Oak Lodge S.D.	10/23/80	P.A.	
Umatilla	N.W. Spruce St. Sewer Hermiston	10/23/80	P.A.	
Washington	Vanada Park Sewers U.S.A.	10/23/80	P.A.	
Clackamas	Clearview Circle Project CCSD No. 1	10/24/80	P.A.	
Baker	14th St. Sewers Baker	10/26/80	P.A.	
Baker	Walnut St. Sewers Baker	10/27/80	P.A.	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit)	October, 1980 (Month and Year)
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PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES Continued

Baker	Mitchell Ave. Sewers Baker	10/27/80	P.A.	
Baker	Grove St. Sewers Baker	10/27/80	P.A.	
Marion	College System Treatment Facility, St. Paul	10/27/80	P.A.	

P.A. = Preliminary Approval

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

October 1980
(Month and Year)

PLAN ACTIONS COMPLETED

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

INDUSTRIAL WASTE SOURCES 10

Marion	Libby, McNeil, Libby Mud Removal Tank, Salem	10/16/80	Approved
Washington	Oregon Portland Cement Lime Truck Wash Down Lake Oswego	10/15/80	Withdrawn
Multnomah	Reynolds Metals Co. Oil/Water Separator	10/15/80 Troutdale	Approved
Douglas	Hanna Nickel, Mine Runoff Settling Ponds Riddle	10/13/80	Approved
Linn	Neils Peter Jensen Manure Separator and Lagoon	10/13/80	Approved
Benton	Truax Corp., Spill Control Slab, Corvallis	10/13/80	Approved
Tillamook	Tallman Farm Animal Manure Holding Tank Tillamook	10/9/80	Approved
Marion	Daniel Goffin Animal Manure Holding Tank	10/1/80	Approved
Linn	Pete Early Animal Waste Storage Lagoon, Scio	9/30/80	Approved
Lane	Weyerhaeuser Co. No. 2 Paper Machine Spill Drainage System, Springfield	9/25/80	Approved
Morrow	J. R. Simplot Sim-Tag Feedlot Boardman	9/22/80	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division	October 1980
(Reporting Unit)	(Month and Year)

PLAN ACTIONS COMPLETED

* County	* Name of Source/Project	* Date of	* Action	*
*	* /Site and Type of Same	* Action	*	*
*	*	*	*	*
Clackamas	Rossman's Landfill Existing Facility Operational Plan	10/09/80	Approved.	
Tillamook	Reuter Proposed Wood Waste Site	9/30/80	Letter Authorization Denied.	
Clackamas	Lauello L.F. Existing Facility Final Drainage Plan	9/24/80	Approved.	
Klamath	Merrill Transfer Station Proposed Facility Operation and Construction Plan		Approved.	
Clatsop	Lewis & Clark Log Yard Existing Facility Operational Plan Amendment	9/17/80	Conditional Approval.	
Douglas	Slide Creek Transfer Station Proposed Facility Construction Plans	10/14/80	Approved.	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

October, 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	1	3	5	14	11		
Existing	3	9	3	8	16		
Renewals	15	60	6	58	112		
Modifications	<u>0</u>	<u>1</u>	<u>2</u>	<u>17</u>	<u>8</u>		
Total	19	73	16	97	147	1986	2005

Indirect Sources

New	1	8	5*	15	6		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	<u>1</u>	<u>2</u>	<u>0</u>	<u>2</u>	<u>1</u>		
Total	2	10	5	17	7	179	0

* Includes two sources not previously reported.

GRAND TOTALS 21 83 21 114 154 2165 2005

Number of
Pending Permits

Comments

12	To be drafted by Northwest Region
10	To be drafted by Willamette Valley Region
15	To be drafted by southwest Region
6	To be drafted by Central Region
13	To be drafted by Eastern Region
0	To be drafted by Program Planning Division
12	To be drafted by Program Operations
35	Awaiting Public Notice
41	Awaiting the end of 30-day period
144	TOTAL

10 Technical Assistants

17 A-95's

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

October, 1980
(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project	* Date	* Status
* /Site and Type of Same	* Received	* *	* *
* *	* *	* *	* *
Crook	Hudspeth Sawmill Company	09/23/80	Permit Renewal Issued
Deschutes	Central Oregon Pavers	09/23/80	Permit Renewal Issued
Douglas	Cooper's Mill, Inc.	09/23/80	Modified Permit Issued
Douglas	Superior Lumber Company	09/23/80	Permit Renewal Issued
Jackson	White City Wood Products	09/23/80	Initial Permit Issued Existing Source
Klamath	Stukel Rock & Paving Inc.	09/23/80	Initial Permit Issued New Source
Multnomah	Rogers Construction Co.	09/23/80	Permit Renewal Issued
Multnomah	B W Feed Company	09/23/80	Permit Renewal Issued
Multnomah	Ross Island Sand & Gravel	09/23/80	Initial Permit Issued New Source
Portable	J C Compton	09/23/80	Permit Renewal issued
Portable	Rock Process, Inc.	09/23/80	Initial Permit Issued Existing Source
Portable	North Santiam Sand & Gravel	09/23/80	Initial Permit Renewal New Source
Portable	Poe Ashalt Paving, Inc.	09/23/80	Initial Permit Issued New Source
Portable	Grant County Redi-Mix	09/23/80	Initial Permit Issued Existing Source
Multnomah	St. Johns Forest Products	09/25/80	Modified Permit Issued
Linn	American Can Company	10/09/80	Initial Permit Issued New Source

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division	October, 1980
(Reporting Unit)	(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Multnomah	Good Samaritan Hospital Parking Structure 672 Spaces File No. 26-8022	9/26/80	Final Permit Issued	*
Washington	Park 217 for Trammell Crow Company 650 Spaces File No. 34-8023	10/22/80	Final Permit Issued	*
Washington	TV Highway-Walker Rd. to Murray Rd. File No. 34-8024	9/26/80	Final Permit Issued	*
Multnomah	East Marquam Interchange File No. 26-8025	10/22/80	Final Permit Issued*	*
Multnomah	Columbia Edgewater Country Club 300 Spaces File No. 26-8026	10/22/80	Final Permit Issued*	*

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

October, 1980
(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.			
Note: (1)							
<u>Municipal</u>							
New	0 /1	1 /2	0 /1	0 /1	2 /5		
Existing	0 /0	0 /0	0 /0	0 /0	3 /0		
Renewals	0 /2	8 /7	5 /1	15 /3	28 /10		
Modifications	0 /1	3 /1	2 /2	2 /2	6 /0		
Total	0 /4	12 /10	7 /4	17 /6	39 /15	260/90	265/95
<u>Industrial</u>							
New	1 /0	2 /3	0 /3	3 /6	7 /8		
Existing	0 /1	0 /1	0 /0	1 /0	1 /2		
Renewals	3* /0	20 /17	5 /1	32 /3	72 /31		
Modifications	0 /0	4 /2	1 /1	3 /1	3 /1**		
Total	4 /1	26 /23	6 /5	39 /10	83 /42	362/154	370/164
* One added from Modification ** Dropped Bend Plating							
<u>Agricultural (Hatcheries, Dairies, etc.)</u>							
New	0 /0	0 /0	0 /0	1 /0	1 /0		
Existing	0 /0	0 /0	0 /0	0 /0	0 /0		
Renewals	0 /0	1 /0	0 /0	25 /0	9 /0		
Modifications	0 /0	0 /0	0 /0	0 /0	0 /0		
Total	0 /0	1 /0	0 /0	26 /0	10 /0	53 /20	54 /20
<u>GRAND TOTALS</u>	4 /5	39 /33	13 /9	82 /16	132 /57	675 /264	289 /279

(1) Column figures adjusted to count on Report

* NPDES Permits

** State Permits

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality division (Reporting Unit)	October 1980 (Month and Year)
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PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	* *
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Municipal and Industrial Sources NPDES Permits (10)

Wallowa	Boise Cascade Corp. Joseph	10/10/80	Permit Renewed	
Lane	Inn Investors Inc. Country Squire--Eugene	10/10/80	" "	
Clackamas	West Lynn Corporation Century Meadows Subdivision	10/10/80	" "	
Klamath	Klamath Co. School District Henley High School--K.F.	10/10/80	" "	
Linn	Millersburg School Greater Albany School District 8	10/10/80	" "	
Douglas	Hanna Nickel Smelting Co. Riddle	10/15/80	" "	
Clatsop	Astoria Plywood Corp.	10/27/80	" "	
Tillamook	USAF Sta.--Mt. Hebo	10/27/80	" "	
Yamhill	Gray & Company--Dundee 9th	10/27/80	" "	
Yamhill	Gray & Company--Dundee 99 W	10/27/80	" "	

Municipal and Industrial Sources State Permits (6)

Josephine	CMAE--Viking Cave Junction	10/10/80	Permit Issued	
Baker	City of Haines	10/10/80	" "	
Josephine	Mike Wells-Bosswell Mine Co.	10/22/80	" "	
Josephine	Gold Bar Mine (George & Eva Murphy)	10/22/80	" "	
Josephine	F. M. Allen (Smith Placer Mine)	10/22/80	Permit Renewed	
Jefferson	City of Metolius	10/22/80	Permit Renewed	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality division (Reporting Unit)	October 1980 (Month and Year)
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PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action
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Municipal and Industrial Sources Permit Modifications (6)

Douglas	International Paper Co. Add. #2 Gardiner	10/8/80	Permit Modification
Tillamook	N. Tillamook Co. S.A. Add. #1	10/10/80	" "
Coos	Conrad Wood Preserving Co. Add. #1	10/10/80	" "
Lane	Lynnbrook Add. #1--Eugene	10/15/80	" "
Deschutes	Brooks Resources Add. #1--Bend	10/22/80	" "
Washington	Ramada Inns, Inc. Add. #1--Tualatin	10/22/80	" "

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

October 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
	Month	FY	Month	FY			
<u>General Refuse</u>							
New	0	3	-	1	3		
Existing	-	-	-	-	2		
Renewals	6	29	4	17	25		
Modifications	1	2	7	8	1		
Total	7	34	11	26	31	164	166
<u>Demolition</u>							
New	2	2	2	3	-		
Existing	-	1	-	-	1		
Renewals	-	2	-	3	2		
Modifications	-	2	-	2	-		
Total	2	7	2	8	3	20	21
<u>Industrial</u>							
New	-	7	1	5	5		
Existing	-	1	-	-	-		
Renewals	1	12	2	10	21		
Modifications	-	-	-	1	-		
Total	1	20	3	16	26	101	101
<u>Sludge Disposal</u>							
New	-	3	-	3	-		
Existing	-	-	-	1	-		
Renewals	-	2	1	1	1		
Modifications	-	-	-	-	-		
Total	0	5	1	5	1	14	15
<u>Hazardous Waste</u>							
New	26	106	10	89	17		
Authorizations	-	-	-	-	-		
Renewals	-	-	-	-	-		
Modifications	-	-	-	-	-		
Total	26	106	10	89	17	1	1
<u>GRAND TOTALS</u>	36	172	27	144	78	300	304

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division	October 1980
(Reporting Unit)	(Month and Year)

PERMIT ACTIONS COMPLETED

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

Domestic Refuse Facilities (11)

Lake	Paisley Existing Facility	10-07-80	Permit Amended
Lake	Plush Existing Facility	10-07-80	Permit Amended
Lake	Adel Existing Facility	10-07-80	Permit Amended
Lake	Christmas Valley Existing Facility	10-07-80	Permit Amended
Lake	Fort Rock Existing Facility	10-07-80	Permit Amended
Lake	Summer Lake Existing Facility	10-07-80	Permit Amended
Lake	Silver Lake Existing Facility	10-07-80	Permit Amended
Douglas	Glide Transfer Station Existing Facility	10-30-80	Permit Issued
Douglas	Myrtle Creek Transfer Station Existing Facility	10-30-80	Permit Issued
Douglas	Oakland Transfer Station Existing Facility	10-30-80	Permit Issued
Douglas	Slide Creek Transfer Station New Facility	10-30-80	Permit Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<u>Solid Waste Division</u>	<u>October 1980</u>
(Reporting Unit)	(Month and Year)

PERMIT ACTIONS COMPLETED

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

Demolition Waste Facilities (2)

Jackson	Woodruff Meadows New Facility	10-08-80	Letter Authorization Issued
Jackson	Ford Hollars New Facility	10-09-80	Letter Authorization Issued

Industrial Waste Facilities (3)

Tillamook	Ted Reuter Proposed Facility	9-30-80	Letter Authorization Denied
Douglas	Roseburg Lumber-Dixonville Existing Facility	10-30-80	Permit Issued
Coos	Mettman Ridge Existing Facility	10-30-80	Permit Issued

Sludge Disposal Facilities (1)

Linn	Sweethome Sanitation Existing Facility	10-30-80	Permit Issued
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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

October 1980
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-NUCLEAR SYSTEMS, GILLIAM CO.

WASTE DESCRIPTION

* Date *	Type	Source	Quantity Present	Quantity Future
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DISPOSAL REQUESTS GRANTED (10)

OREGON (6)

10/06	Solvent based paint sludge	Forest Product	94 drums	188 drums/year
10/13	Paint sludge; trichlorethylene sludge	Heavy equipment manufacturer	1 drum	75 drums/year
10/13	Corrosive asphalt flux	Oil company	22 drums	50 drums/year
10/13	Outdated red zinc chromate paint primer	Railroad Co.	140 drums	0
10/13	Paint sludge/ trichloroethylene sludges	Mining equipment manufacturer		2,200 gal/year
10/13	Toluene diisocyanate wood adhesive	Rail cars manufacturer	585 gals.	0

WASHINGTON (3)

10/06	Crude oil storage tank sediments	Oil refinery	650 drums	0
10/13	Pentachlorophenol sludge	Wood treatment	640 ft ³	20,000 lb/year
10-23	Lead ink sludge	Ink formulator		35 drums/year

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-NUCLEAR SYSTEMS, GILLIAM CO.

WASTE DESCRIPTION

* *		* *	* *	* *	<u>Quantity</u>		* *
* Date *	Type	* Source *	* Present *	* Future *			

OTHER STATE (1)

10/06	Old metal paint primer	Sanitation products manufacturer	23 drums	0			
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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program
(Reporting Unit)

October 1980
(Month and Year)

SUMMARY OF NOISE CONTROL ACTIONS

<u>Source Category</u>	<u>New Actions Initiated</u>		<u>Final Actions Completed</u>		<u>Actions Pending</u>	
	Mo.	FY	Mo.	FY	Mo.	Last Mo.
Industrial/ Commercial	3	9	9	14	63	70
Airports						

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program
(Reporting Unit)

October 1980
(Month and Year)

FINAL NOISE CONTROL ACTIONS COMPLETED

* County	* Name of Source and Location	* Date	* Action
*	*	*	*
Clackamas	Gor-Del Investment Co. Lake Oswego	9/80	In Compliance
	Clackamas High School Milwaukie	9/80	In Compliance
	Crown Zellerbach Estacada	9/80	In Compliance
	Olaf M. Oja Mill Sandy	9/80	Exception Granted
Multnomah	Port of Portland, T-4 Portland	9/80	In Compliance
	West Oregon Wood Products Portland	10/80	Exception Granted
Washington	Stearns Rock Crushing Sherwood	9/80	Exception Granted
Lincoln	Sea View Forest Products Waldport	9/80	In Compliance
Lane	Superior Tire Eugene	10/80	In Compliance

CIVIL PENALTY ASSESSMENTS

Department of Environmental Quality
1980

CIVIL PENALTIES ASSESSED DURING MONTH OF OCTOBER, 1980:

<u>Name and Location of Violation</u>	<u>Case No. & Type of Violation</u>	<u>Date Issued</u>	<u>Amount</u>
Elton Logsdon Benton County	AQ-WVR-80-164 Open field burning (30 acres) after hours and failed to monitor broadcasts.	10/14/80	\$ 950
Clyde Montgomery Linn County	AQ-WVR-80-166 Open burned unauthorized field.	10/14/80	500
United Sewage Agency Washington County	WQ-NWR-80-159 Discharged sludge into public waters.	10/14/80	500
Oregon Portland Cement Clackamas County	AQ-NWR-80-169 Fugitive emissions from truck loading facility	10/14/80	1,000
Synder Roofing & Sheet Metal, Inc. Washington County	WQ-NWR-80-168 Dumped waste oil into storm drain which entered public waters.	10/14/80	300
Bravado Construction, Inc. Lane County	SS-WVR-80-151 Installed two subsurface sewage systems without permits and without being licensed.	10/14/80	500
Tom Daily Benton County	AQ-WVR-80-162 Open field burned a 4 acre wheat field without a permit.	10/16/80	660
Victor Brown Yamhill County	AQ-WVR-80-163 Open field burning (60 acres) after hours.	10/22/80	1,800

<u>Name and Location of Violation</u>	<u>Case No. & Type of Violation</u>	<u>Date Issued</u>	<u>Amount</u>
James Basl Marion County	AQ-WVR-80-176 Open field burning (50 acres) during prohibition conditions and without the required registration and permit.	10/30/80	2,000
Gary Eastwood Multnomah County	AQ-NWR-80-174 Open burning of copper wire insulation.	10/30/80	300
Arthur Puller dBA/ Foley Lakes Mobile Home Park Wasco County	WQ-CR-80-189 Discharged sewage into public waters (32 days of violation)	10/30/80	1,600
Main Rock Products, Inc. Coos County	WQ-SWR-80-190 Excessive discharge of turbid wastewaters to public waters on 2 days and failure to submit discharge monitoring reports during a 12-month period.	10/31/80	1,600

STATUS OF PAST CIVIL PENALTY ACTIONS TAKEN IN 1980:

<u>Name</u>	<u>Case No.</u>	<u>Date Issued</u>	<u>Amount</u>	<u>Status</u>
Scheler Corporation	AQ-WVR-80-15	01/22/80	\$ 500	Mitigated to \$100 on 5/16/80; Paid.
Lauren Karstens	AQ-WVR-80-03	01/22/80	1,500	Mitigated to \$250 on 6/20/80; Paid.
David Taylor	AQ-WVR-80-04	01/22/80	860	Mitigated to \$100 on 6/20/80; Paid.
Dennis Glaser dba/ Mid Valley Farms, Inc.	AQ-WVR-80-13	01/22/80	2,200	Contested 2/7/80 Hearing held 6/19/80. Decision due.
City of St. Helens	WQ-NWR-80-02	01/22/80	2,000	Paid 2/12/80.
American-Strevell, Inc.	WQ-NWR-80-05	01/22/80	500	Remitted 4/18/80.
Mid-Oregon Crushing Co.	AQ-CR-80-16	02/11/80	600	Default judgment filed.

<u>Name</u>	<u>Case No.</u>	<u>Date Issued</u>	<u>Amount</u>	<u>Status</u>
James Judd dba/ Jim Judd Backhoe Service	SS-SWR-80-18	02/11/80	100	Mitigated to \$50 on 5/16/80. Paid.
Robert W. Harper	AQ-WVR-80-14	02/11/80	500	Mitigated to \$100 on 8/15/80. Paid.
George Heidgenkin	WQ-WVR-80-21	02/19/80	1,000	Default judgment filed.
Westbrook Wood Products	AQ-SWR-80-25	02/20/80	3,125	Remitted on 7/18/80.
Hilton Fuel Supply Co.	AQ-SWR-80-30	02/25/80	200	Mitigated to \$100 on 6/20/80; Paid.
Permapost Products Co.	WQ-NWR-80-33	03/07/80	500	Paid 3/11/80.
Tom C. Alford et. al. dba/Athena Cattle Feeders	WQ-ER-80-35	03/20/80	500	Paid 5/8/80.
Gary Kronberger/dba Hindman's Septic Tank Service	SS-WVR-80-36	03/20/80	50	Paid 4/9/80.
Adrian Van Dyk,	SS-WVR-80-27	03/20/80	500	Remitted on 10/17/80
David B. Reynolds,	SS-SWR-80-11	03/20/80	500	Settlement negotiations.
J. R. Simplot Co.,	WQ-ER-79-27	03/24/80	20,000	Contested 4/15/80.
Burlington Northern,	AQ-CR-80-44	03/27/80	\$ 200	Paid 4/10/80.
Elton Disher dba Riverview Service Corp.	WQ-WVR-80-39	04/04/80	100	Paid 4/9/80.
International Paper Co.	WQ-SWR-80-47	04/04/80	1,200	Paid 5/5/80.
Russell Stoppeworth	SS-SWR-80-43	04/10/80	325	Default judgment filed.
C-3 Builders	AQ-NWR-80-57	04/23/80	50	Paid 5/22/80.
Marion-Linn Construction Co.	SS-WVR-80-70	05/02/80	50	Paid 6/14/80.
City of Portland	AQ-NWR-80-76	05/06/80	7,500	Mitigated to \$450 on 7/18/80. Paid.
E. Lee Robinson Construction Co.	AQ-NWR-80-75	05/19/80	100	Paid 6/2/80.

<u>Name</u>	<u>Case No.</u>	<u>Date Issued</u>	<u>Amount</u>	<u>Status</u>
Gate City Steel Corporation	AQ-NWR-80-77	05/20/80	50	Paid 6/4/80.
Ronald E. Borello	SS-ER-80-40	05/21/80	400	Mitigated to \$50 on 10/17/80. Paid.
Humphrey Construction	AQ-NWR-80-94	06/06/80	50	Paid 6/17/80.
Valley Landfills, Inc.	SW-WVR-80-96	06/09/80	100	Paid 6/19/80.
James Kenny dba Kenny Excavation	SS-CR-80-97	06/06/80	100	Paid 7/23/80.
Cascade Utilities, Inc.	AQ-SW-NWR-80-98	06/06/80	400	Paid 6/4/80
Albert M. Mauck dba Goodman Sanitation Service	SS-NWR-80-110	06/23/80	300	Paid 6/27/80
Teledyne Wah Chang	WQ-WVR-80-89	06/23/80	400	Paid 7/3/80
Farmers Union Central Exchange, Inc/dba Cenex	WQ/HW-NWR-80-115	7/3/80	1,000	Paid 7/23/80.
R.L.G. Enterprises, Inc.	WQ-NWR-80-114	7/3/80	150	Contested 8/7/80.
Harris Hansen	SS-NWR-80-99	7/3/80	165	Default judgment filed.
Russell Stopplesworth	SS-SWR-80-122	7/9/80	1,680	Default judgment filed. Appeal to Court of Appeals.
Ray Anderson	SS-NWR-80-126	7/18/80	280	Case withdrawn 8/21/80.
Steve Kondrasky	AQ-NWR-80-120	7/18/80	500	Contested 8/6/80. Settlement negotiations.
Donald Pierce	SS-NWR-80-124	7/29/80	460	Defaulted.
Margaret Johnson	SS-CR-80-132	8/27/80	250	Defaulted.
Cedarwood Timber Co.	AQ-NWR-80-164	9/4/80	350	Default judgment filed.
E. W. Williamson	SS-CR-80-156	9/30/80	400	Paid 10/21/80.

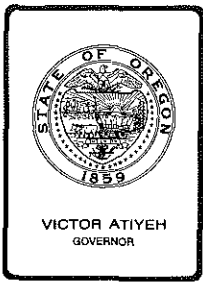
<u>ACTIONS</u>	<u>LAST MONTH</u>	<u>CURRENT MONTH</u>
Preliminary Issues	4	4
Discovery	0	0
Settlement Action	5	1
Hearing to be Scheduled	0	1
Hearing Scheduled	2	1
Hearing Officer's Decision Due	3	2
Brief	1	2
Inactive	2	4
SUBTOTAL of Files Requiring Hearing Section Action	17	15
HO's Decision Out/Option for EQC Appeal . .	1	1
Appealed to EQC	0	1
EQC Appeal Complete/Option for Court Review.	0	0
Court Review Option Pending/Taken	1	1
Case Closed	4	4
TOTAL Cases	23	22

KEY to Log

ACDP	Air Contaminant Discharge Permit
AQ	Air Quality Division
15-AQ-NWR-76-178	15th Hearing Section case in 1976 involving Air Quality Division violation in Northwest Region jurisdiction in 1976; 178th enforcement action in Northwest Region in 1976.
CLR	Chris Reive, Enforcement Section
\$	Amount of Civil Penalty assessed
ER	Eastern Region
Fld Brng	Field Burning incident
RLH	Robb Haskins, Assistant Attorney General
Hrnng	Hearings Section
Hrng Rfrll	Date when Enforcement Section requests Hearings Section to schedule a hearing
Hrng Rqst	Date agency receives Request for Hearing
JHR	John Rowan, Enforcement Section
VAK	Van Kollias, Enforcement Section
LMS	Larry Schurr, Enforcement Section
MWR	Midwest Region (now Willamette Valley Region/WVR)
NP	Noise Pollution
NPDES	National Pollutant Discharge Elimination System wastewater discharge permit
NWR	Northwest Region
FWO	Frank Ostrander, Assistant Attorney General
P	Litigation over permit or its conditions
PR	Portland Region (now Northwest Region/NWR)
Prtys	All parties involved
Rem Order	Remedial Action Order
Resp. Code	Source of next expected activity on case
SSD	Subsurface Sewage Disposal
SW	Solid Waste Division
SWR	Southwest Region
T	Litigation over tax credit matter
<u>Underlined</u>	Different status or new case since last month's contested case log
WVR	Willamette Valley Region
WQ	Water Quality Division

October 1980
DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rgst	Hrng Rfrl	DEQ Atty	Hrng Date	Resp Code	Case Type & No.	Case Status
FAYDREX, INC.	05/75	05/75	RLH	11/77	Resp	03-SS-SWR-75-02 64 SSD Permits	Decision issued 10/27/80
MEAD and JOHNS, et al	05/75	05/75	RLH		All	04-SS-SWR-75-03 3 SSD Permits	Awaiting disposition of Faydrex
POWELL, Ronald	11/77	11/77	RLH	01/23/80	Hrngs	\$10,000 Fld Brn 12-AQ-MWR-77-241	Decision due
HAWKINS-TIMBER	03/78	03/78	FWO			\$5,000-15-AQ-PR-77-314	Department-withdrew assessment-10/15/80
WAH CHANG	04/78	04/78	RLH		Resp	16-P-WQ-WVR-78-2849-J NPDES Permit (Modification)	Hearing postponed pending further evaluation of permit conditions
WAH CHANG	04/78	04/78	RLH		Resp	08-P-WQ-WVR-78-2012-J	Hearing postponed pending further evaluation of permit conditions
MALLORY & MALLORY INC.	11/79	11/79	JHR	01/10/80	Resp	14-AQ-CR-79-101 Open Burning Civil Penalty	Respondent's Exceptions due 11/17/80
M/V TOYOTA MARU No. 10	12/10/79	12/12/79	RLH		Prtys	17-WQ-NWR-79-127 Oil Spill Civil Penalty of \$5,000	Action deferred pending Supreme Court decision in <i>State v. Alexander</i> , 44 Or App 557 (1978)
LAND RECLAMATION, INC., et al	12/12/79	12/14/79	FWO	05/16/80	Resp	19-P-SW-329-NWR-79 Permit Denial	Court of Appeals review option taken
FORRETTE, Gary	12/20/79	12/21/79	RLH	10/21/80	Dept	20-SS-NWR-79-146 Permit Revocation	Post-hearing briefing due
GLASER, Dennis F. dba MID-VALLEY	02/06/80	02/07/80	CLR	06/19/80	Hrngs	02-AQ-WVR-80-13 Open Field Burning Civil Penalty of \$2,000	Decision due
MEDFORD CORPORATION	02/25/80	02/29/80		05/16/80	Dept	07-AQ-SWR-80 Request for Declaration Ruling	Further briefing
REYNOLDS, David B.	04/11/80	04/14/80	CLR	08/19/80	Prtys	11-SS-SWR-80-11 Civil Penalty of \$500	Stipulation to be drafted
J.R. SIMPLOT COMPANY	04/15/80	04/16/80			Prtys	12-WQ-ER-80-41 Civil Penalty of \$20,000	Preliminary issues
VAN-DYK, Adrian G.	04/20/80	04/25/80	CLR	09/04/80	Prtys	13-SS-SWR-80-92 Civil Penalty of \$500	Case-closed-10/17/80- Civil Penalty-mitigated to-\$0-
JONES, Jeffery D.,	06/03/80	06/06/80	CLR		Resp	17-SS-NWR-80-85 and 17-SS-NWR-80-86 SS Permit Revocations	Preliminary Issues
BORRILL, Ronald E.	06/03/80	06/11/80	EMS		Prtys	19-SS-ER-80-40 and 19-SS-ER-80-82- Civil Penalty of \$400	Case-closed-10/17/80- Civil Penalty-mitigated to-\$50
R.L.G. ENTERPRISES, INC., dba THE MOORAGE PLACE	08/06/80	08/08/80	CLR	11/10/80	Prtys	20-WQ-NWR-80-114 Civil Penalty of \$150	Hearing scheduled in Portland at 9:00 a.m.
KONDRASKY, Steven C.	08/04/80	08/06/80	CLR		Hrngs	22-AQ-NWR-80-120 Civil Penalty of \$500	To be scheduled
JOHN, Ralph B.	09/19/80	09/23/80	CLR		Prtys	23-SS-SWR-80-45 Remedial action	Case-closed-10/23/80- Department-withdrew Remedial-Action-Order-
COKE, Benoni	10/27/80	10/28/80	RLH	12/17/80	Prtys	24-SS-SWR-80-173 Permit revocation	Hearing scheduled in North Bend at 9:00 a.m.
STOPPLEWORTH, Russell B.	10/27/80	11/03/80	CLR		Prtys	25-SS-SWR-80-170 Civil penalty of \$400	Preliminary issues



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, November 21, 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:

Appl. No.	Applicant	Facility
T-1235	Edward Hines Lumber Co.	Baghouse
T-1243	Weyerhaeuser Co.	Bag filter & asso. equip.
T-1251	North Santiam Veneer, Inc.	Log vats, boiler, heat exchanger, sumps, pumps, piping & debris removal equipment
T-1267	McCloskey Varnish Co., NW	Flue furnace & afterburner system with demister
T-1270	Willamette Industries, Inc.	Rader Sand-Air filter
T-1277	Evans Products Co.	Cooling water recirculation system
T-1279	Willamette Industries, Inc.	Sand-Air filter
T-1280	Willamette Industries, Inc.	Storage bin
T-1282	Willamette Industries, Inc.	Baghouse
T-1283	Willamette Industries, Inc.	Enclosures for raw materials conveyors
T-1285	M. Goe & Son, Inc.	Wind machine
T-1286	Willamette Industries, Inc.	Baghouse

2. Issue Pollution Control Facility Certificate to Tax Credit Application T-1274, Publishers Paper Company for a Venturi-type sulfur dioxide adsorption system installed on the recovery furnace at their paper mill in Newberg. In connection with this same facility, reduce the amount certified on Pollution Control Facility Certificate 181 from \$6,405,622 to \$6,305,622 because portions of the originally certified facility have been taken out of service.

WILLIAM H. YOUNG



Contains
Recycled
Materials

DEQ-46

CASplettstaszer
229-6484
11/5/80

PROPOSED NOVEMBER 1980 TOTALS

Air Quality	\$ 2,507,624
Water Quality	59,869
Solid Waste	-0-
Noise	-0-
	<hr/>
	\$ 2,567,493

CALENDAR YEAR TOTALS TO DATE

Air Quality	\$11,638,819
Water Quality	10,605,943
Solid Waste	12,228,659
Noise	75,152
	<hr/>
	\$34,548,573

Appl T-1235
Date 9/15/80

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Edward Hines Lumber Co.
Ponderosa Pine Division
P.O. Box 557
Hines, OR 97738

The applicant owns and operates a sawmill and planing mill at Hines, Oregon.

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

2. Description of Claimed Facility

The facility described in this application consists of a baghouse on an abrasive sander facility.

Request for Preliminary Certification for Tax Credit was made on 10/24/78, and approved on 11/13/78.

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

Facility Cost: \$173,648 (Accountant's Certification was provided).

3. Evaluation of Application

Installation of the baghouse has resulted in capturing approximately 2600 lbs. per day of wood dust. The baghouse was required by the Department of Environmental Quality to meet regulations pertaining to the new sander facility. The installation has been inspected by the Department and has been found to be meeting all applicable requirements. The wood dust collected is utilized by injection into hog fuel boilers. Annual operating expenses substantially exceed any benefit derived from utilization of the wood dust; therefore, 80 percent or more of the cost is allocable to pollution control.

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. 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 \$173,648 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1235.

F.A. Skirvin:kmm
(503) 229-6414
September 22, 1980
AQ430

Appl T-1243
Date 9/30/80

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Weyerhaeuser Co.
Willamette Region
Tacoma, WA 98401

The applicant owns and operates a particleboard plant at Springfield, 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 an Aero-Vac bag filter (Model # INV 48-12) and associated equipment.

Request for Preliminary Certification for Tax Credit was made on 7/22/77, and approved on 9/19/77.

Construction was initiated on the claimed facility on 10/10/77, completed on 11/2/77, and the facility was placed into operation on 11/2/77.

Facility Cost: \$51,834 (Accountant's Certification was provided).

3. Evaluation of Application

Weyerhaeuser Co. has installed a baghouse to control emissions from cyclone PB-1 at the particleboard plant. Installation of this baghouse has reduced emissions and the particleboard plant now complies with the mass emission limit. 80% or more of the cost of this facility is allocable to pollution control.

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 Lane Regional Air Pollution Authority 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 80% 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 \$51,834 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1243.

F. A. Skirvin:kmm

(503) 229-6414

October 3, 1980

AQ460

Appl T-1251
Date 9/11/80

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

North Santiam Veneer, Inc.
P.O. Box 377
Mill City, OR 97360

The applicant owns and operates a veneer plant (Green Veneer, Inc.) at Idanha and a plywood plant (North Santiam Plywood Co.) at Mill City.

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 log vats, boiler, heat exchanger, sumps, pumps, piping and debris removal equipment.

Request for Preliminary Certification for Tax Credit was made on 3/23/79, and approved on 7/13/79.

Construction was initiated on the claimed facility on 7/20/79, completed on 1/14/80, and the facility was placed into operation on 1/14/80.

Facility Cost: \$445,141.91 (Accountant's Certification was provided).

3. Evaluation of Application

The Water Quality Division has granted a tax credit certificate (\$123,679) for the cost of the water pollution control portion of this project. This amount should be subtracted from the total project cost of \$568,820.91. This leaves \$445,141.91 to be considered for tax credit in this application.

This project is a series of log heating vats. The heating of logs by steam or hot water has several benefits to the production of plywood. The quality of all types of veneer is improved, veneer production is increased, less heat is required to dry the veneer and of special importance in this instance, allows the otherwise difficult peeling of hemlock and white fir. Log vats are in use in many plywood plants because of these benefits.

The log vats were installed in the Green Veneer, Inc., plant in Idanha. The veneer is dried and made into plywood at the North Santiam Plywood Co. in Mill City. The emission reductions resulting from the steam vats in Idanha would be realized at the veneer dryers in Mill City.

North Santiam Plywood Co. operates 3 veneer dryers in Mill City. Dryers #1 and #2 are controlled by scrubbers. Dryer #3 can comply with the emissions limits without a scrubber if it dries only hemlock or white fir. These species emit significantly lower amounts of hydrocarbons than the Douglas fir veneer processed in Dryers #1 and #2.

The air quality benefits from this project are the increased use of the low emitting hemlock and white fir veneer. The company estimates approximately 45% of the logs processed through the vats will be hemlock and white fir. This will enable Dryer #3 to process only hemlock and white fir and to comply with Department opacity limits.

The economic benefits to the company from the log vat installation are the ability to use the more readily available and lower cost hemlock and white fir logs, increased veneer quality and lower dryer heating costs. These benefits alone have proved adequate for other facilities to justify the cost of installation of log vats.

The scrubbers designed by plant personnel and installed on Dryers #1 and #2 have enabled these dryers to meet the opacity limits when drying Douglas fir, a high emission rate species. The applicant considered installation of a scrubber which cost \$220,000, however, no details were submitted. The applicant has indicated that 50% of the total project cost is allocable to pollution control. The Department granted preliminary certification for a maximum of 50%. The scrubber installed on dryer #2 has been recommended for tax credit certification (T-1230). This scrubber has demonstrated an ability to comply with the veneer dryer opacity limit. The cost of this scrubber was approximately \$60,000. ORS 468.190(1)(c) requires the Commission to consider the alternatives to achieve the same objective. Since the existing scrubber can comply with the emission limits, it is considered a viable alternative. The \$60,000 cost is approximately 14% of the total project cost. Therefore a certificate for less than 20% of the total cost should be issued.

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. The portion of the facility cost that is properly allocable to pollution control is less than 20%.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$445,141.91 with less than 20% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1251.

FASkirvin:cm
AC413(2)
(503) 229-6414
9/18/80

Appl T-1267
Date 9/22/80

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

McCloskey Varnish Company NW
4155 NW Yeon Ave.
Portland, Oregon 97210

The applicant owns and operates a resin manufacturing plant at Portland, Oregon.

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

2. Description of Claimed Facility

The facility described in this application is a flue furnace and afterburner system with demister.

Request for Preliminary Certification for Tax Credit was made on December 13, 1979, and approved on January 22, 1980.

Construction was initiated on the claimed facility on January 22, 1980, completed on Mar. 31, 1980, and the facility was placed into operation on April 1, 1980.

Facility Cost: \$13,072.63 (Invoices documenting the cost of the facility were provided.)

3. Evaluation of Application

The flue furnace and afterburner system was installed as a consequence of public odor complaints and a notice of violation issued by the Department on July 26, 1978. The system was designed to incinerate odorous organic compounds generated by a polyester resin reactor.

Subsequent to April 1, 1980, the date the system was placed into operation, a demister was added. This demister was required to reduce the moisture content as excess moisture prevented thorough incineration of the odorous organic compounds.

The system has been inspected by Department personnel. At the time of the inspection, it was being operated at insufficient temperature (1000° F), and the company was reinstructed to operate the system at 1400° F or greater in accordance with conditions imposed as part of the approval of construction. It also was apparently being shut off prior to incineration of all emissions from the batch process, so

that unburned odorous gases were released when the equipment was restarted. The company has stated that their operating practice will be changed to correct this problem. Since this contact with McCloskey Varnish there have been no further odor complaints. There is no recovery of materials or other economic benefit to the company from the system and it serves no purpose other than air pollution control; therefore, 80 or more percent of the cost of the facility is allocable to air pollution control.

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. 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 \$13,072.63 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1267.

F.A. Skirvin:kmm
(503) 229-6414
September 22, 1980
AQ426

Appl T-1270
Date 10/8/80

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Willamette Industries, Inc.
Sweet Home Division
3800 First National Bank Tower
Portland, OR 97201

The applicant owns and operates a plywood plant at Sweet Home.

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 a Rader Sand-Air Filter and associated ductwork and controls.

Request for Preliminary Certification for Tax Credit was made on December 18, 1978, and approved on January 24, 1979.

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

Facility Cost: \$233,535.15 (Accountant's Certification was provided).

3. Evaluation of Application

The company has installed equipment to meet the Department's veneer dryer emission limits. The three dryers are now in compliance with all emission limits. The primary purpose is air pollution control and 80 percent or more of the cost should be allocated to pollution control.

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. 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 \$233,535.15 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1270.

F.A.SKIRVIN:f
(503) 229-6414
October 10, 1980
AF115

Appl T-1277
Date 10/3/80

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Evans Products Company
Fiber Products Group
1115 S.E. Crystal Lake Drive
Corvallis, OR 97330

The applicant owns and operates a plant which manufactures plastic battery separators at Corvallis.

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 cooling water recirculation system consisting of:

1. A Baltimore Aircoil Cooling Tower
2. Water Recirculation Pumps
3. A Sand Bed Filtering System, and
4. A Conditioning Chemical Treatment System

Request for Preliminary Certification for Tax Credit was made May 15, 1979, and approved July 16, 1979. Construction was initiated on the claimed facility June 27, 1979, completed August 10, 1979, and the facility was placed into operation August 15, 1979.

Facility Cost: \$59,869 (Accountant's Certification was provided).

3. Evaluation of Application

The old cooling water recirculation system relied on a summer discharge to the Willamette River of 80°F water at a rate of 400 gallons per minute. This was necessary to keep the recirculated water temperature from a holding pond low enough for plant cooling purposes. The new water recirculation system was required by the Department to eliminate the discharge to the river. The recently installed system has been inspected by the Department to confirm the elimination of the cooling water discharge.

Applicant claims that 100 percent of the cost of the claimed facility is properly allocable to pollution control.

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 80% 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 \$59,869 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1277.

Charles K. Ashbaker:l
(503) 229-5325
October 3, 1980
WL347 (1)

Appl T-1279
Date 10/09/80

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Willamette Industries Incorporated
Foster Division
3800 First National Bank Tower
Portland, OR 97201

The applicant owns and operates a plywood plant at Foster.

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 a Sand Air filter and associated ductwork and controls.

Request for Preliminary Certification for Tax Credit was made on 10/09/77, and approved on 08/19/80.

Construction was initiated on the claimed facility on 07/08/78, completed on 08/15/78, and the facility was placed into operation on 08/15/78.

Facility Cost: \$141,042.64 (Accountant's Certification was provided).

3. Evaluation of Application

The applicant operates two veneer dryers at Foster. The installation of the sand air filter has enabled these dryers to meet Department emission limits. There is no economic advantage to the company from this installation. The primary purpose is air pollution control and 80% or more of the cost is allocable to pollution control.

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. The portion of the facility cost that is properly allocable to pollution control is 80% 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 \$141,042.64 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1279.

F.A. Skirvin:sam
(503) 229-6414
October 14, 1980

Appl T-1280
Date 10/21/80

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Willamette Industries, Inc.
Korpine Division
3800 First National Bank Tower
Portland, OR 97201

The applicant owns and operates a particleboard plant at Bend.

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 a Clarke's Model L310 Flo-Matic storage bin.

Request for Preliminary Certification for Tax Credit was made on 09/17/79, and approved on 10/05/79.

Construction was initiated on the claimed facility on 10/06/79, completed on 03/31/80, and the facility was placed into operation on 03/31/80.

Facility Cost: \$378,359.97 (Accountant's Certification was provided).

3. Evaluation of Application

This bin is used to store green wood waste until it is needed in the process. The bin prevents small wood particles from being entrained by the wind. Because the moisture content of the green wood is high, outside storage of this type of material is possible with no impact on the process. A primary purpose of this bin is to reduce fugitive emissions from the handling and storage of this material. This bin is effective; fugitive dust is eliminated. Tax credit certification was granted for a green material enclosure at the Duraflake particleboard plant in Albany.

A cost of material conveying systems are not included in the cost of this bin because these items would be necessary with or without the bin. Therefore, 80% or more of the cost of this bin is allocable to pollution control.

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% 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 \$378,359.97 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1280.

F. A. Skirvin:sam
(503) 229-6414
October 21, 1980

Appl T-1282
Date 10/9/80

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Willamette Industries Incorporated
Korpine Division
3800 First National Bank Tower
Portland, OR 97201

The applicant owns and operates a particleboard plant at Bend.

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 a Carter Day baghouse Model #28RF8 and associated ductwork.

Request for Preliminary Certification for Tax Credit was made on 02/25/80, and approved on 03/19/80.

Construction was initiated on the claimed facility on 03/20/80, completed on 07/07/80, and the facility was placed into operation on 07/07/80.

Facility Cost: \$17,127.31 (Accountant's Certification was provided).

3. Evaluation of Application

This baghouse cleans the exhaust air from the #1 reclaim hammermill cyclones. It enables the cyclone exhaust to meet the Department's emission limits. There are no economic benefits to the company from the installation of this baghouse. The primary purpose is air pollution control and 80% or more of the cost should be allocated to pollution control.

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. The portion of the facility cost that is properly allocable to pollution control is 80% 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 \$17,127.31 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1282.

F.A. Skirvin:sam
(503) 229-6414
October 13, 1980

Appl T-1283
Date 10/2/80

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Willamette Industries, Inc.
3800 First National Bank Tower
Portland, Oregon 97201

The applicant owns and operates a particleboard plant at Bend, 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 enclosures for raw material conveyers.

Request for Preliminary Certification for Tax Credit was made on 11/29/79, and approved on 12/18/79.

Construction was initiated on the claimed facility on 12/19/79, completed on 3/31/80, and the facility was placed into operation on 3/31/80.

Facility Cost: \$12,311.42 (Accountant's Certification was provided).

3. Evaluation of Application

The company transports raw materials from the storage building via belt conveyors. Enclosures for these conveyors have been installed. These enclosures will eliminate wind entrained dust. The primary purpose is air pollution control and therefore 80% or more of the cost is allocable to pollution control.

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 not required but 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% 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 \$12,311.42 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1283.

F.A. Skirvin:kmm
(503) 229-6414
October 3, 1980
A1283

Appl T-1285
Date 10/21/80

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

M. Goe and Son, Inc.
3268 Ehrck Hill Drive
Hood River, OR 97031

The applicant owns and operates an apple and pear orchard 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 "Tropic Breeze" wind machine to prevent frost damage to fruit trees.

Request for Preliminary Certification for Tax Credit was made on 02/05/80, and approved on 02/22/80.

Construction was initiated on the claimed facility on 03/12/80, completed on 04/01/80, and the facility was placed into operation on 04/25/80.

Facility Cost: \$14,568.83 (Accountant's Certification was provided).

3. Evaluation of Application

There is no law limiting the use of fuel oil 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.

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 electric power cost using the fan, depreciation over 10 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% 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 \$14,568.83 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1285.

F.A. Skirvin:sam
(503) 229-6414
October 21, 1980

Appl T-1286R
Date 10/8/80

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Willamette Industries, Inc.
Duraflake Division
3800 First National Bank Tower
Portland, OR 97201

The applicant owns and operates a particleboard plant at Albany.

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 a Carter Day baghouse, Model #144RJ96 and associated ductwork.

Request for Preliminary Certification for Tax Credit was made on February 22, 1980, and approved on March 14, 1980.

Construction was initiated on the claimed facility on June 30, 1980, completed on July 11, 1980, and the facility was placed into operation on July 14, 1980.

Facility Cost: \$65,464.79 (Accountant's Certification was provided).

3. Evaluation of Application

The applicant installed a new sander and a baghouse to control sanderdust emission. This installation complies with all Department emission limits. There are no economic benefits to the company from the installation of the baghouse. The primary purpose of the baghouse is air pollution control and 80 percent or more of the cost is allocable to pollution control.

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. 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 \$65,474.79 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1286R.

F.A.SKIRVIN:f
(503) 229-6414
October 10, 1980
AF116 (2)

Appl T-1274
Date 9/24/80

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Publishers Paper Co.
Oregon City Division
419 Main St.
Oregon City, Oregon 97045

The applicant owns and operates a paper mill at Newberg, Oregon.

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

2. Description of Claimed Facility

The facility described in this application is a new Venturi-type sulfur dioxide absorption system installed on the recovery furnace.

Request for Preliminary Certification for Tax Credit was made on 7/20/79, and approved on 9/14/79.

Construction was initiated on the claimed facility on 7/23/79, completed on 9/4/79, and the facility was placed into operation on 9/4/79.

Facility Cost: \$1,146,513 (Accountant's Certification was provided).

3. Evaluation of Application

Installation of the new Venturi-type sulfur dioxide absorption system on the recovery furnace was required to replace a similar system which had deteriorated both structurally and operationally. Although the previous system could have been repaired, it was felt that a greater degree of operating control could be achieved by separating the Venturi collection tanks in a replacement system.

The new system has been tested and has been found to have lower SO₂ emissions during the six month period after the installation than the six month period prior to installation. The new system has been inspected by Department personnel and has been found to be operating in compliance with existing regulations and permit conditions.

The facility cost of \$1,146,513 must be reduced by \$185,000, the estimated repair cost of the previous system. This reduction is necessary as repair costs are considered an operating expense and therefore are not eligible for tax relief. This reduction for repair cost leaves \$961,513 attributable to pollution control.

The SO₂ recovered has a value of \$468,000 per year. This represents a 21 percent return on investment before taxes. As noted in the tax relief application, Publisher's Paper Company require a 30 percent return on investment, before taxes, to justify a capital investment at Newberg. The 21 percent return on investment would result in an allocation to pollution control of 40 percent or more but less than 60 percent based on the following breakdown.

<u>Return on Investment</u>	<u>Percent Allocation</u>
Less than 7.5%	80% or more
7.5% - 15%	60% or more but less than 80%
15% - 22.5%	40% or more but less than 60%
22.5% - 30%	20% or more but less than 40%
30% or more	less than 20%

The installation of the facility resulted in removal of a containment tank and associated piping that were included on Pollution Control Certificate 181. The original cost of this removed equipment is estimated at \$100,000. Therefore Pollution Control Certificate 181 should be revised from \$6,405,622 to \$6,305,622.

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 to replace the previous system which had deteriorated and to facilitate the degree of operating control 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 40% or more but less than 60% of \$961,513.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$961,513, 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-1274.

It is also recommended that Pollution Control Facility Certificate No. 181 be reduced from \$6,405,622 to \$6,305,622, because portions of the originally certified facility have been removed from service.

F.A. Skirvin:s:cs

(503) 229-6414

9/29/80

AS447

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY**POLLUTION CONTROL FACILITY CERTIFICATE**

Issued To: Publishers Paper Company Newberg Division Newberg, Oregon 97132	Ass Owner Location of Pollution Control Facility: South end of Wynooski Street Newberg, Oregon Yamhill County
Description of Pollution Control Facility: a) Pulp washing & liquor collection & concentration system consisting of a blow tank, pressure knotter, 3-stage pulp washing system, liquor collection & storage equipment & related pumps, piping, motors, controls & instrumentation. b) Spent sulfite liquor evaporation & incineration system consisting of evaporators, furnace & chemical recovery equipment with related tanks, piping, pumps, motors, controls, instrumentation, electrical & support facilities.	
Date Pollution Control Facility was completed and placed in operation: December 18, 1970	
Actual Cost of Pollution Control Facility: \$6,405,622.00	
Percent of actual cost properly allocable to pollution control: Certified under 1967 Act. Principal purpose for pollution control.	

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

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

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

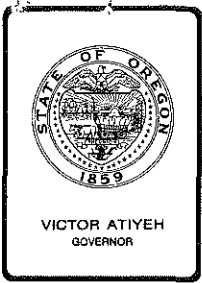
Signed _____

Title B. A. McPhillips, Chairman

Approved by the Environmental Quality Commission

on the 13th day of August 1971

12
65724
12



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item No. D, November 21, 1980 Environmental Quality Commission Meeting. Request For Authorization To Conduct A Public Rule Making Hearing Regarding A Geographic Regional Rule For The Lands Overlaying The North Florence Dunal Aquifer OAR 340-71-030(11).

Background and Problem Statement

During the last few years Lane County, citizens and local officials of Florence, DEQ, and the State Water Resources Department have become increasingly concerned over the urbanization of lands overlaying the Florence Dunal Aquifer. Today most development depends on subsurface sewage disposal to accommodate sewage disposal needs.

In response, DEQ supported funding of the ongoing 208 North Florence Dunal Aquifer Study, scheduled for completion in March, 1982. One segment of the Study will be devoted to identifying all groundwater flow systems and establishing respective subsurface sewage loading rates that will not impact the beneficial use of the aquifer. Data for this activity is anticipated by January, 1982.

The 208 Study has progressed to where preliminary groundwater elevations, aquifer thickness, and flow systems are mapped. Long-range projections are that the major recharge areas identified may deserve classification as "sole source aquifers", since no alternate drinking water source is available. As such, a "sole source aquifer" would continue to provide domestic water supplies to both current and future development in the area.

Presently these recharge areas are used by the Heceta Water District (Clear Lake) to serve the unincorporated but urbanizing areas outside the City of Florence. The City of Florence has its own series of dunal aquifer wells but also contracts with the Heceta Water District for additional supplies. All the drinking water supplies tap the dunal aquifer.



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On April 18, 1980, the EQC adopted an Interim Groundwater Policy to protect sensitive groundwater areas like the North Florence Dunal Aquifer. Upon adoption, Lane County worked toward establishing density controls through interim planning and zoning ordinances. This approach has not been completed. Ordinances are not in place.

Lane County is now receiving proposals for urban density development in the 208 Study area. Several are located in the highly sensitive "sole source aquifer" recharge areas. Lane County has requested administrative guidance from DEQ that would be consistent with the EQC Interim Groundwater Protection Policy.

During the month of September, DEQ staff toured the 208 Study area and received input from Lane County staff, West Lane Planning Commission, LCOG 208 staff conducting the Study, Heceta Water District, Region 10 EPA, Coastal Groundwater Ad Hoc Committee, and the State Water Resources Department. Based on the input from these meetings and the tone of urgency we perceived, the attached September 30, 1980 policy guidance (Attachment 1) was developed.

On October 17, 1980, Department staff provided a status report to the Environmental Quality Commission regarding implementation of the September 30, 1980 policy guidance. EQC members acknowledged the report and requested staff to appear before the November 21, 1980 EQC meeting with a discussion of alternatives available and a recommendation on which alternative would provide the best safeguards for the citizens dependent on the North Florence Dunal Aquifer.

Alternatives and Evaluation

Department staff has identified four alternatives the Commission may wish to consider in regard to future development proposals on the lands overlaying the North Florence Dunal Aquifer as they would relate to the April 18, 1980 EQC Interim Groundwater Quality Protection Policy:

1. Direct staff to conduct a public rule making hearing for the establishment of a septic tank moratorium on the lands overlaying the North Florence Dunal Aquifer until the 208 North Florence Dunal Aquifer Study is complete.

Evaluation

This is the safest and most conservative alternative available. Upon completion of the 208 Study, the moratorium would be lifted and replaced by a geographic regional rule. The rule would presumably establish sewage loading rates that would be consistent with findings of the 208 Study.

Staff is not recommending this alternative, as it appears the situation has been recognized early enough that such drastic action can be avoided. Current background levels of $\text{NO}_3\text{-N}$ in the North Florence Dunal Aquifer are low, ranging from 0.01 to 0.03 mg/l. As such, other alternatives seem more appropriate.

2. Direct staff to conduct a public rule making hearing for the establishment of a permanent geographic regional sewage disposal rule for the lands overlaying the North Florence Dunal Aquifer.

Evaluation

Staff feels this alternative is the most desirable and practical since it relates directly to the uniqueness of the aquifer and the overlaying lands' ability to accommodate sewage loadings at rates that will not negatively impact the beneficial use of the aquifer.

Since the problem was recognized early enough, the rule would not have to impact current lots of record, existing septic tank approvals, or development proposals which received preliminary approvals prior to October 1, 1980.

The rule would primarily focus on future proposed developments and establish sewage loading rates that would ensure these new developments would not adversely impact the long term beneficial use of the aquifer.

Additionally, the rule would assure that the completed 208 North Florence Dunal Aquifer study would be the technical basis for ultimate sewerage loading rates and protective control strategies for selected geographic areas of the aquifer. For example, it might be necessary to make policy or rule changes once the 208 study is completed. The proposed rule should allow that latitude if necessary.

3. Direct staff to establish a temporary rule that will specify maximum sewage loading rates on the lands overlaying the North Florence Dunal Aquifer.

Evaluation

Staff would have preferred this alternative, except for the fact that a "temporary" rule expires after 180 days. The 208 Study will not be complete until March, 1982. Since the completed 208 Study will provide the most exacting information on what safe sewage loading rates can be applied, it logically should be the final determinant.

Staff feels a rule is needed that will tie in directly with the recommendations and findings of the completed 208 Study.

4. Direct staff to abolish the September 30, 1980 Groundwater Protection Policy Guidance Statement issued to Lane County in regard to the lands overlaying the North Florence Dunal Aquifer.

Evaluation

If the September 30, 1980 Groundwater Protection Policy Guidance statement were abolished, then only current Subsurface Sewage Disposal Regulations would apply.

The current rules primarily address disposal and treatment of septic tank effluent to remove pathogenic organisms. They do not specifically address chemical treatment. The unconsolidated beach sands overlaying the North Florence Dunal Aquifer have little, if any, potential to provide chemical treatment of septic tank effluent. Thus the current rules inadequately protect the North Florence Dunal Aquifer.

Since the City of Florence and the adjacent urbanizing areas are dependent on the North Florence Dunal Aquifer to provide their water supplies, staff feels the current rules do not provide adequate safeguards to protect this resource. Additionally, the streams and lakes of the area are recharged by this aquifer. If an uncontrolled source of nitrates is introduced into the local groundwater flow system, accelerated eutrophication of these surface waters would likely occur.

Summation

1. Long-range plans show that the City of Florence and adjacent urbanizing areas will be dependent on the North Florence Dunal Aquifer to supply their current and future drinking water supplies.
2. Drinking water supplies are the highest possible beneficial use for an aquifer and, as such, require that the highest possible quality be maintained.
3. During recent years, local officials and citizens of Florence, Lane County, the Department of Environmental Quality, and the State Water Resources Department have become increasingly concerned over the urbanizing use of septic tanks on lands overlaying the North Florence Dunal Aquifer.
4. Department and Lane County staff feel neither current zoning nor the Department's Subsurface Sewage Disposal Rules provide adequate safeguards to protect the chemical quality of the North Florence Dunal Aquifer.
5. In response to items 1, 2, 3, and 4 above, the Department of Environmental Quality helped fund an LCOG 208 Groundwater Study, scheduled

for completion in March, 1982. The completed Study will designate what sewage loading rates can be applied on the various geographic areas of the aquifer without impacting the beneficial use for current and future generations.

6. Currently, Lane County is receiving applications for urban density developments in the highly sensitive areas of the aquifer. On September 30, 1980, the Department of Environmental Quality issued Lane County a Groundwater Protection Policy Guidance Statement outlining interim control measures to use in addressing these proposals pending completion of the 208 Study.
7. On October 17, 1980, the Environmental Quality Commission received a status report on the North Florence Dunal Aquifer and requested staff to provide the Commission a list of alternatives with a recommendation for future actions necessary to preserve the beneficial use of the aquifer.
8. In response to the above request, staff review of the April 18, 1980 Environmental Quality Commission Interim Groundwater Protection Policy indicates at least four options are available to the Commission:
 - a. Enact a septic tank moratorium until the 208 Study is complete, then adopt a permanent geographic regional rule based on the Study findings.
 - b. Adopt a permanent geographic regional rule that will:
 1. Establish interim control measures until the 208 Study is complete.
 2. Allow for its own (the rule's) modification if necessary based on the technical findings and recommendations of the completed 208 study.
 - c. Adopt a 180-day temporary rule establishing maximum sewage loading rates.
 - d. Abolish the September 30, 1980 Policy Guidance Statement and depend on current subsurface sewage rules to protect the quality of the North Florence Dunal Aquifer.
9. Staff recommends option 8b as being the most practical choice because:
 - a. The situation has been recognized early enough to preclude the use of a moratorium if other measures are enacted.

- b. This option allows development to continue at levels that can be accommodated without impacting the beneficial use of the aquifer.
- c. A temporary rule would expire before the 208 Study is complete.
- d. Current rules do not specifically address chemical treatment of septic tank effluent.

Director's Recommendation

- 1. Based upon the Summation, it is recommended that the Commission authorize a public rule making hearing to take testimony on the question of whether to adopt a permanent geographic regional rule for the lands overlaying the North Florence Dunal Aquifer in Lane County, OAR 340-71-030(11).

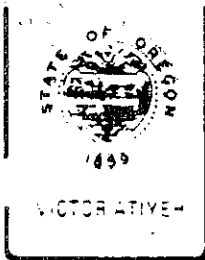
Bill

WILLIAM H. YOUNG

Attachment 1: September 30, 1980 Groundwater Protection Policy Guidance for North Florence.

- Appendix A: Hearing Notice for the Secretary of State.
- Appendix B: Hearing Notice for the Local Media.
- Appendix C: Land Use Consistency Statement.
- Appendix D: Statement of Need and Fiscal Impact.
- Appendix E: Proposed Rule OAR 340-71-030(11).

Gary Messer:wr
378-8240
October 31, 1980



Department of Environmental Quality

ATTACHMENT I

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

September 30, 1980

- Mr. Rich Owings, Director
Lane County Dept. of Environmental Health
125 E. 8th Ave.
Eugene, OR 97401

Dear Mr. Owings:

On April 18, 1980, the Oregon Environmental Quality Commission enacted a Statewide Interim Groundwater Quality Protection Policy. Soon after, Lane County confirmed that the Florence Dunal Sheet was affected by this policy. The most direct implication is the policy statement that:

"For areas where urban density development is planned or is occurring and where rapidly draining soils overlay local groundwater flow systems and their associated shallow aquifers, collection, treatment, and disposal of sewage will be deemed highest and best practical treatment and control unless otherwise approved."

Basically, this equates to municipal sewerage services for urban density development in sands underlaid by usable aquifers. However, this policy is later qualified by a statement that "less stringent controls" may be approved for a specific area if technical studies show that lesser controls will adequately protect the groundwater.

Fortunately, Lane County currently has an ongoing comprehensive 208 ground water study being conducted in the North Florence Dunal Sheet area. When complete, it should provide information on what sewage loading rates can be applied at the various areas without adversely impacting the beneficial use of the aquifer. Unfortunately, this study will not be done until July, 1981. During the interim, your staff has requested administrative guidance for addressing current development requests.

On September 23, 1980, we toured the study area with representatives from the Lane County Environmental Health and Planning Departments, Lane County 208 staff, and a representative from the West Lane Planning Commission.

Following those discussions, this group met on September 26, 1980 with representatives from the State Water Resources Department. As a result of this meeting, it was agreed that the 208 Study, scheduled for completion

in July 1981, will provide the final basis for determining minimum density controls to protect the North Florence Dunal Aquifer in relation to development proposals utilizing subsurface sewage disposal. Until the study is completed, the data obtained to date is complete enough to identify 3 major categories of ground water flow systems and identify interim control practices for each. The major categories are:

PRIORITY 1 CONTROL AREAS

These are highly sensitive and productive groundwater recharge areas (such as the areas adjacent to Clear Lake) which are easily susceptible to both surface and groundwater contamination by man's activities. These areas appear to be "sole source aquifers" that are being used now and/or are likely to be used in the future to provide domestic water supplies to serve current and future development needs of the area.

The boundaries of the identified Priority 1 Control Areas are:

- (a) Areas east of Highway 101 and adjacent to Clear Lake. Starting at Mercer Lake, south to Munsel Lake, then west on Munsel Lake Road to Highway 101, then north on Highway 101 to Mercer Lake Road, then east on Mercer Lake Road to Mercer Lake.
- (b) Those lands west of Highway 101 and lying between Heceda Beach Road and Sutton Creek, excluding the lands 500 feet north of Heceda Beach Road.

PRIORITY 2 CONTROL AREAS

These are existing and potentially highly productive areas of ground water withdrawal located further downgradient in the ground water flow system than the Priority 1 Control Areas. These areas are subject to degradation from man's activities, but require less protective controls due to their downgradient position in the flow system.

The boundaries of the identified Priority 2 Control Areas are:

Starting at a point 500 feet north of the junction of Highway 101 and Heceda Beach Road, then west to a point 1000 feet east of Rhododendron Drive, then south to 35th, then east along 35th to Highway 101, then south along Highway 101 to Highway 36, then east on Highway 36 to North Fork Road, then north along North Fork Road to Munsel Lake Road, then west along Munsel Lake Road to Highway 101 to starting point.

PRIORITY 3 CONTROL AREAS

These are primarily ground water discharge areas from the dunal aquifer and are located at the lowest elevation in the ground water flow system. These areas are susceptible to degradation by man's activities, but have a low potential for municipal water supply development. Primary control measures in these areas are aimed toward prevention of negative impacts to individual ground water users and toward protecting surface water bodies.

The identified Priority 3 Control Area lands are west of a line 1000 feet east of Rhododendron Drive.

The interim control practices that will be applied are:

1. Lots of record or development proposals that have received preliminary planning, zoning and septic tank approval prior to October 1, 1980 that are located in Priority 1, 2 and 3 Control Areas may be approved for individual on-site sewage disposal systems provided:
 - a. They meet all applicable DEQ Subsurface Sewage Disposal Rules.
 - b. Low pressure subsurface sewage distribution techniques will be utilized.
 - c. The projected sewage flow does not exceed 600 GPD per parcel unless specifically approved for a higher flow prior to the establishment of the Interim Groundwater Protection Policy (April 18, 1980).
2. For proposed new developments located in Priority 1 Control Areas, municipal collection, treatment, and disposal services must be provided as specified in the State Interim Groundwater Quality Protection Policy.
3. For proposed new developments located in Priority 2 Control Areas, the Lane County Planning Department proposal of 1 d.u. per 2 acres using low pressure subsurface sewage distribution techniques will be accepted as outlined in our memo dated August 12, 1980, provided the land meets all other DEQ Subsurface Sewage Rule requirements. Exceptions to this are noted in number 5, below.

4. For proposed new developments located in Priority 3 Control Areas, a density of 1 d.u. per acre will be accepted provided low pressure subsurface sewage distribution techniques will be used and the land meets all other DEQ Subsurface Sewage Rule requirements. Exceptions to this are noted in number 5, below.
5. Densities greater than those specified in Priority 2 and Priority 3 Control Areas may be considered and may be approved if justified by a satisfactory hydrogeological study. The hydrogeological study shall be designed upon the following assumptions:
 - a. Based upon preliminary work in the 208 Study (or other method approved by the Department), a flow channel shall be defined. The flow channel shall extend from the top of the recharge zone to the bottom of the discharge zone and be at least as wide as the proposed ultimate development proposal.
 - b. The flow channel shall be located on a map which shows the entire 208 Study area. The proposed development shall be located on the map in relation to the assumed flow channel. The flow channel shall be confirmed or modified by the State Water Resources Department.
 - c. Projected sewage flows for the proposed development will be based on the Department's subsurface sewage disposal flow equivalents, OAR Chapter 340, Division 71, Table 3, or its replacement table if new rules are adopted.
 - d. Assumed Nitrate-Nitrogen ($\text{NO}_3\text{-N}$) loadings shall not be less than 30 mg/l.
 - e. Rainfall dilution over the flow channel area may be assumed. Assume rainfall has no background $\text{NO}_3\text{-N}$. Existing ground water may not be used for dilution, BUT background ground water $\text{NO}_3\text{-N}$ (i.e., before mixing) must be subtracted from 5 mg/l to determine the maximum allowable $\text{NO}_3\text{-N}$ before applying the "stirred tank" model.

The objective of the hydrogeological study is to show that development at the proposed higher density (i.e., greater than one dwelling unit

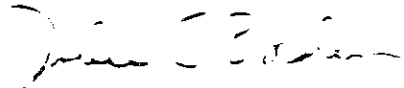
equivalent per 2 acres in Priority 2 Control Areas; or greater than one dwelling unit equivalent per 1 acre in Priority 3 Control Areas) will not cause groundwater to be degraded beyond 5 mg/l $\text{NO}_3\text{-N}$ anywhere in the flow channel if developed to the proposed density everywhere on the flow channel.

Example: 100 single family homes are proposed on one acre lots. The flow channel area is 2000 acres. To use the model, you must assume 2000 one acre lots will be developed on the flow channel.

I trust this will satisfy your staff's request for administrative guidance in this matter. When they implement these interim policies, care should be taken to inform the public that the completed 208 Study will be the final determinant on densities in the various areas of the aquifer. As such, the interim policy is obviously subject to modification. Our primary purpose is to protect those areas that currently appear as highly sensitive "sole source aquifers" and yet not be overly restrictive on the less critical areas.

Please call me at 378-8240 if you have questions or need further assistance.

Sincerely,

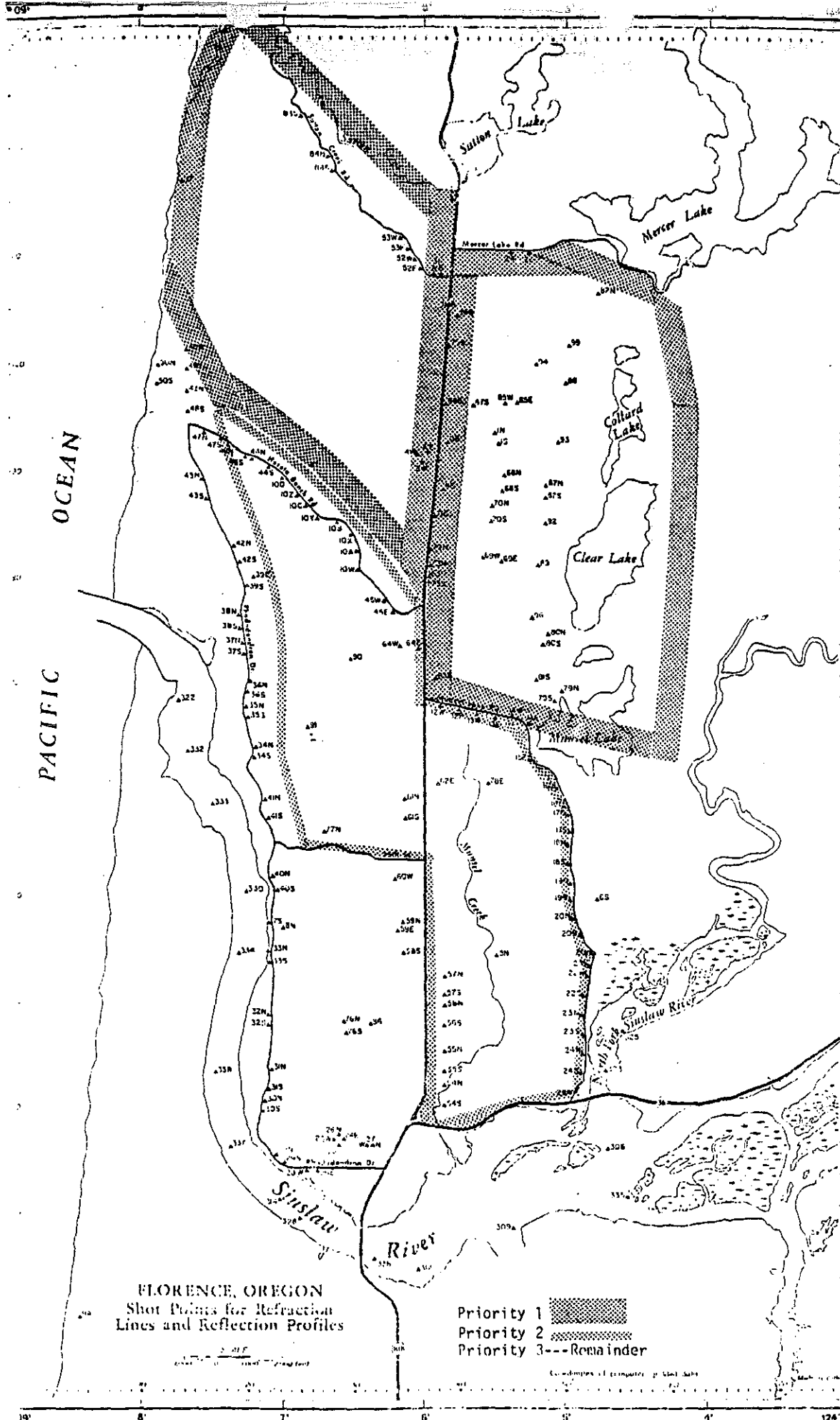


John E. Borden, P.E.
Regional Manager

JEB/wr

Attachment: Map outlining Priority Control Areas.

cc: H.L. Sawyer, Water Quality Division
cc: Fred Bolton, Regional Operations
cc: Daryl Johnson, Willamette Valley Region, Eugene Office
cc: Kent Mathiot, Water Resources Dept.
cc: Lee Miller, Lane County Planning Director
cc: Ralph Christensen, Lane County Hydrogeologist
cc: Gerritt Rosenthal, 208 Program Mgr., Lane COG
cc: Roy Burns, Lane County Environmental Health Dept.



FLORENCE, OREGON
 Shot Points for Refraction
 Lines and Reflection Profiles

Priority 1 [stippled box]
 Priority 2 [cross-hatched box]
 Priority 3---Remainder

Coordinates of points are in U.S. Feet

HEARING NOTICE FOR THE SECRETARY OF STATE

APPENDIX A

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

In the Matter of the Adoption	)	Notice of Proposed Rule
of Rule 340-71-030(11)	)	Adoption OAR 340-71-030(11)
Geographic Regional Rule for	)	Geographic Regional Rule for
the Lands Overlaying the North	)	the Lands Overlaying the
Florence Dunal Aquifer	)	North Florence Dunal Aquifer

1. A public hearing will be held at the location and date shown below to consider the adoption of a proposed subsurface sewage disposal Geographic Regional Rule for the Lands Overlaying the North Florence Dunal Aquifer:

City of	City Council Chambers	7:30 p.m.	December 1, 1980
Florence	250 Highway 101		

2. The proposed rule is intended to serve as groundwater quality protection guidance to assist local planning agencies in the development of a comprehensive plan that will meet Statewide Planning Goals. The rule also provides a method to resolve the conflicting use or need of providing for future development, while at the same time preserving a necessary natural resource that will be depended upon to support that future development.
3. Among the issues to be considered are:
 - a. Establishment of Interim Priority Control Areas and sewage loading (septic tank) rates for proposed new subdivisions over geographic areas of the North Florence Dunal Aquifer in relation to the dependency on these areas to provide for current and future drinking water supplies.
 - b. Establishment of guidance that new urban density development proposals overlaying the North Florence Dunal Aquifer must be served by municipal sewerage collection, treatment and disposal facilities rather than by individual on-site subsurface sewage disposal systems.
 - c. Establishment of a procedure that allows for the implementation of the recommendations provided by the completed 208 North Florence Dunal Aquifer Study.
4. Interested persons may present testimony orally or in writing at the hearing and/or in writing to the Department of Environmental Quality, 16 Oakway Mall, Eugene, Oregon, 97401 by December 1, 1980.
5. Citation of statutory authority, statement of need, principal documents relied upon, statement of fiscal impact, and land use consistency statement are filed with the Secretary of State.
6. An Environmental Quality Commission hearings officer has been designated to preside over and conduct the hearings.

Dated: October 30, 1980
WILLIAM H. YOUNG, Director
Department of Environmental Quality

NOTICE OF PUBLIC HEARING

A chance to be heard about whether the environmental Quality Commission should adopt a Regional Groundwater Protection Rule for land overlying the Florence Dunal Aquifer.

The Environmental Quality Commission will soon consider whether to adopt a regional groundwater protection rule for the North Florence dunal aquifer. A public rule-making hearing will take place before a designated Environmental Quality Commission Hearings officer on:

DATE: December 1, 1980
LOCATION: Florence City Council Chambers
Florence City Hall
250 Highway 101
Florence, Oregon
TIME: 7:30 p.m.

Interested citizens, especially those living in the North Florence area (including the areas of Munsel and Clear Lakes), people wishing to build houses or structures requiring septic tanks or sewers in the affected area, and those such as the Heceta Water District, who use groundwater from the dunal aquifer, are urged to attend the public rule-making hearing and express their opinions.

Testimony may be presented at the hearing orally or in writing, or may be submitted, in writing, to the Department of Environmental Quality, 16 Oakway Mall, Eugene, Oregon, 97401, no later than December 1, 1980. There will be informal meetings December 1, 1980, on the same subject at the Florence City Council Chambers from 11:00 a.m. to 3:00 p.m. (including the lunch hour), and from 5:00 p.m. to 6:30 p.m. Staff from the DEQ and Lane County will be available to answer questions at both informal sessions.

Citation of statutory authority, statement of need, principle documents relied upon, statement of fiscal impact, and land use consistency statement are filed with the Secretary of State.

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

In the Matter of The Adoption)	Land Use
of Rule 340-71-030(11))	Consistency
Geographic Regional Rule)	Statement
for the Lands Overlaying)	
the North Florence Dunal)	
Aquifer, Lane County)	

The enclosed Public Notice concerns a proposal that appears to relate primarily to Statewide Planning Goals 5, 6, 11, and 18.

Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources.

Goal 5, in part, requires land use plans to provide open spaces to protect water supplies and/or the carrying capacity of the water resources of the planning area. Since this proposal addresses a means to resolve the conflicting use of urbanized development vs. preservation of the ground water resources, it conforms with Goal 5.

Goal 6 - Air, Water, and Land Resource Quality.

With regard to Goal 6, this proposal would establish a Geographic Regional Rule for the lands overlaying the North Florence Dunal Aquifer. It primarily would establish sewage (septic tank effluent) loading rates that will not adversely impact the beneficial use of the aquifer.

Essentially the rule will:

1. Ensure that septic tank discharges into the lands overlaying the aquifer will not exceed the carrying capacity of the aquifer.
2. Preclude septic tank discharges into the aquifer in volumes that would degrade the quality of the aquifer beyond Federal Drinking Water Standards.
3. Eliminate the threat of degrading the required amount and availability of high quality drinking water to support the current and future development of the area. As such, the proposal conforms with Goal 6.

Goal 11 - To Plan and Develop a Timely, Orderly, and Efficient Arrangement of Public Facilities and Services to Serve as a Framework for Urban and Rural Development.

The proposal would oblige the City of Florence to plan for urban services

to be extended into areas they have designated for urban development.

For those areas where the City has neither planned nor anticipated the extension of urban services, the proposal provides guidance on densities that can be accommodated without adversely impacting the North Florence Dunal Aquifer. As such, the proposal conforms with Goal 11.

NOTE: The proposal is in basic conflict with the current draft Comprehensive Plan for the City of Florence. Areas of the North Florence Dunal Aquifer are designated for urban density development with no firm commitment to provide municipal sewerage collection and treatment facilities. Currently, the City of Florence's existing sewerage facilities are in need of major improvements; however, the curtailment of Federal funds has greatly reduced the City's and DEQ Regional staff's ability to correct the problem.

Goal 18 - Beaches and Dunes

This Goal requires that Coastal Comprehensive Plans provide for the appropriate use of dunal lands consistent with their natural limitations.

Soil and ground water experts recognize that naturally occurring unconsolidated beach sand provides little, if any, chemical treatment of septic tank effluent. In recognition of this, the proposal provides that septic tank effluent disposed into the dunal sands should be at levels commensurate with the sand's ability to treat, and natural rainfall's ability to dilute, the chemical pollutants to levels that will not impact the ground water beyond Federal Drinking Water Standards.

Since this proposal would preserve the economic value of the aquifer, it conforms with Goal 18.

10/27/80

STATEMENT OF NEED AND FISCAL IMPACT

APPENDIX D

In the Matter of the Adoption)
of Rule 340-71-030(11))
Geographic Regional Rule for)
the Lands Overlaying the North)
Florence Dunal Aquifer,)
Lane County)

Statutory Authority,
Statement of Need,
Principal Documents Relied Upon,
and Statement of Fiscal Impact

1. Citation of Statutory Authority: ORS 454.625 which requires the Environmental Quality Commission to adopt rules pertaining to subsurface and alternative sewage disposal.
2. Need for Rule: (See attached Statement of Need).
3. Documents Relied Upon in Proposal of the Rule:
 - a. April 18, 1980 Environmental Quality Commission Interim Groundwater Protection Policy.
 - b. April, 1980, OSU Geophysics Group report for the Lane Council of Governments, titled "North Florence Dunal Aquifer Study, Seismic Survey Subreport".
 - c. Subsurface Sewage and Alternative Disposal Rules, OAR Chapter 340, Division 71, Sections 340-71-005 through 340-71-045.
4. Fiscal and Economic Impact: (See Attached).

10/27/80

STATEMENT OF NEED

Current subsurface sewage disposal regulations do not adequately address pollution of sensitive aquifers in areas where urban density development is planned or is occurring.

In response to this inadequacy, the Environmental Quality Commission adopted a Statewide Interim Groundwater Quality Protection Policy on April 18, 1980. This policy provides guidance to the Department of Environmental Quality and local governmental entities on how to address development proposals in sensitive groundwater areas.

This is especially important where rapidly draining soils, such as unconsolidated beach sands, overlay shallow groundwater flow systems and provide domestic water supplies, such as in the North Florence Dunal Aquifer. The proposed urban growth boundary for the City of Florence covers much of the aquifer. Current development depends mostly on individual subsurface sewage disposal systems to accommodate sanitary waste disposal needs.

Long range projections indicate the City of Florence and all adjacent unincorporated areas will be singularly dependent on the dunal aquifer and lakes to provide their drinking water supply needs.

If development is allowed to continue at densities currently allowed by the subsurface sewage disposal rules, a great potential exists that the groundwater may be degraded to levels of contamination which impair beneficial uses. In turn, a critical natural resource would be lost to the citizens of Oregon.

10/27/80

FISCAL IMPACT

There will be both short term negative and long term positive fiscal impact.

Negative Factors

1. The City of Florence would probably need to expand their current sewage collection and treatment capabilities to serve those areas proposing development at urban densities. Besides the City, this would also impact land developers.
 - a. In Priority I Control Areas, all future subdivisions would be dependent upon the availability of municipal sewage collection and treatment facilities if they were to proceed.
 - b. In Priority II Control Areas, future subdivision densities would be limited to 1 dwelling unit (d.u.) per 2 acres until:
 1. A hydrogeological study was completed that showed higher densities could be accommodated without causing degradation of the local groundwater flow system, or
 2. Municipal sewerage collection and treatment facilities were available.
 - c. In Priority III Control Areas, future subdivision densities would be limited to 1 d.u. per acre unless the same exceptions listed in (b)(1) or (2) were met.

Positive Factors

1. The City of Florence and all adjacent development is dependent upon the North Florence Dunal Aquifer to provide all current and future drinking water supplies. No other drinking water source has been identified which is economically feasible. As such, the North Florence Dunal Aquifer deserves designation as a "sole source aquifer".

The obvious positive fiscal impact will be the preservation of the pristine quality of the North Florence Dunal Aquifer. If maintained at its present quality, it will supply the current and future development needs of the area without the necessity of building sophisticated and expensive water treatment facilities.

2. An indirect long term positive impact would be preserving and, perhaps in some cases, improving the water quality of lakes and streams recharged by the aquifer. The long term net effect would be to improve the livability or desirability of the area, thereby positively impacting property values.

Agency costs and those of our Lane County contract agent would not be significantly affected by this action. Local government may need to obligate funds for additional planning and construction activities. The amount would be dependent on the nature and timing of capital construction projects, if any.

PROPOSED RULE

OAR 340-71-030(11): Lands Overlaying the North Florence Dunal Aquifer.

(a) Within the areas set forth in Subsection (b) below the Director or his authorized representative may issue a construction permit for a new subsurface sewage disposal system or a favorable report of evaluation of site suitability to construct a single system on lots that were lots of record prior to October 1, 1980; or on lots in partitions or subdivisions that have received preliminary planning, zoning, and septic tank approval prior to October 1, 1980 under the following circumstances:

- (A) The lot complies with all rules in effect at the time the permit or favorable report of site suitability is issued.
- (B) Low pressure subsurface sewage distribution will be used in system construction.
- (C) Sewage flows will be limited to 600 gallons per day (GPD) per lot unless higher flows were specifically approved by the Lane County Environmental Health Section prior to October 1, 1980.

- (b) Subsection (a) above shall apply to all of the following area generally known as the Lands Overlaying and/or Providing Immediate Recharge to the North Florence Dunal Aquifer and is defined by the boundary submitted by the Environmental Management Department for Lane County which is the area bounded on the west by the Pacific Ocean; on the southwest and south by the Siuslaw River; on the east by the North Fork of the Siuslaw River and the ridge line at the approximate elevation of 400 feet above mean sea level directly east of Munsel Lake, Clear Lake and Collard Lake; and on the north by Mercer Lake, Mercer Creek, Sutton Lake and Sutton Creek; and containing all or portions of T17S, R12W, Sections 27, 33, 34, 35 36, and T18S, R12W, Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27; W.M., Lane County.
- (c) Within the areas set forth in Subsection (d) below, which are hereby referred to as Priority I Control Areas, the Director or his authorized representatives may not issue either construction permits or favorable reports of evaluation of site suitability for new partitions or subdivision proposals that would depend on subsurface sewage disposal systems to accommodate sanitary waste disposal needs. For these areas, only municipal collection, treatment, and disposal facilities shall be approved as specified in the April 18, 1980 EQC State Interim Groundwater Protection Policy.

- (d) Subsection (c) above shall apply to Priority I Control Areas. Priority I Control Areas are defined by the boundary submitted by the Environmental Management Department for Lane County which is the area east and west of Highway 101 bounded on the west by the Pacific Ocean; on the south by Heceta Beach Road, a portion of Highway 101 and Munsel Lake Road excluding the lands 500 feet north of Heceta Beach Road; on the east by the ridge line at the approximate elevation of 400 feet above mean sea level directly east of Munsel Lake and running northerly to Mercer Lake; and on the north by Mercer Lake, Mercer Creek, Sutton Lake and Sutton Creek to the Pacific Ocean and containing all or portions of T17S, R12W, Sections 27, 33, 34, 35, 36 and T18S, R12W, Sections 1, 2, 3, 10, 11, 12, 13, 14, W.M., Lane County.
- (e) Within the areas set forth in Subsection (f) below, which are hereby referred to as Priority II Control Areas, the Director or his authorized representatives may issue either construction permits or favorable reports of evaluation of site suitability for new partitions or subdivision proposals that would depend on subsurface sewage disposal systems under the following circumstances:
- (A) Sewage loading rates will be limited to one (1) dwelling unit equivalent (d.u.) per two (2) acres unless a hydrogeological study as specified in Subsection (i) below is approved by the

Director or his authorized representative which and shows that greater densities can be accommodated without impacting the beneficial use of the aquifer.

- (B) The proposed lots will comply with all rules in effect at the time the permit or favorable report of site suitability is issued.
- (C) Low pressure subsurface sewage distribution will be used in on-site sewage disposal system construction.
- (f) Subsection (e) above shall apply to Priority II Control Areas. Priority II Control Areas are defined by the boundary submitted by the Environmental Management Department for Lane County which is the area bounded on the west by a line starting 500 feet north of Heceta Beach Road and running southerly 1000 feet east of Rhododendon Drive to 35th, then easterly on 35th to Highway 101, then southerly on Highway 101 to Highway 36; on the south by Highway 36; on the east by North Fork Road; and on the north by Munsel Lake Road west to Highway 101, then northerly on Highway 101 to a point 500 feet north of Heceta Beach Road, then westerly to the starting point and containing all or portions of T18S, R12W, Sections 3, 4, 10, 11, 14, 15, 22, 23, 24, 25, 26; W.M., Lane County.

(g) Within the areas set forth in Subsection (h) below, which are hereby referred to as Priority III Control Areas, the Director or his authorized representatives may issue either construction permits or favorable reports of evaluation of site suitability for new partitions or subdivision proposals that would depend on subsurface sewage disposal systems under the following circumstances:

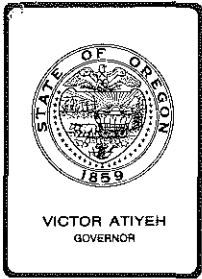
(A) Sewage loading rates will be limited to one (1) dwelling unit equivalent (d.u.) per acre unless a hydrogeological study as specified in Subsection (e)(A) above and Subsection (i) below is approved by the Director or his authorized representative.

(B) Circumstances specified in Subsection (e)(B) and (C) above are met.

(h) Subsection (g) above shall apply to Priority III Control Areas. Priority III Control Areas are defined by the boundary submitted by the Environmental Management Department for Lane County which is the area bounded on the west by the Pacific Ocean; on the southwest and south by the Siuslaw River; and on the east and north by the western boundary line of the Priority II Control Area set forth in Subsection (f) above and containing all or portions of T18S, R12W, Sections 4, 9, 10, 15, 16, 22, 23, 26, 27; W.M., Lane County.

- (i) Densities greater than those specified in Subsections (e) and (g) above may be considered and may be approved by the Director or his authorized representative if justified by a satisfactory hydro-geological study that clearly shows greater densities can be accommodated without impacting the beneficial uses of the aquifer. Such studies shall be designed upon the following assumptions:
- (A) Based upon the work in the 208 North Florence Dunal Aquifer Study, a flow channel shall be defined that extends from the top of the recharge zone to the bottom of the discharge zone and is at least as wide as the proposed development. This flow channel and the proposed development shall be displayed on a map which shows the entire 208 Study area and shall be verified by the Groundwater Hydrogeologist for the 208 Study or the State Water Resources Department.
- (B) Projected sewage flows for the proposed development shall be based on the Department's Subsurface Sewage Disposal Rules' flow equivalents, OAR Chapter 340, Division 71, Table 3, or its replacement table if new rules are adopted.
- (C) Assumed Nitrate-Nitrogen ($\text{NO}_3\text{-N}$) loading from septic tank effluent shall not be less than 30 mg/l.

- (D) The "stirred tank" model shall be used as the basic study method. Rainfall dilution over the study area shall be assumed to have no background $\text{NO}_3\text{-N}$. Existing groundwater may not be used for dilution, BUT background groundwater $\text{NO}_3\text{-N}$ levels must be subtracted from 5 mg/l to determine the maximum allowable $\text{NO}_3\text{-N}$ increment before applying the model.
- (E) The study must show that the densities proposed will not cause the groundwater to be degraded beyond 5 mg/l $\text{NO}_3\text{-N}$ anywhere in the flow channel if developed to the proposed maximum density everywhere on the flow channel.
- (j) The completed 208 North Florence Dunal Aquifer Study shall be the technical basis for ultimate sewage loading rates and protective control strategies over the various geographic areas of the North Florence Dunal Aquifer. 7



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. E, November 21, 1980, EQC Meeting

Authorization to Hold a Public Hearing to Consider
Amendments and Additions to Standards of Performance
for New Stationary Sources, OAR 340-25-505 to -535

Background

The Federal government promulgated standards of performance for new stationary sources beginning in December, 1971. Oregon, with the federal government's approval, has taken over jurisdiction for administering twelve such standards, after the Commission adopted them in September, 1975. The standards generally cover only very large pollution sources, so they have been applicable only to one cement plant and a number of asphalt batch plants.

Since 1975, EPA has adopted 17 more standards and amended all of the other existing standards. In order to apply for and receive delegation of authority over these categories, the Department proposes to adopt 8 of the 17 new standards; write a negative declaration for the other 9 of the 17 new standards; and to make our administration of the present 12 existing performance standards compatible with EPA requirements, by adopting EPA's amendments to these rules.

Statement of Need A Statement of Need for Rulemaking is the first attachment of this memorandum.

Evaluation The new standards are:

1. Primary Copper Smelters, 40CFR60.160, Subpart P
2. Primary Zinc Smelters, 40CFR60.170, Subpart O
3. Primary Lead Smelters, 40CFR60.180, Subpart R
4. Primary Aluminum Smelters, 40CFR60.190, Subpart S
5. thru 9. Phosphate Fertilizer Plants (5 types), 40CFR60.200, Subparts T to X
10. Coal Preparation Plants, 40CFR60.250, Subpart Y



Contains
Recycled
Materials

11. Ferroalloy Plant electric arc furnaces and dust handling equipment, 40CFR60.260, Subpart Z
12. Steel Plant electric arc furnaces and dust handling equipment, 40CFR60.270, Subpart AA
13. Kraft Pulp Mills, 40CFR60.280, Subpart BB
14. Glass Manufacturing Plants, 40CFR60.290, Subpart CC
15. Grain Elevators, 40CFR60.300, Subpart DD
16. Gas Turbines, 40CFR60.330, Subpart GG
17. Lime Plants, 40CFR60.340, Subpart HH

The standards proposed to be amended are:

1. Fossil Fuel-Fired Steam Generators, to add more stringent standards for Electric Utility Units built after 9/18/78, and provide for combination fuels including wood,
2. Incinerators, where test methods in the reference 40 CFR 60.54 were altered.
3. Portland Cement Plants, where minor wording changes in the reference 40 CFR 60.60 to 60.64 are incorporated.
4. Nitric Acid Plants, where steam masking of opacity is deleted in 340-25-535(4)(b)
5. Sulfuric Acid Plants, where steam masking of opacity is deleted in 340-25-535(5)(b)(B)
6. Asphalt Concrete Plants, where steam masking of opacity is deleted in 340-25-535(6)(b)
7. Petroleum Refineries, to add section (d) on Claus sulfur recovery plant
8. Storage Vessels for Petroleum Liquids, to add section (c) for double seals on tanks constructed after May 18, 1978.
9. Secondary Lead Smelters, where steam masking of opacity is deleted in 340-25-535(9)(d)
10. Secondary Brass Plants, where steam masking of opacity is deleted in 340-25-535(10)(d)
11. Iron & Steel Plants, where an opacity standard was added
12. Sewage Treatment Plants, where steam masking of opacity is deleted in 340-25-535(12)(b).

Differences and Alterations

1. In 40 CFR 60.150 small sewage sludge incinerators (under 2205 lb/day) were exempted from the particulate and opacity standards in 1977. Since Oregon doesn't have the frozen ground problem of Alaska, where land disposal of sludge was not possible, this exemption for small incinerators is not being included in the Oregon rule.
2. Since Oregon has no commercial deposits of phosphate rock, the standards concerning phosphate fertilizer plants and rock plants are not proposed for adoption.

3. Since Oregon rules 340-25-265(1) and (4), which were adopted in 1973, are more stringent than 40 CFR 60.190 to 193, there is no need to adopt this Subpart S, federal rule concerning Primary Aluminum Reduction Plants.
4. Although Oregon has some deposits of copper, lead, and zinc ore, the staff and the Oregon Department of Geology and Mineral Industries do not see any real likelihood of primary smelters for those ores being built in Oregon. Smelters in neighboring states have excess capacity. Therefore, federal rules for primary copper, zinc, and lead smelters are not being adopted.
5. Since Oregon rule 340-21-015(2) for new sources requires less than 20% opacity, the 20% opacity limitations of 40 CFR 60.252 for Coal Preparation Plants were not included in 340-25-535(17), nor were the 20% opacity limitations of 40 CFR 60.302 for loading barges or ships at Grain Elevators included in 340-25-535(21).
6. It needs to be clarified that steam masking of opacity is being deleted in six existing standards because that situation is covered in the general rules 40CFR60.11(b), adopted by reference.

Need for Rules

Adoption of these standards and amendments will allow Oregon to administer federal new source performance standards in Oregon; failure to adopt and to apply for jurisdiction would allow dual jurisdiction over air quality emission standards and cause any new plants in these categories to have to go through dual review. Also, in its annual agreement with EPA, Oregon agreed to adopt the added NSPS standards before July 1, 1981.

The specific new plant federal standards proposed for adoption are more stringent than present, general Oregon standards.

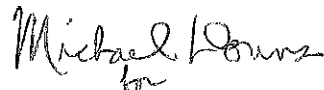
Summation

1. Seventeen new federal standards of Performance for New Stationary Sources and amendments to older standards have been adopted by EPA since the Commission adopted the original twelve such federal standards in 1975.
2. In order for the Department to administer these standards, the Commission must either adopt or declare inapplicable the new federal standards as State Standards and amend the existing ones. In the Department's annual agreement with EPA, we have agreed to do this before July 1, 1981.
3. If the Commission does not proceed toward adoption, dual regulatory responsibilities will develop, with certain new projects being subjected to both State and Federal plan review, emission limits, and enforcement.

Agenda Item No.
November 21, 1980
Page 4

Director's Recommendation

It is recommended that the Commission authorize a public hearing to be held to consider the attached amendments and additions to OAR 340-25-505 through -535.


for
William H. Young

- Attachments
1. Statement of Need and Fiscal Impact Statement
 2. Public Notice
 3. Proposed amendments and additions to the Rules 340-25-505 to -535.

PBB:kmm
229-6278
October 22, 1980
AQ502(1)

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(2), this statement provides information on the intended action to amend a rule.

Legal Authority

ORS 468.295(3)

Need for the Rule

The federal government delegates authority for administering its standards of performance for new sources if the state government adopts those standards. Since the state adopted the Federal new source performance standards in September 1975, there have been amendments and additions. It is necessary for the state to adopt amendments and additions to OAR 340-25-505 to -535 if the state desires to maintain its exclusive regulatory jurisdiction over new stationary sources.

Principal Documents Relied Upon

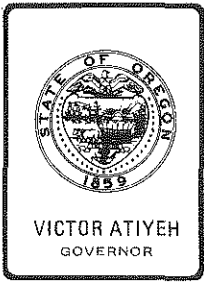
1. Code of Federal Regulations, Title 40, Protection of Environment, Part 60 - Standards of Performance for New Stationary Sources, Revised as of July 1, 1979 and amended by subsequent issues of the Federal Register.
2. "Standards of Performance for New Stationary Sources," EPA 340/1-80-001, January 1980.

Fiscal Impact Statement

The proposed adoption and administration of mandatory federal rules by the state would impose no additional costs on the firms being regulated. There would be some cost savings in paper work, as only state or local approved need be secured, and not federal approval also.

Where the state has chosen to be more stringent, in retaining the incinerator standard for small municipal sewage sludge incinerators (under 2205 lb per day), there would be additional costs for small sludge incinerators, where incineration of sludges in lieu of land application was chosen.

PBB: kmm
AQ502.A(1)



Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

Prepared: 11/10/80
Hearing Date: 1/19/81

NOTICE OF PUBLIC HEARING

A CHANCE TO BE HEARD ABOUT:

The Federal government promulgated standards of performance for new stationary sources beginning in December, 1971. Oregon, with the federal government's approval, has taken over jurisdiction for administering twelve such standards, after Oregon adopted them in September, 1975. The standards generally cover only very large pollution sources, so they have been applicable only to one cement plant and a number of asphalt batch plants.

Since 1975, EPA has adopted 17 more standards and amended all of the other existing standards. In order to apply for and receive delegation of authority over these categories, the Department proposes to adopt some of the 17 new standards; write a negative declaration for the others, since none of them exist or will be built in Oregon; and to make our administration of the present 12 existing performance standards compatible with EPA requirements, by adopting EPA's amendments to these rules.

WHAT IS THE DEQ PROPOSING?

Interested parties should request a copy of the proposed rule. Some highlights are:

** The standards proposed to be amended are:

1. Fossil Fuel-Fired Steam Generators, to provide for combination fuels including wood,
2. Incinerators, whose capacity is greater than 50 tons per day,
3. Portland Cement Plants,
4. Nitric Acid Plants,
5. Sulphuric Acid Plants,
6. Asphalt Concrete Plants, where negligible changes are being made,
7. Petroleum Refineries,

8. Storage Vessels for Petroleum Liquids, to add section (c) for double seals on tanks constructed after May 18, 1978.
9. Secondary Lead Smelters,
10. Secondary Brass Plants,
11. Iron & Steel Plants, where an opacity standard was added,
12. Sewage Treatment Plants, where only sludge incinerators are affected.

** The standards proposed to be added are:

13. Electric Utility Steam Generators,
14. Coal Preparation Plants,
15. Ferroalloy Production Facilities,
16. Steel Plants: Electric Arc Furnaces,
17. Kraft Pulp Mills,
18. Glass Manufacturing Plants,
19. Grain Elevators,
20. Stationary Gas Turbines,
21. Lime Manufacturing Plants.

WHO IS AFFECTED BY THIS PROPOSAL:

The industries in the state who have these facilities and would prefer to be regulated only by the DEQ and not by the Federal EPA also.

HOW TO PROVIDE YOUR INFORMATION:

Written comments should be sent to the Department of Environmental Quality, Air Quality Division, Box 1760, Portland, Oregon 97207, and should be received by January 19, 1981.

Oral and written comments may be offered at the following public hearing:

<u>City</u>	<u>Time</u>	<u>Date</u>	<u>Location</u>
Portland	1:00 p.m.	Jan. 19, 1981	Dept. of Envir. Quality Room 4A 522 SW Fifth Portland, Oregon

WHERE TO OBTAIN ADDITIONAL INFORMATION:

Copies of the proposed changes may be obtained from:

Peter B. Bosserman
DEQ Air Quality Division
Box 1760
Portland, Oregon 97207
(503) 229-6278

LEGAL REFERENCES FOR THIS PROPOSAL:

This proposal amends OAR 340-25-505 to -535. It is proposed under authority of ORS 468.295(3).

LAND USE PLANNING CONSISTENCY

The Department has concluded that the proposals do affect land use.

With regard to Goal 6 (air, water, and land resources quality) the rules are designed to enhance and preserve air quality and are considered consistent with the goal.

Goal 11 (public facilities and services) is affected as regulations for municipal and sewage sludge incinerators are being amended.

Public comment on any land use issue is welcome and may be submitted in the same fashions as are indicated for testimony in this NOTICE OF PUBLIC HEARING.

It is requested that local, state, and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning Goals within their expertise and jurisdiction.

The Department of Land conservation and Development will mediate any apparent conflict brought to our attention by local, state or federal authorities.

FURTHER PROCEEDINGS:

After public hearing the Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted regulations will be submitted to the Environmental Protection Agency as part of the State Clean Air Act Implementation Plan. The Commission's deliberation should come in 1981 as part of the agenda of a regularly scheduled Commission meeting.

A Statement of Need and Fiscal Impact Statement are attached to this notice.

DRAFT OF PROPOSED CHANGES AND ADDITIONS TO
OREGON ADMINISTRATION RULES
CHAPTER 340, DIVISION 25

Additions are underlined, deleted material enclosed in brackets.

Applicability

340-25-525 This rule shall be applicable to [new] stationary sources identified in rule 340-25-535 for which construction or modification has been commenced, as defined in Title 40, Code of Federal Regulations (40 CFR) 60.2, after the effective dates of these rules. [New stationary sources. . . has been achieved.]

General Provisions

340-25-530 Title 40, CFR, Part 60, Subpart A, as promulgated prior to [June 1, 1975] October 8, 1980, is by this reference adopted and incorporated herein. [with the exception... source may commence.] Subpart A includes paragraphs 60.1 to 60.16 which address definitions, performance tests, monitoring requirements, modification, etc.

Performance Standards

340-25-535 Title 40, CFR, Parts 60.40 to 60.154, 60.250 to 60.275, 60.290 to 60.304, 60.330 to 60.344, [except Subpart A which is adopted by reference in rule 340-25-530,] as promulgated prior to [June 1, 1975] October 8, 1980, is by this reference adopted and incorporated herein. As of [June 1, 1975]

October 8, 1980, the Federal Regulations adopted by reference hereby set[s] the following emission standards for the following new stationary source categories:

(1) Standards of Performance for Fossil Fuel-Fired Steam Generators. The following emission standards apply to each fossil fuel-fired and to each combination wood-residue - fossil-fuel fired steam generating unit of more than [63 million Kilogram - calories per hour] 73 megawatts (250 million Btu/hr) heat input.

(a) Standards for Particulate Matter. No owner or operator subject to the provision of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which:

(A) Contain particulate matter in excess of [0.18 g per million cal.] 43 nanograms per joule heat input (0.10 lb per million Btu) derived from fossil fuel or fossil fuel and wood residue.

(B) Exhibit greater than 20 percent opacity except [that a maximum of 40...violation of this section.] for one six-minute period per hour of not more than 27 percent opacity.

(b) Standards for Sulfur Dioxide. No owner or operator... sulfur dioxide in excess of:

(A) [1.4 g per million cal.] 340 nanograms per joule heat input (0.80 lb. per million Btu) derived from liquid fossil fuel or liquid fossil fuel and wood residue.

(B) [2.2 g per million cal.] 520 nanograms per joule heat input (1.2 lb. per million Btu) derived from solid fossil fuel or solid fossil fuel and wood residue.

(C) Where different... following formula:

$$\left[\frac{y (1.4) + z (2.2)}{y + z} \right]$$
$$PSO_2 = \frac{y (340) + z (520)}{y + z}$$

where:

- (i) y is ... and
- (ii) z is ... and
- (iii) PSO₂ is the prorated standard for sulfur dioxide when burning different fuels simultaneously, in nanograms per joule heat input derived from all fossil fuels and wood residue fired.

(D) Compliance... fuels.

(c) Standards for Nitrogen Oxides. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which contain nitrogen oxides, expressed as [NO₂2] NO₂ in excess of:

(A) [0.36 g per million cal.] 86 nanograms per joule heat input (0.20 lb. per million Btu) derived from gaseous fossil fuel or gaseous fossil fuel and wood residue.

(B) [0.54 g per million cal.] 130 nanograms per joule heat input (0.30 lb. per million Btu) derived from liquid fossil fuel or liquid fossil fuel and wood residue.

(C) [1.26 g per million cal.] 300 nanograms per joule heat input (0.70 lb. per million Btu) derived from solid fossil fuel

or solid fossil fuel and wood residue (except lignite or a solid fossil fuel containing 25 percent, by weight, or more of coal refuse).

(D) When... following formula:

$$\frac{[x (0.36) + y (0.54) + z(1.26)]}{x + y + z}$$

where:

(i)

(ii)

When... does not apply.]

$$PNO_x = \frac{w (260) + x(86) + y(130) + z(300)}{w + x + y + z}$$

Where

(i) PNO_x is the prorated standard for nitrogen oxides when burning different fuels simultaneously, in nanograms per joule heat input derived from all fossil fuels and wood residue fired; and

(ii) w is the percentage of total heat input derived from lignite; and

(iii) x is the percentage of total heat input derived from gaseous fossil fuel; and

(iv) y is the percentage of total heat input derived from liquid fossil fuel; and

(v) z is the percentage of total heat input derived from solid fossil fuel (except lignite)

(E) When a fossil fuel containing at least 25 percent, by weight, of coal refuse is burned in combination with gaseous, liquid, or other solid fossil fuel or wood residue,

340-25-535(1) (c) does not apply.

(F) Rule 340-25-535(1) does not apply to Electric Utility Steam Generating Units for which Construction is commenced after September 18, 1978. These units must comply with more stringent 340-25-535(13).

(2) Standards of Performance for Incinerators.

...

(3) Standards of Performance for Portland Cement Plants

(a) ...

(A) ...

(B) Exhibit greater than 20 percent opacity[, except that... of this standard].

(b) ...

(c) Standards for ... any gases which exhibit 10 percent opacity or greater.

(4) Standards for Performance for Nitric Acid Plants. The following...

(a) ...

(b) Exhibit 10 percent opacity or greater. [Where the presence of uncombined water...violation of this section.]

(5) Standards of Performance for Sulfuric Acid Plants. The following...

(a) ...

(b) ...

(A) ...

(B) Exhibit 10 percent opacity or greater. [Where the presence of uncombined water... violation of this section.]

(6) Standards of Performance for Asphalt Concrete Plants.

(a) ...

(b) Exhibit 20 percent opacity or greater. [Where the presence of uncombined water ... violation of this section.]

(7) Standards of Performance for Petroleum Refineries.

The following emission standards apply to the following affected facilities in petroleum refineries: Fluid catalytic cracking unit catalyst regenerators, [fluid catalytic cracking unit incinerator - waste heat boilers] Claus sulfur recovery plants exceeding 20 long tons per day, and fuel gas combustion devices.

(a) Standards for Particulate Matter. No owner or operator subject to the provisions of this rule shall discharge or cause the discharge into the atmosphere from any fluid catalytic cracking unit catalyst regenerator [or from any fluid catalytic cracking unit incinerator - waste heat boiler]:

(A) Particulate matter...

(B) Gases exhibiting 30 percent opacity or greater except for [3.0] 6.0 minutes in any one hour. [Where the presence of uncombined water ... violation of this section.]

(C) ... (0.18 g/million cal.] 43.0 g/MJ ...

(b) ...

(c) ...

(d) No owner or operator subject to the provisions of this rule shall discharge or cause the discharge of any gases into the atmosphere from any Claus sulfur recovery plant containing in excess of:

(A) 0.025 percent by volume of sulfur dioxide at zero percent oxygen on a dry basis if emissions are controlled by an oxidation control system, or a reduction control system followed by incineration, or

(B) 0.030 percent by volume of reduced sulfur compounds and 0.0010 percent by volume of hydrogen sulfide calculated as sulfur dioxide at zero percent oxygen on a dry basis if emissions are controlled by a reduction control system not followed by incineration.

(8) Standards of Performance for Storage Vessels for Petroleum Liquids. The following...

(a) ...

(b) ...

(c) If construction is commenced after May 18, 1978, vessels in category 340-25-535(8) (a) above shall have double seals if external floating roof vessels, and comply with 40 CFR 60.110a to 115a.

(d) If construction is commenced after May 18, 1978, vapor recovery systems allowed by (a) and (c) above, and required by (b) above shall be designed so as to reduce Volatile Organic Compounds emissions to the atmosphere by at least 95 percent by weight.

(9) Standards of Performance for Secondary Lead Smelters. The following...

(a) ...

(b) ...

(c) ...

[(d) Where the presence of uncombined water... this section.]

(10) Standards of Performance for Secondary Brass and Bronze Ingot Production Plants. The following...

(a) ...

(b) ...

(c) ...

[(d) Where the presence of uncombined water... this section.]

(11) Standards of Performance for Iron and Steel Plants.

The following emission standards apply to each basic oxygen furnace ... facility any gases which

(a) Contain particulate matter in excess of 50 [Mg] mg /dscm (0.022 gr/dscf), and

(b) Exit from a control device and exhibit 10 percent opacity or greater, except that an opacity of greater than 10 percent but less than 20 percent may occur once per steel production cycle.

(12) Standards of Performance for Sewage treatment Plants.

The following...

(a) ...

(b) Any gases which exhibit 20 percent opacity or greater.

[Where the presence of uncombined water... this section.]

(13) Standards of Performance for Electric Utility Steam Generating Units. The following emission standards apply to each electric utility steam generating unit that is capable of combusting more than 73 megawatts (250 million Btu/hour) heat input of fossil fuel (either alone or in combination with any

other fuel) and for which construction commenced after September 18, 1978.

(a) Standards for Particulate Matter. No owner or operator subject to the provision of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which contain particulate matter in excess of:

(A) 13 ng/J (0.030 lb/million Btu) heat input derived from the combustion of solid, liquid, or gaseous fuel,

(B) 1.00 percent of the potential combustion concentration when combusting solid fuel, and

(C) 30 percent of the potential combustion concentration when combusting liquid fuel;

(D) an opacity of 20 percent, except for one 6-minute period per hour of not more than 27 percent opacity.

(b) Standards for Sulfur Dioxide. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which contain sulfur dioxide in excess of:

(A) 520 ng/J (1.20 lb. per million Btu) heat input for solid fuel or solid-derived fuel and 10 percent of the potential combustion concentration (90 percent reduction), or

(B) 30 percent of the potential combustion concentration (70 percent reduction), when emissions are less than 260 ng/J (0.60 lb. per million Btu) heat input for solid fuel or solid-derived fuel.

(C) 340 ng/J (0.80 lb. per million Btu) heat input from liquid or gaseous fuels and 10 percent of the potential combustion concentration (90 percent reduction), or

(D) when emissions are less than 80 ng/J (0.20 lb. per million Btu) heat input from liquid or gaseous fuels, 100 percent of the potential combustion concentration (zero percent reduction).

(E) 520 ng/J (1.20 lb. per million Btu) heat input from any affected facility which combusts 100 percent anthracite or is classified as a resource recovery facility.

(c) Standards for Nitrogen Oxides. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which contain nitrogen oxides in excess of:

(A) 86 ng/J heat input for gaseous fuels except for coal-derived gaseous fuels,

(B) 130 ng/J heat input for liquid fuels except for coal-derived or shale oil,

(C) 210 ng/J heat input for coal-derived gaseous, liquid, and solid fuels; for shale oil; or for subbituminous coal,

(D) 260 ng/J heat input from bituminous and anthracite coal; from lignite except as noted in (E) below; from all other solid fossil fuels not specified elsewhere in this rule,

(F) 340 ng/J heat input from any solid fuel containing more than 25% by weight of lignite mined in the Dakotas or Montana, and is combusted in a slag tap furnace,

(G) no limit for any solid fuel containing more than 25% by weight of coal refuse.

(14) Standards of Performance for Coal Preparation Plants.

These standards for Particulate Matter and for Visible Emissions apply only to coal preparation plants which process more than 200 tons of coal per day. An owner or operator shall not cause to be discharged into the atmosphere from

(a) any thermal dryer gases which contain particulate matter in excess of 0.070 g/dscm (0.031 gr/dscf);

(b) any pneumatic coal cleaning equipment, gases which

(A) contain particulate matter in excess of 0.040 g/dscm (0.018 gr/dscf),

(B) exhibit 10 percent opacity or greater.

(15) Standards of Performance for Ferroalloy Production Facilities. These standards for Ferroalloy plants are applicable only to electric submerged arc furnaces and to dust handling equipment, built or modified after October 21, 1974.

(a) Standard for Particulate Matter and Visible Emissions from Electric Arc Furnaces. No owner or operator shall cause to be discharged into the atmosphere from any electric submerged arc furnace any gases which:

(A) exit from a control device and contain particulate matter in excess of 0.45 Kg/MW-hr (0.99 lb/MW-hr) while silicon metal, ferrosilicon, calcium silicon, or siliconmanganese zirconium is being produced;

(B) exit from a control device and contain particulate matter in excess of 0.23 Kg/MW-hr (0.51 lb/MW-hr) while high-carbon ferrochrome, charge chrome, standard ferromanganese,

silicomanganese, calcium carbide, ferrochrome silicon, ferro-
manganese silicon, or silvery iron is being produced;

(C) exit from a control device and exhibit 15 percent
opacity or greater;

(D) exit from an electric submerged arc furnace and escape
the capture system and are visible;

(E) escape the capture system at the tapping station and
are visible for more than 40 percent of each tapping period,
except a blowing tap is exempted.

(b) Standard for Visible Emissions from Dust Handling
Equipment. No owner or operator shall cause to be discharged
into the atmosphere from any dust-handling equipment any gases
which exhibit 10 percent opacity or greater.

(c) Standard for Carbon Monoxide. No owner or operator
shall cause to be discharged into the atmosphere from any
electric submerged arc furnace any gases which contain, on a
dry basis, 20 or greater volume percent of carbon monoxide.

(16) Standards of Performance for Steel Plants: Electric
Arc Furnaces. These standards for Steel Plants are applicable
only to electric arc furnaces and dust-handling equipment, built
or modified after October 21, 1974.

(a) No owner or operator shall cause to be discharged into
the atmosphere from an electric arc furnace any gases which:

(A) exit from a control device and contain particulate
matter in excess of 12 mg/dscm (0.0052 gr/dscf);

(B) exit from a control device and exhibit 3.0 percent opacity or greater;

(C) exit from a shop and, due solely to operations of any electric arc furnaces, exhibit greater than zero percent shop opacity, except that shop opacity must be only less than 20 percent during charging periods and only less than 40 percent during tapping periods.

(b) No owner or operator shall cause to be discharged into the atmosphere from dust-handling equipment any gases which exhibit 10 percent opacity or greater.

(17) Standards of Performance for Kraft Pulp Mills: the standards for kraft pulp mills are applicable only to recovery furnaces, smelt dissolving tanks, lime kilns, digester system, brown stock washer system, multiple-effect evaporator system, black liquor oxidation system, and condensate stripper systems built or modified after September 24, 1976.

(a) No owner or operator shall cause to be discharged into the atmosphere particulate matter:

(A) from any recovery furnace:

(i) in excess of 0.10 g/dscm (0.044 gr/dscf) corrected to 8 percent oxygen

(ii) which exhibits 35 percent opacity or greater;

(B) from any smelt dissolving tank in excess of 0.10 g/Kg black liquor solids, dry weight, (0.20 lb/ton);

(C) from any lime kiln:

(i) in excess of 0.15 g/dscm (0.067 gr/dscf) corrected to 10 percent oxygen, when gaseous fossil fuel is burned;

(ii) in excess of 0.30 g/dscm (0.13 gr/dscf) corrected to 10 percent oxygen, when liquid fossil fuel is burned.

(b) No owner or operator shall cause to be discharged in the atmosphere Total Reduced Sulfur compounds, (TRS), which are hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide:

A. from any digester system, brown stock washer system, multiple-effect evaporator system, black liquor oxidation system, or condensate stripper system in excess of 5.0 ppm by volume on a dry basis, corrected to 10 percent oxygen;

B. from any straight kraft recovery furnace in excess of 5.0 ppm by volume on a dry basis corrected to 8 percent oxygen,

C. from any cross recovery furnace in excess of 25 ppm by volume on a dry basis, corrected to 8.0 percent oxygen,

D. from any smelt dissolving tank in excess of 0.0084 g/Kg black liquor solids, dry weight, (0.0168 lb/ton),

E. from any lime kiln in excess of 8.0 ppm by volume on a dry basis, corrected to 10 percent oxygen.

(18) Standards of Performance for Glass Manufacturing Plants. The following particulate matter standard applies to each glass melting furnace which commenced construction or modification after June 15, 1979, at glass manufacturing plants but does not apply to hand glass melting furnaces, furnaces with

a design capacity of less than 4,550 kilograms of glass per day,
or to all-electric melters. Standard for Particulate Matter:

No owner or operator of a glass melting furnace subject
to this rule shall cause to be discharged into the atmosphere
from a glass melting furnace particulate matter exceeding the
rates specified in 40CFR60.292.

(19) Standards of Performance for Grain Elevators. The
following emission standards apply to any grain terminal elevator
or any grain storage elevator which commenced construction,
modification, or reconstruction after August 3, 1978. Standards
for Particulate Matter:

(a) On and after the 60th day of achieving the maximum
production rate, but no later than 180 days after initial
startup, no owner or operator shall cause to be discharged into
the atmosphere any gases or fugitive dusts which exhibit opacity
greater than:

(A) zero percent opacity from any column dryer with column
plate perforation exceeding 2.4 mm (0.094 inch) diameter,

(B) zero percent opacity from any rack dryer in which
exhaust gases pass through a screen filter coarser than 50 mesh,

(C) 5.0 percent opacity from any individual truck unloading
station, railcar unloading station, or railcar loading station,

(D) zero percent opacity from any grain handling operation,

(E) 10.0 percent opacity from any truck loading station.

(b) After initial startup, no owner or operator shall cause to be discharged into the atmosphere from any affected facility, except a grain dryer, any process emission which:

(A) contains particulate matter in excess of 0.023 g/dscm (0.010 gr/dscf),

(B) exhibits greater than zero percent opacity.

(c) The owner or operator of any barge or ship unloading station shall operate as follows:

(A) The unloading leg shall be enclosed from the top (including the receiving hopper) to the center line of the bottom pulley and ventilation to a control device shall be maintained on both sides of the leg and the grain receiving hopper.

(B) The total rate of air ventilated shall be at least 32.1 actual cubic meters per cubic meter of grain handling capacity (ca. 40 ft³/bu).

(C) Rather than meet the requirements of subparagraphs (A) and (B) of this paragraph the owner or operator may use other methods of emission control if it is demonstrated to the Department's satisfaction that they would reduce emissions of particulate matter to the same level or less.

(20) Standards of Performance for Gas Turbines. The following emission standards apply to any stationary gas turbine with a heat input at peak load equal to or greater than 10.7

gigajoules per hour (1,000 HP) for which construction was commenced after October 3, 1977, except as noted in (a) (C) below.

(a) Standard for Nitrogen Oxides. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any stationary gas turbine, nitrogen oxides in excess of:

(A) 75 ppm for units greater than or equal to 107.2 gigajoules/hour, which is located in a Metropolitan Statistical Area and is in gas and oil transportation or production, or used for other purposes;

(B) 150 ppm for units greater than or equal to 107.2 gigajoules/hour, which is located outside a Metropolitan Statistical Area and is in gas and oil transportation or production;

(C) 150 ppm for units between 10.7 and 107.2 gigajoules/hour that commence construction, modification, or reconstruction after October 3, 1982.

(D) Exempt from the Nitrogen Oxide standards are units used for emergency standby, firefighting, military (except for garrison facility), military training, and research and development turbines.

(b) Standard for Sulfur Dioxide. Owners or operators shall:

(A) not cause to be discharged into the atmosphere from any gas turbine any gases which contain sulfur dioxide in excess of 150 ppm by volume at 15 percent oxygen, on a dry basis; or

(B) not burn in any gas turbine any fuel which contains sulfur in excess of 0.80 percent by weight.

(21) Standards of Performance for Lime Manufacturing Plants.

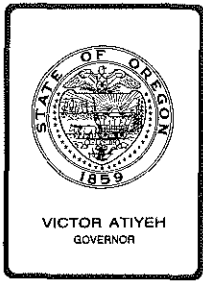
The following standards for particulate matter apply to rotary lime kilns and lime hydrators, used in the manufacturer of lime, that commence construction or modification after May 3, 1977, but does not apply to lime manufacturing at kraft pulp mills.

(a) No owner or operator shall cause to be discharged into the atmosphere from any rotary lime kiln any gases which:

(A) contain particulate matter in excess of 0.15 kilogram per megagram of limestone feed (0.30 lb/ton),

(B) exhibit 10 percent opacity or greater.

(b) No owner or operator shall cause to be discharged into the atmosphere from any lime hydrator any gases which contain particulate matter in excess of 0.075 kilogram per megagram of lime feed (0.15 lb/ton).



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. F, November 21, 1980, EQC Meeting

Request for Authorization to Conduct Public Hearings on Amendments to Rules governing Subsurface Sewage Disposal and Nonwater-Carried Sewage Disposal Facilities Schedule of Civil Penalties, OAR 340-12-060

Background and Problem Statement

ORS 468.130 requires the Commission to adopt by rule a schedule of civil penalties establishing the amount of a civil penalty that may be imposed for particular violations as outlined in ORS 468.140.

The current schedule of civil penalties pertaining to subsurface sewage disposal has not been revised or amended since 1974. Since that time there have been numerous changes in the rules governing subsurface sewage disposal, not the least of which is the current effort to completely rewrite the entire package. Concomitant with rule changes is the creation of new violations which must, therefore, be subject to civil penalty assessment. However, the primary thrust of the civil penalty schedule revision is not directed at describing penalty amounts for new violations but establishing revised civil penalty amounts for what are essentially the same violations.

The problem has traditionally been one of effective and timely enforcement of the subsurface rules. The current civil penalty schedule establishes minimum amounts assessable per day of violation that result in the Department having to either allow a specific violation to continue in order to assess a penalty that will get the attention of the violator or assess a timely but insignificant amount. The Department intends to improve the effectiveness and timeliness of its enforcement program in on-site sewage disposal by raising the minimum civil penalty amounts. As an example, the current schedule of civil penalties allows the Department to assess a \$10 penalty against an individual who installs an on-site sewage disposal system without the Department's permit. This violation is probably one



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of the most serious in the subsurface program. Once the system is installed and the individual begins using it, a court order will more than likely be required to force abandonment of that system. Recognizing that a stronger deterrent may be more beneficial to the citizens of this state in preventing a public health hazard, it follows that the minimum penalty assessable for such a violation be increased.

Alternatives and Evaluation

1. Do not change the existing civil penalty schedule.

As indicated above, this alternative would not provide the impact in the enforcement area of subsurface sewage disposal that is necessary in order to maintain and protect the public health and welfare of the citizens of Oregon.

2. Rescind current schedule of civil penalties and adopt proposed schedule.

The proposed schedule of civil penalties will provide for a more efficient and effective enforcement program, thus benefiting the public health and welfare of the citizens of Oregon. By raising the minimum amounts assessable for each violation, per day of violation, the Department will be in a stronger position to encourage the elimination of that violation to the benefit of public health.

Following are examples of proposed changes in the schedule:

- a. Increases the minimum penalty which may be assessed for installation of a septic system without a permit from \$10 to \$100.
- b. Increases the minimum penalty which may be assessed for the disposal of septic tank pumpings in an unauthorized disposal site, from \$5 to \$100.

Summation

1. The Commission is required to adopt by rule a schedule of civil penalties for certain violations as outlined in ORS 468.140.
2. The current schedule of civil penalties governing subsurface and nonwater-carried sewage disposal facilities violations has not been amended since 1974. The current schedule does not realistically reflect today's economy nor does it assist the Department in its goal of protecting the public health by providing a more effective enforcement mechanism.

Director's Recommendation

Based upon the summation, it is recommended that the Commission authorize public hearings to take testimony on the question of amending rules pertaining to the subsurface and nonwater-carried sewage disposal facilities schedule of civil penalties (OAR 340-12-060), and adopting the proposed schedule as a replacement.

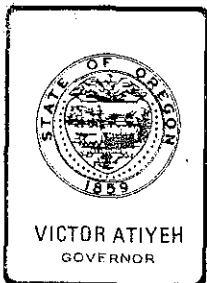
Bill

William H. Young

Attachments

- Attachment A Draft Public Hearing Notice
- Attachment B Draft Statement of Need, Statutory Authority and Fiscal Impact
- Attachment C Draft of Proposed Rules

John Rowan:f
229-6202
GX100X.A(2)
October 21, 1980



Department of Environmental Quality

Attachment A

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

Distributed: December 1, 1980

Hearing Date: December 18, 1980

* * * * *
* NOTICE OF PUBLIC HEARING *
* * * * *

A CHANCE TO BE HEARD ABOUT:

Changes to the Subsurface Sewage Disposal and Nonwater-Carried Sewage Disposal Systems Schedule of Civil Penalties.

The Department of Environmental Quality is proposing to replace the current schedule of civil penalties (Oregon Administrative Rules 340-12-060), with a new schedule of civil penalties. These are penalties which the Department is authorized to assess against persons who violate the rules governing on-site sewage disposal.

WHAT IS THE DEQ PROPOSING?

The DEQ is proposing to increase the minimum and maximum civil penalty amounts assessable for various types of violations.

Among the changes to be considered are:

- a. Increasing the minimum penalty which may be assessed for installation of an on-site sewage disposal system without a permit, from \$10 to \$100; while increasing the maximum penalty from \$400 to \$500.
- b. Increasing the minimum penalty which may be assessed for the disposal of septic tank, holding tank, chemical toilet or privy sludges at an unauthorized disposal site, from \$5 to \$100; while increasing the maximum penalty from \$300 to \$500.
- c. Increasing the maximum penalty for any violation listed or referred to in the proposed schedule, to \$500.

WHO IS AFFECTED BY THIS PROPOSAL:

Persons affected will be those who are in violation of the Department's rules governing on-site sewage disposal and who do not eliminate those violations when asked to do so by the Department.

HOW TO PROVIDE YOUR INFORMATION:

Written comments should be sent to the Department of Environmental Quality, Enforcement Section of Regional Operations, Box 1760, Portland, Oregon 97207, and should be received by December 18, 1980.

Oral and written comments may be offered at the following public hearing:

<u>City</u>	<u>Time</u>	<u>Date</u>	<u>Location</u>
Portland	1 p.m.	December 18, 1980	522 SW 5th, Yeon Building, Room 1400

WHERE TO OBTAIN ADDITIONAL INFORMATION:

Copies of the proposed rules or any other information may be obtained from John Rowan, DEQ, Regional Operations, 522 SW 5th, Box 1760, Portland, Oregon 97207, 229-6202.

Citation of Statutory Authority, Statement of Need and Statement of Fiscal Impact are on file with the Secretary of State.

LAND USE GOALS:

This activity has been defined as "not affecting land use."

FURTHER PROCEEDINGS:

After public hearing the Commission may adopt the rule identical to the proposed rule, adopt modified version on the same subject matter, or decline to act. The Commission's deliberation should come in late January 1981 as part of the agenda of a regularly scheduled Commission meeting.

WHL:G
GX100.XB



William H. Young
Department of Environmental Quality

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

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In the Matter of the)	Statutory Authority,
Adoption of Rule)	Statement of Need,
340-12-060; On-Site	)	and Statement of Fiscal Impact
Sewage Disposal Systems)	
Schedule of Civil Penalties)	
)	
)	

STATUTORY AUTHORITY:

Oregon Revised Statutes 468.130.

NEED FOR RULE:

The current schedule of civil penalties, in effect since 1974, does not provide the Department with an effective enforcement mechanism due to the rather low minimum amounts assessable. In order for enforcement to be effective in the on-site sewage disposal program, thereby protecting public health, it is necessary that the alleged violator be assessed a more substantial minimum penalty than heretofore possible. A more substantial civil penalty assessment will get the attention of the alleged violator more quickly and thus lead to a more timely resolution of the violation.

FISCAL IMPACT:

No apparent positive fiscal impact. Negative fiscal impact will be on those persons who are in violation of the rules governing on-site sewage disposal. No additional staff will be needed as a result of the new rules.

Date _____

William H. Young

 William H. Young, Director
 Department of Environmental Quality

GX100.XC

Proposed Rule Changes

[Subsurface Sewage Disposal and Nonwater-Carried Sewage Disposal Facilities] On-Site Sewage Disposal Systems Schedule of Civil Penalties.

340-12-060 In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to [subsurface sewage disposal and nonwater-carried sewage disposal facilities] on-site sewage disposal systems by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than twenty-five dollars (\$25) nor more than five hundred (\$500) upon any person who:

(a) Violates a final order of the Commission requiring remedial action;

(b) Violates an order of the Commission limiting or prohibiting [construction] installation of [subsurface sewage disposal and nonwater-carried sewage disposal facilities] on-site sewage disposal systems in an area;

[(c) Performs, or advertises or represents himself as being in the business of performing, sewage disposal services, without obtaining and maintaining a current license from the Department, except as provided by statute or rule; or]

(c) Installs or causes to be installed an on-site sewage disposal system, or any part thereof, which fails to meet the requirements for satisfactory completion within thirty (30) days after written notification or posting of a Correction Notice at the site;

(d) Operates or uses a [newly constructed or modified subsurface sewage] nonwater-carried waste disposal [system] facility without first obtaining a [certificate] letter of [satisfactory completion] authorization from the [Department] Agent [,except as provided by statute or rule] therefore;

(e) Operates or uses a newly constructed, altered or repaired on-site sewage disposal system, or part thereof, without first obtaining a Certificate of Satisfactory Completion from the Agent, except as provided by statute or rule;

(f) Fails to connect all plumbing fixtures from which sewage is or may be discharged to a Department approved system;

(g) Commits any other violation pertaining to on-site sewage disposal systems; or

(2) No less than [ten] one hundred dollars [(\$10)] (\$100) nor more than [four] five hundred dollars [(\$400)] (\$500) upon any person who:

[(a) Constructs or causes to be constructed a subsurface sewage disposal system or nonwater-carried sewage facility or part thereof without first obtaining a permit from the Department therefor;]

(a) Performs, or advertises or represents himself as being in the business of performing, sewage disposal services, without obtaining and maintaining a current license from the Department, except as provided by statute or rule;

(b) [Constructs] Installs or causes to be [constructed] installed a subsurface, alternative or experimental sewage disposal system, [or nonwater-carried sewage disposal facility which fails to meet the minimum requirement for design and construction prescribed by the Commission therefore;] or any part thereof, without first obtaining a permit from the Agent;

[(c) Commits any other violation in the course of performing sewage disposal services; or]

[(d)] (c) Fails to obtain a permit from the [Department] Agent within three days after beginning emergency repairs on a subsurface, alternative or experimental sewage disposal system.

(d) Disposes of septic tank, holding tank, chemical toilet, privy or other treatment facility sludges in a manner or location not authorized by the Department;

(e) Connects or reconnects the sewage plumbing from any dwelling or commercial facility to an existing system without first obtaining an Authorization Notice from the Agent;

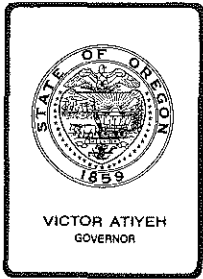
(f) Installs or causes to be installed a nonwater-carried waste disposal facility without first obtaining written approval from the Agent therefor;

(g) Operates or uses an on-site sewage disposal system which is failing by discharging sewage or septic tank effluent onto the ground surface or into surface public waters;

(h) As a licensed sewage disposal service worker, performs any sewage disposal service work in violation of the rules of the Commission.

[(3) Not less than five dollars (\$5) nor more than three hundred (\$300) upon any person who commits any other violation pertaining to the subsurface disposal of sewage or nonwater-carried sewage disposal facilities.]

GW20.A



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. G, November 21, 1980, EQC Meeting

Request for Authorization to Conduct a Public Hearing on a Proposed Revision to the Emission Limits in the State Implementation Plan for the Boiler at the Weyerhaeuser Company Plant in Bly, Oregon.

Background and Problem Statement

On August 31, 1979, the Commission granted a variance for operation of the boiler at the Weyerhaeuser Company sawmill at Bly at 0.13 gr/SCF instead of the 0.1 gr/SCF regulatory limit. However, this boiler is in violation of the federally enforceable State Implementation Plan (SIP) which contains the 0.1 gr/SCF limit. In order to avoid non-compliance penalties, the Department is proposing to modify the SIP to include the specific emission limits for this boiler.

The Sterling boiler was installed at the Bly sawmill in 1976 but was manufactured in 1947. It was required to meet emission limits (0.1 gr/SCF) for new sources installed after 1970. However, it did not have the most recent developments in combustion controls and furnace design. A source test indicated maximum emissions to be 0.13 gr/SCF. In addition, ambient air studies indicated that the area was well under the ambient air standards and that local impacts of the boiler emissions were minimal. Based upon this information the EQC granted a variance for operation at the 0.13 gr/SCF maximum emission rate.

The Commission is authorized by ORS 469.345 to grant variances from the Department's rules. A public hearing is required by EPA as part of the SIP modification process.

Alternatives and Evaluation

Although the Commission has already granted a variance from the State rules for this boiler, the SIP must be modified or EPA will be required by the Clean Air Act Amendments of 1977 to take enforcement action. As part of the public participation requirements for SIP modifications, a public hearing is required.



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In addition to the new 0.13 gr/SCF limit imposed by the variance, the Department is proposing a limit on the mass emissions from the boiler. This mass limit would restrict the boiler to the emission levels of recent years. This limit would insure that air quality in the area would not degrade and this area will maintain compliance with the ambient air standards.

Both of the limits will be incorporated into the Air Contaminant Discharge Permit. However, only those two conditions would be submitted as SIP modifications. This would enable the Department to renew or modify other conditions of the permit without again modifying the SIP.

By modifying the SIP to include the same limits as imposed by the variance, those limits will become enforceable by EPA instead of the statewide limits currently enforceable by EPA. This boiler is the only boiler that would be impacted by the proposed SIP modification. If a change in the SIP is not made, the boiler will be subject to enforcement action by EPA and possible non-compliance penalties.

Summation

1. On August 31, 1979 the Commission granted a variance to Weyerhaeuser Company in Bly to operate the boiler in excess of the regulatory emission limit.
2. In order to avoid being subject to EPA enforcement action and non-compliance penalties, the SIP must be modified to include the variance limits and a limit to insure non-degradation of the area air quality.
3. A public hearing is required by EPA as part of the SIP revision process.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission authorize a public hearing on the proposed revisions to the State Implementation Plan to include special emission limits for the boiler at the Weyerhaeuser Company plant in Bly, Oregon.

Bill

William H. Young

Attachments (3) Draft permit including the proposed SIP modification conditions
Draft Hearing Notice
Draft Statement of Need for Rulemaking

FA Skirvin:kmm
AA526.M (1)
229-6414
November 3, 1980

AIR CONTAMINANT DISCHARGE PERMIT

Department of Environmental Quality
522 Southwest Fifth Avenue, Portland, OR 97204
Mailing Address: Box 1760, Portland, OR 97207
Telephone: (503) 229-5696

Issued in accordance with the provisions of ORS 468.310

ISSUED TO:

Weyerhaeuser Company
P O Box 325
Bly, OR 97622

PLANT SITE:

Highway 140
Bly, Oregon

ISSUED BY DEPARTMENT OF ENVIRONMENTAL QUALITY

WILLIAM H. YOUNG, Director

Dated

Source(s) Permitted to Discharge Air Contaminants:

<u>Name of Air Contaminant Source</u>	<u>Standard Industry Code as Listed</u>
Sawmill and Planing Mill - greater than 25,000 board feet per shift.	2421
Fuel Burning Equipment - outside AQMA greater than 30 million BTU/hr.	4961

Permitted Activities

Until such time as this permit expires or is modified or revoked, the permittee is herewith allowed to discharge exhaust gases containing air contaminants including emissions from those processes and activities directly related or associated thereto in accordance with the requirements, limitations and conditions of this permit from the air contaminant source(s) listed above.

The specific listing of requirements, limitations and conditions contained herein does not relieve the permittee from complying with all other rules and standards of the Department.

Performance Standards and Emission Limits

1. The permittee shall at all times maintain and operate all air contaminant generating processes and all contaminant control equipment at full efficiency and effectiveness, such that the emission of air contaminants are kept at the lowest practicable levels.
2. Particulate emissions from any single air contaminant source except the Sterling boiler shall not exceed any of the following:
 - a. 0.2 grains per standard cubic foot for sources existing prior to June 1, 1970;
 - b. 0.1 grains per standard cubic foot for sources installed, constructed, or modified after June 1, 1970; and
 - c. An opacity equal to or greater than twenty percent (20%) for a period aggregating more than three (3) minutes in any one (1) hour.
3. The permittee shall operate and control the steam generating boiler(s) in accordance with the following list of boiler operating parameters and emission limitations:

Boiler Identification	Fuel Used	Maximum Emission Limits	
		Opacity (1)	Maximum Capacity (2)
Sterling	hogged fuel	20	40,000

- (1) Maximum opacity that shall not be equalled or exceeded for a period or periods aggregating more than three minutes in any one hour, excluding uncombined water vapor.
- (2) Maximum hourly average steam production (pounds per hour).
4. The permittee shall not operate the boiler with other fuels or at greater steam generating rates than those established during the Department approved particulate emissions source test.
5. Particulate emissions from at the Sterling boiler shall not exceed 78 metric tons per year (86 short tons per year).
6. Particulate emissions from the Sterling boiler shall not exceed 0.13 grains per standard cubic foot corrected to 12 percent carbon dioxide.

Monitoring and Reporting

7. The permittee shall report to the Department of Environmental Quality by January 15 of each year this permit is in effect at least the following information for the preceding calendar year:
 - a. Total sawmill operating time (hours/year)
 - b. Sawmill production (board feet/year)
 - c. Type and amount (tons/year) of wood waste burned in each boiler
 - d. Total boiler operating time (hours/year)

Fee Schedule

8. The Annual Compliance Determination Fee for this permit is due April 1st of each year this permit is in effect. An invoice indicating the amount, as determined by Department regulations, will be mailed prior to the above date.

General Conditions and Disclaimers

- G1. The permittee shall allow Department of Environmental Quality representatives access to the plant site and pertinent records at all reasonable times for the purposes of making inspections, surveys, collecting samples, obtaining data, reviewing and copying air contaminant emission discharge records and otherwise conducting all necessary functions related to this permit.
- G2. The permittee is prohibited from conducting open burning except as may be allowed by OAR Chapter 340, Sections 23-025 through 23-050.
- G3. The permittee shall:
- a. Notify the Department in writing using a Departmental "Notice of Construction" form, and
 - b. Obtain written approval.
- before:
- a. Constructing or installing any new source of air contaminant emissions, including air pollution control equipment, or
 - b. Modifying or altering an existing source that may significantly affect the emission of air contaminants.
- G4. The permittee shall notify the Department at least 24 hours in advance of any planned shutdown of air pollution control equipment for scheduled maintenance that may cause a violation of applicable standards.
- G5. The permittee shall notify the Department by telephone or in person within one (1) hour of any malfunction of air pollution control equipment or other upset condition that may cause a violation of the applicable standards. Such notice shall include the nature and quantity of the increased emissions that have occurred and the expected duration of the breakdown.
- G6. The permittee shall at all times conduct dust suppression measures to meet the requirements set forth in "Fugitive Emissions" and "Nuisance Conditions" in OAR Chapter 340, Sections 21-050 through 21-060.
- G7. Application for a modification of this permit must be submitted not less than 60 days prior to the source modification. A Filing Fee and an Application Processing Fee must be submitted with an application for the permit modification.

- G8. Application for renewal of this permit must be submitted not less than 60 days prior to the permit expiration date. A Filing Fee and an Annual Compliance Determination Fee must be submitted with the application for the permit renewal.
- G9. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.
- G10. This permit is subject to revocation for cause as provided by law.
- G11. Notice provision: Section 113(d)(1)(E) of the Federal Clean Air Act, as amended in 1977, requires that a major stationary source, as defined in that act, be notified herein that "it will be required to pay a noncompliance penalty under Section 120 (of that act) or by such later date as is set forth in the order (i.e., in this permit) in accordance with Section 120 in the event that such source fails to achieve final compliance by July 1, 1979."

Department of Environmental Quality
Air Quality Control Division

AIR CONTAMINANT DISCHARGE PERMIT APPLICATION REVIEW REPORT

Weyerhaeuser Company
Bly, Oregon

Background

1. Air contaminant source activities.

<u>SIC</u>	<u>SIC No.</u>	<u>EI No.</u>
Sawmill and Planing Mill greater than 25,000 BF/shift	2421	18-0037
Boiler - greater than 30 million BTU/hr.	4961	18-0037

2. The normal mill operating schedule is: 16 hours/day x 5 days/week x 52 weeks/year.
3. The normal boiler operating schedule is: 24 hours/day x 7 days/week x 52 weeks/year.
4. Estimated plant production is:
- a. Lumber.....87 million board feet/year
 - b. Hogged fuel.....21,600 tons/year
5. The proposed permit is a modification of an existing Air Contaminant Discharge Permit.

Conditions are being added to include provisions of the variance granted by the EQC on 8/31/79 and to limit boiler emissions to historical levels. These conditions will be submitted to EPA as SIP revisions.

Evaluation

6. Existing visible and particulate emission sources at the plant site consist of the following:
- a. 1 Boiler - in compliance
 - b. 5 Cyclones - in compliance
7. Boiler identification:

<u>ID No.</u>	<u>Manufacturer</u>	<u>Type</u>	<u>Date Installed</u>	<u>Rated Capacity</u>
	Sterling		1976	40,000 #/hr

8. Source Test Information:

Permit Number: 18-0037
Application NO.:
Date: 10-20-80
Page 2 of 2

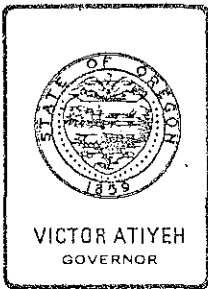
<u>Source</u>	<u>Test Date</u>	<u>Results</u>
Sterling Boiler	1/10-11/79	0.13gr/SCF at 40,000 #/hr

9. Visible Emission Observations:

<u>Source</u>	<u>Test Date</u>	<u>Results</u>
Boiler & Cyclones	5/30/79	In compliance

10. The mass emission limit is based upon the 1/79 source test results assuming full time operation.

EW:a
P18003.7R



Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

Prepared: 10/21/80

Hearing Date: 12/15/80

NOTICE OF PUBLIC HEARING

A CHANCE TO BE HEARD ABOUT:

Modifying the State Implementation Plan to Include Special Emission Limits for the Boiler at the Weyerhaeuser Company Sawmill in Bly.

On August 31, 1979, the Environmental Quality Commission granted a variance for the operation of this boiler above the regulatory limit. In order to make the federally enforceable State Implementation Plan (SIP) consistent with the State enforced emission limits, the Department is holding a public hearing to take testimony on the proposed modification to the SIP. If the SIP is not modified to include the State emission limits, this source may be subject to non-compliance penalties.

WHAT IS THE DEQ PROPOSING?

Interested parties should request a copy of the complete proposed rule package. Some highlights are:

- ** A grain loading limit of 0.13 grains per standard cubic foot.
- ** A mass emission limit of 86 tons per year.

WHO IS AFFECTED BY THIS PROPOSAL:

The Weyerhaeuser Company Sawmill in Bly.

HOW TO PROVIDE YOUR INFORMATION:

Written comments should be sent to the Department of Environmental Quality, Air Quality Division, Box 1760, Portland, Oregon 97207, and should be received by December 14, 1980.

Oral and written comments may be offered at the following public hearing:

<u>City</u>	<u>Time</u>	<u>Date</u>	<u>Location</u>
Portland	2:00pm	12/15/80	Department of Environmental Quality Fourth Floor 522 SW Fifth Ave. Portland, Oregon 97204

WHERE TO OBTAIN ADDITIONAL INFORMATION:

Copies of the proposed rules may be obtained from:

Edward Woods
DEQ Air Quality Division
Box 1760
Portland, Oregon 97207
503-229-6480

LEGAL REFERENCES FOR THIS PROPOSAL:

This proposal amends the State Implementation Plan for this source only.
It is proposed under authority of ORS 468.345.

This proposal does not affect land use as defined in the Department's
coordination program with the Department of Land Conservation and
Development.

FURTHER PROCEEDINGS:

After public hearing the Commission may submit conditions identical to
the proposed conditions, submit modified conditions on the same subject
matter, or decline to act. The adopted conditions will be submitted to
the Environmental Protection Agency as part of the State Clean Air Act
Implementation Plan. The Commission's deliberation should come in January
as part of the agenda of a regularly scheduled Commission meeting.

A Statement of Need and Fiscal Impact Statement are attached to this
notice.

EW:kmm
AA526.PN (1)

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(2), this statement provides information on the intended action to amend a rule.

Legal Authority

The Commission is authorized to grant variances from State rules by ORS 468.345.

Need for the Rule

It is necessary to modify the State Implementation Plan so that EPA and DEQ will be enforcing the same emission limits.

Principle Documents Relied Upon

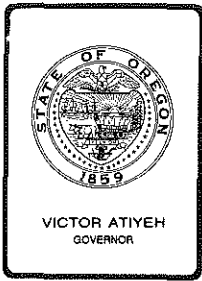
Clean Air Act Amendments of 1977
January 1979 source test of the boiler emissions.

Fiscal Impact Statement

There will be a minimal fiscal impact on the Weyerhaeuser Company

EW: kmm

AA526.SN (1)



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, November 21, 1980, EQC Meeting

Request by Clatsop County for Extension of Variances from Rules Prohibiting Open Burning Dumps, OAR 340-61-040(2)(c)

Background and Problem Statement

At its February 22, 1980, meeting (Agenda Item H is attached), the Commission granted a variance extension from OAR 340-61-040(2)(c) for continued operation of open burning dumps at Seaside, Cannon Beach, and Elsie in Clatsop County. This extension, which is now expiring, was granted on the basis that the County had retained a consultant to find an acceptable regional landfill site and that the Department anticipated that such a facility would be ready for operation by this date.

The consultant did indeed identify several potential sites. However, the top-rated site is presently owned by Bonneville Power Administration (BPA) and, for reasons beyond its control, the County has been delayed in securing it. BPA is in the process of declaring the property surplus. Once this action is taken, the property will come under the control of the General Services Administration, which will put it out for bid. At that time Clatsop County would be eligible to acquire the property.

Regrettably, this process may take from four (4) months to six (6) months. Even then, the County will have to complete additional geotechnical work, preliminary design and operational plans, and secure voter approval for funding. At best, this entire procedure will require at least one and one-half years and possibly more, depending on the length of the construction season. Accordingly, the County has requested a two-year extension of the variances. The Commission may grant variances in accordance with ORS 459.225(3).



Contains
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Materials

Alternatives and Evaluation

The three open burning sites do not have sufficient suitable area to allow continued operation without open burning, and currently there is no alternative site available. Therefore, denial of a variance extension at this time would quickly result in closure of the sites.

Based upon information available to date, the Department agrees with the County's consultant that the BPA site is the best yet identified, and that the County should not attempt to secure and develop some other site unless it becomes clear that attainment of the BPA site is not likely.

In accordance with the above, the Department supports a variance extension; however, not for the time period proposed by the County. Recently the Commission denied a similar request for a variance extension by two landfill operators in Lincoln County partly because a landfill near Agate Beach was potentially available as an interim regional site. For this reason, the Department believes it is reasonable to request that the operators in Clatsop County be required to stop burning and haul to the existing Astoria Landfill, by not later than November 1, 1981.

The Department recommends that by June 1, 1981: (1) the operators be required to submit a progress report detailing their plans of hauling to the Astoria Landfill as an interim measure as soon as practicable but by no later than November 1, 1981; and (2) the County submit a report identifying which site, either the BPA site or some alternative, it has secured including a time schedule for constructing the selected site.

Summation:

1. Several alternative landfill sites have been identified and the County has initiated action to acquire the top-rated site. The process is now in the hands of the federal government and beyond the County's control.
2. The lack of suitable area at each of the three open burning sites prevents their conversion to modified landfills. Denial of the variance extension would result in closure of the sites.
3. There is currently no alternative site available, although the Astoria site could be operated as a modified landfill until construction is completed on the new county-wide landfill.
4. Clatsop County, on behalf of its open dump at Elsie and privately operated dumps at Seaside and Cannon Beach, has requested a two-year variance extension.
5. As an alternative, the Commission could require that the applicants cease burning and haul to the Astoria Landfill by not later than November 1, 1981.

6. The Commission recently denied a similar request for a variance extension partly because an interim regional landfill was potentially available.
7. The Department finds that the applicant's request meets the requirements of ORS 459.225(3), by which the Commission may grant a variance, as follows:
 - 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 at this time.

Director's Recommendation

Based on the findings in the Summation, it is recommended that the Commission grant an extension of variances to OAR 340-61-040(2), until November 1, 1981, for the Cannon Beach, Elsie, and Seaside disposal sites, subject to the following condition:

"By not later than June 1, 1981, Clatsop County shall report to the Department the identity of the regional landfill site it has secured including a time schedule to complete final engineering plans and specifications, start construction, and complete construction. In addition, the operators of the above open dumps shall submit a progress report on June 1, 1981, detailing their plans of hauling to the Astoria Landfill as an interim measure as soon as practicable but by no later than November 1, 1981."

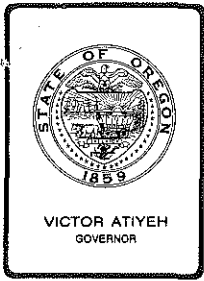


William H. Young

Attachment: Agenda Item H

William H. Dana:wec
229-6266
November 6, 1980

RW56 (1)



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. J , November 21, 1980, EQC Meeting

Proposed Adoption of Noise Control Regulations for Motor Sports Vehicles and Facilities, OAR 340-35-040; Amended Definitions, OAR 340-35-015; and Procedure Manual, NPC-35

Background

In 1971 the Oregon Legislature found that a program should be initiated to protect Oregon citizens from deterioration of the quality of life by excessive noise emissions. The Environmental Quality Commission was empowered to adopt reasonable statewide standards to that end, and to enforce compliance with those standards.

Studies initiated by the Department in 1972 indicated that motor vehicle racetrack noise was a significant source of annoyance to many citizens. In late 1973, regulations were proposed that set maximum noise levels for racing events when measured at the nearest noise sensitive property. Although many Oregonians felt the proposed rules were not stringent enough, it became apparent that the proposed standards could not be implemented without destroying the racing industry as it presently exists in Oregon. The 1973 draft was abandoned and further research begun.

In the interim, some Oregon track operators and sanctioning bodies have voluntarily undertaken muffling requirements on racing vehicles, but these efforts have had limited effect on the overall magnitude of the problem. As Oregon population increases and residential areas expand, increasing numbers of individuals are exposed to racetrack noise at high levels.

In late 1978, proposed racing rules were again scheduled for public hearings. These hearings were cancelled as a result of complaints from racing organizations that the proposal was not acceptable. The various racing interests then organized into Motor Sports Conference Incorporated (MSCI). This organization agreed to work with Department staff to develop a rule proposal that would meet their concerns and also provide meaningful noise control of racing vehicles and facilities.



Contains
Recycled
Materials

Rule Proposal

This proposal would require racing vehicles, including autos, motorcycles, go-karts and motorboats, to install and maintain a minimal muffler system and to not exceed maximum noise emission limits. These requirements are effective during all racing and practice operations at motor racing facilities. In addition, these facilities are subject to operational standards that establish acceptable hours of operation.

The rule would be implemented by the race facility owner who must inspect each race vehicle muffler system and monitor noise emission levels. Practice sessions must be scheduled within an approved plan to limit their noise impacts.

Racing facilities located more than two miles from noise sensitive property could be exempt from this rule as noise impacts would be minimal. Two categories of drag race vehicles would be exempt from the muffler and emission limit requirements as technology is presently not available to quiet these vehicles.

The Department may grant exceptions to provide needed flexibility to administer this rule. Exceptions would be granted after consultation with an advisory committee that could provide expert advice to the Department. Eligible for exceptions would be racing events that include a large number of out-of-state competitors. Exceptions from the procedural requirements of the proposal may be granted to facilities demonstrating that noise impacts are substantially controlled.

The effective date of the proposal is January 1, 1982.

Rulemaking Process

Public hearings were authorized by the Commission on July 18, 1980, and five (5) hearings were held during September. Two hearings were held in Portland, a daytime and evening hearing, and evening hearings were held in Woodburn, Medford, and Eugene. All hearings were well attended--approximately 50 to 75 people each--and approximately 70 pieces of written testimony were mailed to the Department.

Subsequent to the hearings period, staff reviewed all testimony and made revisions to reflect the new information that would improve the proposal. Staff also met with both racing and public interest representatives to discuss such amendments to the proposal.

The Environmental Quality Commission has legal authority to adopt a noise control rule for motor sports facilities under ORS 467.030. The Statement of Need for Rulemaking is attached to this report to describe legal authority, need for the rule and principal documents relied upon during the rulemaking process.

Alternatives and Evaluation

Several alternatives were suggested during the public hearings, all of which were previously considered by staff. Comments from persons that believed motor racing noise was not a problem suggested that State rules were not required and if any rules be adopted, it should be done by local units of government. Staff has not found that local control of motor racing has resolved the problem. The City of Portland has not corrected the problems associated with Portland International Raceway, although its consultant has studied the problem and suggested controls similar to those in this proposal. The City of Cottage Grove is supporting this proposal as a method to resolve problems associated with a local race track. The relatively new Jackson County Sports Park has support from local administrators and users to be exempt from any State rules as they believe any problems to be minor as noise controls were designed into the facility. However, analysis shows this track has the capability to create severe noise impacts and future impacts may grow without stringent land use development controls.

A second alternative that was suggested was the use of ambient or receptor point standards rather than the proposed emission limits on individual racing vehicles. Although an ambient limit may be more desirable as an identifiable measure of public exposure, the means and methods of compliance would be different and thus difficult for each racing facility. Such a rule would also prevent vehicles from racing at more than one track without changing muffler systems to meet its particular requirements.

Instead this proposal attempts to establish statewide muffler and noise emission limits for all racing vehicles that are reasonable, in consideration of maintaining the motor racing sport and the technical capability to control noise emissions from these vehicles. In addition, limits are placed on the hours of operation thus limiting excessive nighttime noise exposures.

This proposal was developed through the agreement of Department staff and motor sports interests to develop a rule that could be supported by various racing interests and also provide meaningful control of excessive noise. Most racing people would rather not have any noise controls, especially those administered by a governmental agency. However, those racing people that evaluated the proposal, supported it as a reasonable and enforceable rule.

The 105 dBA limit proposed for most racing vehicle types is presently being enforced by the International Conference of Sports Car Clubs (ICSSC) in Oregon and also by the Oregon Region of the Sports Car Club of America (SCCA). Testimony stated that to achieve reasonable protection of the residences near Portland International Raceway, a maximum limit of 101 dBA at 50 feet was necessary. However, the reference for that testimony, the recent Race Track Noise Control Feasibility Study by Daly Engineering Company, also recommends 106 dBA at 50 feet as a compromise emission limit.

Therefore, staff believes the proposed 105 dBA emission limits are reasonable and offers protection of the public health and welfare. It should also be noted that the relatively infrequent racing event may not need the same controls as a noise source that impacts the noise sensitive receptor constantly.

Many comments were received that feared this proposal would so severely restrict racing that many race facilities would be forced to close. That is not the intent of this proposal and the evaluation of current practices at several tracks in Oregon and other states indicates little or no loss of competitors nor spectators should occur. In addition, the cost of rule implementation should be minimal. Although the cost of sound level meters needed to monitor race vehicle noise emission levels can be expensive, staff has investigated and approved an inexpensive, \$40.00, meter that is available at many local electronic supply stores.

Another economic concern was raised by the Jackson County track interests regarding cost of personnel required to conduct muffler inspections and noise emission monitoring. All race vehicles are subjected to a "technical" inspection prior to competition; and staff believes the muffler check would be incorporated into this inspection. The noise emission monitoring effort is expected to be minimal for the track owner, as most events requiring monitoring are sponsored by racing clubs that presently supply manpower to conduct the event. The major exceptions are drag racing events, however, no noise emission monitoring is proposed for these events due to the complexity of monitoring two vehicles and identifying one that does not comply.

Proposal Amendments

The proposed rules have been amended to reflect testimony identifying needed changes to improve the proposal. The following discussion identifies those amendments and reflects on suggested amendments that were not accepted.

Purpose - Subsection (1)

The Statement of Purpose, subsection (1), was criticized as unnecessary and perhaps should be placed in the staff report, rather than the rule. Staff believes this section is important in the rule as it would provide the regulated race vehicle owner the broad philosophy and intent of this rule. A minor amendment in the second paragraph changed a mandatory "will" to a permissive "may."

A new paragraph has been added to the statement of purpose to identify sanctions that may be imposed for violations of these rules. It was recommended that, if the penalties for violations were identified, it may encourage compliance by those who may not be familiar with the Department's enforcement powers and the civil penalty schedule continued in OAR 340-12-052.

Vehicle Standards - Subsection (2)

The drag race vehicle standards, subsection (2) (a), were criticized by some, as no noise emission limit was proposed. However, others applauded this proposal, as no reasonable means has been suggested to accomplish monitoring of noise emissions from two vehicles racing together, and then identifying a non-complying vehicle. Staff believes the muffler requirement alone may provide sufficient controls without monitoring for compliance. If such controls prove inadequate, staff would recommend emission limits and associated monitoring, burdensome as it may be.

Generally the oval track proposed standards were found acceptable. A minor amendment to subsection (2) (b) added the word "course" to the phrase "oval course racing vehicle." Many oval course race facilities in Oregon now have some noise or muffler requirements and several oval car owners recommended adoption of statewide standards for consistency. A few race vehicle owners, from the southern part of the State, opposed the requirements, although the Medford track has a history of noise problems and presently requires mufflers.

The two major sports car sanctioning bodies operating in Oregon presently enforce noise control limits. The International Conference of Sports Car Clubs, and the Oregon Region of the Sports Car Club of America, both limit noise emissions from racing vehicles to 105 dBA at 50 feet from the vehicle. Both these organization supported the proposal.

There are many closed course motorcycle tracks in Oregon that have been a source of noise problems. Testimony from the American Motorcyclist Association (AMA) recommend the adoption of their standards and procedures. They have been added (105 dBA at 20 inches during a stationary test), however, the moving procedure has also been retained. As AMA does not sanction a large number of closed course events in Oregon (approximately 25 per year), staff believes the moving limits and procedures provide needed implementation flexibility to this proposal in subsection (2) (d).

Open course motorcycle events would not easily conform to the requirements of a moving test, therefore a stationary limit and procedure was added, as suggested by several offering expert testimony. Subsection (2) (e) now would limit open course motorcycles to 105 dBA at 20 inches during the stationary test procedure.

Concern was raised in testimony that open course motorcycle events are typically run on new courses and thus may be required to meet standards for new motor sports facilities, subsection (3). As such events are held on temporary courses and subsection (3) applies only to permanent facilities, this assumption was incorrect.

No testimony was offered on the proposed limits on four wheel drive vehicles in subsection (2)(f), however, a member of the Pacific Northwest Four Wheel Drive Association recently conducted noise measurements at an event and found only one vehicle exceeding the decibel limit. This vehicle was fitted with mufflers that did not meet the specific muffler requirements of this proposal thereby causing the excessive noise emissions.

Testimony from citizens objecting to motorboat noise indicated a fear that this proposal would lessen existing standards. Existing Commission standards for pleasure boats allow a maximum operational noise level of 84 decibels at 50 feet. These standards are being enforced by many of the County Sheriffs through their marine patrols.

Racing motorboats are presently exempt from State Marine Board noise control rules although the Board is charged by statute to control racing motorboat testing "where persons or property will be disturbed or endangered because the waters on which the boat is operated are within a residential area" (ORS 488.102(1)(g)), and racing events shall be authorized under rules that "are consistent with the safety and pleasure of the public" (ORS 488.108(2)).

Staff has met with Marine Board staff several times on the question of overlapping jurisdiction of motorboat noise regulation. A memo from the Attorney General's office from Don Arnold to Ray Underwood dated July 16, 1979, noted that the statutes exempt racing motorboats from using mufflers as long as the above, and other, criteria were met. Otherwise the Board has "authority to adopt rules relating to boat muffling requirements, and exceptions thereto, under ORS 488.052. However, as stated above, EQC has authority to set noise emission standards for boats, except in those instances when boats are excluded from muffler requirements under ORS 488.052. So far as determining particular noise emission levels is concerned, it seems clear that EQC has paramount authority."

Mr. Arnold concludes his memo by suggesting, "[i]n view of this shared responsibility, it would seem advisable for consultation between the EQC and Marine Board when adopting rules in this area."

Staff believes that the Marine Board can protect the pleasure of the public from disturbance in residential areas by adopting a rule that would require any marine racing event held within two miles of residential property to comply with Commission rules. The attached letter to the Marine Board asks that the Board consider such a rule amendment.

Testimony from boat racing people indicated that only few events were held in Oregon each year and a large number of out-of-state competitors attended events and therefore most events should be exempt from rules. One racing representative stated they had no objections to the proposed 105 decibel limit.

Testimony related to the autocross or solo race vehicle requirement of subsection(2) (h) primarily wished to see the same decibel limit as applied to sports cars (90 dBA vs. 105 dBA). Some claimed that the same vehicle operated in sports car races also raced in autocross events. Some confusion was evident in that the autocross standard of 90 dBA would only apply to events held on temporary courses, such as large parking lots. These temporary tracks are typically near noise sensitive areas and the vehicles are mostly licensed street vehicles, therefore a more restrictive decibel limit was proposed. This subsection has been amended to clarify that autocross events held on permanent tracks are subject to the less restrictive 105 dBA limit.

Go-kart racing vehicles were originally proposed to not include a decibel limit as it was believed that the International Karting Federation muffler requirements would ensure a reasonable decibel limit would be met. However, several racing experts recommended the addition of a decibel limit and testimony from impacted residents near the Woodburn track stressed noise problems with go kart events. Therefore a maximum limit of 105 dBA at 50 feet has been added to subsection (2) (i) for go kart racing vehicles.

New Facilities - Subsection (3)

Several comments on subsection (3), new motor sports facilities, indicated that the State should not have land use approval authority. The intent of this section is not to approve new facilities but only to require the development of projected noise impact information so that local government may make an informed decision in regards to land use. This language has been clarified to show that the Department would only approve the noise impact analysis and then this information would be submitted to local government and the Department of Land Conservation and Development for their use.

Concern was also raised that the new racing facility noise impact boundaries should not be calculated as an annual figure, but should represent a single day of maximum projected use. This recommendation was accepted and subsection (3) and the definition for "motor sports facility noise impact boundaries" were amended.

A large amount of testimony was submitted by residents located near a proposed racing facility near Short Mountain in Lane County. This rule would only require noise impact contours to be generated and not, as some people thought, determine whether a new facility might be built. A representative of residents near the area recommended that the proposal be amended to require permits for new facilities, however this proposal appears to be outside the Commission's statutory authority.

Practice Sessions - Subsection (4)

Comments were received that indicated it was not clear that vehicles operating in practice sessions must also comply with the muffler and noise emission requirements. Therefore subsection (4) was amended to add clarification that the standards of subsection (2) must also be met.

Some comments were received that they did not believe controls on practice sessions were needed. However, staff has found that many complaints are the result of practice, as the same vehicles used in racing events are practicing, and these operations may occur at sensitive portions of the day. Therefore this requirement remains unchanged.

The proposal does allow uncontrolled practice or driver's training when not in anticipation of a racing event and only stock (street legal) exhaust system are used.

Operations - Subsection (6)

Many opinions were expressed on how the operating times should either be tightened or expanded. The proposed schedule was developed through negotiation with various racing facility owners and appears to be logical. If more restrictive hours are needed on a specific track, it is probably best a local government decision.

Concern was raised that the expanded hours for holidays in subsection (6) (a) (B), could allow up to four days of late night racing, therefore this section was modified to limit such operations to three consecutive days.

Another area of concern was the occasional need to exceed the curfew due to conditions beyond the control of the track owner. Examples given included accidents and short rain squalls. Therefore a new subsection, (6) (b), was added that would allow up to six such overruns per year not exceeding 30 minutes each. Each occurrence must be documented within 10 days to the Department.

Monitoring and Reporting - Subsection (8)

Comments were made that it was not clear that noise measurements must be conducted. Therefore, as added clarification, staff has added to subsection (8) (a) an additional reference to the procedure manual after the first sentence, thereby specifying that data must be measured and recorded according to the procedure manual.

Several small racing organizations noted that they did not have facilities to keep noise measurement data for a one year period for submittal to the Department upon demand. Therefore an amendment to subsection (8) (a) allows the submittal of data to the Department for storage.

Jackson County Sports Park representatives commented that they did not want to enforce DEQ standards. They felt the race track owner should not have the responsibility to conduct measurements and determine whether a specific race vehicle complies with standards. This, they stated, was beyond the scope of their authority. Staff believes this comment is incorrect as this rule regulates the motor sports facility owner and racing vehicle owners. Thus the facility owner is not placed in a position of administering EQC rules, but is in fact in a position of complying with the rule. In most cases, the promotor of events would conduct muffler inspections and noise measurements with the facility owner, ensuring these rule implementation measures are taken.

Exemptions - Subsection (11)

The exemption for facilities having a two mile buffer area between the track and residences was provided, as staff analysis indicates that severe impacts would not occur outside this zone, although vehicles would be uncontrolled. The two mile buffer is not designed as a criteria to be used for land use planning purposes, as facilities may be compatible with residences in closer proximity, if noise controls are implemented.

The exemption for fuel burning racing vehicles has been amended on the basis of testimony. Several noted that special fuel classes may be developed to avoid the rule requirements. Others noted that if technology is not presently available for noise controls for fuel burning vehicles, then this rule should force development of technology or phase out their operation. Staff has therefore modified subsection (11)(b) to only exempt top fuel burning drag race vehicles, which includes "funny" car and "top" fuel drag vehicles. This section has also been amended to require the Department and Commission to evaluate this exemption before January 31, 1985, as a means to assess development of noise controls on these exempted vehicle types.

Exceptions - Subsection (12)

Concern was raised that the motor sports advisory committee would not represent the public interest in recommending approval or denial of exceptions under this section. The committee is primarily a technical advisory committee that provides advice and guidance to the Department. Only one member is from the noise impacted public, where the other members have technical expertise in various types of motor racing. In order to clarify the fact that the Department is only required to consider the recommendations of this committee, subsection (12) has been amended to add that both the majority and minority recommendations shall be considered.

One notable comment was received from the president of a sports car association that sanctions racing events throughout the Pacific Northwest. Their suggestion was to delete the proposed exception for "special events" having significant numbers of out-of-state competitors. He noted that some racing facilities presently require mufflers for all, including "national" events and suggested no exception be granted under these conditions. Staff has not amended this exception, however.

Comments were received that believed the Jackson County facility had prevented noise impacts by careful planning and construction measures. The drag strip has an earthen berm shielding the start line and a portion of the west side of the track. A motorcycle track and a go kart track are also contained on the site but have no special controls other than a buffer distance. Existing homes are approximately 2,000 to 3,000 feet from the drag strip. A large amount of land remains undeveloped and zoning allows for further residential development.

Recommendations were submitted that a racing facility, because of its planning and permanent noise controls (e.g., earthen berm), should be totally exempt from the proposed rules. Staff does not agree that such facilities should be totally exempt. However, some lessening of requirements on curfews and monitoring and reporting should be considered to accommodate facilities that do not impact noise sensitive property. Therefore, an additional exception has been provided as subsection (12) (g) that would allow the Department to relax certain requirements for facilities not impacting residences.

Effective Date - Subsection (14)

Comments were received suggesting that more study and a longer phase in period was needed as a means to develop noise controls. Suggested was a three to five year development period. The first DEQ proposal to control motor racing events was published in September 1973. Subsequent development continued since that time with published proposals in May 1974, June 1978, January 1979, and the present proposal. Therefore, the Department and those potentially affected by motor racing noise rules have spent about seven years to develop a proposal found to be acceptable to the racing community and staff and provide meaningful noise reduction.

Comments were also received that the July 1, 1981 effective date may not be appropriate, as it would not allow sufficient time for the Department to assist facilities with rule implementation. Most facilities will need training and on-site help developing procedures to inspect mufflers and conduct noise emission measurements. In addition, many facilities have already planned their 1981 racing season and this rule would have significant impacts on the scheduling of events. Therefore, the effective date has been amended to January 1, 1982.

Definitions - Section 35-015

The definitions developed for this proposal have been integrated into the definition section covering all noise control rules. Specific concerns and revisions to the definitions follow:

(27) "Motor Sports Advisory Committee." Concern was this committee should not deal with policy as it did not have adequate public interest representation. The word "policy" was deleted from this definition.

(29) "Motor Sports Facility Noise Impact Boundaries." This definition was modified to reflect a daily noise contour, rather than average-annual, and represent the maximum projected use of the new facility.

(34) "New Motor Sports Facility." This definition was clarified by adding the word "permanent" as testimony was received that thought temporary tracks may be included, although the rule (subsection (3)) only applies to permanent facilities.

(51) "Racing Event" This definition was not clear as to what types of competition were racing thus the addition of "time, speed or distance competition" was added. The addition of the last sentence noting that non-racing events were controlled by other standards was requested as clarification.

(57) "Special Motor Racing Event" Testimony was submitted that indicated it was not clear that only the Department has authority to grant exceptions for special events, therefore this definition was amended.

(60) "Stock Exhaust System" Language was modified in this definition to note that a stock exhaust system does not produce more noise than the original equipment.

(62) "Top Fuel-Burning Drag Racing Vehicle" As previously discussed, this definition was modified to only exempt those vehicle classes that staff believes technology does not exist to install mufflers. Therefore only "top fuel" and "funny cars" would now be exempt.

(63) "Trackside" This definition places the measurement location for noise monitoring of individual racing vehicles. The original designation was too vague and therefore this definition was amended to state that the measurement point is 50 feet from the racing vehicle. Concern was also raised about this distance being too close for safety purposes, therefore the procedure manual also now provides for an alternate 100 foot measurement distance.

(66) "Well Maintained Muffler" This definition specifically describes allowable types of racing mufflers as required by this proposal. This concept was criticized by some who felt that any muffler (and perhaps no muffler being needed) meeting the decibel limit should be acceptable. Others supported this concept, as a visual inspection criteria that would be relatively easy to implement and as a minimum standard to determine those vehicles that would reasonably meet the decibel limits.

Staff continues to support the dual standard, mufflers and emission limits, as a procedure that has been developed by several racing organizations to eliminate concerns of unequal treatment between competitors. This definition has been modified to add a reference to measure the muffler effectiveness and to add a provision for underwater motor boat motor exhaust systems.

Procedure Manual - NPC-35

Primary concern with the procedure manual was the confusion between "guidance" and "requirements." Comments provided in the manual ensure that emission measurements are as accurate as possible. If these comments are not followed, the measurements can be slightly in error (reading high), but would not do serious harm to the administration of this rule.

New provisions have been added to the manual that define methods to conduct stationary tests on motorcycles. These procedures are identical to those recommended by the American Motorcyclist Association and the Oregon Motorcycle Riders Association.

The procedure has also been amended to allow trackside monitoring at both 50 and 100 feet from the race vehicle. Concern was raised that the 50 foot position may be unsafe or not physically possible in some instances, therefore the 100 foot position has been added with a 6 dBA correction factor for the added distance.

Staff has been requested to provide technical assistance to facility owners and sanctioning bodies to implement this rule if adopted. The Department will continue to provide as much technical assistance as resources allow to those regulated. In this case it seems that an annual training session should be provided to those charged with muffler inspections and noise monitoring. In addition, the Department would conduct annual sound level meter calibrations for facility owners as a means to reduce their costs and insure the accuracy of emission measurements.

Summation

Drawing from the background and evaluation presented in this report, the following facts and conclusions are offered:

1. Motor vehicle racing noise continues to cause impacts detrimental to the health, safety or welfare of citizens residing near motor sports facilities.
2. The proposed rule has the following significant features:
 - a. Nine major racing vehicle categories, including autos, motorcycles, motorboats and go karts must install and maintain an adequate muffler system and not exceed specific noise emission limits.

- b. New proposed facilities must define noise impacts so that local land use decisions may have the benefit of such information.
 - c. Practice sessions must be conducted within an approved plan to mitigate noise impacts.
 - d. Curfew limits are established to limit nighttime impacts.
 - e. Monitoring of noise emissions and inspection of mufflers are required by the facility owner or event promotor.
 - f. Fuel burning drag race vehicles (top fuel and funny cars) and facilities with a two mile buffer zone are exempt.
 - g. Exceptions may be allowed under specific conditions with recommendations from a racing advisory committee.
 - h. The effective date would be January 1, 1982, to allow for a phase in period for these requirements.
3. The proposal was developed through the cooperation and efforts of the Motor Sports Conference Inc., an organization of various motor racing interests throughout the State.
 4. Opposition to muffler and noise emission requirements was expressed by several groups that believed specific racing facilities should be exempt from any rules due to the large number of competitors or local citizens supporting the facility, or because measures were taken before rule making to partially mitigate noise.
 5. Constructive testimony resulted in several amendments to the proposal including the following:
 - a. Motorcycle events are provided with a stationary test procedure similar to that used by various sanctioning bodies.
 - b. Emission limits were added for go karts similar to limits for other racing vehicles.
 - c. The exemption for fuel burning vehicles must be reviewed prior to January 31, 1985, to determine whether muffler technology has been developed.
 - d. Facilities controlling noise impacts by the muffler and emission limit requirements may be exempted from curfew, and monitoring and reporting as a means to relax the rule burden to such facilities.

6. Minimal economic impacts would result from this proposal as:
 - a. Sound monitoring equipment for this purpose can be as low as \$40.00.
 - b. Muffler inspections and some emission monitoring would be conducted during the normal technical inspection conducted on all racing vehicles.
 - c. Trackside emission monitoring would be conducted on each vehicle during practice or racing and continuous monitoring is not required.
 - d. Cost of mufflers suitable for racing is not excessive.

Director's Recommendation

Based on the Summation, it is recommended that the Commission take action as follows:

1. Adopt Attachment B as a permanent rule. Attachment B includes:
 - a. Proposed Amended Definitions, OAR 340-35-015.
 - b. Proposed Noise Control Regulations for Motor Sports Vehicles and Facilities, OAR 340-35-040.
 - c. Proposed Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, Manual NPC-35.

Bill

William H. Young

Attachments:

- Attachment A - Statement of Need for Rulemaking
- Attachment B - Proposed Rules
 - a. Amendments to Definitions OAR 340-35-015
 - b. Noise Control Rules for Motor Sports Vehicles and Facilities OAR 340-35-040
 - c. Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPC-35
- Attachment C - Hearing Officer's Report
- Attachment D - Letter to Oregon State Marine Board from DEQ

John Hector:fw
229-5989
November 5, 1980
NP110 (2)

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 proposal may be adopted under authority of ORS 467.030.

(2) Need for the Rule

Excessive noise from motor sports facilities and motor racing vehicles cause impacts detrimental to the health, safety or welfare of citizens residing near motor sports facilities

(3) Principal documents relied upon in this rulemaking.

- a. Proposed Regulations for Motor Sports Facilities (discussion draft) dated February 26, 1980, submitted by Motor Sports Conference, Inc.
- b. Letter to motor sports organizations from Motor Sports Conference, Inc., giving notice of meeting to discuss draft noise control rules.
- c. Hearing record of testimony received at public hearings on September 4, 9, 15, and 16, 1980, and written testimony received prior to October 10, 1980.

The above documents may be reviewed at the Department's offices at 522 SW Fifth Avenue, Portland, Oregon.

(4) Statement of Fiscal Impact

The cost of mufflers needed to meet this proposal are not excessive, therefore the adverse fiscal impact to race vehicle owners should be minimal. It is not anticipated that this proposal would cause major economic impacts to motor sports facility owners therefore a minimal adverse economic impact to facility owners may result.

DEPARTMENT OF ENVIRONMENTAL QUALITY

CHAPTER 340, OREGON ADMINISTRATIVE RULES

DIVISION 35

NOISE CONTROL REGULATIONS

Proposed November 1980

General

New Material is Underlined and Deleted Material is [Bracketed]

Policy

340-35-005 In the interest of public health and welfare, and in accordance with ORS 467.010, it is declared to be the public policy of the State of Oregon:

(1) To provide a coordinated state-wide program of noise control to protect the health, safety, and welfare of Oregon citizens from the hazards and deterioration of the quality of life imposed by excessive noise emissions;

(2) To facilitate cooperation among units of state and local governments in establishing and supporting noise control programs consistent with the State program and to encourage the enforcement of viable local noise control regulations by the appropriate local jurisdiction;

(3) To develop a program for the control of excessive noise sources which shall be undertaken in a progressive manner, and each of its objectives shall be accomplished by cooperation among all parties concerned.

Exceptions

340-35-010 Upon written request from the owner or controller of a noise source, the Department may authorize exceptions as specifically listed in these rules.

In establishing exceptions, the Department shall consider the protection of health, safety, and welfare of Oregon citizens as well as the feasibility and cost of noise abatement; the past, present, and future patterns of land use; the relative timing of land use changes and other legal constraints. For those exceptions which it authorizes, the Department shall specify the times during which the noise rules can be exceeded and the quantity and quality of the noise generated, and when appropriate shall specify the increments of progress of the noise source toward meeting the noise rules.

Definitions

340-35-015 As used in this division:

(1) "Air Carrier Airport" means any airport that serves air carriers holding Certificates of Public Convenience and Necessity issued by the Civil Aeronautic Board.

(2) "Airport Master Plan" means any long-term development plan for the airport established by the airport proprietor.

(3) "Airport Noise Abatement Program" means a Commission-approved program designed to achieve noise compatibility between an airport and its environs.

(4) "Airport Proprietor" means the person who holds title to an airport.

(5) "Ambient Noise" means the all-encompassing noise associated with a given environment, being usually a composite of sounds from any sources near and far.

(6) "Annual Average Day-Night Airport Noise Level" means the average, on an energy basis, of the daily Day-Night Airport Noise Level of a 12-month period.

(7) "Any one hour" means any period of 60 consecutive minutes during the 24-hour day.

(8) "Closed Course Motorcycle Racing Vehicle" means any motorcycle racing vehicle that is operated in competition or practice session on a closed course motor sports facility, i.e. where public access is restricted and admission is generally charged.

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

[(9)] (10) "Construction" shall mean building or demolition work and shall include all activities thereto such as clearing of land, earthmoving, and landscaping, but shall not include the production of construction materials.

[(10)] (11) "Day-Night Airport Noise Level (Ldn)" means the Equivalent Noise Level produced by airport/aircraft operations during a 24-hour time period, with a 10 decibel penalty applied to the level measured during the nighttime hours of 10 pm to 7 am.

[(11)] (12) "Department" means the Department of Environmental Quality.

[(12)] (13) "Director" means the Director of the Department.

(14) "Drag Racing Vehicle" means any racing vehicle used to compete in any acceleration competition initiated from a standing start and continued over a straight line course.

[(13)] (15) "Emergency Equipment" means noise emitting devices required to avoid or reduce severity of accidents. Such equipment includes, but is not limited to, safety valves and other pressure relief devices.

[(14)] (16) "Equivalent Noise Level (Leq)" means the equivalent steady state sound level in A-weighted decibels for a stated period of time which contains the same acoustic energy as the actual time-varying sound level for the same period of time.

[(15)] (17) "Existing Industrial or Commercial Noise Source" means any Industrial or Commercial Noise Source for which installation or construction was commenced prior to January 1, 1975.

[(16)] (18) "Farm Tractor" means any Motor Vehicle designed primarily for use in agricultural operations for drawing or operating plows, mowing machines, or other implements of husbandry.

(19) "Four Wheel Drive Racing Vehicle" means any four-wheeled racing vehicle with at least one wheel on the front and rear axle driven by the engine or any racing vehicle partici-

pating in an event with predominantly four wheel drive racing vehicles.

(20) "Go-Kart Racing Vehicle" means a light-weight four-wheeled racing vehicle of the type commonly known as a go-kart.

[(17)] (21) "Impulse Sound" means either a single pressure peak or single burst (multiple pressure peaks) for a duration of less than one second as measured on a peak unweighted sound pressure measuring instrument.

[(18)] (22) "In-Use Motor Vehicle" means any Motor Vehicle which is not a New Motor Vehicle.

[(19)] (23) "Industrial or Commercial Noise Source: means that source of noise which generates Industrial or Commercial Noise Levels.

[(20)] (24) "Industrial or Commercial Noise Levels: means those noises generated by a combination of equipment, facilities, operations, or activities employed in the production, storage, handling, sale, purchase, exchange, or maintenance of a product, commodity, or service and those noise levels generated in the storage or disposal of waste products.

[(21)] (25) "Motorboat" as used in OAR 340-35-025 means a water craft propelled by an internal combustion engine but does not include a boat powered by an outboard motor designed to exhaust beneath the surface of the water.

[(22)] (26) "Motorcycle" means any Motor Vehicle, except Farm Tractors, designed to travel on not more than three wheels which are in contact with the ground.

(27) "Motor Sports Advisory Committee" means a committee appointed by the Director, from among the nominees, for the purpose of technical advice on racing activities and to recommend Exceptions to these rules as specified in OAR 340-35-040(12). This Committee shall consist of:

(a) One permanent public member nominated by a noise impacted group or association; and

(b) One representative of each of the racing vehicle types identified in OAR 340-35-040(2) as nominated by the respective sanctioning bodies; and

(c) The program manager of the Department's noise pollution control section who shall also serve as the departmental staff liaison to this body.

(28) "Motor Sports Facility" means any facility, track or course upon which racing events are conducted.

(29) "Motor Sports Facility Noise Impact Boundaries" means the daily 55 dBA day-night (Ldn) noise contours around the motor sports facility representing events that may occur on the day of maximum projected use.

(30) "Motor Sports Facility Owner" means the owner or operator of a motor sports facility or an agent or designee of the owner or operator. When a Racing Event is held on public land, the event organizer (i.e., promoter) shall be considered the motor sports facility owner for the purposes of these rules.

[(23)] (31) "Motor Vehicle" means any vehicle which is, or is designed to be self-propelled or is designed or used for transporting persons or property. This definition excludes airplanes, but includes watercraft.

[(24)] (32) "New Airport" means any airport for which installation, construction, or expansion of a runway commenced after January 1, 1980.

[(25)] (33) "New Industrial or Commerical Noise Source" means any Industrial or Commercial Noise Source for which installation or construction was commenced after January 1, 1975 on a site not previously occupied by the industrial or commercial noise source in question.

(34) "New Motor Sports Facility" is any permanent motor sports facility for which construction or installation was commenced after the effective date of these rules. Any recreational park or similar facility which initiates sanctioned racing after the effective date of these rules shall be considered a new motor sports facility.

[(26)] (35) "New Motor Vehicle" means a Motor Vehicle whose equitable or legal title has never been transferred to a Person who in good faith purchases the New Motor Vehicle for purposes other than resale. The model year of such vehicle shall be the year so specified by the manufacturer, or if not so specified, the calendar year in which the new motor vehicle was manufactured.

[(27)] (36) "Noise Impact Boundary" means a contour around the airport, any point on which is equal to the airport noise criterion.

[(28)] (37) "Noise Level" means weighted Sound Pressure Level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA.

[(29)] (38) "Noise Sensitive Property: means real property normally used for sleeping, or normally used as schools, churches, hospitals or public libraries. Property used in industrial or agricultural activities is not Noise Sensitive Property unless it meets the above criteria in more than an incidental manner.

[(30)] (39) "Octave Band Sound Pressure Level" means the sound pressure level for the sound being measured within the specified octave band. The reference pressure is 20 micropascals (20 micronewtons per square meter).

[(31)] (40) "Off-Road Recreational Vehicle" means any Motor Vehicle, including watercraft, used off Public Roads for recreational purposes. When a Road Vehicle is operated off-road, the vehicle shall be considered an Off-Road Recreational Vehicle if it is being operated for recreational purposes.

[(32)] (41) "One-Third Octave Band Sound Pressure Level" means the sound pressure level for the sound being measured within the specified one-third octave band at the Preferred Frequencies. The reference pressure is 20 micropascals (20 micronewtons per square meter).

(42) "Open Course Motorcycle Racing Vehicle" means any motorcycle racing vehicle that is operated in competition on an open course motor sports facility, i.e. where public access is not generally restricted. This definition is intended to include the several types of motorcycles such as "enduro" and "cross country" that are used in events held in trail or other off-road environments.

(43) "Oval Course Racing Vehicle" means any racing vehicle, not a motorcycle and not a sports car, which is operated upon a closed, oval-type motor sports facility.

[(33)] (44) "Person" means the United States Government and agencies thereof, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatever.

(45) "Practice Sessions" means any period of time during which racing vehicles are operated at a motor sports facility, other than during racing events. Driver training sessions or similar activities which are not held in anticipation of a subsequent racing event, and which include only vehicles with a stock exhaust system, shall not be considered practice sessions.

[(34)] (46) "Preferred Frequencies" means those mean frequencies in Hertz preferred for acoustical measurements which for this purpose shall consist of the following set of values: 20, 25, 31.5, 40, 50, 63, 80, 100, 125, 160, 200, 250, 315, 400, 500, 630, 800, 1000, 1250, 1600, 2000, 2500, 3150, 4000, 5000, 6300, 8000, 10,000, 12,500.

[(35)] (47) "Previously Unused Industrial or Commercial Site" means property which has not been used by any industrial or commercial noise source during the 20 years immediately preceding commencement of construction of a new industrial or commercial source on that property. Agricultural activities and silvicultural activities of an incidental nature shall not be considered as industrial or commercial operations for the purposes of this definition.

[(36)] (48) "Propulsion Noise" means that noise created in the propulsion of a Motor Vehicle. This includes, but is not limited to exhaust system noise, induction system noise, tire noise, cooling system noise, aerodynamic noise and where appropriate in the test procedure, braking system noise. This does not include noise created by Road Vehicle Auxiliary Equipment such as power take-offs and compressors.

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

[(38)] (50) "Quiet Area" means any land or facility designated by the Commission as an appropriate area where the qualities of serenity, tranquility, and quiet are of extraordinary significance and serve an important public need, such as, without being limited to, a wilderness area, national park, state park, game reserve, wildlife breeding area or amphitheater. The Department shall submit areas suggested by the public as Quiet Areas, to the Commission, with the Department's recommendation.

[39] (51) "Racing Event" means any time, speed or distance competition using motor vehicles conducted under a permit issued by the governmental authority having jurisdiction, or under the auspices of a recognized sanctioning body. This definition includes, but is not limited to, events on the surface of land and water. Any motor sports event not meeting this definition shall be subject to the ambient noise limits of OAR 340-35-030(1)(d).

[(40)] (52) "Racing Vehicle" means any Motor Vehicle that is designed to be used exclusively in Racing Events[.] or any vehicle participating in or practicing for a Racing Event.

(53) "Recreational Park" means a facility open to the public for the operation of off-road recreational vehicles.

[(41)] (54) "Road Vehicle" means any Motor Vehicle registered for use on Public Roads, including any attached trailing vehicles.

[(42)] (55) "Road Vehicle Auxiliary Equipment" means those mechanical devices which are built in or attached to a Road Vehicle and are used primarily for the handling or storage of products in that Motor Vehicle. This includes, but is not limited to, refrigeration units, compressors, compactors, chippers, power lifts, mixers, pumps, blowers, and other mechanical devices.

[(43)] (56) "Sound Pressure Level (SPL)" means 20 times the logarithm to the base 10 of the ratio of the root-mean-square pressure of the sound to the reference pressure. SPL is given in decibels (dB). The reference pressure is 20 micropascals (20 micronewtons per square meter).

(57) "Special Motor Racing Event" means any racing event in which a substantial or significant number of out-of-state racing vehicles are competing and which has been recommended as a special motor racing event by the motor sports advisory committee and approved by the Department.

(58) "Sports Car Racing Vehicle" means any racing vehicle which meets the requirements and specifications of the competition rules of any sports car organization.

[(44)] (59) "Statistical Noise Level" means the Noise Level which is equalled or exceeded a stated percentage of the time. An $L_{10} = 65$ dBA implies that in any hour of the day 65 dBA can be equalled or exceeded only 10 percent of the time, or for six minutes.

(60) "Stock Exhaust System" means an original equipment manufacturer exhaust system or a replacement for original equipment for a street legal vehicle whose noise emissions do not exceed those of the original equipment.

(61) "Temporary Autocross or Solo Course" means any area upon which a paved course motor sports facility is temporarily established. Typically such courses are placed on parking lots, or other large paved areas, for periods of one or two days.

(62) "Top Fuel-Burning Drag Racing Vehicle" means a drag racing vehicle that operates using principally alcohol (more than 50 percent) or utilizes nitromethane as a component of its operating fuel and commonly known as top fuel and funny cars.

(63) "Trackside" means a sound measuring point of 50 feet from the racing vehicle and specified in Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPC-35.

[(45)] (64) "Warning Device" means any device which signals an unsafe or potentially dangerous situation.

(65) "Watercraft Racing Vehicle" means any racing vehicle which is operated upon or immediately above the surface of water.

(66) "Well Maintained Muffler" means a device or combination of devices which effectively decreases the sound energy of internal combustion engine exhaust without a muffler by a minimum of 5 dBA at trackside. A well maintained muffler shall be free of defects or modifications that reduce its sound reduction capabilities. Each outlet of a multiple exhaust system shall comply with the requirements of this subsection, notwithstanding the total engine displacement versus muffler length requirements. Such a muffler shall be a:

(a) Reverse gas flow device incorporating a multitube and baffle design; or a

(b) Perforated straight core device, fully surrounded from beginning to end with a sound absorbing medium, not installed on a rotary engine, and:

(i) at least 20 inches in inner core length when installed on any engine exceeding 1600 cc (96.7 cubic inches) displacement; or

(ii) at least 12 inches in inner core length when installed on any non-motorcycle engine equal to or less than 1600 cc (96.7 cubic inches) displacement; or

(iii) at least 6 inches in inner core length and installed at the outlet end of any four-cycle motorcycle engine; or

(iv) at least 8 inches in inner core length when installed on any two-cycle motorcycle engine; or an

(c) Annular swirl flow (auger-type) device of:

(i) at least 16 inches in swirl chamber length when installed on any engine exceeding 1600 cc (96.7 cubic inches) displacement; or

(ii) at least 10 inches in swirl chamber length when installed on any engine equal to or less than 1600 cc (96.7 cubic inches) displacement; or a

(d) Stacked 360° diffusor disc device; or a

(e) Turbocharger; or a

(f) Go-Kart muffler as defined by the International Karting Federation as specified in Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPC5-35; or an

(g) Original equipment manufacturer motorcycle muffler when installed on a motorcycle model such muffler was designated for by the manufacturer; or

(h) Outboard boat motor whose exhaust exits beneath the water surface during operation; or

(i) Any other device demonstrated effective and approved by the motor sports advisory committee and the Department.

Noise Control Regulations for Motor Sports Vehicles and Facilities

340-35-040 (1) Statement of Purpose. The Commission finds that the periodic noise pollution caused by Oregon motor sports activities threatens the environment of citizens residing in the vicinity of motor sports facilities. To mitigate motor sports noise impacts, a coordinated statewide program is desirable to ensure that effective noise abatement programs are developed and implemented where needed. This abatement program includes measures to limit the creation of new noise impacts and the reduction of existing noise impacts to the extent necessary and practicable.

Since the Commission also recognizes the need of Oregon's citizens to participate in recreational activities of their choice, these rules balance those citizen needs which may conflict when motor sports facilities are in operation. Therefore, a policy of continuing participation in standards development through the active cooperation of interested parties is adopted. The choice of these parties is to limit the noise emission levels of racing and recreational vehicles, to designate equipment requirements, and to establish appropriate hours of operation. It is anticipated that safety factors, limited technology, special circumstances, and special events may require exceptions to these rules in some instances; therefore, a mechanism to accommodate this necessity is included in this rule.

This rule is designed to encourage the motor sports facility owner, the vehicle operator, and government to cooperate to limit and diminish noise and its impacts. These ends can be accomplished by encouraging compatible land uses and controlling and reducing the racing vehicle noise impacts on communities in the vicinity of motor sports facilities to acceptable levels.

This rule is enforceable by the Department and civil penalties ranging from a minimum of \$25 to a maximum of \$500 may be assessed for each violation. The motor sports facility owner, the racing vehicle owner and the racing vehicle driver are held responsible for compliance with provisions of this rule. A schedule of civil penalties for noise control may be found under OAR 340-12-052.

(2) Standards

(a) Drag Racing Vehicle. No motor sports facility owner and no person owning or controlling a drag racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler.

(b) Oval Course Racing Vehicle. No motor sports facility owner and no person owning or controlling an oval course racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside.

(c) Sports Car Racing Vehicle. No motor sports facility owner and no person owning or controlling a sports car racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside.

(d) Closed Course Motorcycle Racing Vehicle. No motor sports facility owner and no person owning or controlling a closed course motorcycle racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside or 105 dBA at 20 inches (.5 meter) from the exhaust outlet during the stationary measurement procedure.

(e) Open Course Motorcycle Racing Vehicle. No motor sports facility owner and no person owning or controlling an open course motorcycle racing vehicle shall cause or permit its operation at

any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler and noise emissions do not exceed 105 dBA at 20 inches (.5 meter) from the exhaust outlet during the stationary measurement procedure.

(f) Four Wheel Drive Racing Vehicles. No motor sports facility owner and no person owning or controlling a four wheel drive racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside.

(g) Watercraft Racing Vehicle. No motor sports facility owner and no person owning or controlling a watercraft racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside.

(h) Autocross or Solo Racing Vehicle. No motor sports facility owner and no person owning or controlling an autocross or solo racing vehicle shall cause or permit its operation on any temporary autocross or solo course unless the vehicle is equipped with a properly installed and well maintained muffler and noise emissions from its operation do not exceed 90 dBA at trackside. Autocross and solo events conducted on a permanent motor sports facility, such as a sports car or go kart course, shall comply with the requirements for sports car racing vehicles specified in subsection (2)(c) of this section.

(i) Go Kart Racing Vehicle. No motor sports facility owner and no person owning or controlling a go kart racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside.

(3) New Motor Sports Facilities. Prior to the construction or operation of any permanent new motor sports facility, the facility owner shall submit for Department approval the projected motor sports facility noise impact boundaries. The data and analysis used to determine the boundary shall also be submitted to the Department for evaluation. Upon approval of the boundaries, this information shall be submitted to the appropriate local planning unit and the Department of Land Conservation and Development for their review and appropriate action.

(4) Practice Sessions. Notwithstanding subsection (2) of this section, all racing vehicles in order to operate in practice sessions, shall comply with a noise mitigation plan which shall have been submitted to and approved by the motor sports advisory committee and the Director. Such plans may be developed and submitted prior to each racing season. An approved plan may be varied with prior written approval of the Department.

(5) Recreational Park. When a motor sports facility is used as a recreational park for the operation of off-road recreational vehicles, the ambient noise limits of OAR 340-35-030(1)(d) shall apply.

(6) Operations.

(a) General. No motor sports facility owner and no person owning or controlling a racing vehicle shall permit its use or

operation at any time other than the following:

(A) Sunday through Thursday during the hours 8 a.m. to 10 p.m. local time; and

(B) Friday through Saturday, state and national holidays and the day preceding, not to exceed three consecutive days, during the hours 8 a.m. to 11 p.m. local time.

(b) Overruns. Each motor sports facility may overrun the specified curfew times, not to exceed 30 minutes, no more than six (6) days per year due to conditions beyond the control of the owner. Each overrun shall be documented to the Department within 10 days of the occurrence.

(c) Special Events. Any approved special motor racing event may also be authorized to exceed this curfew pursuant to subsection (12)(a) of this section.

(7) Measurement and Procedures. All instruments, procedures and personnel involved in performing sound level measurements shall conform to the requirements specified in Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPC-35, or to standard methods approved in writing by the Department.

(8) Monitoring and Reporting.

(a) It shall be the responsibility of the motor sports facility owner to measure and record the required noise level data as specified under subsection (2) of this section and the Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPC-35. The owner shall either keep such recorded noise data available for a period of at least one calendar year or submit such data to the Department for storage. Upon request the owner shall make such recorded noise data available to the Department.

(b) When requested by the Department, any motor sports facility owner shall provide the following:

(A) Free access to the facility

(B) Free observation of noise level monitoring

(C) Cooperation and assistance in obtaining the reasonable operation of any Racing Vehicle using the facility as needed to ascertain its noise emission level.

(9) Vehicle Standards. No motor sports facility owner and no person owning or controlling a racing vehicle shall cause or permit a racing event or practice session unless the vehicle is equipped and operated in accordance with these rules.

(10) Vehicle Testing. Nothing in this section shall preclude the motor sports facility owner from testing or barring the participation of any racing vehicle for non-compliance with these rules.

(11) Exemptions.

(a) Any motor sports facility whose racing surface is located more than 2 miles from the nearest noise sensitive property shall be exempt from this rule.

(b) Any top fuel-burning drag racing vehicle shall be exempt from the requirements of subsection (2)(a) of this section. No later than January 31, 1985 the Department shall report to the Commission on progress toward muffler technology development for this vehicle class and propose any necessary recommendations to amend this exemption.

(12) Exceptions. The Department shall consider the majority and minority recommendations of the motor sports advisory

committee prior to the approval or denial of any exception to these rules. Exceptions may be authorized by the Department for the following pursuant to OAR 340-35-010:

(a) Special motor racing events.

(b) Race vehicle or class of vehicles whose design or mode of operation makes operation with a muffler inherently unsafe or technically unfeasible.

(c) Motor sports facilities previously established in areas of new development of noise sensitive property.

(d) Noise sensitive property owned or controlled by a motor sports facility owner.

(e) Noise sensitive property located on land zoned exclusively for industrial or commercial use.

(f) Any motor sports facility owner or race sanctioning body that proposes a racing vehicle noise control program that accomplishes the intended results of the standards of subsection (2), the measurement and procedures of subsection (7), the monitoring and the reporting of subsection (8), of this section.

(g) Any motor sports facility demonstrating that noise sensitive properties do not fall within the motor sports facility noise impact boundaries may be exempt from the curfew limits of subsection (6) and the monitoring and reporting requirements of subsection (8) of this section.

(13) Motor Sports Advisory Committee Actions. The committee shall serve at the call of the chairman who shall be elected by the members in accordance with the rules adopted by the committee for its official action.

(14) Effective Date. These rules shall be effective January 1, 1982.

Variances

340-35-100 (1) Conditions for Granting. The Commission may grant specific variances from the particular requirements of any rule, regulation, or order to such specific persons or class of persons or such specific noise source upon such conditions as it may deem necessary to protect the public health and welfare, if it finds that strict compliance with such rule, regulation, or order is inappropriate because of conditions beyond the control of the persons granted such variance or because of special circumstances which would render strict compliance unreasonable or impractical due to special physical conditions or cause, or because strict compliance would result in substantial curtailment of closing down of a business, plant, or operation, or because no other alternative facility or method of handling is yet available. Such variances may be limited in time.

(2) Procedure for Requesting. Any person requesting a variance shall make his request in writing to the Department for consideration by the Commission and shall state in a concise manner the facts to show cause why such variance should be granted.

(3) Revocation or Modification. A variance granted may be revoked or modified by the Commission after a public hearing held upon not less than 20 days notice. Such notice shall be served upon the holder of the variance by certified mail and all persons who have filed with the Commission a written request for such notification.



MOTOR RACE
VEHICLE AND FACILITY
SOUND MEASUREMENT
AND
PROCEDURE MANUAL

PROPOSED NOV. 1980

REVISION RECORD

INSTRUCTIONS FOR USE: All revisions of this manual will be numbered to assure each manual holder that he has received all revisions. The date, a description of the revision, and the initials of the person inserting the revision shall be listed.

Rev. No.	<u>Date</u>	<u>Description of Revision</u>	<u>Initial</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
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10.	_____	_____	_____
11.	_____	_____	_____
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13.	_____	_____	_____
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CHAPTER 1

INTRODUCTION

1.1 Policy.

1.1.1 The Environmental Quality Commission (EQC), through the Department of Environmental Quality (DEQ) shall establish a noise measurement program to implement the laws and regulations applying to Motor Sports Vehicles and Facilities.

1.1.2 The person owning or controlling the motor sports facility shall be responsible for compliance with the Oregon Noise Control Regulations for Motor Sports Vehicles and Facilities (OAR 340-35-040).

1.1.3 This manual contains procedures to be followed in complying with the Motor Sports Vehicles and Facilities Noise Control Regulations. Guidance is provided in the "Notes" and "Comments".

1.2 Authority. The statutory and administrative law governing authority which provide guidance and direction for this manual are contained in:

- a) Oregon Revised Statutes, Chapter 467
- b) Oregon Administrative Rules for Noise Control
 - i) OAR 340-35-005 - Policy
 - ii) OAR 340-35-010 Exceptions
 - iii) OAR 340-35-015 Definitions
 - iv) OAR 340-35-040 Noise Control Regulations for Motor Sports Vehicles and Facilities
 - v) OAR 340-35-100 Variances

1.3 Noise Regulations for Motor Sports Vehicles and Facilities.

The DEQ Noise Control Regulations for Motor Sports Vehicles and Facilities contain two basic requirements for racing vehicles:

- 1) Vehicles shall be equipped with a "properly installed and well maintained muffling" system; and
- 2) Vehicles shall not exceed the maximum allowable noise emission limits for that vehicle.

Facilities located over two miles from the nearest "noise sensitive property" (residences) and/or any Top Fuel Burning Drag race vehicles are exempt from the above requirements due to lack of available control technology.

1.4 Penalties. The motor sports facility and racing vehicle owner is subject to penalties set forth by the Environmental Quality Commission in OAR 340-12-052, Noise Control Schedule of Civil Penalties, for violation of the Noise Control Regulations for Motor Sports Vehicles and Facilities. Penalties may be as great as \$500 for each violation.

1.5

General Vehicle Inspection Procedure. As stated in the policy section, the facility owner is required to inspect the race vehicles for compliance with the noise regulations. The following general procedures shall be followed when inspecting race vehicles:

1. Prior to a racing event (normally during the technical inspection of the vehicle), the facility owner shall inspect the muffler system to determine if the vehicle has a "properly installed and well maintained muffling" system (see Chapter 3).
2. If the vehicle has failed to meet the muffler requirements during the above inspection, then the race vehicle does not comply with the regulations and must therefore install a "properly installed and well maintained muffling" system.
3. If the vehicle meets the muffler requirements, then the vehicle (except for a drag race vehicle) shall be sound measured to determine if it meets the maximum allowable noise emission limits.

Vehicles other than motorcycles shall be noise tested while moving around the course (preferably during practice sessions). Open course motorcycles shall be tested while stationary (normally during technical inspection after the muffler inspection). Closed course motorcycles shall be tested while either stationary or moving at the option of the facility owner. (See Chapter 4 and 5)

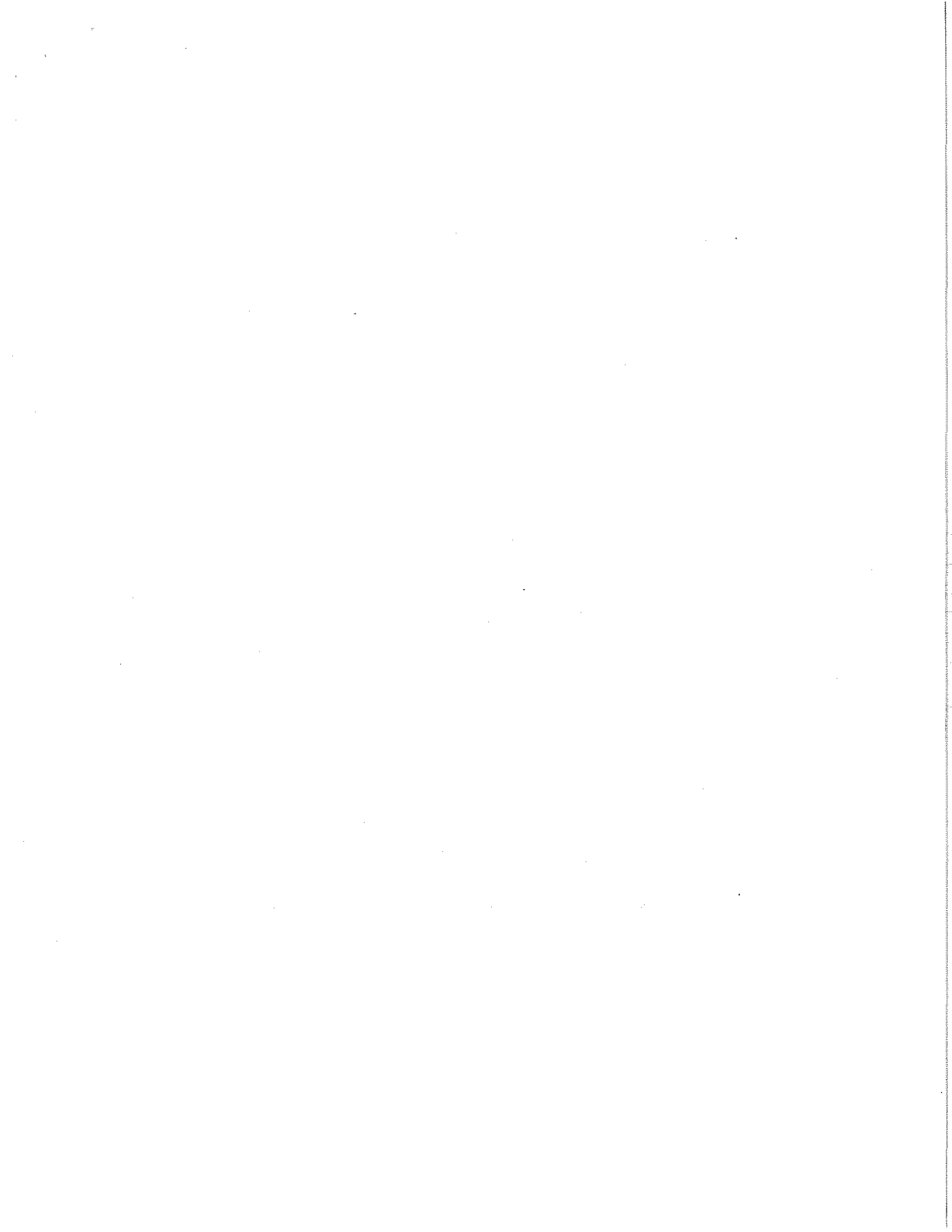
4. If the vehicle has failed to meet the maximum allowable noise emission limits, then the vehicle does not comply with the regulations and the muffling system must be improved to comply with the emission standards.
5. All vehicles who fail to meet either the muffler requirements or the maximum allowable noise emission limits shall be recorded on Form NPC-35-1.

CHAPTER 2

TRAINING

- 2.1 Sound Measurement Equipment. Prior to a race event, the person(s) designated to inspect racing vehicles for compliance with the noise control regulations shall become familiar with the sound measurement equipment (this person will be referred to in this procedure manual as the Noise Control Steward or NCS). The Noise Control Steward shall have read the manufacturer's instruction manual for the sound equipment. The NCS also shall have sufficient hands-on experience to feel comfortable operating the equipment.
- 2.2 Noise Control Racing Rules and Procedure Manual. The Noise Control Steward shall have a good working knowledge of the Department of Environmental Quality Noise Control Standards for Motor Sports Vehicles and Facilities (OAR 340-35-040) and its companion document the Sound Measurement Procedure Manual (NPCS-35).
- 2.3 Race Vehicle and Facility. The Noise Control Steward shall have a good working knowledge of the racing vehicles and facility being monitored. This includes:
- a) Knowing the driving characteristics of the race vehicles,
 - b) Knowing the layout of the track, and
 - c) Knowing the requirements for approved racing muffler systems.

This information will be useful in locating the proper measurement sites and for inspecting vehicles.



CHAPTER 3

MUFFLER SYSTEMS

- 3.1 General. The DEQ regulation requires all types of race vehicles (except Top Fuel Burning Drag vehicles) to be equipped with a "properly installed and well maintained muffling" system. During the vehicle inspection prior to the racing event, the vehicle's muffling system shall be visually inspected by the Noise Control Steward. If the muffling system fails to meet the DEQ muffler requirements, then the vehicle shall not operate at the race facility until the muffling system complies. This chapter describes the procedures for visual inspection of the vehicle's muffling system.
- 3.2 Top Fuel Burning Drag Vehicles. Drag vehicles operating on more than 50% alcohol fuel or on nitromethane, and are commonly known as Funny Cars and Top Fuel Cars, are defined as Top Fuel Burning Drag vehicles. Due to the lack of muffler technology needed to quiet this vehicle class, they are not required to have a muffler system under this rule.
- 3.3 "Properly Installed" Mufflers. A properly installed muffling system is:
- a) Correctly installed per manufacturer's instructions,
 - b) Fully functional,
 - c) Has no leaks or holes in the walls of the exhaust tubing and muffler body, and
 - d) Has no defect or modifications to reduce its sound reduction capabilities.
- 3.4 "Well Maintained Muffler" Systems. The DEQ noise regulations specifically state what constitutes a "well maintained muffler" system. If "properly installed" and "well maintained," the following systems meet the requirements of the rule. Note that each and every exhaust outlet must have a muffler located upstream from the outlet.
- 3.4.1 Reverse Flow (Baffle) Mufflers. See Figure 3-1 for examples of reverse flow mufflers. The reverse flow devices incorporate a multitube and baffled design. The exhaust gases do not flow straight through these devices, but take a multipath, back and forth route through the device.
- 3.4.2 Perforated Straight Core with Sound Absorbing Medium. See Figure 3-2 for examples of the perforated straight core with sound absorbing medium mufflers. In order for a straight core device to comply with the requirements, it must meet all the following criteria:
- a) The central core tube shall be perforated,
 - b) The core shall be fully surrounded from beginning to end with an absorbing medium (e.g. fiberglass, steel wool, etc.).
 - c) The muffler shall not be installed on a rotary engine, and
 - d) The muffler shall meet the following length requirements:

- (i) For any engine exceeding 1600 cc (96.7 cu. in.) displacement, the muffler shall be at least 20 inches (50.8 cm) in inner core length; or
- (ii) For any non-motorcycle engine equal to or less than 1600 cc (96.7 cu. in.), the muffler shall be at least 12 inches (30.5 cm) in inner core length; or
- (iii) For any four-cycle motorcycle engine, the muffler shall be at least six inches (15.24 cm) in inner core length; or
- (iv) For any two-cycle motorcycle engine, the muffler shall be at least eight inches (20.32 cm) in inner core length.

Note: The "inner core length" means the length of the main body of the muffler, not including the exhaust tubing leading to and from the main body of the muffler (see Figure 3-2).

3.4.3 Annular Swirl Flow (Auger-Type) Mufflers. See Figure 3.3 for an auger type muffler. The exhaust gases in the annular swirl flow muffler follows a circular path down the length of the muffler. The inner design is like an auger. In order for these devices to comply with the noise requirements, they shall meet the following length requirements:

- a) For any engine exceeding 1600 cc (96.7 cu. in.), the muffler swirl chamber shall be at least 16 inches (40.64 cm) in length; or
- b) For any engine equal to or less than 1600 cc (96.7 cu. in.), the muffler swirl chamber shall be at least 10 inches (25.4 cm) in length.

3.4.4 Stacked 360° Diffuser Discs Mufflers. See Figure 3-4 for an example of a Diffuser Disc muffler. This type of muffler works by causing the exhaust gases to bend 90° and then flow through the stacked 360° diffuser discs.

3.4.5 Turbocharger. A turbocharger is an exhaust gas driven supercharger. Turbochargers meet the requirements for a "well maintained muffler" system. However, superchargers mechanically driven by the engine are not defined as a "well maintained muffler" system and thus do not meet DEQ muffler requirements.

3.4.6 Go-Kart Mufflers. Go-karts may be equipped with a muffler as specified by the International Karting Federation. See Figure 3-5 for the specifications on go-kart mufflers.

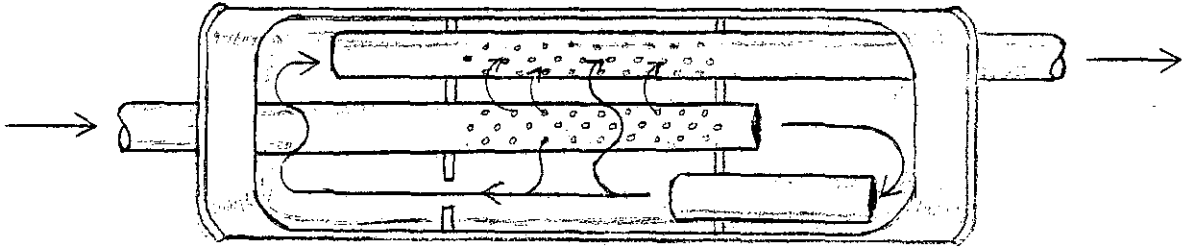
3.4.7 Original Manufacturers Muffler on a Motorcycle. The original muffling equipment installed on a motorcycle and designated for use on the motorcycle by the manufacturer, meets the DEQ muffler requirements. The original motorcycle mufflers are generally of reverse flow, baffle and perforated straight core designs.

3.4.8 Underwater Exhausted Outboard Boat Motors. Watercraft with outboard boat motors whose exhaust exits beneath the water surface during operation are defined as a "well maintained" muffler and meet the DEQ muffler requirements.

- 3.4.9 Other Approved Muffling Devices. Any other muffling device demonstrated effective and approved by the Motor Sports Advisory Committee and the Department of Environmental Quality will then be designated a "well maintained muffler" system.
- 3.5 Other Not Approved Devices. Other devices not meeting the criteria outlined in Section 3.1 to 3.4.9 for a "properly installed and well maintained muffling" system are illegal and shall not be used on vehicles operating at any Motor Sports Facility; except where specific exemption, exception and/or variances apply.
- 3.6 Form NPCS-35-1. Form NPCS-35-1 contains a condensed version of the information outlined in this chapter. Also, the form contains space for a description of the muffling system and whether it passed or failed the "properly installed" and "well maintained muffling" system requirements.

Fig. 3 - 1 Reverse Flow, Baffled Mufflers

Typical Baffled Muffler



Other Baffled Muffler Designs

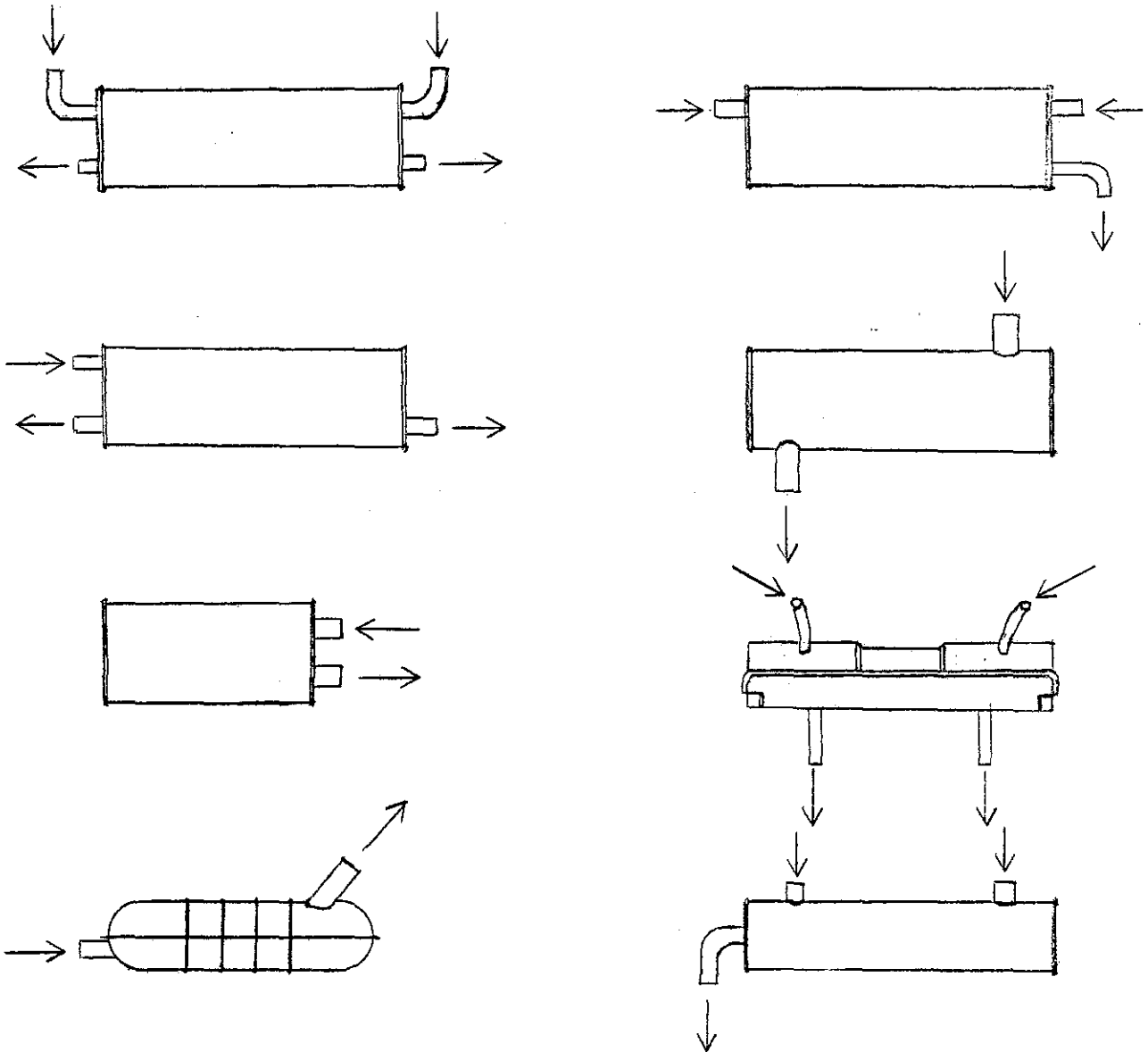
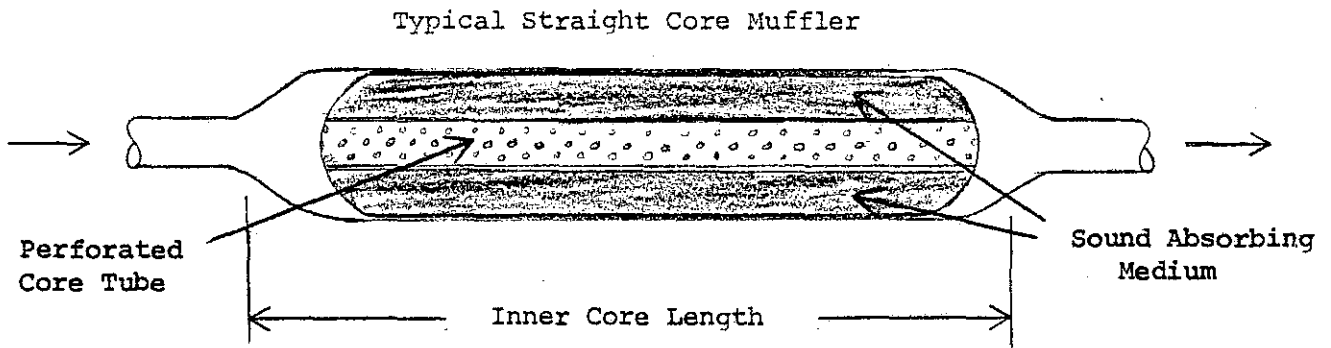


Fig. 3 - 2 Perforated Straight Core Muffler



Another Type of Straight Core Muffler

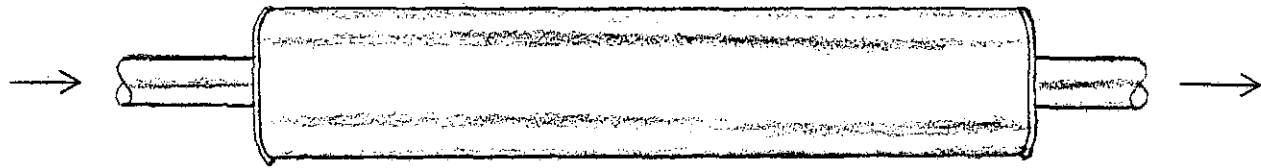


Fig. 3 - 3 Annular Swirl Flow (Auger-Type) Muffler

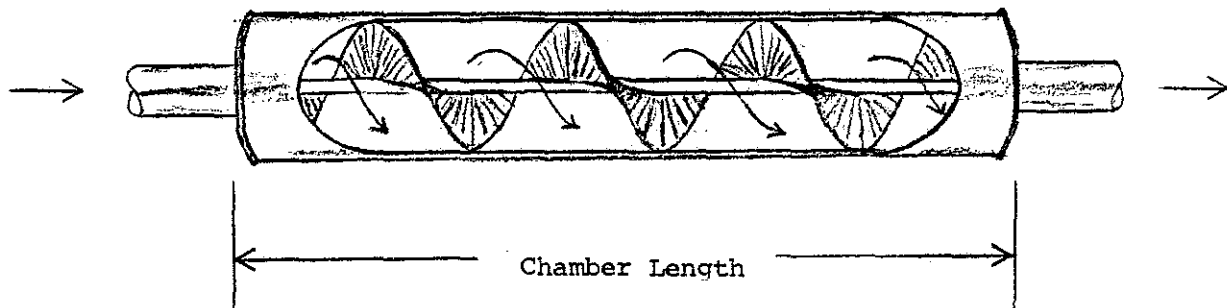


Fig. 3 - 4 Stacked 360° Diffuser Disc Muffler

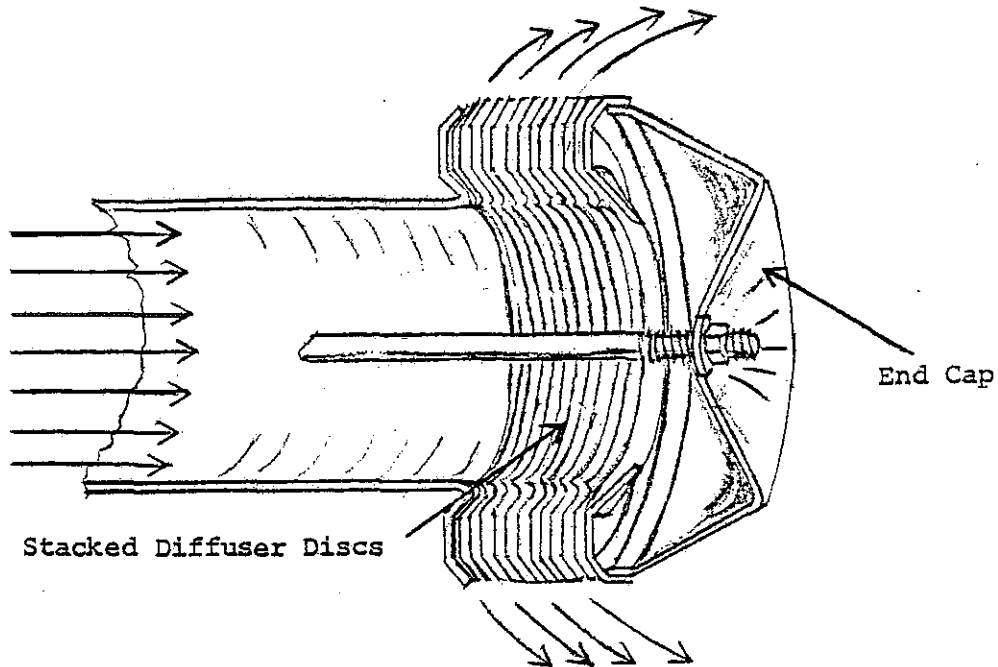
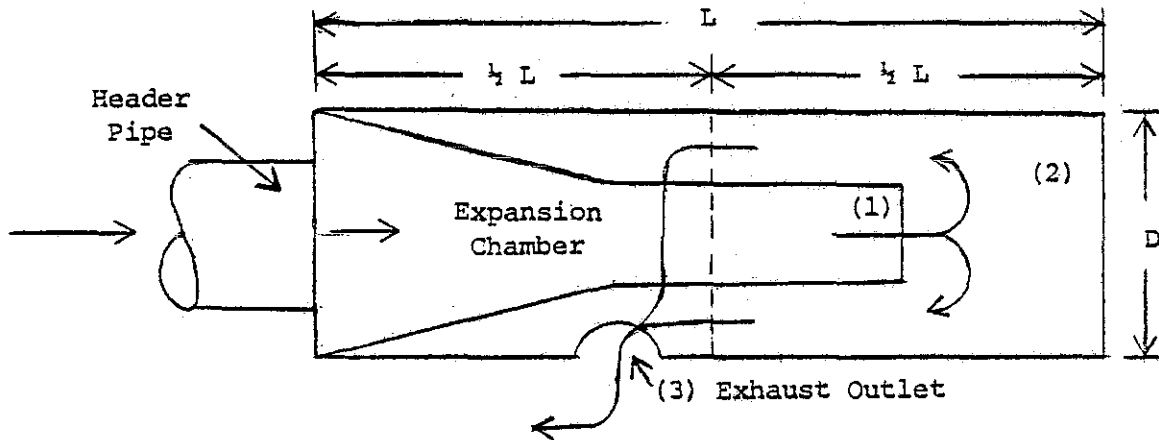


Fig. 3 - 5 Go-Kart Muffler Requirements



All go-kart exhaust systems shall be equipped with a muffler meeting the following specifications:

- a) No minimum or maximum muffler length (L) or diameter (D) is required.
- b) The expansion chamber must outlet (1) into the rear half of the muffler (2), that portion farthest from the header pipe.
- c) The exhaust gas outlet hole to atmosphere (3) may be of any shape, but shall not exceed .7854 sq. inches or the equivalent of a 1-inch diameter circle. Two 1-inch diameter, or smaller, exhaust outlet holes may be used on a single cylinder, 270 cc open class go-kart engine. This applies only to large displacement single cylinder engines in the 270 cc open class. If more than one outlet hole is used on a 270 cc single cylinder engine, no more than two holes may be used, both must be round, and neither hole may exceed 1-inch diameter.
- d) Multiple exhaust gas outlet holes to atmosphere are preferred.
- e) There may be no physical connection between the expansion chamber outlet (1) and the exhaust gas hole to atmosphere (3).
- f) Adjustable pipes are not legal in sprint racing of go-karts.

CHAPTER 4

INSTRUMENTATION

4.1 General. This chapter describes the requirements for the sound measurement equipment and its use.

4.2 Sound Level Meter. All sound level meters used in monitoring compliance with the noise regulations at motor racing facilities shall be equipped with:

- a) An "A" weighting electronic network,
- b) A meter response similar to ANSI "Fast" and ANSI "Slow".
(Depending on the type of measurement procedure.)
- c) A battery voltage indicator, and
- d) Adequate measuring range to test race vehicles.

Such sound level meters shall also:

- a) Conform to minimum specifications set forth in American National Standard Institute (ANSI) Standards Number S1.4-1971 for type 2 sound level meters, or
- b) Shall be an Oregon Department of Environmental Quality approved sound level meter for use in measuring racing vehicles for the purpose of this rule.

4.3 Sound Level Meter Calibration.

4.3.1 Field Calibration. To assure sound measurement accuracy in the field, DEQ recommends that the measurement equipment include an acoustical calibrator which couples to the microphone. Sound meters should be field calibrated before and after, and every two hours during vehicle monitoring. Consult the sound meter's manufacturer's instruction manual for proper calibration procedures.

4.3.2 Annual Calibration. Every year the sound meter and calibrator should receive a laboratory calibration in accordance with manufacturer's specifications. This calibration should be traceable to the National Bureau of Standards.

4.4 Accessories. The following accessories are valuable in gathering sound measurements:

- a) A microphone wind screen (see Section 4.5)
- b) Motor Racing Record Forms (NPCS-35-1)
- c) Clipboard
- d) Tripod to hold the sound level meter
- e) Spare batteries
- f) Screwdriver for sound meter calibration
- g) A tape measure
- h) Ear protectors
- i) A tachometer for stationary noise testing

4.5 Sound Measurement Precautions.

4.5.1 Wind. Wind blowing on the microphone can create additional noise in the sound meter. To minimize wind noise, a windscreen on the microphone is recommended whenever measurements are taken. The windscreen should be furnished with the meter by the manufacturer and made of open cell polyurethane foam. This type of windscreen will protect the microphone from wind, dust, accidental shocks, and moisture, while not affecting the sound measurements. Consult the sound meter instruction manual for more details.

4.5.2 Precipitation. Water can damage microphone diaphragms. Hence, the microphone should be protected from moisture at all times. The wind screen will protect the microphone during all but the heaviest rain showers.

4.5.3 Background Sound Levels. Sounds from other vehicles or activities can affect sound level measurements made during race vehicle monitoring. To avoid this, it is recommended that the sound level of the race vehicle being measured rise at least 6 dBA before and fall at least 6 dBA after the maximum sound level occurs.

4.6 Equipment Set Up and Use.

4.6.1 Calibration. The meter should be periodically field calibrated as outlined in section 4.3.1 and following the manufacturer's instruction manual.

4.6.2 Battery Check. The batteries in the sound meter and calibrator are to be checked whenever performing field calibrations.

4.6.3 "A"-Weighting. The "A"-weighting electronic network on the meter is to be engaged and used during vehicle testing (i.e., not the "B", "C", "D", or flat networks).

4.6.4 "Fast" and "Slow". For the moving vehicle test, the fast meter response network is to be engaged and used during testing. For the stationary vehicle test, the slow meter response is to be engaged and used during testing.

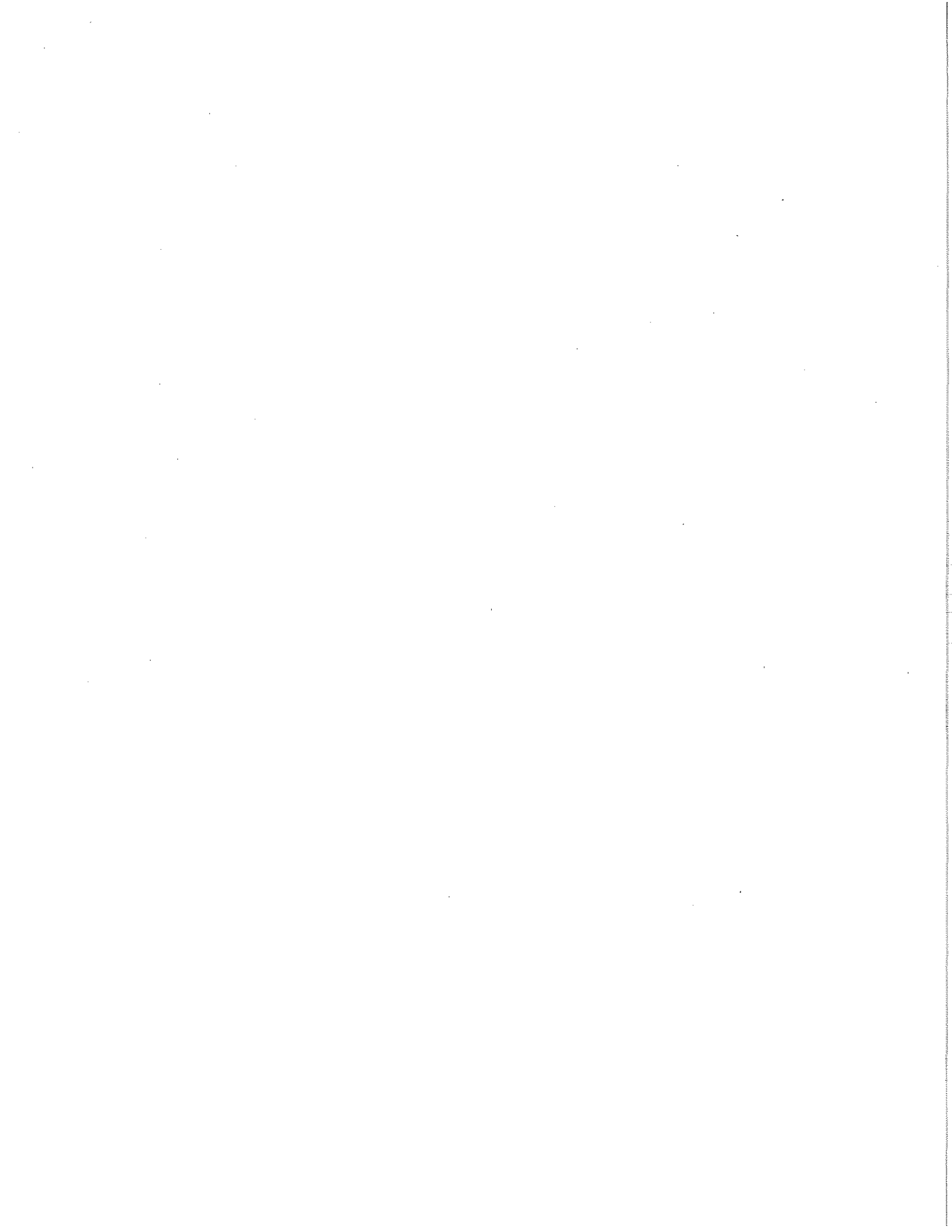
4.6.5 Microphone Height. The microphone shall be placed on a tripod if an extension cable is used. If a cable is not used, the sound meter with the microphone attached may be hand held or placed on a tripod. Ideally, the microphone should be positioned $4 \pm 1/2$ feet ($1.2 \pm .15$ meters) above the ground or water for the moving test and at the same height as the exhaust outlet for the stationary test. See Chapter 5 for more details.

4.6.6 Microphone Orientation. Care should be taken to correctly orient the microphone to the race vehicle. Some microphones are designed to be pointed directly at the noise source, while others are designed to be pointed perpendicular to the sound so that

the sound grazes the microphone diaphragm. Consult the sound meter instruction manual for the proper microphone orientation.

4.6.7 Personnel Location. Care should be exercised to prevent interference with sound measurements caused by personnel in the measuring area. No person should stand between the race vehicle and the sound meter. The person taking sound measurements should stand back from the microphone as much as possible and to one side of the sound path. This will minimize sound reflections off the body. Consult the manufacturer's instruction manual for more details. Bystanders should stand behind the test personnel to minimize body reflections.

4.6.8 Range Setting. Set the meter to the appropriate range to measure the anticipated sound level.



CHAPTER 5

SOUND MEASUREMENT SITES AND PROCEDURES

- 5.1 General. The DEQ noise regulations for motor sports facilities require all race vehicles, except for drag vehicles, to meet specific maximum allowable sound emission limits. Also the noise regulations specify the type of noise test procedures to be followed. The non-motorcycle race vehicle categories are only noise tested while moving about the race course. Open course motorcycles are tested only while stationary. Closed course motorcycles are tested either while moving or while stationary at the option of the Noise Control Steward.

For the moving vehicle noise test, the vehicle is first inspected to determine if it complies with the muffler requirements (See Chapter 3). If the muffler complies, then the vehicle can be allowed to operate on the facility for practice runs prior to the race event. During these practice runs, the Noise Control Steward shall take sound measurements to determine if the vehicle complies with the noise emission limits. If it fails the emission limits, then the vehicle shall not be allowed to operate further on the facility until the emissions are lowered. Section 5.2 describes the moving vehicle sound measurement procedures.

For the stationary vehicle test, the muffler system is first inspected for compliance with the muffler requirements. If it complies, then the vehicle is stationary noise tested, per the test procedures in Section 5.3. If the vehicle fails the muffler requirements and/or the noise emission limits, it shall not be allowed to operate on the race facility until it complies.

5.2 Moving Vehicle Sound Measurement Procedure.

- 5.2.1 Microphone Height. Ideally, the sound measurement area for the moving vehicle test should be flat and the microphone positioned $4 \pm 1/2$ feet ($1.2 \pm .15$ meters) above the plane of the ground or water surface. In practice, this is sometimes difficult to achieve. Figure 5-1 shows some acceptable microphone heights. In general, the NCS should maintain at least 3-1/2 feet of line-of-site clearance between the microphone and the vehicle above the surrounding ground terrain.
- 5.2.2 Blockage of the Sound Path. The ideal moving vehicle measurement site is shown in Figure 5-2. The ideal site is flat and is clear of objects within the area between the vehicle path and the microphone position for a distance of 100 feet (30.5 meters) in each direction along the track. Objects located within the measurement area between the vehicle and the microphone can potentially influence the sound level measurements. Any site where an object "significantly" blocks the sound path is not a legitimate test site and shall not be used for monitoring compliance with the noise standards for racing facilities.

At most moving vehicle test sites, there will be something located within the measurement area that may block sound (i.e., Armco safety barriers, hay bales, fences, bleachers, other race vehicles, trees, piles of dirt, etc.). Fortunately, not everything will "significantly" block the sound path. If the following conditions are met, then a moving vehicle test site is not "significantly" blocked and is therefore an acceptable test site:

- 1) In general, there must be good line-of-sight clearance between the microphone and the vehicle exhaust outlets (excluding shielding by the vehicle body) for most of the vehicle's pass by. More precisely, the line-of-sight view of exhaust outlets must be at least 80% open area during the pass by, and
- 2) The area immediately in front of the microphone must be clear of obstruction.

If the Noise Control Steward has any doubts about the site, then choose an alternate measurement site.

5.2.3 Reflective Surfaces. Objects with large flat surfaces (excluding the ground or water surface) which are basically parallel to the track and located behind the microphone or on the other side of the track, can increase the measured sound level. The ideal moving vehicle measurement site has no reflective surfaces located in an area less than 100 feet (30.5 meters) from the microphone and the microphone point (see Figure 5.2). Since an ideal site with no reflective surfaces is not always available, then the next best thing is to not measure at sites where reflective surfaces are less than the following distances away from the microphone or the race vehicle:

- a) 10 feet (3.0 meters) for the 50 ft. (15.24 m) measurement sites, or
- b) 20 feet (6.0 meters) for the 100 ft. (30.5 m) measurement sites.

5.2.4 50 Ft. Trackside Measurement Point. The DEQ noise regulations for racing facilities specifies a moving vehicle sound measurement position (microphone location) at "trackside." "Trackside" is defined as 50 feet (15.24 meters) from the race vehicle. For the purpose of this rule, this means the sound measurements shall be made 50 feet (15.24 meters) from the edge of the Driving Groove. The Driving Groove is the path that most race vehicles follow around the race course. In order to determine the driving groove, the Noise Control Steward must draw upon his knowledge of the race vehicles and the race course.

After the driving groove has been located, the NCS shall measure 50 feet (15.24 meters) from the edge and perpendicular to the driving groove. This is the position where sound measurements will be taken.

Note: It is recommended that a mark be placed at the edge of the driving groove, perpendicular to the microphone. This can be used to determine the location of each vehicle with respect to the 50 foot monitoring distance. (See

Section 5.4.2 for more details)

5.2.5 Alternate 100 ft. Trackside Measurement Point. If it is determined that a measurement at 50 ft. (15.24 meters) is unsafe or not feasible, then measurements may be taken at 100 ft. (30.5 meters) for the driving groove. If the 100 foot distance is used a 6 dBA correction shall be added to the observed sound reading or 6 dBA may be subtracted from the required maximum sound emission limits specified in the noise regulations. (The sound emission limits list in form NPC-35-1 were adjusted.)

5.2.6 Choosing Loudest Moving Vehicle Measurement Location. Given the general test site constraints outlined in Section 5.2.1 to 5.2.5, many possible measurement locations are typically available at racing facilities. The moving vehicle standards require race vehicles not exceed a specified noise emission level under all operating conditions (acceleration, deceleration, cruising, full out, etc.). The Noise Control Steward shall therefore monitor for compliance with the moving vehicle limits at those measurement sites where the vehicle is producing its maximum noise levels.

Comment: The Noise Control Steward must measure at the noisiest site. A non-complying vehicle may pass or fail depending on the ability of the steward to choose the noisiest site. The owner of a vehicle that passes or fails due to improper measurement procedures will lose confidence in the validity and the need for the rules. In such a case, the Steward will have compromised the track, sanctioning organization, and the vehicle owner.

Generally, race vehicles produce their maximum noise levels when they are accelerating near the highest engine RPM. Determining the point of maximum sound emissions takes a knowledge of the vehicle and the race course. Even then, vehicles may need to be tested at several sites before a final test site is selected. Long, straight sections of the track tend to be noisier than the corners. Also, vehicles may be noisier on one side than the other, depending on the location of the exhaust outlet. Measurements shall be made on the noisiest side of the vehicle.

5.3 Stationary Vehicle Sound Measurement Procedure.

5.3.1 Test site. The test site should be relatively flat and free of loose or powdered snow, plowed soil, grass of height greater than 6 inches (.15 meters), brush, trees, or other extraneous material. Also the site should be free of large sound reflective surfaces (other than the ground) such as parked vehicles, sign boards, buildings, or hillsides; located within 15 ft. (4.6 meters) radius of the vehicle being tested.

5.3.2 Microphone Location. The microphone shall be located with respect to the rear most exhaust outlet on either side of the vehicle as follows:

- a) 20 inches \pm 1/2 in. (0.5 meters \pm .01 m) from the exhaust outlet,
- b) At a 45-degree angle (\pm 10 degree), from the axis of the outlet,
- c) At the same height as the exhaust outlet, and
- d) With its longitudinal axis parallel to the ground.

Figure 5-3 shows the microphone location.

Note: For microphones designed for grazing noise measurement (see Section 4.6.6), point the microphone rearward away from the engine. Further no wire or other means of distance measurement shall be attached to the microphone. This may lead to erroneous readings.

5.3.3 Vehicle Operations. The rider shall sit astride of the motorcycle in a normal riding position with both feet on the ground. The engine shall be operated at the normal operating temperatures with gear box in neutral. If no neutral is provided the motorcycle shall be operated either with the rear wheel clear of the ground, or with the drive chain or belt removed. The sound level measurement shall be made with the engine speed stabilized at one of the following values. (The preferred test procedure is listed first; the least preferred test procedure is last):

- a) The engine speed shall be stabilized at 50% (1/2) of the manufacturer's recommend maximum engine speed ("Red Line RPM"), or
- b) If no "Red Line RPM" is published for the vehicle, then stabilize the engine speed at 60% of the engine speed at which maximum horsepower is developed, or
- c) If neither "Red Line RPM" nor maximum horsepower RPM information is available, then calculate the test RPM from the following formulae:

$$\text{RPM} = \frac{306,000}{\text{stroke in mm}} \quad \text{or} \quad \text{RPM} = \frac{12,000}{\text{stroke in inches}}$$

- d) If engine test speed cannot be determined from steps a, b, and c above or if a tachometer is not available, then test the motorcycle at 1/2 of full open throttle.

Comment: During stationary noise testing, the Noise Control Steward should make certain the tachometer is accurately measuring the engine speed. Also do not allow the exhaust to impinge on the microphone.

5.4 Sound Measurements

5.4.1 Preliminary Steps. The following steps should be followed before taking sound measurements.

- a) Check battery
- b) Calibrate sound meter
- c) Switch meter to "A" weighting scale.
- d) Set meter to correct a range setting
- e) Windscreen - on
- f) No significant blockage of the sound path
- g) No reflective surfaces
- h) Test personnel located correctly behind meter
- i) No significant background noises.
- j) For moving vehicle sound testing:
 - * Select the loudest measurement site
 - * Determine the Driving Groove
 - * Place the meter at 50 (or 100 ft.) from Driving Groove
 - * Set meter on "Fast" response
 - * Set meter at 4 + 1/2 ft. above terrain
 - * Point microphone correctly
 - * Monitor the loudest side of vehicle
- k) For stationary vehicle sound testing:
 - * Vehicle at normal temperature and in neutral.
 - * Vehicle operator in normal riding position.
 - * Attach and check tachometer.
 - * Determine the engine test speed.
 - * Monitor the rear most exhaust outlet for each side.
 - * Set the meter to "slow" response
 - * Place microphone 20 inches from exhaust outlet.
 - * Place microphone 45° from the axis of the outlet.
 - * Place microphone at the same height as the outlet.
 - * Place longitudinal axis of the microphone parallel to the ground.
 - * Point the microphone correctly.
 - * Stabilize the engine at the engine test speed.

5.4.2 Moving Vehicle Measurements. The measured noise emission level for a moving race vehicle shall be the maximum sound level reading displayed on a meter position 50 or 100 feet (15.2 or 30.5 meters) from the vehicle's driving groove, taken during the vehicle's pass by. To avoid background noise from affecting the sound measurements, the sound level should ideally rise and fall at least 6 dBA from the maximum noise level. Also, the sound meter's "Fast" response should be used.

Ideally, all moving vehicles will follow the driving groove and the sound measurements will be made at the proper measurement distance. However, this may not always be the case. The following comments may be of value to minimize the time it takes for testing vehicles:

Comment: If the moving vehicle is measured on its noisiest side and under its noisiest operating conditions, then the following statements can be considered valid:

- a) If the vehicle passes less than 50 (or 100) feet from the microphone and does not exceed the noise emission limits, then it does not violate the noise limits at 50 (or 100) feet.
- b) If the vehicle passes greater than 50 (or 100) feet and exceeds the emission limits, then it does violate the noise limits at 50 (or 100) feet.
- c) If the vehicle passes less than 50 (or 100) feet and exceeds the emission limits, then the situation is uncertain and the vehicle shall be remeasured.
- d) If the vehicle passes greater than 50 (or 100) feet and does not exceed the emission limits, then the situation is again uncertain and the vehicle shall be remeasured.

5.4.3 Stationary Vehicle Measurements. The reported noise emission level for the stationary vehicle shall be the highest sound level reading displayed on the meter during steady state operation at the proper engine speed. Sound level readings obtained during acceleration or deceleration of the engine are not included. If there are exhaust outlets on both sides of the vehicle, then readings shall be obtained on both sides and the highest reading reported as the vehicle's emission level. The sound meters "Slow" response should be used for stationary testing. Although the "Fast" response is acceptable. Further, to avoid background noise from affecting the sound measurements, the sound level should ideally rise and fall at least 6 dBA from the maximum noise level.

5.4.4 Recording Sound Level Measurements. Noise data for all race vehicles which exceed the maximum allowable noise emissions shall be recorded on form NPC-35-1. The race facility owner shall keep such recorded noise data for a period of at least one calendar year and, upon request, shall make such data available to the Department. The owner may also submit the data to the Department for storage.

5.5 Form NPC-35-1. Form NPC-35-1 is used to record muffler and sound level data on all race vehicles exceeding the DEQ noise standards. Figure 5-4 shows an example of Form NPC-35-1. Enclosed in this procedure manual is a master form of NPC-35-1 to be photocopied and used to record race data. The following describes form NPC-35-1 and the information to be recorded on it:

- a) The name and location of the racing facility.
- b) The name of the sponsoring organization, if any.
- c) Name of the individual who inspected the vehicles for compliance with the noise standards.
- d) Mark the type of racing event and the appropriate maximum allowable noise emission limits for the event.
- e) Description of the sound level meter (make and model).

- f) Location of the measurement site and distance from race vehicle.
- g) A check list for use in taking sound level measurements is included on the form.
- h) The description of the racing vehicle (type of vehicle, vehicle number, driver's name, etc.).
- i) The maximum measured sound level expressed in dBA (decibels measured on an "A" weighted sound meter). This is at 20 inch, 50 ft., or 100 ft. depending on what type of test was performed as indicated in item d and f above. Also include with the sound level, the test RPM for the 20 inch stationary test.
- j) A list of muffling systems which meet the requirements for a "Well Maintained Muffling System" is included on the form.
- k) Indicate on the form whether the vehicle passed or failed the visual inspection of the muffling system (whether or not the vehicle meets the "properly installed and well maintained muffler" requirements).
- l) Describe the muffler system and given the reason(s) for vehicle passing or failing the visual inspection of the muffling system. (See list of "Well Maintained Muffling Systems" included on the form.)
- m) Indicate any results or actions taken on the vehicle (i.e. not allowed to race, muffler was fixed and retested, etc.).

Note: Form NPC-35-1 is designed to provide the user with most of the important information contained in the DEQ race noise standards and procedure manual. However, this form could not contain all the information. Consult the standards and the manual if questions arise.

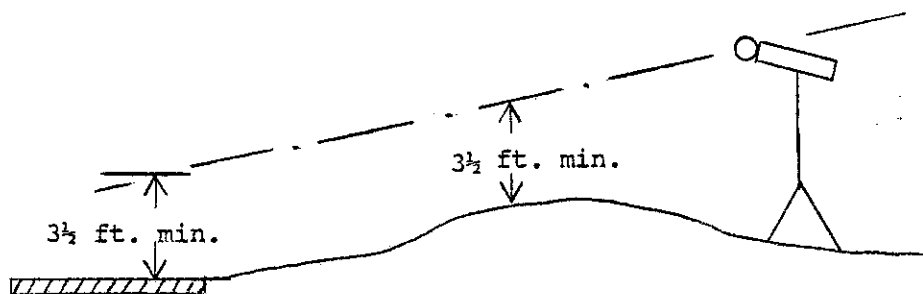
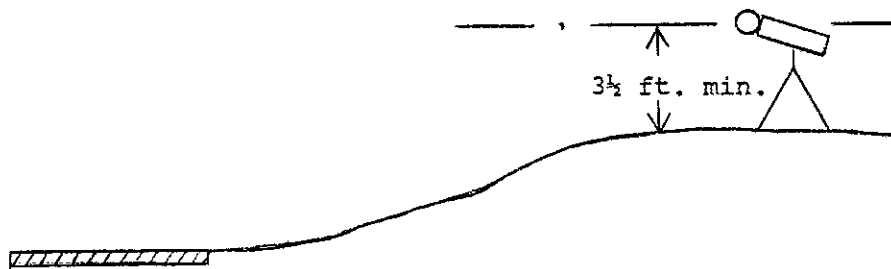
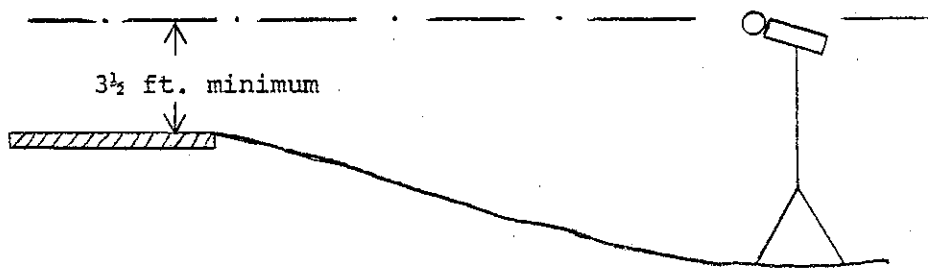
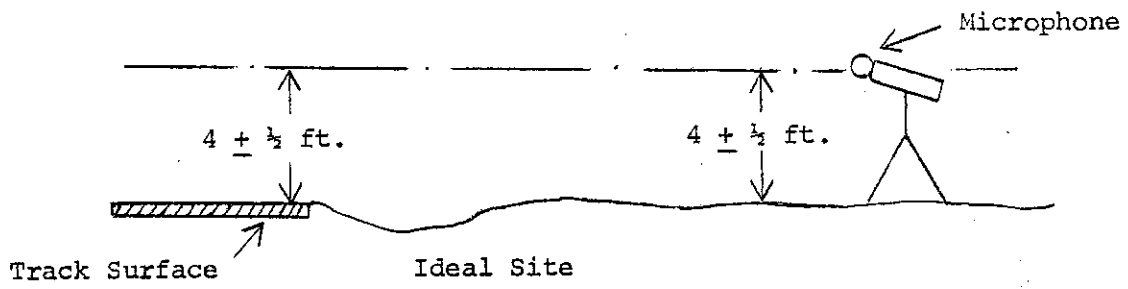


Fig. 5 - 1 Acceptable Microphone Heights

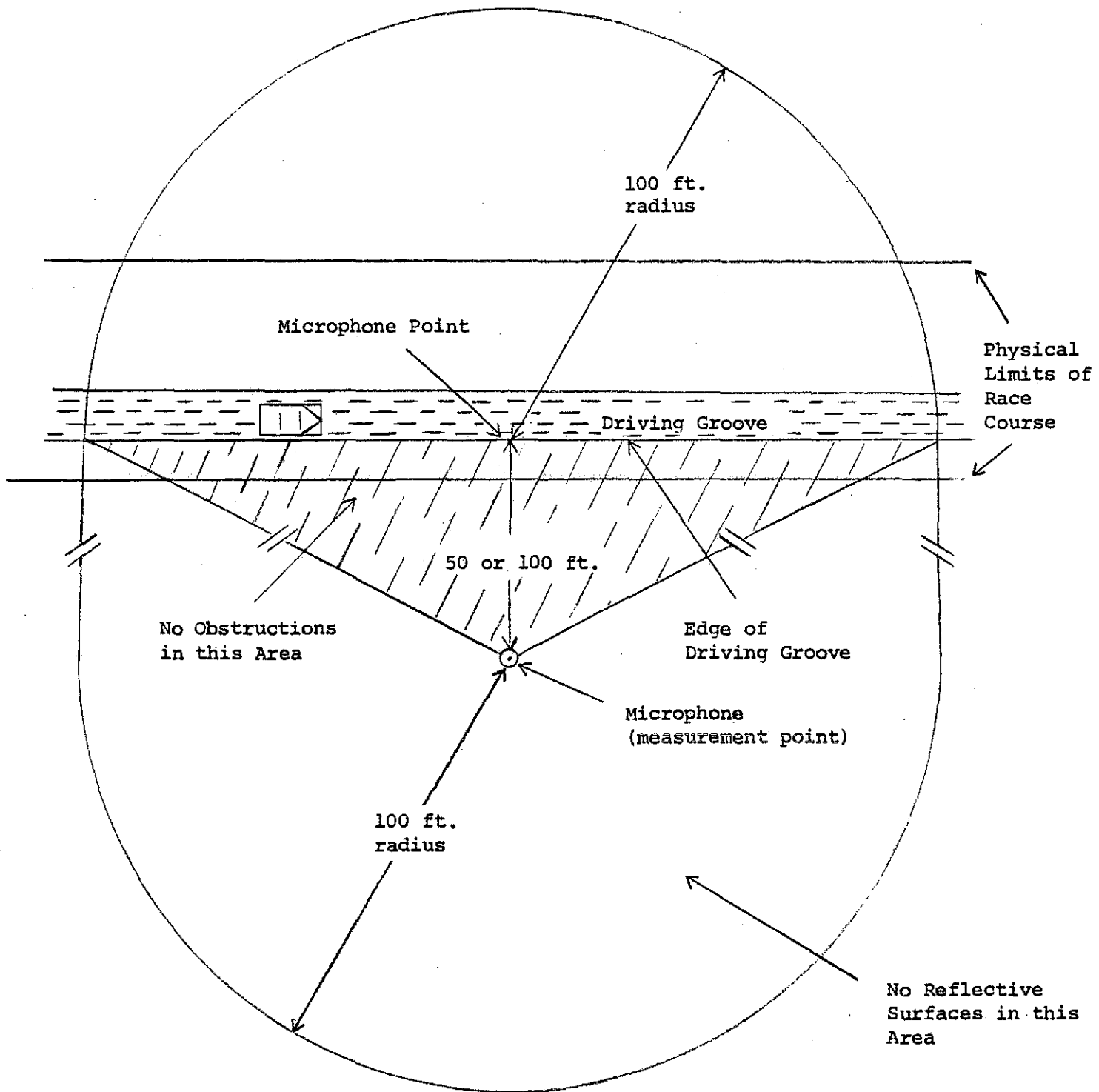
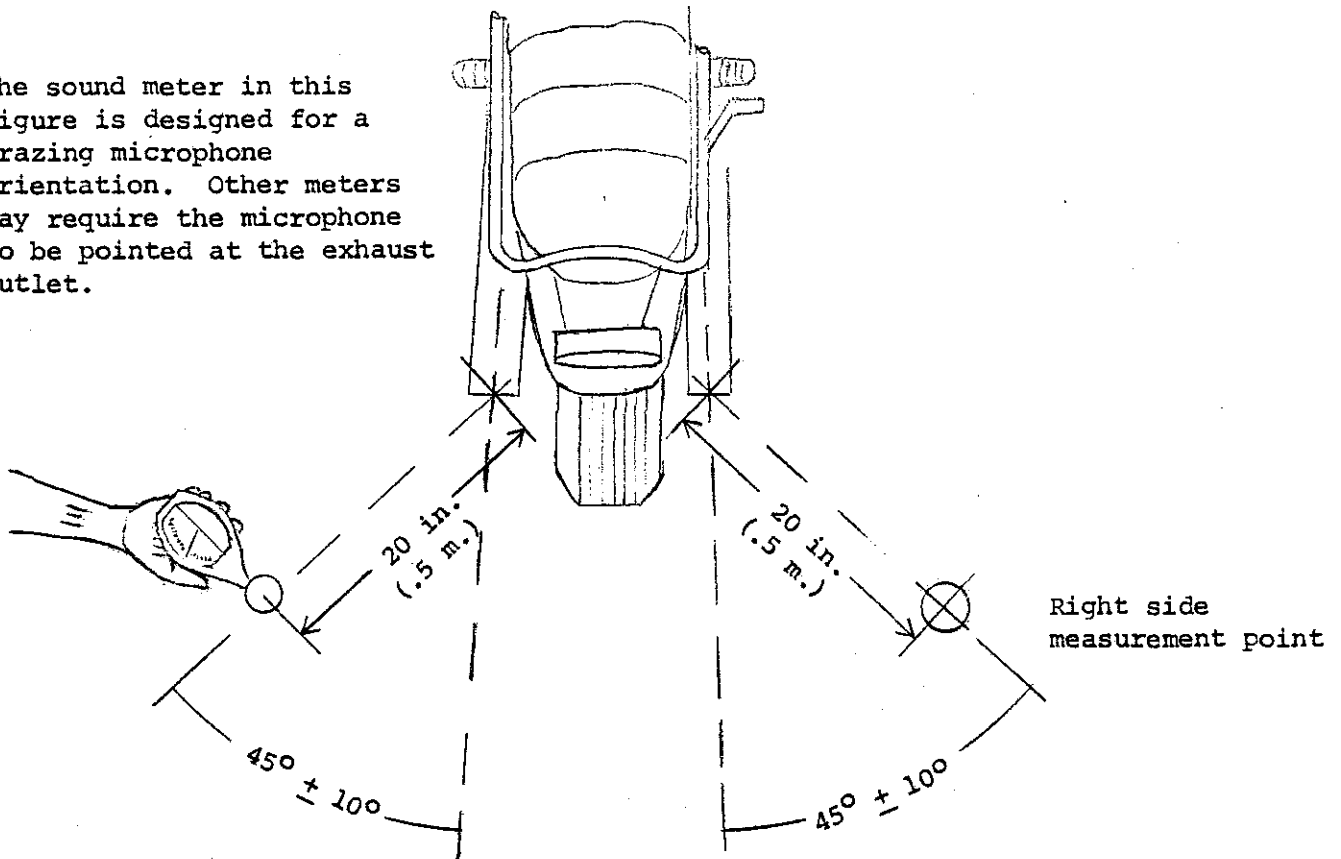


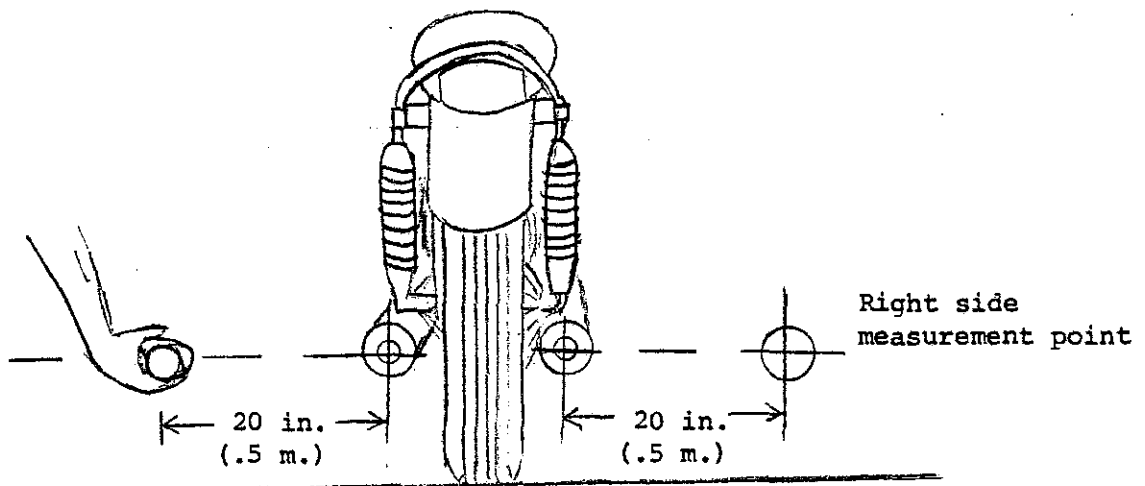
Fig. 5-2 General Layout of Ideal Moving Vehicle Sound Measurement Site (Flat Terrain, No Obstructions to Block the Sound Path, No Reflective Surfaces)

Fig. 5-3 Stationary Test Microphone Location

The sound meter in this figure is designed for a grazing microphone orientation. Other meters may require the microphone to be pointed at the exhaust outlet.



- * Measure from rear most exhaust outlet on each side.
- * For exhaust outlets on both sides, measure both.
- * Report the highest reading at the test RPM.
- * Do not allow exhaust to impinge on the microphone.



DEPARTMENT OF ENVIRONMENTAL QUALITY
MOTOR SPORTS RACING RECORD FORM¹

Date: Nov. 4 1980 Inspected By: John Doe

All non-Top Fuel Burning Drag² vehicles must have a "Properly Installed and Well Maintained Muffling" system. If properly installed, the following systems meet this requirement. Also, all exhaust outlets must be muffled:

Racing Facility Name and Location:
Acme Race Track - Smallville

Sound Meter Make and Model:
Gen Rad 1983

Sponsoring Organization:
23rd St. Sports Car Club

Sound Measurement Position: 20 in.
 50 ft.
 100 ft.

Mark Type of Race and Max. Allowed Noise Emissions:

Sound Measurement Check List:
 Battery and Meter Calibration - OK
 "A" Weighting and Windscreens
 "Fast" - for Moving, "Slow" - for Stationary
 No Reflections or Blockage of Path
 Low Background Noise
MOVING TEST:
 Find Loudest Site and Driving Groove
 50 or 100 Ft. from Driving Groove
 Microphone Height and Orientation - OK
 Test Loud Side of Vehicle
STATIONARY TEST:
 Microphone at 20 in. and 45° from Outlet
 Tachometer Working - OK
 Test at 50% of Red Line or... (see Manual)
 Test Both Sides at Steady State RPM

1. Reverse Flow, Baffle Muffler
2. Stacked Diffuser Disc Muffler
3. Exhaust Turbocharged System³
4. Muffler Approved for Go-Karts
5. Original Factory Muffler Installed on a Motorcycle
6. Underwater Exhausted Outboard Boat Motor
7. Auger Type Muffler
 - a. Minimum 16" muffler for greater than 1600 cc engines, or
 - b. Minimum 10" muffler for 1600 cc or less engines.
8. Perforated Straight Core, Absorbent Lined Muffler; NOT Installed on a Rotary Engine
 - a. Minimum 20" muffler on any engine exceeding 1600 cc,
 - b. Minimum 12" muffler on a non-motorcycle engine 1600 cc or less,
 - c. Minimum 6" muffler on any 4-cycle motorcycle engine, or
 - d. Minimum 8" muffler on any 2-cycle motorcycle engine.
9. Any other DEQ approved muffling system.

	-dBA-		
	20 in.	50 ft.	100 ft.
<input type="checkbox"/> Drag	-	-	-
<input type="checkbox"/> Oval	-	105	99
<input checked="" type="checkbox"/> Sports Car	-	105	99
<input type="checkbox"/> Closed Course Motorcycle	105	105	99
<input type="checkbox"/> Open Course Motorcycle	105	-	-
<input type="checkbox"/> 4-Wheel Drive	-	105	99
<input type="checkbox"/> Water Craft	-	105	99
<input type="checkbox"/> Autocross	-	90	84
<input type="checkbox"/> Go-Kart	-	105	99
<input type="checkbox"/> Other	-	-	-

(1600 cc = 96.7 cu. in)

VEHICLE DESCRIPTION	MEASURED NOISE LEVEL (dBA & RPM)	VISUAL INSPECTION OF THE MUFFLING SYSTEM		RESULTS AND ACTIONS
		Muffler System	Describe Muffler System and Give Reason(s) for Pass/Fail (see list above)	
Smith #19	109	<input checked="" type="checkbox"/> Pass <input type="checkbox"/> Fail	Diffuser Disc Muffler	Took some discs out of Muffler; Passed at 102 dBA
Jones #3	-	<input type="checkbox"/> Pass <input checked="" type="checkbox"/> Fail	No Muffler; Straight Pipes	Not allowed on track
Brown #12 (Rotary Engine)	-	<input type="checkbox"/> Pass <input checked="" type="checkbox"/> Fail	Straight Core muffler on a Rotary Engine Car	Said he would fix it.
Wilson #5 (1400 cc Engine)	111	<input checked="" type="checkbox"/> Pass <input type="checkbox"/> Fail	Dual exhaust, 14-inch glass packs on each side	Not allowed to race
Roberts #10 (1200 cc motorcycle Engine)	115	<input checked="" type="checkbox"/> Pass <input type="checkbox"/> Fail	Stock Motorcycle Mufflers	Not allowed to race
Brown #12 (see above)	97	<input checked="" type="checkbox"/> Pass <input type="checkbox"/> Fail	Stock baffled mufflers	Allowed to race
Mc Kay #112	101	<input checked="" type="checkbox"/> Pass <input type="checkbox"/> Fail	Turbo Charged Engine	Just interested in what it produced.

(1) Only those race vehicles failing to comply with the "properly installed and well maintained muffler" requirements and/or the maximum allowable noise emission requirements, are required to be recorded on this form.
 (2) Top Fuel Burning Drag vehicles are powered by greater than 50% alcohol or by nitromethane and are commonly known as top fuel or funny cars. These vehicles are not required to have a muffler.
 (3) An Exhaust Turbocharged system is considered a "well maintained muffling" system.

Fig. 5 - 4
Example of Form
NPCS-35-1

DEPARTMENT OF ENVIRONMENTAL QUALITY
MOTOR SPORTS RACING RECORD FORM¹

Date: _____ Inspected By: _____

All non-Top Fuel Burning Drag² vehicles must have a "Properly Installed and Well Maintained Muffling" system. If properly installed, the following systems meet this requirement. Also, all exhaust outlets must be muffled:

Racing Facility Name and Location:

Sound Meter Make and Model:

Sponsoring Organization:

Sound Measurement Position: 20 in.
 50 ft.
 100 ft.

Mark Type of Race and Max. Allowed Noise Emissions:

- Sound Measurement Check List:
- Battery and Meter Calibration - OK
 - "A" Weighting and Windscreen
 - "Fast" - for Moving, "Slow" - for Stationary
 - No Reflections or Blockage of Path
 - Low Background Noise
 - MOVING TEST -
 - Find Loudest Site and Driving Groove
 - 50 or 100 Ft. from Driving Groove
 - Microphone Height and Orientation - OK
 - Test Loud Side of Vehicle
 - STATIONARY TEST -
 - Microphone at 20 in. and 45° from Outlet
 - Tachometer Working - OK
 - Test at 50% of Red Line or... (see Manual)
 - Test Both Sides at Steady State RPM

1. Reverse Flow, Baffle Muffler
2. Stacked Diffuser Disc Muffler
3. Exhaust Turbocharged System³
4. Muffler Approved for Go-Karts
5. Original Factory Muffler Installed on a Motorcycle
6. Underwater Exhausted Outboard Boat Motor
7. Auger Type Muffler
 - a. Minimum 16" muffler for greater than 1600 cc engines, or
 - b. Minimum 10" muffler for 1600 cc or less engines.
8. Perforated Straight Core, Absorbent Lined Muffler; Not Installed on a Rotary Engine
 - a. Minimum 20" muffler on any engine exceeding 1600 cc,
 - b. Minimum 12" muffler on a non-motorcycle engine 1600 cc or less,
 - c. Minimum 6" muffler on any 4-cycle motorcycle engine, or
 - d. Minimum 8" muffler on any 2-cycle motorcycle engine.
9. Any other DEQ approved muffling system.

(1600 cc = 96.7 cu. in)

	-dBA-		
	20 in.	50 ft.	100 ft.
<input type="checkbox"/> Drag	-	-	-
<input type="checkbox"/> Oval	-	105	99
<input type="checkbox"/> Sports Car	-	105	99
<input type="checkbox"/> Closed Course Motorcycle	105	105	99
<input type="checkbox"/> Open Course Motorcycle	105	-	-
<input type="checkbox"/> 4-Wheel Drive	-	105	99
<input type="checkbox"/> Water Craft	-	105	99
<input type="checkbox"/> Autocross	-	90	84
<input type="checkbox"/> Go-Kart	-	105	99
<input type="checkbox"/> Other	-	-	-

25

VEHICLE DESCRIPTION	MEASURED NOISE LEVEL (dBA & RPM)	VISUAL INSPECTION OF THE MUFFLING SYSTEM		RESULTS AND ACTIONS
		Muffler System	Describe Muffler System and Give Reason(s) for Pass/Fail (see list above)	
		<input type="checkbox"/> Pass <input type="checkbox"/> Fail		
		<input type="checkbox"/> Pass <input type="checkbox"/> Fail		
		<input type="checkbox"/> Pass <input type="checkbox"/> Fail		
		<input type="checkbox"/> Pass <input type="checkbox"/> Fail		
		<input type="checkbox"/> Pass <input type="checkbox"/> Fail		
		<input type="checkbox"/> Pass <input type="checkbox"/> Fail		
		<input type="checkbox"/> Pass <input type="checkbox"/> Fail		

(1) Only those race vehicles failing to comply with the "properly installed and well maintained muffler" requirements and/or the maximum allowable noise emission requirements, are required to be recorded on this form.

(2) Top Fuel Burning Drag vehicles are powered by greater than 50% alcohol or by nitromethane and are commonly known as top fuel or funny cars. These vehicles are not required to have a muffler.

(3) An Exhaust Turbocharged system is considered a "well maintained muffling" system.

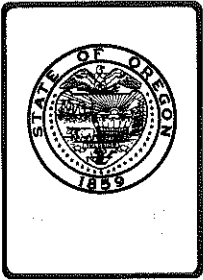
CHAPTER 6

NOISE IMPACT BOUNDARIES

- 6.1 General. Prior to the construction or operation of any permanent new motor sports facility, the owner shall submit for Department approval the projected daily Noise Impact Boundaries for the facility representing an estimate of maximum projected use. The data and analysis used for determining the boundary shall also be submitted for Department evaluation. The Noise Impact Boundary is a map of the area around the facility with the maximum daily operation Ldn - 55 dBA noise contour drawn on it. The information needed by the Department to evaluate the project are such things as:
- a) Maps giving the physical layout of the facility; the terrain of the land around the facility; the location and type of noise sensitive property nearby; and the local land use zoning.
 - b) Data about the type of events and vehicles using the facility including the days and hours of operation.
 - c) Information about practice sessions.
 - d) Information about recreation use at the facility.
 - e) Information on how the impact contours were predicted.
 - f) Information on the facility's public address system.

The facility owner should coordinate the development of the Noise Impact Boundaries for new facilities with the DEQ Noise Control Section.

NC200 (1) kc



Environmental Quality Commission

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

MEMORANDUM

TO: Environmental Quality Commission

FROM: Hearing Officer

SUBJECT: Hearings Regarding Proposed Noise Control Regulations for Motor Sports Vehicles and Facilities

Background

The Department proposed new noise control rules to apply to motor racing facilities and race vehicles. These rules would apply to drag racing, oval track racing, sports car racing, motorcycle racing, four-wheel drive racing, motorboat racing, autocross racing and go kart racing.

Under this proposal, all racing vehicles must install and maintain an adequate muffler exhaust system. In addition, most classes of racing vehicles must also meet a maximum noise emission limit.

Pursuant to Commission authority, public hearings were held in Portland on September 4, 1980 at 2:00 p.m. and at 7:30 p.m. Approximately 25 people attended the afternoon hearing and 50 people attended the evening session. One hearing was held in Woodburn at 7:30 p.m. on September 9, with approximately 100 people in attendance. A hearing held in Medford at 7:30 p.m. on September 15 had approximately 50 people in attendance, and the final hearing, held on September 16 at 7:30 p.m. in Eugene, had approximately 30 people in attendance. In addition, a large amount of written testimony was submitted by mail. A summary of oral and written testimony received prior to October 1, 1980 follows. The testimony is organized according to the subject areas and an outline of contents is provided.

Exhibits are:

Exhibit A	Summary of all testimony
Exhibit B	Letter from Sierra Club, Oregon Chapter
Exhibit C	Testimony from Portland Noise Review Board
Exhibit D	Testimony from American Motorcyclist Association
Exhibit E	Testimony from Dixie Sims
Exhibit F	Testimony from Donald Welch
Exhibit G	Testimony from Specialty Equipment Market Association
Exhibit H	Testimony from North Portland Citizens Committee
Exhibit I	Testimony from Woodburn Dragstrip
Exhibit J	Testimony from Woodburn resident
Exhibit K	Testimony from International Karting Federation, Oregon Division
Exhibit L	Testimony from Robert Taylor
Exhibit M	Testimony from Mayor of Cottage Grove
Exhibit N	Testimony from Jackson County Parks Department

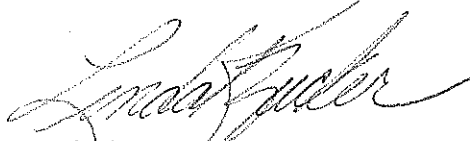


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Recommendation

Your Hearing Officer makes no recommendations in this matter.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Linda K. Zucker".

Linda K. Zucker

A handwritten signature in cursive script, appearing to read "Gerald T. Wilson".

Gerald T. Wilson

John Hector:pw
October 30, 1980
(503-229-5989)

Hearing Officer Report

November 7, 1980

Exhibit A

Contents of Testimony Summary

1. General Comments
2. Drag Racing Comments
3. Oval Track Racing Comments
4. Sports Car Racing Comments
5. Closed Track Motorcycle Racing Comments
6. Open Track Motorcycle Racing Comments
7. Watercraft Comments
8. Autocross Comments
9. Go-Karts Comments
10. Definitions Comments
11. Statement of Purpose Comments
12. Comments on New Facilities
13. Comments on Practice Sessions
14. Comments on Facility Operations
15. Monitoring and Reporting Comments
16. Comments on Exceptions and Exemptions
17. Advisory Committee Comments
18. Comments on the Effective Date
19. Comments on the Procedure Manual

1. GENERAL COMMENTS

General support of regulations for racing noise but can't support portions of the proposal. The 105 dBA limit should be 101 dBA. The 1978 proposal for racing rules was more acceptable. Written testimony attached.

Greg Fritts - Sierra Club - Oregon Chapter (Testimony Attached)

The proposal should not specify how to comply (mufflers) but only establish maximum emission limits and allow the regulated to determine compliance methods.

Frank Shell, Portland

Lives in North Portland and concerned with excessive noise from Portland International Raceway. Nothing has been accomplished by the City of Portland or the Park Bureau to correct this problem. Suggests the 105 dBA limits are too high and recommend an 80 dBA standard, the same as for street legal vehicles.

Cecil Hall, Portland

The overall rule proposal is supported as one that the motor sports industry can accept. It minimizes the burden of monitoring and reporting, and provides equitable treatment of all participants with muffler requirements for all vehicles.

The racing industry is a large and viable part of Oregon's economy. The impact of this proposal on this industry's economic health is hinged on the continued cooperation between the Department and motor sports people. A key to the effectiveness of this proposal will be the Department's Director and his ability to work closely with the motor sports advisory committee established by the rule. An open line of communication must be maintained between the Department and the racing industry to prevent an adverse impact on the sport.

The proposal as written, while probably not the most ideal, is a very good "real world" rule as far as enforcing it in the racing community. Often they must deal with 300 to 500 racing vehicles at a single event. The original proposal required individual stationary testing of each vehicle. That procedure was not acceptable due to the long length of time required to conduct such tests. This procedure allows for testing on the track and that method is the only way that will be acceptable in a "real world" situation. Supports this portion of the proposal.

Dale LaFollette Mgr. - Portland International Raceway

A recent engineering study should have been referenced in the proposal as it evaluated racing noise impacts and abatement theory. This study recommended that a level of no more than 101 dBA at 50 feet is necessary to provide adequate protection to the surrounding community at Portland International Raceway. At this track the nearest homes are approximately one-half mile and other tracks with closer homes would need more stringent standards.

Molly O'Reilly, Portland Noise Review Board
(Written Testimony Attached)

The proposal was developed without input from the public, affected neighborhoods or environmental groups. The only concession to regulation is the extension of existing rules for sports cars to other types of racing. Exemptions and exceptions are provided too extensively. Suggest that the proposal be returned to a committee representing all interests to develop an acceptable proposal.

Ed Daly, Beaverton

Attorney representing Motor Sports Conference, Inc. for the past one and one-half years and has been involved in noise regulations for the past six years in Oregon. Racing noise controls are not new in this area. DEQ and the City of Portland have attempted to develop noise control rules in the past.

Their association does not believe this proposal is perfect, as there is no perfect rulemaking approach, and they will participate in finalizing this proposal. They are interested in solving these problems and making the neighbors of these facilities as happy as possible to these types of activities.

Tom Fender, Motor Sports Conference, Inc.

Have mixed emotions about the proposal that they would rather not have the burden of regulations but also be realistic and realize that they have to get along with their neighbors.

Presently, in Portland they have 30 to 40 races per year with mufflers. This rule has been accepted and they have little problem with the requirement. With that in mind he could support the proposal but also concerned what may happen in the future as far as amendments or more restrictive standards.

Mike Surratt, Promoter - Drag Racing, Portland International Raceway

Opposed to proposal because DEQ is just looking at a way to get into regulating this type of noise. Noise regulations on trucks have been a problem and unfair to him.

Ronald Riebling, Portland

Lives near Woodburn dragstrip and can put up with the noise. Noise from motor vehicles on the street is a problem.

Jim Audrit, Woodburn

She and 16 people living near the Woodburn dragstrip have no complaints about its noise. Noise from the highway, railroad and farm machinery are much more unpleasant than the occasional noise from the strip.

Donna Imhoff, Woodburn

They live near the Woodburn strip and have no complaints about the racing noise. They enjoy racing, her husband races, and they don't want to see any controls.

Kathryn Caughlin, Woodburn

Long term resident of Woodburn. He supports the proposal but they haven't gone far enough. There are too many exemptions and no limits on drags and go-karts. A study of sound propagation near the Woodburn track would be helpful. Nothing has been done at the track to reduce noise at the track.

Concur that crowds are well controlled at the track. DEQ should install noise monitoring systems and noise should be measured at nearby residences, rather than at the trackside. The advisory committee is biased toward the industry. The operating hours and day continue to be extended at Woodburn and he believed a 9 a.m. to 5 p.m. operation is much more realistic.

Horst Raustein, Woodburn

Read a letter signed by Dennis Miller, President of the Woodburn Chamber of Commerce. They support the Woodburn track and its owner, they have not received noise complaints about the track and note it brings business to the Woodburn area.

Claudia Wicks, Woodburn

Lives 1/2 mile from Woodburn dragstrip and the noise cannot be heard over the radio and TV inside her home. Does not believe the noise has any adverse impact to the health and wellbeing of her and her family.

Yvonne Hershberger, Woodburn

The economic impact of the proposal will adversely affect local business. His sales of special parts and equipment for racing cars is increasing.

The Woodburn track has helped the local business community. Mufflers on racing cars would weaken the business community. His business will be affected and spectators will not attend races due to the noise reduction.

Mufflers are dangerous as they may be difficult to mount and may fall off and cause accidents. Controls will also cause street racing.

DEQ should control street noise and leave his business alone.

Keith Hershberger, Hershberger Motors, Woodburn

Lives near the Woodburn dragstrip. He has a good operation; there is a little noise but not enough to be bothersome with the windows closed. The track is good for Woodburn business.

Roy Lochridge, Woodburn

Opposed to the rule. The limits proposed are same as on a highway. People will go back to racing on the streets. These rules will be the demise of racing.

James Friend, Portland

Need recreational racing to release tensions from business. Needs to get the most horsepower for the money invested and mufflers will not add power. Car runs slower with mufflers.

John Floyd, Aloha

Owns a small motorcycle business and sells street motorcycles. He is against government controls.

Arlen Benda, Portland

Completely opposed to mufflers on race cars. Went from street racing to dragstrip racing during the 1950's. Mufflers will kill drag racing and force racing back to the streets. Puts up with noise at home including Tri-Met buses, a sewage pump, and barking dogs. Shouldn't interfere with peoples' lives.

Art Jones, Gladstone

His job is partially supported by racing. If rules start with mufflers they will expand to cover all aspects of racing. Opposed to rules.

Raymond Scheuffele, Portland

Lives next door to the Woodburn dragstrip and feels it does not create a noise problem. Cannot hear cars inside house and no problem outside. The only noise problem are trucks on the highways. Prefer to have racing on the strip rather than streets.

Janice Beck, Woodburn

Representing two of his employees. Claims that mufflers approved for street use would not meet the proposed requirements of this rule. Lives near airport but doesn't complain about aircraft noise. Tired of government interference.

Jim Lanson, Newberg

Completely opposed to the proposal.

Ron Schuster

Involved in all types of motor vehicle racing. He is totally against government regulation in any shape, form or fashion.

Mike McCool, Willamina

Works for large corporation involved in motor vehicles. New cars cost \$900 more due to government controls. Without racing the auto industry will die. Noise from the football game is greater than drag racing.

Dave Vial, Tigard

Neighbor of the Woodburn race track. Sometimes the noise is not a problem but other times it is a severe problem. We hear the track operations from 8:30 a.m. until 11:00 p.m. Can hear the public address system, also. This is a burden and wants a positive attitude to correct the problem. He is not against the track and enjoys contests. He wants people to be neighbors when they visit the track and have some consideration for the people that live near the track.

Virgil Binkley, Woodburn

Owner of Woodburn Dragstrip and read four letters into the record. Normally operate the track from 9 a.m. to 5 p.m. and night races do not go past 11 p.m.

Margie Livingston, Woodburn

Lives near the Woodburn track and also has rental houses near the track. Noise is not a problem.

Lee Flora, Woodburn

The Woodburn track contributes to the business community. He lives in the city of Woodburn and doesn't hear the track unless a west wind is blowing. He feels the track should be allowed to carry on without the added interference of regulations.

Les Reitan, Publisher, Woodburn Independent

Building homes near the Woodburn track and have no problems in selling them for a profit. No problems as to noise.

Baker and Brown Homes, Woodburn

Woodburn track sends much business to the community. They provide gasoline, towing and other services. They are happy with the dragstrip.

Baker and Brown, Union 76

Motor industry is part of American life. Motor racing is also well recognized and accepted. The proposal is acceptable but if it is any more restrictive it will fail. DEQ and the Commission as an accountable and responsible agency need agreement from the people before such rules are adopted. Racers will abide by reasonable restrictions on mufflers.

Carol Bartlett, Salem

Has lived near the Woodburn track for 15 years and the noise does not disturb him or his family. The majority find the noise only a slight inconvenience.

Steve Coleman, Gervais

Her husband used to race on the street but now on the track. Let us "do our thing" without rules.

Coy Floyd, Aloha

Drag races and believes the cost of muffler will prevent her from continuing the sport.

Robin Murphy, Corvallis

Works at Woodburn Dragstrip and believes the proposal would impact his job. He is starting to race go-karts and enjoys the sport.

Jay Livingston, Woodburn

He is the Pacific Division Director of the National Hot Rod Association. The most important thing to judge is the well being of the community. This type of proposed rule will cost the community some money some day due to economic impacts. There is no reason that Woodburn can't be an Indianapolis, Indiana some day and reap the economic benefits from motor racing. Rules such as these will lead from liveable requirements to extinction.

Gene Bergstrom, Director, National Hot Rod Association

Races at Woodburn track and takes his students to the races. The rules should only be placed on the hours of operation rather than the muffler requirements.

Elvon Kauffman, Woodburn

All people enjoy noise and it depends on what you like to determine whether its noise or acceptable sound. Soon everyone will be so regulated that no one will have any fun.

Tim Horn, White City

She is opposed to DEQ proposing any state regulations for noise controls at motor sports facilities. Regulations and their enforcement should be up to the local elected city and county officials.

The Jackson County Park does not produce excessive noise at residences. The spectators came to hear the noise. The proposal will not solve problems, but only cost money.

Rosalie Lindvig, Medford

See this proposal as an invasion of his rights into his chosen sport. Any noise controls should be at the local level and state and federal agencies should not interfere. If a problem exists at any race facility is should be handled at the local level not the State.

Robert DeBoer, Medford

Does not want noise regulations for racing. Notes that racing only produces intermittent noise and is not constant. In addition to the existing advisory groups, DEQ should also seek input from national race sanctioning bodies. Most sanctioning bodies either have noise reduction programs or are working on such programs.

Art Glatke, Manager, Jackson Co. Sports Park

If people want to make noise for a few hours a week they should have that right. No other country has noise limits on sporting events. Has a race car and if he has to add mufflers, he will sell the car because engine failures will occur. Suggests a 3 to 5 year implementation program is needed.

Ron Arnett, Central Point

Avid racing fan who has the right to enjoy such pleasures. We should return to the "live and let live" adage.

Mrs. Billie Heitman, Portland

Lived in North Portland for 35 years and noise from PIR is a severe problem that at times has driven them from their home. Does not believe the proposed rule will solve the noise problem. Instead DEQ is condoning racing noise and ignoring the wishes of North and Northeast Portland residents. Protests the proposal as too lenient and a detriment to the public health.

Cecil Hall, Portland

Proposal was discussed at general membership meeting. Suggest the City of Portland install noise barriers. Mufflers must be used, funny car races should be at a minimum and no racing after 8 p.m. They are not opposed to racing but the city noise people have not corrected the problem. Included a petition of support with 32 signatures.

Steve Rosso, President, North Portland Citizens Committee
(Written testimony attached)

Happy to see the proposal to reduce motor racing noise. Noise from local track interferes with TV and they live almost one mile from the racetrack. Must stay up until after the race as the noise prevents sleep.

Mrs. Gus Boen, Medford

Has reviewed the proposal and makes the following comments:

1. Fails to see the logic of treating all race facilities equally regardless of geographical location.
2. Mufflers may negate some improvements to the racing engine.
3. The thrill of racing will be sacrificed by severe muffling.
4. Would rather see track operators install barriers and other methods to reduce noise.

Mort Michelson, Portland

Lives about one and one-half miles from the Medford Raceway. The noise is unbearable when the windows are open. Requests that name not be divulged.
Medford

Lives near the Woodburn Dragstrip. Does not think this is a good location in the heart of the country. Suggest the rules be more stringent. Does not agree with other neighbors of the track that claim the noise is not a problem. Also concerned with go-kart racing at the track because of its continuous noise. Did not sign letter due to local pressures.

Unsigned, Woodburn, (Written testimony attached)

Concern with drag race noise from PIR impacting Kenton Area. Difficult to enjoy a pleasant evening outside during races. Can hear racing over large area. Any vehicle so loud that the spectators and officials must wear ear plugs should be banned from areas near residences. Only opposed to drag racing at PIR, not other events.

Donna Ashpaugh, Portland

Supports noise controls for sports racing vehicles. Keep up the good work.
Donald Fitch, Portland

Have lived in North Portland for over 50 years and the noise from PIR racing is unbearable.

Mr. and Mrs. Joseph Ottoboni, Portland

Opposed to spending tax dollars to stop people from having fun.
Dave McLaughlin, Elgin

Please consider that if regulations are overly burdensome on the racers the benefits will not be worth the effort. He supports the status quo.

Gary Strong, Gresham

After reviewing the proposal he is "firmly opposed."

John Wilkey, Portland

Proposal is unrealistic, unenforceable, discriminates and will be a financial burden on race tracks.

Unsigned, The Dalles

Races are usually held in areas of little or no population. If people don't like the noise they shouldn't go to race events.

Kelly Campbell, ABATE, The Dalles

Proposal puts an undue burden on track operators and discriminates against certain vehicle types.

Teresa Hepker, The Dalles

Concern about rule impact on motorcycles as it is his means of transportation. Should encourage safety and education programs.

Joe Melero, The Dalles

Proposal is unenforceable and discriminates. Thinks railroad train noise should be addressed rather than small business.

Jean Palmateer, ABATE, The Dalles

Object to the proposal. Personally approve of racing activities, noise or not. The 105 dBA limit is too restrictive.

Brian Stovall, The Dalles

Proposal is unrealistic, illogical and unenforceable. Monitoring and record-keeping is a burden. As long as the noise stays at the track it should be acceptable.

Daniel Thomas, The Dalles

Proposal is bad and unrealistic.

Robin Olds, The Dalles

Proposal is severe and unfair and limits individual rights and ingenuity.

David Barah, Aloha

Oppose the proposed rules. Most race tracks have been operating for years without adverse impact on the surrounding community. Mufflers will add costs and make the vehicles uncompetitive.

Walter Skocztlas, Aloha

Urge adoption of the proposed rule. The 105 dBA limit was agreed on by the ICSSC and is being implemented. A lower limit is not acceptable without adequate study. The proposal is reasonable and protects those living in the general area. Adopt the limit as proposed.

Peter Linsky, Beaverton

Firmly support the muffling of all vehicles including race vehicles. Hopes the proposal is not a "wishy-washy" compromise, but a serious attack on this problem. The difference between street standards and race standards should be minimal.

Steve Larson, Portland

Oregon's racing facilities are well organized and maintained. Due to pressures of job and society, people need an outlet such as racing. He needs to race as an outlet. Money spent by competitors and spectators is good for the economy. Please allow racing to continue.

Don Hosford, Portland

Racing people respect the environment and do no permanent damage. They wish to co-exist with their neighbors and be responsible citizens. They will accept regulations, but they don't have to like it.

Toby Stokoe, Gresham

Opposed to the proposal as unrealistic, ill advised, poorly investigated, too costly and creates unnecessary burdens on owners and racers.

Robert Flint, Bend

Americans are already over-regulated. DEQ should stay out of auto sports. Racing events are already at reasonable hours, infrequent and the noise levels are appropriate. Petition with 107 signatures.

Peter Gudekunst, Portland

Petition with 147 signatures stating they are totally against DEQ involvement in racing noise rules.

Unsigned, Portland

Cottage Grove Speedway is one mile away and noise interference is severe. Cannot shut windows in summer to keep the noise out, and in her yard conversation would be a "yelling contest".

Mrs. Hiram Couey, Cottage Grove

Officers and members of the Cottage Grove Fair support a racing noise rule for the State. Their fair is located next to the speedway and mufflers would definitely be welcome. They are not anti-race and many of their members are race fans.

Western Oregon Exposition, Inc., Cottage Grove

Object to noise caused by Cottage Grove race track. Do not object to racing, just the noise. Most of their Saturday nights on the patio are a total loss during the summer due to excessive noise.

Mr. and Mrs. A.F. Ewing, Cottage Grove

Believe the noise from Cottage Grove Speedway is excessive and the cars don't seem to be muffled. Weekends on the patio are out. Must stay inside with windows and doors closed and suffer the heat and still hear the race cars. The problem should be corrected.

Frank & Vi Bleck, Cottage Grove

Urge the adoption of rules setting maximum noise limits for race cars. Live one and one-fourth miles from Riverside Speedway and find the noise loud and disturbing. Feel that noise pollution is a serious environmental problem that needs attention. Many areas suffer from highway and industrial noise. We do not need noise pollution from recreational and race vehicles.

Laura Gansel, Cottage Grove

Common Council of the City of Cottage Grove supports noise reductions through muffler requirements and restrictions of operating hours.

William A. Whiteman, Mayor, City of Cottage Grove
(Testimony Attached)

Specialty Equipment Market Assn. (SEMA) represents approximately 2,000 manufacturers, distributors and retailers of speciality automotive parts. SEMA applauds DEQ efforts and their work with race tracks, sanctioning organizations and auto associations in the rule development.

Tim Jon Runner, Technical Director, SEMA (Testimony Attached)

Motorcycle owner and rider that notes that other noise sources are not regulated and people should be more tolerant of others. A second letter notes the proposal is vague and the practice plan would be a burden. DEQ has not consulted with national sanctioning bodies.

Chuck W. Wilknow, Salem

Oppose proposed regulations. Believe the proposal is "unrealistic, ill advised and poorly investigated."

Ed Bowers, Jr., Ranch Homes

Oppose proposal as a drag race participant and spectator of other racing events. Proposal is vague. Many people move close to race tracks and then complain.

Neil Flechneider, Hillsboro

Protests the continued unrealistic approach to this proposal. It is "ill advised, poorly investigated and costly." Not opposed if it is done responsibly and does not create unnecessary burdens.

David Bergeson, Portland

Should recognize noise programs of specific sanctioning bodies. Object to vague language and the proposal is "unrealistic, ill advised, poorly investigated and more costly." Not opposed to controlling motor sports noise if it does not create undue burden.

Robert Perry, Aloha

It is important to establish noise rules for motor sports. Noise impacts cause stress. Motor sports can still be enjoyed and the quality of life maintained with sensible standards. "To jeopardize our quality of life at the expense of a sport is not a wise use of our resources."

Mr. and Mrs. Richard Jensen, Creswell

Local moto-cross enthusiasts find the proposal vague and an unnecessary burden on riders. Am not opposed to controlling motor sport noise.

Jeff Jordan, Eugene

Proposal is extremely unrealistic and needs to be reconsidered. Language is vague and is unrealistic, ill advised, poorly investigated and costly. Am not opposed to controlling motor sports noise but it must be done responsibly.

Bruce Dixon, Portland

Letter enclosing AMA newsletter to members asking they write DEQ and oppose various aspects of the proposal. She notes that on-road bikes are not noisy but off-road "corn poppers" should not be sold in Oregon.

Shirley Madsen, Klamath Falls

In response to a request from the AMA they oppose the proposed rule.
Pamela Kennedy, Klamath Two Wheelers, Motorcycle Club

Believe there is a basic difference in the philosophy in how to control this noise source. DEQ has chosen noise emission limits on individual racing vehicles and he suggests an ambient limit at the property line. The emission limits are a positive step but is not satisfactory to accomplish desired ambient noise levels at noise sensitive receptors.

Harold Youngquist, Public Health Engineer, Lane County
Environmental Health Program

The Jackson County Parks and Recreation Advisory Board endorses the testimony submitted by Neil Ledward, Director - Jackson Co. Parks Department. The Board feels that the local officials have proven their capability and takes exception to the proposal being applied to their Sports Park. It is recognized that events at other facilities may cause noise impacts, however, those facilities that have taken corrective action should not be penalized.

Bernie Bennett, Chairman

Support continuing operation of the Woodburn Dragstrip as it provides considerable revenue and it poses no inconvenience or disturbance to their facility.

Betty Flad, Fairway Inn Motel

As an avid drag racer for more than 15 years he is not opposed to having muffler on his drag car. However, he feels DEQ is attacking motor sports and ignoring other noise sources such as the airlines. Does not believe racing noise impacts are a threat to public health as they are infrequent.

Dennis Dormaier, Denny's Speed Gresham

The Woodburn Dragstrip provides a necessary service to the community and the noise is confined. The noise is a by-product of this activity just as airport noise. "We hope, no demand, that the Woodburn Dragstrip exist!"

Carol & Pete Bagdanoff, Woodburn

Moved near the Woodburn Dragstrip in 1979 from the town of Woodburn. Noise was worse in town than near the dragstrip.

Mr. & Mrs. J.M. Hershberger, Woodburn

Owns and operates a company that constructs drag race cars. The sanctioning bodies and equipment manufactures have developed programs and procedures to make race cars safe without government regulations. In these times people do not trust the government. For a regulatory agency to operate it must be endorsed by the group it is designed to help; i.e. him. Sanctioning bodies are developing noise control solutions. However, several tracks in Los Angeles are being threatened. The demise of these tracks is imminent but this is not due to pollution problems but progress. The immediate surrounding became built-up and economics does not make operations feasible. The problem then is to find a new location at a reasonable distance from the public.

Jerry Hill, Newberg

Businessman and citizen of Woodburn that is concerned with noise rule's impact. In favor noise control by keeping racing at the track. A minority of people are impacted by the noise and the rule could jeopardize the sport by making it more expensive and less exciting. The present proposal is unworkable, unreasonable and not necessary. It could be unfair to jeopardize the success of the Woodburn Dragstrip as the city gains many benefits.

Pete Tuggle, Woodburn Dairy Queen

He lives 1/8 mile from the Woodburn Dragstrip and the noise does not bother them. The location is good and they are glad and proud to help support the dragstrip.

Dennis Robinson, Gervais

He supports the proposed rule and so do many of the local residents but they are reluctant to become visually involved. The race industry must abide by the same rules as any other industry. Others have to operate profitably under many, and sometimes, very restrictive rules. Racing will survive with controls. Race tracks must install sound barriers and limit the hours of operation.

The Woodburn track is in an exclusive farm use zone and there are not enough local residents to exert political pressure but all activities should be compatible. We are all neighbors, and the racing industry should treat the residents as neighbors and respect their rights.

V.W. Binkley, Woodburn

2. DRAG RACING COMMENTS

A decibel limit should also be required for drag race vehicles as required for most other vehicle categories.

Greg Fritts - Sierra Club - Oregon Chapter

A decibel limit should be required, either a street legal level or another prescribed standard. In order to measure two vehicles, add a correction factor, which, if exceeded, would require individual operations to disqualify the one exceeding the standard.

The Wednesday night drag races at Portland International Raceway should meet street legal noise standards.

Molly O'Reilly, Portland Noise Review Board

The lack of a decibel standard is a practicable approach to handle the large numbers of competitors at these events. The checking of noise levels on these vehicles may be a perfect approach, but due to the number of vehicles and the complexity of monitoring the practicable approach was chosen.

Tom Fender, Motor Sports Conference

Represents drag racing on sand (100 yards). They race away from any populous but do not meet the proposed 2 mile exemption. Can live with some regulations but this one they can't.

Dale Hillyer - Salem, N.W. Trail and Dunes Competition Assn.

Worked to develop the Jackson County Sports Park. No complaints have been filed due to the park. A survey was conducted around the park. Twenty-four people were interviewed and only one complained of noise on Sunday. Three complaints of street racing. When questioned about noise, four said they were bothered by noise. In general, only few people are bothered by the park and thousands of people are able to use the park facilities. If a problem does exist, it should be handled by the local officials. Written testimony also mailed.

John Hughes, President, Oregon Drag Racers Assoc.

Suggest that if mufflers are required in Jackson Co., the track will lose competitors coming from Northern California. The local racers are using street cars with mufflers removed. If mufflers are required, then they won't race at the track but on the street.

Many cars are under NHRA classes and they must compete in neighboring states without mufflers. They would have to re-tune the race car after removing the mufflers.

Muffler requirement will decrease spectators and cause adverse economic impacts.

Warren Bigham, Jacksonville

He feels there is no need for DEQ rules for motor racing. They own the 52 acres of land on which the Woodburn Dragstrip is located. They hold only 5 major drag race events each year with the majority held during the day. DEQ is imposing rules that would eventually reduce attendance and ultimately ruin their business. Racing is a needed recreational outlet. His immediate neighbors did not feel noise rules were necessary. Curfew hours are now in effect. Vehicles without mufflers could not practice prior to out-of-state events. Mufflers sold for street use could not be used at his facility. The track has an economic impact on the community.

Jim Livingston, Woodburn Dragstrip (Testimony Attached)

3. OVAL TRACK COMMENTS

Chief mechanic of race car (Dodge Dart) and the addition of a muffler would reduce horsepower by 8.5% and muffler can fall off the vehicle and cause injuries. Agree that noise at the track is loud, but that is part of racing. The additional weight of a muffler will "throw off" the balance of the car.

Larry Moody, Medford

Oval track car owner and racer. Mufflers are an added unnecessary expense. Most tracks were in existence before the homes. Object to self enforcement provisions of the proposal.

Tom Wyatt, Medford

Works at Medford Raceway as an official. This proposal has only been called "acceptable" in comparison to previous rule proposals. The proposal is still not acceptable to him.

Frank Lucas, Central Point

Raced at Medford Raceway for 10 years. Has had to race with mufflers and has problems meeting the decibel limit. Also had problems with engine maintenance with the addition of mufflers. If people don't want to listen to the noise, they should not attend races. The national sanctioning bodies only regulate noise at large tracks.

Rich Hunsley, Central Point

Oval track race car owner and driver. Concerned with engine failure, and wear and tear on the race vehicle during monitoring. Will have problems racing in California without noise limits and Oregon with limits because of work to install and remove mufflers. Concern of cost of noise measuring equipment.

Rick Singler, Medford

Owns and operates Medford Raceway. Has contributed much time, money and effort to work with the Motor Sports Conference and DEQ to keep motor sports alive. The racing industry does need noise guidelines or rules if they are achievable. Would rather not have any controls at all, but if they are adopted they should be reasonable controls. Concerned that rules may be adopted that can't be amended due implementation problems. Also may have need for overruns of one-half hour due to unusual circumstances.

Dennis Huth, Owner, Medford Raceway

Operator of Riverside Speedway in Cottage Grove. They presently have muffler requirements and do not have any problem with the proposed rule.

Wayne Britton, Riverside Speedway

Owner of Riverside Speedway in Cottage Grove. Can live with the 105 dBA limit and presently below that level.

Archie Radonski, Riverside Speedway

Oval track racer and the Riverside Speedway is checking his car for noise emissions (90 dBA @ 100 feet). His car uses "stacked 360° diffusor disc" mufflers. Riverside does monitor noise on a weekly basis.

Mark Howard, Eugene

Oval track racer and runs mainly at Willamette Speedway in Lebanon. Agree with the proposal as reasonable rules that will allow them to carry on their racing activities. Most vehicles will meet decibel limits but need tighter controls so that all vehicles comply.

Larry Leetch, Eugene

4. SPORTS CARS COMMENTS

General support of proposal. The sports car clubs presently operate under the same requirements as proposed. Their rules require mufflers and a 105 dBA limit at 50 feet from the car. A noise officer conducts trackside measurements and maintains records.

Jerry Barnett - ICSCC

Support the proposal as being restrictive and also fair and reasonable. His organization, ICSCC, have operated under self-imposed regulation of 105 dBA at 50 feet. This regulation is reasonable. Also endorses the proposal as a planner as well as a sports car race driver.

Robert Douglas, Portland

Support the proposal except for one minor reservation, this being the 50 foot measurement point may be too close for safety purposes. Oregon Region of the Sports Car Club of America has a commitment to monitor and enforce muffler and dBA requirements as proposed.

Vickie A. Grimes, Noise Control Officer, Oregon Region,
S.C.C.A.

The noise rules enforced by ICSCC are easy to police and in consideration to the amateur driver, reasonably applied. The 105 dBA limit is reasonable in that it is within reach of all engines and it is a limit that may encourage experimenting that may lead to a breakthrough. They are not encouraged with government getting involved in sports. They will be reasonable and realistic in the consideration of rules.

South Sound Race & Rallye, Olympia, WA

5. CLOSED MOTORCYCLES COMMENTS

Detailed comments by the American Motorcyclist Association showing concern for disposal and inconsistencies with existing AMA rules. Written testimony attached.

Ed Youngblood, American Motorcyclist Assn. (Testimony Attached)

The American Motorcyclist Association has responded to the noise problem by developing noise standards. There is need for some regulations, they need to be fair and equitable, but they should not be focused at races if the problem is due to street or pleasure vehicles.

Bill McCracken, AMA Road Rep.

Promotes about two dozen races per year. May have problems monitoring due to numbers of motorcycles in the event. Needs fast response for exceptions for special events. Do not have scheduled practice times but people practice after work and on weekends. They currently do not use AMA noise testing on motocross events but do require mufflers on all race vehicles.

Mike James, President, Motorcycle Riders Assoc.

Attended a race in Portland area with a limit that his motorcycle just marginally met. The cost of mufflers may be as high as \$45 for a racing motorcycle. These motorcycles as manufactured do not meet these proposed standards and should be regulated at that point.

Gorden Sundby, Central Point

Has children that compete in motorcycle races. Thinks racing is a good family sport. They do not have the money to add mufflers or buy monitoring equipment. Doesn't think the motorcycle would meet the proposed standards and the vehicles are getting louder and louder as performance is increased.

Should have local controls. Don't have any noise controls at a national event in Kansas.

Donna Blagy, S. Oregon Motorcycle Assn.

Supports the proposal with reservations about the test methods (prefer stationary) and record keeping. Need some revisions.

Gary Forster, Oregon Motorcycle Riders Assn., Pro Am Racing Assn.

Motocross chairman for the Motorcycle Riders Association. Is concerned that original equipment motorcycles may not pass the 105 dBA limit and therefore may not be sold in Oregon. The testing of motorcycles during practice may not be possible due to the large number (50 to 100) vehicles on the track. Testing one-at-a-time may also be a problem due to the time involved. Suggest that a stringent muffler inspection replace the decibel limit and let the official's ear be the judge.

Delbert Longbrake, Medford

6. OPEN MOTORCYCLE COMMENTS

Detailed comments by the American Motorcyclist Association showing concern for the proposal and inconsistencies with existing AMA rules. Written testimony attached.

Ed Youngblood, AMA

Represents 1600 Oregon Motorcycle Riders Association members and 1800 American Motorcyclist Association off-road riders.

Suggest that open-course racing should be monitored in a stationary test (105 dBA at 20 inches) rather than 50 feet from the track due to the difficulty of conducting measurements over a long, non-permanent, course. They have their own sound level meter and will try to comply with the final rules.

Billy Toman, Oregon Motorcycle Riders Assn., AMA - Oregon Rep.

Promotes off-road motorcycle events. Some tracks are 100 miles in length and measurements at tracksite would be impossible. Most motorcycle clubs cannot maintain records for a period of a year. The monitoring equipment would be expensive to purchase. The American Motorcyclist Association rules and procedures should be adopted.

Tyrrell Hart, Medford

Has competed in, and helped run, cross-country and endurance races. Uses spark arrestors and original mufflers or accessory pipes that pass an 80 dBA at 50 foot limit. Please don't make the proposed rules unrealistic and include race organizers in rule development.

John Rothlisberger, Newberg

Is not sure that new motorcycles would pass the emission limit. It could be impossible to test every motorcycle as they usually don't have practice sessions and the course length may be 125 miles. The loudest point on the course would also be impossible to identify. The 8 a.m. limit is not acceptable as some events start at 7 a.m.

In general the proposal is too broad to cover all aspects of motorcycle racing. Suggest that a 3 to 5 year study be made before proposing rules.

Delbert Longbrake, Medford

7. WATERCRAFT COMMENTS

Concerned with excessive boating noise. Noted that most auto racing is at specified facilities, whereas boat races occur near residential areas. Opposed to the proposed 105 dBA limit and suggests an 84 dBA limit established for pleasure boats.

William A. Montgomery, Portland Rowing Club, Sellwood

Their racing clubs are adversely affected by the proposal although there has obviously been a real attempt at a reasonable compromise in regulating motor sports activities and facilities.

The Oregon State Marine Board has the authority to issue permits for boat races and waives any noise restrictions. No additional regulations are needed. Their clubs hold no more than 20 events per year in Oregon. Most are held at different locations and racing normally occurs between noon and 6 p.m.

The boat racing brings money into the state and part of the attraction to spectators is the noise.

All boat races have large number of out-of-state competitors, therefore, all events should be exempt under the "special event" provisions. Boat racing should not be treated as part of this proposal as they are not at all similar to other racing vehicles.

Dixie Sims, Cascade Inboard Racing Assn & American Power Boat Assn. (Testimony Attached)

Watercraft should meet a limit of 84 dBA at 50 feet (present non-racing standard) or a shore-line limit of 75 dBA for day-time uses (current City of Portland limit for pleasure boating).

Molly O'Reilly, Portland Noise Review Board

Represents three outboard racing clubs in Oregon with approximately 100 members. They sponsor approximately 10 races a year. Most racing occurs between 1:00 p.m. and 5:00 p.m. with time trials preceding this time period. Following comments were offered:

- a) The exemption for fuel burning vehicles seems to be opposite the intention of the draft rule. Could see boats using fuels to avoid mufflers. These boats would be inboard ski boats with open exhaust stacks.
- b) The State Marine Board regulates boat noise except for those competing in a regatta, race or trial for speed events.
- c) This proposal would not solve the problems associated with noisy pleasure boats.
- d) Have no objectives to the proposed noise levels.

David Baxter, President, Intercity Racing Commission

They live near Willamette Park and want to see a decibel limit on drag boats. The 105 dBA proposal is too high and suggest a 75 dBA limit. They are not against the once a year event with the Rose Festival.

Dennis and Patricia Digman, Portland

Resides on the bank of the Willamette River and objects to unmuffled boats. The proposed rule is 10 to 15 decibels greater than that allowed for pleasure boats and that would not decrease noise. The Advisory Committee is a direct contradiction to the objectives of the proposal. Objects to the morning hour limit as being too early. The proposal would give "a license to steal" and therefore opposes its acceptance.

Dr. Harold Higley, D.O., Portland

Represents people living adjacent to the Willamette River in Oregon City, Gladstone, Oak Grove at Milwaukie on the east side and West Linn to Portland on the west side. They support the proposal to the extent they constitute an effort to curtail noise of race vehicles. He questions the difference between racing the pleasure boats and associated standards. The 105 dBA limit should only be for the most restricted uses and should be prohibited when events can impact sensitive areas.

Donald Welch, Portland (Testimony Attached)

Petition from 10 residents adjacent to Fern Ridge Reservoir and agreement that restrictions must be placed on boat racing noise. Data taken during events indicated exposure to over 90 dBA at 500 yards from the boats. They feel this health hazard is not compatible with life in the community.

Robert Saxon & Petitioners, Veneta

Member of Corbett-Terwilliger Boat Noise Committee. Does not believe the 105 dBA proposal would resolve the problems causing physical and psychological stress. Suggest a shoreline limit of 75 dBA.

Mary Jubitz, Portland

Racing noise is a neighborhood problem and they are pleased with an attempt to solve the problem. The 105 dBA limit is not restrictive enough. The public address equipment at the races also is a problem. They have many other noise problems in addition to the boat racing noise.

Michele Lewis Moll, Portland

Lives on a houseboat near Oaks Park and is concerned that the 105 dBA proposal is excessive when compared to the 85 dBA limit for pleasure boats. The proposal is a step backward from the existing rules. The hours of operation proposed are unrealistic for boat and a travesty on the residents. Exceptions should include more restrictive rules for special noise sensitive areas. The advisory committee should include more noise impacted residents.

Pauline Anderson, Portland

8. AUTOCROSS COMMENTS

Believes that same noise limits for sports cars operated on permanent tracks should apply to temporary autocross facilities. Therefore, the proposed 90 dBA limit should be increased to 105 dBA. If operations at a temporary track cause problems, most likely the track will not be made available for use again. Therefore, existing condition is self regulating.

Robert Mullikin - Pioneer Motorsports Club and Western Oregon and Washington Assn. of Sports Car Clubs.

Agrees with need for noise control and mufflers but suggested that the 90 dBA limit be amended to 105 dBA and perhaps use more restrictive standards when needed. Concerned that same vehicles operating on temporary autocross courses also operate in sports car events and must develop alternate muffler systems.

Carl Clinton - Western Oregon & Washington Assn of Sports Car Clubs

As the same vehicle is used in autocross racing as sports car racing the standards should be identical. Therefore, recommend 105 dBA for autocross events. Their organization uses 95 dBA for autocross events for "stock" cars.

Will Swope, Porsche Club of America

Propose to increase the emission limit to 105 dBA because some sports race cars use autocross events to "sort-out" their vehicles prior to sport car racing events.

Lawrence Husted, Salem

Quiet racing is boring and the spectators lose interest. Conduct their autocross events at Jackson County Sports Park. Suggest the locals determine whether a temporary autocross should be held. Most of their race cars are not stock but are sports racing cars and should not have to meet the 90 dBA limit on temporary autocross tracks. They are a small club and cannot afford equipment to monitor noise. Most vehicles could not have a problem meeting the 105 dBA limit. Does not agree with the muffler requirement as well as the decibel limit.

Don Mundlin, President, Siskiyou Sports Car Club

9. GO KARTS COMMENTS

All go kart racing is governed by the International Kart Federation (IKF) which has a strict set of rules and regulations. All karts must have mufflers as specified by the IKF and also contained in the DEQ proposal. However, the proposal does not contain a dBA noise emission limit. Their local kart club has a sound meter and has enforced a limit of 95 dBA at 40 feet from the edge of the track.

James B. Walker, IKF Governor (Written Testimony Attached)

Propose to add a noise emission limit of 105 dBA for go kart race vehicles in the proposed rule.

Larry Thieman, Vice President, Sprocket Benders Kart Club

Enjoys go karting as a family sport. No government agency should interfere with what a family wants to do.

Jim Goddard, Tigard

Represent the Woods Go Kart Racing team which includes 9 people who race at Woodburn Drag Strip and Willamette Speedway in Lebanon. They conform to existing muffler rules for go karts and are concerned that undue restrictions cannot be met.

Wesley Woods, Portland

Generally agree with the proposal but should not call racing sounds "noise". Cannot eliminate all racing sounds to an inaudible level. A vast amount of "red-tape" should not be placed on the racing community. Suggest that measurements be taken at the boundary of the facility rather than trackside. Only protect people outside the facility. If the requirements are met at the track boundary then mufflers may not be required.

Bill Eimstad, Officer, Emerald Go Kart Assn.

Concerned that the people living near the proposed track in Lane County are opposed to any sound, and won't be satisfied with reasonable limits. Agree with reasonable standards and thinks that the proposed limits could be stricter.

Owen Zimmerman, Emerald Go Kart Assn., Short Mountain Task Force

Opposed to the proposal because:

1. Too many government regulations
2. DEQ has not tested go karts
3. DEQ cannot enforce rules due to lack of funds
4. Adverse economic impact
5. Oppose tax dollars to regulate their sport
6. Complainants have no rights as the tracks were there first.

They are a go kart distributor and their business could be affected if rules are adopted. May have to file a legal suit. (See next testimony from their attorney.) They feel DEQ should take more time to define the dBA level before deciding.

Phillip & Karyn Pfan, Pfan Distributing Salem

Has been retained by Mr. and Mrs. Pfan. Their concerns include:

1. A stringent decibel limit may make Mr. Pfan's occupation impossible.
2. Unduly restrictive rules causing economic hardship should not be enacted.
3. The decibel level on go karts should be indicated by rule and should not be less than for similar racing vehicles.
4. Her client stocks and sells go karts equipped with exhaust silencers to a 95 dBA level.
5. Her client has an inventory of \$100,000 that could be worthless if rules are too restrictive.
6. Her client is willing to cooperate.

Merri L. Souther, Ferder, Ogdahl & Souther

10. DEFINITIONS COMMENTS

- (66) Well Maintained Muffler. Generally opposed to the requirement at specifying specific muffler types as being capable of achieving acceptable results. The racer should decide which muffler provides the needed noise reduction.
Ed Youngblood - AMA
- (45) Practice Sessions. Concerned that driving schools may have problems with this proposal however was not aware that driving schools (driver training sessions) are exempt from the proposal if vehicles are equipped with stock exhaust systems.
Andrew Bell - BMW Club
- (66) Well Maintained Muffler. Disagreed with previous comments objecting to requirements for mufflers. The muffler description is very necessary and provides a basis from which to work. Sanctioning bodies with noise standards require, in addition to decibel limits, a requirement for mufflers. This is needed so there is no favoritism played in the racing competition. This occurs when vehicles in the same class do not all have mufflers and such unequal treatment causes concern for unfair competitive advantage.
Dale LaFollette, Manager, Portland International Raceway
- (66) Well Maintained Muffler. Concern that some of the mufflers, due to size requirements, may not fit on some vehicles due to physical limitations.
Jerry Barnett, ICSCC
- (30) Motor Sports Facility Owner. Definition should be amended to require owners of public facilities, (eg, City of Portland owns Portland International Raceway), to be responsible as facility owner rather than the race event organizer or promoter.
Molly O'Reilly, Portland Noise Review Board
- (60) Stock Exhaust System. Definition should be amended to say the muffler makes no more noise than the original muffler.
Molly O'Reilly
- (66) Well Maintained Muffler. Definition has no reference from which to base noise reduction. A muffler performance level should be specified.
Molly O'Reilly,
- (30) Motor Sports Facility Owner. A basic legal principle is that someone must be accountable. The promoter is responsible for the conduct of a racing event and he is the person who should be held accountable for making sure that the vehicles competing at that event comply.
Tom Fender, Motor Sports Conference
- (63) Trackside. This an arbitrary measuring distance but is a way to have a universal yardstick. It can be improved but a consistent procedure must be maintained.
Tom Fender, Motor Sports Conference

(66) Well Maintained Muffler. The number of competitors at many race events is so great that a more subjective test is necessary to determine if someone can reasonably qualify to run in that event. The muffler requirement and definition fits this need. There may be improvements to this definition, now or by the advisory committee to accomodate those adversely affected.

Tom Fender, Motor Sports Conference

(66) Well Maintained Muffler. Disagree with the need to have specific requirements for mufflers. As long as the vehicle meets the decibel limits, it should make no difference. Physical size may be a problem on some vehicles.

David Precechtil, I.P.D. - Portland

11. STATEMENT OF PURPOSE COMMENTS

The second and third paragraphs are not appropriate in the body of the rules and should be placed in an introduction.

Molly O'Reilly, Portland Noise Review Board

12. NEW FACILITIES

New facilities should be required to meet a maximum allowable noise limit.

Greg Fritts - Sierra Club

New facilities should only meet "acceptable community standards" and the noise impact boundary is an unnecessary burden to owners of new facilities.

Ed Youngblood, AMA

The Ldn contour requirement is not clear. An annual Ldn is not acceptable, however, hourly Leq or event Leq would be acceptable descriptions. The proposal should tie the projected noise levels to the approval of a new racing site.

Molly O'Reilly, Portland Noise Review Board

Have concerns with restrictions on new facilities. The pre-building and planning requirements to develop anything in Oregon are so onerous that this issue should be left as a local decision. The need for new facilities occurs when existing tracks are encroached on by new housing and the facility is forced to move. If it is so difficult because of procedural or financial requirements these activities will fade.

Tom Fender, Motor Sports Conference, Inc.

Attorney representing a group of 21 residents near a proposed motor sport facility in Lane County. They are pleased to see DEQ making an attempt to control this type of noise but the proposal doesn't go far enough. Propose DEQ require permits for motor sports facilities and require bonding to protect noise sensitive properties.

Additional comments are provided in the attached written testimony.

Robert Taylor, Northwest Legal Advocates (Testimony Attached)

Concerned with a proposed Lane County track that would be less than one mile from her home. Would like to see stricter enforcement measures in the proposal. Will have problems with farm animals impacted by the new track.

Annie Saunders, Creswell

Lives near the proposed race facility near Short Mountain. Not against racing but is concerned that the noise will be reflected off the hill toward the residences.

Colleen Ellis, Creswell

Not opposed to racing but presently have noise impacts from freeway and airport. Therefore concerned with proposed race facility at Short Mountain.

Joyce McCammon, Creswell

Disagrees with testimony of attorney representing the residents near the proposed facility near Short Mountain. Thinks there are ulterior motives for suggested bonding requirements. Also disagrees with any sunset curfew. Agrees with the DEQ proposal as his oval race vehicle will comply.

Steve Wohlers, Creswell

Lives near the proposed sports park at Short Mountain and is concerned with possible noise impacts. Current landfill operations are noisy and race cars would be worse.

Louise Atkinson, Creswell

Lives about one-half mile from proposed Short Mountain race facility. Can now hear tracks and machine at land fill and rifle range practice very clearly. It will be difficult to live with any more noise as the airport, railroad and highway already cause impacts.

Mr. and Mrs. Larkin Atkinson, Creswell

13. PRACTICE COMMENTS

Does not believe a special section is necessary to control practice sessions. Suggest that practice sessions operate under the same rules as regular racing events.

Molly O'Reilly, Portland Noise Review Board

14. OPERATIONS

Oppose the 8:00 a.m. start time as being too early.

Cecil Hall, N. Portland

Support the testimony of North Portland Citizen's Committee that no racing should occur after 8 p.m. on the weekends and no funny car racing during the week.

Objects to the longer schedule for holiday weekends and the allowance for waivers for "special events" to exceed the curfews.

Molly O'Reilly, Portland Noise Review Board

Supports this section but should add a provision that allows overruns of the hours for well documented problems beyond the control of the operator, such as a rain squall, that may postpone operations a short period of time. Should have a year limit to ensure it doesn't become a common practice.

Jay Robinson, Planner, Jackson Co. Parks.

15. MONITORING AND REPORTING COMMENTS

Monitoring and reporting should only be required on a specific race after reasonable notification rather than for all race events. Agree that the responsibility to monitor and report should be the responsibility of the race facility owner.

Ed Youngblood, American Motorcyclist Assn.

The data required to be reported should be specified in the rules as well as the procedure manual. Also penalties should be written into the regulation and they should be substantial.

Molly O'Reilly, Portland Noise Review Board

As many small motorcycle clubs don't have storage facilities the data should be submitted to the Department for storage.

Billy Toman, Oregon Motorcycle Riders Assn., Oregon Rep
- AMA

Must hire someone to monitor each car is an unwanted expense. Track will suffer due to added expense.

Robby Miller, Jackson Co. Advisory Board

May have several racing activities occurring at the same time and it may require as many as three employees to conduct noise testing. This requirement is excessive and they do not want the role of an enforcement agency.

Neil Ledward, Director, Jackson Co. Parks.

The monitoring and reporting requirements will place an excessive economic burden on the motor race facility owner due to needed staff and equipment.

The Jackson Co. Parks Department would be placed in a position of enforcing DEQ rules under this proposal. They do not want to enforce DEQ regulations.

Jay Robinson - Planner, Jackson Co. Park Dept.

16. EXCEPTIONS AND EXEMPTIONS COMMENTS

Opposed to exceptions for special events. Understands that "national events" held in some jurisdictions abide with noise regulations.

Jerry Barnett - ICSCC

No exceptions should be allowed for special events because of the minimal effect of the proposed rule.

Greg Fritts, Sierra Club

The two mile exemption distance is arbitrary and the exemption for fuel burning vehicles is in conflict with the very objective of these rules as they are the "biggest noise producer of all".

Ed Youngblood, AMA

The special event exception is vague and gives the advisory committee power to exempt all events. Either balance the committee or eliminate their involvement in these determinations.

The exemption for race tracks more than 2 miles from noise sensitive property is not clear about its status after new residential development within 2 miles. The effect of this proposal is to strongly discourage residential development within 2 miles of a track.

The exemption for funny cars and top fuel dragsters should not be permanent. Alternatives that should be considered are (1) elimination, (2) phase-out over time, or (3) limited basis each year.

The exception for safety and technology limitations (12) (b) is redundant. Object to any grandfather (12) (c) exceptions.

Questions whether exception (12) (e) for exclusive industrial or residential zoning is applicable in Oregon as Portland doesn't have such zoning.

Exception (12) (f) for alternative noise programs is a potential loophole and should be eliminated.

Molly O'Reilly, Portland Noise Review Board

Motorcycle clubs could classify all events as "fuel burning" and therefore be exempt from these proposed rules.

Billy Toman, Oregon Motorcycle Riders Assn., Oregon Rep. -

AMA

Member of the Jackson Co. Parks and Recreation Advisory Board. The Jackson County Sports Park was built with noise in mind. Suggests to amend proposal to exempt facilities that have had a permanent noise reduction structure built into the facility such that the noise levels at nearby residents does not exceed acceptable noise levels. Noise has been checked during racing events and this track does not produce excessive noise.

Any track with noise barriers and permanent structures should be exempt and should be used to encourage other tracks to use these methods of control. These controls also reduce noise from the exempt fuel-burning cars.

Lee Mills, Park Advisory Board

The Jackson Co. Sports Park should be exempt from this proposal because it causes no serious impacts. They are not against noise control but this track is presently not a problem. If future residential development occurs near the track impacts may occur.

Neil Ledward, Director, Jackson Co. Parks.

Noise measurements taken near Jackson Co. Park show that operations do not cause excessive noise in the neighborhood. The facility already complies with the intent of the rule.

Jay Robinson, Planner, Jackson Co. Parks

17. ADVISORY COMMITTEE COMMENTS

The advisory committee should be balanced with equal numbers of the public and racing so that the public interest is better represented.

Greg Fritts, Sierra Club

Support the concept as an excellent means of integrating racing knowledge into the regulation process. Suggest the duties and responsibilities of the committee be more explicit.

Ed Youngblood, AMA

The committee is excessively weighted toward racing interests. Either balance racing with public representatives or use the committee for technical recommendations only and develop a policy committee with better balance.

Molly O'Reilly, Portland Noise Review Board

The purpose of the advisory committee is to provide technical expertise to the Department. It is not intended to run over citizen groups, or people living near racing facilities, but is intended to provide technical advice to the Department on how to deal with the various classes of vehicles.

To attempt to include adequate public membership to cover all geographical areas of the state and all of the racing facilities would be ludicrous.

The definition of the advisory committee could be improved to add additional disciplines such as a member from the engineering community.

Tom Fender, Motor Sports Conference

18. EFFECTIVE DATE COMMENTS

If rules are adopted, a 3 to 5 year compliance date should be included for technology to be developed.

Neil Ledward, Director, Jackson Co. Parks Dept.

Recommend a 3 to 5 year compliance period.

Jay Robinson, Planner, Jackson Co. Parks Dept.

19. PROCEDURE MANUAL COMMENTS

Voiced concern that the procedure manual designates the measurement location 50 feet from the vehicle rather than the track edge. This would require measurements too close to the vehicle for safety and perhaps physical limitations (guardrails, etc.).

Jerry Barnett - Oregon President International Conference
of Sports Car Clubs

When racing on asphalt tracks the measurement point cannot be 50 feet from the driving groove (race vehicle) due to safety problems and interference with the guard rail.

Dale LaFollette - Mgr. Portland International Raceway

The guidelines regarding reflective surfaces may not be met due to hay bales, guard rails and other obstructions found at race tracks.

Jay Robinson - Planner, Jackson Co. Parks Dept.

NCPUBH (1) (kce)



SIERRA CLUB ... Oregon Chapter

2637 S.W. Water St. Portland, Oregon 97201

To: Environmental Quality Commission

Subject: Regulation of Motor Vehicle Racing Noise

The Sierra Club is strongly in favor of regulating noise caused by motor vehicle racing. There are a number of racetracks throughout the state which have a heavy noise impact on the surrounding neighborhoods and severely lower the quality of life and welfare of neighborhood residents.

We regret that we cannot support the noise regulations currently being proposed by the DEQ. They would do little to decrease existing noise levels and might even serve to legitimize the currently excessive noise. Although there are a large number of points in the proposed regulations that deserve comment, we will limit our remarks to the most important ones.

1) For most classes of racing vehicles, the maximum decibel level has been set at 105 dBA, measured at trackside. This is simply too loud. A report by Daly Engineering Company (Race Track Noise Control Feasibility Study, Portland International Raceway) prepared for PIR and the City of Portland concludes that a noise level of 95 dBA at 100 feet would be the maximum that should be allowed if noise levels in the surrounding neighborhood are to be reduced to an acceptable level. The level set in the proposed regulations, 105 at trackside, is roughly equivalent to 103 dBA at 100 feet. Since noise doubles in perceived loudness with every 10 dBA increase, this represents a level almost twice as loud as the maximum level recommended by the Daly report. While this study was based on the problem in Portland, there are other race tracks in the state that are even closer to residential development.

2) In the regulations, drag racers need only be muffled and need not meet a decibel limit. Since a muffler is defined as a device that reduces engine noise by a minimum of 5 dBA at trackside, this offers little real relief from the noise problem. Drag racers include 6 classes of cars ranging from 'stock' to 'pro-stock', many of which are easily muffled. According to Daly's study, the drag racers (excluding those using nitro-methane fuel) currently produce peak noise levels of up to 90 dBA and averages in the 60-80 dBA range as measured at residential properties as far as one mile from the track. The races typically run continuously from noon to 11 p.m., often at intervals of only minutes. Current state and city noise regulations have as a goal keeping the noise levels at the residential property line at or below 55 dBA, a level much exceeded by the drag racing vehicles. In Portland alone, approximately 4800 people live within one mile of PIR and 31,000 within two miles.

3) The noisiest vehicles, defined in the regulations as 'fuel burning racing vehicles', are exempted from the regulations entirely! While it is apparently not possible to muffle these cars at this time,

... To explore, enjoy and preserve the nation's forests, waters, wildlife, and wilderness ...



SIERRA CLUB ... Oregon Chapter

2637 S.W. Water St. Portland, Oregon 97201

a more reasonable approach would be to limit the number of events per year in which they could participate or eliminate them entirely on tracks that have adjacent residential property. Indeed, the noise level produced by these cars in the stands (about 123 dBA) makes one wonder about liability for hearing loss among spectators.

4) The regulations need to promote better planning of new racing facilities. While the regulations require that those proposing a new facility should submit information about expected noise impact to DEQ, it does not set any maximum levels that should be achieved or indicate that they have any power to influence such siting. In addition, the rules exempt any facility located more than 2 miles from the nearest noise sensitive property (not defined in these regulations, but assumed to mean residential). If new development occurs around such a facility, it is eligible for an exception from the rules in point 12 (e) of the regulation. Rather than trying to prevent the future conflicts between residential use and racing, it provides the possibility for exemption from even these minimal protections for areas of new conflict. While it seems reasonable to allow more noise in areas without residential development, new tracks should be encouraged to locate in areas surrounded by industrial and commercial uses and zoning, and must be prepared to lower the noise level to fit with future residential use.

5)- The entire section on exemptions includes consideration of the recommendations from a motor sports advisory committee. While citizen input is a good idea, a board so heavily weighted with those who are being regulated rather than those who are being forced to live with the noise is ludicrous. An even balance on the advisory committee of racers and residents seems necessary rather than the 9:1 ratio of racers to residents now in the regulation.

6) The possibility of exceptions to both the time limits and the entire regulation for races designated as 'special events' might be reasonable if the regulations were indeed strict and difficult to meet. Since the regulation offers such minimal protection, no exceptions for special events should be allowed.

To summarize, the proposed regulation does not protect or significantly improve the environment of the residential neighborhoods that currently, or might in the future, surround race tracks. It is a minimal effort to tackle a very pressing problem. The earlier versions of the regulations, published in January and April of 1979, were significantly better, largely because they set lower limits on the allowable noise levels and because they included procedures for testing cars at the race track. In contrast to the earlier versions that required vehicle testing, the current version states that "nothing in this section shall preclude a motor sports facility owner from testing" racing vehicles. The change from 'requiring' to 'not preventing' is just one example of the serious weakening of this sorely needed regulation.

... To explore, enjoy and preserve the nation's forests, waters, wildlife, and wilderness ...

My name is Molly O'Reilly and I am here as a representative of the Noise Review Board of the City of Portland. We are a board of private citizens appointed to enforce the city noise ordinance, study noise problems within the city and make recommendations to the City Council.

Over the past year, we have been examining the impact of noise produced at Portland International Raceway on adjoining neighborhoods, because of frequent and continued bitter complaints from those neighborhoods, and, in light of this examination, have a number of specific comments to make on the DEQ proposed noise control regulations for motor sports facilities. I will only allude to those that we consider substantive in my oral testimony, and my comments will be in the order in which the points occur in the proposed regulations.

First, the motor sports advisory committee, as constituted, with only one representative of the public, and one from each of nine racing categories, is excessively weighted towards racing interests. While nobody knows racing as well as these people, the regulations are intended to ensure the protection of quality of life (line 2, cover letter) of Oregon's citizens. It is thus surprising that these citizens are so drastically underrepresented on this important committee. We have two alternative recommendations. Either, equal citizen and racer representation as, perhaps, 1 sports vehicle, 1 drag, 1 oval, 1 cycle, 1 other and a matching 5 of the public, totalling 10. Adding the program manager makes 11. Or, alternatively, use the committee ONLY for technical recommendations to another policy committee that has adequate public representation.

Next, within the same section, definition #8 refers to "motor sports facility noise impact boundaries"; refer to Section 340.340.040(3), lines 4 and 5 where the phrase, "full calendar year..." appears. If this implies that definition 8 means an annualized Ldn, then this is objectionable, since Ldn, being an averaging, tends to occlude the impacts of some of the noisier events. Further, since these regulations propose a 10PM Sunday to Thursday curfew, with the 1PM-11PM hours entering the Ldn computations only on Friday and Saturday (see 340-34-040(6)), the inclusion of night hours (10PM on) is neither necessary nor desirable in the development of an appropriate descriptor. We suggest hourly Leq's or event Leq's. Definition #9: Facility owner; we do not feel that, when an event is held on public land, the promotor should become solely responsible for noise. Rather, we feel the owner of the public lands must at least share the responsibility. We suggest the following rewording of line 3: "When a Racing Event is held on public land, not ordinarily maintained and operated as a motor sports facility by a public agency, the event organizer," etc.

Definition #18, Special Motor Racing Event: This definition is vague in saying "a substantial or significant number of our-of-state racing vehicles," Substantial? Significant? More important, this section gives the motor sports advisory committee (commented

on before) carte blanche and is tantamount to a TOTAL exemption for all activities. Either representation on the committee must be balanced, or this determination should be taken out of its jurisdiction.

Definition #20, Stock Exhaust System: The term "functionally similar: is also vague. The Noise Review Board prefers ".... street legal vehicle which makes no more noise than the original equipment.", and deleting the phrase "functionally similar...".

Definition #22, trackside. Others have testified that this definition is inadequate because of tremendous variability in measurement, or unsafe. The Noise Review Board agrees that it is a poor definition and should be rewritten. The Board also reminds the DEQ staff that the noise standards should then be modified to reflect the change in distance from the source.

Definition #24, Well maintained muffler: This definition calls for noise reduction of 5dBA. This is unacceptable as a definition. Does it refer to 5dBA reduction from straight pipes? There is no reference to the noise levels to which the muffler should bring the vehicle. The definition catalogues types of acceptable muffling systems, which is good only in that it excludes unsatisfactory systems, but all of them should reduce the noise to a certain specified level. The amount of reduction can be determined by the acceptable trackside level. In short, as others have testified, a performance measure, in decibels, should be specified.

A minor point, Section 340-35-040(1): statement of purpose. Paragraphs 2 & 3 are not appropriate for the body of the regulations; they are better placed in an introduction.

The NRB was surprised that the Daly engineering study at PIR was not mentioned in the regulation references, especially when considering proposed standards. This is an appalling oversight, as this study has done a superb job of compiling existing data on a motor sports facility, applying noise abatement theory to it and making practical and enforceable recommendations. We suggest that the Daly Engineering study be incorporated in reworking the proposed regulations.

(2) Standards: (a) Drag Racing Vehicle: This provides insufficient and indeterminate protection, in that the "well maintained muffler of definition 24 need only attenuate 5dBA from an unspecified level. The Noise Review Board proposes that all vehicles comply with a to-be-specified noise level using either a street legal level (for drags) or another prescribed standard. We propose a passby measurement, even for drag races where 2 vehicles are operating in tandem. If the standard were e.g., 105dBA at 50 feet, then in this case use 108dBA at 50 feet (since 105dBA plus 105dBA equals 108dBA). If the noise level is measured higher during the run, then run the cars individually afterward and disqualify the one exceeding the standard.

The following comments apply to sections (a-f); the Noise Review Board has no problems with (h) or (i). Sections a-f recommend a

105 dBA standard at trackside. Based on the engineering study at PIR commissioned by the city and carried out by Daly Engineering, a level of no more than 101dBA at 50 feet is necessary to provide protection to the surrounding community. We propose this as the standard because we do not feel that the DEQ regulations as proposed accomplish what they profess - to protect the acoustic privacy of Oregon's citizens. We realize that the PIR based findings may not be appropriate for statewide regulations and although normally we would support consistency, we do feel that in Portland no more than 101dBA at 50 feet is essential. Those who propose regulations are required to demonstrate that the standards protect those they are supposed to protect; they will be unable to demonstrate protection in Portland with any regulation in excess of 101dBA at 50 feet. It needs noting here that the North Portland residences which require 101dBA at 50 feet for minimal protection are generally located no closer to PIR than half a mile. At racetracks where housing is less than half a mile from the facility, even OUR proposal would not be adequately protective. In either case, the proposed regulations are grossly inadequate. In addition to this proposal, we recommend that street legal machines operated in a drag race be expected to comply with the more stringent street legal standard (applied to the Wednesday night drags at PIR).

G. Watercraft: The application of this regulation to watercraft raises questions. Where is trackside? If the shore, 105dBA does not provide protection for shoreline property, houseboat and recreational users of urban rivers and shores. The City of Portland standard is now 75dBA on shore for daytime users. The Oregon State Marine Board standard is 84dBA at a distance of 50 feet from the boat. We recommend adoption of either of these, or both, as alternatives, and rejection of the proposed standard, which, in conjunction with the vagueness of the appropriate measurement point is equally vague and unenforceable.

Section 340-35-040, New motor sports facilities. Our response to the "full calendar year" noise impact measurement was presented earlier in regards definition 8. In setting noise boundaries, we protest the use of the averaged descriptor Ldn, and recommend either an hourly Leq or an event Leq. The proposed regulations here do not tie the level of noise, however determined, to an approval of the facility. Indeed, there is no specification of whether the criteria of noise are to be used in determining approval. This must be clarified and tightened substantially. Sub (4) Practice sessions: we have several problems. First a question, why have a special section for practices? Why does a practice session not operate under the same rules as events? Second, the advisory committee has discretionary powers in setting the noise plan, and we have strong concerns over the makeup of this committee.

Sub (6) Operations: While the hours proposed conform to those presently used at PIR, the expressed desire of the North Portland Citizen's Committee, representing several thousand residents of North Portland living within a 3 mile radius of PIR, specifies "...allow no racing after 8PM in the evenings on the weekends, and no funny car racing during the week". (Letter to Wm. Young, dated Aug. 7, 1980, regarding these proposed regulations, and hereby attached as part of the testimony.)

Section 6B contains the confusing phrase, "... state and national holidays and the day preceeding." Preceeding what? Does this mean that racing can last until 11PM for a 4 day period? If so, there will be some very angry Oregonians who are either forced to leave their homes, or be denied the use and enjoyment of their property for a considerable period. Section 6B states that any approved special event may exceed this curfew. You will remember that special events are those with out of state vehicles -- often the noisiest of all. We seriously question why the noisiest events be permitted exception when the intent of these regulations is to protect the public.

Sub (8) Monitoring & Reporting: The Noise Review Board points out two shortcomings in this section. First, where does it specify what is the "required noise level data"? Second, penalties should be written into the regulation. They are referenced in the proposed procedure manual, but not mentioned in the regulations and we feel this significantly weakens the impact of the proposed regulations. We are especially concerned that penalites be substantial, and well spelled out for section (9) which states that non complying vehicles are to be excluded from racing.

Sub (11) Exemptions: For what period will a motor sports facility located more than 2 miles from noise sensitive property be excluded? Forever? What happens if new residential development occurs within 2 miles of such an established raceway? Does Section 12(C) grandfather all such established racing facilities? If so, then every community which has, or is considering having, a racing facility better be prepared to lose a tremendous number of taxable residences, since the effect of this is to strongly discourage residential development within the 2 mile limit. Since these proposed regulations clearly have land use planning implications, the NRB wonders whether the LCDC will be reviewing them for consistency with their goals and guidelines before adoption?

Section (b) of exceptions: funny cars and Double AA dragsters, which are the major reason for the outcry of Oregon's citizens, and which presumably are the catalyst which led to the development of these proposed regulations, are for now and evermore exempted from the regulations entirely. Somehow, the NRB has trouble understanding this. We offer three alternatives. Either such events should be (1) eliminated, or (2) phased out over e.g., 3 years, or (3) allowed on a limited basis each year. The determination of how to fairly allocate which sponsor gets the limited allocation to run such an event could be decided by bidding competitively, with profits from such events distributed to the neighbors affected. In Portland, that would mean that dollars, as payment for excessive noise, would be distributed to the North Portland Citizens Committee. Regardless of the alternative selected, this exemption should be changes to an exception, since the regulations are useless if they exempt the major noise source.

Section 12(b) This is redundant and should be eliminated.

Section 12(c) Our objections to this clause that grandfathers new facilities have been expressed. Recommend eliminating this section.

Section 12(e) refers to land zoned exclusively for industrial or commercial use. Does such zoning exist? Generally, industrial and commercial zoning permit residential use, and such use constitutes a considerable amount of housing. Therefore, this section does not apply in Portland.

Section 12(f) This section ostensibly allows alternative noise abatement plans to be approved. However, it is sufficiently vague to constitute a potential loophole. We recommend elimination of this section.

In summary: These regulations serve to perpetuate the status quo of motor vehicle racing in Oregon. They purport to grant Oregon's citizens the right to quality of life and were developed supposedly in response to the finding that such racetrack noise is a significant source of annoyance and concern to many citizens, as the DEQ cover letter states. They however do not protect and are not responsive to that concern. Instead, they contain exemptions and exceptions which allow uncontrolled continuation of the louder, more bothersome events, establish standards which are not at all protective, and set rules which both effectively preclude new residential development and the use and enjoyment of existing property.

Very disturbing to us, they establish a committee charged with enforcing the noise standards which is composed almost entirely of racing interests - presumably the group which is to be regulated. There is no ongoing mechanism for bona fide public input. With penalties not spelled out, they will be ignored and serve only to frustrate local governments wishing to protect their citizens with effective regulation of racetrack noise.

Although, on the surface, these proposed regulations favor the racing interests, paradoxically in the long run such a laissez faire approach will substantially harm the racing industry. As fuel becomes ever more expensive, the racing fan will have strong incentive to attend only races which are held close to home - he won't be able to afford the others. For the industry to remain profitable, strong and growing, it must adapt to urban life - and become quiet enough that it can locate in developed areas and be regarded as a good neighbor. As Detroit is now benefiting from government insistence that automobiles be manufactured with increased mpg capability, so the racing industry needs regulation mandating lower noise levels. The proposed regulations fail to serve the industry in this essential manner.

In short, they are poor regulations and should not be adopted as proposed. Often, one who is critical of such regulations must answer the question, "But aren't we better off in adopting some regulations, even though they aren't perfect?" In this case, the answer is clear- we are better off with no regulations rather than ones as grossly inadequate as these.

In closing - one procedural question. We have raised a number of questions in our commentary. In what form will we get a response?

Molly O'Reilly
for the Noise Review Board
City of Portland
Sept. 15, 1980



P.O. Box 141, Westerville, Ohio 43081

Telephone (614) 891-2425

Telex: 245392

August 27, 1980

Oregon Department of
Environmental Quality
Noise Control Section
P.O. Box 1760
Portland, Oregon 97207

Gentlemen:

The American Motorcyclist Association is the nation's largest motor sports sanctioning body recognizing in excess of 7,000 events per year. In the State of Oregon, we will sanction in excess of 25 activities, professional and amateur, that are potentially affected by regulations proposed by the Department of Environmental Quality (DEQ). Since 1969, we have recognized the need to require noise limits on vehicles entered in Association events. Since its inception, that program has been revised as technology permitted.

When DEQ first proposed noise regulations to govern motor racing events in January of 1979, the Association made every attempt to respond in a responsible manner. In response to the 1979 proposals, we submitted to DEQ documents which outlined our noise testing procedures, sound limits and equipment specifications. We are dismayed that the 1980 proposals reflect little of the information and experience reflected in their development. To the contrary, the only sanctioning body or certification program reflected in the 1980 proposals are those of the International Karting Federation pertaining to go-kart mufflers.

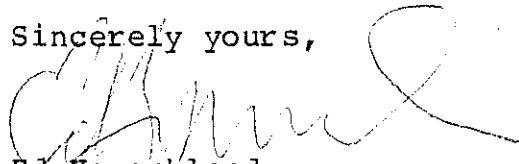
We are prompted to ask why the noise abatement program of one racing vehicle organization is acknowledged while others are ignored. We would think it would be to the advantage of DEQ to develop regulations that reflect the needs and experience of established racing programs.

As in 1979, we remain concerned that any regulations that are adopted be uniformly applied to all motor racing activities and that they be easily implemented, administered and enforced. Unfortunately, we do not feel the 1980 proposed regulations accomplish these goals.

Oregon Department of
Environmental Quality
August 27, 1980
Page 2

We have enclosed with this letter additional comments which appear in the same order as they appear in the proposal. Should there be any questions following your review, please do not hesitate to contact us.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'Ed Youngblood', written over a light-colored background.

Ed Youngblood
Director
Government Relations

RR/tg

Enclosure

Comments by the
American Motorcyclist Association
to the
OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY
Concerning
Proposed Rules for Motor Vehicle Racing, July, 1980

September 4, 1980

Portland, Oregon

The American Motorcyclist Association, founded in 1924, is the nation's leading organization involved in the sanctioning and guidance of both amateur and professional motorcycle racing. As a part of its leadership role in motorcycle competition, AMA has espoused the concept, developed procedures for testing, and enforced rules for racing noise abatement for more than a decade. AMA is pleased to have an opportunity to comment on motor sports noise control regulations proposed by the Oregon Department of Environmental Quality dated July, 1980.

Our comments following are referenced in the order of DEQ proposed regulations.

340-35-015 DEFINITIONS

(6) Motor Sports Advisory Committee - We applaud DEQ for proposing the concept of an advisory committee structured to represent both the public interest and to pool the valuable technical experience of the various sanctioning organizations. Such a committee can be an excellent means of integrating firsthand racing knowledge into the regulatory process. However, we suggest that the proposed regulations could be a good deal more explicit about the duties, responsibilities, and authority of such a committee.

(15) Racing Event - DEQ's proposed definition suggests that the term racing events applies to activities which are under the permit or jurisdiction of an identifiable sanctioning body. Does this imply that casual and unsanctioned activities shall not come under the jurisdiction of these regulations? Surely, this point needs to be clarified.

(18) Special Motor Racing Event - This definition refers to events having a "substantial and significant number" of out-of-state racing vehicles. We do not know what the terms "substantial" or "significant" mean. Are these terms to be defined by the Advisory Committee? Is there a formal application procedure whereby organizers, facility operators, or sanctioning bodies may seek to have a specific event declared a special event? This term should be further explained.

(20) Stock Exhaust System - We respectfully submit that the language "original equipment" or "functionally similar to original equipment" are liable to create serious difficulties for DEQ or anyone attempting to administer these proposed regulations. Since we assume that the intent of these proposals is to provide reasonable and enforceable procedures for controlling racing noise, we would suggest that language in this definition should reflect that purpose. In other words, it might be better for all concerned if exhaust systems, regardless of their point of origin or place of manufacture, are defined in terms of the noise they emit, and not whether they are original or "functionally similar" which we find to be a vague and ambiguous term.

(22) Trackside - Again, we respectfully submit that the vagueness of this definition will create problems. There is a reference to Manual NPCS-35 which we have examined, failing still to find an adequate definition. We can envision this term being interpreted in ways that could result in almost an infinite number of potential measuring points. Furthermore, we find the suggestion that racing noise should be measured at a certain distance from "trackside" to be somewhat unorthodox. It is our experience that this type of measurement can result in enormous variances in sound level measurements.

We shall comment further on Manual NPC-35 below.

(24) Well Maintained Muffler - With the subsections captioned "a" through "h" of this item, we are frankly surprised at the direction these proposed regulations take. We do not understand the relevance or benefit of what appears to be a catalog attempting to describe the current state of the art in muffler technology, followed by catch-all, boiler-plate terminology which says "any other device, etc."

We notice that this rundown on types of silencers is repeated in Manual NPC-35 in somewhat greater detail, including drawings. For the edification of noise testing administrators it may well be useful in Manual NPC-35, but we can't imagine the use of its appearance in the proposed regulations.

Again, we suggest that in its efforts to control excessive environmental noise, DEQ should keep its eye squarely on desired results, and not necessarily how those results are achieved with any given vehicle.

We think it is not appropriate, desirable, nor serving any good purpose that DEQ should cast itself in the role of exhaust system designer or noise abatement engineer. We suggest that subsections "a" through "h" and references to them be deleted from definition 24.

In regard to the definition, we find some difficulty in its reference to "modifications that reduce its sound reduction capabilities." We wonder how this judgment is to be made. We find a similar difficulty in understanding how it shall be determined that a device has reduced sound energy by a minimum of five decibels. Does this imply that there should be testing of, or a list of noise levels for various racing engines without exhaust systems?

These are our comments on definitions. We shall turn now to the substance of the proposed regulations.

340-35-040 NOISE CONTROL REGULATIONS FOR MOTOR SPORTS VEHICLES AND FACILITIES.

(1) Statement of Purpose - These proposed regulations begin, "The Commission finds that the periodic noise pollution caused by Oregon motor sports activities threaten the environment, etc."

Without questioning the authority of or the good intentions of DEQ, we would like to better understand how the Commission has arrived at this conclusion. Is there a docket of substantial citizen complaint? Have studies been conducted or surveys taken which would lead to the conclusion that motor sports have damaged the environment? We ask these questions in a spirit of cooperation because a clear understanding of the problem can certainly facilitate our useful support in seeking an effective solution. Surely DEQ is willing to document the claim of damage upon which these proposed regulations have been deemed necessary. We suspect certain citizens of Oregon would be quite interested in reviewing this documentation.

By producing such documentation, DEQ could more clearly explain the language in this same paragraph which calls for the creation of noise abatement programs "where needed."

We find it unclear from these proposals whether, when, or if regulations are to be put into effect, or if they will be shelved until substantial evidence of need has been shown for a particular racing facility or area.

(2) Standards - We are surprised that these proposals establish a noise emission performance standard "at trackside" for virtually every type of racing vehicle except two. We find this inequity and lack of uniformity objectionable. Are we to assume that those two classes of

vehicle are less prone to noise emissions, or that DEQ has some other good reason to selectively lay on or provide relief from specific noise emission standards based on type of vehicle?

(3) New Motor Sports Facilities - We would point out that while the term "noise impact boundaries" appears in the definition section, nowhere is it utilized as any reference point for any of the performance standards proposed in these regulations. Its sole purpose seems to be for the application of a burdensome and rather arbitrary requirement on the owner of a new motor sports facility. We would point out that the establishment of this type of data and map of noise impact boundaries can be extraordinarily time-consuming, difficult, and expensive. We would remind DEQ that much of the organized motor sports competition which goes on is healthy family activity sponsored and managed by amateur clubs which may simply not have the means to collect or pay for the collection of this type of data. We frankly don't understand why they should be required to, so long as they meet acceptable community standards and the regulations of the DEQ which, we repeat, nowhere employ the use of "noise impact boundaries."

(4) Practice Sessions - While the proposed regulations generally revolve around testing to certain established standards for motor vehicle racing, suddenly for practicing we find a reference to a "noise mitigation plan." We are confused by this. We do not know, in the context of these proposed regulations, what a "noise mitigation plan" is, how it will be evaluated, and why it should even be required if an operator would meet the same acceptable noise performance standards during practicing sessions that are applicable during actual competition.

(7) Measurement and Procedures - These proposed regulations turn entirely upon measurement procedures described in the "Motor Race Vehicle and Facility Sound Measurement and Procedure Manual NPC-35." We have reviewed this document and are shocked to find that we are attempting to intelligently comment on "proposed" regulations which rely upon a "proposed" manual which we are not aware having been submitted to public scrutiny. Nor do we know the status of this manual within DEQ promulgation procedures. Nor are we clear whether comments on these regulations are supposed to include comments on this manual.

We are not prepared today to offer detailed comment on the proposed manual NPC-35, but we must confess that we find certain portions of it amateurish and unorthodox. This is not necessarily a criticism of its authors, but more likely a reflection on its status as a proposed document which remains in a state of development, and which has not had the benefit of expert advice from the various motor sports organizations.

Some of the equipment and personnel training requirements outlined in NPC-35 will pose significant financial and procedural burdens on amateur clubs and promoting organizations.

We would like the opportunity to review it in greater detail. At the moment, however, we must confess that we find it rather unusual to be commenting on "proposed" regulations which depend principally on the techniques described in a "proposed" manual which in turn relies on the aforementioned "proposed" regulations for its authority.

(8) Monitoring and Reporting - We would agree that it should be the responsibility of the motor race facility owner to record and monitor required noise levels of vehicles entered in a particular

event. However, that responsibility should be limited to insuring that vehicles entered in an event on a particular day comply with the regulations. We feel it may be unduly burdensome to require operators to maintain extensive noise testing records over a period up to a year. Surely, an organizer should be prepared to provide DEQ with data on the occasion of a specific race, given reasonable notification, but again we must point out that in many cases these organizers may be amateur clubs which may not have facilities or the means for extensive records maintenance.

We strongly urge DEQ to carefully reconsider the provisions and implications of Section 8(b) which we suggest could be ruled in violation of First Amendment rights. Entering into business premises as described in section 8(b) has been defined by the Supreme Court of the United States as requiring a search warrant. Surely, we encourage a spirit of cooperation between motor sports organizers and DEQ, and we feel that it is altogether undesirable and counterproductive for DEQ to propose to regulate that cooperation.

(11) Exemptions - (a) Greater clarification is needed in defining what is meant by "noise sensitive" property. Utilizing an arbitrary distance of "two miles" fails to take into consideration such natural barriers that might reduce the noise generated by a racing facility.

(b) Exempting "fuel burning" vehicles from regulations exempts a class which many of the public might regard the biggest noise producer of all. We are surprised by this exemption and wonder whether it is in conflict with the very objective of this proposed rule making.

Summary - The American Motorcyclist Association is not opposed to the control or regulation of motor sports noise; however, we feel that it must be accomplished in a reasonable manner so as not to create unnecessary burdens on riders, clubs, promoters and facility operators. We do not feel that these 1980 proposed rules accomplish these goals.

As proposed, these regulations present unrealistic regulations that will pose difficulties not only for those who participate in motor sports activities, but also for those that must enforce them. It would have been far better to incorporate existing noise control systems established by major race sanctioning bodies.

We are particularly concerned that these regulations and the supporting "procedure" manual have been developed simultaneously. A survey of the manual makes it apparent that additional problems for motor sports enthusiasts are generated by the document which will remain a mystery to most of the affected public.

We feel that the regulatory course that the DEQ continues to pursue is ill-advised, poorly investigated and more costly than the 1979 proposals.

Finally, though we close our comment with our expression of continued support and cooperation, we must report that in an academic sense we have been advised that certain aspects of these proposals, namely Items 2a, 2i, 8b, and 11b could become conspicuous targets for litigation. We strongly urge DEQ to carefully review these sections especially.

Thank you,

Ed Youngblood
Director
Government Relations



P.O. Box 141, Westerville, Ohio 43081
September 17, 1980

Telephone (614) 891-2425
Telex: 245392

EQC
Hearing Section

SEP 22 1980

Ms. Linda Zucker
Oregon Department of
Environmental Quality
P.O. Box 1760
Portland, Oregon 97207

Dear Ms. Zucker,

Enclosed are our additional comments on Manual NPCS-35 that I stated our staff would try to complete when I testified before you on September 4, 1980.

You will notice that we feel a great deal of the confusion and unorthodoxy in NPCS-35 could be eliminated by adopting AMA procedures which have been used now for a decade, and which were first suggested to Oregon DEQ in our testimony in 1979.

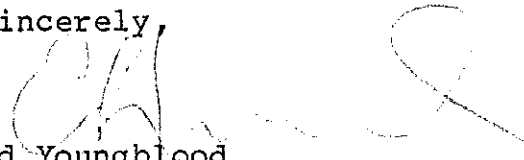
Again, we must express our dismay that so very little regard has been given to our past efforts to advise DEQ. In both the new regs and Manual NPCS-35 we see practically no indication that our previous submissions were considered. Furthermore, we were not at all pleased to learn of the close relationship between DEQ and a supposedly expert motor sports advisory group from which AMA was excluded during development of these most current regulations.

In that regard, I must close with a question which I hope your staff will carefully consider. If AMA's testimony of 1979 was of so little value, if our noise-testing procedures are so disregarded that they show no influence on Manual NPCS-35, and if DEQ finds it more comfortable to exclude AMA from its advisory associations, why during the opening testimony on September 4, 1980, did we not hear a single reference to "noisy motorcycles," why were the citizen complaints directed almost exclusively toward automobiles?

I would suggest that AMA has done its job in regard to competition noise control in Oregon and elsewhere over the past decade. It would seem that Oregon DEQ might be interested in our successful methods, or at least allow us to continue to use those methods even if other techniques must be developed for automobiles, boats, gokarts, etc.

We remain at your service.

Sincerely,


Ed Youngblood
Director
Government Relations

COMMENTS OF THE
AMERICAN MOTORCYCLIST ASSOCIATION

EGC
Hearing Section

PROPOSED MOTOR RACE VEHICLE AND FACILITY
SOUND MEASUREMENT AND PROCEDURE MANUAL
OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY
SEPTEMBER, 1980

SEP 22 1980

We would like to present our technical concerns relative to the proposed procedure for sound testing of racing vehicles.

On September 4, 1980, of the American Motorcyclist Association presented written and oral testimony to the Oregon Department of Environmental Quality relative to the proposed rules for motor vehicle racing, July, 1980. Our comments as to the procedure manual for vehicle testing, now presented, are integrated into our previous comments concerning the proposed rules.

Some redundancy will be apparent due to the overlap between the proposed rules and the procedure manual, and we will attempt to address our concerns at this time to the procedure manual with references to our previous comments.

Page 2, Section 1.3

In our comments about the proposed rules we said, and continue to believe, that in its efforts to control excessive environmental noise the DEQ should keep its eyes squarely on desired results, and not necessarily how those results are achieved with any given vehicle. These comments apply also to Section 1.5, Subsections 1 and 2 of the Manual.

Therefore, we suggest the deletion of the statement or any future reference throughout the noise measurement procedure manual to vehicles being equipped with "properly installed and well maintained muffling systems."

Our testimony of September 4 has already indicated our concerns relative to the language "noise sensitive property" and "fuel-burning" vehicles.

Page 3, Section 1.5, Subsection 3

We suggest and recommend that Appendix A entitled AMA Sound Testing Procedures be utilized instead of this method of sound testing.

Page 3, Section 1.5, Subsection 5

Delete "...either the muffler requirements or..."

Page 4, Section 2.1

The term "familiar" is not defined and leaves questions of who insures this familiarity, the Department of Environmental Quality or the track owner. Additionally, the term "sufficient" is not defined and is vague, possibly allowing inexperienced operators to perform noise testing.

Page 4, Section 2.2

Again, we are concerned about who certifies the steward.

Page 4, Section 2.3, Subsections A-C

This is not necessary if stationary sound tests (Appendix A) as suggested by the AMA are performed.

Pages 5-12, Chapter 3

We believe this entire section should be deleted and, performance criteria, as opposed to the existence of a physical muffler, as per our previous comments be employed.

Page 14, Section 4.5

Sound Measurement Precautions - The noise control steward who is "familiar" (as required) with the sound measurement equipment would not need this section. We suggest its deletion. Additionally, section 4.5.3 would not be necessary if the AMA stationary test (Appendix A) was used.

Page 14, Section 4.6.5

Again, this section would not be necessary if the AMA stationary test (Appendix A) was used.

Page 14, Section 4.46

Same comment.

Page 14, Section 4.6.7

Same comment.

Pages 17-22, Chapter 5, Subsections 5.1-5.4.2

We would recommend the deletion of this section and the insertion of the AMA recommended stationary testing procedures (Appendix A).

Page 22, Section 5.4.3

We would like to make reference to our previous remarks on monitoring and reporting from our September 4 comments.

Page 23, Section 5.5, Subsection I-L

The deletion of this series of rules would be necessary if the AMA stationary test (Appendix A) was employed.

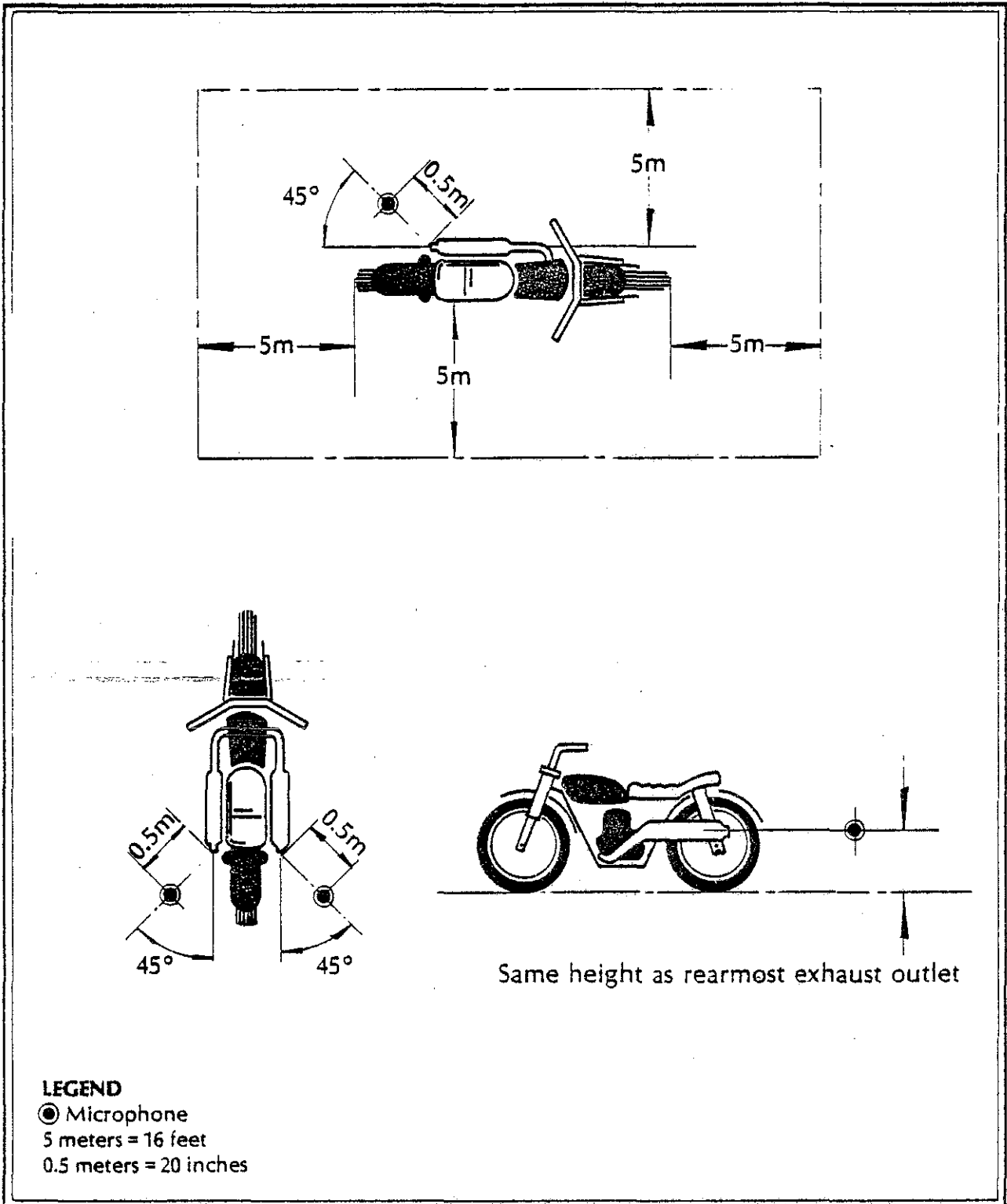
Pages 25-26

The deletion of these pages would be required if the AMA stationary test procedure (Appendix A) was employed.

Page 31

Noise Control Boundaries - Refer to our previous comments of September 4.

Diagrams of the Motorcycle and Microphone Arrangement



NOISE CONTROL: R.P.M. FIGURES FOR 1980

Stroke in mm	13 m/s	11 m/s	10.2 m/s
	2 stroke Road Race Motocross	4 stroke Road Race Motocross Speedway Trials	AMA REFERENCE 1979 R.P.M. SCHEDULE
30	13,000	11,000	10,200
31	12,580	10,645	9,870
32	12,187	10,313	9,560
33	11,818	10,000	9,270
34	11,470	9,706	9,000
35	11,142	9,429	8,740
36	10,833	9,167	8,500
37	10,540	8,919	8,270
38	10,263	8,684	8,050
39	10,000	8,462	7,850
40	9,750	8,250	7,650
41	9,512	8,049	7,460
42	9,285	7,857	7,290
43	9,069	7,674	7,120
44	8,863	7,500	6,950
45	8,666	7,333	6,800
46	8,479	7,174	6,650
47	8,297	7,021	6,510
48	8,125	6,875	6,380
49	7,959	6,735	6,240
50	7,800	6,600	6,120
51	7,647	6,471	6,000
52	7,500	6,346	5,880
53	7,358	6,226	5,770
54	7,222	6,111	5,670
55	7,090	6,000	5,560
56	6,964	5,893	5,460
57	6,842	5,789	5,370
58	6,724	5,690	5,280
59	6,610	5,593	5,190
60	6,500	5,500	5,100
61	6,393	5,410	5,020
62	6,290	5,323	4,940
63	6,190	5,238	4,860
64	6,093	5,156	4,780
65	6,000	5,077	4,710
66	5,909	5,000	4,640
67	5,820	4,925	4,570
68	5,735	4,853	4,500
69	5,652	4,783	4,430
70	5,571	4,714	4,370
71	5,492	4,648	4,310
72	5,416	4,583	4,250
73	5,342	4,521	4,190
74	5,270	4,459	4,140
75	5,200	4,400	4,080
76	5,132	4,342	4,030
77	5,065	4,286	3,970
78	5,000	4,231	3,920
79	4,937	4,177	3,870
80	4,875	4,125	3,830
81	4,815	4,074	3,780
82	4,756	4,024	3,730
83	4,699	3,976	3,690
84	4,643	3,929	3,640
85	4,588	3,882	3,600
86	4,535	3,837	3,560
87	4,483	3,793	3,520
88	4,432	3,750	3,480
89	4,382	3,708	3,440
90	4,333	3,667	3,400
91	4,286	3,626	3,360
92	4,239	3,587	3,330
93	4,194	3,548	3,290
94	4,149	3,510	3,260
95	4,105	3,474	3,220
96	4,063	3,438	3,190
97	4,021	3,402	3,150
98	3,980	3,367	3,120
99	3,939	3,333	3,090
100	3,900	3,300	3,060



Competition Bulletin

Exhibit D



AMA, P.O. BOX 141, WESTERVILLE, OHIO 43081

REFEREE BULLETIN
#80-14
JANUARY 28, 1980

TO: ALL AMA REFEREES
FROM: MICHAEL A. DIPRETE, COMMISSIONER OF PROFESSIONAL RACING
SUBJECT: NOISE CONTROL
FILE: TAB V - EQUIPMENT

Quote from the 1980 Professional Competition Rule Books:

(1) Road Race and Hillclimb:

All machines must meet sound limits of 115 decibels measured on the "A" scale at .5 meters (20 inches). Test procedures shall be prescribed by the AMA.

(2) Dirt Track and Motocross:

All machines must meet sound limits as follows:

105dba plus (5dba tolerance) measured at .5 meters (20 inches.)

11 meters per second for four stroke machines.

13 meters per second for two stroke machines.

TEST PROCEDURE

Current test procedure for all AMA sanctioned meets are as follows:

1. The microphone shall be located 0.5 meters (20 inches) and at a 45° angle behind and in the horizontal plane of the rear most exhaust outlet (see attached diagram.)
2. The rider shall sit astride the motorcycle in normal riding position with both feet on the ground, then run the engine, with the gearbox in neutral, and shall increase the engine speed until it reaches the specified RPM range.
3. Measurements must be taken when the specified RPM level is reached. The RPM depends upon the average piston speed corresponding to the stroke of the engine (see attached diagram.)
4. The RPM's will be given by the relation:

$$N = \frac{30C_m}{l} \text{ it means } \begin{array}{l} N = \text{prescribed RPMs of engine} \\ C_m = \text{required mean piston speed in m/s (m/s meters per second)} \\ l = \text{stroke} \end{array}$$

5. The sound level meter should be set for "slow" response.

6. The sound level recorded shall be that measured during steady state operation at the above mentioned engine speed, measured on the loudest side of the motorcycle. If tests are to be made on one side of the motorcycle only, they shall be made on the side upon which the exhaust system(s) exists.
7. The ambient sound level (including wind effects) at the test site due to sources other than the motorcycle being measured shall be at least 7 dba lower than the sound level produced by the motorcycle under test.
8. Wind speed at the test site during test should be less than 32 km/hr (20 mph.) If this is not possible, then the motorcycle and measuring microphone shall be positioned so that the prevailing wind direction is parallel to the normal direction of travel of the motorcycle.

GENERAL COMMENTS:

While making sound level measurements, not more than one person other than the rider and the measurer shall be within 5 m (15 feet) of the motorcycle under test or the microphone, and that person shall not be directly in line between the muffler and sound meter.

NOTE

Please be advised that for 1980 the noise requirements set by the Federation Internationale Motorcycliste (F.I.M.) are as follows:

- | | |
|---------------------|---|
| Road Racing | - 110 dba at 13 m/s for two stroke machines
110 dba at 11 m/s for four stroke machines
(there will be a 5 dba tolerance for four stroke machines) |
| Motocross | - 108 dba at 13 m/s for two stroke machines
108 dba at 11 m/s for four stroke machines |
| Trials and I.S.D.T. | - 100 dba at 11 m/s for all motorcycles |
| Speedway | - 108 dba at 11 m/s for four stroke machines |

Therefore, the AMA will enforce these sound requirements for all International sanctioned meets in 1980.

Example - 1. 125cc/250cc/500cc Grand Prix Motocross meets

QUICK REFERENCE CHART FOR TECHNICAL PERSONNEL



SOUND REQUIREMENTS FOR 1980 PROFESSIONAL RACES

1/28/80

All motorcycles must meet sound limits on the "A" Scale, measured at .5 meters or 20 inches.

Name	Model	Stroke (mm)	Reference 10.2 m/s 1979 AMA RPM Schedule	AMA or F.I.M. 13 m/s 2 stroke R.R. M.X.	AMA or F.I.M. 11 m/s 4 stroke R.R. M.X. Spwy. Trials	<u>Exhibit D</u>
HD	RR-250-2(2)	50	6120	7800	6600	
YAM	T2-250-2(2)	54	5670	7222	6111	
YAM	T2-350-2(2)	54				
YAM	T2-750-4(2)	54				
YAM	360-1(2)	54				
KAW	KR250-2(2)	54.4	5630	7170	6070	
CAN-AM	250-1(2)	57.5	5320	6780	5720	
HONDA	XL250-1(4)	57.8	5290	6750	5710	
HD	250-1(2)	59.6	5130	6540	5540	
BULTACO	Pursang 250-1(2)	60	5100	6500	5500	
OSSA	250-1(2)	60				
HD	250-1(4)	61	5020	6393	5410	
BULTACO	Astro 250-1(2)	64	4780	6093	5156	
BULTACO	Astro 360-1(2)	64				
CARABELLA	250-1(2)	64				
SUZUKI	250-1(2)	64				
SUZUKI	750-3(2)	64				
YAM	250-1(2)	64				
HONDA	250-1(2)	64.4	4750	6060	5120	
KAW	KX250-1(2)	64.9	4710	6010	5080	
KAW	KR750-3(2)	68	4500	5735	4853	
KAW	F11-250(1)	68				
HONDA	350-1(4)	71	4310	5492	4648	
YAM	750-2(4)	74	4140	5270	4459	
HD	750-2(4)	75.8	4040	5150	4350	
NORTON	750-2(4) (short stroke)	80.4	3810	4850	4100	
TRI	750-2(4)	82	3730	4756	4024	
YAM	500-1(4)	84	3640	4643	3929	
BSA	750-2(4)	85	3600	4588	3882	

(over)

Continuation

Sound Requirements 1980

Name	Model	Stroke (mm)	10.2 m/s	F.I.M. 13 m/s	F.I.M. 11 m/s
NORTON	750-2(4) (long stroke)	89	3440	4382	3708
SUPERBIKE PRODUCTION CLASS					
BMW	R90S-2(4)	70.6	4330	5520	4670
BMW	R100S-2(4)	70.6			
DUCATI	900SS-2(4)	74.4	4110	5240	4440
HD	XLRC-1000-2(4)	96.8	3160	4030	3410
KAW	KZ650-4(4)	54	5670	7222	6111
KAW	Z1-4(4)	66	4640	5909	5000
KAW	Z1A-4(4)	66			
KAW	Z1B-4(4)	66			
KAW	KZ900-4(4)	66			
KAW	KZ1000-4(4)	66			
KAW	KZ1000-Z1R-4(4)	66			
LAVERDA	980cc-3(4)	74	4140	5270	4459
MOTOGUZZI	850-2(4)	78	3920	5000	4231
SUZUKI	GS1000-C-4(4)	70	4370	5571	4714
SUZUKI	GS550C-4(4)	55.8	5480	6990	5910
SUZUKI	GS550EC-4(4)	55.8			
SUZUKI	GS750EC-4(4)	56.4	5430	6910	5850
SUZUKI	GS750C-4(4)	56.4			
YAM	1J7-4(4)	68.6	4460	5690	4810

September 4, 1980

Testimony at the DEQ Noise Control Regulations for Motor Sports Facilities held Thursday, September 4, 1980 at 7:30 PM at the Multnomah County Courthouse.

My name is Dixie Sims, 887 Sixth Street, Lake Oswego, Oregon. I am here representing Cascade Inboard Racing Association, 20 years old this year, and the American Power Boat Association, the national governing and sanctioning body for responsible power boat racing, around for over 75 years.

Our regional club - Cascade Inboard - and other Oregon based American Power Boat-affiliated organizations are adversely affected by your proposed regulations, although there ^{has} obviously been a real attempt at a reasonable compromise in regulating motor sports activities and facilities.

There are several reasons I am here and talking about adverse effects on our power boat racing events:

1) For 21 years we have been quite effectively regulated by the Oregon State Marine Board, by Oregon statute. The Marine Board has the authority to issue permits for special events such as our power boat regattas, and further waives any noise restrictions under racing or testing conditions. Until such time as that agency - the Marine Board - is no longer effective in administering the law as set down by the legislature 21 years ago, we don't need another layer of government. As it now stands it takes anywhere from 6 to 15 permits to hold a regatta.

2) Three APBA-affiliated organizations in Oregon represent well over 500 family memberships. There is another group, not affiliated with the APBA, which represents a sizeable membership in its "InterCity Boat Racing League." While I cannot speak in any way for those people, I can tell you that we are talking about NOT MORE than 20 events per year throughout the State of Oregon. These events are held from the months of April through October at various lakes or rivers in Oregon, rarely at the same place more than once each year. Events usually start around Noon/^{on Sunday} and end up around 6, unless a championship event calls for a longer schedule or a 2-day event. This is out of consideration for those who may live close by or nearby churches. It takes several local approvals before the Marine Board will issue the Special Marine Event Permit. The same situation applies in those few events in Oregon where the Coast Guard is the authorizing agency.

Power Boat Racing - regardless of division, class or type of boat, under the sanction of the A.P.B.A. is a strictly run and governed event. Racers, almost totally supporting their expensive high speed equipment,

bring out as much as 1/4 of a Million dollars of equipment for these regattas which are almost always held as a charity fund-raiser or as part of a community event. They receive in return maybe a \$12.00 trophy and/or a hole in their recycled automotive engine or a hole in their expensive racing hull.

Every event of any magnitude brings thousands of dollars into the various communities by the visiting out-of-state competitors. Businesses and merchants in the communities cannot help but recognize those dollars of income. For instance, Cascade Inboard alone has document^{ed} a contribution, directly or indirectly, to communities in Oregon with only 3 or 4 annual events, of over 1/2 Million Dollars in just the past 7 years. My point here is that we try to put something back into the communities where we race as our way of saying thanks for the use of the water and the support of our sport.

The engine sounds are part of what draws the crowds... part of what they come to see and hear. We are doing something about the muffling of this high speed racing equipment, and as with other marine technology the A.P.B.A. is encouraging its entire membership to work with manufacturers to accomplish this end result. But, as with anything experimental there is no guarantee as to how effective the muffling devices will be. And, it will take more time. The manufacturers we might work with have a 5,000 market - not 50,000 or more - nationwide.

Of 70 participants at a Cascade Inboard event, 10 at the most are from Oregon. What are we to tell our Washington, California, Arizona, Utah and Colorado boats, or even those who travel from the East Coast or the Midwest? Don't come to Oregon unless you have mufflers? I see provisions in your rules for "special events", but all of our power boat racing events are "special events" under the proposed guideline.

Another problem I see is, for instance, that the Hillsboro Jaycees who sponsor the Hagg Lake Regatta will be expected to not only do all the other things connected with the regatta leading up to and on race day, but also monitor the noise levels of the boats, record it and make the information available. You are proposing a regulation on an already regulated sport, and you are also asking us to 1) buy, rent or borrow the monitoring equipment; and 2) train personnel to handle it; and 3) file, store and otherwise maintain the records. That's not realistic for a non-profit sport and it's not even a fair approach. Are our taxes not already going for your department to provide this service?

In summary, if - in fact - the DEQ should be regulating the racing boats and events at all, then the DEQ should make the provisions that treat boat racing as not part of motor vehicles or a motor sports facility. We may use automotive engines in the limited inboard division, for instance, but you certainly

cannot construe a high speed race boat with a motor vehicle. They are two different critters, completely.

Last, despite the fact that our organization has membership in the Oregon Motorsports Conference, Inc. we have had no opportunity for input into these proposed regulations. My proposal is that any reference to racing boats, facilities, or any other reference to watercraft racing vehicle be completely eliminated from your proposed Regulations at this time, and at such time as they may need to be included then done so only after proposals from the various Oregon/^{boat}racing organizations and the State Marine Board staff have an opportunity to provide proposed rules and regulations that are reasonable to this particular sport.

To do anything else is to tell boat racing dollars to go somewhere other than Oregon.

Thank you.

W. Young
H. Hester

DONALD D. WELCH
ATTORNEY AT LAW
2121 KAEN ROAD
OREGON CITY, OREGON 97045

Exhibit F
AREA CODE 503
TELEPHONE ~~XXXX~~
655-8342

September 9, 1980

Mr. William H. Young, Director
Department of Environmental Quality
Post Office Box 1760
Portland, OR 97207

RE: PROPOSED DEPARTMENT OF ENVIRONMENTAL QUALITY NOISE CONTROL
REGULATIONS FOR MOTOR SPORTS FACILITIES CHAPTER 340,
OREGON ADMINISTRATIVE RULES JULY, 1980

Dear Mr. Young:

As a private citizen and a lawyer I represent myself and a growing number of interested citizens constituting land owners whose holdings abut or are adjacent to the Willamette River, on the east side from Oregon City through Gladstone, Oak Grove and Milwaukie to the boundary of east Portland, and on the west side from West Linn through Marylhurst and Lake Oswego to Portland's south boundary. Clearly this encompasses a large, well populated area of concerned citizens and residents. We have also made contact with the Corbett-Terwilliger Neighborhood Association, whose membership includes people on the west side of the Willamette River from the Clackamas County line to the northern areas of that part of Portland affected by noise emanating from boats using Willamette Park.

As more individuals hear of our efforts through me and especially through Mr. Hugh Dwight of Lake Oswego they are offering their accord with the intended project and a growing willingness to participate in efforts to eliminate the growing and most aggravating noise problem on the Willamette River caused mainly by what we refer to as sled boats with straight exhaust pipes.

In the past we have exerted efforts with the Oregon State Marine Board to embody proposed changes in noise control regulations as part of the Oregon Administrative Rules. These efforts have been successful to the extent that original equipment limitations will soon be the law in Oregon.

Department of Environmental Quality
RECEIVED
SEP 12 1980
Noise Pollution Control

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
SEP 10 1980

OFFICE OF THE DIRECTOR

Mr. William H. Young, Director
Department of Environmental Quality
September 9, 1980
Page 2

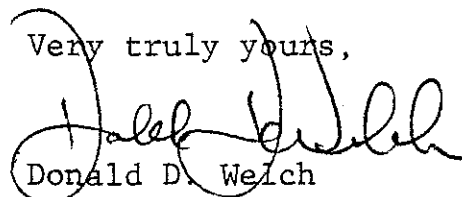
We have reviewed the proposed regulations which constitute the basis of your present hearings and are in support of those regulations to the extent they constitute an effort to curtail existing noise in the use of race vehicles. We are not able to discern if it is intended to restrict the use of racing water craft in all circumstances or only those related to motor sports facilities as defined in the regulations. It would seem these proposed regulations do not address the question of recreation or speed craft in the use of public waterways such as the Willamette River. Water craft racing vehicles are defined in 340-35-015 (23). It may be that we misread the intent of 340-35-040 (2g) which establishes the limit on use of these racing vehicles. If we do read that accurately these water craft are not controlled in their operation other than at specifically allowed recreational facilities. It may well be that the use of these craft at other than such recreational facilities is controlled by additional regulations.

In any event 105 dBA is an excessive noise level for any but the most restricted use and certainly should be prohibited in any situation which can reasonably impinge on a noise sensitive area at any time of the day or night. One has only to speak with a veteran of the Rose Festival Motor Boat Races to recognize the necessity for such control.

In an assessment of these regulations it is important for the arbiters to bear in mind that present general use of recreational boats by a small but irritating minority of sled boat operators ignores reasonable and statutory standards and defies present enforcement efforts. This growing problem constitutes our major area of concern, and we offer our on-going cooperation developing workable control standards for both racing and recreational motor boat use.

We encourage the Oregon Department of Environmental Quality to continue in their efforts of noise control and to reach out to organizations such as ours for the investment of time and energy as well as experience to accomplish this end.

Very truly yours,



Donald D. Welch

gd
cc: Hugh Dwight
John Hector



*...for the automotive aftermarket
and motorized sports*

11540 E. Slauson Ave., Whittier, CA 90606 213/692-9402 • L.A. 213/723-3021

September 18, 1980

Mr. John Hector
Department of Environmental Quality
Noise Control Section
P.O. Box 1760
Portland, Oregon 92707

RECEIVED
SEP 22 1980

Noise Pollution Control

*Els Lohn,
Chairman of the Board

Charles R. Blum, *President*
Donna Imrie, *Operations Manager*
Tim Runner, *Technical Director*
Virginia Christiansen,
Communications Director

John Russell Deane III,
General Counsel

Board of Directors

Tom Alston
Ron Coppaken
Nile Cornellson
*Jim Davis
Jack Duffy
*Victor Edelbrock
John Gaines
Gary Gardner
Ralph Hansen
Leo Kagan
Jim Kavanagh
*Sheldon Konblett
*W.A. "Butch" Lahmann
Jon Lundberg
Tom Shedden
*John Simmons, Jr.
Bill Smith
Bill Stroppe
Bill Tidwell
Steve Woormer
*Peter Wright

*Executive Committee

Dear Mr. Hector:

The Specialty Equipment Market Association (SEMA) represents approximately two thousand manufacturers, distributors, and retailers of specialty automotive parts. These parts include items designed specifically for racing vehicles. Therefore, SEMA is very concerned about any regulations that might affect the interests of our members.

SEMA wants to take this opportunity to applaud the conscientious efforts of the Oregon Department of Environmental Quality (DEQ) in setting up the proposed noise regulations. We appreciate DEQ working with the race tracks, race sanctioning organizations, and automotive associations in attempting to establish a viable race track noise control program. The regulation you have proposed is acceptable to SEMA and its members. In particular, we want to compliment you on excluding fuel-burning engines from the requirement of having to have mufflers. As you know, many efforts have been made without success to develop mufflers for these engines. Unfortunately, all testing done to date indicates that any muffling of the exhaust results in serious damage to the engine.

There is one category of non-fuel burning engines that SEMA recommends you treat the same as fuel-burning engines. These are the gasoline-burning race engines equipped with blowers. The exhaust volume and velocity of these engines is similar to that of fuel-burning engines. All attempts made to date to equip these engines with mufflers have resulted in damage to the engines. There are relatively few engines equipped with these engines in drag racing today. However, due to the high cost of fuel, there undoubtedly will be more of these vehicles racing in the future unless they



are regulated out of existence by being forced to have mufflers.

Thank you again for the time and effort you have spent in working with our industry to developed proposed regulations.

Sincerely,

A handwritten signature in black ink that reads 'Tim Jon Runner'. The signature is written in a cursive, flowing style.

Tim Jon Runner
Technical Director

TJR:tw



NORTH PORTLAND CITIZENS COMMITTEE, INC.
7508 North Hereford Avenue, Portland, Oregon 97203 503-248-4524

August 7, 1980

William H. Young
Dept. of Environmental Quality
Noise Control Section
P.O. Box 1760
Portland, Oregon 97207

DEPARTMENT OF Environmental Quality
RECEIVED
AUG 13 1980

RE: Proposed Noise Regulations for Racing at
Portland International Raceway ~~Noise Pollution Control~~

Dear Mr. Young:

In our general membership meeting of 8/5/80, we discussed the proposed noise regulations for racing at PIR of the DEQ. NPCC reaffirms their position as completely opposing any lessening of regulations that govern the noise impact emanating from PIR.

We are in a unique situation as the total North Portland area is elevated above the racetrack and therefore every point source of noise generates an impact on the North Portland neighborhood within a 3 mile radius. We feel that steps must be taken by the City to install noise barriers, to require muffled vehicles to the greatest extent possible and to keep the funny car races to a minimum and allow no racing after 8:00 p.m. in the evening on the weekends and no funny car racing during the week.

NPCC is not opposed to racing at PIR. PIR is a unique facility as I said before and we feel that because of its close proximity to the city and the lack of other facilities like this in the region, that PIR still will maintain its financial viability. We are upset by the fact that the few dollars that is generated beyond its costs are at the expense of the surrounding neighborhood. We have stated this case before. We have met with the people from PIR and the racers. We have met with the City Noise Review Board and we are still living with this problem after 7 years.

If the matter cannot be resolved peacefully which we have tried to do after all this length of time, we will have no other resource but to take our grievances to the court,

Sincerely,

Steve Roso, President
North Portland Citizens Committee

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
AUG 13 1980

OFFICE OF THE DIRECTOR

P.S. Enclosed are petitions signed on 8/5/80 and other correspondence dating back in our files.

NPCC, Inc.
Executive Board
Board of Directors
Stockholders
residents
businesses
industries
property owners
professionals

Committees
Cathedral Park
Kenton Firehouse Board
Seniors North
St. Johns History
Housing and Community
Development (HCD)

Contracts and Leases
Youth Service Center
Neighbors North
CETA
Kenton Firehouse

8/3/80

8/4/80

We are unequivocally opposed to relaxing the noise standards for the PIRT at Delta Park. Both the level and duration of noise reaching this neighborhood at present standards is intolerable.

NameAddress

Mr & Mrs Clair Pearson	7845 N Fowler Ave
Mary Lou Houseman	7835 N Fowler Ave
Alice & Ed Kampler	7734 N. Fowler Ave
Mrs. H. J. Broton	3909 N Kinchell St.
Jenny Korman	7835 7835 N FOWLER AVE
Mr & Mrs. Ivan Saunders	7814 N. Fowler Ave.
Sharon I McKenzie	7923 N Fowler
Heleen H Jones	7844 N Fowler
Catherine Meade	7905 No. Washburne
Orlie Meade	7905 No Washburne
Chris Felton	7918 N. Fowler
Robert D. Dutton	7918 N. Fowler
Clair Cassidy	7828 N. Fowler
Jean & Mike Stuyck	7825 N Fowler
Louise R. Miller	7011 N. Reno Ave.
Heleny LeCree	
Galbraith	ST JOHNS
Victor A. Shackleton	9922 N. Willamette Blvd
Roberta Shackleton	9922 N. Willamette Blvd

Earl Boogard
Bernie Henry
Ester Mulean
Nancy Chumley
John P. Brown
Mark Lemmon
Karl Hansen
Ceel E. Harris
Kurt E. Jones
Rudy Leary
Ken Howard
Curt Brown
Kenneth H. Jensen
Edward F. Hatzel
Gunter Garby
Ceil A. Hall
Edna O. Riddle
T.C. Davis

Mr Arthur W. Ingerson
Melissa Church
Patricia J. Hoffert
Jim & June Cook
Rod Strumek

9729 N. Willamette Bl.
9847 - N. Swanwick
9810 N. Willamette
9748 N. Syracuse
9846, N. Syracuse
9906 N. Willamette
9803 N. Edison
2930 N. Bryant
9540 N. KALMARE.
9816 N. Edison
10027 N. EDISON
9846 N. SYRACUSE ST.
10050 N. SYRACUSE ST.
8717 N. Hooge Ave 97203
6949 - N. Knowles
3334 N. Terry
9115 N. Hooge Avenue ⁹⁷³⁰³
9906 N. Ivanhoe
10012 N. Willamette
1541 N. GAIN ST
9022 N. Mohawk
9655 N. Edison
8285 N. Walnut

Earl Deogard
Dennis Henry
Ester Mulvan
Wanda Chumley
John P. Brown
Mark Lemmon
Karl Hansen
Ceel E. Harris
Robert E. Jones
Rudy Leary
Ken Howard
Curt Brown
Kenneth H. Jensen
Edward F. Kettel
Gunter Jarley
Ceil A. Hall
Edna O. Riddle
T.C. Davis
Mr & Mrs Arthur W. Ingerson
Melissa Church
Patricia J. Hoffert
Jim & June Cook
Rod Stranek

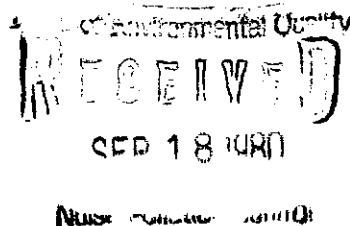
9729 N. Willamette St
9847-13 S. Main
9810 N. Willamette
9748 N. Syracuse
9846 N. Syracuse
9906 N. Willamette
9803 N. Edison
2930 N. Bryant
9540 N. Kalmar
9816 N. Edison
10027 N. Edison
9846 N. SYRACUSE ST.
10050 N. SYRACUSE ST.
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6949 - N. Knowles
3334 N. Terry
9115 N. Hotge Avenue ⁹⁷³⁰³
9906 N. Ivanhoe
10012 N. Willamette
1541 N. Gair St
9022 N. Mohawk
9655 N. Edison
8285 N. Walnut

Woodburn Dragstrip

7730 STATE HWY. 214 N.E., WOODBURN, OREGON 97071 PHONE: (503) 982-4461

September 16, 1980

DEQ
PO Box 1760
Portland, OR 97207
Attn: John Hector



Mr. Hector,

We feel that there is no need for the DEQ to become involved with Motor Sport Recreational Parks. My wife and I own the 52 acres of land that the Woodburn Dragstrip is located on. We are responsible and considerate of our neighbors and the community around us. We hold only 5 Major DragRace Events each year, which we feel are a minimum with the majority of our race events being held weekends over a six month period. By holding the majority of our races during the day, this shows our concern for those around us. We have been in operation for 18 years and feel that our business is just as necessary to recreation as any other. It is a documented fact that a freeway generates more noise than a race track in a given day of operation, with one-half of the cars participating being driven in off the street to compete. Our cities are getting larger, making room for more people, but we are not giving these people any additional place for recreation. Instead of recreation areas growing, they are being taken away. As a private individual, it is costing me cash dollars to fight what my tax dollars are enabling the DEQ to attack my race facility. DEQ is imposing rules and regulations that would eventually reduce our racer attendance and ultimately ruin the business that I have spent 20 years trying to build.

We provide a needed recreation outlet for Oregon residents, both

Woodburn Dragstrip

7730 STATE HWY. 214 N.E., WOODBURN, OREGON 97071 PHONE: (503) 982-4461

participants and spectators alike, a place to get away from the everyday stress that some many people find themselves faced with. High blood pressure and stress related diseases are more directly caused from jobs & mass people problems, than from noise.

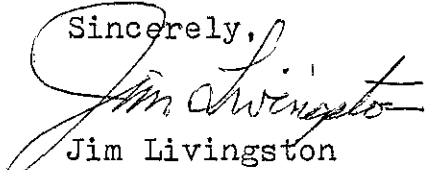
The hearing that was held in Woodburn, Tuesday, September 9, 1980 showed the immediate neighbors did not feel that DEQ regulations were necessary at the Woodburn Race facility. With the support of our neighboring community, Chamber of Commerce, businesses in our area, and most importantly our immediate neighbors, I feel that at this time Woodburn Dragstrip should be exempt from mufflers, on Drag Race Cars.

Curfew hours are already in effect at Woodburn. Not because of DEQ regulations but because of Jim & Margie Livingston.

We do have races that draw out of state racers, with the regulations that would be put upon us, we would probable lose these events, also the out of state racers who come to race in advance of a major race. Also, a person living in the state of Oregon, that may have a \$30,000 Pro Stock Car would not be able to test his car in Oregon, prior to attending a National or Local Drag Race Event unless he had mufflers, even tho on a major event that type of car would be exempt from the ruling. Mufflers legal for street driving and sold in Oregon every day would be illegal at my race facility.

It is the Oregon Way to be able to govern ourselves, and we need the opportunity to do just that. Our race track has a definite economic impact on our community.

Sincerely,



Jim Livingston

SEP 22 1980
Noise Pollution Control

Dear Mr. Dector

Since we subscribe to the Oregonian instead of the Salem Statesman we were unaware of the meeting in Woodburn concerning the noise at the Woodburn Dragstrip.

A noisy dragstrip in the heart of the country and opposite a golf course is really ludicrous, but since it is here to stay my husband and myself do wish there could be more stringent noise levels. One dragster present at the meeting said that to lessen the noise would take ^{away} half the

fun. He would soon become used to it as all of us adjust to limitations on our personal freedom for the good of others.

At the meeting Donna Embhoff said it didn't bother her. She is not living north or south of the strip where the prevailing winds carry the noise. I agree that people should drag there instead of on the highway. The ideal place is in an industrial area instead of near homes.

Would DEQ please place some noise restrictions on those go-carts that also race at the Woodburn drag strip. They are a continual loud buzzing

3/ that goes on and on. At least car drags are intermittent.

A person almost has to stay indoors or leave your home on weekends to get a little peace and quiet.

The P.A. System can be heard for quite a distance, also

It is commonly thought that it is cowardly to write an unsigned letter but I am doing so because I don't want to have the Livingstons for an enemy. I hope this will go into your records.

Thank you

JAMES B. WALKER

I. K. F. Governor

Division Six

OREGON

TO: Department of Environmental Quality, Noise Control

SUBJECT: Kart Racing Noise Control

- (1) Kart racing is done on three types of race tracks.
 - (a) oval dirt surface tracks, called Speedway Racing.
 - (b) paved, winding tracks, about a half mile in length, referred to as Sprint Racing.
 - (c) long, paved road race tracks, such as Portland International Raceway and Seattle International Raceway, this is called Endure or Road Racing.
- (2) Each type of racing uses a somewhat different type of kart but all use the same engines, exhaust systems, etc. All kart racing is governed by the International Kart Federation which has a strict set of rules and regulations.
- (3) Each state has it's own IKF governor, elected by the IKF members of the state. The governors help at races wherever needed and keep members informed of rule changes, etc.
- (4) Most of us race what is called the Gold Cup Races, race in Oregon, Washington, and Western Canada. Canadian Kart racing is also governed by IKF. At all these races, plus the Sprint races, no motors are allowed to be started before 9:AM, and we try to be finished racing by 5:00 P.M.
- (5) All karts are required to have mufflers, and have been using mufflers for at least ten years. Figure 3-5 on page twelve of the procedure manual is taken directly from page T-3 of the North American Karting Tech Manual. This manual is used at all the IKF sanctioned races.
- (6) Since nowhere does it specify what a kart dba should be, over two years ago, our local kart club purchased two approved sound level meters to do our own testing. For the last two years, we have enforced a 95 dba reading at several points on each track, measured forty feet from the edge of the track, both Sprint and Road Races. The Gold Cup officials have also been using the same readings at all the Gold Cup races. We have been controlling the noise level at our races for some time.

6635 North Congress Avenue

Portland, Oregon 97217

(503) 285-5018

JAMES B. WALKER

I. K. F. Governor

Division Six

OREGON

- (7) Kart racing is a family sport, and we have racing for all ages. For the six to 9 year olds, there are 3 1/2 to 5 HP four cycle engine on a small kart, for the 9 to 12 year old, engines with restrictors to cut the speed down. The 12 to 16 year olds race by themselves, with full size karts and engines. The seniors can race from the novice class, clear up to the twin engine 140 MPH road race machines. In some families, the father, mother and kids all race.
- (8) Since kart racing takes a relatively small amount of space to race, a lot of the karts use ~~#####~~ alcohol, are easy to transport, and inexpensive to race; karting may well be the racing of the future.

**NORTHWEST
LEGAL
ADVOCATES****A NON-PROFIT PUBLIC INTEREST LAW FIRM**

132 EAST BROADWAY · SUITE 821 · EUGENE · OREGON 97401 (503) 485-5222

DOUGLAS C. BAYERN · ATTORNEY
JOHN T. HAND · ATTORNEY
CARLA KOFORD · ATTORNEY
SUSAN ROBERTSON PEASE · ATTORNEY
ROBERT A. TAYLOR · ATTORNEY

LAND USE PROJECT

In the Matter of the Adoption of Proposed Department of Environmental Quality Noise Control Regulations for Motor Sports Facilities - Chapter 340, Oregon Administrative Rules

Comments of Robert A. Taylor, Staff Attorney, Northwest Legal Advocates, 132 E. Broadway Suite 821, Eugene, Oregon 97401, representing Annie and Sam Saunders, 34030 Walnut Lane, Creswell, Oregon, and 19 other Creswell area residents.

General Comments

Our clients comprise a group of 21 residents who all reside within sight and definitely within sound of the proposed Lane County Short Mountain Special Events Park, a motor sports facility. As people whose daily lives and possibly whose economic livelihood will suffer a substantial impact from noise levels to be generated by the proposed "noise park", our clients are very interested and concerned in what efforts are made by the DEQ to control motor sports facility noise pollution. Our clients are pleased to see that DEQ is making an attempt to deal with the problem of such noise pollution, but they feel that the regulations do not go far enough.

Primarily the regulations set vehicle noise limits, and require some amount of monitoring and reporting to DEQ by motor sports facility owners and operators. While the DEQ has the authority to impose greater restrictions, it has not done so in this case. We propose that, in addition to vehicle limits and monitoring and reporting requirements, the DEQ institute a process for requiring permits for motor sports facilities, and, to protect property owners who will be affected by the motor sports facilities, a bonding requirement equal to a set percentage of the noise sensitive property within the facility noise impact boundaries. The regulations propose a number of restrictions, but fail to spell out the consequences of violation of those restrictions. The consequences to violators must be certain and plainly stated for the regulations to have any effectiveness, and the DEQ should adopt a mandatory enforcement requirement so that DEQ's failure to act to correct violations can be remedied by legal action by affected residents.

Specific Comments

OAR 340-35-015 Definitions

(6) Motor Sports Advisory Committee - the makeup of the committee is too heavily weighted in favor of user group representatives; in light of the role of the committee in recommending exemptions to the rules under 340-35-040(12), and its apparently absolute power to identify special motor racing events which may be exempt from curfew requirements, (see 340-35-015(18)), the committee should be made up of an equal number of public and user group representatives.

(8) Motor Sports Facility Noise Impact Boundaries - reference to "events that may occur" as a measuring point is not explicit enough; the boundaries should be based on maximum capacity use or maximum projected use, whichever is larger; in the event that a motor sports facility is designed to accomodate more than one event or type of event, the level must be based on the maximum possible simultaneous capacity of all those events which could operate simultaneously; it must be made clear that the noise levels are to be determined by combining noise generated by participant vehicles with noise generated by spectator crowds.

(15) Racing Event - the definitions should spell out the fact that any non-sanctioned racing event which is not operating pursuant to a DEQ-approved governmental permit will be subject to the ambient noise levels of 340-35-030(1)(d).

OAR 340-35-040(1) Statement of Purpose

¶1 - After the first sentence, a sentence should be inserted to acknowledge the fact that motor sports facilities can have a substantial impact on farming activities:

"In addition, the Commission finds that, where motor sports activities take place in areas containing agricultural lands, noise pollution can have a detrimental effect on the raising and breeding of livestock. In cases where small farms are economically viable only because the people farming the land also reside on the farms, the Commission finds that noise pollution severe enough to make the farms uninhabitable will effectively prevent the continuation of agricultural operations on those farms.

¶2 - The last sentence should be amended to change the mandatory "will require exception" to the permissive "may require exception".

¶3 - After the first sentence the statement should be inserted that:

"It is intended that the burden of controlling and measuring noise levels and enforcing noise restrictions be borne by those responsible for the creation of the noise, rather than by affected landowners and residents.

- OAR 340-35-040(3) New Motor Sports Facilities: it is important to spell out the DEQ's power to approve and disapprove noise impact boundaries referred to in this section; in addition, because the DEQ has decided to place its emphasis on monitoring and reporting in the proposed regulations, the reporting should be extended to include affected property owners and residents; along with projected noise impact boundaries, the facility owner/operator should be required to submit a list of all property owners and residents within a two mile radius from the racing surface, and to send a copy of the projected noise impact boundaries to each of the people on that list, along with a notice to the effect that the owner/operator intends to operate a motor sports facility.
- OAR 340-35-040(4) Practice Sessions: a copy of the noise mitigation plan should be sent to each of the persons on the list mentioned above for their comments prior to approval by the DEQ.
- OAR 340-35-040(5) Recreational Park: the rules should spell out the fact that facilities falling under the recreational park designation will not be allowed to be exempt from the ambient noise levels through the operation of 340-35-030(1)(d)(B)(i) where the recreational park is to be used for recreational vehicle racing; further, recreational parks used for recreational vehicle racing should not be exempt from the curfew requirements of 340-35-040(6).
- OAR 340-35-040(6) Operations: inasmuch as the intent of the noise regulations is to mitigate motor sports noise impacts, allowing motor sports facilities to operate after one hour after sunset is in conflict with the purpose of the regulations.
- OAR 340-35-040(8) Monitoring and Reporting: frequency of monitoring activities should be spelled out in the regulations and should be required on a regular basis, in addition to requiring the monitoring of those events anticipated to approach or exceed facility capacity; further, the facility owner/operator should be required to monitor specific events in response to citizen complaints concerning noise levels; measured 55 dbA Ldn boundaries should be established based on the first year's reported data; subsection (a) should be amended to require the keeping of at least two years' data, and the subsection should require the facility owner/operator to make the recorded data available to the public as well as the DEQ.

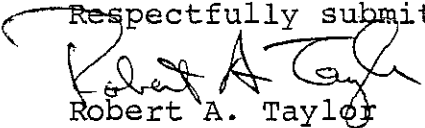
OAR 340-35-040(11) Exemptions: ORS 467.035 lists those factors upon which DEQ may decide whether or not to exempt a class of activity within a category of noise emission sources from the application of a general limitation. The failure to consider those factors in exempting the classes listed under 340-35-040(11) violates the statute, and in addition violates the purpose of the regulations in that neither exemption furthers the goal of mitigating noise impacts.

OAR 340-35-040(12) Exceptions: paragraphs (a), (c), and (d) should be amended to require notification to the property owners and residents included in the list mentioned above in connection with section (3).

OAR 340-35-040(14) Effective Date: this provision should be amended to reflect the fact that facilities on which construction is begun or which first begin operating between the date these regulations are adopted and their effective date shall be subject to the rules as new motor sports facilities.

Our clients applaud the DEQ's attempt to deal with the difficult question of regulating noise pollution from motor sports facilities, and urge the Department to not stop at the level of the proposed regulations, but to develop a comprehensive permit and bonding system which will adequately protect those who are subject to motor sports facility noise through no choice of their own.

Respectfully submitted,


Robert A. Taylor
Northwest Legal Advocates

Representing:

Sam and Annie Saunders
Mr. and Mrs. Eldon Harrold
Mr. and Mrs. Larkin Atkinson
Laura Wood
Thelma Sage
Jenny McDole
Mr. and Mrs. Tom Ellis
Mr. and Mrs. Richard Jensen



CITY OF
**COTTAGE
GROVE**

400 E. Main Street, Cottage Grove, Oregon 97424

September 2, 1980

OFFICE OF THE MAYOR

Department of Environmental Quality
Noise Control Section
Post Office Box 1760
Portland, OR 97207

RE: Testimony on Proposed Noise Regulation at Motor Sports Facility

Gentlemen:

On August 28, 1980, the Common Council of the City of Cottage Grove authorized the following written testimony:

The City of Cottage Grove is situated in a relatively narrow valley with a race track at the northern City limits. Car racing events are staged at the Riverside Speedway during each summer. Many of the events are in the evening and late evening hours when objectionable noise reaches a large proportion of the City population:

We feel that it is objectionable because in the summer windows are open and noise reaches many persons at a decibel level and at hours that should be peaceful.

Our position is in support of noise reduction through muffler requirements and restriction of operating hours. Generally, we feel that the less the noise level, the fewer the restrictions should be on operating hours. And conversely, the louder the vehicle, the more stringent should be hours of operation.

Sincerely,

A handwritten signature in black ink, appearing to read "William A. Whiteman". The signature is fluid and cursive, written over a horizontal line.

William A. Whiteman, Mayor
City of Cottage Grove

WAW/cet

Environmental Quality
RECEIVED
SEP 8 1980
Noise Pollution Control



JACKSON COUNTY

PARKS AND RECREATION ADVISORY BOARD

80 East Stewart, Medford, Oregon 97501

(503) 776-7001

September 16, 1980

John Hector
Dept. of Environmental Quality
Noise Section
P.O. Box 1760
Portland, OR 97207

Re: Noise control regulations for Motor Sports Facilities

Dear Mr. Hector:

The above mentioned noise control regulations give rise to several major concerns for this department.

Section (8) Subsection (a) states; "It shall be the responsibility of the motor sports facility owner to measure and record the required noise level data. The owner shall keep such recorded noise data available for a period of at least one calendar year".

Section (9) states; "No motor sports facility owner shall cause or permit it (a racing vehicle) to participate in any racing event or practice session unless the vehicle is equipped and operated in accordance with these rules".

Section (7) states; "All instruments, procedures and personnel involved in performing sound level measurements shall conform to the requirements specified in Motor Race Vehicle Sound Measurement and Procedure Manual NPC-35, or to standard methods approved by the Department".

The above requirements will require personnel trained in determining a 'properly installed' and 'well maintained' muffler system. Personnel trained in the proper uses, placement and data recording processes of sound measurement equipment will also be required. The data recorded by these personnel must be kept for a period of at least one calendar year. Specialized test equipment must be purchased for the personnel to use. These requirements will place a heavy financial burden on this department, especially in the operation of the Jackson County Sports Park.

It is not logical to require additional personnel to perform the many tests required by these rules when the facility has been already designed in cooperation with your department to maintain acceptable noise levels at nearby noise sensitive properties.

We would like to suggest a modification to the rules to provide for facilities such as our's which already comply with the intent of these rules.

This facility was designed to locate many noise producing forms of recreation in one place in order to minimize the impacts on county residents. This department has cooperated with the D.E.Q. throughout the design and construction phases in order to minimize noise pollution on nearby properties. The success of the sound mitigation measures taken in the construction of this facility are evidenced in the results of noise tests taken on September 9, 1979 by Merlyn Hough of your department. His letter dated September 25, 1979, states; "The noise levels measured on September 9, 1979 were well within the acceptable daytime noise levels". (See Attached)

This facility is designed to allow 3 or 4 noise producing activities to operate simultaneously which would require ample personnel and equipment to monitor all the races at once.

Section 3.1 of Procedure Manual NPC-35 states; "If the muffling system fails to meet the DEQ muffler requirements, then the vehicle shall not operate at the race facility until the muffling system complies". Also Section 5.1 of the Procedure Manual states; "During these practice runs, the facility owner shall take sound measurements of the vehicle to determine if it complies with the noise emission limits. If it does not meet the emission limits, then the vehicle shall not be allowed to operate on the facility until it's emissions are lowered."

These two sections place the Parks Department in a position of enforcing D.E.Q. rules which is beyond the scope of our authority.

Section 14 of the proposed Administrative Rules states; "These rules shall be effective July 1, 1981". We recommend that a 3 to 5 year compliance time-frame be established.

Several technical points need to be carefully reviewed prior to adoption of these rules.


Section 5.2.3, Section 5.2.4 and figure 5-2 of the Procedure Manual describe the effects of reflective surfaces on the emission tests and the trackside measurement point. It is virtually impossible to meet this criteria due to hay bails, guard rails, buildings and other obstructions near the racing surfaces.

Section 2(a) of the proposed rules requires a "properly installed and well maintained muffler" on drag racing vehicles except "fuel burning racing vehicles" which are exempted from the rules in Section 11(b). We can see some serious problems with the monitoring and enforcement of Sections 2 and 11.

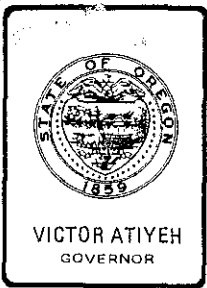
Section 6(a) of the proposed rules establishes hours of operation of the facility. We feel this to be a good rule, however, we recommend the inclusion of a clause that allows for an overrun of the hours due to a well documented problem beyond the control of the operator (short rain squall, oil spill, etc.) that would cause an event to be unfinished within normal hours of operation.

Respectfully,

PARKS & RECREATION


Neil J. Ledward
Director

NJL:db
Enclosure



Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

October 23, 1980

• Mr. J. Malcolm McMinn, Director
State Marine Board
3000 Market St., N.E., #505
Salem, OR 97310

Dear Mal:

As you know, we have recently held public hearings to gather testimony on proposed noise control rules for racing vehicles and facilities. This proposal includes provisions that would apply to racing motorboats. These provisions include a requirement for mufflers and a specified noise emission limit. Also included is a provision that could exempt any event that would not severely impact noise sensitive properties based upon a two (2) miles buffer distance between the event location and the nearest residences. Enclosed is a copy of the proposal for reference.

Don Arnold at the Department of Justice, in his memo dated July 16, 1979, expressed his opinion that our agencies have a "shared responsibility" in this area of noise control due to provisions of ORS Chapters 467 and 488.

It is clear that the Marine Board has the authority and responsibility to protect persons and property from being disturbed or endangered when racing motor boats are being tested in a residential area (ORS 488.102(1)(g)). In addition, when considering a racing event authorization request, the Board must provide by regulation, the provisions to approve events "consistent with the safety and pleasure of the public" (ORS 488.108(2)).

Due to this shared responsibility to control racing motorboat activities and excessive noise, we propose the Board consider the following amendment to its administrative rules to accommodate Environmental Quality Commission rules, if adopted:

New Material is Underlined

Mufflers

OAR 250-10-121

(1) The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled at all times in accordance with ORS 480.052. The term "effectively muffled" shall mean any mechanical device integral to or which limits the exhaust noise emissions in any operation of a boat to a maximum of 84 dBA.

(2) No person shall operate a motor boat in any manner on the waters of this state that exceeds a noise level of 84 dBA, measured at a distance of fifty (50) feet or more from the motorboat.

(3) This regulation shall not apply to motorboats competing under a permit issued by the State Marine Board pursuant to ORS 488.108 or a United States Coast Guard permit, in a regatta, a boat race, or while on official trials for speed records during the time and in a designated area designated by the State Marine Board pursuant to ORS 488.102. However, where noise sensitive property and persons are located within two (2) miles of a racing motorboat test area or race course, the Board finds the pleasure of the public may be disturbed or endangered by excessive noise and therefore requires such racing motorboats to comply with applicable Environmental Quality Commission noise control rules and standards, if any.

We are presently evaluating the testimony presented during the public hearings period and amending the proposal to reflect those comments acceptable to the Department. We have tentatively scheduled to bring this matter before the Environmental Quality Commission at its regularly scheduled meeting on November 21st in Portland for final action. Naturally we wish the Marine Board to consider the above proposed amendments at its earliest convenience.

We look forward to your continued cooperation.

Sincerely,



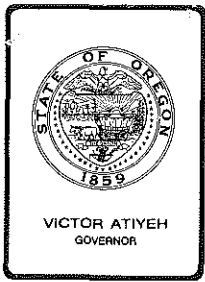
William H. Young
Director

JMH:s

NPS105 (1)

Enclosure (1)

cc: State Marine Board Members
Ray Underwood, Dept. of Justice
Lon Bonney, Dept. of Justice
Don Arnold, Dept. of Justice



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, November 21, 1980, EQC Meeting

Certain Territory Contiguous to City of Albany -
Certification of Plans for Sewerage System as Adequate
to Alleviate Health Hazard, ORS 222.898

Background

As a result of a health hazard survey of the Draperville-Century Drive area northeast of Albany conducted by the Health Division, the area was certified as a health hazard by the Health Division Administrator on December 1, 1978. Subsequent to that certification the City of Albany submitted a proposal and time schedule for sewerage system. The proposal did not provide sufficient information for the Department to determine if the proposal submitted was the best way to alleviate the health hazard.

This item was presented in detail at the April 1979 Commission meeting (Attachment A). The Commission action was to issue a Certificate of Plan Disapproval and Directives (Attachment B). The city was required to apply for a Step I facilities planning grant and submit a revised plan within six months of receipt of such grant.

The city of Albany was awarded the Step I grant on September 21, 1979, and authorized their consultant to proceed on the study on November 19, 1979.

The city adopted the recommended alternative 2B of the final report on July 9, 1980, and transmitted copies of the report to the Director on August 12, 1980 (Attachment C). The city resolution adopting the plan is Appendix H of their report.

The Implementation Time Schedule required by the Commission is found on page 116 of their report and a copy of their schedule is attached hereto (Attachment D).



Contains
Recycled
Materials

The city's 1980 Standard Specifications for sanitary Sewer Construction were submitted on October 2, 1980, as being applicable to the proposed annexation area sewer construction.

The Albany-Draperville wastewater facility plan is available for your inspection.

Evaluation

The facility planning study area settled upon by the various agencies abuts the northern city limits and includes the proposed health hazard annexation area. The northwesterly limit of the study area is short of the Albany Urban Growth boundary as shown on Figure 2.1 of their report (Attachment E). The study area can be considered modest in that, besides serving the health hazard area, a limited amount of adjacent property can be served.

The selected sewer collection and transmission plan is described on Figure 10.1 of their report (Attachment F) and as follows.

1. Draperville sewage would be collected to a point where an interim pump station would be constructed with a force main along Knox Butte Road to the Century Drive system (Alternate 2).
2. Century Drive sewage including Draperville sewage would be collected to a regional pump station east of I-5.
3. The regional pump station would pump under I-5 to the city's existing wastewater treatment plant via alternate interceptor route B.
4. As orderly growth warrants in the future, the Truax Creek trunk sewer may be constructed (Alternate 1) to eliminate the interim Draperville pump station and to serve other growth.

The plan does identify pipe sizes, alignments and pump station locations and capacities, and thus is more specific than the previous plan submitted by the city.

The staff previously concluded that installation of a sewage collection system will reduce the health hazard by eliminating discharge of inadequately treated sewage to the ground surface and ground water. We could not conclude, however, that sewer installation will resolve the contaminated well problem, since the aquifer is apparently subject to contamination from surface sources. Thus, the staff concludes that installation of sewers in the area will reduce (alleviate) the health hazard, but will not "remove" it. The consultant's report estimates that "pollution of shallow aquifers, which is now occurring as a result of failing septic systems, may require at least 1 year to naturally dissipate." No alternative plans for providing a community water system either in addition to or in lieu of a community sewerage system were included in the report.

The specifications have been reviewed and are adequate for the construction of sanitary sewers.

The implementation schedule is yet dependent upon an EPA Step II and III grant. However, with an approved Step I report, this project is now more implementable. Neither an alternative schedule nor an alternative funding plan was presented so the tentative implementation schedule as presented is recommended for approval. A Step II grant for this project is No. 2 on the FY 81 priority list. Construction funding is currently scheduled for FY 82.

If for some reason it becomes apparent that federal funds will not be available, the Department may need to revise the schedule and require construction as expeditiously as possible without federal funds.

Summation

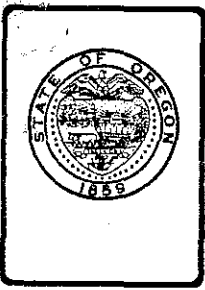
1. On December 1, 1978, the State Health Division issued a health hazard annexation order for the Draperville-Century Drive area northeast of Albany. A certified copy of the order was given to the City of Albany.
2. The City of Albany was directed to submit a preliminary plan and time schedule for abating the health hazard.
3. A preliminary plan was submitted by Albany February 21, 1979. The plan was not adequate and was disapproved by the Commission at the April 27, 1979, meeting.
4. The City was directed to submit a completed Step 1 application by July 1, 1979, and to complete a facility plan report within 6 months of receiving a Step 1 grant.
5. The City of Albany completed a facility plan report and adopted alternative 2B on July 9, 1980. The documents were transmitted to the Department on August 12, 1980.
6. ORS 222.898 requires the Commission to certify to the City its approval if it considers the proposed facilities and time schedule adequate to remove or alleviate the health hazard.
7. The Department staff have reviewed the facility plan and time schedule and consider it approvable. The sanitary sewers proposed will reduce (alleviate) the health hazard within the area to be annexed.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission approve the proposal of the City of Albany and certify said approval to the City.


William H. Young

James L. Van Domelen:f
229-5310
October 24, 1980
WF379 (2)



Environmental Quality Commission

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

MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item No. 1, April 27, 1979, EQC Meeting

RECEIVED
OCT 21 1980

Water Quality Division
Dept. of Environmental Quality

Certain Territory Contiguous to City of Albany -
Certification of Plans for Sewerage System as
Adequate to Alleviate Health Hazard, ORS 222.898

Background

The Administrator of the State Health Division on December 1, 1978, after following all due process required by ORS 222.850 to ORS 222.915, issued an order adopting the 'Findings of Fact and Recommendations by Hearings Officer' dated September 8, 1978, in this matter. A certified copy of same was filed with the City of Albany on December 1. The order, finding that a danger to public health exists, covers the Draperville-Century Drive area northeasterly of the City of Albany.

The area was surveyed between January, 1975 and August, 1978. Approximately 209 persons reside in this area consisting of 266 properties. Two hundred eighteen properties were surveyed. Thirty-four wells were found to be contaminated with sewage and 90 properties had inadequate sewage disposal. Fifty-nine cases of gastrointestinal illness were reported in the northwest portion of the area between July 11 and 27, 1978, an attack rate of 23 percent compared to 5 percent for the population at large.

The City has 90 days after receipt of the certified copy of the Findings to prepare preliminary plans and specifications, together with a time schedule for removing or alleviating the health hazard.

The Environmental Quality Commission has 60 days from time of receipt of preliminary plans and other documents to determine them and the proposed time schedule either adequate or inadequate to remove or alleviate the dangerous conditions and to certify same to the City.

Upon receipt of EQC certification, the City must adopt an ordinance in accordance with ORS 222.900 which includes annexation of the territory. The City is then required to cause the necessary facilities to be constructed.



Contains
Recycled
Materials

By letter dated February 21, 1979 (received February 26, 1979), the City of Albany submitted to DEQ a preliminary plan and specifications, together with a schedule for construction of sewers in the proposed annexation area.

Evaluation

The schedule submitted by the City (see attachment) ties construction to EPA grant assistance. Grant contingent schedules have been approved in the past when funds were assured. Current funding uncertainties make such a schedule very indefinite and do not insure prompt resolution of the health hazard. The schedule is different from other projects approved in that it proposes to delay annexation until after a Step 3 grant is approved rather than immediately after preliminary plan certification and before design as the law provides. The Department concludes that the schedule is insufficient.

The Department presently proposes to use the remaining federal grant funds in the unspecified reserve for Step 1 and Step 2 grants for addressing problems in mandatory annexation areas. By limiting the scope of such facility plans to the immediate health hazard proximity, it appears that sufficient funds are available to initiate the necessary further planning in each certified area. Design can also be initiated in those certified areas where facility planning is complete.

The plan submitted by the City includes a map showing the general routing of collection sewers within the health hazard area, and routing of a new interceptor from the area to the City's existing sewage treatment plant which appears to have adequate capacity to serve the area. It also includes a copy of the City's standard specifications for sewer construction. The plan does not identify pipe sizes, grades, lengths or pump station locations, if any.

The preliminary plan does not provide enough information to determine if it is the best way to address the sewage disposal problem. The plan contains less detail than we normally have received for health hazard projects. For federal grant funded projects, a complete facility plan (evaluation of alternatives) is necessary before design can commence. Thus, the conceptual plan submitted is sufficient to identify one alternative for routing sewers to serve the area, but is not sufficient to demonstrate that it is the best solution to the problem.

The staff concludes from the Health Division Findings that the health hazard in the area is a result of sewage on the surface of the ground, as well as contaminated drinking water wells. Installation of a sewage collection system will reduce the health hazard by eliminating discharge of inadequately treated sewage to the ground surface and groundwater.

We cannot conclude, however, that sewer installation will resolve the contaminated well problem, since the aquifer is apparently subject to contamination from surface sources in addition to sewage. (See middle of Page 17 of Health Division Findings). Thus, the staff concludes that installation of sewers in the area will reduce (alleviate) the health hazard, but will not "remove" it.

In summary, the staff concludes that the City's preliminary plan should not be approved. It is preferable that the facility plan be submitted as the preliminary plan together with a new schedule based on better funding information. Limited funds are available for a Step I grant for facility plan preparation from the unspecified reserve. A facility plan will take about 6 months to complete from the time of grant award. By the time it would be complete, federal funding levels should be known for FY 80. In addition, the Department's new priority criteria and priority list will be complete so that a specific schedule for design and construction can be developed.

Summation

1. Pursuant to the provisions of ORS 222.850 to 222.915, the State Health Division issued an order adopting Findings and certified a copy of the Division's Findings to the City of Albany.
2. The City has submitted a preliminary plan and standard specifications, together with a time schedule to the DEQ for review.
3. ORS 222.898(1) requires the Commission to review the preliminary plans and other documents submitted by the City within 60 days of receipt.
4. ORS 222.898(2) requires the Commission to certify to the City its approval if it considers the proposed facilities and time schedule adequate to remove or alleviate the dangerous conditions.
5. ORS 222.898(3) requires the Commission, if it considers the proposed facilities or time schedule inadequate, to disapprove the proposal and certify its disapproval to the City including the particular matter causing the disapproval. The City Council shall then submit an additional or revised proposal.
6. The plan and schedule submitted by the City are inadequate in that the plan lacks sufficient detail on the proposal and possible alternatives and the schedule is too indefinite as to timing for resolution of the health hazard and does not appear to follow the statute with regard to relative timing for annexation.

7. Step I grant funds can be made available to the City to assist in funding a facility plan for the health hazard Area. Such a plan will be required eventually in any event and can be completed in 6 months from the time of grant award. Such a plan should be a major component of a revised submittal from the City.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission issue an order to the City of Albany which:

1. Disapproves the proposal of the City for the reasons cited in the Summation.
2. Directs the City to submit a completed Step I grant application to DEQ by July 1, 1979 with the scope of work and costs having been negotiated with DEQ and EPA prior to that date.
3. Directs the City to submit a revised preliminary plan consisting of a completed facility plan and an appropriate new schedule to the Commission for review within 6 months after EPA award of the Step I grant.

Bill

WILLIAM H. YOUNG

James L. Van Domelen:gcs/em
229-5310
April 18, 1979

STATE OF OREGON
ENVIRONMENTAL QUALITY COMMISSION

In the Matter of an Annexation)	
of Certain Territory to the	)	CERTIFICATE OF PLAN
City of Albany, Oregon, pursuant	)	DISAPPROVAL AND DIRECTIVES
to ORS 222.850 to 222.915 to)	
Remove a Danger to Public Health)	

I

The Oregon Environmental Quality Commission received from the City of Albany on February 26, 1979, preliminary plans and specifications, together with an implementation time schedule, for the installation of sanitary sewers in certain territory, commonly known and referred to as the Draperville-Century Drive Area, adjacent to the northeasterly corporate limits of the City of Albany, Oregon.

II

Pursuant to ORS 222.898, the Commission reviewed said plans and specifications and implementation time schedule, which are contained in Exhibit A attached hereto and made a part hereof, and hereby certifies to the City of Albany its disapproval thereof because the plan lacks sufficient detail on the proposal and possible alternatives and the time schedule is too indefinite to assure the prompt termination of the danger to public health which ORS 222.850 to 222.915 require.

III

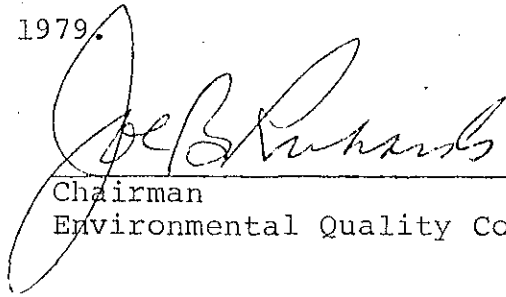
In order that the City of Albany be able to submit promptly to the Commission a revised plan and schedule, as

it is required to do by ORS 222.898, the Commission hereby directs the City of Albany to submit:

(1) a completed Step 1 grant application to the Oregon Department of Environmental Quality by July 1, 1979, with the scope of work and costs having been negotiated with the Department and the United States Environmental Protection Agency prior to that date; and

(2) a revised preliminary plan, consisting of a completed facility plan and specifications, and an appropriate fast-track implementation time schedule, to the Commission for review within six months after the Environmental Protection Agency's award of the Step 1 grant.

DATED: April 27, 1979.


Chairman
Environmental Quality Commission



City of Albany

ADMINISTRATION & PERSONNEL

August 12, 1980

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
AUG 15 1980

WATER QUALITY CONTROL

Director, Environmental
Quality Commission
P.O. Box 1760
Portland, OR 97207

Dear Sir:

SUBJECT: In the Matter of an Annexation of Certain Territory to the City of Albany, Oregon, Pursuant to ORS 222.850 to 222.915 to Remove a Danger to Public Health

Enclosed are two copies of the Albany-Draperville Wastewater Facility Plan, which are being submitted in conformance with the EQC Directives of April 27, 1979. The enclosed, revised preliminary plan constitutes completion of Step I EPA Facility Planning Requirements of the Federal Clean Water Act.

I would like to call to your attention our Tentative Implementation Schedule, as listed on Page 116 of the Plan. In order to facilitate the timely completion of this project and to eliminate the major cause of the health hazard, the City of Albany is prepared to begin construction by August, 1981. It is my understanding, however, that the Department of Environmental Quality has established a funding schedule with the Step III monies for this project available in the 1983 fiscal year. I would like to request that the Environmental Quality Commission consider the importance of eliminating the health hazard which necessitates the annexation of the area to be served and make funds for construction available so that the schedule may be followed.

Sincerely,

William B. Barrons
City Manager

ldh
Enclosures
pc: Bob Jackson, Public Works Director

P. O. BOX 490 CH2M Hill

ALBANY, OREGON 97321

(503) 967-4311

TABLE 10-4
TENTATIVE IMPLEMENTATION SCHEDULE(1)

SUBMISSION OF FINAL FACILITY PLAN	1 AUG 1980
SUBMIT STEP II GRANT APPLICATION INITIATION OF ANNEXATION PROCEEDINGS	1 SEP 1980
FACILITY PLAN APPROVAL	15 SEP 1980
STEP II GRANT APPROVAL	15 OCT 1980
FINALIZATION OF ANNEXATION	15 NOV 1980
STEP II GRANT AWARD INITIATE DESIGN	1 DEC 1980
SUBMIT STEP III GRANT APPLICATION	15 APR 1981
STEP III GRANT APPROVAL	1 MAY 1981
ADVERTISE FOR CONSTRUCTION BIDS	15 MAY 1981
BID OPENING	15 JUN 1981
STEP III GRANT AWARD	15 JUL 1981
CONTRACT AWARD INITIATE CONSTRUCTION	1 AUG 1981
COMPLETE CONSTRUCTION BEGIN SERVICE CONNECTION HOOKUPS	15 AUG 1982
BEGIN OPERATION	1 SEP 1982

(1) SUBJECT TO EPA FUNDING APPROPRIATIONS

amount to an annual installment to retire the debt for a typical property owner of \$591.58.

In addition to the initial costs associated with paying for the capital improvements, each benefited property owner must pay a monthly sewer use fee to cover operation and maintenance of the transport and treatment system. The City's present rates for a residential account amount to \$5.60 per month or an annual sewer use fee of \$67.20.

To put the magnitude of the estimated cost to typical property owners illustrated in Table 10-3 in perspective, estimated costs to install an onsite sand filter system to upgrade a malfunctioning subsurface disposal system are approximately \$8,000. As discussed in the preliminary screening of alternatives presented in Chapter 6, upgrading the existing onsite systems within the facility planning area would not guarantee a long-term solution to the problem. In addition, annual costs associated with operating, maintaining, and monitoring onsite system improvements would likely be greater than those presented in Table 10-3.

TENTATIVE IMPLEMENTATION SCHEDULE

The schedule for implementation of the design and construction of the selected plan is dependent on the timing of Federal legislation which is needed for funding appropriations. Present EPA funds appropriated to the State of Oregon are committed to large transition projects within the state which are presently under construction. However, the Albany-Draperville project is listed as No. 2 on the state's FY 1981 priority listing prepared by the Department of Environmental Quality. Due to the relatively high priority of the project, Step II (design) funding appears to be a very good possibility with fiscal year 1981 funds, should they be appropriated. A schedule for Step III (construction) funding becomes more uncertain due to the unknowns associated with future congressional appropriations.

The Albany City Council has approved implementation of the selected plan and has directed the City Manager to prepare an application for submission to the Environmental Protection Agency for a Step II (design) grant. This resolution is contained in Appendix H. It is the City's intention to finalize forced annexation proceedings of the declared health hazard area immediately following Step II grant approval by EPA. plan?

Table 10-4 illustrates a tentative implementation schedule. As previously discussed, project implementation is heavily dependent upon future EPA funding appropriations. The schedule presented in Table 10-4 assumes funding appropriations will not delay the project. Should future funding

D

RESOLUTION NO. 2040

NOW, THEREFOR, BE IT RESOLVED BY THE MAYOR AND MEMBERS OF THE ALBANY CITY COUNCIL THAT:

The City Engineer's preliminary construction plans, specifications, and implementation plans including a time schedule for alleviating the conditions causing a danger to public health in the Century Drive-Draperville Area, as described by the Administrator of the Oregon State Health Division's findings certified to by same on December 1, 1978 be approved, and

BE IT FURTHER RESOLVED that prior to March 4, 1979, the City Engineer shall submit the approved preliminary plans, specifications and implementation plan along with the time schedule to the Oregon State Environmental Quality Commission, and

BE IT FURTHER RESOLVED that in initiating the implementation plan the Mayor be authorized to sign an Application (Form 5700-32) and all pertinent attachments for federal assistance through the U. S. Environmental Protection Agency for Facilities Planning (Step 1).

DATED this 14th day of February, 1979.

Richard S. Olsen
Mayor

ATTEST:

[Signature]
City Recorder

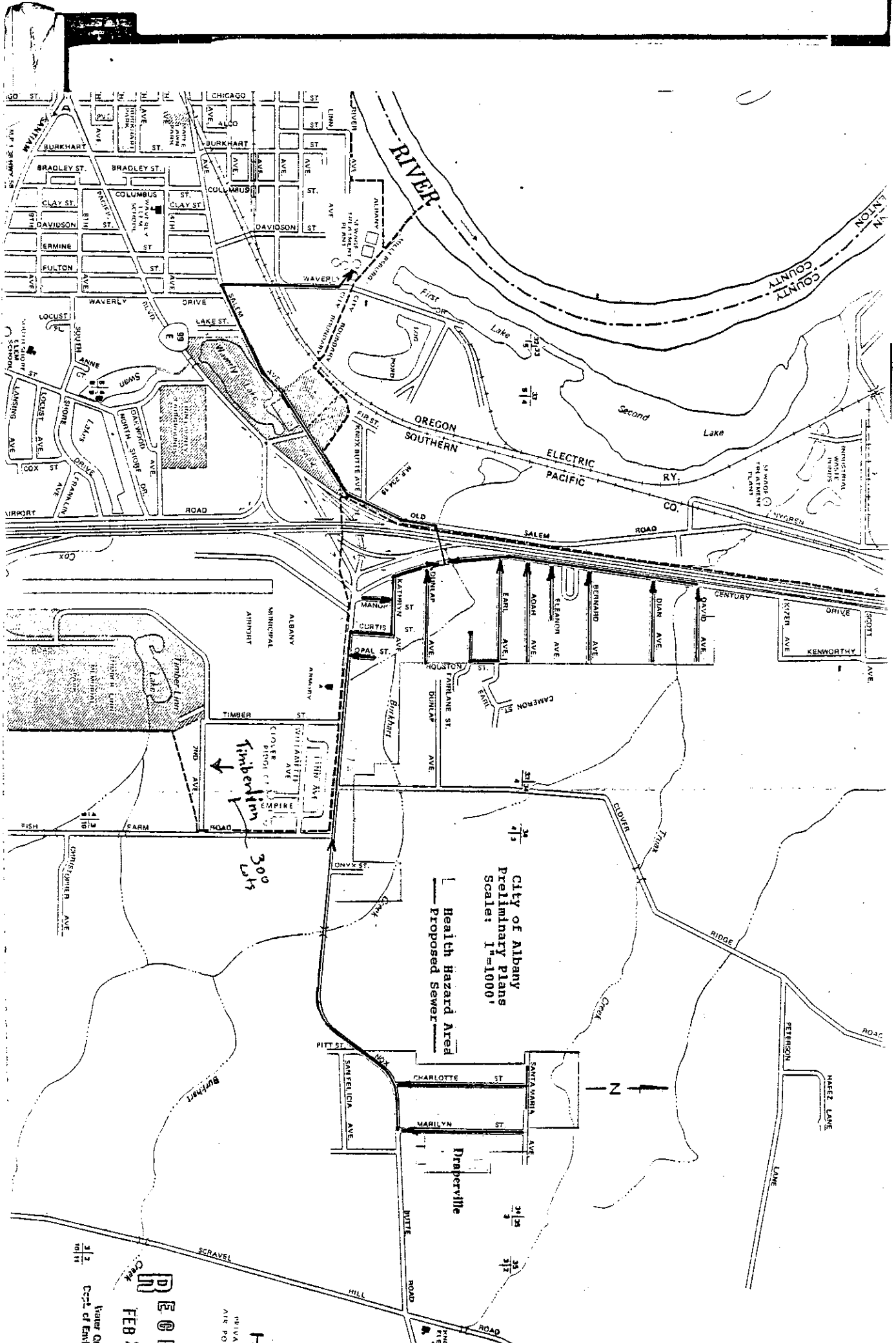


State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
FEB 23 1979

WATER QUALITY CONTROL

CITY OF ALBANY'S PLAN AND TIME SCHEDULE
FOR
ALLEVIATING THE CONDITIONS CAUSING A DANGER TO PUBLIC HEALTH
WITHIN
THE DECLARED HEALTH HAZARD AREA OF CENTURY DRIVE-DRAPEVILLE, LINN COUNTY

1. City to submit preliminary plans, specifications and time table within 90 days of receipt of Certified Findings.
2. City to apply for Step 1 funds through the Environmental Protection Agency within 180 days of receipt of Certified Findings.
3. City to apply for Step 2 funds through the Environmental Protection Agency within 90 days of approval of the Step 1 Facility Plan, by the E.P.A.
4. City to apply for Step 3 funds through the Environmental Protection Agency within 90 days of approval of Step 3 Plans and Specifications, by the E.P.A.
5. City to advertise for bids to construct wastewater facilities within 45 days of approval of Step 3 grant money from the E.P.A.
6. City to begin annexation proceedings of health hazard area within 45 days of the receipt of approval of Step 3 grant money from the E.P.A.
7. City to award contract(s) for construction of wastewater facilities within 30 days of the opening of the bids.
8. City to begin construction within sixty (60) days of the award of bid(s).



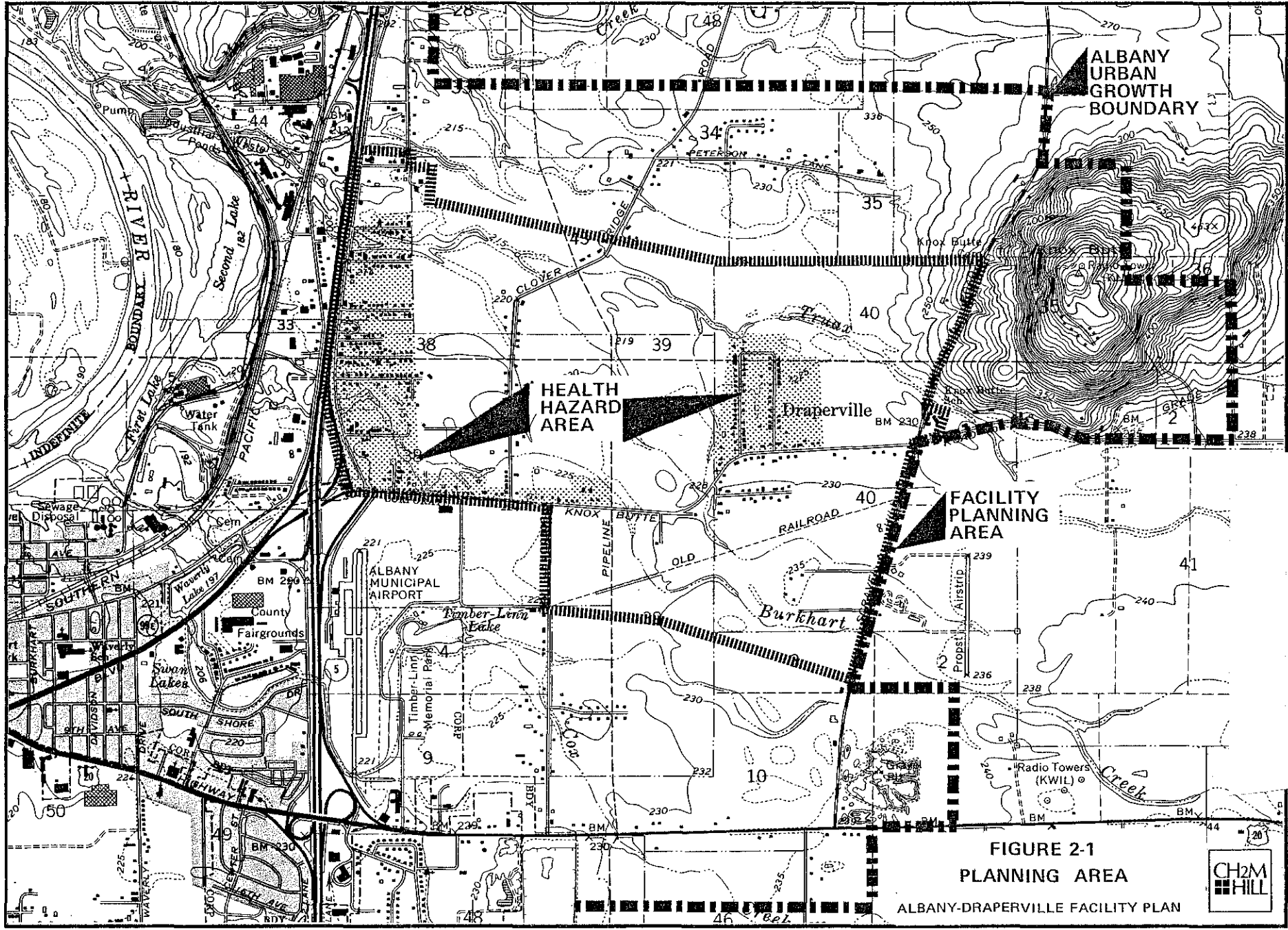
City of Albany
 Preliminary Plans
 Scale: 1"=1000'

Health Hazard Area
 Proposed Sewer

300
 Timberline

REORE
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 Year of Enth
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H
 PRIVATE
 AIR FOR



**FIGURE 2-1
PLANNING AREA**

ALBANY-DRAPERVILLE FACILITY PLAN

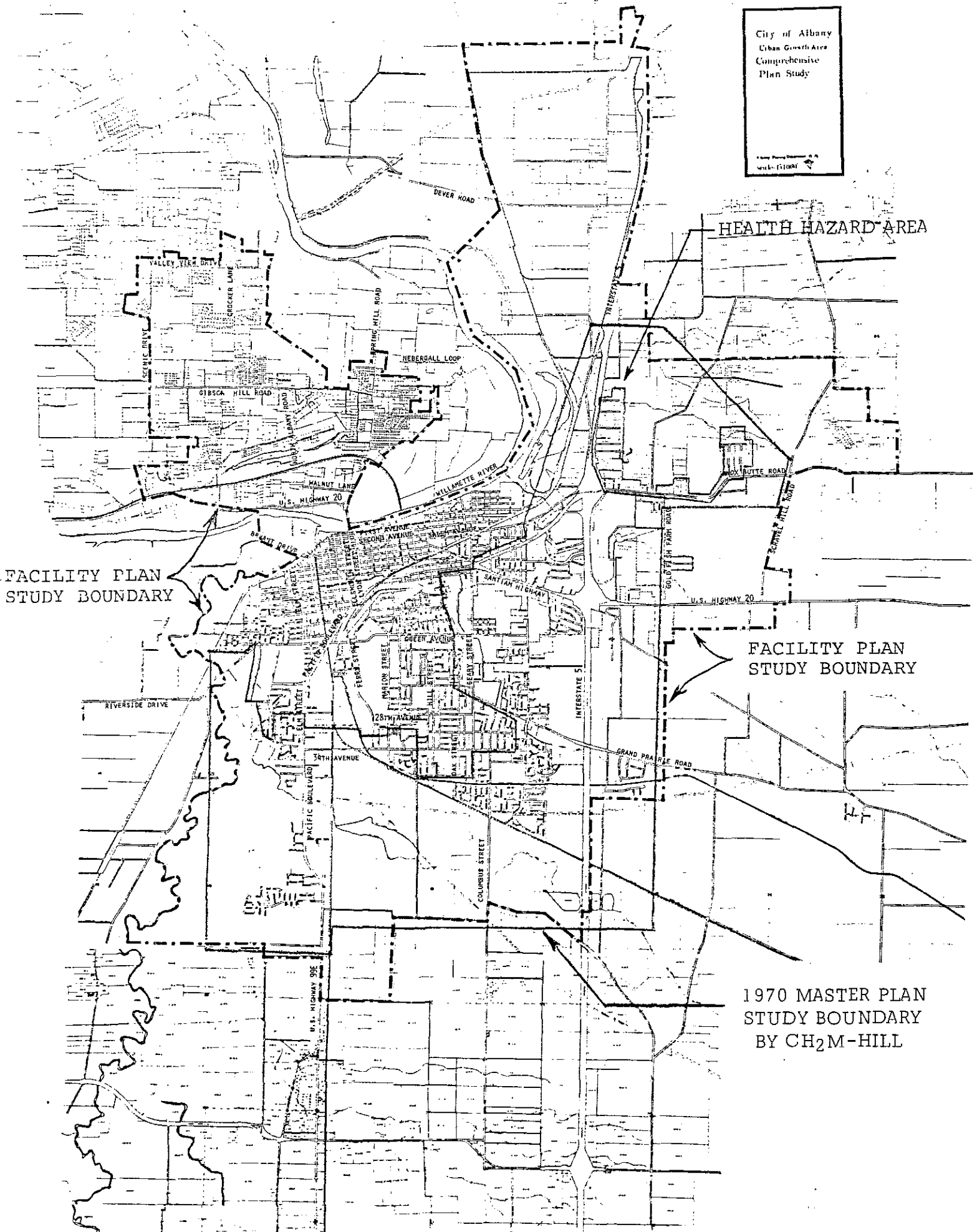


ATTACHMENT "E"

analyze the most practical alternative waste treatment technology techniques to determine the most cost-effective, environmentally sound solution to the problem. The environmental assessment, included as part of the facility plan, is expected to guide selection of this alternative.

City of Albany
Urban Growth Area
Comprehensive
Plan Study

Planning Department
1984-1985



HEALTH HAZARD AREA

FACILITY PLAN STUDY BOUNDARY

FACILITY PLAN STUDY BOUNDARY

1970 MASTER PLAN STUDY BOUNDARY BY CH₂M-HILL

BEFORE THE STATE HEALTH DIVISION
OF THE DEPARTMENT OF HUMAN RESOURCES
OF THE STATE OF OREGON

In the Matter of an Annexation of
Certain Territory Referred to as the
Drapersville-Century Drive Area, to
the City of Albany, Linn County,
Oregon, Pursuant to the Provisions
of ORS 222.850 to 222.915, Due to
Conditions Causing a Danger to Public
Health.)

FINDING OF FACT AND
RECOMMENDATION BY
HEARINGS OFFICER

TO: Kristine M. Gebbie
Assistant Director, Human Resources
Administrator, State Health Division

The above entitled matter, having come on for hearing on the 15th day of August, 1978, at the George Miller Room in the Old Armory Building at 4th and Lion Street, Albany, Oregon, a place near the territory proposed to be annexed, and having been heard by Max W. Braden, Hearings Officer appointed by the State Health Division; Leonard W. Pearlman having appeared as counsel for the State Health Division; members of the public having appeared personally and not by counsel, evidence having been presented in behalf of the State Health Division and the aforementioned members of the public having been heard, the Hearings Officer, having considered all the evidence presented and being fully advised in the premises makes the following:

FINDINGS OF FACT

I.

By order of the State Health Division dated July 10, 1978, a hearing was ordered in the within matter for the purpose of determining whether a danger to public health exists due to conditions existing in the territory proposed to be annexed and described in a resolution dated July 5, 1978, of the Board of Health of Linn County, Oregon.

II.

Notice of the said order and resolution was thereupon immediately given by the Division by publishing it once each week for two consecutive weeks in the Albany Democrat Herald, a newspaper of general circulation within the city of Albany, Oregon, and the territory proposed to be annexed, and by posting copies of the said order and resolution in each of four public places within the territory proposed to be annexed.

III.

Sewage disposal and treatment within the area proposed to be annexed is by facilities serving individual properties as opposed to a community collection system. There are approximately 266 developed properties within the area, all dependent upon individual sewage disposal facilities. Additionally, the properties within the area are dependent upon individual wells for domestic water, as opposed to an area-wide domestic water supply system. Two hundred eighteen of these properties have been investigated or surveyed. Inadequate facilities for the disposal of sewage existed on 90 of these properties. Thirty-four wells serving the area were contaminated with sewage. Specifically, the following conditions existed on properties within the area during the course of investigations and surveys conducted between January, 1975 and August of 1978. Without evidence to the contrary, the inadequate sewage disposal facilities and contaminated wells evidenced by these conditions are presumed to continue to exist:

1. On August 2, 1978, at 3579 David Avenue, raw or inadequately treated sewage from the household was discharging into a ditch that leads to David Avenue.
2. On February 27, 1978, and August 9, 1978, at 3551 David Avenue, raw or inadequately treated sewage from the household was discharging to the surface of the ground from under a plywood cover adjacent to a concrete tile in the front of the property at the roadside ditch.

3. On February 27, 1978, at 3519 David Avenue, inadequately treated sewage was standing on the surface of the ground in the backyard.
4. On July 25, 1978, at 3505 Dian Avenue, raw or inadequately treated sewage from the household was discharging to the surface of the ground from a pipe at the back of the property from which it discharged down a bank towards Truax Creek.
5. On August 3, 1978, at 3580 Dian Avenue, raw or inadequately treated sewage from the household was discharging to the surface of the ground from a pipe near the east property line.
6. On January 7, 1976, at 3698 Dian Avenue, sewage from the sink or laundry in the household was standing on the surface of the ground under and around the rear of the dwelling. On August 3, 1978, the laundry waste from the household was discharging through a line that ran across the front yard and part of Dian Avenue and into a creek north of Dian Avenue.
7. On May 25, 1978, at 1101 Century Drive, raw sewage including toilet waste from a mobile home and a duplex had accumulated in a pool between these two living units at the front of the property. On May 23, 1978 and June 7, 1978, the well serving these residences was contaminated with sewage.
8. On July 25, 1978, and July 28, 1978, at 1203 Century Drive, also known as Country Boy Market, water in the well serving the market and a residence was contaminated with sewage.
9. On August 2, 1978, at 1491 Century Drive, kitchen sink waste water was discharging directly to the surface of the ground from a pipe at the exterior rear of the house.
10. On August 2, 1978, at 3439 Bernard Avenue, raw or inadequately treated sewage from the household was discharging into a hole in the front yard which was covered with a piece of plywood.

11. On July 24, 1978 at 3489 Bernard Avenue, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
12. On February 15, 1978, at 3462 Eleanor, raw sewage including toilet waste was discharging to the surface of the ground where the sewer line emerged from under the house. On January 31, 1978, water in the well serving the residence contained coliform bacteria indicative of sewage contamination.
13. On July 25, 1978, at 3503 Eleanor, the drainfield was located in an area saturated with standing water during the wintertime. Such condition causes the raw sewage to discharge to the ground surface. On July 25, 1978 and July 28, 1978, water in the well serving this residence contained coliform bacteria evidencing sewage contamination.
14. On July 20, 1978 and July 25, 1978, at 3526 Eleanor, water in the well serving the residence was contaminated with sewage.
15. On July 27, 1978 at 3437 Adah Avenue, raw or inadequately treated sewage from the residence was discharging to the surface of the ground at the west edge of the property adjacent to a pile of gravel.
16. On January 25, 1978 and July 24, 1978 at 3448 Adah Avenue, water in the well serving this residence was contaminated with sewage.
17. On July 24, 1978 at 3604 Adah Avenue, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
18. On July 24, 1978 at 3609 Adah Avenue, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
19. On August 2, 1978 at 1020 Huston Street, raw or inadequately treated sewage from the residence was discharging to the surface of the ground from a pipe at the rear of the house.

20. On July 24, 1978, at 117 Curtis Street, the septic tank on the property discharged to the surface of the ground during the wintertime.
21. On July 28, 1978, at 130-A Curtis Street, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
22. On February 27, 1978 at 105 Clover Ridge Road, raw or inadequately treated sewage from the residence was discharging to the surface of the ground at the rear of the house.
23. On February 27, 1978 at 4015 Knox Butte Road, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
24. On February 27, 1978 at 4055 Knox Butte Road, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
25. On February 27, 1978 at 4119 Knox Butte Road, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
26. On July 26, 1978 at 150 Charlotte Street, raw or inadequately treated sewage from the residence was discharging to the surface of the ground from around the lid of the septic tank.
27. On February 27, 1978 at 230 Charlotte Street, raw or inadequately treated sewage from the residence was discharging to the surface of the ground at the rear of the building.
28. On March 1, 1978 at 329 Charlotte Street, raw sewage from the household was discharging to the surface of the ground at the rear of the house.
29. On February 27, 1978 at 4605 Santa Maria Avenue, raw or inadequately treated sewage from the household was discharging into an open top septic tank which was covered by a piece of plywood.

30. On February 27, 1978, the ditch which drains the central portion of the subdivision commonly called Drapersville where it crosses Santa Maria Avenue was contaminated with sewage. Said drainage ditch drains into Truax Creek, a tributary of the Willamette River.
31. On July 26, 1978 at 330 Marilyn Street, raw or inadequately treated sewage from the residence was discharging into a ditch in the back yard of the residence.
32. On February 27, 1978 at 135 Onyx Street, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
33. On August 1, 1978 at 3551 David Avenue, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
34. On July 25, 1978 at 3580 David Avenue, water in the well serving the residence contained coliform bacteria indicative of sewage contamination.
35. On July 26, 1978 at 3437 Bernard, water in the well serving the residence contained coliform bacteria indicative of sewage contamination.
36. On August 8, 1978 at 3489 Eleanor, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
37. On August 3, 1978 at 1197 Century Drive, water in the well serving the trailer court on the property contained coliform bacteria indicative of sewage contamination.
38. On January 7, 1976 at 3510 David Avenue, raw and inadequately treated sewage from the residence was discharging to the surface of the ground through an exposed and broken sewer line in the back yard.
39. On January 7, 1976 at 3520 David Avenue, sewage would not drain adequately from the plumbing fixtures in the household and would back up upon flushing the toilet. The drainfield for the subsurface sewage disposal system serving this dwelling was located in the flood channel of Truax Creek

and was under water preventing the system from serving its intended function of treating and disposing of the sewage effluent.

40. On January 7, 1976 at 3530 David Avenue, the septic tank and drainfield system were located in the Truax Creek flood channel. Water standing over these facilities prevents the disposal or treatment of sewage discharged to them.
41. On January 8, 1976 at 3480 Dian Avenue, the toilet in the household could not be flushed. The septic tank and drainfield were located in an area with a very high ground water condition preventing the disposal or treatment of sewage discharged to these facilities.
42. On January 10, 1976 at 3515 Dian Avenue, raw or inadequately treated sewage from the household was discharging from a pipe at the back of the property.
43. On July 28, 1978 at 3529 Dian Avenue, water in the well serving this residence was contaminated by sewage.
44. On January 8, 1976 at 3560 Dian Avenue, raw or inadequately treated sewage from the household was discharging to the surface of the ground south of the house.
45. On July 25, 1978 at 3580 Dian Avenue, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
46. On July 28, 1978 at 3625 Dian Avenue, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
47. On March 31, 1976 at 3629 Dian Avenue, raw sewage including toilet waste was discharged to the surface of the ground adjacent to the foundation on the north side of the house.

48. On July 8, 1976 at 3656 Dian Avenue, inadequately treated sewage from the household was discharging to the surface of the ground from a sump pump located approximately 85 feet south of the house.
49. On January 10, 1976 at 3660 Dian Avenue, inadequately treated sewage from the household was discharging to the surface of the ground within four feet of the well to the south of the house.
50. On January 8, 1976 at 3690-1/2 Dian Avenue, raw or inadequately treated sewage from the household was discharging to the surface of the ground in the yard.
51. On July 25, 1978 at 3481 Bernard Avenue, water in the well serving this residence was contaminated with sewage.
52. On January 8, 1976 at 3511 Bernard Avenue, raw sewage from the household was discharging to the surface of the ground from the broken sewer line where the cast iron pipe leaves the house. The septic tank and drainfield for this household was located in an area saturated with ground water, preventing the system's intended function of disposing of and treating sewage discharged to it.
53. On January 9, 1978 at 3521 Bernard Avenue, raw or inadequately treated sewage from the household was discharging into an open ditch leading northwest from the septic tank.
54. On January 9, 1976 at 3530 Bernard Avenue, raw or inadequately treated sewage from the household was discharging to the surface of the ground approximately 30 feet south of the house.
55. On January 9, 1976 at 3548 Bernard Avenue, raw or inadequately treated sewage from the household was discharging to the surface of the ground in the back yard.

56. On January 8, 1976 at 3549 Bernard Avenue, raw or inadequately treated sewage from the household was discharging to the surface of the ground from an overflowing septic tank.
57. On January 9, 1976 at 3570 Bernard Avenue, raw or inadequately treated sewage from the household was discharging to the surface of the ground south of the house. On July 26, 1978, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
58. On January 9, 1976 at 3580 Bernard Avenue, raw or inadequately treated sewage from the residence was discharging to the surface of the ground south of the house.
59. On January 9, 1976 at 3596 Bernard Avenue, inadequately treated sewage from this household discharged into the drainage ditch which runs along the easterly part of the property. On July 19, 1978 water in the well serving this residence contained coliform bacteria indicative of sewage contamination. This well also serves the household located at 3590 Bernard Avenue.
60. On January 12, 1976 at 3472 and 3470 Eleanor, inadequately treated sewage from the household was discharging into an open hole in the back yard.
61. On January 10, 1976 at 3489 Eleanor, the toilet backed up frequently when it rained. The area in which the septic tank system was located in a high ground water table had a distinct odor of sewage. The location of the sewage disposal system in high ground water prevented it from accomplishing its intended function of disposing of and treating sewage, and the high water causes the sewage to rise to the surface of the ground.

62. On January 12, 1976 at 3496 Eleanor, inadequately treated sewage from the household was discharging to the surface of the ground approximately ten feet east of the garage, and approximately 60 feet south of the well. On June 12, 1978 the water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
63. On July 28, 1978 and August 2, 1978 at 3482 Adah, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
64. On January 15, 1976 at 3519 Earl, inadequately treated sewage from the household was discharging into the Winter Creek at the northwest portion of the property.
65. On January 15, 1976 at 3521 Earl, raw or inadequately treated sewage from the household was being discharged directly on the surface of the ground.
66. On January 15, 1976 at 3523 Earl, inadequately treated sewage from the household was discharging to the surface of the ground near the septic tank. The area in which the septic tank and disposal field was located was saturated to the ground surface.
67. On January 13, 1976 at 3535 and 3603 Earl, these two residences are on a lot 80 feet by 100 feet leaving a very limited area for the septic tank and drainfield. The tile field lines were discharging sewage into the drainageway on the neighboring property.
68. On January 13, 1976 at 3605 Earl Street, the septic tank drainfield serving this residence was partially located in an existing drainageway in which the soil was saturated with ground water. The septic tank had an open top exposing the raw or inadequately treated sewage to the surface of the ground.

69. On January 15, 1976 at 3615 Earl Street, the septic tank system would not accomplish its intended function of disposing of and treating sewage due to water standing on the ground surface in the area where the septic tank and drainfield was located.
70. On July 28, 1978, at 3555 Dunlap Avenue, the water in the well serving this residence was contaminated with sewage.
71. On January 19, 1976 at 3585 Dunlap Avenue, there was a broken sewer line between the house and the septic tank, and approximately eight feet beyond the septic tank two drain tiles had been uncovered and exposed to the surface of the ground.
72. On January 26, 1976 at 3705 Knox Butte Road, raw or inadequately treated sewage from the household was discharging to the surface of the ground from an open top septic tank.
73. On January 26, 1976 at 3715 Knox Butte Road, there was a recent blockage of the subsurface sewage disposal system, and raw or inadequately treated sewage was discharging to the surface of the ground in the back yard next to the back fence.
74. On January 26, 1976 at 3725 Knox Butte Road, surface water caused the subsurface sewage disposal system to function inadequately.
75. On January 26, 1976 at 3735 Knox Butte Road, raw or inadequately treated sewage from the household was being discharged to the surface of the ground just north of the house.
76. On February 25, 1975 at 4615 Knox Butte Road, raw or inadequately treated sewage from this residence was discharging to the surface of the ground on the west bank of the drainageway which runs between Charlotte and Marilyn Streets.

77. On February 26, 1975 at 110 Charlotte, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
78. On February 24, 1975 at 115 Charlotte Street, raw or inadequately treated sewage from this residence was discharging to the surface of the ground in the drainageway spoken to in item 30, east of this dwelling.
79. On February 24, 1975 at 125 Charlotte Street, raw or inadequately treated sewage from the household was discharging to the surface of the ground from the exposed septic tank.
80. On February 24, 1975 at 145 Charlotte Street, raw or inadequately treated sewage from the residence was discharging to the surface of the ground in an open ditch in the back yard.
81. On February 26, 1975 at 215 Charlotte Street, the winter water table close to the ground surface caused the toilet in the house to not flush, and sewage was rising to the surface of the ground in the yard.
82. On August 8, 1978 at 240 Charlotte Street, sewage from laundry waste was present in an open ditch in the rear yard. Water standing in the rear yard in the wintertime caused the household plumbing to drain slowly.
83. On February 24, 1975 at 270 Charlotte Street, raw or inadequately treated sewage from this residence was discharging to the surface of the ground next to the house. On February 26, 1975, the water in the well serving this property contained coliform bacteria indicative of sewage contamination.
84. On February 24, 1975 at 310 Charlotte Street, raw or inadequately treated sewage from the residence was discharged into an open pit from which it was pumped by a sump pump through a black plastic pressure line onto the ground surface near the north property line. On February 26, 1975, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.

85. On February 24, 1975 at 319 Charlotte Street, raw or inadequately treated sewage from the residence was being discharged onto the surface of the ground.
86. On February 24, 1975 at 350 Charlotte Street, raw or inadequately treated sewage from the residence was being discharged onto the surface of the ground.
87. On February 24, 1975 at 110 Marilyn Street, raw or inadequately treated sewage from the household was discharging to the surface of the ground behind the house in the area of the barn.
88. On February 24, 1975 at 140 Marilyn Street, raw or inadequately treated sewage from the household was discharging to the surface of the ground.
89. On February 24, 1975 at 145 Marilyn Street, soil conditions on the property were extremely poor for septic tank drainage due to high clay content and a high winter ground water table. The system had recently failed.
90. On February 24, 1975 at 150 Marilyn Street, raw or inadequately treated sewage from the household was discharging into an open ditch spoken to in item 30, in the back yard west of the house.
91. On February 24, 1975 at 205 Marilyn Street, raw sewage was discharging to the surface of the ground from a broken sewer line.
92. On February 24, 1975 at 210 Marilyn Street, raw or inadequately treated sewage from the household was discharging to the surface of the ground in an open ditch spoken to in item 30, at the rear of the property. A deteriorated septic tank was also exposed to the surface of the ground.
93. On February 24, 1975 at 220 Marilyn Street, raw or inadequately treated sewage from the household was discharging to the surface of the ground in an open depression.

94. On February 25, 1975 at 230 Marilyn Street, a metal pipe leading away from the dwelling was discharging waste water onto the surface of the ground near a wire fence.
95. On February 24, 1975 at 250 Marilyn Street, raw or inadequately treated sewage from the residence was discharging into an open ditch adjacent to the dwelling. On February 26, 1975 water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
96. On February 24, 1975 at 310 Marilyn Street, raw or inadequately treated sewage from the household was discharging to the surface of the ground into an open ditch spoken to in item 30.
97. On February 25, 1975 at 315 Marilyn Street, raw or inadequately treated sewage from the residence was discharging to the surface of the ground and running down a bank into a large depression containing water east of the house.
98. On February 24, 1975 at 340 Marilyn Street, sewage was being discharged into the open drainageway spoken to in item 30.
99. On February 24, 1975 at 345 Marilyn Street, raw or inadequately treated sewage from the household was discharging onto the surface of the ground at the rear of the house.
100. On February 26, 1975 at 350 Marilyn Street, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
101. In September 1974 at 3450 Adah Street, sewage was discharging onto the surface of the ground and into the creek.
102. On January 14, 1976 at 3601 Adah Street, sewage was discharging onto the ground surface north of the house.

103. On January 29, 1976 at 3511 Dunlop Street, sewage was discharging into the east side road ditch along Century Drive adjacent to the property.
104. On January 23, 1976 at 3435 Kathryn Street, sewage was discharging from a concrete manhole north of the house. Laundry wastes were discharging onto the ground surface east of the manhole and north of the house.
105. In February of 1975 at 3801 Knox Butte Road, sewage was discharging to the surface of the ground north of the house.
106. On January 27, 1976 at 3865 Knox Butte Road, inadequately treated sewage was discharging to the surface of the ground north of the house in the garden area.
107. On January 18, 1976 at 4535 Knox Butte Road, water in the well serving the residence contained coliform bacteria indicative of sewage contamination.
108. On February 26, 1975 at 105 Charlotte Street, water in the well serving this residence contained coliform bacteria indicative of sewage contamination.
109. On February 24, 1975 at 160 Charlotte Street, sewage was discharging onto the ground surface.
110. During the summer of 1974 at 260 Charlotte Street, inadequately treated sewage was discharging onto the surface of the ground.
111. On February 25, 1975 at 305 Marilyn Street, inadequately treated sewage was discharging to the surface of the ground over the septic tank drainfield area.

Sewage discharged into subsurface sewage facilities, to be adequately treated bacteriologically and rendered non-septic, must be retained in the soil. The treatment depends upon oxygen and bacteria present in the soil. If soil in septic tank drainfield areas is saturated with water, there will not be oxygen present to treat the sewage effluent discharged to that area. Saturated water conditions will also

force sewage discharged into the drainfield to the ground surface and back into household plumbing. Sewage effluent rising or discharging to the ground surface from a subsurface sewage disposal facility is inadequately treated and essentially raw. The sewage and sewage effluent which is discharging into ditches or flowing from one property to another is distributed widely throughout the area proposed for annexation and also into areas beyond the boundary of the subject area.

IV.

The majority of the soils in the subject area have severe limitations for installation of individual subsurface sewage disposal systems, being heavy clay soil with very slow water permeability and high water tables of from ground surface to two and a half feet below the surface. These conditions are true of the entire portion of the area known as the Drapersville area.

There are small inclusions of soil in the Century Drive portion, the area having moderate permeability, and the high water table is between two and a half to five feet below the ground surface. This soil has less severe limitations for the installation of individual subsurface sewage disposal systems, but water tables closer than three feet to the ground surface will cause the drainfield inadequacies previously mentioned.

Only a very small inclusion of soil in the southern portion of the area with slight limitations for installation of individual subsurface sewage disposal systems exists in the area. However, these soils, being rapid draining, may subject ground water to contamination.

V.

Listed in Finding III above are findings which indicate many of the individual wells in the subject area are or have been contaminated with sewage. Numerous individual domestic wells in the subject area are driven wells. The driven well, due

to the manner in which it is installed, cannot be properly sealed to preclude surface drainage or septic tank effluent from reaching the ground water aquifer from which domestic water is being drawn. Proper sealing of the annular space around the casing of drilled wells is difficult in the strata underlying the area. Several of the drilled wells in the area have inadequate annular seals. A properly constructed annular seal is necessary to prevent surface contaminants from moving alongside the well casing and entering the ground aquifer.

The ground water into which the above mentioned wells are driven is a shallow alluvial aquifer. The water table of this aquifer ranges from 6 to 21 feet below the surface of the ground during summer months with seasonal fluctuations of 10 to 12 feet. Highest levels occur during winter and spring months. The alluvial aquifer ranges from 50 to 100 feet thick and consists primarily of stratified sands and gravels. Because of the relatively shallow aquifer with seasonally high water table levels, and because the overlying soils do not always provide adequate protection, the aquifer is subject to contamination from surface sources. Contaminants can be carried to the water table and transported considerable distances as a result of downward percolating soil moisture, injection directly into the water table or by reaching the water table via artificial channels such as improperly sealed wells. The individual sewage disposal systems in the area being constructed in high ground water tables or, in some instances of sewage on the surface of the ground in the area, rapid draining soils, and the nature of the well construction in the area leads to such contamination of the aquifer serving wells in the area under consideration.

Raw or inadequately treated sewage may contain communicable or contagious disease producing organisms found in the intestinal tract of man and which cause physical suffering or illness. When sewage containing such organisms is permitted to discharge on the surface of the ground there is a possibility of transmission

of disease to humans, either by direct contact of the sewage or through the intervening contact of the sewage by vectors with the subsequent ingestion of the disease producing organisms. The recipient's contacts with others may then lead to further disease transmission to the general public. Sewage conveyed to the aquifer supplying domestic water, as aforementioned, may also contain these disease producing organisms. Transmission of disease is then directly through the drinking water supply with the same retransmission potential.

Between July 11, 1978 and July 27, 1978, 59 cases of gastrointestinal illness were reported in a small area in the northwest portion of the subject area. Gastrointestinal illness is a term used in referring to a group of diseases caused by several different organisms, all of which infect the intestinal tract of man, and some of which also infect the intestinal tract of animals. Two hundred nine persons live in the small area, for an attack rate of 23% as compared to an expected attack rate of 5% for gastrointestinal illness in the population at large.

VII.

In the subject area, the possibility of transmission of disease through direct or indirect contact with raw or inadequately treated sewage, as aforementioned, occurs due to:

1. The normal day-to-day activities being carried on in and around the residential living units.
2. The individual domestic water supplies.
3. Children playing in the area.
4. Domestic animals, such as dogs and cats.
5. Insects, such as flies and mosquitoes, are found in the area where standing water and sewage is present on the surface of the ground.
6. Persons from outside as well as inside the area are exposed due to commercial establishments in the area serving the general public, some small

industries, the contamination of the creek flowing out of the area, and residents of the area must frequent shopping facilities, restaurants, public schools, churches and places of employment outside the area, either in the cities of Albany or Millersburg.


VIII.

A danger to public health exists in that there are conditions in the territory legally described in the aforementioned resolution of the Linn County Board of Health which are conducive to the propagation of communicable or contagious disease producing organisms and which present a reasonably clear possibility that the public generally is being exposed to disease caused suffering or illness and, specifically, conditions caused by inadequate installations for the disposal and treatment of sewage in the territory.

RECOMMENDATION

That the Administrator of the State Health Division adopt the findings herein.

Dated this 8th day of September, 1978.


Max W. Braden,
Hearings Officer



City of Albany

February 21, 1979

Environmental Quality Commission
P. O. Box 1760
Portland, OR 97207

RECEIVED
FEB 26 1979

Water Quality Division
Dept. of Environmental Quality

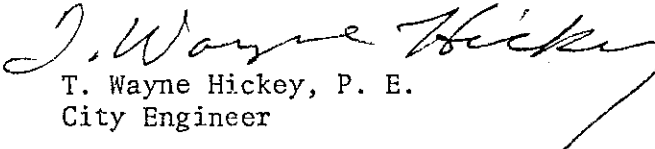
Gentlemen:

On December 4, 1978, the City of Albany received notice from the Administrator of the State Health Division certifying the area known as Century Drive-Draperville to be a health-hazard.

In compliance with ORS 222.897, the Engineering staff of the City of Albany has prepared the enclosed preliminary plan for extension of sanitary sewers to this area as well as a copy of our current Standard Specifications, and an implementation plan (with time schedule) for alleviating the health hazard. Also enclosed is a copy of a resolution adopted by the City Council on February 14, 1979.

The City of Albany is applying for assistance to construct this sanitary sewer system through the Environmental Protection Agency's Construction Grants Program.

Should you have any questions or need additional information, please phone me or Mr. Jim Rankin at 967-4318.


T. Wayne Hickey, P. E.
City Engineer

aph

cc: Administrator of the Oregon
State Health Division
Dept. of Environmental Quality
John E. Borden
Dept. of Environmental Quality
Tom Blankenship

LEGEND

- GRAVITY SEWER
- FORCE MAIN

- FUTURE GRAVITY SEWER
- PUMP STATION

FACILITY PLANNING AREA

HEALTH HAZARD AREA

ALL GRAVITY SEWERS ARE 8 INCH DIAMETER UNLESS NOTED OTHERWISE.

DESIGN PEAK FLOW IN MGD, BASED ON DESIGN CRITERIA IN CHAPTER 5

2.00

100.0

% OF TOTAL PLANNING AREA DESIGN POPULATION EQUIVALENT CONTRIBUTING TO SEWER



ATTACHMENT "F"

FIGURE 10.1
DESIGNED PLAN
SEWER FACILITY PLAN

LEGEND

— GRAVITY SEWER

- - - FORCE MAIN

- - - FUTURE GRAVITY SEWER

□ PUMP STATION

▭ FACILITY PLANNING AREA

▨ HEALTH HAZARD AREA

ALL GRAVITY SEWERS ARE 8 INCH DIAMETER UNLESS NOTED OTHERWISE.

DESIGN PEAK FLOW IN MGD, BASED ON DESIGN CRITERIA IN CHAPTER 5

% OF TOTAL PLANNING AREA DESIGN POPULATION EQUIVALENT CONTRIBUT TO SEWER

2.08
100.0

2.08
100.0

1.56
68.3

1.31
55.7

1.09
44.6

0.89
30.6

0.93
41.7

0.76
26.0

0.65
22.3

0.58
19.8



0 1000 2000
SCALE IN FEET

ATTACHMENT "F"

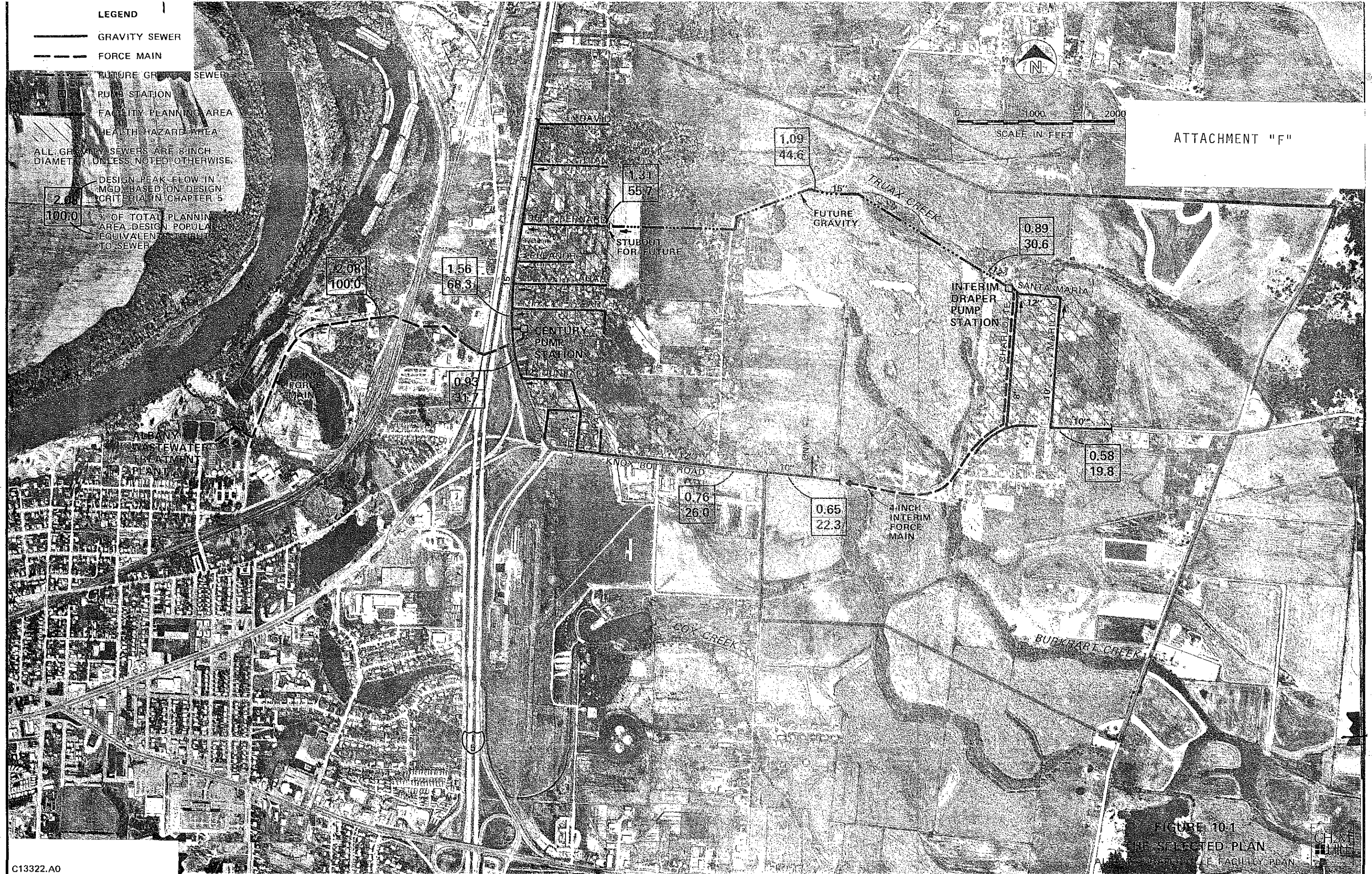


FIGURE 10-1
SELECTED PLAN
WASTEWATER TREATMENT FACILITY PLAN



RECEIVED NOV 20 1980

LOMBARD, GARDNER, HONSOWETZ, BREWER & SCHONS
ATTORNEYS AT LAW

HERB LOMBARD, P. C.
JACK A. GARDNER, P. C.
F. WILLIAM HONSOWETZ, P. C.
DAVID BREWER, P. C.
LARRY H. SCHONS, P. C.
JEFFREY E. POTTER
ALLEN E. GARDNER

November 18, 1980

915 OAK STREET, SUITE 200
EUGENE, OREGON 97401
(503) 687-9001
484-7402

OF COUNSEL
ALLEN L. JOHNSON

T.J. Osborne, Supervisor
Subsurface Systems Section
Water Quality Division
Dept. of Environmental Quality
522 SW 5th Avenue
Portland, Oregon 97207

Re: Norman Pohll Petition for Rulemaking
Nov. 21, 1980 EQC Agenda Item L.

Dear Mr. Osborne:

This will confirm our telephone conversation this morning in which I advised you that Mr. Pohll understands the Commission's concern and is willing to proceed by means of the variance procedure. We will not appear Friday.

However, we do request that the Commission table Mr. Pohll's rulemaking request rather than denying it, so that it can be reopened without further expense or delay if necessary.

Please send me the appropriate application together with copies of the applicable rules and a brief explanation of how to proceed. I understand that Mr. Olson of your office is to serve as the variance officer.

I hope that we will be able to complete this new proceeding expeditiously. Thank you for your cooperation.

Yours very truly,


Allen L. Johnson

ALJ/me

cc: Roy Burns, Lane County
Daryl Johnson, DEQ
Ray Underwood, Justice ✓
Norm Pohll, w/encls.
Sherman O. Olson

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 DEPARTMENT OF ENVIRONMENTAL)
4 QUALITY,)

5 v.)

Case No. 19-P-SW 329-NWR-79

6 LAND RECLAMATION, INC.,)
7 RALPH GILBERT and WESTERN)
8 PACIFIC ENTERPRISES, INC.)

9 Permit Applicants.)

10 FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

11 I.

12 Introduction and Procedural History

13 1. This matter came before the Environmental Quality
14 Commission (the Commission) on appeal by Land Reclamation, Inc.,
15 Ralph Gilbert, and Western Pacific Enterprises, Inc. (the
16 applicants) from an order dated May 6, 1980, by the Hearings
17 Officer for the Environmental Quality Commission. The order
18 affirmed the Department's denial of the applicants' request for a
19 permit to operate a solid waste landfill disposal facility at
20 12401 N.E. San Rafael Street in Multnomah County, Oregon. This
21 matter came before the Commission on stipulated facts and before
22 a completed application for a permit had been filed so as to
23 obtain timely Commission review of the legal and policy basis for
24 the Department's denial. The Commission issued an order on this
25 matter on June 16, 1980, affirming the Hearings Officer's Order.
26 Subsequently, the applicants filed an appeal in the Court of
Appeals. Pursuant to ORS 183.484 (6), on November 10, 1980,
the Commission withdrew its June 16th order for purposes of

1 reconsideration. This order supersedes the June 16th order of
2 the Commission and again affirms the order of the Hearings
3 Officer denying the applicants' request for a permit.

4 II.
5 Findings of Fact

6 2. After hearing arguments by the parties and discussing this
7 matter the Commission finds the facts in this proceeding to be
8 those recited in paragraphs (1) through (11) and (13) of the
9 Stipulation and Agreement of the parties dated May 6, 1980, and
10 the Exhibits referenced therein. A copy of the Stipulation and
11 Agreement of the parties and pertinent exhibits previously filed
12 in this matter, are attached hereto as Attachment 1 and incor-
13 porated by reference herein.

14 III.
15 Conclusions of Law

16 3. The applicants have not filed a completed application for a
17 solid waste disposal permit as required by OAR 340-61-025,
18 340-61-030, 340-61-035, and ORS 459.205 and 459.235. The time
19 periods set forth in OAR 340-14-020 for department action on a
20 completed application accepted for filing have not commenced.
21 The applicant has not met the requirements of OAR Ch. 340 and a
22 permit may not be issued until the applicant has done so,
23 regardless of the outcome of this proceeding. (Stipulation and
24 Agreement, Paragraphs 10 and 13)

25 4. OAR 340-14-025 (i) requires that each application for a per-
26 mit must be complete, must be judged on its own merits, and that
the recommendations of the Department and any decision on appeal

1 to the Commission must be in accordance with all applicable sta-
2 tutes and regulations of the Department notwithstanding which
3 particular class of permit is applied for. Simply put, the
4 Department or the Commission may not issue a solid waste disposal
5 facility permit for a facility which would cause a violation of
6 air, water, or hazardous waste disposal standards, regulations or
7 statutory requirements. Moreover, other factors such as road
8 subsidence, while important, are not germane to the Department
9 or Commission's decision on a permit application.

10 5. OAR 340-61-015 requires that any solid waste facility
11 must include the highest and best practical protection of ground
12 water and OAR 340-61-035 (4) requires that a facility must be
13 operated in compliance with water pollution control statutes and
14 regulations. OAR 340-61-040 (3)(c) provides that landfills may
15 be restricted to those which maintain a safe vertical distance
16 between deposited solid waste and the maximum water table
17 elevation.

18 6. The waters of the State of Oregon include groundwater. ORS
19 468.700 (8), OAR 340-41-026. It is the policy of the State of
20 Oregon to prevent, abate and control water pollution. ORS
21 468.710 and ORS 468.715. To cause pollution of any waters of the
22 State or to cause waste to be placed where it may be carried into
23 the waters of the State by any means is unlawful. ORS 468.720.

24 7. The Department must give priority, when issuing permits for
25 facilities which would affect waters of the State of Oregon, to
26 those facilities which provide a lesser chance of causing water

1 pollution. OAR 340-41-026 (3). There is, however no competing
2 request for a permit in this proceeding. Any facility which
3 would cause water pollution must have a permit. ORS 468.740, OAR
4 340-41-120 (1).

5 8. The leachete from the proposed facility, which may range
6 from 557,000 gallons per year to 4.5 million gallons per year is
7 likely to contain chemicals and other material which would, if it
8 reached groundwater, constitute pollution in violation of ORS
9 468.715 and ORS 468.720, (Stipulation Paragraph 7 and Exhibit
10 "G"), OAR 340-41-006 (9), ORS 468.700(3). The location of the
11 proposed facility, 105 feet directly over the groundwater table,
12 and the unconsolidated alluvial deposits between the facility and
13 the groundwater presents a risk that leachete would reach ground-
14 water in violation of ORS 468.720. Engineering solutions to
15 leachete reaching groundwater from the proposed facility are
16 unresolved at this time and in any event may never provide
17 complete protection. (Stipulation Paragraph 13 and Exhibit H and
18 I.) Stipulation Paragraphs 4 and 6. Moreover the site of the
19 proposed facility would not maintain a safe vertical distance
20 between the solid waste deposits and the groundwater in violation
21 of OAR 340-61-040 (3)(c).

22
23 IV.
Order

24 For all the above reasons the May 16, 1980, order of the
25 Hearings Officer denying the applicants' request for a solid
26 waste disposal facility permit is affirmed with leave to file a

1 complete permit application which conforms with all the require-
2 ments of OAR Ch. 340.

3 DATED this _____ day of November, 1980.

4

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WILLIAM H. YOUNG, DIRECTOR
Department of Environmental
Quality

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For the Environmental Quality
Commission
Pursuant to OAR 340-11-136(2)

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Page

5/FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

[Signature]
Signature of authorized agent

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL
QUALITY)
)
v.)
)
LAND RECLAMATION, INC.,)
RALPH GILBERT and WESTERN)
PACIFIC ENTERPRISES, INC.)
)
Permit Applicants.)

Case No. 19-P-SW 329-NWR-79

STIPULATION AND AGREEMENT

This matter comes before the Environmental Quality Commission (the Commission) upon an Order of Linda Zucker, Hearings Officer, founded upon the following stipulation and agreement.

Parties

The Department of Environmental Quality (the Department) is an agency of the State of Oregon authorized to issue permits providing for solid waste disposal within the State of Oregon pursuant to Oregon law and pursuant to Commission rules. Western Pacific Enterprises, Inc. is an Oregon corporation. It is a tenant-in-common with Ralph Gilbert in the "Columbia Pit", hereinafter described. Land Reclamation, Inc. is an Oregon corporation engaged in the business of waste disposal.

Stipulation and Agreement

The parties to the above entitled matter now stipulate and agree as follows:

(1) The Columbia Pit is located by street address at 12401 N.E. San Rafael Street in Multnomah County, Oregon. The site of the Columbia Pit contains approximately nine acres. It is currently used for mining, gravel crushing and concrete mixing operations.

(2) The Columbia Pit owners, Ralph Gilbert and Western Pacific Enterprises, Inc. and a landfill operator, Land Reclamation, Inc. (the applicants) have applied to the Department for a solid waste disposal facility permit as required by ORS 459.205 to 459.265 and OAR ch 340, to operate a solid waste landfill disposal facility in the Columbia Pit. A copy of the application and supporting information is attached hereto as Exhibit A.

(3) The proposed landfill would be limited to demolition materials described in the July 13, 1979, letter from the Multnomah County Division of Planning and Development, which is attached hereto as Exhibit B.

(4) The Columbia Pit has been excavated to a depth of approximately 120 feet below land surface in unconsolidated alluvial deposits. These deposits overlie the partially cemented alluvium of the Troutdale groundwater aquifer. Exhibit C, attached hereto, describes the current, relevant use of the aquifer and the wells located therein. Groundwater is part of the waters of the State of Oregon.

(5) The relevant geographic area for the purposes of this Stipulation and Agreement is the Inverness Service

District of Multnomah County as shown on Exhibit D, attached hereto (the area). The environment of the area is as follows:

The area, consisting of approximately 6,000 acres, is generally improved throughout with single and multi-family residences and commercial buildings. It has an average population of 12.5 persons per acre. There is no comprehensive sanitary or storm sewer system in the area and it is served almost entirely by cesspools and dry wells. Approximately 90% of the population of the area does not have sanitary sewers.

(6) The area has an average annual rainfall of 39 inches, which equates to approximately one million gallons per acre. The peizometric or groundwater table surface is approximately 105 feet below the deepest point of the pit.

(7) The effect on the aquifer and groundwater of the foregoing condition in the area is, generally, as follows: Total annual rainfall is 6 billion gallons. Some portions are removed by evaporation and surface runoff but a significant amount (approximately 75%) seeps into the ground carrying some contaminants. That seepage, carrying elements of lawn and garden fertilizers, insecticides and herbicides applied in the area, is estimated at 4.5 billion gallons per year. In addition, the discharge into cesspools of raw sewage at the rate of 50 gallons per person per day would equal approximately 1.232 billion gallons per year.

Thus, the approximate quantity of water added to the groundwater in the area is 5.732 billion gallons per year. Actions have been taken by the Commission, the Department and Multnomah County to protect the groundwater of the area for the beneficial use of domestic water supply, as more particularly described in Exhibits E and F, attached hereto.

(8) Rainfall at the Columbia Pit would equal approximately 9 million gallons per year. Of this amount, after the Pit is completed and covered, approximately 4.5 million gallons per year would, without recovery, be discharged as leachate (i.e., is liquid which has percolated through solid waste). Permit applicants' estimates of the amount of leachate which could occur at the site of the Columbia Pit range from 557,000 gallons per year, with leachate collection, to 4.5 million gallons per year, without leachate collection, to be absorbed by the aquifer. Exhibit G contains two tables that indicate the range of chemical constituents found in leachate. The range of leachate characteristics can vary from landfill to landfill according to the specific types of solid waste placed in the landfill and the length of contact time between the decomposing waste and water.

(9) The Department on November 23, 1979, by letter informed the applicants that the Department would deny the application on the basis of the risk to the groundwater supply in the vicinity to the Columbia Pit from leachate.

The Department also informed the applicants that the public need for the Columbia Pit was tempered by the availability of other locations for landfills in the East Multnomah County area which did not constitute similar risk to drinking water supplies. A copy of that letter and supporting memoranda are attached hereto as Exhibits H, I and J.

(10) As a result of applicants' receipt of the Department's November 23, 1979, letter, the applicants have not fully complied with the requirements of OAR 340-61-025, 340-61-030 and 340-61-035. The applicants' application is therefore not complete and the time periods set forth in OAR 340-14-020 for Department action on applications accepted for filing have not commenced.

(11) The applicants, by letter dated December 12, 1979, requested a hearing pursuant to OAR 340-14-035. A copy of the applicants' letter is attached hereto as Exhibit K. The Department's November 23, 1979, letter shall be considered a denial of the application and the applicants' December 12, 1979, letter shall be considered a request for a hearing, and any objections to the form or procedure of the denial or request for a hearing are waived.

(12) The facts which may be relevant to this proceeding are those set forth in paragraphs (1) through (11) above.

(13) The many unresolved engineering and other technical issues cannot be practically or timely resolved in this proceeding and thus are not at issue in this proceeding.

if an order is issued by the Commission or the Court of appeals which reverses the Department's denial of the application, the applicant will be required to meet the requirements of OAR ch 340.

(14) The issues in this hearing:

(a) Are claimed by the applicants to be the following:

(A) Does the Department have the authority under ORS 459.005 to 459.265 (as amended by SB 925, 1979 Oregon Laws Chapter 773) to site landfills and set priorities among landfills identified by Metropolitan Service District as potential sites which need to be reclaimed?

(B) Does the Department have the authority to deny the permit to the applicants when it has complied with, or is willing to comply with, ORS 459.005 to 459.265 and all the provisions of the rules pertaining to landfills in OAR Chapter 340, Divisions 14 and 61, and applicable subsections thereunder?

(C) Has the Department exceeded its authority by denying Columbia Pit's application on policy grounds without its having adopted rules, permitting denial (assuming such rules, if adopted, would be valid)?

(D) Did the Department fail to take into consideration other public safety and welfare factors

such as the restoration of N.E. 122nd which has partially slid into the site in its denial and, if not, should not those factors be considered?

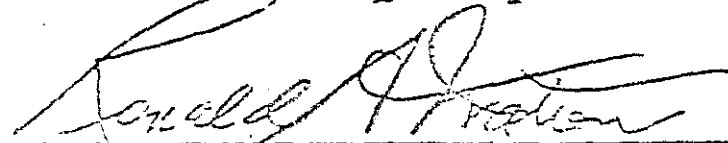
(b) Are claimed by the Department to be the lawfulness of the Department's denial of the applicants' permit application on the basis of the risk to groundwater supplies and on the basis of the availability of other sites in the vicinity which did not constitute similar risks.

(15) For the purpose of having the issues which are described in paragraph (14) determined on appeal to the Commission, the Hearing Officer's Findings of Fact, Conclusion of Law and Order may be in the form attached hereto as Exhibit L.

DATED this 6th day of May, 1980.



RAYMOND P. UNDERWOOD
Assistant Attorney General
Of Attorneys for Department of
Environmental Quality



RONALD A. WATSON
Attorney for Land Reclamation, Inc.



RICHARD J. BROWNSTEIN
Attorney for Western Pacific
Enterprises, Inc. and Ralph Gilbert

HEARING OFFICER'S FINAL ORDER

FINDINGS OF FACT

The Findings of Fact in this proceeding are those stipulated in the Stipulation and Agreement of the parties relating to this proceeding.

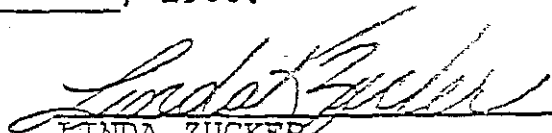
CONCLUSIONS OF LAW

The Department of Environmental Quality lawfully denied to permit applicants a solid waste disposal site permit for the Columbia Pit in Multnomah County, Oregon.

ORDER

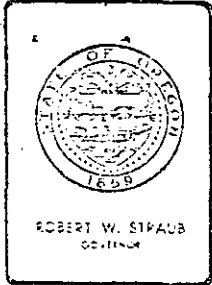
IT IS ORDERED that the denial by the Department of Environmental Quality of the application by permit applicants for a solid waste disposal site permit for the Columbia Pit in Multnomah County, Oregon is sustained.

DATED: May 10, 1980.


LINDA ZUCKER
Hearings Officer for Environmental
Quality Commission

NOTICE: You will be entitled to judicial review of the Environmental Quality Commission's final order pursuant to ORS 183.482.

Item 5



Department of Environmental Quality

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5395

November 23, 1979

Mr. Ronald A. Watson
Jackson Tower
806 SW Broadway
Portland, Oregon 97205

Re: SW - Multnomah County
Columbia Sand and Gravel Pit
NE San Rafael and 122nd Avenue

Dear Mr. Watson:

The Department has completed its review of Land Reclamation, Inc.'s solid waste disposal permit application for the Columbia Sand and Gravel Pit located at NE 122nd Avenue and San Rafael Street in east Multnomah County. This review was based on information contained in the application exhibits along with reports prepared by the State Water Resources Department, Environmental Protection Agency, and the Metropolitan Service District. Further, the staff met with the applicants and their consultants on October 19, 1979 and November 2, 1979 to discuss the proposal.

Attached you will find our staff's and the Department of Water Resources' review of your consultant's feasibility report dated September 13, 1979. Please note that Exhibits B and D and the information requested in the above reviews would need to be submitted before the application would be considered complete.

After carefully reviewing all the available information I have concluded that the siting of a landfill at the proposed location would probably result in the contamination of the groundwater which serves as a municipal water supply for the east county area. In other words, the proposed solid waste facility would contaminate an underground community drinking water source beyond the solid waste boundary. Further, this contamination would be irreversible and would be contrary to the Department's goal of protecting the groundwater aquifer for domestic water purposes and contrary to other actions taken by this Department and the Environmental Quality Commission as related to this aquifer.

In our judgement, solid waste activities should not be allowed to increase the risk of damage to present or future users of a groundwater aquifer. As discussed with you, among the potential landfill

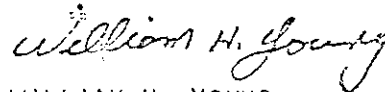
Mr. Ronald A. Watson
Page 2
November 23, 1979

sites available in the MSD area, the east Multnomah County gravel pits would be the least desirable from the standpoint of risk and non-reversible impact to the groundwater supply should the system leak. Sites down-gradient from domestic water supplies and with suitable hydrogeological and physical conditions would be more acceptable from an environmental viewpoint.

We share your consultant's view with respect to the fact that current technology is less than perfect and that no assurances can be made that zero discharge of leachate is possible. It seems logical to us that if indeed a landfill is necessary for this area within MSD, a site should be located where the impact affects the least possible present or future users of a groundwater aquifer should that leachate system fail.

In light of the uncertainty of technology, no demonstrated need that this particular site is necessary since less risky alternate sites are available, and the Department's intent to protect the groundwater aquifer as a domestic water supply source, I would deny this proposal should a complete application be submitted.

Sincerely,



WILLIAM H. YOUNG
Director

REG/mkw

Enclosures

cc: Richard J. Brownstein
Columbia Sand and Gravel
Attn: Ralph Gilbert
Metropolitan Service District
Multnomah County Department of
Environmental Services
Gene Plew
Seton, Johnson & Odell, Inc.
Attn: Bryan Johnson
Solid Waste Division, DEQ
Randy Sweet



DEPT.

TELEPHONE

TO: REG, CHG

DATE: October 19, 1979

FROM: SCC

SUBJECT: SW - Columbia Sand & Gravel/Land Reclamation Inc.
122nd Avenue & San Rafael Pit. - Multnomah County

The following is a comparison of the Permit Application prepared by Seton, Johnson and Odell, Inc./Randy Sweet for Land Reclamation Inc. and the proposed guidelines published in the federal register dated 3-26-79.

241.200 - Site Selection

The site is located in a sole source aquifer which serves at least three adjacent municipal water districts and many other private wells. There is little discussion of the potential for contamination of these wells or the consequences thereof except a statement that "community water supplies are available" (page 14). There is no discussion of the economic consequences of contamination to these wells. Additional review of this matter follows in the leachate section.

The report borrows from MSD studies done on waste generation and siting feasibility to develop community need and cost figures. Other than the potential groundwater contamination of a "sole source aquifer" the landfill meets the intent of the federal guidelines on siting.

241.201 - Design

The design takes into consideration types and quantities of all solid waste expected to be disposed of at the landfill. The design figures are taken from MSD studies.

The report notes that the groundwater is currently supplying several municipal water districts with their sole source of groundwater and mentions the Portland Water Bureau's exploratory well and efforts to develop an East Well Field. The report concludes however there will be "no significant impact on beneficial uses of groundwater".

Other design factors noted in the guidelines such as hydrogeology, geology, or water balance, leachate generation and control, gas and socioeconomic effects are presented to varying degrees.

241.202 - Leachate Control

The report details the hydrogeology of the area and calculates underflow of the upper ten feet of the saturated zone equal to about 600 gallons per day. Leachate generation is estimated at 50% of the incident rainfall (38 inches/year) over 6 acres of fill (10 acre site) or about 55,000 gal./yr. (3,091,000 gal/yr). I could not calculate the 55,000 gal/yr they arrived at.

Control and attenuation of the leachate is described on pages 12-15. Each of these control and/or attenuative features is commented upon as follows:

- a) "paper materials" (page 12) - it is noted that paper materials include clay filler and have a demonstrated cation exchange capacity. Clay filler is found only in slick paper (magazine grade) and also contains starch as a binder. This is insignificant as an attenuative feature and will not be considered further.
- b) hydraulic conductivity.... is relatively low (page 13) - although the conductivity of the Troutdale Gravel Aquifer may or may not be relatively low in the vicinity of the pit. The hydraulic conductivity is still very high and it is an excellent transmitter of water.
- c) cement.... cleanings (page 13) - cement cleanings are likely to be found in the washwater ponds however their mass relative to the total amount of waste to be filled (710,000 tons) is inconsequential and therefore will not be discussed further.
- d) clayey fines lining (page 13) - there are several discussions of the use of clayey fines (actually a mixture of clay, silt loam, and silty clay loam) for lining the "total base and side-walls" of the pit. This feature will attenuate the leachate with its cation exchange capacity (no details provided for discussion or review) and will act as a hydraulic barrier due to its "exceptionally low" hydraulic conductivity. Even if the "clayey fines" have a low conductivity (not demonstrated) the method of placement (pumps in slurry form page 21/plate 2) (dragline and truck page 21) negates any restrictive effect it may have had because of cracking, and shrinking upon drying and/or inadequate compaction or total lack thereof. This proposal cannot be considered an effective seal for either leachate control or gas migration.
- e) French drains (page 13) - the plan features french drains placed in the "clayey bottom liner" to intercept and collect for pumping any leachate which is generated. The leachate would be pumped to the "refuse surface or reinjected and circulated through the refuse via low pressure distribution in two-inch diameter French drains within the refuse". Plate 2 shows these two-inch drains to also be gas collection lines. The report concludes with a statement that "should the volume of accumulated leachate become too great for reinjection into the refuse, pumping to the surface with treatment and disposal can be facilitated". No details on how this treatment and disposal are given.

Review of Plate 2 shows two gas and leachate water collectors which have a concrete sump set ten feet into the floor of the pit and below the clayey seal with drains entering it and a pump to remove accumulated leachate. The plate also shows four gas collector and drainage sumps which also feature concrete rings set ten feet into the pit floor and below the "clayey seal". The base

October 19, 1979

of these sumps are gravel to facilitate drainage into the pit floor. The report does not discuss the manner, if any, which leachate would be prevented from entering these sumps via the gas collection lines which are set in gravel and directly connected to the sumps. Since my calculations show a net surplus of 3,091,000 gallons of leachate per annum it can only be assumed that some of this would find its way into these sumps and enter the groundwater directly.

The plan to circulate the leachate through the landfill does not effectively reduce the volume of leachate nor does it necessarily reduce the strength of it. A more positive method of leachate treatment and disposal should be evaluated.

There are several restatements of the previously described features however nothing new is added. A "contingency plan" on page 14 describes two interceptor wells to be placed in the northwest and southwest ends of the pit. These wells would be used as a backup to collect contaminated water for disposal at a series of sumps or drainfields to be developed in the unfilled southern portion of the pit. No further details are given on this system. It is not clear as to why the disposal system would work in the small fraction of property along the southern portion of the pit but fail across the entire filled area. A flow estimate of 100 gpm per well is suggested as necessary to collect all leachate. That works out to 144,000 gpd of liquid per well which is a large volume of water to dispose of.

241.203 - Gas Control

The plan calls for containment of gases with a "claywall" and passive collection through use of perforated concrete ring towers set into the fill with "radial lines" extending from the towers (6) into the fill. The radial lines will be two-inch perforated pipes set into two square foot gravel trenches with no slope. The radial lines will be set at thirty foot depth intervals.

The radial lines will also act as the leachate low pressure distribute system at the leachate water collectors (2). It is not clear how the operator will keep these lines from acting as leachate collectors or keep them from flooding.

As previously discussed the method of placement and compaction of the "clayey fines" in both the pit bottom and walls leaves the question of an effective seal to be very questionable. For discussion purposes the clay wall cannot be considered an effective gas containment barrier.

The report notes that positive gas collection can be added by installing a 200 cfm fan manifolded to the collection towers. There is no discussion of odors, energy requirements or cost.

241.204 - Runoff Control

The report states that surface runoff would be collected and discharged into the gas venting system. Since the entire fill is located in the pit, it is assumed surface runoff would be considered with leachate control.

October 19, 1979

241.205 - Operation

Disposal operation is covered in Section 5 of the report and touches on staffing (7 people), equipment (one tractor and one compactor), hours of operation (8:00 AM to 5:00 PM daily) support facilities, water, fire protection, landfilling methods (8-foot compacted lifts), haul roads (12% maximum grade) and staging of landfill areas. Much of the material discussed was previously discussed in other sections of the report.

A bar chart is provided showing an estimated 10-year life of the pit assuming 125,000 yds³ per year of fill and removal of another 200,000³ yds. of gravel.

Other environmental operating concerns such as dust and blowing debris, road mud, traffic, noise and birds are discussed in Sections 4.3 through 4.6.

241.206 - Monitoring

Monitoring is proposed for gas by installing seven test wells driven twenty feet deep and located along the west, north and east walls of the pit.

Monitoring for leachate will be done by testing of the adjacent school well and by drilling a new well in the north end of the pit.

Conclusion and Recommendation

Report has several glaring design faults which leave serious questions regarding the adequate control of leachate and gas from the landfill. In light of these deficiencies it is recommended that the application be returned for redesign with the requirement that positive methods of leachate containment, collection, treatment and disposal be provided as well as effective containment, collection and disposal of gas. A water balance should also be provided as well as a thorough and detailed analysis of the potential for contamination of municipal and private wells in the area. Since the municipal systems chlorinate their water a review of chemical reactions of trace amounts of leachate (organics) should be performed to insure that carcinogenic and/or other toxic compounds are not formed. Taste and odor problems should be reviewed.

If the applicant is unwilling to redesign then the Department should deny the necessary permit required for the landfill.



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. L, November 21, 1980, EQC Meeting

Petition to Amend Rules Pertaining to Subsurface
Sewage Disposal, Prior Approval Permits or Approvals,
OAR 340-71-015(8)

Background and Problem Statement

OAR 340-11-047 provides that any person may petition the Commission requesting the adoption, amendment or repeal of a rule. The petition shall be in writing, signed by or on behalf of the petitioner and contain certain detailed information.

The Commission adopted a rule pertaining to prior construction permits or approvals, OAR 340-71-015(8). Prior approvals are those that were granted prior to the Department assuming jurisdiction of the Subsurface Sewage Disposal Program on January 1, 1974. The rule requires that application for permits under this rule be made prior to July 1, 1976, and that the system be installed by July 1, 1980.

The Department has received a petition on behalf of mr. Norm Pohll, to amend the prior approval rule OAR 340-71-015(8). The petition requests that the Commission amend the rule to extend the July 1, 1980, date to July 1, 1981.

The Department made an initial determination that Mr. Pohll's approval for parcel TL 18-04-18-801, Lane County, was not a valid prior approval. Mr. Pohll appealed this decision through contested case procedures. The hearing officer ruled in favor of Mr. Pohll by finding that the approval was in fact a valid prior approval. Concurrently Lane County Planning was required to act upon a request to partition the property before the permit issued as a result of the contested case could be implemented. By the time the partitioning problem was finally resolved it was too late to act on the permit and install the system by the deadline of July 1, 1980.



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Mr. Pohll's attorney feels a petition to amend the rule to extend the deadline date is the only legal remedy available.

Alternatives and Evaluation

There appear to be two alternatives for dealing with this situation:

1. Amend the rule as requested in the petition, or
2. Handle it by a variance request to the Commission under ORS 454.657.

The first alternative (amend the rule) could create additional problems in an area that has been extremely difficult for the Commission. The Commission made it clear when the present rule was adopted that further amendments would not be forthcoming. This troublesome problem appears to be behind us at this time and to open it up again with a rule amendment would not be in the best interests of the state or the general public.

The second alternative (variance) appears to be appropriate in this case. ORS 454.657 provides as follows:

"After hearing the Environmental Quality Commission may grant to applicants for permits required under ORS 454.655 specific variances from the particular requirements of any rule or standard pertaining to subsurface sewage disposal systems for such period of time and upon such conditions as it may consider necessary to protect the public health and welfare and to protect the waters of the state"

It is preferable that the Commission entertain an application for a variance to the rule, OAR 340-71-015(8) rather than to go through the rule amendment process to accommodate one person.

Summation

OAR 340-11-047 provides that any person may petition the Commission requesting a rule amendment.

A petition for an amendment to OAR 340-71-015(8) has been received from Mr. Norm Pohll of Lane County.

ORS 454.657 provides that the Commission may grant specific variances from the particular requirements of any rule or standard pertaining to subsurface sewage disposal systems.

Director's Recommendation

Based upon the summation it is recommended that:

1. The Commission deny the petition to amend OAR 340-71-015(8).
2. The Commission affirm a variance application under ORS 454.657 to be the appropriate mechanism for dealing with Mr. Pohl's situation.

Bill

William H. Young

Attachment: 1
Petition to Amend Rule OAR 340-71-015(8).

T. Jack Osborne:1
TL219 (1)
229-6218
November 10, 1980

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October 17, 1980

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OF COUNSEL
ALLEN L. JOHNSON

Mr. T.J. Osborne
Administrator
Subsurface Sewage System Division
Oregon Department of Environmental Quality
1234 S.W. Morrison St.
Portland, Oregon 97205

Re: Prior Approval Construction Permit
Norm Pohll App.; TL 18-04-18-801, Lane County
Petition for Amendment of Rule

Dear Mr. Osborne:

I am enclosing a petition for amendment of the DEQ rule setting a deadline for construction under prior approval permits.

The rule requires construction to be completed by July 1, 1980. OAR 340-71-013(8).

The petition asks that the deadline be extended one year, to July 1, 1980, and that it be made clear that the one-year deadline in OAR 340-71-013(7) does not apply.

I am enclosing full documentation to show that Mr. Pohll has made every effort to comply with procedures suggested by the county and the DEQ, and that the combination of extended appeal processes, slow decisionmaking, and conflicting local partition regulations has made it impossible for him to construct his septic system. He has spent many thousands of dollars and hundreds of hours in pursuing these administrative remedies. The extension will not, I am sure, result in substantial numbers of additional systems. As far as I know, his would be the only one.

As you know, Mr. Pohll applied for a permit based on a 1966 prior approval in 1975. It was denied by the county, acting as agent for the DEQ. It was appealed to Darrel Johnson and to you. Because the county had made the initial decision, I raised the question whether it should be appealed to the circuit court as a county decision or taken through the contested case route. In a letter from me to Ray Underwood dated December 9, 1975, I confirmed our agreement that the circuit court was the appropriate route. We filed in circuit court. We also continued our appeals to you in hopes of settling. At the request of your counsel, Beverly Hall, we allowed DEQ to delay filing a response while negotiations went on over the variance procedure you had suggested. That fell through.

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Robert Haskins replaced Beverly Hall as counsel for DEQ. He filed a number of motions asserting that we had failed to exhaust our administrative remedies. We amended the petition to include the determinations made by you in the parallel administrative appeals. The matter was finally set for trial in September, 1977. At the last moment, Mr. Haskins filed a demurrer, based on a new Court of Appeals case holding that it was necessary to hold a former contested case before appealing and that appeal had to be made to the Court of Appeals. This was contrary to the DEQ's agreement with Mr. Pohll, but technically the court had no choice because parties cannot confer jurisdiction by stipulation.

Recognizing the inequity of the result, Mr. Haskins and the DEQ cooperated in setting up a contested case hearing. That hearing was conducted in April, 1978. After repeated inquiries by me, ending in a threat to get a court order requiring action by the DEQ, the hearings officer sent out a recommended opinion received in our office on July 2, 1979.

Mr. Pohll promptly sought and obtained a construction permit based on the approval. With approval in hand, he applied for the necessary partition approval. The county planning staff then informed him that he could not use the construction permit until the partition was approved.

The Lane Code, at §13.025, prohibits land divisions except after approval. It defines a land division to include the creation of separate lots by separate building development. Lane Code §13.010. It provides that "A single lot of record shall be," among other things, "a parcel of land upon which a subsurface sewage disposal system has been approved and installed pursuant to a permit issued by Lane County." Lane Code §10.305-10. Where more than one such system has been installed, "each parcel of land appurtenant to such subsurface sewage system shall constitute a single lot of record." Id.

The County interprets these code requirements as requiring partition approval before installation of septic, even where a construction permit is in hand.

Mr. Pohll cooperated and did not install. The staff denied the partition on the ground that it violated Goal Three. Mr. Pohll appealed. Based on USCS maps showing that the land is Class VI, nonagricultural land, the County Commissioners reversed the staff.

The order directing the staff to approve the partition subject to conditions was issued in late May, 1980. It carried a warning not to rely on it until after the 30-day period for appeals to LUBA had expired. This brought Mr. Pohll right up to the July 1, 1980 deadline.

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The May order also made the approval subject to septic approvals. Mr. Pohll had been attempting to get approval on the third lot in the partition. It was inspected on at least two occasions, and on July 31, 1980, it was rejected. It became necessary to revise the partition map to eliminate the third parcel. When the planning department was asked to approve the revised map, it informed Mr. Pohll that the septic on TL 801 had expired under the DEQ rules.

I don't know of a variance or waiver procedure that can solve Mr. Pohll's problems at this point. He has explored the sand filter alternative and has been advised by county staff that a sand filter would not be acceptable.

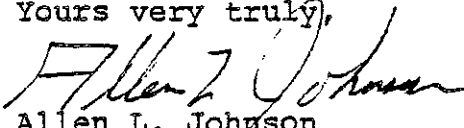
I am therefore submitting a request for amendment of the rule to extend the time during which holders of prior approvals may install systems.

Please process this rule according to OAR 340-11-047. If there is another solution, please let me know and we will pursue it concurrently.

I am enclosing a set of documents in support of the petition. Please place them in the record.

Mr. Pohll does desire to make an oral presentation under OAR 340-11-047(3)(c).

Yours very truly,


Allen L. Johnson

ALJ/me
enc.

cc: Norm Pohll
Roy Burns
Daryl Johnson
Lane County Commissioners

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

In the matter of the amendment)	
of Rule 340-71-015(7) and (8),	)	PETITION TO AMEND RULE
regarding the deadline for com-	)	OAR 340-71-015(7) & (8)
pletion of construction under	)	(Prior Septic Approvals)
prior septic approvals.)	
)	
)	

1. Petitioner's name is Norman Pohll. His address is 86399 North Modesto Drive, Eugene, Oregon 97402.

2. Petitioner is the owner of Lane County Tax Lot 801, Township 18 South, Range 04 West, Section 18, Willamette Meridian.

3. Petitioner is holder of a construction permit to allow installation of a subsurface sewage disposal system on said lot.

4. Petitioner obtained said permit only after protracted court and administrative proceedings following the erroneous denial of the permit in 1975 by Lane County and the Department of Environmental Quality. Petitioner has pursued said appeals with good faith and diligence throughout. He has cooperated with both the County and the DEQ staff at all times.

5. For reasons detailed in the attached letter, dated October 17, 1980, from Petitioner's counsel to Jack T. Osborne of the DEQ staff, Petitioner has been unable to complete construction of the system by the July 1, 1980, deadline established in Rule OAR 340-071-015(8). Briefly, these reasons include the delays described therein, the

conflicting county partition rules, and the erroneous denial by the county of the requested partition. That denial, like the original denial of the septic permit, was eventually reversed.

6. Petitioner has continued to make every effort to complete the requirements for securing the partition, but continues to be frustrated by bureaucratic delays. He believes, however, that he can obtain the recorded partition in the near future if the construction permit is reinstated.

7. No administrative procedure for variance or extension exists.

8. The intention of the substantial grace period set forth in the rule was to allow holders of the permits time to install their systems while complying with all necessary administrative requirements. The rule has failed to accomplish its purpose in at least one case because of the complexity and lack of coordination in the regulatory system.

9. If the rule is not amended, Petitioner will lose the benefit of his substantial investment in obtaining benefits which the County and the DEQ both concede were due him in the first place.

10. If the rule is not amended, it will further erode confidence in government and the regulatory system. It will also deprive Petitioner of his constitutional and statutory rights to use his property as permitted by state and local regulations, including the DEQ's own regulations. Amendments 5 and 14, U.S. Constitution; Art. I, §§ 10, 18, 20.

11. OAR 340-71-013(7), providing that permits shall expire in one year, has not been interpreted as limiting the permits issued under OAR 340-71-013(7). Petitioner proposes that the rule be clarified in accordance with administrative practice.

12. Petitioner proposes that OAR 340-71-013(7) be amended to read as follows:

Except as provided in section (8) of this rule,
a permit issued pursuant to these rules shall be effective for a period of one year from the date of issuance and [except as provided in section (8) of this rule] is not transferable.

13. Petitioner proposes that OAR 340-71-013(8) be amended to read as follows:

....
(8) Prior Construction Permits or Approvals. All permits or written approvals involving site evaluations issued prior to January 1, 1974, shall be accepted under these rules as valid for construction of a subsurface sewage disposal system providing they expressly authorize use of such facilities for an individual lot or for a specific lot within a subdivision; they were issued by a representative of a state or local agency authorized by law to grant such approval; and they were issued in accordance with all rules in effect at the time. No person having a valid prior permit or approval meeting the above requirements shall commence construction of a subsurface sewage disposal system until he has made application for a construction permit required by ORS 454.655, has paid the permit fee required by ORS 454.745, and has received a construction permit from the Department. Construction shall conform as nearly as possible with the current rules of the Commission. Before operating or using the system, the permittee shall obtain a "Certificate of Satisfactory Completion" as required by ORS 454.665. If it is not possible for construction to be in full compliance with the current rules of the Commission, the Subsurface Construction Permit and Certificate of Satisfactory Completion must contain a statement notifying the permittee or owner that the system is substandard and therefore, may not operate satisfactorily, and that if it fails and necessary repair cannot be made in accordance with current rules of the Commission the system may have to be abandoned.

Application for construction permits under this rule shall be made prior to July 1, 1976, and

construction shall be completed by July 1, 1981[0]. All permits and written approvals issued prior to January 1, 1974, shall expire on July 1, 1976. An expired prior construction permit shall be renewed upon request up to July 1, 1976, upon payment of the proper fee, provided it meets all other provisions of this subsection. Construction permits issued under this section are transferrable during the life of the permit.

14. Petitioner believes that the following persons may have a special interest in this proposed amendment:

Roy Burns, R.S., Manager
Building and Sanitation
Lane County Environmental Mgmt.
1250 East 8th Avenue
Public Service Building
Eugene, Oregon 97401

Daryl L. Johnson
Dept. of Env. Quality
16 Oakway Mall
Eugene, Oregon 97401

William H. Young, Director
Dept. of Environmental Quality
1234 S.W. Morrison
Portland, Oregon 97204


Lane County Commissioners
Public Service Bldg.
Eugene, Oregon 97401

Lee Miller, Director
County Planning Div.
Public Service Bldg.
Eugene, Oregon 97401

Gov. Victor Atiyeh
Capitol Building
Salem, Oregon 97310

Wherefore, petitioner requests the Commission to adopt the proposed amendment. Oral presentation requested.

Dated October 17, 1980.


Allen L. Johnson
Counsel for Petitioner
Suite 200, 915 Oak
Eugene, Oregon 97401
Ph. 687-9001 or 683-4993

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

In the matter of the amendment) of Rule 340-71-015(7) and (8),) regarding deadline for completion) of construction under prior septic) approvals.)	DOCUMENTS SUPPORTING PETITION TO AMEND RULE
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1. OAR 340-71-015
2. Sept. 3, 1975 letter from County Sanitarian to Norman Pohll stating that the site does not have prior approval.
3. Oct. 1, 1975, letter from Daryl Johnson to Norman Pohll stating that July 18, 1966 site inspection form "as written, states an approval," but that "the approval must be considered not valid" because the proper criteria were not addressed.
6. Oct. 27, 1975 letter from Allen Johnson, counsel for Mr. Pohll, to Daryl Johnson requesting clarification.
7. Dec. 9, 1975, letter from Allen Johnson to Ray Underwood, chief legal counsel for DEQ, confirming agreement that proper method of challenge to decision is to circuit court under administrative procedures act provisions for review of decisions in noncontested cases. Letter also notes concurrence of county legal counsel's office.
8. Dec. 9, 1975, letter to T.J. Osborne of DEQ enclosing copy of petition and seeking concurrent reconsideration of DEQ decision.
9. Dec. 22, 1975, letter to Allen Johnson from Beverly Hall, confirming that she has been granted leave to delay filing a response until advised that settlement negotiations have not succeeded.
10. Dec. 24, 1975, letter from Osborne to Allen Johnson concurring with Daryl Johnson's finding.
11. April 30, 1976, letter to Johnson from Hall confirming further extension to DEQ.
12. Nov. 22, 1976, letter to Hall from Johnson asking her to make an appearance because negotiations had not succeeded.
13. Jan 5, 1976, letter from Johnson to Osborne re possible solution through alternative design.
14. Amended petition for review in circuit court.
15. Jan. 21, 1976 letter to Allen Johnson from Osborne suggesting possible solution through a variance.

16. Oct. 28, 1976, letter from Allen Johnson to Roy Burns, county sanitarian, enclosing plan for site modification and construction of septic system.
17. Nov. 15, 1976, letter from Burns to Johnson stating that proposal doesn't appear to qualify for variance.
18. Feb. 8, 1977 letter from Robert Haskins of counsel for DEQ confirming grant of extension for filing appearance to second amended petition.
19. Nov. 15, 1977, letter from Haskins to Johnson re commencement of contested case proceeding.
20. Nov. 15, 1977, letter from Haskins to William Young, director of DEQ, explaining that court case was dismissed as a result of Court of Appeals ruling in Bay River v. EQC, and enclosing documents necessary to commence contested case proceeding.
21. Nov. 30, 1977, letter from Van Kollias of DEQ to Mr. Pohll notifying him of denial of permit application.
22. Dec. 21, 1977, letter from Van Kollias of DEQ acknowledging request for contested case hearing.
23. Notice of denial of permit, dated Nov. 23, 1977.
24. Dec. 15, 1977, answer and request for hearing.
25. Jan. 26, 1978, letter from Haskins to Judge Rodman.
26. Jan. 27, 1978, judgment dismissing court case.
27. Feb. 7, 1978, notice of time and place for contested case proceeding.
28. May 16, 1978, letter from Haskins to Johnson confirming extension of time in which to file post-hearing brief.
29. Petitioner's post-hearing memorandum.
30. Dec. 7, 1978 letter from Johnson to Pohll re hearings officer's assurance that he is getting his opinion to word processing and that it will be out shortly.
31. April 25, 1979, letter from Johnson to Pohll relaying hearings officer's reasons for further delay.
32. June 1, 1979, letter from Johnson to hearings officer demanding issuance of an opinion.
33. June 28, 1979 letter from hearings officer to Johnson enclosing opinion determining that prior approval is valid.
34. Copy of hearings officer's opinion, dated June 29, 1979.

35. September 12, 1979, letter from Haskins to Burns telling him that the order is final and that the permit must be issued.
36. September 12, 1979, construction permit.
37. Feb. 7, 1980, partition denial notice.
38. Feb 15, 1980, notice of appeal on partition denial..
39. May 21, 1980, letter from County to Pohll informing him that County Commissioners have reversed staff and that the order remains subject to appeal for another 30 days.
40. July 31, 1980 denial of septic approval on lot # 3.
41. Partition showing the three lots applied for
42. Partition map showing revised application for 2 lots.
43. Sept. 25, 1980, partition decision approving 2-lot partition subject to approval for subsurface sewage disposal on Lot 2 (TL 801)(lot 1 already has Mr. Pohll's house on it).

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 71 — DEPARTMENT OF ENVIRONMENTAL QUALITY

tilted; tree trunks which bend uniformly as they enter the ground. (See Diagrams 4A, 4B, and 4C)

(92) "Water table" means that surface in an unconfined water body at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the water body just far enough to hold standing water. In wells which penetrate to greater depths, the water level will stand above or below the water table if an upward or downward component of ground-water flow exists. Water table levels fluctuate throughout the year in response to changes in recharge and discharge. A water table is permanent if the underlying ground water is present year-round, or temporary if the ground water disappears for a period of time each year. (See Diagram 1)

(93) "Zone of aeration" means the unsaturated zone that occurs below the ground surface and above the point at which the upper limit of the water table exists. (See Diagram 1)

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the office of Secretary of State or Department of Environmental Quality.]

Stat. Auth.: ORS Ch. 454

Hist: DEQ 57(Temp), f. & ef. 10-5-73; DEQ 59(Temp), f. & ef. 11-23-73; DEQ 68, f. 2-1-74, ef. 4-26-74; DEQ 91(Temp), f. 6-30-75, ef. 7-1-75; DEQ 98, f. 9-2-75, ef. 9-25-75; DEQ 124, f. 10-29-76, ef. 11-1-76; DEQ 1-1978, f. & ef. 3-1-78; DEQ 6-1979, f. 4-13-79, ef. 4-16-79

Sewage Disposal Systems Approved by the Department

340-71-011 (1) Except as provided in rule 340-71-040, no garbage or sewage shall be discharged from any building or structure unless such garbage or sewage has been treated or otherwise disposed of in conformance with section (2).

(2) Pursuant to ORS 468.77(1), all plumbing fixtures in buildings or structures, including prior existing plumbing fixtures from which waste water or sewage is or may be discharged, shall be connected to, and all waste water or sewage from such fixtures in buildings or structures shall be discharged into:

(a) A sewerage system operating under a permit issued by the Department pursuant to ORS 468.740; or

(b) A subsurface or alternative sewage disposal system which was completely constructed prior to January 1, 1974, and which has not violated rule 340-71-012; or

(c) A subsurface or alternative sewage disposal system any part of which was constructed after January 1, 1974, under the authority of a permit issued pursuant to ORS 454.655, which thereafter has been used under the authority of a certificate of satisfactory completion issued pursuant to ORS 454.665, and which has not violated rule 340-71-012 since issuance of the certificate.

(3) The approval of a system under subsection (2)(b) or (2)(c) of this rule is limited to approval of its use to serve only the maximum size of establishment which the system was originally designed to serve in conformity with the rules in existence at the time of construction, or if there were no such rules, then the actual establishment in existence on January 1, 1974. Changes in the establishment shall comply with section 340-71-013(4).

Stat. Auth.: ORS Ch. 454 & 468

Hist: DEQ 98, f. 9-2-75, ef. 9-25-75

General

340-71-012 (1) Discharge of untreated or partially treated sewage or septic tank effluent directly or indirectly onto the surface of the ground or into the public waters is prohibited and constitutes a public health hazard. All sewage shall be treated and disposed of in a manner approved by the Department.

(2) Each and every owner of real property upon which is situated a subsurface or alternative sewage disposal system or non-water-carried waste disposal facility is jointly and severally responsible for the operation of the system or facility.

Stat. Auth.: ORS Ch. 454 & 468

Hist: DEQ 98, f. 9-2-75, ef. 9-25-75

Permit Required for Construction

340-71-013 (1) Without first obtaining a permit, no person shall construct or install a subsurface or alternative sewage disposal system or part thereof. However, a person may undertake emergency repairs of a subsurface or alternative sewage disposal system without first obtaining a permit if he obtains a permit within three days after the emergency repairs are begun. For the purpose of this subsection, "emergency repairs" means repairs of a failing subsurface or alternative sewage disposal system where immediate action is necessary to relieve a situation in which sewage is backing up into the dwelling or building or repair of a broken pressure sewer line.

(2) A permit shall be issued only to a person licensed under ORS 454.695, or to an owner or contract purchaser in possession of the land. However, a permit issued to an owner or contract purchaser carries the condition that the owner or purchaser or his regular employes or a person licensed under ORS 454.695 perform all labor in connection with the construction of the subsurface or alternative sewage disposal system.

(3) A permit shall authorize only the use for which the original application was made, or a lesser use. Use shall be measured by daily sewage flow which shall be determined by the Director or his authorized representative based on the greater of the figures listed in columns 1 and 2 of Table 3 in section 340-71-020, or based on other reliable information which shows a different maximum potential flow.

(4) Without first obtaining a new permit therefore, no person shall increase the use (measured as provided in subsection (3) hereof) of a subsurface or alternative sewage disposal system. A permit for an increased use shall issue only if the subsurface or alternative sewage disposal system meets all the requirements and standards in effect at the time of the application for the increased use (including, but not limited to, size of septic tank and disposal field, characteristics of soil, absence of ground water, and setback requirements).

(5) Order Limiting or Prohibiting Construction. No permit shall be issued for construction of a new or expanded subsurface or alternative sewage disposal system which would violate any order issued by the Commission pursuant to ORS 454.685 limiting or prohibiting such construction, provided, however, that this subsection shall not prohibit the issuance of a permit to repair a failing subsurface or alternative sewage disposal system.

Stat. Auth.: ORS Ch. 454 & 468

Hist: DEQ 98, f. 9-2-75, ef. 9-25-75; DEQ 124, f. 10-29-76, ef. 11-1-76

Procedures for Issuance or Denial of Permits.

340-71-015 (1) Application for permits shall be made on application forms approved by the Department. All application forms must be completed in full, signed by the applicant or his legally authorized representative and accompanied by the nonrefundable permit application fee required by section 340-72-010 and the specified number of copies of all required exhibits.

(2) An application, which is incomplete or incorrect, unsigned, or which does not contain the required exhibits (clearly identified) will not be accepted by the Director or his authorized representative for filing and will be returned to the applicant for completion within twenty (20) days of receipt.

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(3) Following the receipt of a completed application for a permit and specified permit application fee, the Director or his authorized representative shall make a determination as to whether or not the proposed construction will be in accordance with the rules of the Environmental Quality Commission, and within twenty (20) days after the date of such receipt shall either issue or deny the permit, unless weather conditions or distance and unavailability of transportation prevent the issuance or denial within twenty (20) days, in which case the Director or his authorized representative shall notify the applicant of the reason for the delay and shall issue or deny the permit within sixty (60) days of such notification. If the determination referred to above cannot be made within the time limits specified because of frozen ground conditions or seasonal variations in the liquid water level, the application shall be denied until such time as the required determination can be made by the Director or his authorized representative.

(4) The Director or his authorized representative shall issue a permit only if he finds that the proposed construction will be in accordance with the rules of the Environmental Quality Commission and shall issue a permit only to a person licensed by the Department to perform sewage disposal services, or to an owner or contract purchaser in possession of the land. Notwithstanding that the proposed construction would be in accordance with all other rules of the Environmental Quality Commission, the Director or his authorized representative shall not issue a permit if he has evidence that such construction would violate any land use planning, zoning, building requirement, ordinance or regulation enacted or promulgated by a constitutive local government agency having jurisdiction over the subject real property.

(5) The Director or his authorized representative shall not issue a permit if a community or area-wide sewerage system is available which will have adequate capacity to serve the proposed sewage discharge and which is being, or at the time of connection will be, operated and maintained in compliance with the provisions of a waste discharge permit issued by the Department:

(a) A community or area-wide sewerage system shall be deemed available if its nearest connection point from the line to the property on which is located the nearest building to be connected is or will be:

(A) For a proposed single family dwelling, or other establishment with a projected sewage flow of not more than one hundred (100) gallons per day, three hundred (300) feet or less.

(B) For a proposed subdivision or group of two (2) to five single family dwellings, or equivalent in projected sewage flow, not more than two hundred (200) feet multiplied by the number of dwellings or equivalent.

(C) For a proposed subdivision or group of six (6) to ten single family dwellings, or equivalent, not more than one thousand (1000) feet plus one hundred fifty (150) feet multiplied by the number of dwellings or equivalents exceeding five

(D) For a proposed subdivision or group of eleven (11) to twenty (20) single family dwellings, or equivalent, not more than one thousand seven hundred fifty (1,750) feet plus one hundred (100) feet multiplied by the number of dwellings or equivalents exceeding ten (10).

(E) For a proposed subdivision or group of twenty-one (21) to fifty (50) single family dwellings, or equivalent, not more than two thousand seven hundred fifty (2,750) feet plus one hundred (100) feet multiplied by the number of dwellings or equivalents exceeding twenty (20).

(b) For a proposed subdivision or other development with more than fifty (50) single family dwellings, or equivalent, the Department shall make a case-by-case determination of the availability of a community or area-wide sewerage system.

(6) A permit for construction of a subsurface or alternative sewage disposal system or systems designed for five (5) or more family dwellings or to serve any other dwelling or dwellings or establishment projected to have more than twelve hundred (1200) gallons per day of sewage flow shall not be issued until:

(a) Plans and specifications for the proposed subsurface or alternative sewage disposal system have been reviewed and approved by the Department. In such review, the Department shall consider the recommendations of the Director's authorized representative, but in no event shall approval be granted if the Department has evidence of non-conformance of such proposed system with applicable local land-use planning, zoning, and building requirements.

(b) The person proposing to construct such a system has filed with the Department, pursuant to the provisions of ORS 454.425, unless otherwise exempt by rules of the Commission, a surety bond or equivalent approved security of a sum required by the Commission, not to exceed the sum of twenty five thousand dollars (\$25,000). The bond shall be executed in favor of the State of Oregon and shall be approved as to form by the Attorney General.

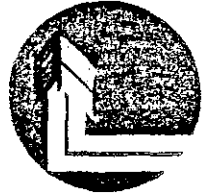
(7) A permit issued pursuant to these rules shall be effective for a period of one year from the date of issuance and except as provided in section (8) of this rule is not transferrable.

(8) Prior Construction Permits or Approvals. All permits or written approvals involving site evaluations issued prior to January 1, 1974, shall be accepted under these rules as valid for construction of a subsurface sewage disposal system providing they expressly authorize use of such facilities for an individual lot or for a specific lot within a subdivision; they were issued by a representative of a state or local agency authorized by law to grant such approval; and they were issued in accordance with all rules in effect at the time. No person having a valid prior permit or approval meeting the above requirements shall commence construction of a subsurface sewage disposal system until he has made application for a construction permit required by ORS 454.655, has paid the permit fee required by ORS 454.745, and has received a construction permit from the Department. Construction shall conform as nearly as possible with the current rules of the Commission. Before operating or using the system, the permittee shall obtain a "Certificate of Satisfactory Completion" as required by ORS 454.665. If it is not possible for construction to be in full compliance with the current rules of the Commission, the Subsurface Construction Permit and Certificate of Satisfactory Completion must contain a statement notifying the permittee or owner that the system is substandard and therefore, may not operate satisfactorily, and that if it fails and necessary repair cannot be made in accordance with current rules of the Commission the system may have to be abandoned.

Application for construction permits under this rule shall be made prior to July 1, 1976, and construction shall be completed by July 1, 1980. All permits and written approvals issued prior to January 1, 1974, shall expire on July 1, 1976. An expired prior construction permit shall be renewed upon request up to July 1, 1976, upon payment of the proper fee, provided it meets all other provisions of this subsection. Construction permits issued under this section are transferrable during the life of the permit.

Stat. Auth.: ORS Ch. 454 & 468

Hist: DEQ 65(Temp), f. & ef. 2-1-74; DEQ 68, f. 3-28-74, ef. 4-26-74; DEQ 73(Temp), f. & ef. 6-26-74; DEQ 80, f. 10-30-74, ef. 11-25-74; DEQ 90(Temp), f. & ef. 5-30-75; DEQ 94(Temp), f. & ef. 7-14-75; DEQ 98, f. 9-2-75, ef. 9-25-75; DEQ 124, f. 10-29-76, ef. 11-1-76; DEQ 6-1979, f. 4-13-79, ef. 4-16-79



September 3, 1975

Norman D. Pohl
Route 5 Box 1259
Eugene, Oregon

RE: Building Permit #2420-75
18 - 04 - 18 Tax Lot 801
Pohl/Anderson

Dear Mr. Pohl:

As requested, I have enclosed a copy of a staff memorandum, dated September 3, 1975, pertaining to our review of your building permit application. As we discussed previously our review indicates that the site does not have a valid prior approval.

If you have any questions following review of the enclosed materials, please feel free to contact me at 687-4065.

Sincerely,

Roy L. Burns
ROY L. BURNS, DIRECTOR

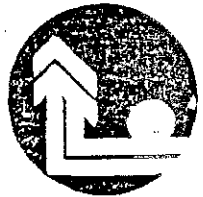
Gregory W. Gray R.S.
Gregory W. Gray, R.S.
Area Sanitarian

cc: Joseph J. Leahy
County Council

GWG/gf

Enclosure:

Resp # 5



September 3, 1975

TO: Greg Gray, File
FROM: Craig Starr *CS*
RE: Building Permit #2420-75
18 - 04 - 18 Tax Lot 801
Pohl/Anderson

Since the Technical Assistance Committee did not meet as scheduled on September 2, 1975, I reviewed the information pertaining to the subject application. Based upon that review, my interpretation is that a prior approval does not exist for that parcel. In fact, it appears that the site is specifically disapproved.

Only once in all of the information I reviewed was any approval mentioned, and that only casually mentioned that a fill would be "allowed". Based upon an April 30, 1975 memorandum from Roy Burns, such a remark does not constitute a prior approval.

Furthermore, my review of the 1972 site inspection and worksheet indicates that the site would not meet the standards in effect at that time even with a maximum (3' deep) fill. Thus, OAR 340-71-015-(8), pertaining to prior approvals, would not define even a prior approval on the site as being valid for issuance of a construction permit.

In summary, it is my interpretation that the subject parcel does not have a valid prior approval.

RECOMMENDATIONS

1. If Mr. Pohl questions my interpretation on the matter, have him make an appointment with the Technical Assistance Committee to discuss it.
2. My review of the 1972 site inspection and worksheet also indicates that the site would probably not be approvable under either the Rural Area or variance provisions of DEQ's rules. Based upon this factor and because no work has been accomplished on this application, I recommend that Mr. Pohl be requested to withdraw the application and be refunded the application fee.

GCS/gf

Resp # 6

APPT No. 89693

NO. 1-10-72

WP. 18 RANGE 04 SEC. 18
TAX LOT NO. 501 CODE _____
DATE 1-7-72

REQUEST FOR SITE INSPECTION

BY ANDERSON, ROBERT E. MAILING ADDRESS 67 Kingauby TEL. No. 688-487
W. Eugene, 97402

OWNER OF PROPERTY above SIZE OF PROP. 6-a-c-l-1-1-1 LEGAL ACCESS? N. Modesto Rd
CONSENT OF OWNER? _____ IS PROPERTY CONTIGUOUS TO ANY CITY LIMIT? no
EXISTING STRUCTURES ON PROPERTY none

SOURCE OF WATER SUPPLY: PUBLIC _____ SPRING _____ WELL: DRILLED X ^{with 15'} DRIVEN _____ DUG _____

DESCRIPTION OF SITE (DIRECTIONS, LANDMARKS, HOUSE OR BOX NO., IF ANY): north of
Simple Hill Rd - where pavement ends - about 1/2 miles
property fenced - north of and adjoining Normon Pohl prop.

PROPOSED USE OF SITE (E.G., NUMBER OF DWELLINGS, COMMERCIAL OR INDUSTRIAL USE, SUBDIVISION):
Future Dwelling - 2-1-1

- URBANIZING AREA.
- SPECIAL PERMIT AREA.

FEE:
 No. of SITES 1 \$ 5.00
 No. of ACRES _____
 TOTAL \$ 5.00

jk

RESULTS OF INVESTIGATION: not approved
Holes level full of water. The holes
are about 450 ft back from Modesto
Rd on higher ground
numerous water puddles in area of
holes
Heavy light brown top soil. Semi-hard
sandstone (grey mottled) at 18-24 in.

*(due to prior commitment to fill and financial invitation
Mrs. Anderson has in property - fill will be allowed)*

THIS IS A PRELIMINARY REPORT WHICH DOES NOT INSURE THE ISSUANCE OF A FUTURE BUILDING PERMIT. ANY PLANS OR EXPENDITURES MADE IN RELIANCE UPON THIS REPORT ARE AT YOUR OWN RISK. BEFORE CONSTRUCTION IS STARTED BRING THIS FORM TO THE BUILDING AND SANITATION DIVISION AND MAKE APPLICATION FOR A BUILDING PERMIT. IF THE PROPERTY IS A PORTION ONLY OF A TAX LOT, A METES AND BOUNDS DESCRIPTION OF THE PARCEL MUST BE FURNISHED. EXACT SPECIFICATIONS FOR THE SEWAGE DISPOSAL SYSTEM WILL APPEAR ON THE BUILDING PERMIT. TWO SETS OF THE BUILDING PLANS AND PLOT PLAN WILL BE REQUIRED.

LANE COUNTY BUILDING AND SANITATION DIVISION:

 BUILDING INSPECTOR SANITARIAN DATE 1/12/72

THIS REPORT IS NOT COMPLETE WITHOUT THE SIGNATURES OF THE BUILDING INSPECTOR AND SANITARIAN
 Resp. #7

WP. 18 RG. 04 SE 98 T.L. 801 DATE 1/12/72

COORDINATES E

 N

CENSUS TRACT 1701 112111

SIGNATURE [Signature]
POSITION NO. 102141

CHECKLIST

CRITERIA FOR DETERMINING SITE SUITABILITY
FOR DEVELOPMENT UTILIZING
SUBSURFACE SEWAGE DISPOSAL METHODS

GENERAL CONSIDERATIONS

1. DISTANCE TO COMMUNITY SEWERS
A. 6 MILES OR _____ FEET, SOURCE _____
2. DISTANCE TO PUBLIC WATER
A. 6 MILES OR _____ FEET, SOURCE _____
3. DEVELOPMENT TRENDS IN THE AREA (SHORT AND LONG RANGE POPULATION OR HOUSING DENSITIES) DU = DWELLING UNIT.
A. COMMENT 1 DU/ACRE OR LESS , 2 - 5 DU/ACRE _____, 6 - 10 DU/ACRE _____
4. PERCENT OR NUMBER OF FAILING SEWAGE DISPOSAL SYSTEMS IN THE GENERAL AREA %
A. HAS ENVIRONMENTAL SURVEY BEEN CONDUCTED YES _____ NO DATE _____
5. PROJECTED PLANS AND/OR STUDIES FOR PUBLIC SEWER OR WATER IN THE AREA. (INDICATE IF ADOPTED).

COMMENTS: _____

SPECIFIC CONSIDERATIONS

1. SOIL CHARACTERISTICS
 - A. TOP SOIL DEPTH AND TYPE 18 in brown clay - wet good
 - B. SUBSOIL DEPTH AND TYPE hard sand subsoil at 18 in
 - C. MOTTLING DEPTH 18-24 in
 - D. WATER TABLE DEPTH At low level part of water
 - COMMENT irregular part of water
 - E. FILL FEASIBILITY poor - water table too high
COMMENT _____
 - F. PERMEABILITY poor
 - G. PERCOLATION TEST RESULTS none

resp # 8

2. SURFACE DRAINAGE CHARACTERISTICS SWALES _____ : DRAINAGE WAYS (DEPTH) _____ :
DRAINAGE OBSTRUCTIONS _____ : COMMENTS _____
FLOODING _____

3. WATER SUPPLY EVALUATION - CHEMICAL, BACTERIOLOGICAL, PHYSICAL, QUANTATIVE

A. WATER SOURCE: PUBLIC _____ AGENCY _____ SPRING _____ WELL _____
LAKE _____ RIVER _____ COMMENTS _____ GEN. AREA _____ SPECIFIC SITE _____
B. WELL DEPTH _____
C. JOINT USE OF WELL, (# OF PEOPLE SERVED)
NUMBER OF PERSONS TO BE SERVED _____ FAMILIES _____

4. ADDITIONAL AREA AVAILABLE FOR USE IN CASE OF SEWAGE DISPOSAL SYSTEM FAILURE:
NO _____ YES _____ ; AMOUNT AND GENERAL LOCATION _____

5. ACTUAL USEABLE UNDISTURBED OR UNALTERED AREA AVAILABLE FOR SEWAGE DISPOSAL -
EASEMENTS, DRAINAGEWAYS, TOPOGRAPHY, SHAPE, SIZE, SLOPE

A. SLOPE 1'/100' _____ C. TOTAL SIZE OF PARCEL _____
B. AMOUNT USEABLE AREA _____

REMARKS: _____

6. PREVIOUS SITE INSPECTION YES _____ NO _____ DATES _____

7. DISTANCE TO: CREEKS _____, STREAMS _____, RIVERS _____ CANALS _____
LAKES _____, PONDS _____, OTHER, SPECIFY: _____

8. TYPE OF STRUCTURE AND APPROXIMATE SEWAGE FLOW: SINGLE FAMILY _____ GPD
MULTI-FAMILY _____ GPD, INDUSTRIAL _____ GPD, COMMERCIAL _____ GPD
INSTITUTIONAL _____ GPD NOTE: SOIL ABSORPTION AREA IN SQ. FT. _____

AREA NECESSARY FOR SEWAGE DISPOSAL SYSTEMS _____

DATE _____
REVIEWED BY :

ACTION:

Rep # 8(A)

BUILDING SITE EVALUATION

T 1 - 115 18 TAX LOT 801
 CF 03 TRACT 11-137A

- () Building Permit Application No. _____
- (X) Site Inspection 89693
- () Pre-Permit Investigation

APPLICANT:
 NAME W. H. HANCOCK
 ADDRESS 67 1/2 Maple Lane
 PHONE 658-4572
 DATE 1-7-71

LANE COUNTY PLANNING DEPARTMENT	NOT applicable	NO	YES	NAME	DATE
1. Zoning Ordinance Compliance (Zone <u>R-15</u>)	()	()	()		
2. Subdivision Ordinance Compliance	()	()	()		
3. Required Access	()	()	()		
4. Building Site (Area, Width, Frontage, Setback)	()	()	()		
5. Other (see comments)	()	()	()		

COMMENTS: _____

BUILDING INSPECTION SECTION	NOT applicable	NO	YES	NAME	DATE
6. Plans Submitted	(X)	()	()		
7. Soil Stability (footings)	(X)	()	()		
8. Flood Plain	(X)	()	()		
9. Other (see Comments)	(X)	()	()	<u>W. H. Hancock</u>	<u>1-10-72</u>

COMMENTS: _____

SANITATION SECTION	NOT applicable	NO	YES	NAME	DATE
10. Sewage Disposal	()	(X)	()	<u>George H. Haysford</u>	<u>1/12/72</u>
11. Usable Area	()	()	()		
12. Water Supply	()	()	()		
13. Other (see Comments)	()	()	()		

COMMENTS: _____

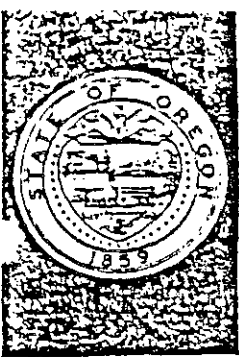
TO APPLICANT:

- Your Building Permit / Site Inspection:
- () Can be approved.
 - () Cannot be approved at this time as indicated on item NO. _____ above. Questions and further information on items 1 through 5 contact the LANE COUNTY PLANNING DEPARTMENT. Questions and further information on items 6 through 13 contact the Lane County Building and Sanitation Division.
 - () Will be held in this office until you can resolve the problems indicated.
 - () Is being returned.
 - () Your building permit application fee is being returned under separate cover.

LANE COUNTY PLANNING DEPARTMENT
 35 Sixth Avenue East, Eugene, Oregon 97401
 PHONE: 342-1311 EXT. 231

LANE COUNTY BUILDING & SANITATION DIVISION
 135 Sixth Avenue East, Eugene, Oregon 9740
 PHONE: 342-1311 EXT. 411

Rep # 8(b)



DEPARTMENT OF
ENVIRONMENTAL QUALITY

MIDWEST REGION

16 OAKWAY MALL • EUGENE, OREGON • 97401 • Phone (503) 686-7601

October 1, 1975

ROBERT W. STRAUB

GOVERNOR

~~VERNER J. ADKISON~~
Regional Administrator

Mr. Norman Pohl
2101 Bailey Hill Road
Eugene, Oregon 97402

Re: Prior Approval Status
Application For Subsurface Sewage
Disposal
Twp. 18, Range 04, Section 18, T.L. 801
Lane County

Dear Mr. Pohl:

This letter is in reference to prior approval status for a subsurface sewage disposal system on the above-described property. I have reviewed the Lane County "Request For Site Inspection" form pertaining to site evaluation of the subject property and dated July 18, 1966. I concur that the form, as written, states an approval.

On September 25, 1975, I examined the property in the presence of Soil Scientist, Ted Dietz, and yourself. It was evident at that time that the entire area in question was composed of a very heavy clay at/or near the ground surface. It is my considered opinion that this condition does not meet applicable rules at the time said approval was written and, therefore, the approval was not issued in accordance with all rules in effect at the time. Please be referred to the enclosed criteria regarding Prior Construction Permits or approvals taken from Oregon Administrative Rules Chapter 340, Division 7, Subdivision 1, Section 71-015(8).

On this basis, the approval must be considered not valid.

If you have any questions regarding the above, please feel free to contact me in Eugene (686-7601).

Sincerely,

LOREN KRAMER
Director

Daryl Johnson
Sanitarian

DJ:ts

cc: T. J. Osborne, Land Quality Division
cc: Lane County Department of Environmental Management

cps L N G

JACK A. GARDNER
ALLEN L. JOHNSON

JACK A. GARDNER
ATTORNEY AT LAW
915 OAK STREET SUITE 200
EUGENE, OREGON 97401

TELEPHONE
(503) 687-9001

October 27, 1975

Mr. Darrel Johnson
Sanitarian
Dept. of Environmental
Quality
16 Oakway Mall
Eugene, Oregon 97401

Re: Prior Approval Status of Application for
Subsurface Sewage Disposal, Twp. 18, R 04,
Sec. 18, T. L. 801, Lane County

Dear Mr. Johnson:

This office represents Norman Pohll, owner of the tax lot described above. In your letter of October 1, 1975, to Mr. Pohll, you stated that, in your opinion, the July 18, 1966, approval for a subsurface sewage disposal system "was not issued with all rules in effect at the time."

I am unable to determine from the text of that letter or from the regulations which you enclosed precisely what specific rule or rules in effect on July 18, 1966, were violated by that approval.

I would greatly appreciate it if you would write back citing the specific rule or rules then in effect which you relied upon in your October 1, 1975 letter.

Very truly yours,


Allen L. Johnson

ALJ:lw
cc: Norm Pohll

JACK A. GARDNER
ALLEN L. JOHNSON

JACK A. GARDNER
ATTORNEY AT LAW
A PROFESSIONAL CORPORATION
915 OAK STREET SUITE 200
EUGENE, OREGON 97401

TELEPHONE
(503) 687-9001

December 9, 1975

Ray Underwood
Chief Legal Counsel
Dept. of Environmental Quality
16 Oakway Mall
Eugene, Oregon 97401

RE: Norman Pohll
Septic Permit Application

Dear Mr. Underwood:

I am enclosing a copy of the Petition for Review of the denial of Mr. Pohll's subsurface sewage disposal permit, as discussed in our telephone conversation of November 24, 1975.

This letter will also serve to confirm our agreement that the appropriate route for review of a denial of a subsurface sewage disposal permit is to the Circuit Court on a Petition for Review of a noncontested case under ORS 183.400, as modified by Oregon Laws 1975, Chapter 759, Section 16. I have also conferred with Howard Ollis of the Lane County Legal Counsel's office. He agrees with us that the denial of a subsurface sewage disposal permit is State action, not County, and that a Writ of Review would be improper.

It is my position that Mr. Pohll has exhausted his administrative remedies because no formal appeal procedure exists with respect to residential properties under ten acres. Nevertheless, concurrently with the filing of this Petition we are requesting the State office of the DEQ to reevaluate the denial.

Yours very truly,


Allen L. Johnson

ALJ:stc
Enclosure
cc: Norman Pohll
Jack Osborne

JACK A. GARDNER
ALLEN L. JOHNSON

JACK A. GARDNER
ATTORNEY AT LAW
A PROFESSIONAL CORPORATION
915 OAK STREET SUITE 200
EUGENE, OREGON 97401

TELEPHONE
(503) 687-9001

December 9, 1975

Mr. T. J. Osborne
Administrator
Subsurface and Alternative Sewage System Division
Oregon Department of Environmental Quality
1234 S.W. Morrison St.
Portland, Oregon 97205

Re: Prior Approval Status
Application for Subsurface Sewage Disposal
Twp. 18, Range 04, Section 18, T.L. 801, Lane County

Dear Mr. Osborne:

I am enclosing a copy of the Petition for Review of the denial of a subsurface sewage disposal permit for the above-described six-acre tax lot in Lane County. The petition will be filed today or tomorrow in Lane County Circuit Court. However, as indicated in the enclosed letter to Ray Underwood, DEQ's chief legal counsel, Mr. Pohll wishes to seek reconsideration of the denial of the permit concurrently with the filing of the petition. The petition is being filed to avoid any question of late filing under 1975 Or Laws ch 759, Sec.16(2), which requires filing within 60 days after the date an order in an uncontested case is served.

It is our position that Mr. Pohll was improperly denied a building permit based upon the prior approval granted the property in 1966 for a subsurface sewage disposal system. A copy of that prior approval is attached. It states that

"Property may be approved for one Dwelling site in vicinity of test holes, provided a fill of friable soil is placed in the drainfield area. Specifications for fill, septic tank & drainfield will be given on permit."

Mr. Pohll applied for a permit based upon prior approval and paid the required fee on August 26, 1975. The permit was denied October 10, 1975, on the grounds that the prior approval "cannot be honored, due to soil conditions being unsuitable."

Jack Osborne

Re: Pohll septic permit
December 9, 1975

The basis for the decision is set forth in the attached letter from Daryl Johnson, DEQ sanitarian, dated October 1, 1975. Mr. Johnson apparently visited the site with Mr. Pohll and Ted Dietz, a county soil scientist. Based upon that inspection, he determined that the site would not have warranted approval under 1966 rules because of the heavy clay near the surface.

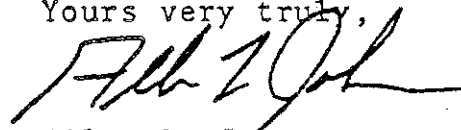
Mr. Johnson's opinion does not contend that the building inspector and sanitarian who signed the 1966 approval, which he admits to be an approval within the meaning of the prior approval rules, did not "give consideration," as required by the rules then in effect, to soil conditions. Unless it can be affirmatively shown that such consideration was not given, the prior approval was issued in accordance with rules then in effect.

Mr. Pohll realizes that any permit granted pursuant to the 1966 approval may be conditioned upon a fairly elaborate set of fill or other requirements. He stands ready to fulfill any such requirements, within reason.

It seems to me that the DEQ can fully protect itself by policing the kind of system that goes in, pursuant to the permit and need not rely on the questionable application of the prior approval rules used in this case.

I respectfully request, on behalf of Mr. Pohll, that you reconsider the decision not to grant the permit and order that one be issued in accordance with the 1966 approval. We can then withdraw the petition and work out an acceptable system design for the property.

Yours very truly,



Allen L. Johnson

encs.

cc: Norm Pohll
Stan Petracyk
Ray Underwood

LEE JOHNSON
ATTORNEY GENERAL

JAMES W. DURHAM
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE

PORTLAND DIVISION
555 STATE OFFICE BUILDING
PORTLAND, OREGON 97201
TELEPHONE: (503) 229-5725

December 22, 1975

Mr. Allen L. Johnson
Attorney at Law
915 Oak Street, Suite 200
Eugene, Oregon 97401

Re: Pohll v. DEQ

Dear Mr. Johnson:

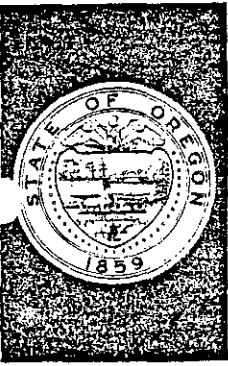
Thank you for granting me a reasonable time in which to make an appearance in the above-referenced case. It is my understanding that this case is currently being negotiated directly with the Department of Environmental Quality, and I will take no further action until either you or the Department advises me that negotiations have not been successful.

Sincerely,

Beverly B. Hall
BEVERLY B. HALL
Assistant Attorney General

ej

cc: Mr. Jack Osborne



DEPARTMENT OF ENVIRONMENTAL QUALITY

1234 S.W. MORRISON STREET • PORTLAND, ORE. 97205 • Telephone (503) 229-6218

ROBERT W. STRAUB
GOVERNOR

December 24, 1975

Mr. Allen L. Johnson
Jack A. Gardner, Attorney at Law
915 Oak Street, Suite 200
Eugene, Oregon 97401

Dear Mr. Johnson:

Re: Prior Approval Status
Subsurface Sewage Disposal
Twp. 18, R 04, 218, T.L. 801,
Lane County

I have reviewed your letter with attachments of December 9, 1975 with the Department's chief legal counsel, Mr. Raymond P. Underwood. After review the following is the Department's position with regard to this parcel of land:

- (1) The parcel does not comply with current rules of the Environmental Quality Commission for subsurface sewage disposal.
- (2) "Prior approval" status. In order for a "prior approval" to be honored for a permit, it (the prior approval or permit) must have been "issued in accordance with all rules in effect at the time." Mr. Daryl Johnson contended in his letter of October 1, 1975 that this was not the case. Mr. Johnson reports soil on the parcel is heavy clay therefore did not and still does not comply with the rules in effect in 1966.

You contend that Lane County did give "consideration" to soil conditions on the property; therefore a permit should be issued. You obviously are referring to OAR 41-020(1) which reads as follows: "In determining a suitable location for a system, consideration shall be given to the size and shape of the land area available, type of soil, slope of natural and finished grade, depth of ground water, proximity to existing or future water supplies, and possible expansion of the system."

It is our interpretation that this is not a definitive rule but merely a requirement that certain physical aspects of a property be examined in making a determination of whether to approve or deny a permit.

Mr. Allen L. Johnson
December 24, 1975
Page 2

OAR 41-030(1) is the rule that we feel applies in this situation. The rule reads as follows:

"All subsurface disposal fields shall comply with the following requirements: (1) They shall not be used in heavy clay or other impervious soil formations or in low swampy areas or where the ground water during any season of the year will be within 24 inches of the finished ground surface."

Mr. Johnson states that the property is in conflict with the above rule due to existence of heavy clay.


I must concur with Mr. Johnson's and Lane County's interpretation that this is not a "prior approval" because the soil conditions did not comply with the rules in effect at the time of approval.

Other considerations:

- (1) Variance. It does not appear possible to issue a permit through a variance with the soil conditions that exist on this property.
- (2) Experimental system. This possibility might be pursued through Mr. Johnson. However, due to severity of soil conditions and high rainfall in Lane County, this does not appear to be a feasible option.

Sincerely,

LOREN KRAMER
Director


T. Jack Osborne, Administrator
Subsurface and Alternative
Sewage Systems Division

TJO:md

cc: Daryl Johnson
Lane County
Ray Underwood

LEE JOHNSON
ATTORNEY GENERAL



JAMES W. DURHAM
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
PORTLAND DIVISION
555 STATE OFFICE BUILDING
PORTLAND, OREGON 97201
TELEPHONE: (503) 229-5725

RECEIVED

JACK A. GARDNER
ATTORNEY GENERAL

April 30, 1976

Mr. Allen L. Johnson
Attorney at Law
915 Oak Street, Suite 200
Eugene, Oregon 97401

Re: Pohll vs. Department of Environmental Quality
Lane County Circuit Court No. 75-5962

Dear Mr. Johnson:

This will confirm our telephone conversation today in which you told me that your client, Mr. Pohll, is still negotiating with the Department of Environmental Quality concerning a possible settlement of this matter.

I have not filed an answer in this case, and as we discussed, I will not make an appearance unless you inform me that there is no further possibility of settlement.

Very truly yours,

A handwritten signature in cursive script that reads "Beverly B. Hall".

BEVERLY B. HALL
Assistant Attorney General

bp

GARDNER & HONSOWETZ

JACK A. GARDNER
F. WILLIAM HONSOWETZ
ALLEN L. JOHNSON

ATTORNEYS AT LAW
A PROFESSIONAL CORPORATION
915 OAK STREET SUITE 200
EUGENE, OREGON 97401

TELEPHONE
(503) 687-9001

November 22, 1976

Ms. Beverly B. Hall
Assistant Attorney General
555 State Office Building
Portland, Oregon 97201

Re: Pohl vs. Department of Environmental Quality
Lane County Circuit No. 75-5962

Dear Ms. Hall:

Although there is still some slight possibility that we might reach an out of court solution to this matter, it has been dragging along so slowly, and the chances seem to so remote, so that I think we better get it going again.

Please make an appearance by December 8.

Very truly yours,

Allen L. Johnson

ALJ:elh

cc: Norm Pohl

JACK A GARDNER

ATTORNEY AT LAW

A PROFESSIONAL CORPORATION

915 OAK STREET SUITE 200

PORTLAND OREGON 97201

JACK A GARDNER
ALLEN L JOHNSON

TELEPHONE
503 587 9001

January 5, 1976

Department of Environmental Quality
1234 S. W. Morrison Street
Portland, Oregon 97204

Attention: T. Jack Osborne, Administrator
Subsurface and Alternative Sewage
Systems Division

Re: Prior Approval Status
Subsurface Sewage Disposal
Twp. 18, R 04, 218, T.L. 801
Lane County

Dear Mr. Osborne:

Thank you for your letter of December 24, 1975. I am enclosing a copy of the Amended Petition which I have prepared to reflect the review procedures afforded by the DEQ and your final administrative disposition of the matter.

Your letter of December 24, 1975 makes it clear, at last, just which rule is being applied. On October 27, 1975, I wrote to Mr. Johnson stating that I was unable to determine from the text of his letter of October 1, 1975, or from the regulations which he enclosed with that letter, precisely what specific rule or rules in effect on July 18, 1966 were violated by the prior approval. I asked Mr. Johnson to write back citing the specific rule or rules then in effect which he relied upon in his October 1 letter. The only response to that letter which I received was a telephone call from Mr. Johnson on October 30, 1975. According to my notes, he stated at that time that the 1966 rules did not permit counties to authorize fill. No mention was made of OAR 41-030, which is cited in your letter.

It seems quite clear that there is nothing in the 1966 rules that does not permit counties to authorize fills. The 1966 approval specifically requires a fill of friable soil sufficient to overcome the inadequacies of the existing soil. The current rules of the DEQ allow installation of subsurface sewage disposal systems for single family dwellings in certain rural zoning classifications designated by the county and approved by the department where the proposed disposal area has been filled provided a public health hazard would not be created, the installa-

Resp. #12

Page -2-
DEQ
January 5, 1976

tion would not degrade the public waters of the state, and strict compliance with other limitations would be unreasonable, a burden somewhat impractical. Thus, it cannot be said that, in no circumstances, will the installation of a septic system in fill be permitted.

I am enclosing a copy of a letter from John C. Stoner, R. S., Director, Building and Sanitation Division for Lane County, written in response to a letter from Jack Gardner of this office on September 26, 1973. In that letter, Mr. Stoner states that "It has been determined by this department that modification of the property in the form of a fill can be made to create a suitable area for sewage disposal."

The 1966 approval does not conflict with OAR 41-030(1) because it does not contemplate the installation of a subsurface disposal field "in heavy clay or other impervious soil formations or in low swampy areas or where the ground watered during any season of the year will be within 24 inches of the finished ground surface." Rather, it contemplates the design and construction of a subsurface sewage disposal system in friable soil placed on the property as a fill.

It is my understanding that such installations are technically feasible. As I stated in my earlier letter Mr. Pohll realizes that any permit granted pursuant to the 1966 approval may be conditioned on a fairly elaborate set of fill or other requirements and he stands ready to fulfill any such requirements within reason. If such requirements are reasonable but uneconomical, it will be up to Mr. Pohll to decide whether he wants to put in a system.

As a possible means of settling this controversy, I suggest that you authorize the county sanitarian's office to sit down with Mr. Pohll's engineer and try to work out a feasible set of specifications. If, as a result of these consultations, a feasible design is worked out, OAR 41-030(1) would really not be applicable and prior approval status would be granted. If, on the other hand, the experts cannot agree, we will both be in a better position to evaluate the positions of the parties on the merits and both sides will be prepared to try the case, if necessary.

Please let me know at your earliest convenience whether such procedure would be acceptable to you or whether we should

Resp. #12, p2

Page -3-
DEQ
January 5, 1976

proceed straight to trial.

Very truly yours,

Allen L. Johnson

ALJ:lw
Enclosures
cc: Norman Pohl
Ray Underwood
Beverly Hall

Resp. #12, p3

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LANE

2 NORMAN POHLL,)

3 Petitioner,)

4 vs.)

5 OREGON DEPARTMENT OF)
6 ENVIRONMENTAL QUALITY,)
an Oregon State agency,)

7 Respondent.)

AMENDED
PETITION FOR REVIEW OF ORDER
IN NONCONTESTED CASE

8 Case No.

9 PETITIONER ALLEGES:

10 I

11 Petitioner resides in Lane County.

12 II

13 Petitioner is the owner of a six-acre tract of land on North
14 Modesto Road west of the city limits of Eugene, in Lane County,
15 which parcel is more particularly described upon the attached
16 Exhibit "A", which is incorporated herein as if set forth in full.
17 Said property is unimproved.

18 III

19 On or about July 18, 1966, the Lane County Building and
20 Sanitation Division issued a written approval based upon a site
21 evaluation, approving said property for construction of a subsurface
22 sewage disposal system, provided that a fill of friable soil be
23 placed in the drainfield area. The approval provided that speci-
24 fications for fill, septic tank, and drainfield would be given on
25 the building permit to be issued pursuant to said approval. Said
26 approval expressly authorized the use of a subsurface sewage

AMENDED
PETITION FOR REVIEW OF ORDER
IN NONCONTESTED CASE - Page 1

1 disposal system. The County was authorized by law to grant such
2 approval and the approval was issued by the county sanitarian and
3 by an assistant to the county building inspector, both representa-
4 tives of the county authorized by law to grant such approval.
5 The approval was issued in accordance with the rules governing
6 such approvals in effect at the time, namely OAR 41-020, a copy of
7 which is attached hereby as Exhibit "B".

8 IV

9 On or about August 26, 1975, Petitioner applied for a permit
10 to install a subsurface sewage disposal system based upon the
11 above-described prior approval and paid the required filing fee of
12 One Hundred Dollars (\$100.00). A copy of said application is
13 attached hereto and incorporated herein as if set forth in full.

14 V

15 Said application was processed by the Lane County Department
16 of Environmental Management, acting for Respondent under a contrac
17 entered into between Lane County and the Respondent pursuant to
18 ORS 454.725, allowing Respondent to contract "with local units of
19 government to perform the duties of the department under ORS 454.
20 655, 454.644, and 454.695."

21 VI

22 Following a site inspection, Respondent, acting through the
23 County, denied Petitioner's application on the ground that "the
24 entire area in question was composed of a very heavy clay at/or
25 near the ground surface", and that "this condition does not meet
26 applicable rules at the time said approval was written, and,

AMENDED
PETITION FOR REVIEW OF ORDER
IN NONCONTESTED CASE - Page 2

1 therefore, the approval was not issued in accordance with all
2 rules in effect at the time." An order denying that application
3 was issued and served upon Petitioner on October 10, 1975.

4 VII

5 Petitioner has sought review of said order. Said order was
6 reviewed and confirmed by T. Jack Osborne, Administrator, Subsur-
7 face and Alternative Sewage Systems Division of Respondent in an
8 order dated December 24, 1975. Said confirmation was upon the
9 merits and constitutes a final order of Respondent.

10 VIII

11 Because of said orders, Petitioner is unable to construct a
12 home upon said property and the fair market value of the property
13 has been severely impaired.

14 IX

15 Respondent erred in finding that the prior approval was not
16 issued in accordance with the rules in effect at the time
17 of said prior approval.

18 X

19 Petitioner has exhausted his administrative remedies and has
20 no plain, speedy, or adequate remedy at law.

21 WHEREFORE, Petitioner prays the Court for an Order, Judgment
22 and Decree providing the following relief:

23 (1) Reversing the denial of Petitioner's application
24 for a permit to construct a subsurface sewage disposal system,
25 and ordering the issuance of a permit allowing such construction
26 subject to the terms and conditions of the 1966 prior approval;

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(2) Awarding Petitioner's costs and reasonable attorney fees incurred herein;

(3) Granting Petitioner such other equitable relief as the Court in its discretion deems necessary to complete determination of this controversy.

JACK A. GARDNER

By Allen L. Johnson
Allen L. Johnson
Of Attorneys for Petitioner

Pohll v DEQ Petition for Review

Exhibit "A"

Tax Lot 801, Township 18, Range 04, Section 18,
in Lane County on Modesto Road, consisting of
six acres, more or less.

Pohl v DEQ Petition for Review

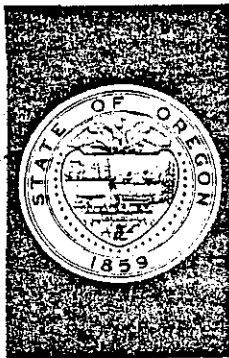
Exhibit "B"

OAR 41-020 (Effective 1962-69)

All individual water-carried sewage disposal systems shall comply with the following requirements:

- (1) In determining a suitable location for the system, consideration shall be given to the size and shape of the land area available, type of soil, slope of natural and finished grade, depth of ground water, proximity to existing or future water supplies, and possible expansion of the system.
- (2) The sewage disposal system shall consist of a house sewer and a septic tank or treatment unit with either a subsurface disposal field or one or more seepage pits, or of other facilities approved by the State Board of Health.
- (3) The system shall be designed to receive all sanitary sewage including the kitchen and laundry wastes but excluding footing, surface, and roof drainage.
- (4) Bulldozers, trucks, or other heavy equipment shall not be driven over the system during or after installation.
- (5) Design capacity: The system shall have adequate capacity to properly dispose of the maximum daily sewage flow. If actual measurements are not available, the quantity of sewage and waste shall be estimated according to the following table:

DAILY SEWAGE FLOWS	
Type of Establishment	Gallons per person per day
Single family dwellings	75
Multiple family dwellings	60
Schools, without gymnasium or cafeteria	10
Schools, with gymnasium or cafeteria	15
Schools, with both gymnasium and cafeteria	20
Industrial and commercial buildings	25
Hospitals	200
Institutions other than hospitals	100
Picnic parks-toilet wastes only, per picnicker	5
Swimming pools and bathhouses	10
Restaurants, toilet and kitchen wastes per patron	10



DEPARTMENT OF ENVIRONMENTAL QUALITY

1234 S.W. MORRISON STREET • PORTLAND, ORE. 97205 • Telephone (503) 229-6218

ROBERT W. STRAUB
GOVERNOR

January 21, 1976

Mr. Allen L. Johnson
Jack A. Gardner, Attorney at Law
915 Oak Street, Suite 200
Eugene, Oregon 97401

Dear Mr. Johnson:

Re: Prior Approval Status
Subsurface Sewage Disposal
Twp. 18, R 04, 218, T.L. 801
Lane County

In response to your letter of January 5, 1976 another review of the file has been conducted with legal counsel. This review only served to confirm my opinion that a prior approval does not exist on this property. The property did not comply with rules in effect at the time (1966) as indicated in the letter signed by Mr. John Stoner and in the site inspection form dated July 14, 1966 and signed by A. N. Rubini. It is the position of this Department that Lane County did not have authority to approve installations of fills or other modifications not provided for by State Administrative Rules.

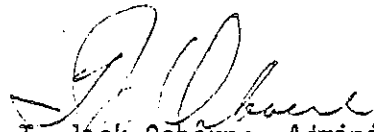
I would suggest one possible alternative procedure similar to your suggestion for settling this controversy. Present rules provide for variances to the Subsurface Sewage Disposal Rules. It is suggested that Mr. Pohll's engineer get together with Mr. Daryl Johnson and Mr. Roy Burns, Director of Lane County's Water Pollution Control Division and informally discuss the possibility of a variance on this property. If as a result of this meeting it appears that a variance might be feasible, then Mr. Pohll could apply for a variance and proceed in that direction. On the other hand if it is concluded that a variance would not be feasible, then such an application would be of no value. As indicated in my letter of December 24, 1975 a variance under these soil conditions does not appear likely but it is the only suggestion I can offer short of trial.

Mr. Allen L. Johnson
January 21, 1976
Page 2

A copy of the variance rule is enclosed for your information. Incidentally Daryl Johnson is a variance officer as provided for in the rules.

Sincerely,

LOREN KRAMER
Director


T. Jack Osborne, Administrator
Subsurface and Alternative
Sewage Systems Division

TJO:md
Enclosure (1)

cc: Mr. Roy Burns, Lane County
Mr. Daryl Johnson, DEQ, Eugene
Ms. Beverly Hall, Dept. of Justice

GARDNER & HONSOEWLTZ

ATTORNEYS AT LAW

A PROFESSIONAL CORPORATION

115 OAK STREET SUITE 2000

EUGENE OREGON 97401

JACK A. GARDNER
F. WILLIAM HONSOEWLTZ
ALLEN L. JOHNSON

TELEPHONE
(503) 687-2001

October 28, 1976

Mr. Roy Burns, Director
County Sanitation Department
135 E. 6th Street
Eugene, Oregon

Re: Request for Variance to Allow Septic Permit
for Tax Lot 18-04-18-801. Permit No. 2420-75,
denied 10-10-75

Dear Mr. Burns:

Enclosed please find a plan for site modification and construction of septic system for the above site, dated September 1976, and prepared by G.K. Attig and Associates, together with a letter from Bud Kramer dated January 21, 1976, suggesting that Mr. Pohll, the owner, seek a variance.

As other correspondence in your files will indicate, I am sure, the County and the DEQ have denied prior approval status to the property on the ground that the officer granting the prior approval in 1966 failed to apply Rule OAR 41-030(1), as then worded, which required that

"All subsurface disposal fields shall comply with the following requirements: (1) They shall not be used in heavy clay or other impervious soil formations or in low swampy areas or where the ground water during any season of the year will be within 24 inches of the finished ground surface."

Since the 1966 approval conditioned the approval upon a fill, and since the enclosed plan does not contemplate the use of a septic tank system in the conditions described in OAR 41-030(1), it is Mr. Pohll's position that the prior approval is valid. That issue may have to be decided in the judicial review proceeding which is now pending.

However, we would much prefer to solve the problem by way of a variance procedure, if possible, thereby saving both the state and Mr. Pohll the expense of further litigation. I should point out that the 1966 approval at the very least has been a strong inducement to the Pohlls to hang on to the land and pay the taxes on it over the years in ignorance of any hidden

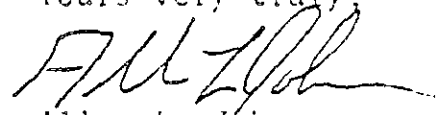
Resp. # 14

Page 2
Mr. Roy Burns, Director

defects in the approval. We feel that this consideration should weigh in favor of the granting of a permit, subject to appropriate monitoring and other limitations expressed on the Attig plan.

Thank you for your attention to this problem.

Yours very truly,



Allen L. Johnson

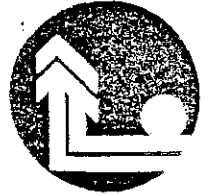
ALJ/jms

enc.

cc: Gerry Attig

cc: Norm Pohl

Resp. #14, p²



November 15, 1976

RECEIVED

NOV 15 1976

GARDNER & HONSOWETZ
ATTORNEYS AT LAW

Gardner and Honsowetz
Attorneys at Law
ATTN: Mr. Allen Johnson
915 Oak Street Suite 200
Eugene, Oregon 97401

RE: Service Request
Variance Review
Map: 18-04-18 Tax Lot 801

Dear Mr. Johnson:

As requested on October 28, 1976 this Division has reviewed the engineered plans submitted relative to the above described request.

Based upon your stated request for review of these plans for eligibility as provided under OAR Chapter 340, Division 7, Subdivision 3, pertaining to variances the following information is provided:

- 1) The fill plans propose construction of a sanitary fill which would vary in depth from about 1 1/2 feet to about four feet. In any event, the disposal trenches would be installed in the fill rather than in the natural ground. It is my understanding that DEQ considers systems with any portion of the effective sidewall of the absorption facility installed in the fill material to be experimental in nature and, thus, not eligible for the variance program. Since DEQ has retained sole responsibility for administration of their experimental systems program, subsequent comments will be informational only.
- 2) It is questionable whether the proposed fill could even be approved as an experimental system. DEQ's "Criteria for Site Selection" for mounded disposal systems requires that "the temporarily perched water table shall be at least twelve (12) inches below the natural ground surface during any time of the year." Site inspections performed on this property make it at least questionable whether this limitation can be met.

Gardner and Honsowetz
November 15, 1976
Page -2-

- 3) If the applicant proceeds with an application for an experimental system, we would suggest adding the following details to the fill plans prior to submission:
 - a. Effluent wet well detail.
 - b. Pressure line specifications and typical section.
 - c. Distribution box detail.
 - d. Monitoring provisions.

- 4) The plans suggest that a chlorinator would be provided at the effluent wet well. What such a provision would accomplish is not evident to us.

In summary, the subject proposal does not appear to qualify for consideration under DEQ's variance program since the drainfield effective sidewall would be located above the natural ground surface. While it is questionable whether such a proposal would qualify for consideration as an experimental system, such consideration would seem a somewhat more likely route to approval than a variance request.

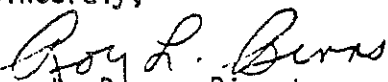
By copy of this letter I will notify Mr. Daryl Johnson, Mid-West Regional Sanitarian for the Department of Environmental Quality of your interest in the variance program.

Our feasibility determination is information only, and our findings do not prevent the Department of Environmental Quality (DEQ) from approving a variance request.

Although this Division cannot support a Variance request on the subject site, you may still wish to apply to the DEQ for a variance. Variance application forms are available from DEQ at their Midwest Regional Offices at 16 Oakway Mall, Eugene, Oregon 97401. A \$150 nonrefundable fee must accompany each variance request.

If you have any questions pertaining to this matter, please feel free to contact me.

Sincerely,


Roy L. Burns, Director

RLB/gr

cc: Daryl Johnson, DEQ
Jack Osborne, DEQ
File



DEPARTMENT OF JUSTICE

PORTLAND DIVISION
555 State Office Building
Portland, Oregon 97201
Telephone: (503) 229-5725

February 8, 1977

Mr. Allen L. Johnson
Gardner and Honsowetz
Attorneys at Law
915 Oak Street
Suite 200
Eugene, Oregon 97401

Re: Norman Pohll v. Oregon Department of
Environmental Quality, Lane County
Circuit Court No. 75-5962

Dear Mr. Johnson:

This confirms our telephone conversation of February 7, 1977 in which you granted me an extension through February 21, 1977 for filing an appearance to the Second Amended Petition for Review of Order in Noncontested Case in the subject case. It is my understanding that you will not take a default in this case without first giving the respondent prior notice of your intent to do so and a reasonable opportunity to file an appearance.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert L. Haskins".

Robert L. Haskins
Assistant Attorney General

pjw

cc: Mr. David W. O'Guinn



DEPARTMENT OF JUSTICE

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

RECEIVED

NOV 21 1977

11/21/77

November 15, 1977

Mr. Allen Johnson
915 Oak Street, Suite 200
Eugene, Oregon 97401

Re: Norman Pohl v. DEQ

Dear Mr. Johnson:

Enclosed is a letter dated November 15, 1977 from me, to William H. Young, Director of the Department of Environmental Quality, which should be self-explanatory. Please inform me immediately if you have authority to accept service of that notice on behalf of your client.

Briefly, the notice which I have prepared for the Director's signature and which I anticipate he will soon sign, alleges that an application for permit was made and denied; and that the soils and water table conditions on the site are not suitable for placement of a standard subsurface sewage disposal system. I have not prepared any allegations relating to any claim that your client is or is not entitled to a permit under the prior approval rule, OAR 340-71-015(8). If that remains your contention it will be incumbent upon you to raise that matter by affirmative defense. As far as an anticipated hearing date is concerned, the Commission's hearing officers have been scheduling hearings to occur approximately two months after the cases are at issue.

Please call me if you have any questions.

Sincerely,

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

Robert L. Haskins
Assistant Attorney General

SR

Enclosure

cc: William H. Young
Fred M. Bolton

JAMES A. REDDEN
ATTORNEY GENERAL

State of Oregon
DEPARTMENT OF JUSTICE
Portland, Oregon 97204

November 15, 1977

Mr. William H. Young
Director
Department of Environmental Quality
1234 S.W. Morrison
Portland, Oregon 97204

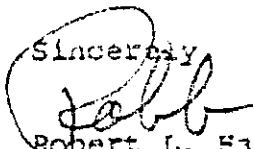
Re: Norman Pohll v. DEQ

Dear Mr. Young:

In 1975 Norman Pohll was denied a permit to install a subsurface sewage disposal system. He did not then request a contested case hearing regarding that denial. Instead, he filed a petition for judicial review in the Lane County Circuit Court. This all occurred prior to the decision by the Oregon Court of Appeals in the case of Bay River, Inc. v. Environmental Quality Commission, 26 Or App 717, 554 Pld 620, 5 Or Ct Rev Den (1976). That case held that applicants for a subsurface sewage disposal system permit would have to exhaust their administrative remedies of contested case hearings before they could proceed in court. After that decision came down we filed a demurrer citing that decision. On September 26, 1977 the demurrer was sustained.

Enclosed are an original and two copies of the notice of denial of application for permit which I have prepared in order to commence an administrative contested case hearing regarding the validity of the Department's denial. Please review the enclosed notice and if satisfactory, execute the original by dating and signing it, serve a copy of the notice upon the respondent by certified mail or personal service and file with the Environmental Quality Commission the original notice and a certificate of service. I would also appreciate it greatly if you would send a conformed copy of the original and certificate of service to me for my records.

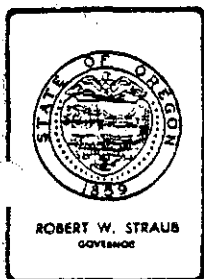
Sincerely,


Robert L. Haskins
Assistant Attorney General

sr

Enclosure

cc: Fred Bolton - enc.
Allen Johnson



Department of Environmental Quality

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 Telephone (503) 229- 5251

November 30, 1977

CERTIFIED MAIL #346405

Mr. Norman Pohl
Route 5, Box 1259
Eugene, Oregon 97401

Re: Notice of Denial
of Application
for a Permit
SS-MWR-77-74
Lane County

Dear Mr. Pohl:

The Lane County Circuit Court recently granted the Department's Demurrer in the case of Norman Pohl vs. Oregon Department of Environmental Quality. The Demurrer was granted because you must first proceed with a contested case hearing if you want judicial review of our denial of your permit application for a subsurface sewage disposal system.

The enclosed Notice denies your application for a permit to install a subsurface sewage system. You are entitled to contest our denial by requesting a contested case hearing. The formal procedures for requesting a hearing are outlined in Paragraph 6 of the Notice.

Please call if you have questions regarding these actions.

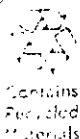
Sincerely,

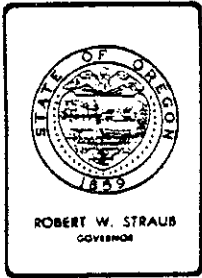
Van A. Kollias

Van A. Kollias
Investigation & Compliance

VAK:gcd
cc: Robert L. Haskins, Department of Justice

Enclosure





Department of Environmental Quality

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 Telephone (503) 229- 5251

December 21, 1977

RECEIVED
DECEMBER 21 1977

DEC 22 1977

RECEIVED

Gardner, Honsowetz & Johnson
Attorneys at Law
915 Oak Street Suite 200
Eugene, Oregon 97401

Attention: Allen L. Johnson

Re: DEQ v. Norman Pohl
Case No. SS-MWR-77-74

Dear Mr. Johnson:

This is to acknowledge receipt of your request dated December 16, 1977, for a contested case hearing in the above-referenced case. I have referred this case to the Environmental Quality Commission hearing officer, Mr. Peter W. McSwain who will be contacting you to set a date, time and place for holding the hearing.

Mr. Robb Haskins with the Department of Justice in Portland is our attorney in this case.

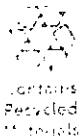
If you have questions, Mr. Haskins can be reached at 229-5725.

Sincerely,

Van A. Kollias

Van A. Kollias, Supervisor
Investigation & Compliance

VAK:gcd
cc: Robb Haskins
Pete McSwain



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

3 DEPARTMENT OF ENVIRONMENTAL)
4 QUALITY, of the State of Oregon,)

 Department,)

No. SS-MWR-77-74

5 v.)

6 NORMAN POHLL,)

7)
8 Respondent.)

NOTICE OF DENIAL OF
APPLICATION FOR PERMIT

9 1. On or about August 26, 1975 Norman Pohll ("Respondent")
10 applied to the Department of Environmental Quality ("Department")
11 through its contract agent, Lane County, for a permit to
12 install a standard subsurface sewage disposal system on a
13 particular location on the real property situated in Lane
14 County, specifically known as Tax Lot 801, Township 18 South,
15 Range 04 West, Section 18, Willamette Meridian (hereinafter
16 referred to as "Respondent's Lot"). Respondent's lot is a
17 six-acre track of land on North Modesto Road west of the city
18 of Eugene in Lane county, Oregon and is more particularly
19 described in Exhibit "A" which is attached hereto and is
20 made a part hereof.

21 2. In response to the application referred to in paragraph 1
22 above, the Department by and through its agent, Lane County,
23 duly served upon Respondent a written denial of Respondent's
24 application on or about September 3, 1975.

25 3. The soils in the area of the proposed disposal field on
26 Respondent's lot do not comply with OAR 340-71-030(1)(b) which was

1 in effect at all times relevant herein and which provides that no
2 disposal trench shall be installed where "a restrictive layer is
3 less than thirty inches below the surface of the ground" in that the
4 uppermost layer of soil consists of 18 inches (vertical measurement)
5 of heavy clay, a restrictive layer.

6 4. In the proposed disposal field area of Respondent's
7 lot the highest level attained by the seasonal water table (saturated
8 zone) is less than 18 inches from the ground surface. The seasonal
9 water table (saturated zone) on Respondent's lot is a permanent
10 water table, or ground water permanently perched, or ground
11 water temporarily perched. The seasonal water table (saturated
12 zone) in the proposed disposal area of Respondent's lot does
13 not comply with OAR 340-71-030(1)(c) which was in effect at
14 all material times herein.

15 5. Respondent has a contested case in this matter pursuant
16 to ORS 183.310(2)(c), provided he files a timely request for
17 hearing and answer as required in paragraph 6 below. Department
18 hereby orders that Respondent is entitled to a contested case
19 hearing in this matter pursuant to ORS 183.310(2)(d), provided he
20 files a timely request for hearing and answer as required in
21 paragraph 6 below.

22 6. Respondent has the right, if Respondent so requests, to
23 have a formal contested case hearing before the Environmental
24 Quality Commission or one of its hearing officers regarding the
25 matters set out above, pursuant to ORS, chapter 183, OAR, chapter 10,
26 division 11, at which time Respondent may be represented by an

1 attorney and subpoena and cross-examine witnesses. That request
2 must be made in writing to the Director of the Department, must be
3 received by the Director within twenty (20) days from the date
4 of mailing of this notice (or if not mailed, the date of personal
5 service), and must be accompanied by a written "Answer" to the
6 charges contained in this notice. In the written "Answer",
7 Respondent shall admit or deny each allegation of fact contained
8 in this notice and Respondent shall affirmatively allege any and
9 all affirmative defenses to the assessment of this civil penalty
10 that Respondent may have and the reasoning in support thereof.

11 Except for good cause shown:

12 A. Factual matters not controverted shall be
13 presumed admitted;

14 B. Failure to raise a claim or defense shall be
15 presumed to be a waiver of such claim or
16 defense;

17 C. Evidence shall not be taken on any issue not
18 raised in the notice and the "Answer".

19 If Respondent fails to file a timely "Answer" or request for hearing
20 or fails to appear at a scheduled hearing, the Director on behalf of
21 the Environmental Quality Commission may issue a default order and
22 judgment based upon a prima facie case made on the record, for the
23 relief sought in this notice. Following receipt of a request for

24 ///

25 ///

26 ///

1 hearing and an "Answer", Respondent will be notified of the date.
2 time and place of the hearing.

3

4 November 23, 1977
Date

William H. Young
William H. Young, Director
Department of Environmental Quality

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herein referred to as grantees, the following described real property, with tenements, hereditaments, and appurtenances, to wit:

Beginning at a point on the East line of a 60.0 foot road 327.57 feet North $0^{\circ} 08'$ East and 1283.47 feet West of the East $\frac{1}{4}$ Section corner of Section 18, Township 18 South, Range 4 West, Willamette Meridian; thence South $0^{\circ} 12'$ West along the East line of said 60.0 foot road 330.0 feet; thence East 792.0 feet; thence North $0^{\circ} 12'$ East 330.0 feet; thence West 792.0 feet to the place of beginning, in Lane County, Oregon.

EXHIBIT "A"

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON
HEARINGS SECTION

DEPARTMENT OF ENVIRONMENTAL)
QUALITY, of the State of Oregon,)
Department,)
v.)
NORMAN POHLL,)
Respondent.)

No. SS-MWR-77-74

ANSWER AND REQUEST FOR
HEARING

Request for Hearing:

Respondent requests a contested case hearing on the denial of his application for a sub-surface sewage disposal system as set forth in the "Notice of Denial of Application for Permit" dated November 23, 1977, and signed by William H. Young, Director, Department of Environmental Quality, which notice is on file herein.

Answer:

1. Respondent admits paragraphs 1, 5, and 6 of the Notice of Denial and denies, generally and specifically, each and every other allegation set forth in the Notice of Denial of Application for Permit.

2. Respondent claims a right to be issued a permit based upon prior written approvals issued by the Lane County Building and Sanitation Division on or about July 18, 1966 (Exhibit "A", attached hereto and incorporated herein) and on or about January 12, 1972 (Exhibit "B", attached hereto and incorporated herein).

3. Respondent intends to put on evidence at the hearing

1 to the effect that, with the addition of some fill, a septic system
2 could be installed on the property in question in compliance with
3 regulations in effect at the time the prior approvals were issued
4 and that the prior approvals, as conditioned, were issued in com-
5 pliance with regulations in effect at the time of issuance.

6 DATED This 15 day of December, 1977.

7
8 Allen L. Johnson
9 Allen L. Johnson
Of Attorneys for Respondent

10 On December 16, 1977 I served a certified true copy of
11 the above answer and request for hearing on Robert L. Haskins,
12 Assistant Attorney General for the State of Oregon by mailing
13 same to Mr. Haskins at the State of Oregon Department of Justice,
14 Portland Division, 500 Pacific Building, 520 S.W. Yamhill, Portland,
15 Oregon 97204.

16 Allen L. Johnson
17 Allen L. Johnson
18 Of Attorneys for Respondent

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ATTORNEYS AT LAW
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No. 89692

1-10-72

TAX LOT NO. 001 CODE 4-58
SERIAL No. _____

REQUEST FOR SITE INSPECTION

DATE 7-14-66

BY ANDERSON, ROBERT E. MAILING ADDRESS 67 KINGSDOMY TEL. No. 686-11872
EUGENE

OWNER OF PROPERTY ABOVE SIZE OF PROP. 330 x 702 LEGAL ACCESS? No. MODESTO ROAD
CONSENT OF OWNER? _____
EXISTING STRUCTURES ON PROPERTY NONE 60'

SOURCE OF WATER SUPPLY: PUBLIC _____ SPRING _____ WELL: DRILLED x DRIVEN _____ DUG _____

DESCRIPTION OF SITE (DIRECTIONS, LANDMARKS, HOUSE OR BOX NO., IF ANY):
NORTH OFF GIMPL HILL ROAD WHERE PAVEMENT ENDS, ABOUT 1/2 MILE. PROPERTY FENCED.
NORTH OF AND ADJOINING NORMAN POHLL PROPERTY (S. P. No. 432-66).

PROPOSED USE OF SITE (E.G.; NUMBER OF DWELLINGS, COMMERCIAL OR INDUSTRIAL USE, SUBDIVISION):
DWELLING

- URBANIZING AREA.
- SPECIAL PERMIT AREA.

FEE:	
No. of SITES <u>1</u>	\$ <u>5.00</u>
No. of ACRES _____	_____
I.C. TOTAL	\$ <u>5.00</u>

RESULTS OF INVESTIGATION:

Soil Type - ^{18"} Heavy clay overlying decomposed shale.

Property may be approved for one Dwelling site in vicinity of Test Holes, provided a fill of friable soil is placed in the drainfield AREA. Specifications for fill, septic TANK & drainfield will be given on Permit.

BEFORE CONSTRUCTION IS STARTED BRING THIS FORM TO THE BUILDING AND SANITATION DIVISION AND MAKE APPLICATION FOR A BUILDING PERMIT. IF THE PROPERTY IS A PORTION ONLY OF A TAX LOT, A METES AND BOUNDS DESCRIPTION OF THE PARCEL MUST BE FURNISHED. EXACT SPECIFICATIONS FOR THE SEWAGE DISPOSAL SYSTEM WILL APPEAR ON THE BUILDING PERMIT. TWO SETS OF THE BUILDING PLANS AND PLOT PLAN WILL BE REQUIRED.

LANE COUNTY BUILDING AND SANITATION DIVISION:

[Signature] BUILDING INSPECTOR [Signature] SANITARIAN 7/18/66 DATE

THIS REPORT IS NOT COMPLETE WITHOUT THE SIGNATURES OF THE BUILDING INSPECTOR AND SANITARIAN.
EXHIBIT "A"

No. 89693

REQUEST FOR SITE INSPECTION

Tw. 10 RANGE 07 SEC. 10
TAX LOT NO. 501 CODE
E 1-7-72

BY ANDERSON, ROBERT E. MAILING ADDRESS 67 Kingsbury TEL. NO. 658-4872
Wagon 97402

OWNER OF PROPERTY above SIZE OF PROP. 6.0000 LEGAL ACCESS? M. M. White Rd
CONSENT OF OWNER? above IS PROPERTY CONTIGUOUS TO ANY CITY LIMIT? no
EXISTING STRUCTURES ON PROPERTY none

SOURCE OF WATER SUPPLY: PUBLIC none SPRING none WELL: DRILLED X DRIVEN none DUG none

DESCRIPTION OF SITE (DIRECTIONS, LANDMARKS, HOUSE OR BOX NO., IF ANY): North off
Temple Hill Rd - where pavement ends - about 1/2 mile,
property fenced - north of and adjoining Norman Pohl prop.

PROPOSED USE OF SITE (E.G., NUMBER OF DWELLINGS, COMMERCIAL OR INDUSTRIAL USE, SUBDIVISION):
Future dwelling - 1 - 1/2

- URBANIZING AREA.
- SPECIAL PERMIT AREA.

FEE:

No. of SITES	<u>1</u>	\$ <u>5.00</u>
No. of ACRES		
TOTAL		\$ <u>5.00</u>

RESULTS OF INVESTIGATION: test approved
hole 450 ft deep full of water. The hole
is about 450 ft back from road.
It is higher ground
underneath water puddle in area of
hole
Heavy light brown top soil. Semi-hard
sandstone (gray matrix) at 16-24 in.

(Due to prior commitment to fill and remove foundation
this Anderson has in property - (fill was allowed) was
not allowed)

THIS IS A PRELIMINARY REPORT WHICH DOES NOT INSURE THE ISSUANCE OF A FUTURE BUILDING PERMIT. ANY PLANS OR EXPENDITURES MADE IN RELIANCE UPON THIS REPORT ARE AT YOUR OWN RISK. BEFORE CONSTRUCTION IS STARTED BRING THIS FORM TO THE BUILDING AND SANITATION DIVISION AND MAKE APPLICATION FOR A BUILDING PERMIT. IF THE PROPERTY IS A PORTION ONLY OF A TAX LOT, A NOTES AND BOUNDS DESCRIPTION OF THE PARCEL MUST BE FURNISHED. EXACT SPECIFICATIONS FOR THE SEWAGE DISPOSAL SYSTEM WILL APPEAR ON THE BUILDING PERMIT. TWO SETS OF THE BUILDING PLANS AND PLOT PLAN WILL BE REQUIRED.

LANE COUNTY BUILDING AND SANITATION DIVISION:
BUILDING INSPECTOR [Signature] SANITARIAN [Signature] DATE 1/12/72

THIS REPORT IS NOT COMPLETE WITHOUT THE SIGNATURES OF THE BUILDING INSPECTOR AND SANITARIAN.
63-57-01
[Signature] EXHIBIT "B"

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BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON
HEARINGS SECTION

DEPARTMENT OF ENVIRONMENTAL)
QUALITY, of the State of Oregon,))
)
Department,)
)
v.)
)
NORMAN POHLL,)
)
Respondent.)

No. SS-MWR-77-74
SUPPLEMENTARY MEMORANDUM

SUMMARY OF ARGUMENT

Lane County, acting as contract agent for the DEQ, wrong-
fully denied Respondent's application for a permit to install a
subsurface sewage disposal system on his property. First, in
response to Respondent's application the county did not issue a
proper denial as required by statute. The prescribed statutory
remedy for this failure is to treat the permit as having been
issued. Second, Respondent was in possession of two Requests for
Site Inspection issued prior to January 1, 1974 both of which
contained approvals to install a subsurface sewage disposal system
on the property providing a fill was added. Both of these prior
approvals were issued in accordance with all rules in effect at
the time. The county was authorized to allow fills to be installed
and routinely did so. Neither of the prior approvals had expired
at the time Respondent submitted his application for a construction
permit. Consequently, the DEQ's own rule, OAR 340-71-015(8),
required that the county issue the permit. Issuance of a const. con-
struction permit may not be conditioned upon a guaranty of successful

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1 operation of the system. OAR 340-71-015(8) explicitly contem-
2 plates the possibility of failure of a system and establishes
3 safeguards to deal with such a contingency.

4 I. Official Notice

5 At the hearing, Mr. Haskins stated during the testimony of
6 Greg Gray that it was his belief that all administrative rules
7 involved here are subject to official notice. Respondent agrees
8 and would add that all relevant statutes are likewise properly
9 the subject of official notice.

10 Under ORS 183.450(4) agencies may take notice of judicially
11 cognizable facts in a contested case proceeding. Courts may take
12 judicial notice of all public and private official acts of the
13 state legislative and executive departments. ORS 41.410(3) The
14 courts have repeatedly held that this statute allows judicial
15 notice to be taken of statutes as well as of administrative rules.
16 Beistel v. Public Employee Relations Board, 6 OrApp 115, 486 P2d
17 1305 (1971); Eugene Stud and Veneer, Inc. v. State Board of Forestry
18 3 OrApp 20, 469 P2d 635 (1970); Fulton Ins. Co. v. White Motor Co.,
19 261 Or 206, 493 P2d 138 (1972).

20 II. DEQ Has Failed to Prove Its Case in Chief

21 The DEQ has alleged in its Notice of Denial that the soils
22 on Respondent's property (TL 801) do not comply with two specific
23 DEQ regulations, both of which were in force on August 26, 1975,
24 the date that Respondent applied for a permit to install a sub-
25 surface sewage disposal system (SSDS). It has also alleged that a
26 written denial of his application was duly served on Respondent.

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1 Respondent has denied each of these allegations in his
2 Answer. By statute the burden of proof of each of the allegations
3 contained in the DEQ's Notice of Denial falls upon the Department.
4 ORS 454.655(7)(c). DEQ has failed to discharge its burden of proving
5 that a proper written denial was duly served upon Respondent in
6 accordance with its own governing statutes. ORS 454.655(5)(a)
7 requires that:

8 "Unless weather conditions or distance and
9 unavailability of transportation prevent the
10 issuance of a permit within 20 days of the
11 receipt of the application and permit fee by
12 the department, the department shall issue or
13 deny the permit within 20 days after such date.
14 If such conditions prevent issuance or denial
15 within 20 days, the department shall notify
16 the applicant in writing of the reason for the
17 delay and shall issue or deny the permit within
18 60 days after such notification."

19 A similar 20 day limit is laid down in the DEQ's own rules. OAR
20 340-71-015(3).

21 As to the contents of a denial, ORS 454.655(7)(b) requires
22 that:

23 "In any notice of intent to deny an application,
24 (DEQ) shall specify the reasons for the intended
25 denial based upon the rules of the Environmental
26 Quality Commission for the construction and in-
27 stallation of a septic tank and necessary effluent
28 sewer and absorption facility or based upon the
29 factors included in paragraphs (a) to (j) of
30 subsection (2) of ORS 454.685."

31 The DEQ's pleading admits that Respondent submitted his
32 application on August 26, 1975 and alleges that a written denial
33 was duly served on Respondent on September 3, 1975. The DEQ did
34 not allege or try to prove that Respondent was ever given written

1 notice of reasons for a delay beyond the 20 day period, as required
2 by ORS 454.655(5) (a), quoted above.

3 The DEQ did not prove that a statutorily sufficient denial
4 as issued with 20 days of August 26. As a result , the application must be
5 considered as approved. This is clearly spelled out in ORS 454.655(5) (b), which
6 provides:

7 "if within 20 days of the date of the application
8 the department fails to issue or deny the permit
or to give notice of conditions preventing such issuance
or denial, the permit shall be considered to have been issued."

9 Respondent has introduced into evidence the letter and
10 memorandum dated September 3, 1975 which DEQ alleges to be the denial provided
11 for under the foregoing statutes. (Resp Ex 5, 6) As for the letter itself:

- 12 (1) Nowhere does it state that Respondent's
13 application has been denied.
14 (2) Nowhere does it specify reasons for denial
as required by the above-mentioned statute.

15 The specific reasons which appear in the DEQ's pleading in this
16 proceeding as the basis of the alleged denial are not even suggested
17 in the letter. All that the letter does say is that "the site
18 does not have a balid prior approval," a mere conclusion unsupported
19 by any mention of rules or factors as required by ORS 454.655(7) (b).
20 Further, an invalid prior approval does not justify denial of a permit unless
21 the site doesn't qualify for an approval order existing DEQ standards.

22 The memorandum (Resp Ex 6) which was attached to the Septem-
23 ber 3 letter adds nothing. It simply repeats that no prior approval
24 exists, and "recommends" that the site "probably" would not be approvable under
25 other provisions of the DEQ's rules; without saying why. One searches in vain
26 for any mention of the rules which DEQ has cited in its pleading.

1 A careful reading of the memorandum also makes it clear
2 that they county failed to consider all the relevant evidence in
3 deciding that Respondent had no valid prior approval. Crucially,
4 it did not review the 1966 site inspection approval. All references
5 are to "review of the 1972 site inspection." Furthermore, its statement that
6 the only approval mentioned was in the form of "fill would be
7 allowed" clearly shows that the 1966 form, which carried the nota-
8 tion "property may be approved," was never considered by the county.
9 Ordinarily, at the very least this error would require that the
10 county be directed to reexamine Respondent's application based upon
11 all the relevant evidence. However, in this case the Hearings Officer
12 has all the necessary evidence before him upon which to base a decision,
13 and thus he should make it himself so as to avoid further prolonging this matter.

14 Two other Exhibits (Resp Ex 9, Dept Ex B) purport to be
15 denials of Respondent's application. Both Exhibits are, in fact,
16 the same document, one being a typewritten and the other a hand-
17 written copy. This "denial", however, was not pleaded as such by
18 DEQ, and for good reason. the date stamped upon it is 10/10/75
19 which is 25 days beyond the statutory 20 day deadline for issuing
20 denials. Additionally, even though this "denial" does give as a
21 reason for the county's action "soil conditions being unsuitable,"
22 there are still no specific reasons given as required under ORS
23 454.655 (7) (b).

24 Clearly, no statutorily sufficient denial was ever issued
25 within the time period explicitly required by both statute and the
26 DEQ's own rules. Administrative agencies are creatures of statute,

1 and as such may not "amend, alter, enlarge or limit the terms of
2 a legislative enactment." University of Oregon Co-Operative Store
3 v. State, Dept. of Revenue, 273 Or 539, 550, 542 P2d 900 (1975).

4 "It is the statute, not the agency, which
5 directs what shall be done. The statute
6 is not a mere outline of policy which the
7 agency is at liberty to disregard or put
8 into effect according to its own ideas of
9 the public welfare." Gouge v. David et al,
10 185 Or 437, 459, 202 P2d 489 (1949)

11 An agency must follow its own rules. Gray Panthers v. Public
12 Welfare Division, 28 Or App 841, 561 P2d 674 (1977).

13 In this case Respondent has introduced exhibits 5 and 6 to
14 show that the DEQ through its acknowledged contract agent, Lane
15 County, failed to proceed in accordance with the clear provisions
16 of the statute in that no denial conforming to the requirements of
17 ORS 454.655(7)(b) was issued within the statutorily prescribed
18 period. For its part, the DEQ has failed to offer any evidence
19 tending to show that a statutorily sufficient denial was ever
20 "duly served," and thus has failed to discharge its burden of
21 proof. Therefore, the proper resolution of this case, as provided
22 in ORS 454.655(5)(b), is a determination that "the permit shall be
23 considered to have been issued."

24 III. Respondent is Entitled to Install an SSDS Based Upon The
25 1966 and 1972 Prior Approvals.

26 Respondent has pleaded by way of affirmative defense that
the two prior approvals issued by the Lane County Building and
Sanitation Division in 1966 and 1972 subsequent to site inspections
of TL801 are valid. (Resp Ex 1 and 3) If they are then Respondent

1 has a right, under OAR 340-71-015(8), to be issued a permit to
2 construct an SSDS on that property whether or not such a system
3 would be in full compliance with the present regulations. OAR
4 340-71-015(8) provides:

5 "Prior Construction Permits or Approvals.
6 All permits or written approvals involving
7 site evaluations issued prior to January 1,
8 1974 shall be accepted under these rules as
9 valid for construction of a subsurface sewage
10 disposal system providing they expressly
11 authorize use of such facilities for an
12 individual lot or for a specific lot within a
13 subdivision; they were issued by a representa-
14 tive of a state or local agency authorized
15 by law to grant such approval; and they were
16 issued in accordance with all rules in effect
17 at the time. No person having a valid prior
18 permit or approval meeting the above require-
19 ments shall commence construction of a sub-
20 surface sewage disposal system until he has
21 made application for a construction permit
22 required by ORS 454.655, has paid the permit
23 fee required by ORS 454.745 and has received
24 a construction permit from the Department.
25 Construction shall conform as nearly as
26 possible with the current rules of the Commis-
sion. Before operating or using the system
the permittee shall obtain a "Certificate of
Satisfactory Completion" as required by ORS
454.655. If it is not possible for construc-
tion to be in full compliance with the current
rules of the Commission the Certificate of
Satisfactory Completion must contain a state-
ment notifying the permittee or owner that the
system is substandard and therefore, may not
operate satisfactorily and that if it fails
and necessary repair cannot be made in accord-
ance with current rules of the Commission the
system may have to be abandoned.

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

Respondent made timely application under this rule. (Dept

1 Ex B)

2 A. Both the 1966 and 1972 Site Inspection Approvals Were
3 Unexpired and in Force at the Time Respondent Applied
4 For and Was Denied a Permit.

5 Whether or not the site inspection approvals had expired
6 at the time Respondent applied for his permit is not an issue under
7 the terms of the rule. Although OAR 340-71-015(8) lists several
8 specific criteria which "written approvals involving site evalua-
9 tions" must meet to be declared valid, that rule does not require
10 that such approvals be unexpired. In fact, it sets a new expira-
11 tion date for all "written approvals issued prior to January 1,
12 1974," making no distinction between "expired" and "unexpired"
13 approvals.

14 In denying Respondent's application the county never
15 suggested that either of the site inspection approvals had
16 expired. This is not surprising.

17 No expiration date appears on either of the site inspec-
18 tion forms in question. The Hearings Office may take official
19 notice of the fact that no statute or State Board of Health
20 regulation fixed a period of time after which such approvals would
21 terminate. At the hearing, John Stoner, an employee of Lane
22 County since 1953, whose duties included the issuance of building
23 permits for SSDS's, testified that Lane County had no written
24 regulations covering this subject until 1972, and simply operated
25 under the State Board of Health rules. Even the 1972 County rules
26 referred to in Mr. Stoner's testimony are silent as to an expira-
tion date for site inspection approvals.

1 Since no expiration date was ever fixed by statute or state
2 or local regulations, Respondent is entitled to the benefit of the
3 disputable presumption that "A thing once proved to exist continues
4 as long as is usual with things of that nature." ORS 41.360(32).
5 In the case of licenses and permits the general rule is that the
6 licensee or permittee may exercise the rights and privileges
7 granted until the license or permit "terminates by lapse of time
8 on the date which is fixed by statute or ordinance or by the
9 licensing authorities acting within their statutory powers." 53
10 CJS Licenses §43(a) (1948).

11 The DEQ did not introduce any evidence at the hearing to
12 show that the 1972 site inspection approval had expired at the
13 time Respondent submitted his application in 1975. Since no
14 evidence was introduced to controvert the presumption that the
15 1972 approval continued in force, the Hearings Officer is bound to
16 find according to the presumption ORS 41.360.

17 As to the 1966 Approval, the DEQ offered only an excerpt from
18 the deposition testimony of Respondent to show that it had expired.
19 (Pohl1 depo, p.10, line 16 to p. 11, line 10). Had Mr. Haskins
20 read but five lines further in Respondent's deposition, he would
21 have found that the statement regarding expiration was pure second
22 level hearsay in that Respondent had been told of the expiration
23 by Mr. Anderson who had in turn applied for a new site inspection
24 because "the one in 1966, according to the County, had expired."
25 (Pohl1 depo, p.11, lines 13-15). No evidence was offered as to
26 who told Mr. Anderson of the expiration or upon what statute or

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1 regulation such a statement was based.

2 Neither Mr. Pohll nor Mr. Anderson is an expert in the
3 law. A statement by either of them that the approval had expired
4 is merely a conclusion of law, and an opinion which neither is
5 competent to offer in evidence. Even if such testimony could be
6 considered, it would not be sufficient to overcome the presumption
7 that the 1966 approval continued in force. The presumption contin-
8 ues to have probative value even where evidence in rebuttal is
9 introduced, and the finder of fact must decide the issue on the
10 basis of all the evidence including the presumption. United States
11 National Bank v. Lloyd's, 239 Or 298, 382 P2d 851, 396 P2d 765
12 (1964).

13 No rule or statute has been shown to exist which states
14 when, how, or whether, an approval can expire. Without such a
15 rule, neither this or any other tribunal can determine that it did
16 expire on the basis of the testimony of respondent or anyone else.
17 Further, the testimony cited was a conclusion of law upon which
18 the Respondent was not competent to testify. It was certainly not
19 "of a type commonly relied upon by reasonably prudent persons in
20 conduct of their serious affairs" and thus does not meet the stand-
21 ards for admissibility laid down for contested cases. ORS 183.450
22 (1). Furthermore, under the DEQ's own rules of evidence in contest-
23 ed cases:

24 "In applying the standard of admissibility
25 of evidence set forth in ORS 183.450, the
26 Presiding Officer may refuse to admit hear-
say evidence inadmissible in the courts of
this state where he is satisfied that the

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1 declarant is reasonably available to testify
2 and the declarant's reported statement is
3 significant but would not commonly be
4 found reliable because of its lack of corroboration in the record or its lack of clarity and completeness." OAR 340-11-125 (1)

5 This testimony is not corroborated anywhere in the record.

6 Subsequent to the hearing, the DEQ submitted copies of the
7 State Board of Health regulations in effect between 1962 and October
8 1973. A careful study of these regulations only serves to confirm
9 that nothing contained therein will support the proposition that
10 the 1966 or 1972 approvals expired prior to August 26, 1975.

11 The "Regulations Governing The Disposal of Domestic Sewage
12 and Other Household Wastes" which were in force between 1962 and
13 1969 say absolutely nothing about an expiration date for site
14 inspection approvals. The next set of regulations to become
15 effective, "Regulations Governing the Subsurface Disposal of
16 Sewage," was adopted by the State Health Division in October of
17 1969. According to the DEQ's notation on the cover page, these
18 rules remained in effect until January 11, 1972. Once again, no
19 mention of an expiration date is to be found.

20 The third set of regulations submitted by the DEQ bears
21 the same title as the second set, but the notation on the cover
22 page indicates that these were in effect from January 11, 1972
23 until May 1, 1973. These differed from their immediate predecessors in that rule 41-022 was added. Not only does this rule not
24 indicate any expiration date for site inspection approvals, but
25 it clearly implies that all such approvals obtained in previous
26

1 years were still considered to be valid at that time. In the words
2 of subsection (3):

3 "Written approvals by local health officers
4 prior to the effective date of this rule
5 shall be deemed to be a statement of
6 feasibility under this rule."

7 The fourth set of regulations, entitled "Rules Governing
8 The Subsurface Disposal of Sewage" (Rules) was in effect, according
9 to the notation on the cover page, from May 1, 1973 until October
10 4, 1973. In fact, the portions of those rules relevant to the
11 present inquiry were amended in July of 1973 as evidenced by the
12 "Order Adopting Temporary Rules" (Temporary Rules) also submitted
13 by the DEQ. The Rules carried forward the same implication of
14 continued effectiveness of all prior approvals (p.42) as was
15 contained in the prior regulations. The only mention of expiration
16 appeared on page 13 (Section (20)) and by its terms applied only
17 to actual construction permits. Since one purpose of Section (3)
18 on page 42 is to equate prior approvals with "statements of
19 feasibility," and since Section (3)(A) clearly distinguishes
20 between feasibility statements and actual construction permits,
21 no reasonable construction of Section (20) on page 13 of the Rules
22 could arrive at the conclusion that it applied to prior site
23 inspection approvals.

24 Both Section (20) and Section (3) were almost immediately
25 amended by the Temporary Rules. Amended Section (20)(B) provided
26 that for the purposes of that subsection site inspections were to
be treated as feasibility statements. Section (20)(a)(3)

1 provided that where a feasibility statement was issued pursuant to
2 OAR 333-41-022 or a "previous approval" was given that effect
3 installation of an SSDS would be allowed provided that "construction
4 is completed by January 1, 1974." The clear implication of this
5 amended rule is that the State Health Division assumed that all
6 prior site inspection approvals continued to be effective up to
7 January 1, 1974.

8 On October 5, 1973 all State Health Division rules applic-
9 able to SSDS's were repealed by Chapter 835, Oregon Laws 1973, and
10 by the same chapter jurisdiction over this area was transferred to
11 DEQ effective 1/1/74. The DEQ adopted temporary rules to cover
12 the transition period and subsequently adopted a set of permanent
13 rules. Included in these new DEQ rules was OAR 340-71-015(8),
14 supra which provided that: "(a)ll permits or written approvals
15 involving site evaluations issued prior to January 1, 1974 shall
16 be accepted under these rules as valid for construction of a sub-
17 surface sewage disposal system" provided that they met three
18 criteria. The deadline for applying for construction permits was
19 set at July 1, 1975 and later extended until September 1, 1975.

20 It is thus obvious that the State Health Division amendment
21 of Section (20) requiring that construction based upon prior site
22 inspection approvals be completed by January 1, 1974 was superseded
23 and rendered of no effect by OAR 340-71-015(8), and that under the
24 new DEQ rule the life of such prior approvals was extended until
25 September 1, 1975, five days after Respondent submitted his appli-
26 tion.

1 Any reading of these rules which concluded that all prior
2 site inspection approvals expired under the Temporary Rules of
3 the State Health Division on January 1, 1974 would be in error.
4 First, the Health Division rules were repealed before the projected
5 expiration date. Second, such conclusion would make OAR 340-71-015
6 (8) meaningless since the clear purpose of that rule is to extend
7 the effective life of such prior permits and written approvals
8 involving site inspections. It is a well established rule of
9 statutory construction that a legislative act is not to be deemed
10 meaningless. Thompson v. IDS Life Ins. Co., 274 Or 649, 549 P2d
11 510 (1976). This rule of construction is just as logically applic-
12 able to rulemaking by an agency.

13 In the foregoing discussion Respondent has shown (1) that
14 no applicable statute or rule can be cited to show that the 1966
15 or 1972 site inspection approvals expired prior to September 1,
16 1975, (2) that the rules themselves demonstrate that the state
17 agencies involved consistently assumed that prior site inspection
18 approvals remained effective and in fact took steps to make this
19 fact explicit, and (3) that the hearsay statement by Respondent in
20 his deposition indicating expiration of the 1966 approval is an
21 uninformed hearsay conclusion totally unsupported of the relevant
22 statutes and rules. Whoever told Mr. Anderson in 1972 that the
23 1966 site inspection approval had expired was clearly mistaken.

24 Since no applicable rule or statute declares that a sub-
25 sequent site inspection approval invalidates a former approval,
26 both the 1966 and 1972 site inspection approvals remained effective

1 up until September 1, 1975.

2 B. The Burns Memorandum May Not be Considered.

3 The DEQ contends that Respondent's prior site inspection
4 approvals are not valid because they do not comply with the guide-
5 lines set down in a memorandum from Roy Burns, Director, Lane
6 County Sanitation Department, dated April 30, 1975. (Dept Ex F)
7 This contention is without merit.

8 Pursuant to ORS 454.625 the Department of Environmental
9 Quality promulgated various regulations, among them OAR 340-71-015
10 (8) which dealt with prior construction permits or site evaluation
11 approvals. Respondent does not challenge the validity of this
12 regulation, which specifically lists the three criteria which
13 determine whether a prior approval is "valid." None of these
14 three criteria even suggest the requirement set forth in the Burns
15 memorandum that "engineering modification had been submitted and
16 approved prior to January 1, 1974." That purported requirement
17 was unreasonable and unauthorized because it was in direct contra-
18 diction to OAR 340-71-015(8) which explicitly anticipated that
19 those holding prior "site evaluation" approvals would be able to
20 apply for construction permits up until September 1, 1975.

21 To be valid a rule must be reasonable. Schwartz, Adminis-
22 trative Law 152 (1976). An agency interpretation of its rules is
23 not controlling if it is plainly erroneous and inconsistant with
24 the regulation. Carnation Co. v. Dept. of Agriculture, 7 Or App
25 223, 488 P2d 1385 (1971).

26 Furthermore, even if the rule set down in the Burns memo-

1 random were reasonable, it would still be invalid because it is
2 ultra vires.

3 "if an agency act is within the statutory
4 limits (or vires) its action is valid; if
5 it is outside them (ultra vires), it is
6 invalid. No statute is needed to estab-
7 lish this; it is inherent in the constitu-
8 tional positions of agencies and courts."
9 Schwartz, supra, at 151.

7 Mr. Burns worked for Lane County which was acting as a
8 "contract agent" for the DEQ (Notice of Denial, p. 1, line 11).
9 This relationship was made possible and governed by the provisions
10 of ORS 454.725(1):

11 "The Department of Environmental Quality
12 may enter into agreements with local
13 units of government for the local units
14 to perform the duties of the department
15 under ORS 454.635, 454.655, 454.665 and
16 454.695."

15 None of the four statutes listed involves rulemaking. Since four
16 specific statutes are mentioned, the implication is that the legis-
17 lature intended to exclude other related statutes which it did
18 not mention. Smith v. Clackamas County, 252 Or 230, 448 P2d 512
19 (1968) In other words, rulemaking is excluded from duties which
20 the DEQ may contract away to counties.

21 ORS 454.625 supports this reading. It says:

22 "Rules. In accordance with the applicable
23 provision of ORS Chapter 183, the Environ-
24 mental Quality Commission shall adopt such
25 rules as it considers necessary for the
26 purpose of carrying out ORS 454.605 to
27 454.745."

26 This is the only statute in ORS Chapter 454 which delegates the

1 power to make rules concerning the regulation of subsurface sewage
2 disposal. It is conspicuously absent from the list of statutes
3 the duties under which the DEQ may subdelegate to local units of
4 government.

5 ORS 454.625 expressly delegates all rulemaking power to the
6 EQC. Secondly, it requires that the rules be adopted in accordance
7 with the state APA. This safeguard would be seriously compromised
8 if the agency could end-run the APA by subdelegating its rulemaking
9 powers to a county or other local body.. Additionally, it is a
10 fundamental principle that while a merely administrative or minis-
11 terial power may be subdelegated, the person or agency to which a
12 discretionary or quasi-judicial power, such as rulemaking, is
13 delegated may not further delegate that power in the absence of
14 an indication that the legislature so intends. Voth v. Fisher,
15 241 Or 590, 595, 407 P2d 848 (1965); Mercer Council No. 4, New
16 Jersey Civil Service Ass'n v. Alloway, 290 A2d 300, aff'd 296 A2d
17 305 (NJ 1972); 22 Am Jur 2d Administrative Law § 222 (1962).

18 It therefore clearly appears that the intent of the legis-
19 lature here was to concentrate all rulemaking power in this area
20 in the hands of the EQC. Given this statutory command, the DEQ
21 had no power to delegate the rulemaking function to the County
22 and the County had no power to engage in rulemaking in the area
23 of regulation of subsurface sewage disposal. Agencies have no
24 powers except those clearly granted by statute. Harrison v. Port
25 of Cascade Locks, 27 Or App 377, 556 P2d 160 (1976); Hawkins v.
26 Board of Medical Examiners, 23 Or App 320, 322, 542 P2d 152 (1975).

1 From this it follows that if the Burns memorandum sought
2 to establish rules it was ultra vires and invalid. Although in
3 his testimony Mr. Burns sought to characterize his memorandum as
4 a mere "internal administrative guideline for staff to review,"
5 Oregon law is plainly against him.

6 ORS 183.310(7) defines a "rule" as:

7 "...any agency directive, regulation or
8 statement of general applicability that
9 implements, interprets or prescribes law
or policy, or describes the procedure or
practice requirements or any agency."

10 Subsections (a) and (c) of ORS 183.310(7) state that a "rule"
11 does not include:

12 "(a) Internal management directives,
13 regulations or statements between agencies,
14 or their officers or their employees, or
15 within an agency, between its officers
16 or between employees, unless hearing is
17 required by statute, or action by agencies
18 directed to other agencies or other units
19 of government.

* * *

(c) Intra-agency memoranda."

18 There can be no question that the content of the Burns
19 memorandum falls under the APA's definition of a "rule." First,
20 it is explicitly titled "Administrative Interpretation" and its
21 undisguised purpose is to interpret OAR 340-71-015(8). Unlike its
22 federal counterpart, the Oregon APA includes interpretative rules
23 within the general definition of rule.

24 Second, it will not fit under the internal management
25 directive or intra-agency memoranda exceptions. The courts have
26 insisted that these exceptions be interpreted narrowly. Burke v.

1 Children's Services Division, 26 Or App 145, 151, 522 P2d 592 (1976);
2 Gray Panthers v. Public Welfare Division, 28 Or App 841, 844, 561
3 P2d 674 (1971); Clark v. Public Welfare Division, 27 Or App 473,
4 476, 556 P2d 722 (1976). Only

5 "(s)uch communications, or 'directives,'
6 (which) affect individuals solely in their
7 capacities as members of the agency involved
8 rather than as members of the general public
9 who may have occasion to deal with the agency"

8 may be included. Burke v. Children's Services Division, supra, at
9 148. It is indisputable that the Burns memorandum affected
10 "members of the general public (such as Respondent) who (had)
11 occasion to deal with the agency." Undeniably, it enunciated
12 policy decisions which did not relate solely to agency workers.

13 Finally, the rules set forth in the memorandum cannot
14 stand as "informal embellishments of validly promulgated rules."
15 Burke v. Public Welfare Division, 31 Or App 161, 164, 570 P2d 87
16 (1977).

17 "the principle...is that an agency's pronoun-
18 cement of how a validly promulgated rule operates
19 in a specific context need not itself be promul-
20 gated as a rule if the existing rule necessarily
21 requires the result set forth in that pronounce-
22 ment...However, the interpretive amplification or
23 refinement of an existing rule is a new exercise
24 of agency discretion and must be promulgated as a
25 rule under the APA to be valid." Id. at 165.

23 Nothing in CAR 340-71-015(8) "necessarily requires" the result
24 arrived at in the Burns memorandum. On the contrary, as was
25 pointed out above, and as will be further discussed below, the
26 most logical reading of the regulation points toward a result

1 directly opposite to that arrived at by Mr. Burns. Reasonable men
2 could certainly differ with Mr. Burns' interpretation. As in
3 Burke, the provision of the memorandum at most "represent a policy
4 choice among alternatives allowed by the terms of the general rule,
5 and therefore "(i)nasmuch as the...provision is a policy-based
6 interpretation of the...rule, and not just an application of it,
7 it is itself a rule within the meaning of ORS 183.310(7)." Id.

8 Since Respondent has demonstrated that the Burns memorandum
9 was nothing more than a poorly disguised attempt to make a rule,
10 and that ORS Chapter 454 specifically prohibited the EQC from
11 delegating its rulemaking power in this area, the only possible
12 conclusion is to find that the memorandum was ultra vires and as
13 such cannot stand as a basis upon which to deny Respondent's
14 application.

15 The memorandum would be similarly invalid as a rule even
16 if the county were to argue that its status of contract agent of
17 the DEQ under the statutes actually made it a mere extension or
18 "employee" of the state agency. As such it would be subject to
19 all the statutes governing the procedures of state agencies,
20 including the rulemaking procedures required by ORS Chapter 183.
21 In his testimony, Mr. Burns readily admitted that none of the APA
22 procedures had been followed in regard to his memorandum and that
23 it was in fact never made available to the public. "Unless a
24 rule is promulgated according to statute, ORS 183.335, and filed
25 with the Secretary of State, ORS 183.355, it is not effective."
26 Burke v. Children's Services Division, supra.

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1 Thus, the Burns memorandum may be found to have been
2 invalid on any one of three grounds: (1) it was an unreasonable
3 interpretation of OAR 340-71-015(8); (2) it was ultra vires, and
4 (3) although required to be adopted in accordance with the provision
5 of the APA because of the close connection between the DEQ and its
6 contract agent, the county, it was never so adopted. This being
7 so, the Hearings Officer may not rely upon it in deciding the issues
8 before him. "The decision of the hearings officer...made pursuant
9 to invalid rules is itself invalid." Clark v. Public Welfare
10 Division, 27 Or App 473, 477, 556 P2d 722 (1976).

11 C. The 1966 and 1972 Site Inspection Approvals Were Issued
12 in Accordance With All Rules in Effect At The Time.

13 The DEQ's second argument is based upon its interpretation
14 of the former Board of Health Regulations under which the 1966 and
15 1972 site inspections were conducted. Specifically, the Department
16 relies upon OAR 333-41-030(1) which in 1966 provided that:

17 "They (subsurface disposal fields) shall not
18 be used in heavy clay or other impervious soil
19 formations or in low swampy areas or where the
20 ground water during any season of the year will
be within 24 inches of the finished ground
surface."

21 In 1969 this regulation was slightly revised to read as follows:

22 "They shall not be used in heavy clay or other
23 impervious soil formations or in low, swampy
24 areas. The bottom of the disposal field trench
shall not be closer than 24 inches of the water
table during any season of the year."

25 Although the DEQ argues that the 1966 and 1972 approvals
26 were invalid under this regulation because the soil on Respondent's

1 land was heavy clay, this argument misses the mark. Both approvals
2 required a fill, and thus neither would have permitted the system
3 to be built in heavy clay.

4 1. Fills Were Not Prohibited Under the Board of Health Rules.

5 The DEQ contends that Lane County had no authority to
6 authorize fills under the State Board of Health Regulations. How-
7 ever, the only evidence which it has offered in support of this
8 proposition is an ambiguously worded one sentence rule from page 36
9 of the "Rules Governing the Subsurface Disposal of Sewage" effective
10 May 1, 1973 to October 4, 1973 which stated: "Fills - No standard
11 subsurface sewage disposal system shall be placed in a fill area."

12 This rule does not say that fills were improperly author-
13 ized on Respondent's property in 1966 and 1972. No such rule
14 appears in any of the three previous sets of State Board of Health
15 rules which governed subsurface sewage disposal between 1962 and
16 May 1, 1973. The courts may not construe into a statute terms or
17 substance which have been omitted. Dilger v. School District 24
18 CJ, 222 Or 108, 352 P2d 564 (1960). The same is true of adminis-
19 trative rules.

20 Both Respondent's site evaluation approvals were issued
21 before the May 1, 1973 rules came into effect. No rule prohibiting
22 fills existed at the time Respondent's approvals were issued, and
23 they were "issued in accordance with all rules in effect at the
24 time." OAR 340-71-015(8).

25 Furthermore, the language of the 1973 rule is so vague
26 and unclear as to make the rule itself meaningless and invalid.

1 The rule refers to a "standard" SSDS, but Respondent is unable to
2 find a definition of "standard SSDS" anywhere in the rules. In
3 construing statutes a court may not omit terms which have been
4 inserted. Speck Restaurant, Inc. v. Oregon Liquor Control Comm.,
5 24 Or App 337, 545 P2d 601 (1976). If the State Health Division
6 had intended the general term SSDS to be used in its unrestricted
7 sense it would have made no mention of the particular class of
8 "standard" SSDS's. State v. Brantley, 201 Or 637, 271 P2d 688
9 (1954).

10 In the definition section of the rules in question on page
11 7 an SSDS is defined as:

12 "...the combination of a building sewer
13 and cesspool or a building sewer, septic
14 tank, or other treatment unit and effluent
sewer and absorption facility."

15 It seems clear from this definition that more than one variety of
16 SSDS may exist depending upon how the various elements are
17 combined. Courts have, in fact, generally interpreted "standard"
18 when it is used as a modifier, as it is here, as implying that
19 several different types of a thing exist. Kenny v. Gillett, 17 A
20 499, 500 (Md 1889), Lencioni v. Brill, 365 NE2d 1169, 1172 (Ill.
21 App. 1977).

22 The rule in question consists of one sentence. No other
23 rule that Respondent is aware of attempts to clarify what is meant
24 by a "standard SSDS," and the statutes delegating authority to the
25 State Health Division in this area contain no clue as to what might
26 be meant. Where a legislative delegation of power is made in

1 broad terms it "places upon the administrative agency a responsi-
2 bility to establish standards by which the law is to be applied."
3 Sun Ray Drive-In Dairy, Inc. v. Oregon Liquor Control Comm., 16
4 Or App 63, 70, 517 P2d 289 (1973). Those standards must be precise
5 enough to avoid the danger of "inconsistent, subjective and ad
6 hominem decision making." Id. at 72.

7 Even if this rule is not so impermissively vague as to be
8 invalid, it cannot be considered in this proceeding. As was noted
9 in Board of Medical Examiners v. Mintz, 233 Or 441, 448, 378 P2d
10 945 (1963) an agency's discretion is not unlimited and even where
11 standards are such as are accepted by persons engaged in a parti-
12 cular field in the relevant community; "The standard must be
13 ascertained through expert opinion; except where the standard is
14 clear." The standard here is not clear and the DEQ introduced no
15 expert testimony on the question of what constitutes a "standard"
16 SSDS under the rule.

17 On the other hand, Respondent introduced testimony by Lou
18 Freeman to the effect that over the years he has designed and
19 installed many SSDS's in Lane County, and that all such systems
20 were not similar. In particular, he testified that the system he
21 had designed for Respondent's property was not similar to one he
22 had designed for Dr. Dwight Johnson. Without expert testimony, it
23 is impossible to determine which if any of these dissimilar systems
24 was a "standard" SSDS which could not be installed in fill under
25 the rule.

26 The foregoing discussion is also relevant to the objection

1 made by Mr. Haskins to Greg Gray's testimony concerning the Dr.
2 Johnson property. Mr. Haskins contended that the granting of a
3 permit by Lane County to Dr. Johnson to install an SSDS in fill
4 over soil having characteristics similar to those of the soil on
5 TL801 had no bearing on whether Respondent's prior approvals are
6 valid because the county's action was in violation of the "no fills"
7 rule discussed above. It is clear from the discussion, however,
8 that there is no way of knowing whether the county's action in
9 issuing the permit was in fact a violation of the rule because (1)
10 there was no testimony as to what a "standard" SSDS is, and (2)
11 there was no testimony as to the exact type of SSDS installed on
12 Dr. Johnson's property. Consequently, the County's actions in
13 dealing with Dr. Johnson are most certainly relevant to the ques-
14 tion of administrative practice regarding fills which in turn has
15 a direct bearing upon the validity of Respondent's prior approvals.

16 Finally, there is ample evidence in the record showing that
17 fills were regularly authorized and that this practice was recog-
18 nized as legitimate by the DEQ itself. DEQ rule 340-71-030(1)(g)
19 provides that no disposal trench shall be installed in fill "except
20 in subdivisions or lots approved by the appropriate governing body
21 prior to January 1, 1974." This rule is significant for two
22 reasons. First, it unambiguously demonstrates that DEQ had taken
23 the position on the record that fills could be approved by appro-
24 priate governing bodies under the State Board of Health Regulations.
25 Lane County, through its Building and Sanitation Division, was
26 such an appropriate governing body, operating under the rules of

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1 the State Board of Health. The DEQ's attempt in these proceedings
2 to argue that fills were prohibited will not survive comparison
3 with its own rule. Second, it indicates that however much the
4 DEQ's witnesses may disapprove of an installation in fill on
5 Respondent's property, the DEQ rules explicitly allow such install-
6 ation where prior approvals exist as they do here.

7 A great deal of evidence was offered at the hearing to
8 show that Lane County routinely authorized fills during the period
9 when Respondent received his approvals. Greg Gray, Lane County
10 Sanitarian, testified that he authorized a fill on Dr. Dwight
11 Johnson's property. Respondent's Exhibits 17 through 19 confirm
12 this fact, and in addition show that that fill was installed on
13 property with soil similar to that on Respondent's property.
14 According to Respondent's Exhibit 17 the Johnson property consisted
15 of:

16 "impervious heavy clay top soil on decomposed
17 rock subsoil and indications of high winter
18 water table at 12" or less from existing grade."

19 Further evidence on this particular point appears at page
20 25 of Theodore Deitz' deposition where Mr. Deitz testified that
21 the system designed for Respondent's property by Mr. Freeman was
22 "a standard maximum fill design as following the standards as used
23 in Lane County over the past years." This hardly suggests that
24 the county's practice was not to permit fills on properties like
25 Respondent's.

26 Another small but interesting point is that Respondent's

1 Exhibit 19 bears a "FILL REQUIRED" stamp. Why would the County
2 possess and use such a stamp in 1973 if, as DEQ argues, it had
3 never had the power to authorize fills.

4 Further testimony establishing that fills were regularly
5 authorized and installed came from the DEQ's own witnesses, John
6 Stoner and Roy Burns, as well as from Lou Freeman. Mr. Stoner
7 also testified that Lane County had developed criteria for fills
8 in the 1960's, but under cross examination he admitted that these
9 had not been reduced to writing and were simply a department
10 practice. No written regulations governing fills were adopted by
11 the County until about a year prior to September, 1973 (Resp Ex
12 4(a)-(d); Dept Ex E). Thus, neither of Respondent's prior approvals
13 was issued under these written regulations relating to fills.

14 As a whole Mr. Stoner's testimony tended to show that the
15 pre-1972 fill criteria were very loose at best and that the prac-
16 tice of the county was to allow property owners a great deal of
17 freedom in constructing fills. Thus, at the time that Respondent's
18 site inspection approvals were issued, the evidence shows that the
19 county was routinely authorizing fills, including fills on proper-
20 ties similar to Respondent's. An agency may be bound by its own
21 established custom and practice as well as by its formal regula-
22 tions. Briscoe v. Kasper, 435 F2d 1046 (7th Cir 1970).

23 "Something that either is akin to rule
24 making or is rule making takes place when
25 particular courses of official action are
26 repeatedly followed. More than a century
ago the Supreme Court observed that 'usages
have been established in every department
of the government, which have become a kind

1 "of common law, and regulate the rights
2 and duties of those who act within their
3 respective limits.'...Therefore, an 'admin-
4 istrative practice or enforcement policy,'
5 even when unannounced or wholly negative,
6 may sometimes have about the same effect as
7 a formal rule." 1 Davis, Administrative Law
8 Treatise § 5.01 at 289 (1958).

9 The County practice of authorizing fills, according to the
10 testimony of several witnesses, was carried on over a period of
11 more than ten years. The State Board of health could hardly have
12 been unaware of this practice and no evidence has been introduced
13 to show that it ever questioned the county's power to authorize
14 fills. Not until May 1, 1973 did it even get around to writing
15 an ambiguous one sentence rule purporting to prohibit the installa-
16 tion of "standard" SSDS's in fill. ORS 41.360(15) establishes a
17 disputable presumption that an "official duty has been regularly
18 performed." "The burden is upon him who claims to the contrary."
19 Milwaukie Co. of Jehovah's Witnesses v. Mullen, 214 Or 281, 294,
20 330 P2d 5 (1958). The DEQ has totally failed to discharge its
21 burden of showing that Lane County officials acted illegally in
22 authorizing fills, including fills on properties similar to Respon-
23 dent's.

24 Therefore, on the issue of fills, Respondent has shown
25 that his prior site inspection approvals were "issued in accord-
26 ance with all rules in effect at the time" as required by ORS 340-
71-015(8).

2. The 1966 and 1972 Site Inspection Approvals, are Valid.

The burden is upon the party claiming an official duty

1 has not been regularly and validly performed. Milwaukie Co. of
2 Jehovah's Witnesses v. Mullen, supra. DEQ has not discharged
3 this burden.

4 At the hearing, none of the witnesses suggested that the
5 1966 site inspection approval was irregularly or invalidly issued.
6 Daryl Johnson's testimony was limited to the question of whether
7 Respondent's property was in compliance with the DEQ rules in
8 effect at the time of his application in 1975. John Stoner, in
9 the face of the DEQ's objection, was never permitted to answer the
10 question put to him of whether the county would have considered
11 the 1966 site inspection to be a proper prior approval. Stan
12 Rubini felt "at that time that that probably was an approval."

13 As discussed previously, although Respondent's Exhibits
14 5 and 6 appear to state that TLS01 does not have a valid prior
15 approval, this is not in fact the case. It is clear that the
16 county officials did not even consider the 1966 site inspection
17 approval and therefore the September 3, 1975 letter and attached
18 memorandum make no judgment upon its validity.

19 In Respondent's Exhibit 10, Daryl Johnson states that the
20 1966 site inspection approval was not valid. As explained in
21 Respondent's Exhibits 11 and 13 this opinion was based upon OAR
22 333-41-030(1), which prohibited installation of SSDS's in heavy
23 clay, and an opinion that the county was without power to authorize
24 fills. As noted above, such arguments are without merit. The
25 approval was conditioned on a fill. The system was to be instal
26 in the fill, not in heavy clay. Lane County had power to authorize

1 such fills and did routinely authorize them. Such authorizations
2 were issued to owners of properties with soil characteristics
3 similar to those existing on Respondent's property.

4 As to the 1972 site inspection approval, again no testi-
5 mony was offered which directly brought its validity into question
6 although Stan Rubini did offer testimony which tended to bring
7 into question the significance of the "fill will be allowed"
8 language in the results section. Yet subsequent to this site
9 inspection, the county sent Respondent a form letter (Resp Ex 4(b))
10 which read in part,

11 "it has been determined by this department
12 that modification of the property in the
13 form of a fill can be made to create a
14 suitable area for sewage disposal."

15 Apparently, then, in 1973 the county did not question the fact
16 that the "fill will be allowed" language meant just what it
17 appeared to mean.

18 Respondent's Exhibit 6 questioned the validity of the 1972
19 site inspection approval on the basis of the Burns memorandum.
20 As pointed out above, that memorandum was improperly considered.
21 It also indicated that the site did not meet the standards in
22 effect in 1972 but gives no suggestion as to what those standards
23 were. Theodore Deitz in his deposition (p.23) stated, apparently
24 in reference to the 1972 site inspection, that the site did not
25 comply with health department rules because of clay near the sur-
26 face and a high water table. This is presumably another reference
to OAR 333-41-030(1) which has been dealt with previously.

1 All of the arguments offered to show the invalidity of
2 Respondent's site inspection approvals have been discussed at
3 length in the preceeding sections of this brief and were shown to be
4 groundless. In addition, Respondent may claim the benefit of the
5 disputable presumption that an "official duty has been regularly
6 performed;" ORS 41.360(5), and that an official decision is valid.
7 Kampstra v. Salem Heights Water Dist., 237 Or 336, 391 P2d 641
8 (1964).

9 "all legal intendments are in (the agency's)
10 favor. Its actions will be presumed valid,
11 reasonable, correct, taken in knowledge of
12 material facts, and justified by the facts."
13 Milwaukie Co. of Jehovah's Witnesses v.
14 Mullen, 214 Or 287, 297, 330 P2d 5 (1958)

15 D. Respondent's Site Inspection Approvals Were "Written
16 Approvals Involving Site Evaluations" Under the Terms
17 of OAR 340-71-015(8).

18 The term "written approvals involving site evaluations"
19 is nowhere defined in the DEQ regulations *nor does any precisely
20 equivalent term appear in any of the rules of the State Board of
21 Health. However, a reasonable interpretation of this term would
22 take the following facts into consideration. The forms upon which
23 both of Respondent's approvals were printed were labeled "Request
24 for Site Inspection." The "Results of Investigation" section on
25 each form as completed speaks in terms of approval. According to
26 the testimony of Stan Rubini:

*OAR 340-71-010(63) contains a definition of "prior approval," but it is based entirely upon OAR 340-71-015(8).

1 "Generally, these documents (Requests For
2 Site Inspection) were taken per se as
3 approvals by the general public and that
4 is not always true, but I would say in
5 this case that my thoughts were at that
6 time that that (Resp Ex 1) probably was
7 an approval."

8 From this alone it would seem that the site inspec-
9 tion approvals at issue here are exactly what the DEQ rules refer
10 to. Although the State Board of Health rules muddy the waters
11 a bit, a close examination of the various sets of pre-DEQ rules
12 leaves the above conclusion undisturbed.

13 Nothing in the State Board of Health Regulations effective
14 1962-1969 is relevant to this issue. The same is true of the
15 Regulations in effect from 1969 until January 11, 1972. However,
16 the next set of State Health Division Regulations contained OAR
17 333-41-022 which became effective 5/1/72. At the outset it is
18 important to point out that this rule was repealed and reenacted
19 in a modified form in the next set of State Health Division Rules
20 (p.41-43) which became effective a year later. Only two months
21 after this first modification the rule was extensively amended by
22 a State Health Division "Order Adopting Temporary Rules."

23 The avowed reasons for the amendment stated in the Order
24 were (1) the old rule did not adequately take into account
25 disparate local agency practices including those involving "state-
26 ments and requested statements as to acceptability of property
for installation of sewage disposal installations," (2) the intent
of the previous rule was unclear, and (3) without amendment the
previous rule could result in "serious prejudice to the public

1 interest and to all parties concerned." In short, the State
2 Health Division explicitly recognized what anyone who is unlucky
3 enough to have to read either the 1972 or 1973 version of the
4 rule must recognize --- they are hopelessly confusing. Since the
5 rulemakers themselves stated that "serious prejudice" could result
6 in the application of the previous versions of the rule in question,
7 the Hearings Officer should certainly not apply it in this proceed-
8 ing.

9 Turning to the test of the 1972 and unamended 1973 versions
10 of the rule, the most important point to notice is that all the
11 language which the DEQ apparently seeks to rely upon to show that
12 Respondent's site inspection approvals were not "written approvals
13 involving site evaluations" for purposes of OAR 340-71-015(8) has
14 been deleted in the amended Temporary Rules.

15 Specifically, the language in section (3)(a) establishing
16 and defining a "feasibility statement" is conspicuously absent
17 from the Temporary Rules as is the passage in section (3) equating
18 feasibility statements with written prior approvals by local
19 health officers. This equation, although it is practically impos-
20 sible to integrate into the new rules, is important, however, in
21 that it amounts to an admission by the State Health Division that
22 prior to the adoption of this rule site inspection approvals were
23 recognized as "written approvals."

24 In section (3)(a) appears the term "final approval,"
25 which suggests that other types of approvals were contemplated
26 by the rulemakers. In fact, one need not look far to find mention

1 of (1) "specific approvals" (Section (3)(b)) which, judging by
2 the procedure required to obtain one, sound suspiciously like
3 Respondent's site inspection approvals, and (2) "other approvals
4 required under local ordinances or regulations" (Section (5)).
5 Anyone who has completed this excruciating minuet through this
6 rule and still believes that it offers firm guidance in determining
7 what does or does not qualify under the DEQ rules as a "written
8 approval involving site evaluations." simply hasn't been reading
9 carefully.

10 Turning now to the Temporary Rules, perhaps the most
11 important point to make is that the amended version of the rule
12 is prospective only. All attempts to redefine approvals issued
13 prior to its adoption so as to fit them into the newly constructed
14 system have been abandoned. The obvious result is that prior
15 approvals issued by local officers under the authority of the
16 State Health Division, like Respondent's site inspection approvals,
17 are once again recognized for exactly what they always were,
18 approvals.

19 A glance at amended Section 20 (Amended Rules, p.1) con-
20 firms this interpretation. Subsection 3 of Section 20 provided
21 that a holder of a "previous approval" could install an SSDS under
22 the rules in force between January 11, 1972 and May 1, 1973 (such
23 rules being re-adopted for purposes of this subsection) "provided
24 that conditions on the site are in conformance with such rules
25 and that construction is completed by January 1, 1974." Since
26 the above mentioned rules did not prohibit fills as has been

1 demonstrated above, conformance with those rules would have
2 presented no problem for Respondent. As for the completion date,
3 these rules were repealed in October of 1973 and superseded by
4 the DEQ rules which, by way of OAR 340-71-015(8), specifically
5 provided for a further extension of the life of all such prior
6 approvals until September 1, 1975.

7 Yet another argument in favor of a finding that Respondent's
8 site inspection approvals were prior approvals under the terms
9 of OAR 340-71-015(8) may be based upon a comparison of the langu-
10 age of that rule with the language used in the State Health Divi-
11 sion Regulations. While the Health Division Regulations are
12 replete with failed attempts at precise terminology, "feasibility
13 statements," "preliminary investigation report," "seller's or sub-
14 divider's approval letter," the DEQ rule refers simply to "written
15 approvals involving site evaluations." Obviously, if the DEQ had
16 wanted to select out only a specific type of "approval" for favored
17 treatment, it had ample opportunity to do so. The fact that it
18 elected not to do so is instructive. It evidences an intent to
19 deal fairly and in good faith with all those who, through whatever
20 local procedural variation, had been issued what Mr. Rubini testi-
21 fied had been "taken per se as approvals by the general public."
22 Another possibility is that the DEQ rulemakers having read the
23 Health Division Regulations simply threw up their hands in frustra-
24 tion and included the broadest possible category in their rule
25 realizing full well that any attempt at precision was condemned
26 failure. In either case, any reasonable interpretation of the

1 "written prior approvals involving site evaluations" appearing in
2 OAR 340-71-015(8) must necessarily include Respondent's site
3 inspection approvals.

4 E. A Guaranty of Successful Operation is Not Required Under
5 the Regulations.

6 The DEQ relies heavily upon the fact that under the present
7 regulations Respondent would not be permitted to install an SSDS.
8 This, of course, is irrelevant if either of Respondent's site
9 inspection approvals are valid. But the DEQ further argues that
10 since its expert is of the opinion that no system installed on
11 Respondent's property could be guaranteed to operate successfully
12 for an indefinite period, he should not be permitted to install
13 any system.

14 First, this opinion was evidently not shared by John
15 Stoner, Director, Lane County Building and Sanitation Division, who
16 in 1973 sent Respondent a form letter reading in part:

17 "it has been determined by this department
18 that modification of the property in the form
19 of a fill can be made to create a suitable
area for sewage disposal." (Resp Ex 4(b))

20 Second, this argument fails to take into consideration the
21 explicit language of OAR 340-71-015(8) which states:

22 "If it is not possible for construction to
23 be in full compliance with the current rules
24 of the Commission the Certificate of Satis-
25 factory Completion must contain a statement
26 notifying the permittee or owner that the
system is substandard and therefore, may not
operate satisfactorily and that if it fails
and necessary repair cannot be made in accord-
ance with current rules of the Commission the

1 system may have to be abandoned."
2 (emphasis supplied)

3 Clearly, the DEQ's own regulations contemplated the possib-
4 ility that a system installed under the prior approval exception
5 might fail. No guaranty of success was required, as the Department
6 now seems to argue. The regulation not only anticipates the
7 possibility of failure, but sets up procedures to protect all
8 concerned in the event of such a result. Subsequent purchasers
9 are protected from misrepresentation by the requirement that the
10 Certificate contain the warning. Neighbors and the environment
11 are protected by the provision stating that a system which cannot
12 be satisfactorily repaired must be abandoned. The owner is
13 given the right to install a system, but is also put on notice
14 that in the event of its irremediable failure he will be required
15 to abandon it.

16 The protections are adequate and the options made clear.
17 The point to be stressed is that where a right to install a system
18 exists, based upon a valid prior approval, the DEQ does not, under
19 its own regulations, require a guarnty of success.

20 Respondent has repeatedly stated that he is aware that
21 any permit issued to him may be conditioned upon a number of
22 requirements and that, within reason, he is prepared to do what-
23 ever is necessary to install a viable system provided the expense
24 does not become prohibitive. Expense, of course, is a question
25 for Respondent alone to decide.

26 F. The Possibility of Installing a Successful System

1 Does Exist.

2 In his deposition Mr. Deitz, Senior Soil Scientist for
3 Lane County, could testify only that he would have "some doubt
4 of its successfulness" when asked for his opinion as to whether
5 a system employing fill which had been designed for Respondent's
6 property by a registered engineer would function.* (Deitz depo,
7 p. 25)

8 Furthermore, on cross examination, Mr. Deitz admitted that
9 there are several experimental systems which might be feasibly
10 installed on Respondent's property. His main objection to such
11 an installation appeared to be that:

12 "...we, as a division and as the department
13 of environmental agency, (sic) feel experi-
14 mental should be confined to repairs, because
we don't have to abandon or condemn a homesite
if the thing fails." (Depo, p. 39)

15 Once again, provided there is a valid prior approval, the
16 risk of condemnation upon failure of the system is a risk which
17 the property owner has every right to accept. The decision is
18 Respondent's not DEQ's or Lane County's, to make. OAR 340-71-
19 015(8) contemplates the possibility of such failure and establishes
20 safeguards to deal with it. Neither DEQ nor the county has the
21 right to play the role of a paternalistic Big Brother under the
22 facts of this case.

23
24 * On page 26 counsel for the DEQ finally got Mr. Deitz to
25 say, in response to a leading question, that he thought the system
26 would fail. However, it is clear that when all of Mr. Deitz'
testimony is considered, "some doubt" is in fact as far as he is
willing to go on the question of the possibility of failure of
the system as designed.

1 IV. Conclusion

2 Respondent has shown that he is entitled to receive a
3 permit to install an SSDS on TL801 under either one of two theories.
4 First, since no statutorily sufficient denial of his application
5 was issued by the County within the time required for such issuance
6 by statute, ORS 454,655(5)(b) requires that "the permit shall be
7 considered to have been issued."

8 Second, since Respondent possessed two valid prior site
9 inspection approvals at the time he applied for his permit, he
10 was entitled to it under OAR 340-71-015(8). The burden is upon
11 the DEQ to show that the approvals were not validly issued. It
12 has failed to discharge this burden.

13 Furthermore, Respondent has demonstrated that his site
14 inspection approvals comply with all of the requirements laid down
15 in the DEQ rule in that they:

- 16 (1) are "written approvals involving site
17 evaluations issued prior to January 1,
18 1974",
19 (2) expressly authorize use of an SSDS for
20 an individual lot (TL801),
21 (3) were issued by a representative of a
22 state or local agency authorized by law
23 to grant such approval, and
24 (4) were issued in accordance with all rules
25 in effect at the time.

26 Respectfully submitted,

By _____
Allen L. Johnson
Of Attorneys for Respondent

JAMES A. REDDEN
ATTORNEY GENERAL



DEPARTMENT OF JUSTICE

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

8181 2 7 1978
JAN 27 1978
L. H. H.

January 26, 1978

The Honorable Roland K. Rodman
Judge of the Circuit Court
Lane County Courthouse
Eugene, Oregon 97401

Re: Norman Pohll v. Department of Environmental
Quality/No. 75-5962

Dear Judge Rodman:

By order dated September 26, 1977, you granted respondent's demurrer. Enclosed for filing is an original motion for entry of judgment and for your consideration an original proposed form of judgment. Also enclosed for filing after you render judgment is an original cost bill. A certificate of service for the cost bill and motion is enclosed.

Additionally I have enclosed two copies of the proposed form of judgment. If our form of judgment is used I would appreciate it greatly if you would conform the copies and mail them in the enclosed stamped and addressed envelopes to petitioner's attorney, Allen L. Johnson and to me. If you execute a different form of judgment we would appreciate receiving a copy thereof.

Respectfully,

Robert L. Haskins
Robert L. Haskins
Assistant Attorney General

pjv

cc: William H. Young, Director
Environmental Quality Department
522 S. W. Fifth Avenue
Portland, Oregon

Allen L. Johnson, Esq.
915 Oak Street
Eugene, Oregon 97401

JAN 27 1978

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR LANE COUNTY

Michael L. Terry, Court Administrator
Circuit Court for Lane County Oregon
BY Brandon Rex DEPUTY

NORMAN POHLL,
Petitioner,
v.
OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY, an Oregon State Agency,
Respondent.

RECEIVED No. 75-5962 (23)
JAN 31 1978 JUDGMENT
CLERK OF COURT

This matter came before the court upon the motion of the respondent. On September 26, 1977, the court entered an order sustaining respondent's demurrer, without leave to amend, therefore, the court hereby

ORDERS AND ADJUDGES that the petitioner's complaint be, and the same hereby is, dismissed with prejudice, that the petitioner take nothing by this action, and that respondent recover its costs and disbursements in the amount of

\$ 49.65.

Dated this 27th day of JAN, 1978.

[Signature]
CIRCUIT COURT JUDGE

CM-78-372
1-27-78
3:55 P.M.

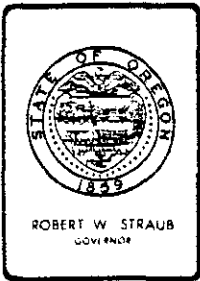
RECEIVED

CERTIFICATE OF SERVICE

JAN 31 1978

I certify that I served the foregoing Motion For Entry of Judgment, Judgment and Statement of Costs and Disbursements Claimed by Respondent, upon Allen L. Johnson, Attorney for Petitioner, on January 26, 1978, by mailing to him a certified true copy of the above-named pleadings in a sealed envelope addressed to Allen L. Johnson, Attorney at Law, 915 Oak Street, Suite 200, Eugene, Oregon, 97401, with the postage being prepaid thereon.


Of Attorneys for Respondent



Environmental Quality Commission

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

RECEIVED

FEB 8 1978

February 7, 1978

Gardner, Honsowetz and Johnson
Attorneys at Law
915 Oak Street Suite 200
Eugene, Oregon 97401

Attention: Allen L. Johnson

Re: DEQ v. Norman Pohl
Case No. SS-MWR-77-74

Dear Mr. Johnson:

The above-captioned matter has been set for a contested case hearing at the following time and place:

DATE Thursday, March 30, 1978

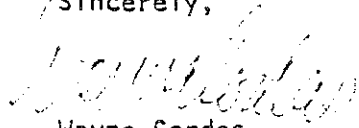
TIME: 10:00 a.m.

LOCATION: City Council Office NO. 1, 777 Pearl Street, Eugene, Oregon.

By copying this letter to the persons named below, we are asking that all involved persons inform this office promptly of any questions, conflicts or objections to this arrangement. The Department's representative in this matter is Mr. Robert Haskins (phone 229-5725). Except for unusual reasons or circumstances, oral or written requests for set-overs or re-scheduling will not be granted unless actually received in the Hearings Section on or before Wednesday, March 15, 1978.

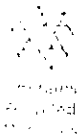
If you have any questions, please write or call the undersigned at 229-5829.

Sincerely,


Wayne Cordes
Hearing Officer

WC:vt

cc: Robert Haskins, Dept. of Justice
Investigation and Compliance Section, DEQ
Midwest Regional Office
City Manager, City of Eugene





DEPARTMENT OF JUSTICE

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

May 16, 1978

Mr. Allen L. Johnson
Attorney at Law
915 Oak Street, Suite 200
Eugene, OR 97401

Re: DEQ v. Norman Pohl
Before the Hearings Section of the
Environmental Quality Commission

Dear Mr. Johnson:

Based on our short conversation which we had in my building on or about May 5, 1978, I conclude that the Department has a reasonable extension of time in which to file its post hearing brief in the subject case.

Thank you for your consideration in this matter. Please call me if you have any questions.

Sincerely,

Robert L. Haskins
Assistant Attorney General

pm

cc: William H. Young, Portland DEQ
T. Jack Osborne, Portland DEQ
Fred Bolton, Portland DEQ
Daryl Johnson, Eugene DEQ
Wayne Cordes, Hearings Officer, EQC

GARDNER, HONSOWETZ & JOHNSON

JACK A. GARDNER, P.C.
F. WILLIAM HONSOWETZ
ALLEN L. JOHNSON

ATTORNEYS AT LAW
915 OAK STREET SUITE 200
EUGENE, OREGON 97401

TELEPHONE
(503) 687-9001

December 7, 1978

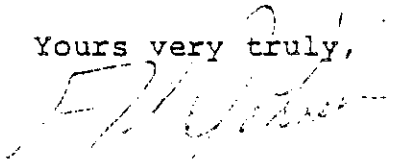
Norman Pohl
Route 5, Box 1259
Eugene, Oregon

Re: Pohl v. DEQ

Dear Mr. Pohl:

Mr. Cordes has advised me that he is getting his opinion to word processing. He expects a decision to be out "in a few weeks." No indication what the decision is.

Yours very truly,


Allen L. Johnson

ALJ:jm

LOMBARD, GARDNER, HONSOWETZ, JOHNSON & BREWER
ATTORNEYS AT LAW

HEBB LOMBARD
JACK A. GARDNER, P.C.
F. WILLIAM HONSOWETZ
ALLEN L. JOHNSON
DAVID BREWER

April 25, 1979

915 OAK STREET, SUITE 200
EUGENE, OREGON 97401
(503) 687-8001
484-7402

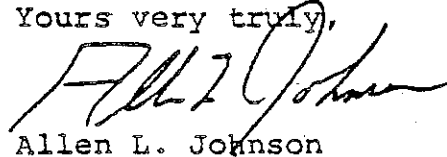
Norman Pohl
~~Route 5 Box 1259~~ 86344 N. Modesto Dr.
Eugene, Oregon

Re: Pohl v. DEQ

Dear Mr. Pohl:

I finally reached Wayne Cordes, the Hearings Officer. He has been unable to finish the opinion because his wife died of cancer. He promises to get it out within a month. We shall see.

Yours very truly,



Allen L. Johnson

/jm

LOMBARD, GARDNER, HONSOWETZ, JOHNSON & BREWER
ATTORNEYS AT LAW

HERB LOMBARD
JACK A. GARDNER, P.C.
F. WILLIAM HONSOWETZ
ALLEN L. JOHNSON
DAVID BREWER

June 1, 1979

915 OAK STREET, SUITE 200
EUGENE, OREGON 97401
(503) 687-9001
481-7402

Wayne Cordes
Hearings Officer
Environmental Quality Commission
522 SW 5th Avenue
Portland, Oregon 97204

Re: DEQ v. Norman Pohl
Case No. SS-MWR-77-74

Dear Mr. Cordes:

This will confirm our telephone conversation today in which you advised me that it would be about two more weeks before you can get your opinion out and in which you agreed to set a deadline for yourself and communicate it to me and Mr. Haskins.

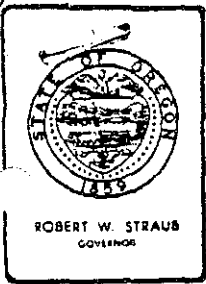
Reluctantly, I must advise you that I will recommend to my client that he file a petition to compel action with the Court under ORS 183.490 unless the recommendation is delivered by the end of June, 1979.

This letter is in no way intended to influence you in how you decide the case. It is only intended to obtain a decision.

Yours very truly,

Allen L. Johnson

/jm
cc: Robert Haskins
Norm Pohl
William Young, Director of DEQ



RECEIVED
JUL 2 1979

Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696
June 28, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Allen L. Johnson, Attorney at Law
Gardner, Honsowetz & Johnson
915 Oak Street, Suite 200
Eugene, OR 97401

Re: DEQ v. POHLL, Norman
No. 02-SS-MWR-77-74
Lane County

Dear Mr. Johnson:

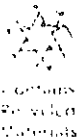
Enclosed are our Proposed Findings of Fact, Conclusions of Law and Final Order in this matter.

The parties are reminded that each has fourteen days from the date of this mailing in which to file with the Commission and serve upon the other parties a request that the Commission review the proposed order. (Oregon Administrative Rule (OAR) 340-11-132(2))

Unless a timely request for Commission review is filed with the Commission, or unless within the same time limit the Commission, upon the motion of its Chairman or a majority of the members, decides to review it, the proposed order of the presiding officer shall become the final order of the Commission. (OAR 340-11-132(3))

If Commission review is invoked, then the parties shall be given thirty days from the date of mailing or personal service of the presiding officer's proposed order, or such further time as the Director (of the Department of Environmental Quality) may allow or the Commission may allow, to file with the Commission and serve upon the other parties written exceptions and arguments to the proposed order. Such exceptions and arguments shall include proposed alternative findings of fact, conclusions of law, and order, and shall include specific references to those portions of the record upon which the party relies. (OAR 340-11-132(4) in pertinent part)

A request for desired review by the Commission will be considered filed with the Commission after being date stamped as received in the office of the Department of Environmental Quality at 522 Southwest Fifth Avenue, Portland, Oregon 97204.



Allen L. Johnson
June 28, 1979
Page 2

Should Commission review be requested, failure to file the required exceptions and arguments in a timely fashion may be grounds for dismissal of the request and affirmation of the proposed final order.

Sincerely,



E. Wayne Cordes
Hearings Officer

EWC:eve
Attachment

cc: Environmental Quality Commission
Robert Haskins
Fred Bolton
Mid-Willamette Valley Regional Manager

RECEIVED

JUL 2 1979

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

OFFICE OF THE
SECRETARY

DEPARTMENT OF ENVIRONMENTAL QUALITY)
of the STATE OF OREGON,)
Department,)
v.)
NORMAN POHLL)
Respondent.)

PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER
No. SS-MWR-77-74
Lane County

BACKGROUND

This contested case matter involves the denial on or about September 3, 1975, by Department (through its agent, Lane County) of Respondent's application for a permit to construct a subsurface sewage disposal system on property owned by himself and his wife in Lane County, Oregon. Respondent's application for permit was filed on or about August 26, 1975. A further denial (dated November 23, 1977) was based on allegations that the soils do not comply with OAR 340-71-030(1)(b) and (1)(c). Subsection (1)(b) prohibits construction of disposal trenches where a "restrictive layer is less than thirty inches below the surface of the ground." The "seasonal water table (saturated zone) in Respondent's proposed disposal area" is alleged to be less than 18 inches from the ground surface, in violation of Subsection (1)(c).

Respondent, on or about December 16, 1977, requested a contested case hearing, and after denying most of the allegations in the November, 1977, Notice of Denial of Application for Permit, affirmatively alleged a right to be issued a permit based upon written "prior approvals" issued by the Lane County Building and Sanitation Division on or about July 18, 1966, and January 12, 1972. The alleged approvals were attached as exhibits

1 to Respondent's Answer. Respondent also alleged that with the addition
2 of "fill," a septic system could be installed on Respondent's property
3 in compliance with regulations in effect at the time the "prior approvals"
4 were issued, as conditioned ("fill" required). During the hearing
5 Respondent's counsel orally amended his answer to admit that Department,
6 through its contract agent, duly served on Respondent a written denial
7 of Respondent's application on or about September 3, 1975, but continued
8 to argue in his Brief that the denial was insufficient in that there were
9 no specifications of reasons as required by ORS 454.655(7) (b). Department
10 waived its right to file a post-hearing Brief, but did provide copies of
11 Oregon State Board of Health Division regulations and rules relating to
12 subsurface sewage disposal in effect from 1962 until the Department of
13 Environmental Quality assumed jurisdiction of the subject matter in
14 January, 1974. Respondent's counsel filed an extensive Brief. Subsequent
15 to the hearing, there was also submitted and considered the deposition
16 of Mr. Dietz, Lane County soil scientist, who was not available at time
17 of hearing.

18 EVIDENTIARY RULINGS AND "OFFICIAL NOTICE"

19 Both parties stipulated that "official notice" could be taken of all
20 statutes and rules and regulations filed with the Secretary of State,
21 regardless of whether or not they were in effect at the time of application
22 or hearing. Such notice has been taken.

23 A number of rulings were made on objections to both oral testimony
24 and exhibits during the hearing, but several were reserved. No objection
25 was taken to Department's exhibits "A" through "G." Exhibit "F" was
26 offered only in the event that objections to Respondent's exhibits 10,

1 11, and 13 were overruled. Such objection to these exhibits are now
2 overruled on the ground they are relevant to Respondent's theory of the
3 case. Department also objected to Respondent's exhibits 17, 18, 19, and
4 21 on the grounds of relevancy and materiality. Exhibits 17, 18 and 19
5 related to property in the vicinity of Respondent's property where a sewage
6 system had been constructed on a "fill." Exhibit 21 was a proposed site
7 modification plan for Respondent's property dated in September of 1976.
8 Objections to said exhibits are now overruled on the ground that they are
9 relevant and material under Respondent's theory of "prior approval" and
10 "feasibility," and that he is entitled to, and, in fact must, plead all
11 defenses and "claims" under his theory. OAR 340-11-107(2). Objections
12 to oral testimony of Mr. Daryl Johnson as to the size or area of a
13 drainfield, and Mr. Luther Freeman as to the "feasibility" of modification
14 of Respondent's premises by a "fill" are also now overruled, on the same
15 grounds.

16 FINDINGS OF FACT

17 In 1966 and 1972, Respondent owned, or had an interest in the property
18 in question. Respondent and his wife owned the subject property at the
19 time of application to construct a fill. Respondent was the real party
20 in interest at the time of application in August, 1975.

21 During 1966 and 1972, Lane County administered the rules and
22 regulations relating to subsurface sewage disposal systems under the Oregon
23 State Board of Health and the Oregon State Health Division. No rules
24 existed during those years which specifically allowed or prohibited the
25 construction of subsurface systems in "filled" lands. Lane County did,
26 in fact and practice, authorize construction of systems in "filled" areas

1 for a number of years. Lane County, on or about July 18, 1966, approved
2 Respondent's property for construction of a system on "filled" lands as
3 follows: "Property may be approved for one dwelling site in vicinity of
4 test holes, provided a fill of friable soil is placed in the drainfield
5 area. Specifications for fill, septic tank and drainfield will be given
6 on permit." Respondent's Ex. 1. The January 12, 1972, request for
7 site inspection (Respondent's Ex. 3) was originally disapproved by a
8 County sanitarian. The supervisor thereafter approved the site as follows:
9 "Due to prior commitment to fill and financial investment Mrs. Anderson
10 has in property-fill will be allowed." Neither request for site inspection
11 nor notes under "Results of Investigation" contained an expiration date
12 for the approvals.

13 On or about September 3, 1975, Lane County stated in writing to
14 Respondent only that our review indicates that the site does not have a
15 valid prior approval. Respondent's Ex. 5. No supporting rules or
16 regulations were cited. On or about October 1, 1975, Department notified
17 Respondent that the 1966 Request for Site Inspection form, as written,
18 stated an approval. The letter further stated, however, that the approval
19 must be considered as not valid. Respondent's Ex. 10.

20 Respondent filed his application for construction on or about
21 August 26, 1975. The termination date for filing applications under "prior
22 approvals" was June 30, 1976. No "fill" has as yet been put on
23 Respondent's property.

24 At the time of the 1966 site inspection, the soil on Respondent's
25 property consisted of approximately 18 inches of heavy clay, overlying
26 decomposed shale. In the January, 1972 inspection, groundwater existed

1 in test holes and semi-hard sandstone existed at approximately 18-24 inches
2 of the ground surface. At the time of Respondent's application for a
3 construction permit, a restrictive layer of heavy clay existed at
4 approximately 18 inches below the ground surface. No structure or building
5 has been placed on the premises in question.

6 Respondent affirmatively alleged the right to be issued a construction
7 permit based upon prior approvals issued by the Lane County Building and
8 Sanitation Division.

9 ISSUES

10 1) Did the soils on Respondent's lot comply with Department rules
11 and regulations in 1975, when the application for a construction permit
12 was filed?

13 2) Did the September 3, 1975, denial of Department of Respondent's
14 application comply with the provisions of ORS 454.655(7)(b) concerning
15 specification of reasons for denial?

16 3) Were the 1966 and 1972 actions of Lane County "prior approvals"
17 within the meaning of OAR 340-71-015(8)?

18 4) Who has the burden of proving "prior approvals" asserted as an
19 affirmative defense?

20 CONCLUSIONS OF LAW

21 The Commission has jurisdiction over the parties and the subject
22 matter of this proceeding. Respondent timely filed his application for
23 a construction permit in August, 1975. Department has proven by a
24 preponderance of evidence that at the time of Respondent's application
25 for a construction permit the soils did not comply with Department's then
26 existing standards and rules in effect at the time of application, without

1 site modification by fill, or use of an experimental system. Respondent
2 has the burden of proving his affirmative allegations concerning "prior
3 approvals," and has borne his burden of proof by a preponderance of the
4 evidence, including the fact that such "prior approvals" had not expired
5 at the time of application for a construction permit. Respondent's claimed
6 "prior approvals," conditioned on "fills," were authorized and lawful as
7 issued by Lane County in 1966 and 1972. Department has not proved that
8 the "prior approvals" issued by Lane County in 1966 and 1972 were invalid
9 or had expired. Department's letter of September 3, 1975, (Respondent's
10 Ex. 5), construed by the parties as a letter of denial of Respondent's
11 application for a construction permit, is invalid because it does not
12 comply with the provisions of ORS 454.655(7) (b), which require that the
13 reasons for the denial be specified. Supporting rules and regulations
14 must be cited. Respondent should be issued a construction permit for a
15 subsurface sewage system in a properly engineered "fill," as authorized
16 by the 1966 and 1972 "approvals" issued by Lane County.

17 OPINION

18 The crucial question is whether Respondent is able to qualify for
19 a construction permit under written approvals involving site evaluations
20 issued in 1966 and 1972 by Lane County. The present Commission rules
21 relating to this matter appear in OAR 340-71-015(8). A "fill" would have
22 be to placed on Respondent's property, and Respondent proceeded on this
23 theory, both at the hearing and his Brief. In addition, the two alleged
24 "prior approvals" were conditioned upon a "fill." Department did not
25 originally address the claim of "prior approval," but proceeded on
26 "existing" or "present" rules, apparently those in effect when Respondent

1 applied for a construction permit in August of 1975.

2 That Lane County (prior to becoming a contract agent for the
3 Department) issued permits for systems in "fills" has been proven, even
4 by Department's own witnesses. For example, Greg Gray, a Lane County
5 sanitarian, stated that engineered fills for subsurface systems were
6 installed on other property. Mr. Rubini, another Lane County sanitarian,
7 approved both the 1966 and 1972 "fills." Mr. Dietz, whose testimony was
8 taken by deposition, is employed by Lane County as a Senior Soil Scientist.
9 In response to questions relating to Respondent's Ex. 21 (Respondent's
10 1976 fill design) he stated, "It is a standard maximum fill design as
11 following the standards as used in Lane County over the past years.."
12 Deposition, p. 25.

13 Respondent is also aided by two disputable presumptions contained
14 in ORS 41.360. Subsection (15) presumes that official duty has been
15 regularly performed. Subsection (32) presumes that a thing once proved
16 to exist continues as long as usual with things of that nature. It should
17 be remembered that neither the 1966 nor 1972 "fill" approvals contained
18 an expiration date. As a general rule, in the case of permits, the
19 permittee may exercise the rights and privileges granted until the permit
20 terminates by lapse of time on the date fixed by statute or regulation
21 or by the permitting authorities acting within their powers (53 CJS,
22 Licenses, Sect. 43(a)).

23 The installation of a system in a "fill" under a valid "prior
24 approval" does not require a guarantee of successful operation. The risk
25 of failure and the consequences thereof, are things which Respondent can
26 accept and assume, if he wishes. See OAR 340-71-015(8). Department's

1 expert, Mr. Dietz, soil scientist, originally had "some doubt" that
2 Respondent's fill plan (Respondent's Ex. 21) would be successful.
3 Thereafter, he expressed an opinion that the proposed system for filling
4 would fail. Deposition, pp. 25, 26. He did say, however, that a system
5 could possibly work on Respondent's site using a sand filter arrangement.
6 Deposition, pp. 34, 35. Such a system would have a fifty percent chance
7 of working.

8 The lot involved and the "prior approvals" appear to comply with the
9 provisions of OAR 340-71-015(8) in that: a) they were related to an
10 individual lot; b) the approvals were issued by a local agency authorized
11 to grant such approval; and c) the approvals were issued in accordance
12 with rules in effect at time of issuance.

13 ORDER

14 1) The preceding Findings of Fact and Conclusions of Law are adopted
15 and entered herein.

16 2) The denial of Application for Permit previously issued herein
17 is dismissed.

18 3) A construction permit shall be issued as a "prior approval,"
19 subject to all the conditions and risks contained in OAR 340-71-015(8).
20 The system shall be constructed in a "filled" area.

21 Dated this _____ day of June, 1979.

22 Respectfully submitted,

23
24 *WJ* JUN 29 1979
25 Wayne Cordes
26 Hearing Officer

CERTIFICATE OF SERVICE

(Mail)

STATE OREGON)
)
COUNTY OF MULTNOMAH) ss

I, Alice H. Everest, being a competent person over the age of eighteen (18) years, do hereby certify that I served

Allen L. Johnson by mailing by certified mail to
(Name of Party)

Allen L. Johnson, Attorney for Respondent
(Name of Person to whom document addressed)

(and if not the Party, their relationship)

Proposed Findings of Fact, Conclusions of Law,
and Final Order No. 02-SS-MWR-77-74
(Identify Document Mailed)

I hereby further certify that said document was placed in a sealed envelope addressed to said person at 915 Oak Street, Suite 200,
Eugene, Oregon 97401, his last known address, and deposited in the Post Office at Portland, Oregon, on the 29th day of June, 1979, and that the postage thereon was prepaid.

Alice H. Everest
Signature

JAMES A. REDDEN
ATTORNEY GENERAL



DEPARTMENT OF JUSTICE

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



September 12, 1979

Mr. Roy Burns
Water Pollution Control Section
Lane County
Lane County Courthouse
125 East 8th Street
Eugene, Oregon 97401

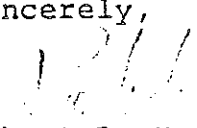
Re: DEQ v. Norman Pohll
Before the Hearings Section of the
Environmental Quality Commission
No. SS-MWR-77-74

Dear Roy:

Pursuant to your request made in our telephone conversation of September 6, 1979, this confirms that the hearing officer's decision is final and the case has not been appealed. Therefore, the hearing officer's decision constitutes the Environmental Quality Commission's final order in the case and shall be followed.

Please call me if you have any questions.

Sincerely,


Robert L. Haskins
Assistant Attorney General

kth

cc: William H. Young, DEQ Director
Fred Bolton, DEQ Regional Operations
T. Jack Osborne, DEQ Water Quality
John Borden, DEQ Willamette Valley Region
Daryl Johnson, DEQ Eugene

5
LOMBARD, GARDNER, HONSOWETZ & BREWER
ATTORNEYS AT LAW

HERB LOMBARD
JACK A. GARDNER, P.C.
F. WILLIAM HONSOWETZ
DAVID BREWER
LARRY H. SCHONS
RONALD A. IRVINE
JEFFREY E. POTTER

February 15, 1980

915 OAK STREET, SUITE 200
EUGENE, OREGON 97401
(800) 687-9001
424-7402

OF COUNSEL
ALLEN L. JOHNSON

HAND DELIVERED

Lane County Board of Commissioners
C/o Lane County Planning Division
County Public Service Building
Eugene, Oregon 97401

Re: Land Partition No. m 18-80
Tax Lot 18-04-17-504
Applicant: Norman Pohl
Notice of Appeal

Dear Commissioners:

Notice is hereby given that Norman Pohl, applicant for the land partition described above, appeals the February 7, 1980, denial of the partition by the Land Development Review Committee. The filing fee is enclosed.

The stated basis for the denial is that the

"Proposed partition does not comply with Statewide Goal 3 (Agricultural Land); 5 acre lots are not farm divisions."

The proposed partition complies with all applicable criteria, including Goal 3. The land is not agricultural. The partition should be approved as requested.

Yours very truly,

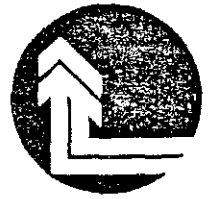

Herb Lombard

Of Counsel for Applicant

HL/aj
Enclosure

cc: Norman Pohl
Gerald K. Attig
Monte Monteith

lane county



BOARD OF COMMISSIONERS

Vance Freeman
Archie Weinstein
Gerald Rust, Jr.
Otto t'Hooft
Harold Rutherford

May 22, 1980

Mr. Norman Pohll
86399 N. Modesto Drive
Eugene, Or 97405

Re: application for approval of major partition and adopting findings of fact

Dear Mr. Pohll:

This is your notice that the Lane County Board of Commissioners has taken final action approving the above referenced request and has adopted an Order and Findings of Fact in support of its decision. The Board Order and Findings of Fact were adopted on May 21, 1980.

Appeal of the decision of the Board to the Oregon Land Use Board of Appeals may be made within 30 days of the date of approval by an adversely affected person who either appeared in person or gave written testimony at the Lane County Board of Commissioners' hearing for your request. In the event of such an appeal and within this same 30-day period, the person filing the appeal must also provide you with a written copy of the appeal.

Although you may now proceed to develop your property according to the conditions of the Board of County Commissioners' approval and Lane County regulations, you do so at your own risk, pending further appeal to the Oregon Land Use Board of Appeals.

Sincerely,

TERI L. ANDREASEN, Secretary
Lane County Board of Commissioners

Findings Enclosed

cc: Helen Elliott, Permit Processing Supervisor
Jim Mann, Senior Planner, Planning Division

BOARD OF COUNTY COMMISSIONERS

COURTHOUSE - PUBLIC SERVICE BUILDING / 125 EAST 8TH AVENUE / EUGENE, OREGON 97401 / (503) 687-4203 / 1-800-452-6379

LAND DEVELOPMENT REVIEW COMMITTEE

RECORD OF ACTION, MEETING OF: _____ (LAND PARTITION NO. 1880)

Applicant Jordan Smith Map & Tax Lot 1880-17 504

Committee members present: Hudzikiewicz Evans Curran
 Miller Harrison _____
 Thomas Watson _____

Applicant(s) or Agent(s) present Ed K. Attig, Monte Monteith

XX

ACTION ON THIS PARTITION

- DENIED. Reason for denial: Proposed partition does not comply with Statewide General Provisions (and) is not a lot or part of a lot.
- CONTINUED OR POSTPONED UNTIL _____
- APPROVED WITH THE FOLLOWING CONDITIONS:

NOTE: THIS APPROVAL IS VALID FOR 1 YEAR. ALL CONDITIONS CHECKED BELOW MUST BE SATISFIED AND A FINAL PARTITION MAP RECORDED WITHIN THIS TIME FOR THE APPROVAL TO BE FINAL.

- A final partition map (prepared by a licensed surveyor) shall be submitted in a form suitable for recording along with the appropriate recording fee.
- Parcels _____ shall be approved for subsurface sewage disposal.
- Parcels _____ shall be surveyed and all corners monumented by a licensed surveyor; survey shall be filed with the surveyors office prior to filing of the final map.
- Dedication of road right-of-way _____
- Description for dedication shall be prepared by the applicant's surveyor and submitted to the Planning Division along with deed of ownership.
- Road improvements shall be provided as described on the attached typical section and inspected for approval by the Department of Public Works.
- Plans for street and drainage improvements shall be prepared by a registered engineer or surveyor and submitted for approval by the Department of Public Works prior to construction.

- A private road as shown on the approved partition map shall be created. The instrument creating such road shall be submitted to and approved by the Review Committee Chairman. The instrument shall describe the right-of-way, state the intent and purpose of the roadway, specify maintenance responsibilities of all parties and provide for installation, construction and maintenance of public utilities and facilities.
- A road easement shall be established as shown on the approved partition map. Such easement shall be an affirmative easement appurtenant to and contain at a minimum the names of the grantor and grantee, description of the dominant and servient tenements, description of the land covered by the easement, statement of the intent and purpose of the easement, and specify the maintenance responsibilities of all parties. Upon approval of the easement by the Planning Division it shall be recorded.
- A road name shall be requested from the Lane County Department of Public Lands, Surveyor's Department.
- Final approval of Variance # _____ to _____
- A development plan shall be submitted showing anticipated future divisions.
- _____
- _____
- _____

ADDITIONAL COMMENTS: _____

The action of the Land Development Review Committee on this partition may be appealed to the Board of County Commissioners by any interested party. Appeals are to be submitted to the Lane County Planning Division within 15 days of the date of the chairman's action. Appeals shall be in writing and accompanied by the appropriate fee.

A copy of this report was:

- hand delivered to (applicant or agent): Gerald K. Attig
- mailed to (applicant or agent): _____

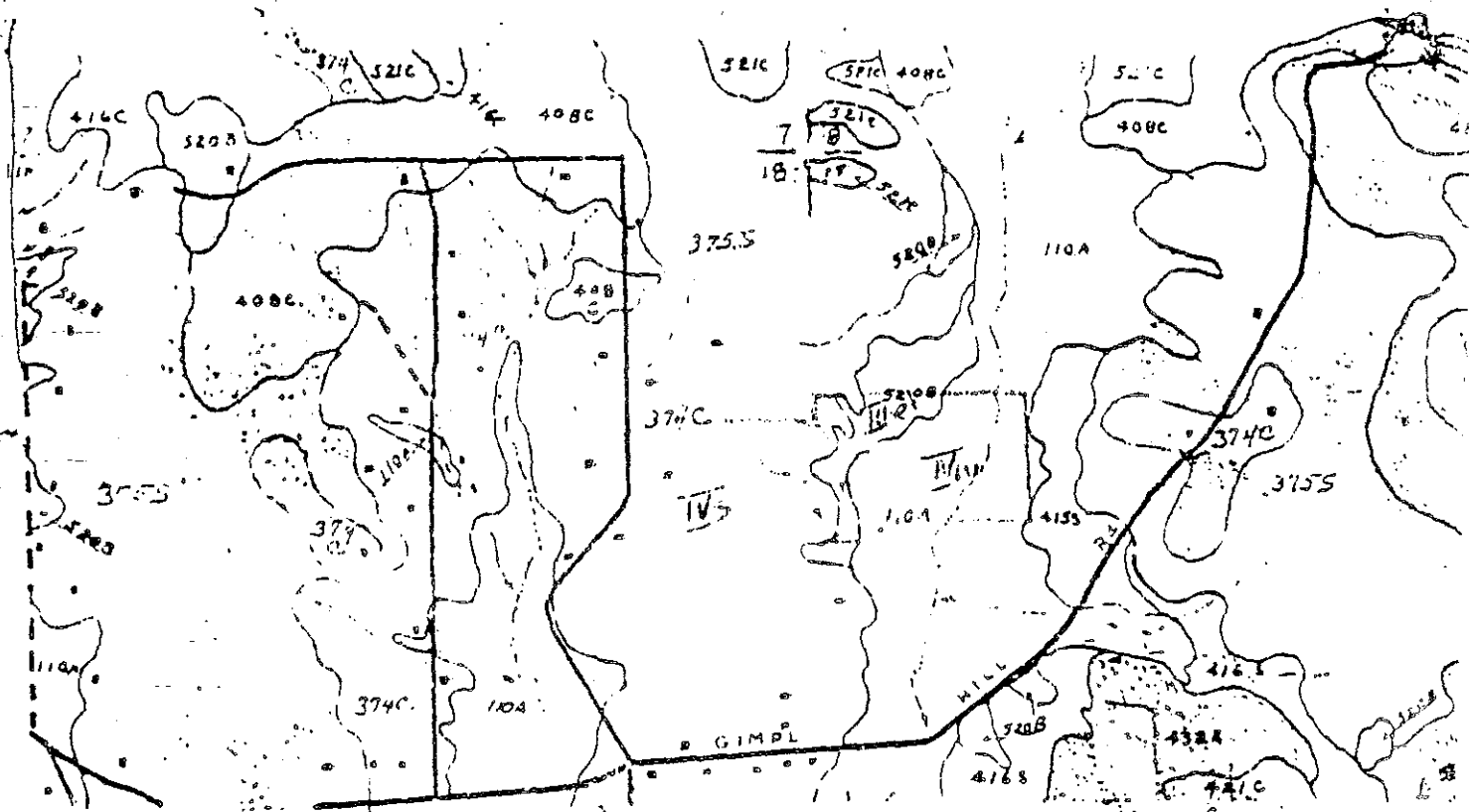
Date Feb. 7 / 80

[Signature]
 Acting Chairman, Land Development Review Committee
 Page 2

T185-R9W

2AA-178

11/18/40



2AA-180

11/18/40

REQUEST FOR SOILS INFORMATION

NAME OF APPLICANT: Planning PHONE: _____
 MAILING ADDRESS OF APPLICANT: _____
 LOCATION OF SITE: TWP 13 RANGE 27 SEC. 18 TAX LOT 504
 OR ADDRESS OF SITE: _____
 DATE NEEDED: _____ FOR WHAT PURPOSE: M 18-80
 AGR. 5-20 ZONE _____ OTHER: _____

RESPONSE:

DATE February 5, 1980

SOIL ON SITE	% OF AREA	LCC	WOODLAND GROUPING	
			Site Class	Site Index
<u>Waterbury 116 A</u>	<u>70 ac.</u>	<u>IVW</u>	<u>-</u>	<u>-</u>
<u>Highgate 520 B</u>	<u>50 ac.</u>	<u>IVe</u>	<u>-</u>	<u>-</u>
<u>Discoville Fld 374 C</u>	<u>5 ac.</u>	<u>IVS</u>	<u>-</u>	<u>-</u>

INTERPRETIVE COMMENTS:

see attached

2AA-179

M. Miller

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

IN THE MATTER OF THE APPLICATION) Affidavit of Norman Pohll
BY NORMAN POHLL FOR APPROVAL OF)
A MAJOR PARTITION (File No. M18-80)

State of Oregon)
) ss.
County of Lane)

I, Norman Pohll, first being duly sworn, depose and say:

1. I am the owner of the subject property and applicant for the major partition sought herein.
2. The property consists of 58.7 acres located along North Modesto Road, about 2 miles southwest of Eugene. The address is 86399 N. Modesto Drive. The property is more particularly described as Assessor Map Nos 18-04-17 and 18-04-18, Tax Lots 700, 701, 800 & 801. The property and the proposed partition are accurately represented on the notice of public hearing on file herein, and on the partition map attached hereto.
3. The partition will divide the property into three parcels: 5 acres, 5.3 acres, and 48.4 acres.
4. The Land Development Review Committee reviewed my request on February 7, 1980 and denied it on the basis that the division resulted in parcels of inadequate size to continue commercial farm activity and that the division would conflict with Statewide Planning Goal # 3.
5. The LDRC action is based upon a soils report indicating that the soils on the site are:

Soil Type	Acreage	USCS Ag. Class
1. Natroy	20 acres	IVw
2. Hazelair	20 acres	IIIe
3. Dixonville Philomath Hazelair	5 acres	IVs

6. The soils report is incorrect. As the attached aerial photograph and soils map show, over half the property consists of Soil type 374C, the Dixonville-Philomath-Hazelair Complex. Also attached is a letter, dated March 5, 1980, from W.R. Patching, Soil Survey Party Leader, Eugene Regional Office, U.S. Soil Conservation Service, to the Lane County Planning Department. In that letter, Mr. Patching states that the Dixonville-Philomath-Hazelair complex, Soil Type 374C, has been reclassified as USCS Agricultural Capability Class VI, for the reasons stated therein. The letter is accompanied by a revised soil mapping legend and a detailed analysis of the reclassified soil types. These documents will be placed in the record at the hearing.

7. As this information shows, the subject property consists of predominantly Class VI soils.

8. The land is not otherwise suitable for farming or needed to permit farm practices to be undertaken on adjacent or nearby lands. There are no commercial farms adjoining the property. As the department notes state, five-acre parcels are too small to permit commercial farm activity. The surrounding area is largely broken up into small parcels and homesites. I have reviewed all of the tax lots in the area. In 644 acres including and surrounding my land, there are 91 separate property owners. The average area under one ownership is seven acres, which is also too small for farming, especially on Class VI soil. The aerial photo and soils map correctly show that the property is surrounded on three sides by the same Class VI soil and on the remaining, short east side by Class IVw soil.

9. The land has no forest potential. Two of the soil classes are not even assigned site classes by the USCS. The USCS pamphlet, "Soils Interpretations for Oregon," explains that the soils interpretation form (OR-SOILS-1) rates soils differently for different purposes, and that "Where one or more of the sections does not apply to the specific soils, there is no interpretation for that use." In other words, if land is rated for woodland, it has no forest or woodland potential. See pamphlet at p. x.1. The soils interpretation form for Hazelaire simply states "None" under the heading, "Potential Productivity, Species." The Philomath is not given a site class and the only species identified is Oregon white oak, a noncommercial scrub softwood. Even there, it rates four of five management problems as "severe," including erosion hazard, seedling mortality, windthrow hazard, and plant competition. The Dixonville is given the fourth of five site classes for Douglas Fir, indicating that it has a low productivity potential. See "Soils Interpretations for Oregon" at page 7.1. Both seedling mortality and plant competition are listed as "severe" management problems. No forest operations are taking place in the area. The land is not needed as buffer, open space, or wildlife habitat. It's a windblown hillside that is good only for residential development.

10. Parcels One and Two will have direct access to North Modesto Road along their substantial frontage. Parcel Two will also have direct access by way of a 20-foot panhandle strip along the north boundary of Parcel Two. The private driveway will be constructed in accordance with county standards. No public roads are needed to assure proper development of the surrounding subarea.

11. All three parcels will have minimum average widths of over 300'.

12. My home, with its functioning septic system, is on Parcel One. There is room for an additional field if the current system should fail. Parcel Two is approved for a septic system and also has room for a replacement area. Parcel Three is the remainder of the property and consists of 5.3 acres, plenty of room for at least one septic field and replacement area.

13. North Modesto adequately serves all the properties in the area and comfortably handles existing traffic. An additional one or two homes won't have a significant traffic impact.

14. The area is served by a rural fire protection district and county sheriff patrols. Again, the service is adequate and the partition won't have an impact.

15. Water will be supplied by wells on the property, which are adequate to serve domestic needs.

16. I have expended considerable time, energy, and money in establishing a prior septic approval which the County refused to acknowledge until overruled by the Department of Environmental Quality. During the years while the matter was in litigation, I have continued to pay property taxes while being unable to use the property for any profitable purpose. I have tried to comply with applicable rules throughout and I am before the Commission today for the same purpose. I believe that I am entitled to approval of the partition as submitted and I expect to receive it.

Dated this 18th day of March, 1980.

1st Norman Pohl
Norman Pohl

Subscribed and sworn to before me this 18th day of March, 1980.

1st Julie M. Mace
Notary Public for Oregon
My commission expires 11/21/81

POST THIS PERMIT ON MAIN BUILDING AT SITE

JOB ADDRESS: 86399 North Redondo Drive, Eugene, Oregon

CONSTRUCTION PERMIT # 16-2536-79

TRS, TL: 10-10-10 / 101, 100, 700

Subdivision: na

This permit for the referenced property is hereby approved. Setbacks and other conditions of approval must be strictly observed. Violation can result in revocation of this permit, citation under provisions of Lane County's Infraction Ordinance, and/or other remedies allowed by law.

Applicant/Address: Gordon D. Pohl, 86399 N. Redondo Drive, Eugene, Oregon 97402

Telephone: 345-4535/349-7752

Owner/Address: same

Telephone: same

Contractor/Address: /

Telephone: /

Contractor's OS # /

Total Construction Value: /

Construction approved by this permit:

INSTALL SW

Structures on property: none

Water Supply: well, proposed

Bedrooms: 3

Plumbing Fixtures: 3

Employees: 0

PLANNING DIVISION

Zoning: R1B

Partitioning # na

Parcel # na

Parcel Size: 69 acres

Minimum required structural setbacks, from: centerline of road, front: na ; centerline of road,

side exterior: na ; interior property lines: na ; rear property line: na

Special Instructions: na

For information call 687-4394, Gordon Pohl

Any alteration of the natural conditions in the area approved for the drainfield or replacement area will void this approval.

WATER POLLUTION CONTROL DIVISION

Site Inspection # na

Installation specifications: 1000 gal. min. septic tank capacity,

100' lineal feet of drainfield required; max. depth of trenches: 10'

Special Instructions: 12" required for drainfield 30' to 100' in 1' down. Trenches to be 12" wide on all sides except upper which can be 16" fill must be on contour. Fill to maintain proper grade. This system is based upon prior approval of Department of Dept. 12, 1975 (see attached letter). This system is not to be installed with access holes and may not perform adequately.

For information call 687-4394 between 8:00 - 9:00 a.m.

Setbacks

Septic Tank

Drainfield

Interior property lines

10'

10'

Edge of road right-of-way

10'

10'

Building foundation

5'

10'

Wells, other water sources

50'

100'

For information call 687-4394 between 8:00 - 9:00 a.m.

CONSTRUCTION PERMITS/INSPECTION DIVISION

Type of Construction: na

Group: na

Fire Zone: na

Use Classification: na

Instructions: na

For plans information call 687-4394 between 8:00 a.m. and 9:00 a.m., na

For inspections (see back of this permit) call 687-4065 between 8:00 a.m. and 5:00 p.m.

Directions to Site: 1/2 mi. S of Hill to 1/2 mi. west to approx. 12 mile on right

Date issued: 10-17-79

By: Roy Batus/ly

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
COURTHOUSE / PUBLIC SERVICE BUILDING

lane county



CONSTRUCTION PERMITS & INSPECTIONS

S.B.C. SEC. 302(d) EXPIRATION

Every permit issued by the Building Official under the provisions of the Code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 120 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned for a period of 120 days at any time after the work is commenced. Before such work can be recommenced a new permit shall be first obtained to do so, and the fee therefor shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided, further, that such suspension or abandonment has not exceeded one year.

S.B.C. SEC. 302)e) SUSPENSION OR REVOCATION

The Building Official may, in writing, suspend or revoke a permit issued under provisions of the Code whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this Code.

S.B.C. SEC. 304(d) REQUIRED INSPECTIONS (CALLED INSPECTIONS)

The Building Official, upon notification from the permit holder or his agent, shall make the following inspections (allow 1 to 3 working days), and shall either approve that portion of the construction as completed or notify the permit holder or his agent wherein the same fails to comply with this Code.

- (1) FOUNDATION INSPECTION: To be made after trenches are excavated, forms erected, and steel reinforcement is in place (if required) AND BEFORE ANY CONCRETE IS POURED.
- (2) FRAME INSPECTION: To be made after the roof, all framing, fire blocking and braces are in place and all rough plumbing, rough electrical and fireplace, chimneys and vents are complete. NO WORK SHALL BE COVERED UNTIL THIS INSPECTION HAS BEEN MADE AND APPROVED. There will be no approval for cover until the plumbing and electrical inspections have been made and approved.
- (3) LATH AND/OR WALLBOARD (SHEETROCK) INSPECTION: To be made after all lathing and/or wallboard, interior and exterior, is in place; but before any plaster is applied or the wallboard joints and fasteners are taped and finished.
- (4) FINAL INSPECTION: To be made after the building is complete AND BEFORE OCCUPANCY.

OTHER INSPECTIONS: In addition to the called inspections specified above, the Building Official may make or require any other inspections of any construction work to ascertain compliance with the provisions of this Code and other laws which are enforced by the Division of Construction Permits and Inspections.

BLOCK WALL INSPECTION: To be made after reinforcing is in place, but before any grout is poured. This inspection is required for each bond beam pour. There will be no approval until the plumbing and electrical inspections have been made and approved.

FIREPLACE INSPECTION: To be made after the damper is installed, but before the chimney construction is started.

MOBILE HOME INSPECTIONS: An inspection is required after the mobile home is connected to an approved sewer or septic system for: setback requirements, blocking, footing connection, tiedowns, skirting, and plumbing connections.

**ANYONE PROCEEDING PAST THE POINT OF REQUIRED INSPECTIONS
WILL DO SO AT HIS OWN RISK.**

You may make your request for inspections between 8:00 a.m. and 5:00 p.m. Monday through Friday at the Department of Environmental Management, Public Service Building, 125 East 8th Avenue, Eugene 97401, or call 687-4065. Outlying areas may call the following: Florence, 997-3461; Oakridge, 782-2258; Cottage Grove, 942-4493.

THE BUILDING PERMIT MUST BE POSTED AND APPROVED PLANS MUST BE ON THE JOB SITE AT ALL TIMES DURING REGULAR WORKING HOURS.

WATER POLLUTION CONTROL

OAR CHAPTER 340 Division 7 Subsurface and Alternative Sewage Disposal Subdivision Standards for Subsurface and Alternative Sewage and NonWater-carried Waste Disposal.

71-015 (7) A permit issued pursuant to these rules shall be effective for a period of one year from the date of issuance.

71-017 (1) Upon completing the construction for which a permit has been issued the permit holder shall notify the Department. The Department shall inspect the construction to determine if it complies with the rules contained in this division. If the construction does comply with such rules, the Department shall issue a certificate of satisfactory completion to the permit holder. If the construction does not comply with such rules, the Department shall notify the permit holder and shall require satisfactory completion before issuing the certificate. Failure to meet the requirements for satisfactory completion within a reasonable time constitutes a violation of ORS 454.605 to 454.745 and this rule.

T.S., TL 18-04-18-800-831 Job Location 1110 S.W. 17th Street, Eugene
700-701 Written Directions Banker Hill, 1/2 mile N. of Hill
Subdivision: 18-04-17-504 North Hill

Lot _____ Block _____

APPLICANT'S NAME AND ADDRESS Patrick J. ... Phone 602-738

OWNER'S NAME AND ADDRESS ... 94399 ... Phone 340-...

Mail report to (X) Applicant () Owner () Prefer to pick up. Call _____ (owner, etc.) when ready.

STRUCTURES NOW ON THE PROPERTY House on parcel 1 PROPOSED USE OF PROPERTY ...

WATER SUPPLY well proposed WITHIN ONE MILE OF THE CITY OF _____ (NO) _____

I hereby certify that the above statements are true and accurate, and that I have the following legal interest in the property: _____ owner of record; _____ contract purchaser; _____ potential buyer; _____ realtor or agent. I further certify that (if not the owner) I am authorized to act for the owner of record, and that said owner is aware and approves of this action.

TEST HOLES READY _____ Signature ... Date 4-...

***** OFFICE USE ONLY BELOW THIS LINE *****

SITE MEETS STATE STANDARDS	YES	NO
Septic Tank/ Drain Field	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sand Filter	<input type="checkbox"/>	<input type="checkbox"/>
Holding Tank	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The area of the test holes described on the attached site plan do not meet state standards for conventional or cess-pit systems.

LAND USE COMPLIANCE	
Zoning	<u>Aut. 5</u>
Acreage or Lot Size	<u>58 A</u> (TOTAL)
Partitioning #	<u>11-18-80</u> () Completed (X) Pending
Parcel #	<u>3</u>

THIS IS A PRELIMINARY REPORT WHICH DOES NOT ENSURE THE ISSUANCE OF A FUTURE BUILDING PERMIT. ANY PLANS OR EXPENDITURES MADE IN RELIANCE UPON THIS REPORT ARE AT YOUR OWN RISK. IF SITE IS APPROVED, SEE REVERSE SIDE.

AUTHORIZED SIGNATURE DATE 7-20-80

AUTHORIZED SIGNATURE DATE

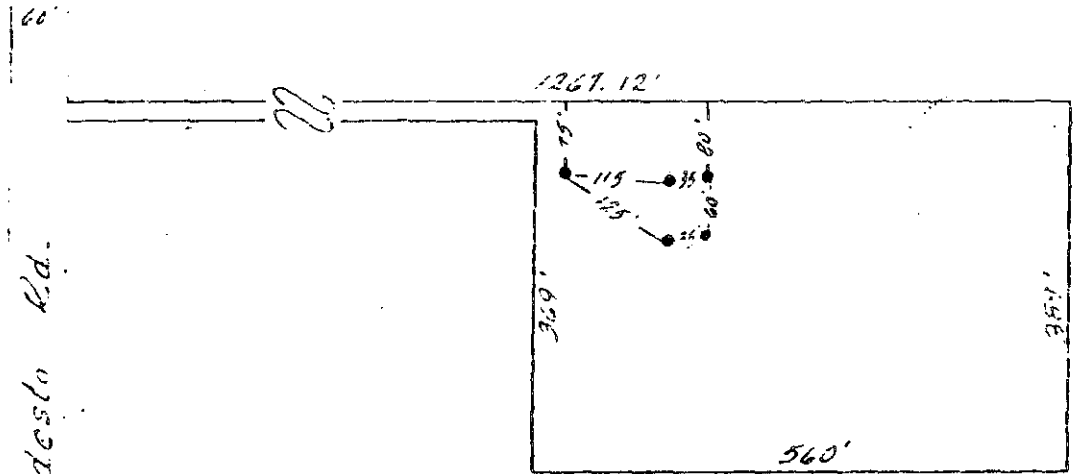
Plot Plan

Subdivision _____

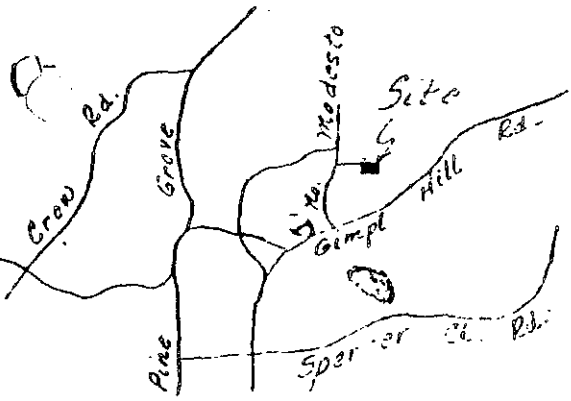
Lot _____ Block _____

Permit # 80-260	For _____	Permit # _____	For _____
Permit # _____	For _____	Permit # _____	For _____
Permit # _____	For _____	Permit # _____	For _____

Reinvestigation



• Test holes



Vicinity Map

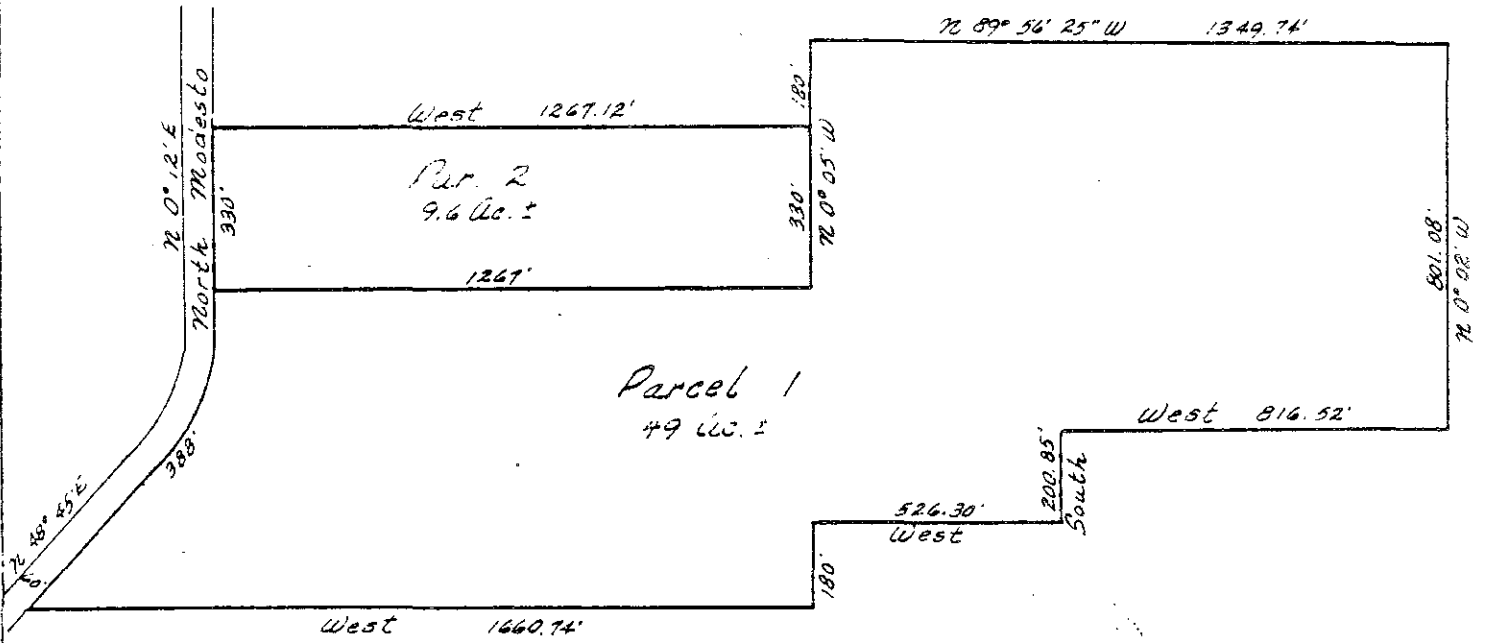


1" = 200'

MINOR
 MAJOR

Partition

lane county



Parcel 2
9.6 ac. ±

Parcel 1
49 ac. ±

OV15145 M 18-80
New



REGISTERED
PROFESSIONAL
LAND SURVEYOR

SEAL
GERALD K. ATTIG
1980

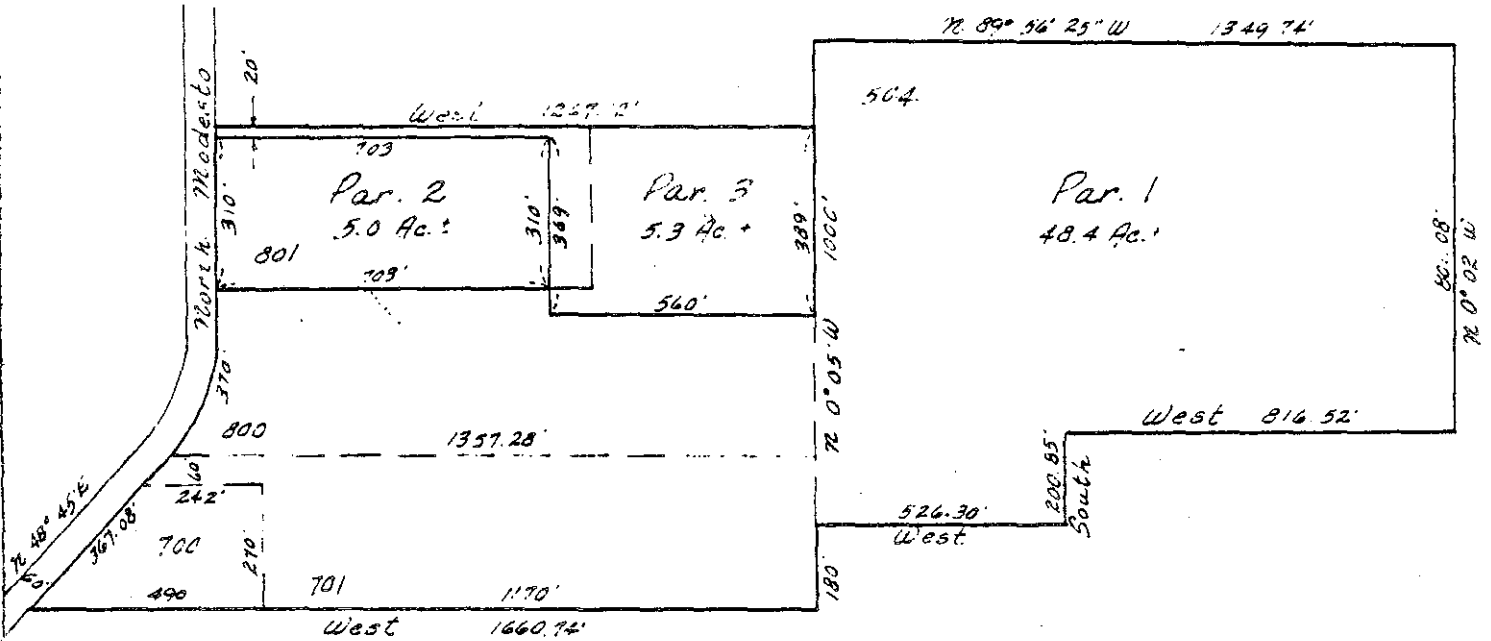
SCALE: 1" = 400'

FILE NO: _____

MINOR
 MAJOR

partition

lane county



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Gerald K. ...

GPK
GERALD K. ...
1977

SCALE: 1" = 400'

FILE NO: _____

PARTITION DECISION
LAND DEVELOPMENT REVIEW COMMITTEE

2nd MEETING

RECORD OF ACTION, MEETING OF: SEPTEMBER 25 LAND PARTITION NO. M18-80

Applicant NORMAN POHLL 1980
Map & Tax Lot 18-04-17

Committee members present: Currin Watson 18-04-18 TL Lots 700/701/800/
801

Miller McCall

Thomas

Applicant or Agent present GERALD ATTICE

XX

ACTION ON THIS PARTITION

DENIED. Reason for denial: _____

CONTINUED OR POSTPONED UNTIL _____

APPROVED WITH THE FOLLOWING CONDITIONS:

NOTE: THIS APPROVAL IS VALID FOR ONE YEAR. ALL CONDITIONS CHECKED BELOW
MUST BE SATISFIED AND A FINAL PARTITION MAP RECORDED WITHIN THIS TIME FOR
THE APPROVAL TO BE FINAL.

A final partition map (prepared by a licensed surveyor) shall be submitted in a form suitable for recording.

For approval of subsurface sewage disposal:

Parcels 2 shall have site inspections.

Parcels _____ shall have certificates of adequacy.

Parcels _____ shall have plot plans prepared.

Division lines and parcels 1 & 2 shall be surveyed and all corners monumented by a licensed surveyor; survey shall be filed with the Surveyor's Office prior to filing of the final map.

Easement centerline shall be surveyed by a licensed surveyor.

Dedication of road right-of-way to a total of _____ feet from the centerline of _____.

Description for dedication shall be prepared by the applicant's surveyor and submitted to the Planning Division.

A copy of the property deed of ownership shall be submitted to the Planning Division.

Road improvements shall be provided as per the attached typical section and as follows. Road improvements must be inspected and approved by the Department of Public Works:

Plans for street and drainage improvements shall be prepared by a registered engineer or surveyor and submitted for approval by the Department of Public Works prior to construction.

A private road shall be created as shown on the approved partition map. The instrument creating such road shall be submitted to and approved by the Review Committee Chairman and shall:

describe the right-of-way.

state the intent and purpose of the road.

specify maintenance responsibilities.

provide for the installation, construction and maintenance of public utilities and facilities.

A road easement shall be established as shown on the approved partition map. It shall be an affirmative easement and must include:

the names of grantor and grantee.

a description of the land covered by the easement.

a description of the land to be served.

a description of the land to be crossed by the easement.

the intent and purpose of the easement.

a statement of maintenance responsibilities.

The road easement document must be submitted to and approved by the Planning Division.

Upon approval, easement document must be recorded by applicant.

A road name shall be requested from the Lane County Department of Environmental Management, Rural Addressing Division.

Final approval of Variance # _____ to _____

A development plan shall be submitted showing anticipated future divisions.

Land Partition No. 1A 1B-830

Partition complies with all applicable State-wide Planning Goals, the County Comprehensive Plan and the County Zoning Ordinance.

A modification of standards is hereby granted to _____

All parcels must be a minimum of _____ acres.

Partition must receive concurrence of the West Lane Planning Commission.

No appeals are received within 15 days of the notification date to adjacent property owners.

APPEALS:

This action of the Land Development Review Committee becomes effective 15 days after notification mailing date, unless an appeal is received by the Planning Division within that 15-day period. Any interested party may appeal this action; the appeal must be in writing on the appropriate form, be accompanied by the proper fee and show how the Committee erred in its decision.

A copy of this report was:

hand-delivered to applicant or agent: GERALD ATICE

mailed to applicant or agent: _____

Date 7-25-80

CONNOR W. COOK
Acting Chairman, Land Development Review Committee

Land Partition No. 141180-80

Lane County Planning Division, 125 East 8th Avenue, Eugene, Oregon 97401, phone 687-4186 or 1-800-452-6379 (toll free).



October 9, 1980

Allen L. Johnson
Lombard, Gardner, Honsowetz, & Brewer
Attorneys at Law
915 Oak St. Suite 200
Eugene, Oregon 97401

RE: Norman Pohl
LC 2736-79
18-04-18 Tax Lot 801, 800, 700

Dear Mr. Johnson:

I was asked by your client to report on the status of the above referenced permit prior to receipt of your correspondence.

A copy of that letter is enclosed. In addition the Oregon Administrative Rule 340-71-015(8) pertaining to the case is enclosed as requested.

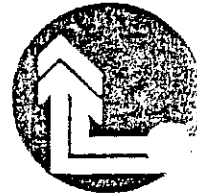
Feel free to contact this Division if we may be of additional service.

Sincerely,

ROY L. BURNS, R.S., MANAGER
BUILDING & SANITATION

c.c. Daryl Johnson-DEQ
Jack Osborne-DEQ
File

RLB/jbw



October 9, 1980

Mr. Norman Pohl
86399 N. Modesto Dr.
Eugene, Oregon 97402

RE: LC 2736-79
Citizen Service Request

Dear Mr. Pohl,

Based on your request of October 8, 1980 the above referenced permit has been analyzed for status. The following information is provided.

- 1) Permit LC 2736-79 was issued by Lane County as a prior approval pursuant to directive from the Department of Environmental Quality dated September 12, 1980. A copy is attached.
- 2) Permit LC 2736-79 was issued with specifications for the subsurface system as a prior approval designed system.
- 3) System has not been installed to date as authorized by the permit.
- 4) Permit LC 2736-79 is no longer a valid construction permit.

We have encountered a limited number of cases (3) within Lane County where construction authorizations for subsurface systems based on prior approvals have expired. Individuals who did not meet the required time have sought administrative relief and action through this office, the Department of Environmental Quality, and Environmental Quality Commission. No prior approval permits that have expired have received an extension.

Due to subsurface and alternative rule changes which incorporated additional alternative system designs, such as the sand filter, parcels not previously acceptable are now being approved for on-site disposal. Your parcel may be considered under the current standards for the alternative systems.

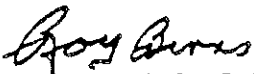
If you wish to pursue on-site waste disposal you may initiate the process by application procedure of a site evaluation request and payment of the required fees.

The Department of Environmental Quality will be notified of your situation by copy of this letter.

Mr. Norman Pohl
October 9, 1980
Page 2

Feel free to contact this Division if we may be of further assistance.

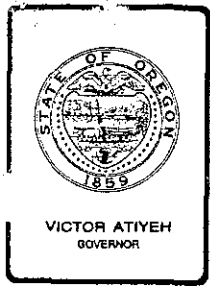
Sincerely,


ROY L. BURNS, R.S., MANAGER
BUILDING & SANITATION

RLB/jbw

Mem "N" N

Young
(orig. sent to
Joe Richards)



Water Resources Department

MILL CREEK OFFICE PARK

555 13th STREET N.E., SALEM, OREGON 97310

PHONE 378-3671

October 30, 1980

Joe B. Richards, Chairman
Environmental Quality Commission
Department of Environmental Quality
522 S.W. 5th
Portland, Oregon 97204

Dear Mr. Richards:

On behalf of the Water Policy Review Board, I would like to propose a joint meeting with the Environmental Quality Commission to discuss flow augmentation in the Willamette River for water quality.

As you may recall, last November the Water Policy Review Board adopted a resolution urging the Corps of Engineers to undertake studies necessary to assure an allocation of sufficient upstream storage to maintain a flow of 6,000 cfs in the Willamette River at Salem for water quality. The resolution received the support of the Environmental Quality Commission.

Recently, I was informed by the Corps of Engineers that they felt Oregon would be ill advised to pursue the question of allocation of stored water for water quality in the Willamette system. A staff memorandum on the meeting is attached for your information. In summary, representatives of the Corps indicated that if water quality was determined not to be an authorized project purpose, current operational flexibility might be lost. A determination that water quality was a currently authorized function would necessitate local reimbursement to utilize water for that purpose. The Corps further implied if water quality was determined to be an authorized purpose, E.P.A. would require a higher degree of treatment at existing plants along the river.

? →
6

The Water Policy Review Board continues to believe assurance of storage for water quality is important and should be addressed in view of the substantial public expenditures for treatment facilities predicated on augmented mainstem flows. Before proceeding further, however, the Board has suggested a meeting with the Environmental Quality Commission and respective staffs because of the cost sharing implications raised by the Corps. The Board has also suggested extending an invitation to a representative from the Willamette Valley Communities and a representative from industry to participate in the meeting.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

NOV 3 1980

OFFICE OF THE DIRECTOR

Joe B. Richards, Chairman
October 30, 1980
Page Two

In view of the fact that the Corps has stated that no action is planned on the resolution, I would suggest the meeting be held at the earliest convenient date.

Sincerely,



Donel J. Lane, Chairman
Water Policy Review Board

DJL:bw



TO: Files

DATE: September 19, 1980

FROM: Darrell Learn

SUBJECT: Water Quality- Willamette

On September 18, 1980, I met with the following people to discuss maintaining flow in the Willamette River for water quality purposes.

Don Lane, Chairman, Water Policy Review Board
Jim Sexson, Director, Water Resources Department
Tom Kline, Water Resources Department
Deb Olson, Corps of Engineers
Pat Keogh, Corps of Engineers
Dave Geiger, Corps of Engineers

Deb Olson asked Don Lane what had precipitated the request and resolution in December of 1979, for the Corps to seek specific authorization to operate the Willamette River reservoir system for water quality purposes.

Mr. Lane indicated that action that had occurred in the mid-1960's led him to believe that if water quality standards were to be met in the Portland Harbor area, someone would have to pay Bonneville Power Association for the loss of power revenues. In addition, representatives of the Corps had on various occasions indicated that water quality was not a project purpose in the Willamette authorization.

Mr. Lane further stated that cannery operations in Salem had been threatened in 1977 with curtailment because the low river flows were not providing sufficient mixing of sewage effluent and the dissolved oxygen standards were not being met.

Mr. Olson indicated that he was sitting on the letter of request and pointed out that under present authorization, the Corps had adequate flexibility to release water for water quality purposes and did not wish to be restricted by specific release requirements for water quality.

In addition, if water quality were an authorized purpose, someone would have to pay the costs associated with the storage allocation.

Mr. Olson described two problems with seeking specific authorization:

1. If water quality was not now an authorized purpose, the Corps would have to curtail releases to meet water quality standards.
2. If water quality were an authorized purpose then someone would be required to pay the associated costs.

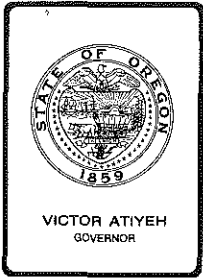
Mr. Olson also felt that if the project was reauthorized for water quality, the present Environmental Protection Agency Rules and Regulations would have to be met. His interpretation of the rules would mean that



Files
September 19, 1980
Page Two

all sewage treatment plants would have to provide tertiary treatment as a minimum.

After further discussion on the merits and problems associated with the request, it was decided that the Water Policy Review Board would discuss the issue and decide whether to pursue the request.



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 *[Signature]*

Subject: Agenda Item No. O, November 21, 1980, EQC Meeting

Informational Item: Emission Reduction Credits
Banking and Trading

Background

The Environmental Protection Agency (EPA) is promoting a program for banking and trading emission reduction credits for air pollution sources. This approach is being proposed as a regulatory reform to assist the economic growth of areas that do not meet the air quality standards. EPA plans to develop guidelines for States that wish to pursue this approach. The first such guideline entitled "Emission Reduction Banking Manual" was provided to the Commission for informational purposes.

Discussion

The "Emission Reduction Banking Manual" discusses the basic requirements for a banking and trading system and presents alternatives that can be used by states to develop banking rules. The following concepts were discussed by the Portland Growth Management Committee and are also discussed in the Banking Manual.

1. Banking of emission credits can help communities that are subject to offset requirements because of air quality exceedances.
2. Bankable reductions should be actual emission reductions from existing sources. "Paper reductions" should not be allowed to be banked.
3. Banked credits should be tradable.
4. A system of banking and trading should be established by rule and by establishing administrative procedures to insure proper operation of the system.



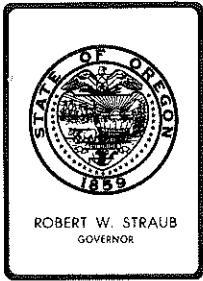
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Agenda Item No. 0
November 21, 1980
Page 2

Status of Department of Environmental Quality Rules

DEQ New Source Review rules and EPA requirements require offsets for new sources and modifications locating in nonattainment areas. The Air Quality Division is drafting a proposed revision of DEQ's New Source Review Rules which includes a banking and trading provision. This draft proposal is about ready for distribution to interested parties and industrial groups and it is anticipated that authorization for public hearing on the proposal will be requested at the December or January Commission meeting.

Lloyd Kostow:in
229-5186
11/20/80
AI568



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item P, November 21, 1980, EQC Meeting

Informational Report: Pollution Control Bond Financing --
Status Report

Background

During the September 1980 EQC breakfast meeting the staff presented a discussion regarding Commission policy on loans from the bond fund (Attachment 1).

Staff has prepared a workscope for a consultant contract and met with the Association of Counties, League of Cities and other affected parties at a task force meeting. During the meeting it was substantiated that additional information regarding financial options was necessary for any decision to be made regarding expanded use of bond funds.

A draft Request for Proposal for consulting work has been prepared (Attachment 2). The Request for Proposal will be reviewed with the task force prior to issuance.

Director's Recommendation

It is recommended that the Commission concur with the Department that the Request for Proposal be reviewed by the task force, issued and that a competent consultant be selected to perform the workscope as outlined.

Bill

William H. Young

Attachments

- 1) September 1980 EQC Breakfast Meeting
- 2) Draft Request for Proposal

Hal Sawyer/E.A. Schmidt
229-5324 229-5356



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September 1980 EQC Breakfast Meeting

Attachment 1
Agenda Item P
11/21/80

Pollution Control Bond Fund Policy on Loans

It was brought to the Commission's attention, at the July breakfast meeting, that local governments were requesting changes in the Commission's policy on security of loans from the Pollution Control Bond Fund. The staff perceived a very cautious interest by the Commission in looking at alternative financing approaches.

In further review of the subject, we have determined that a fairly extensive evaluation would be required to make us comfortable with any recommended policy changes. General re-evaluation of the usefulness and financial advantage of the present PCB funding approach in today's economy seems warranted. The League of Oregon Cities and Association of Oregon Counties can probably assist in identifying gaps in current financing. We are aware of innovative municipal financing approaches being initiated in California as a result of tax limitation legislation.

We feel that some new combination of safe securities would be useful and probably do exist for local government. We have been unable, however, to develop a direct recommendation on the specific question of Marion County for pledge of fees and related securities, without the assistance of a municipal financing consultant to review the bigger picture.

We now propose to present an agenda item for your consideration at the October EQC meeting including a scope of work, time schedule, estimated cost and source of funds for a consultant contract to develop recommendations for best management of the PCB Fund. The objective would be to maximize usefulness to local government while maintaining high financial integrity and attraction to the bond market. It is assumed that a contract might run 90 - 120 days. In the meantime, it is recommended that there be no change in policy.

/dro
9/18/80

DRAFT

Attachment 2
Agenda Item P
11/21/80

To: Interested Bidders

From: Department of Environmental Quality

Subject: Request for Proposal: Sewerage and Solid Waste Facility
Financing Study

The Department of Environmental Quality is initiating the request for proposal process to solicit proposals from qualified consultants to complete a sewerage and solid waste facility financing study. The preliminary scope of work for the study is attached.

The goals of the project are: (1) To explore and determine what financing alternatives can be made available by state legislative action to assist local governments to construct public facilities in lieu of the traditional General Obligation Bond sale; and, (2) under what conditions Pollution Control Bond funds should be loaned to local governments to finance construction of sewerage or solid waste facilities, if the loan is backed by different security than a locally approved General Obligation Bond Issue.

REQUEST FOR PROPOSAL

This is a formal request for proposal to prospective consultants.

The PROPOSALS submitted by prospective consultants will serve as the basis for reviewing the consultant's qualifications and for inviting a limited number of consultants to formal interviews. In order for a PROPOSAL to receive consideration, it must comply with the following criteria:

1. Complete Proposal A preliminary Scope of Work for this project is attached. Prospective consultants should develop a proposal which includes a task-by-task description and cost breakdown for the scope of work. A PROPOSAL which does not include accomplishment of all aspects of the study as outlined in the Scope of Work will not be considered.
2. Consulting Firm Use of this terminology is not intended to restrict consideration of consultants to those firms with on-staff capability for performing all aspects of the study as outlined in the Scope of Work. For purposes of considering PROPOSALS, joint ventures, consortiums, sub-contracts and other techniques devised for performing the study will be considered to be within the definition of a "consulting firm" as long as the procedure is clearly defined in the PROPOSAL.

3. Description of Performance The description of performance should clearly be oriented toward the Scope of Work. The description should include a listing and brief description of past and ongoing work completed by the consultant related to the type described in the Scope of Work.
4. Description of Expertise of the Consulting Firm This description may include both the skills of key personnel within the organization and skills of personnel as related to identified areas of interest. Past work by specific personnel may be identified.
5. Demonstration of Capacity The proposal must show the firm's capacity to perform the work within the time frame indicated in the Scope of Work. The consultant should demonstrate the firm's understanding of the financing problems faced by local and state governments and exhibit a full knowledge of both the local and state Bonding Programs.
6. Standard Company Brochure--Optional Your company brochure may be enclosed as a supplement to the above criteria.

Prospective consultants will be evaluated by the above six criteria only. Do not send copies of completed reports. All requests for additional information must be directed to Hal Sawyer, Department of Environmental Quality, P.O. Box 1760, Portland, Oregon 97207.

If you are interested in participating in the study as a consultant, please submit a PROPOSAL, which must be received in the Department of Environmental Quality office at 522 Southwest Fifth Avenue, P.O. Box 1760, Portland, Oregon 97207, no later than 5 p.m. December , 1980.

SELECTION PROCESS

The Department has established the following process to select the consulting firm for this study:

1. To receive consideration, each prospective consultant must submit a written PROPOSAL in accordance with the criteria previously discussed. The PROPOSAL should include a task-by-task breakdown of the Scope of Work, including an estimate of the hours required to perform each identified task and an estimate of the cost for each task.
2. The consultant's PROPOSAL will be evaluated by a Selection Committee appointed by DEQ. Based on the evaluation, the Selection Committee will select a limited number of consultants to be invited to a formal interview.
3. Each interview will include time for a brief (15 to 20 minute) presentation by the consultant followed by a question/answer (40 to 45 minutes). Both the presentation and the question/answer session are to be directed toward the consultant's PROPOSAL.
4. The Selection Committee will evaluate both the consultant's PROPOSAL and the formal interviews and will be responsible for making the final consultant selection.

PROJECT TIME FRAME

The Department feels that the first three tasks listed in the Scope of Work can all be completed within 90 days. The fourth task should take an additional 90-120 days. The total study should therefore be completed within 6-7 months.

COST OF THE PROJECT

The Department will utilize the estimated costs listed in the consultant's proposal as the base from which to negotiate a fair price.

TIMING

PROPOSALS received by the DEQ later than 5 p.m., December , 1980, will not be considered for this project. Following receipt of consultant's PROPOSALS, the remaining steps of the Selection Process outlined above are to be completed such that the study can be initiated in early January. The consultant must demonstrate the ability to have the study completed by August 1981.

DEQ looks forward to receiving a PROPOSAL from your firm for the planning project discussed in this letter. Again, please note that the PROPOSAL must be received in the DEQ offices by 5 p.m., December , 1980.

For further information contact Hal Sawyer, Administrator, Water Quality Division, Department of Environment Quality (503-229-5324).

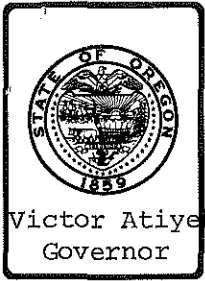
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/vt

SCOPE OF WORK

Attachment
Request for Proposal
Facility Financing
Study

1. Summarize briefly the current methods available under Oregon Law, for cities, counties and special purpose districts to borrow money to finance needed sewage and solid waste facilities. Note advantages and disadvantages of each. Identify the probable market interest rates on loans in each case.
2. Identify and describe financing options that could be available in Oregon with appropriate changes in Oregon Law. Note advantages and disadvantages of each, along with probable interest rates in each case.
3. For each financing alternative noted in 1 and 2, assess the potential for use of Pollution Control Bond funds to extend lower interest money to local governments and identify the potential savings in each case. Assess the risk of each and identify potential impacts on state bond interest rate. Describe conditions, limitations and evaluation criteria that should be used in each case to reasonably protect the PCB fund.
4. Based on the assumption that (1) sewerage and solid waste facilities may have to be totally supported by the population served or benefitted area, (2) local facility plans should include a plan for financing construction, operation, expansion, and replacement, and (3) DEQ's review and approval of sewerage and solid waste plans should include a review of the financing programs and approval only if it is adequate to assure future self sufficiency; prepare for the Department a document which would outline the guidelines and standards to be used in reviewing financing plans to assure adequacy for meeting present and future needs. This guide would also be intended to help local governments evaluate their own financial program and establish the range of user charges necessary to meet their needs.

11/18/80
/vt



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. Q, November 21, 1980, EQC Meeting

Informational Report: Solid Waste Tax Credits

Background

December 31, 1980, is a significant date relative to the Department's tax credit program for solid waste management facilities. On that date legislation takes effect that apparently was intended to significantly reduce the number and types of facilities being certified for tax credit as solid waste pollution control facilities. (Note: the Department is currently reviewing the legislative record to confirm legislative intent.)

In order to properly implement these new requirements, some policies must be established relative to the key words in the statute as underlined below. To that end, the staff has drafted a series of statements describing the positions which the Department would prefer to take when evaluating applications for solid waste tax credit after December 31, 1980. The intent of this report is to advise you of this impending statute change and to present our draft policy statements for your review and consideration. The Department will be returning next month to formally seek Commission approval of this proposed course of action.

Statute Summary

ORS 468.170(8) (b) states, in part, that a facility commenced after December 31, 1980, and prior to December 31, 1983, shall only be certified for tax credit if it meets one or more of the following conditions:

1. The facility is necessary to assist in solving a severe or unusual solid waste, hazardous waste or used oil problem;
2. The facility will provide a new or different solution to a solid waste, hazardous waste or used oil problem than has been previously used, or the facility is a significant modification and improvement of similar existing facilities; or



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3. The Department has recommended the facility as the most efficient or environmentally sound method of solid waste, hazardous waste or used oil control.

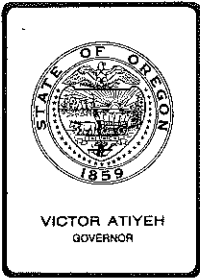
Proposed Policy Statements

1. "Commenced" means the date construction started, rather than the date the facility was placed into operation. Note that facilities which have received Preliminary Certification but have not begun construction will be affected. The Department will report the exact number of those potentially affected at the December meeting.
2. Wood waste, with a few exceptions, is no longer considered to be a severe solid waste problem. Accordingly, facilities associated with wood waste utilization (e.g., hog fuel boilers, heat sources, hogs, chippers, particle board plants, log yard paving and assorted hog fuel handling equipment) will normally no longer be certified. Also, the Department will not consider any of the facilities described above to be a new or different solution to a solid waste problem.
3. In determining if a facility provides the most efficient or environmentally sound method of producing energy or a salable product from solid waste, the Department shall consider the facility's cost effectiveness. Those facilities which represent the least costly means of diverting material from the solid waste stream shall be considered to be the most efficient.
4. Waste cardboard and newsprint no longer represent a severe disposal problem. Balers, deinking and repulping equipment are no longer a new or different solution.
5. Grass straw, plastics, and tires, especially large truck tires, continue to represent severe disposal problems.
6. The reprocessing of used motor oil into clean fuel or lubricants represents the most efficient and environmentally sound method of control for that material.
7. Virtually any hazardous waste management facility may be considered to be a new or different solution, since none have been certified to date.

Environmental Quality Commission

BREAKFAST AGENDA
November 21, 1980

- | | |
|---------------------------------------|-------------|
| 1. Ozone rule changes | Weathersbee |
| 2. Governor's proposed budget | Downs |
| 3. Future meeting locations and dates | Young |



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
Date: November 20, 1980
Subject: Possible Change in Ozone State Standards

At the Commission's request, the Department held informational public hearings in August to collect testimony on the appropriateness of retaining the state ozone standard at a stricter level (.08 ppm) than the federal standard (.12).

The hearings, held in Portland and Medford, yielded little new technical information on the ozone standard, but many questions were raised about EPA's interpretation of the health effects data and serious doubts about the ability of airsheds to reach the state ozone standard.

The Department was waiting further additional information about the health effects of ozone from EPA in order to approach the Commission for authorization to move to full-scale public hearings on the possible revision of the state ozone standard.

The Department will be delaying asking the Commission for action due to several law suits which have been filed against the EPA with regard to the ozone standard. The Washington D.C. Circuit Court of Appeals heard closing arguments in February of 1980 in a case involving evidence that the federal standard is too stringent, and that health effects are not evident at levels as high as 0.2 and 0.3 ppm.

Environmental groups have also filed suits maintaining that adverse health effects have been noted at concentrations as low as 0.15 ppm, and the calibration techniques used in certain studies were in error.

Attorneys for EPA anticipate the court ruling on the first case in February of 1981. Also expected in February is the EPA two year updated report on ozone.

For these reasons, the Department feels it is best to delay moving to full public hearings on the possible revision of the ozone standard until these issues have been settled. It is likely that the Department would have the information from EPA and the courts by March or April, and could move to public hearings at that time.



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SLE:h
11/20/80

Jan--

The notes on the attached letters are self-explanatory.
You should keep the originals for the EQC record file.

I've sent Bill Dana copies also.

Carol

Item 1
11/21/80

CAMPBELL & MOBERG, P. C.
ATTORNEYS AT LAW
842 BROADWAY
SEASIDE, OREGON 97138

P. O. Box 27
TELEPHONE 738-6388

STEVEN T. CAMPBELL
ROBERT C. MOBERG
WAYNE E. POOLE

November 19, 1980

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
R E C E I V E D
NOV 20 1980

OFFICE OF THE DIRECTOR

Environmental Quality Commission
Box 1760
Portland, Oregon, 97207

Re: Agenda Item #I, November 21,
1980, EQC Meeting - Request
By Clatsop County for Extension
of Variances From Rules
Prohibiting Open Burning
Disposal Sites

Gentlemen:

This firm represents Seaside Sanitary Service (operators of the Seaside Open Burning Disposal Site) in regards to the recent recommendation of William H. Young to be presented for your meeting of November 21, as referred above.

We are appalled at the short-sighted, unilateral approach that Mr. Young has taken in regards to this very critical issue. The recommended action would have a disastrous effect on Seaside Sanitary Service, and other south County operators. It would be virtually impossible for them to fulfill the responsibilities as suggested by Mr. Young. Requiring them to haul to the Astoria land fill would require extremely heavy, large and expensive equipment, which would necessarily have to be purchased. This equipment would be absolutely necessary to transport the present volume of refuse from the Seaside area to the Astoria land fill. The proposed temporary site is on the north end of the County and it is not centralized. A centralized site would allow operators to use existing equipment. It is relatively obvious that this heavier equipment would not be required, if the final county-wide land fill is located in the intermediate area as is presently under close consideration by Clatsop County, as is pointed out by Mr. Young in his memorandum to you.

The result of Mr. Young's recommendation is the requirement of a very heavy investment for a temporary haul period of between six months to one and one-half years past the November 1, 1981, recommended closure.

Clatsop County is making a reasonable effort to acquire property as indicated by Mr. Young, and the City of Astoria is not in a reasonably good position to accept deliveries from outlying areas. Against these economic hardships, we must measure the environmental impact of a continuation of open burning for six months to one and one-half years past November 1, 1981. That impact, if adverse, is certainly not of such magnitude to reasonably justify closure of open burning prior to establishment of a county-wide land fill site, provided the County continues to diligently pursue acquisition of such a site.

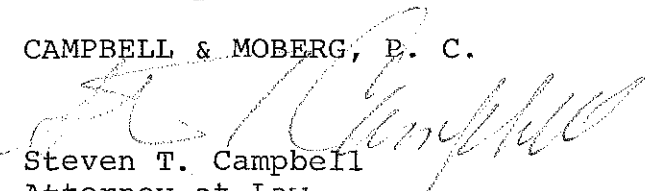
All of the evidence reflects that the County is making every effort to comply with the requirements as quickly as possible.

It is upsetting to my client and I am sure the other local operators, that such a far-reaching, expensive recommendation would be made by Mr. Young, without any effort to contact the local operators and review the effect for the feasibility of such a recommendation with them.

The variance request should be granted for an additional two years!

Very truly yours,

CAMPBELL & MOBERG, P. C.


Steven T. Campbell
Attorney at Law

STC/bh

- cc: William H. Young
- cc: Dale Curry, City Manager
City of Astoria
- cc: Dick Walsborn
Cannon Beach, Oregon
- cc: Burton Lowe, City Manager
City of Seaside
- cc: Bruce Maltman,
City of Gearhart
- cc: Pete Anderson

OFFICE OF THE CITY MANAGER
1095 Duane Street
325-5821



Item J
11/21/80

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
NOV 20 1980

November 19, 1980

OFFICE OF THE DIRECTOR

Mr. William H. Young, Director
Department of Environmental Quality
Box 1760
Portland, OR 97207

Dear Mr. Young:

On November 17, 1980 the City of Astoria became aware of a memorandum signed by you which is directed to the Environmental Quality Commission and it concerns Clatsop County and our waste disposal problem.

The City of Astoria, for the past 11 years, has promoted regionalized disposal, however, for several of those years we were held up very definitely by the Department of Environmental Quality in that the department seemed to feel that a proposal to grind garbage, including engine blocks, was a viable solution, and we went along with them even though we insisted from the very beginning that it was nothing more than a waste of time. It was later proved that the City of Astoria was right in its original contention. This type of activity, plus a number of other holdups for one reason or another, including two very costly studies, have resulted in no definite action to date.

The City of Astoria feels that the Department of Environmental Quality is as guilty as Clatsop County or any other agency in holding up the development of an area-wide landfill, and we can see no reason to change existing conditions until some of the problems are fielded. The City of Astoria under no conditions will accept garbage or rubbish as proposed in your memorandum, and we feel that somehow, some way, the people within your department have not done their home work. We have dealt with probably two dozen people over the past 10 years, all with differing opinions, all making different types of threats to the City and the County yet no one seems to have the answer to a most difficult situation that exists in an area with 80 inches of rainfall in a year.

Yes, we feel that the County ought to proceed with the Bonneville sites and we support that program, however, the DEQ needs to provide some answers and help to the County on a very positive basis in order to make the landfill become a reality. There is not sufficient time or paper for me to describe some of the activities of your staff over the last 10 years, and we think that this will only be accomplished by the mutual cooperation and it won't

Mr. William Young, DEQ
November 19, 1980
Page 2

be accomplished by hauling all of the garbage in Clatsop County into the city limits of the City of Astoria.

The City Council is concerned to put it mildly, that your staff would make a recommendation to you and we are surprised that you would proceed to take that recommendation to the Environmental Quality Commission.

The City Council at its November 17th meeting, voted to reject any and all refuse from area outside of the city limits and requested that I send a strong letter to you stating that we need to proceed in a businesslike fashion toward the solution of a problem which was first recognized by the City and documented in January of 1970. Several of us know you personally, and we feel that by and large you have been a good director in the department and we wish to work with you, but we will need answers from your staff in a very positive fashion if we are to accomplish our goals.

Sincerely yours,

THE CITY OF ASTORIA


Dale F. Curry
City Manager

DFC:pr

Copy: Clatsop County Board of Commissioners
Mayor Robert Chopping and City Council
Daily Astorian
Radio Station KAST
Radio Station KVAS



STATE OF OREGON

INTEROFFICE MEMO

To W 1427
See notes below

TO: E. J. Weathersbee

DATE: November 4, 1980

FROM: SLE thru JFK

SUBJECT: Ozone rule changes

We have found out that EPA has several suits pending against them regarding the 0.12 ppm O₃ standard. According to EPA Headquarters, the suits should be decided in the next couple of months.

I believe that we should hold off trying to get a new State O₃ standard until after these suits are resolved. If they are resolved in favor of the 0.12 standard, it would make our case a lot more sound. On the other hand, if EPA loses the suits and we adopt a higher standard, we may either face similar suits or possibly end up with a standard higher than EPA's.

JFK recommends we wait until these law suits are settled. We held hearing of no new info was forthcoming, so change by EOC would be merely a reconsideration of their former action. I see no real problem in waiting a couple of months. Should we discuss this with EOC at breakfast?



Telegram

ICS IPMBNGZ CSP

6148914916 TDBN WESTERVILLE OH 299 11-19 1121A EST NOV 19 8:48
PMS MARY V BISHOP, DLR
01520 SOUTHWEST MARY BAILING DRIVE
PORTLAND OR 97219
DEAR COMMISSIONER BISHOP,

IT HAS COME TO OUR ATTENTION THAT ON FRIDAY, NOVEMBER 21, YOUR COMMISSION WILL BE CONSIDERING THE ADOPTION OF PROPOSED NOISE CONTROL REGULATIONS FOR MOTOR SPORTS FACILITIES, OAR 340-35-040; AMENDED DEFINITION, OAR 340-35-015; AND PROCEDURE MANUAL, NPC5-35 AGENDA ITEM J.

THE AMERICAN MOTORCYCLIST ASSOCIATION PROVIDED WRITTEN AND ORAL TESTIMONY ON THE PROPOSED RULES AT A PUBLIC HEARING AUGUST 27, 1980.

SF-1201 (R5-69)



Telegram

AND WRITTEN COMMENTS ON THE PROPOSED PROCEDURE MANUAL ON SEPTEMBER 17, 1980. NOV 19 8:48

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SF-1201 (R5-69)



western union

Telegram

1980 NOV 19 AM 8:48

INCONSISTENCIES IN THE PROPOSED REGULATIONS.

GIVEN THE OPPORTUNITY TO WORK DIRECTLY WITH STAFF OR AGAIN PREPARE DETAILED COMMENTS ON THE LATEST CHANGES IN PROPOSED RULES, WE WILL BE GLAD TO DO SO. HOWEVER, HAVING ONLY RECEIVED NOTICE OF YOUR NOVEMBER 21 MEETING ON THE AFTERNOON OF NOVEMBER 14 AND ONLY HAVING RECEIVED THE COMPLETE NOVEMBER, 1980 PROPOSED RULES AND PROCEDURE MANUAL ON MONDAY, NOVEMBER 17, WE CANNOT AGAIN PREPARE WRITTEN TESTIMONY IN TIME TO REACH YOU AND BE CONSIDERED PROPERLY FOR YOUR FRIDAY, NOVEMBER 21 MEETING.

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SF-1201 (R5-69)



western union

Telegram

1980 NOV 19 AM 8:48

THESE PROPOSED RULES AND TO GIVE US THE OPPORTUNITY FOR ADDITIONAL INVOLVEMENT AND COOPERATION.

SINCERELY,
ED YOUNGBLOOD
DIRECTOR
GOVERNMENT RELATIONS
AMERICAN MOTORCYCLIST ASSOCIATION
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SF-1201 (R5-69)



Telegram

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TLX MCINDCNCL NPBH DLY PD
ZCZC 01 DLY NEWPORT BEACH, CA, NOVEMBER 20, 1980
PMS OREGON ENVIRONMENTAL QUALITY COMMISSION
CONFERENCE ROOM - DEPT. FISH & WILDLIFE
506 S.W. MILL ST.
PORTLAND, OREGON 97201

THE MOTORCYCLE INDUSTRY COUNCIL IS A NONPROFIT NATIONAL TRADE ASSOCIATION REPRESENTING THE MANUFACTURERS OF OVER 90 PERCENT OF THE MOTORCYCLES SOLD IN OREGON. THE NOVEMBER 11 COMMUNICATION RELATING CHANGES IN AGENDA ITEM J ON THE NOVEMBER 21 AGENDA (OAR 340-35-040) REACHED OUR OFFICES ON NOVEMBER 20. ONE CHANGE REQUIRES THE 105 DBA MAXIMUM NOISE LEVEL FOR A CLOSED COURSE MOTORCYCLE RACING VEHICLE EQUALLY AT "TRACK-SIDE", DEFINED AS 50 FEET FROM THE VEHICLE, AND AT 20 INCHES FROM THE EXHAUST OUTLET. THE PRINCIPLES OF ACOUSTICS

SF-1201 (R5-69)



Telegram

AND COMMON SENSE, DICTATES THAT A NOISE STANDARD SHOULD NOT BE THE SAME AT 50 FEET OR 20 INCHES.

NOV 20 PM 5:35

SINCE THE RULES ARE NOT TO BECOME EFFECTIVE UNTIL 1/1/82, WE URGE YOU TO NOT ADOPT THE RULES UNTIL QUALIFIED TECHNICAL REPRESENTATIVES HAVE HAD AN OPPORTUNITY TO REVIEW THE NOVEMBER 11 CHANGES TO THE RULES.

ALAN ISLEY
PRESIDENT
MOTORCYCLE INDUSTRY COUNCIL
4100 BIRCH ST. STE 101
NEWPORT BEACH, CA 92660
NNNN

SF-1201 (R5-69)

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6145914916 TDEN WESTERVILLE OH 299 11-19 1120A EST
PMS FRED K BURTESS, DLR
DEAN'S OFFICE, ENGINEERING DEPARTMENT, OREGON STATE UNIVERSITY
CORVALLIS OR 97331
DEAR COMMISSIONER BURTESS,

IT HAS COME TO OUR ATTENTION THAT ON FRIDAY, NOVEMBER 21, YOUR COMMISSION WILL BE CONSIDERING THE ADOPTION OF PROPOSED NOISE CONTROL REGULATIONS FOR MOTOR SPORTS FACILITIES, OAR 340-35-040; AMENDED DEFINITION, OAR 340-35-015; AND PROCEDURE MANUAL, NPCO-35 AGENDA ITEM J.

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SINCERELY,
ED YOUNGBLOOD
DIRECTOR
GOVERNMENT RELATIONS
AMERICAN MOTORCYCLIST ASSOCIATION

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6148914916 TDBN WESTERVILLE OH 299 11-19 1115A EST
PMS JOE B RICHARDS, DLR
777 HIGH STREET
EUGENE OR 97401
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SINCERELY,
ED YOUNGBLOOD
DIRECTOR
GOVERNMENT RELATIONS
AMERICAN MOTORCYCLIST ASSOCIATION

November 11, 1980

Dear Interested Person:

As you know, DEQ has concluded public hearings on a proposal to control noise caused by motor vehicle racing. We have made modifications to the proposal published in July that reflect new information gained during the hearings process. A summary of major changes to the proposal follows:

Major Changes to Race Rule Proposal

Definitions

- (4) Fuel burning now only applies to drag racing "top fuel and funny cars."
- (6) Advisory committee no longer provides policy advice.
- (8) The noise impact boundary would be based upon the daily maximum projected use.
- (11) Added the word "permanent" to new facility definition.
- (18) Clarified that the advisory committee does not authorize "special events" but only recommends events for DEQ approval.
- (20) Stock exhaust systems do not exceed noise emission level of original equipment.
- (22) Trackside measurement point is 50 feet from the racing vehicle.
- (24) Added a well maintained muffler for outboard motorboat engines exhausting beneath the water surface.

Rules

- (1) Purpose. Added paragraph outlining enforcement sanctions.
- (2) Standards.
 - (d) Added 20 inch stationary procedure to existing 50 foot pass-by procedure for closed course motorcycles.
 - (e) Deleted 50 foot procedure and added 20 inch procedure for open course motorcycles.
 - (h) Clarified that autocross on permanent tracks meet 105 dBA limits.
 - (i) Added 105 dBA limit for go karts.

- (3) New Facilities. Added provisions that noise impact information would be provided to local government for their approval process.
- (6) Operations. Added provisions for overruns due to unexpected problems.
- (8) Monitoring and Reporting. Added provisions for data storage at DEQ.
- (11) Exemptions. Added requirement to review the fuel burning exemption before 1/31/85.
- (12) Exceptions. Clarified that the Department would consider both majority and minority recommendations of advisory committee in granting exceptions. Added an exception for facilities that do not impact noise sensitive property.
- (14) Effective Date. The effective date has been slipped six months to now read 1/1/82.

Prodedure Manual

Added provisions to monitor at either 50 or 100 feet from race vehicle for trackside measurements. Added procedures to conduct stationary tests on motorcycles.

The proposed rule will be brought before the Environmental Quality Commission at their November 21, 1980 meeting in Portland. As hearings have been held, the Commission will probably limit additional testimony on this matter. Subsequently, the Commission may adopt the proposal, adopt a rule similar to the proposal, or decline to act.

Copies of the revised proposed rule and a staff report to the Commission are available upon request from this office. If you have any questions on this matter, please contact us.

Sincerely,



John Hector
Program Manager
Noise Pollution Control

JH:pw



...for the automotive aftermarket
and motorized sports

11540 E. Slauson Ave., Whittier, CA 90606 213/692-9402 • L.A. 213/723-3021

COMMENTS ON PROPOSED RACETRACK
NOISE CONTROL REGULATIONS

SEMA represents 2,000 manufacturers, distributors, and retailers of specialty automotive parts.

SEMA objects to the racetrack noise control regulations as now proposed. Major changes have been made by the DEQ to the last proposed regulations that will have a major impact on the financial viability of drag racing in Oregon. SEMA does not believe there exists practical muffling technology for a number of popular drag racing vehicle categories. In our written comments on the last proposed regulation, we suggested that all vehicles equipped with blown engines be exempt regardless of whether they burn gasoline, alcohol or nitromethane.

SEMA adamantly disagrees with the economic impact analysis presented by the DEQ staff. Drag racing in Oregon will be severely hampered if all popular classes are not allowed to compete.

The DEQ staff has violated the agreement reached with the racetrack operators to jointly develop reasonable racetrack noise regulations. In fact, the latest proposal is, in many significant areas, a return to the original impractical DEQ staff proposal.

SEMA requests that the commission instruct the DEQ staff to live up to the original commitment. The racetrack operators reviewed the previous proposed regulation and suggested certain changes. They did not accept the previous proposal as presented. Instead of incorporating their suggestions, the DEQ staff has proposed a more stringent regulation.

SEMA believes that we have been denied due process because we were not notified of this hearing far enough in advance to enable us to effectively prepare our testimony. In addition, our attorney advises us that in his opinion the proposed regulations are so vague in certain key areas that they may be unconstitutional. If given adequate time, he will enumerate his areas of concern.

Please do not railroad these proposed regulations through today. Rather, give us adequate time to study the proposal in depth and to again attempt to work out a viable agreement with the DEQ staff.

*Els Lohn,
Chairman of the Board
Charles R. Blum, President
Donna Imrie, Operations Manager
Tim Runner, Technical Director
Virginia Christiansen,
Communications Director
John Russell Deane III,
General Counsel

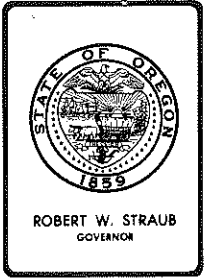
Board of Directors

Tom Alston
Ron Coppaken
Nile Cornelison
*Jim Davis
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John Gaines
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Ralph Hansen
Leo Kagan
Jim Kavanagh
*Sheldon Konblett
*W.A. "Butch" Lahmann
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Tom Shedden
*John Simmons, Jr.
Bill Smith
Bill Stroppe
Bill Tidwell
Steve Woomer
*Peter Wright
*Executive Committee



Representing more than 250,000 individuals/businesses

Young
(cc: Sawyer)



Environmental Quality Commission

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

November 12, 1980

William H. Young, Director
Department of Environmental Quality
P. O. Box 1760
Portland, Oregon 97207

RE: Water Policy Review Board

Dear Bill:

I enclose a copy of Donel Lane's letter to me dated October 30, which I received on November 7.

I would appreciate your recommendations regarding the proposal for a joint meeting with the Water Policy Review Board.

Can you also advise me when you believe it would be appropriate to discuss Harold Sawyer's interoffice memo of October 30 regarding the following topics: Discontinuance of Transition Policy, Ranking of Project Components and Possible Reductions in Grant Participation.

There is a very light agenda for the next meeting and I would like to make time for discussion of these topics if we can do so with the appropriate public notice.

Thanks for your assistance.

Very truly yours,


JOE B. RICHARDS

JBR:lrmm

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State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

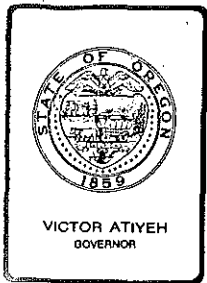
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NOV 17 1980

OFFICE OF THE DIRECTOR



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Water Resources Department

MILL CREEK OFFICE PARK

555 13th STREET N.E., SALEM, OREGON 97310

PHONE 378-3671

October 30, 1980

Joe B. Richards, Chairman
Environmental Quality Commission
Department of Environmental Quality
522 S.W. 5th
Portland, Oregon 97204

Dear Mr. Richards:

On behalf of the Water Policy Review Board, I would like to propose a joint meeting with the Environmental Quality Commission to discuss flow augmentation in the Willamette River for water quality.

As you may recall, last November the Water Policy Review Board adopted a resolution urging the Corps of Engineers to undertake studies necessary to assure an allocation of sufficient upstream storage to maintain a flow of 6,000 cfs in the Willamette River at Salem for water quality. The resolution received the support of the Environmental Quality Commission.

Recently, I was informed by the Corps of Engineers that they felt Oregon would be ill advised to pursue the question of allocation of stored water for water quality in the Willamette system. A staff memorandum on the meeting is attached for your information. In summary, representatives of the Corps indicated that if water quality was determined not to be an authorized project purpose, current operational flexibility might be lost. A determination that water quality was a currently authorized function would necessitate local reimbursement to utilize water for that purpose. The Corps further implied if water quality was determined to be an authorized purpose, E.P.A. would require a higher degree of treatment at existing plants along the river.

The Water Policy Review Board continues to believe assurance of storage for water quality is important and should be addressed in view of the substantial public expenditures for treatment facilities predicated on augmented mainstem flows. Before proceeding further, however, the Board has suggested a meeting with the Environmental Quality Commission and respective staffs because of the cost sharing implications raised by the Corps. The Board has also suggested extending an invitation to a representative from the Willamette Valley Communities and a representative from industry to participate in the meeting.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

R E C E I V E D

NOV 3 1980

OFFICE OF THE DIRECTOR

Joe B. Richards, Chairman
October 30, 1980
Page Two

In view of the fact that the Corps has stated that no action is planned on the resolution, I would suggest the meeting be held at the earliest convenient date.

Sincerely,



Donel J. Lane, Chairman
Water Policy Review Board

DJL:bw

TO: Files

DATE: September 19, 1980

FROM: Darrell Learn

SUBJECT: Water Quality- Willamette

On September 18, 1980, I met with the following people to discuss maintaining flow in the Willamette River for water quality purposes.

Don Lane, Chairman, Water Policy Review Board
Jim Sexson, Director, Water Resources Department
Tom Kline, Water Resources Department
Deb Olson, Corps of Engineers
Pat Keogh, Corps of Engineers
Dave Geiger, Corps of Engineers

Deb Olson asked Don Lane what had precipitated the request and resolution in December of 1979, for the Corps to seek specific authorization to operate the Willamette River reservoir system for water quality purposes.

Mr. Lane indicated that action that had occurred in the mid-1960's led him to believe that if water quality standards were to be met in the Portland Harbor area, someone would have to pay Bonneville Power Association for the loss of power revenues. In addition, representatives of the Corps had on various occasions indicated that water quality was not a project purpose in the Willamette authorization.

Mr. Lane further stated that cannery operations in Salem had been threatened in 1977 with curtailment because the low river flows were not providing sufficient mixing of sewage effluent and the dissolved oxygen standards were not being met.

Mr. Olson indicated that he was sitting on the letter of request and pointed out that under present authorization, the Corps had adequate flexibility to release water for water quality purposes and did not wish to be restricted by specific release requirements for water quality.

In addition, if water quality were an authorized purpose, someone would have to pay the costs associated with the storage allocation.

Mr. Olson described two problems with seeking specific authorization:

1. If water quality was not now an authorized purpose, the Corps would have to curtail releases to meet water quality standards.
2. If water quality were an authorized purpose then someone would be required to pay the associated costs.

Mr. Olson also felt that if the project was reauthorized for water quality, the present Environmental Protection Agency Rules and Regulations would have to be met. His interpretation of the rules would mean that

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all sewage treatment plants would have to provide tertiary treatment as a minimum.

After further discussion on the merits and problems associated with the request, it was decided that the Water Policy Review Board would discuss the issue and decide whether to pursue the request.

RECEIVED: 7 1980

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

TO: Distribution List

DATE: October 30, 1980

FROM: Harold Sawyer, Administrator
Water Quality Division *HS*

Mr. William Young, Director
DEQ

SUBJECT: Allocation of Federal Sewerage Works Construction Grant Funds Within Oregon after September 30, 1981; Specifically Certain Provisions of OAR 340-53-005 Through 035 Concerning Discontinuance of Transition Policy, Ranking of Project Components, and Possible Reductions in Grant Participation.

Enclosed for your information is a discussion and analysis of specific priority list criteria affecting scheduling of funding for projects to be funded in FY 1982 and beyond.

BACKGROUND

On July 2, 1980, a draft priority list and proposed priority criteria in administrative rule format was distributed to the construction grants distribution list. On August 5, 1980, a public hearing was held concerning EQC adoption of the list and criteria. As a result of that hearing, modifications were made to the criteria and correspondly to the priority list. The modified criteria and list were submitted to the EQC for approval at their September 19 meeting along with a detailed staff report expressing the need for the modifications. At the September EQC meeting additional testimony was provided concerning the modifications and also concerning the limited time provided for preparation of comments on the modifications. The EQC, after deliberation and legal advise, approved the modified criteria and priority list based on the following assumptions:

1. No legal requirement appeared to exist for conducting further public hearings on the priority criteria.
2. The controverted portions of the criteria would not effect the FY 81 priority list; only FY 82 and beyond.
3. Delay of approval of the criteria and list would delay certification of new grants for at least three months.

Even though the EQC approved the priority criteria and list, the Department was directed to conduct an additional public hearing on the three major issues raised at the September 19 meeting; namely:

- a. OAR 340-53-015(5) concerning segments or components to be included in a "project".

- b. OAR 340-53-015(8) concerning termination of the transition policy in FY 82 and beyond.
- c. OAR 340-53-020(4) concerning Commission authority to decrease grant participation from 75 percent to 50 percent in FY 82 and beyond if allowed by federal law or regulation.

A hearing has been scheduled for December 4, 1980. A notice of the hearing was distributed to the construction grants priority list on October 17, 1980.

The Department is not recommending changes to the adopted criteria. However, changes will be considered by the EQC if supported by significant testimony.

GENERAL DISCUSSION

A great deal of concern has been expressed concerning the delay to receive Sewerage Works Construction Grants. On the draft priority list distributed in July, only four projects were scheduled to receive grants for construction (step 3) prior to October of 1983 except for those fundable from the rural set-a-side for small communities.

Several reasons exist for this situation. The transition policy previously used allowed projects, once initiated, to receive grant funds until completed. Even though no new projects were to receive transition preference after FY 79, those previously transitioned retained that status. Additionally, those projects still retaining transition status are among the most costly on the priority list. Out of total grant amounts of about \$300 million on the FY 81 priority list, the five transition projects represent about a third or \$100 million in addition to the previous grants for the same projects of about \$65 million.

Because of this growing concern, a number of specific policy changes have been adopted by the EQC. These consist of discontinuing the policies of transitioning projects and combining project components. Additionally, the new criteria allows the Commission to reduce the percentage of grant participation if allowed by federal law or regulations. These changes will not go into effect until FY 82 to allow potential grantees to make suitable adjustments. The changes will allow some of the highest ranking projects, including health hazard related projects, to move into construction in FY 82.

It was felt that any policy modifications intended to reallocate funds could not be put into effect in FY 81 and thus will not affect the funding situation this year. In fact, because of project bypasses and other factors, the approved FY 81 priority list includes only one project on the fundable portion of the list. However, in FY 82, because of changes already proposed, 14 construction projects would receive grants, even without initiating 50 percent funding.

In development and modification of the FY 81 priority criteria and list, the Department and the Commission have made a commitment to insure that limited funds are used to maximize water quality benefits. At the same time, it is recognized that those effected by such policies should be provided ample opportunity to provide input.

SPECIFIC DISCUSSION

1. Ranking of Treatment Works Components

Treatment works component is defined in the adopted administrative rule as "... a portion of an operable treatment works..." such as a treatment plant, interceptor, rehabilitation program, etc. When developing the FY 80 priority list project components were identified based on available information. This practice was continued in the development of the FY 81 priority list. In FY 80 all components of a project were assigned the same priority points, and thus the same priority ranking, as the highest ranking component of the project. On the FY 81 priority list, this combining of project components was continued for most projects, although such combining was only done where the total project grant would be less than \$10 million.

According to the adopted administrative rule in FY 82 and beyond, all identified components will be ranked separately according to the approved ranking criteria. This policy compliments discontinuance of the transition policy and thus moves toward providing grant funds to projects based on water quality benefits of each component as reflected in the ranking criteria.

The impact of ranking components separately is to lower the ranking of project components which provide less water quality benefit while maintaining the higher ranking of more beneficial components. This, in effect, divides a project into several pieces, possibly spread through the priority list. As an example; while a treatment plant might have a "B" classification and be scheduled for funding in FY 83, an interceptor to serve the same community might have a "C" classification and not be scheduled for funds until FY 86.

If a community is unable or unwilling to wait for a grant for lower ranking components and proceeds with local funds, the net result will be a grant of something less than 75 percent based on total project costs. If the community is able to wait for grant funding, the entire 75 percent may be available eventually. Meanwhile the most pressing water quality needs would have been addressed first.

It has been argued that all components of a treatment system should continue to receive the priority ranking of the highest ranking component. If this were done an interceptor to serve future development for community "X" might be provided grant funds before treatment plant expansion for community "Y" even though such expansion would solve an "immediate water quality problem".

The project component criteria presently adopted does not prohibit combining of components where they are needed to provide an operable facility. OAR 340-53-015(5) states that ". . . When determining the treatment works components or segment to be included in a single project, the Department will consider. . . (b) The operational dependency of other components or segments on the components or segments being considered. . . ." Interdependent components of a single system could then receive the same priority score and would thus occur together on the priority list even though not combined.

The department bases decisions concerning the ranking of project components on available information. Prior to list adoption each year, a draft is provided to all potential applicants for their review and comment. If a community can substantiate that components are interrelated and are therefore needed to achieve any water quality benefits the ranking of those components will be modified accordingly by DEQ. This process will address the issue on a case-by-case basis rather than by a blanket policy which would continue to allow less needed portions of projects to receive preferential ranking through combining with higher ranked components to the detriment of more greatly needed portions of other projects.

2. Transition Policy

Prior to FY 1980, projects for which a Step 2 grant had been awarded were assured of a continued high position on the priority list through the "transition" policy. These projects were identified as transition projects and were not ranked according to the approved criteria, but were placed in the same relative position at the top of the next year's priority list. The criteria adopted in October 1979 modified this policy by providing that only those projects classed as transition in FY 79 would continue to receive transition status in FY 80. By specifying that future projects would not be transitioned, this decision represented the beginning of phasing out of the transition policy.

Seventeen projects were transitioned on the FY 80 priority list. Because of either grant award or project bypass only five of these transition projects remain on the FY 81 priority list; Bend, MWMC, Portland-Sludge, Roseburg-Rehab., and Portland S.E. Relieving Interceptor.

In order to insure that limited grant funds are utilized to fund projects or components providing the greatest water quality benefits, and to complete the phase-out of the transition policy, no projects, including the 5 transitioned in FY 81, receive transition status in FY 82 and beyond. The elimination of the transition policy provides that previously transitioned projects for which a grant is not awarded prior to October 1, 1981, be ranked according to the established criteria and thus moved down on the priority list.

If it is accepted that the ranking criteria accurately addresses the need for a project (or component) then funding of lower ranked "transition" projects before those having a greater identified need does not represent the best use of grant dollars.

The alternative to discontinuing the transition policy is to continue to fund the 5 transition projects before funding any of the ranked projects on the list. Comparing the total cost of the transition projects of \$104 million with the anticipated (optimistic) \$117 million in grant funds through FY 83 is indicative. It becomes apparent that a continuation of the transition policy would delay the funding of most other projects, including some of the highest ranking projects in the state until FY 84 or later. Among projects that would be delayed are those needed for the elimination of certified public health hazards.

3. Reduced Grant Participation

Federal law and regulations have required that all sewerage works construction grants be funded at 75 percent of eligible cost except for innovative or alternative projects which may be funded at 85 percent. At the time final criteria was being prepared for submission to the commission, discussion and draft legislation at the federal level indicated a continuing interest in allowing a reduced level of grant funding of as low as 50 percent at the discretion of each state. Based on the possibility of such legislation becoming law, the Department incorporated a provision (OAR 340-52-020(4)) into the criteria which allows the Commission to reduce participation to 50 percent in FY 82 and beyond if consistent with federal law and regulation. Since EQC approval of the criteria on September 19, this legislation (PL 96-483) has been passed by both houses and signed into law by the President on October 21. The law provides that the governor of each state may elect to make decreases in grant participation to as low as 50 percent of eligible costs.

The impact of such a reduction would be significant. As an example, under the EQC approved ranking criteria a \$10 million dollar project might receive a \$7.5 million grant in FY85 under the present alternative or a \$5 million grant in FY 83 under a 50 percent alternative. On the average most projects would receive grant funds from 1 to 3 years sooner under the 50 percent alternative. Obviously, if sufficient local funds are available to finance the non-EPA share of project cost, greater water quality benefits would be available sooner under the 50 percent option. However, it is recognized that an increase in local share from 25 to 50 percent could in some cases place a severe economic burden on a community.

Inclusion of the 50 percent participation provision in the criteria does not commit the EQC to reducing grant participation. Instead, it clears the way for future Commission action within the constraints and conditions of the federal law and the concerns of the state. The December 4 hearing is a step in further identifying

the need for or impacts of possible future decreased grant participation. The major issue would seem to be whether to leave the OAR provision unchanged, allowing future consideration of reduced grant funding; to strengthen the provision into a firm commitment or to eliminate the option of reduced grant participation from further consideration at this time.

ANALYSIS OF ALTERNATIVES

In order to estimate the impacts of the three issues to be addressed at the hearing, sample priority lists were developed based on various combinations of these issues. The lists developed include:

1. These alternatives are based on the criteria adopted as administrative rule by the EQC on September 19, 1980. Under these alternatives no projects would receive transition status and project components would be ranked individually according to the ranking criteria.
 - 1A. The priority list approved by the Commission on September 19, 1980, based on continued 75 percent grant participation.
 - 1B. An alternative, based on EQC adopted criteria, but assuming funding of all project at 50 percent in FY 82 and beyond.
 - 1C. An alternative based on EQC adopted criteria but assuming a "phase-in" of 50 percent funding. All projects for which a Step 2 (design) grant is scheduled prior to October, 1981 are calculated at the present 75 percent. Projects for which a Step 2 grant is scheduled after October 1, 1981 are calculated at 50 percent.
- 2A. This alternative is based on the assumption, like alternative 1, that no projects would receive transition status. However, unlike alternative 1, project components would be combined and assigned the ranking score of the highest ranking component: The funding level assumed is 75 percent.
3. This alternative assumes that present transition projects will continue to receive transition status until completed and project component will be combined and assigned the ranking score of the highest ranking components.
 - 3A. An alternative based on continued transition and combining of component and funding at the present 75 percent level.
 - 3B. An alternative based on continued transition and combining of components, but based on a funding level of 50 percent.

In developing the alternative sample priority lists a number of assumptions were made.

1. Funding would be provided at levels identified by EPA and used in development of the approved priority list.

1982	----	\$52 million
1983	----	\$57 million
1984	----	\$61 million
1985 and beyond	----	\$65 million

It, of course, should be recognized that actual funding may fall far short of these figures. As an example although \$3.7 billion nationwide was used as a planning figure for 1981, indications are that the actual appropriation will be \$3.4 billion or less, a decrease of about 10 percent. It is reasonable to assume that future appropriations will also be below planning figures. Since, however, the alternative lists were prepared only for planning and comparison purposes, the numbers were considered usable.

2. Only step 3 (construction) projects were considered in developing the lists. It was assumed that all Step 1 and 2 projects would be funded from special reserves and that their pace would be determined by construction schedules.
3. Projects identified as consisting of alternative systems for small communities were not charged against general allotment funds since it was assumed that they would be funded from a special reserve.
4. No allowance was made for inflation. Most projects are based on FY 81 costs. The effect of future inflation would be to decrease the number of projects, particularly in later years.

The alternative sample priority lists developed are not claimed to represent the actual FY 82 priority list. Additional data on ranking of projects or project components or revised funding assumptions could alter the actual list considerably. The lists do however provide a basis for comparing the effect of the various alternatives.

A summary of the six alternatives analyzed are displayed on the attached tables. Only the community, component, and segment are included in the tables. The more detailed alternative priority lists are available upon request. Table A compares alternatives 2A and 3A (75% options) with 1A, the EQC approved list. Table B compares the 50 percent options 1B, 1C, and 3B, with the EQC approved list.

1. Seventy-five percent alternative

When comparing the three alternatives shown on Table A, it is obvious that most projects scheduled by 1985 will receive funding sooner with alternative 1A, the EQC approved list. Alternative 3A, which assumes continued transitioning and combining of components, lags behind alternative 1A by as much as two years. Alternative 2A, discontinued transition but continued combining of components, falls about midway between the other two. After FY 86, the scheduling of all alternatives converge.

Selecting projects at random results in the following scheduled certification dates.

	<u>ALT. 1A</u>	<u>ALT. 2A</u>	<u>ALT. 3A</u>
MWMC/Regional/STP(5)	82	82	82
MWMC/Sprfld/Rehab(2)	85	82	82
Portland/City/SL.GAS U	86	86	82
Tri-City Co/Regional/STP(1)	82	83	83
Baker/City/STPIMP	83	83	84
Mt Angel/City/STP	84	85	85
USA/Gaston/INT	85	85	85
Florence/City/STPIMP	85	85	86

2. Fifty percent alternatives.

Obviously, when comparing the 50 percent alternatives with 1A, the EQC approved list, the 50 percent alternatives fund more projects sooner. Of the three 50 percent options analyzed, 1B, based on the presently approved criteria, shows the greatest increased funding rate over the approved list, providing funding 1 or 2 years earlier. If 50 percent funding is combined with continued transitioning and combining of components, Alternative 3B, little improvement in scheduling is realized for most projects until FY 85, usually a year or less. The phased 50 percent funding alternative (Alt. 1C) provides even less benefit over the approved list because of the costliness of the projects that will have received step two grants in FY 81 and thus still be computed at 75 percent. In fact under this phasing alternative, most projects are not moved ahead even one year.

Selecting the same projects as used in the previous section provides the following comparisons:

	<u>ALT. 1A</u>	<u>ALT. 1B</u>	<u>ALT. 1C</u>	<u>ALT. 3B</u>
MWMC/Regional/STP(5)	82	82	82	82
MWMC/Sprfld/Rehab(2)	85	84	85	82
Portland/City/SL.GAS U	86	84	85	82
Tri-City Co/Regional/STP(1)	82	82	82	83
Baker/City/STPIMP	83	82	83	83
Mt Angel/City/STP	84	83	84	84
USA/Gaston/INT	85	84	85	84
Florence/City/STPIMP	85	84	85	84

3. Summary Analysis

As the previous analyses indicate, the scheduling of specific projects can be effected significantly by management policies such as transition, component ranking, and level of grant participation. If alternative 1B (50 percent funding without transition and with separate component ranking) is compared with 3A (75 percent funding, continued transition and automatic combining of components) the following occurs:

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	<u>ALT. 1B</u>	<u>ALT.3</u>
MWMC/Regional/STP(5)	82	82
MWMC/Sprfld/Rehab(2)	84	82
Portland/City/SL.GAS U	84	82
Tri-City Co/Regional/STP(1)	82	83
Baker/City/STPIMP	82	84
Mt Angel/City/STP	83	85
USA/Gaston/INT	84	85
Florence/City/STPIMP	84	86

Management decisions like transition and ranking do not increase funds available or decrease project costs thus ultimately the same total projects can be funded from the same grant dollars. Funding policies such as 50 percent participation tend to stretch grant dollars thus funding more projects sooner.

It is the role of the state to consider the merits of specific projects relative to their effects on the state's water quality or public health. Likewise, it is the responsibility of the state to maximize water quality benefits that can be derived from strictly limited grant dollars. The three issues addressed by this report and by the December public hearing are an attempt to meet the state's responsibility. The Commission and the Department is committed to deriving the maximum benefits from the grant program; benefit not based on specific projects but to the state as a whole.

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TABLE A
 ALTERNATIVE PRIORITY LISTS
 BASED ON CONTINUED 75 PERCENT FUNDING

ALTERNATIVE 1A
 EQC APPROVED LIST
 TRANSITION DISCONTINUED
 COMPONENTS NOT COMBINED
 75 PERCENT FUNDING

ALTERNATIVE 2A
 TRANSITION DISCONTINUED
 COMPONENTS COMBINED
 75 PERCENT FUNDING

ALTERNATIVE 3A
 TRANSITION CONTINUED
 COMPONENTS COMBINED
 75 PERCENT FUNDING

<p>PORTLAND / SW 45th / INT ALBANY / DRAPERVILLE / INT-COLL</p>	<p>PORTLAND / SW 45th / INT ALBANY / DRAPERVILLE / INT-COLL</p>	<p>BEND / CITY / EFF DISP MMMC / REGIONAL / STP (5) / STP (6) / PS #1 (2) / PS #2 / SPRINGFIELD / REHAB (2) PORTLAND / CITY / SL. GAS U / SL. DISP ROSEBURG / CITY / REHAB PORTLAND / SE REL / INT (3) MMMC / REGIONAL / SLUDGE (3) / SLUDGE (4) PORTLAND / SE REL / INT (4) PORTLAND / SW 45th / INT ALBANY / DRAPERVILLE / INT-COLL TERREBONNE / TOWN / SYSTEM</p>
<p>BEND / CITY / EFF DISP MEDFORD / FOOTHILLS / INT-COLL SILVERTON / NORWAY / INT-COLL / CITY / STP IMP / REHAB / INTS</p> <p>ROSEBURG / RIFLE RANGE / INT-COLL MADRAS / FRINGE / INT-COLL K FALLS / STEW LEN / INT-COLL CORVALLIS / SW ANNEX / INT-COLL MONROE / NORTH / INT-COLL / CITY / STP EXP / REHAB</p> <p>MMMC / REGIONAL / STP (5)</p> <p style="text-align: center;">82</p> <p>COTTAGE GROVE / CITY / STP IMP / REHAB / INT / II CORR</p>	<p>BEND / CITY / EFF DISP MEDFORD / FOOTHILLS / INT-COLL SILVERTON / NORWAY / INT-COLL / CITY / STP IMP / REHAB / INTS</p> <p>MADRAS / FRINGE / INT-COLL K FALLS / STEW LEN / INT-COLL CORVALLIS / SW ANNEX / INT-COLL MONROE / NORTH / INT-COLL / CITY / STP EXP / REHAB</p> <p>MMMC / REGIONAL / STP (5) / STP (6) / PS #1 (2) / PS #2 / SPRINGFIELD / REHAB (2)</p> <p>COTTAGE GROVE / CITY / STP IMP / REHAB / INT / II CORR</p>	<p>MEDFORD / FOOTHILLS / INT-COLL SILVERTON / NORWAY / INT-COLL / CITY / STP IMP / REHAB / INTS</p> <p>ROSEBURG / RIFLE RANGE / INT-COLL MADRAS / FRINGE / INT-COLL K FALLS / STEW LEN / INT-COLL CORVALLIS / SW ANNEX / INT-COLL MONROE / NORTH / INT-COLL / CITY / STP EXP / REHAB</p> <p style="text-align: center;">83</p> <p>COTTAGE GROVE / CITY / STP IMP / REHAB / INT / II CORR</p>
<p>TRI CITY CO / REGIONAL / STP (1) / REHAB / INT PS (1)</p>	<p>TERREBONNE / TOWN / SYSTEM MMMC / REGIONAL / SLUDGE (3) / SLUDGE (4)</p> <p>TRI CITY CO / REGIONAL / STP (1) / REHAB / INT PS (1) / INT-PS (2) / II CORR</p> <p style="text-align: center;">83</p> <p>TRI-CITY CO / KELLOGG / SLUDGE USA / ROCK CR / INT (1) / INT (2) / INT (3)</p>	<p>TRI-CITY CO / REGIONAL / STP (2) / INT-PS (2)</p> <p>TRI-CITY CO / KELLOGG / SLUDGE USA / ROCK CR / INT (1) / INT (2) / INT (3)</p>
<p>TRI-CITY CO / REGIONAL / II CORR</p> <p>TERREBONNE / TOWN / SYSTEM TRI-CITY CO / REGIONAL / STP (2) / INT-PS (2)</p> <p>BAKER / CITY / STP IMP SEASIDE / CITY / STP IMP / REHAB</p> <p style="text-align: center;">83</p> <p>DOUGLAS CO / METRO / STP (1) / STP (2) / NORTH BANK / INT</p> <p>NEWBERG / CITY / STP IMP / REHAB</p>	<p>TRI-CITY CO / REGIONAL / STP (2)</p> <p>DOUGLAS CO / METRO / STP (2) / NORTH BANK / INT</p> <p>NEWBERG / CITY / STP IMP / REHAB / II CORR</p> <p>USA / HILLSBORO / INT</p>	<p>TRI-CITY CO / REGIONAL / STP (2) / INT-PS (2)</p> <p>TRI-CITY CO / KELLOGG / SLUDGE USA / ROCK CR / INT (1) / INT (2) / INT (3)</p>
<p>BAKER / CITY / STP IMP SEASIDE / CITY / STP IMP / REHAB</p> <p style="text-align: center;">83</p> <p>DOUGLAS CO / METRO / STP (1) / STP (2) / NORTH BANK / INT</p> <p>NEWBERG / CITY / STP IMP / REHAB</p>	<p>BAKER / CITY / STP IMP SEASIDE / CITY / STP IMP / REHAB</p> <p>DOUGLAS CO / METRO / STP (1) TRI-CITY CO / REGIONAL / STP (2)</p> <p>DOUGLAS CO / METRO / STP (2) / NORTH BANK / INT</p> <p>NEWBERG / CITY / STP IMP / REHAB / II CORR</p> <p>USA / HILLSBORO / INT</p>	<p>BAKER / CITY / STP IMP SEASIDE / CITY / STP IMP / REHAB</p> <p>DOUGLAS CO / METRO / STP (1)</p> <p>DOUGLAS CO / METRO / STP (2) / NORTH BANK / INT</p> <p>NEWBERG / CITY / STP IMP / REHAB / II CORR</p> <p>USA / HILLSBORO / INT</p>
<p>USA / HILLSBORO / INT TRI-CITY CO / REGIONAL / STP (3) / STP (4)</p> <p style="text-align: center;">84</p> <p>NEWBERG / CITY / STP IMP MMMC / REGIONAL / PS #1 GRAND RONDE / AREA / SYSTEM</p>	<p>USA / HILLSBORO / INT</p> <p style="text-align: center;">84</p> <p>GRAND RONDE / AREA / SYSTEM</p>	<p>BAKER / CITY / STP IMP SEASIDE / CITY / STP IMP / REHAB</p> <p>DOUGLAS CO / METRO / STP (1)</p> <p>DOUGLAS CO / METRO / STP (2) / NORTH BANK / INT</p> <p>NEWBERG / CITY / STP IMP / REHAB / II CORR</p> <p>USA / HILLSBORO / INT</p>
<p>USA / HILLSBORO / INT TRI-CITY CO / REGIONAL / STP (3) / STP (4)</p> <p style="text-align: center;">84</p> <p>NEWBERG / CITY / STP IMP MMMC / REGIONAL / PS #1 GRAND RONDE / AREA / SYSTEM</p>	<p>GRAND RONDE / AREA / SYSTEM</p>	<p>GRAND RONDE / AREA / SYSTEM</p>

TABLE A
ALTERNATIVE PRIORITY LISTS
BASED ON CONTINUED 75 PERCENT FUNDING

ALTERNATIVE 1A
BQC APPROVED LIST
TRANSITION DISCONTINUED
COMPONENTS NOT COMBINED
75 PERCENT FUNDING

ALTERNATIVE 2A
TRANSITION DISCONTINUED
COMPONENTS COMBINED
75 PERCENT FUNDING

ALTERNATIVE 3A
TRANSITION CONTINUED
COMPONENTS COMBINED
75 PERCENT FUNDING

<p>MULTNOMAH CO / INVERNESS / INT HAPPY VALLEY / CITY COOS BAY / CITY NO. 1 / STP IMP SILVERTON / CITY / INTS ROSEBURG / CITY / REHAB DALLAS / CITY / REHAB</p> <p>CLATSOP PLAINS / AREA / INT FALLS CITY / CITY / SYSTEM DRAIN / CITY / STP IMP BCVSA / WHETSTONE / INT CLACKAMAS CO / RHODO - WLCH / INT SW LINCOLN / SAN DIST / SYSTEM ASTORIA / WILLIAMSPORT / INT</p> <p>DALLAS / CITY / STP IMP IONE / CITY / SYSTEM MT ANGEL / CITY / STP IMP / II CORR S. SUBURBAN / SAN DIST / STP IMP</p>	<p>MULTNOMAH CO / INVERNESS / INT HAPPY VALLEY / CITY COOS BAY / CITY NO. 1 / STP IMP</p> <p>ROSEBURG / CITY / REHAB DALLAS / CITY / REHAB / STP IMP</p> <p>CLATSOP PLAINS / AREA / INT FALLS CITY / CITY / SYSTEM DRAIN / CITY / STP IMP BCVSA / WHETSTONE / INT CLACKAMAS CO / RHODO - WLCH / INT SW LINCOLN / SAN DIST / SYSTEM ASTORIA / WILLIAMSPORT / INT</p>	<p>TRI-CITY CO / REGIONAL / STP (3) / STP (4)</p> <p>MULTNOMAH CO / INVERNESS / INT HAPPY VALLEY / CITY COOS BAY / CITY NO. 1 / STP IMP</p> <p>ROSEBURG / CITY / REHAB DALLAS / CITY / REHAB / STP IMP</p> <p>CLATSOP PLAINS / AREA / INT FALLS CITY / CITY / SYSTEM DRAIN / CITY / STP IMP BCVSA / WHETSTONE / INT CLACKAMAS CO / RHODO - WLCH / INT SW LINCOLN / SAN DIST / SYSTEM ASTORIA / WILLIAMSPORT / INT</p>
<p>STANFIELD / CITY / STP EXP / II CORR ELGIN / CITY / STP IMP / II CORR CARLTON / CITY / STP IMP</p> <p>SCIO / CITY / STP IMP VERNONIA / CITY / STP IMP PORTLAND / COL BVD REL / INT PORTLAND / SE REL / INT (3) / INT (4) MWMC / REGIONAL / SLUDGE (3) / SLUDGE (4) USA / CEDAR MILL / INT MWMC / SPRINGFIELD / REHAB USA / GASTON / INT MWMC / REGIONAL / PS #2 CRESSWELL / CITY / STP IMP / INT SHERIDAN / CITY / REHAB CORVALLIS / CITY / CSO CARLTON / CITY / II CORR ENTERPRISE / CITY / STP IMP / II COR EAGLE PT / CITY / INT OAKRIDGE / CITY / STP IMP / REHAB</p> <p>LOWELL / CITY / STP IMP / REHAB</p> <p>OAKRIDGE / CITY / II CORR ESTACADA / CITY / STP IMP / II CORR K FALLS / REGIONAL / STP EXP / II CORR LOWELL / CITY / II CORR GRANTS PASS / CITY / STP IMP PHILOMATH / CITY / STP IMP FLORENCE / CITY / STP IMP / REHAB</p>	<p>TRI-CITY CO / REGIONAL / STP (3) / STP (4)</p> <p>IONE / CITY / SYSTEM MT ANGEL / CITY / STP IMP / II CORR S. SUBURBAN / SAN DIST / STP IMP STANFIELD / CITY / STP EXP / II CORR ELGIN / CITY / STP IMP / II CORR CARLTON / CITY / STP IMP / II CORR SCIO / CITY / STP IMP</p> <p>PORTLAND / COL BVD REL / INT</p> <p>USA / CEDAR MILL / INT USA / GASTON / INT</p> <p>CRESSWELL / CITY / STP IMP / INT SHERIDAN / CITY / REHAB CORVALLIS / CITY / CSO</p> <p>ENTERPRISE / CITY / STP IMP / II COR EAGLE PT / CITY / INT OAKRIDGE / CITY / STP IMP / REHAB / II CORR LOWELL / CITY / STP IMP / REHAB / II COR</p> <p>ESTACADA / CITY / STP IMP / II CORR K FALLS / REGIONAL / STP EXP / II CORR</p> <p>GRANTS PASS / CITY / STP IMP PHILOMATH / CITY / STP IMP FLORENCE / CITY / STP IMP / REHAB</p>	<p>DALLAS / CITY / STP IMP IONE / CITY / SYSTEM MT ANGEL / CITY / STP IMP / II CORR S. SUBURBAN / SAN DIST / STP IMP STANFIELD / CITY / STP EXP / II CORR ELGIN / CITY / STP IMP / II CORR CARLTON / CITY / STP IMP / II CORR SCIO / CITY / STP IMP VERNONIA / CITY / STP IMP PORTLAND / COL BVD REL / INT</p> <p>USA / CEDAR MILL / INT USA / GASTON / INT</p> <p>CRESSWELL / CITY / STP IMP / INT SHERIDAN / CITY / REHAB CORVALLIS / CITY / CSO</p> <p>ENTERPRISE / CITY / STP IMP / II COR EAGLE PT / CITY / INT OAKRIDGE / CITY / STP IMP / REHAB / II CORR LOWELL / CITY / STP IMP / REHAB / II COR</p> <p>ESTACADA / CITY / STP IMP / II CORR K FALLS / REGIONAL / STP EXP / II CORR</p> <p>GRANTS PASS / CITY / STP IMP PHILOMATH / CITY / STP IMP FLORENCE / CITY / STP IMP / REHAB</p>
<p>PORTLAND / CITY / SL. GAS U / SL. DISP USA / BANKS / INT OAKLAND / CITY / STP IMP</p>	<p>PORTLAND / CITY / SL. GAS U / SL. DISP USA / BANKS / INT OAKLAND / CITY / STP IMP</p>	<p>USA / BANKS / INT OAKLAND / CITY / STP IMP</p>

ALTERNATIVES CONVERGE AT THIS POINT

TABLE B
ALTERNATIVE PRIORITY LISTS
BASED ON 50 PERCENT FUNDING

ALTERNATIVE 1A
EQC APPROVED LIST
TRANSITION DISCONTINUED
COMPONENTS NOT COMBINED
75 PERCENT FUNDING

ALTERNATIVE 1B
EQC APPROVED CRITERIA
TRANSITION DISCONTINUED
COMPONENTS NOT COMBINED
50 PERCENT FUNDING

ALTERNATIVE 1C
EQC APPROVED CRITERIA
TRANSITION DISCONTINUED
COMPONENTS NOT COMBINED
PHASED 75 TO 50 PERCENT FUNDING

ALTERNATIVE 3B
TRANSITION CONTINUED
COMPONENTS COMBINED
50 PERCENT FUNDING

<p>FORTLAND / SW 45th / INT ALBANY / DRAPERVILLE / INT-COLL BEND / CITY / EFF DISP MEDFORD / FOODHILLS / INT-COLL SILVERTON / NORWAY / INT-COLL / CITY / SIP IMP / REHAB</p>	<p>FORTLAND / SW 45th / INT ALBANY / DRAPERVILLE / INT-COLL BEND / CITY / EFF DISP MEDFORD / FOODHILLS / INT-COLL SILVERTON / NORWAY / INT-COLL / CITY / SIP IMP / REHAB</p>	<p>FORTLAND / SW 45th / INT ALBANY / DRAPERVILLE / INT-COLL BEND / CITY / EFF DISP MEDFORD / FOODHILLS / INT-COLL SILVERTON / NORWAY / INT-COLL / CITY / SIP IMP / REHAB</p>	<p>BEND / CITY / EFF DISP MMC / REGIONAL / SIP (5) / SIP (6) / PS #1 (2) / PS #2 / SPRINGFIELD / REHAB (2) PORTLAND / CITY / SL GAS U / SL DISP ROSEBURG / CITY / REHAB PORTLAND / SE REL / INT (3) / INT (4)</p>
<p>ROSEBURG / RIFLE RANGE / INT-COLL MADRAS / FRINGE / INT-COLL K FALLS / STEW LEN / INT-COLL CORVALLIS / SW ANNEX / INT-COLL MONROE / NORTH / INT-COLL / CITY / SIP EXP / REHAB</p> <p>MMC / REGIONAL / SIP (5) / SIP (6)</p>	<p>ROSEBURG / RIFLE RANGE / INT-COLL MADRAS / FRINGE / INT-COLL K FALLS / STEW LEN / INT-COLL CORVALLIS / SW ANNEX / INT-COLL MONROE / NORTH / INT-COLL / CITY / SIP EXP / REHAB</p> <p>MMC / REGIONAL / SIP (5) / SIP (6)</p>	<p>ROSEBURG / RIFLE RANGE / INT-COLL MADRAS / FRINGE / INT-COLL K FALLS / STEW LEN / INT-COLL CORVALLIS / SW ANNEX / INT-COLL MONROE / NORTH / INT-COLL / CITY / SIP EXP / REHAB</p> <p>MMC / REGIONAL / SIP (5) / SIP (6)</p>	<p>82</p> <p>ROSEBURG / RIFLE RANGE / INT-COLL MADRAS / FRINGE / INT-COLL K FALLS / STEW LEN / INT-COLL CORVALLIS / SW ANNEX / INT-COLL MONROE / NORTH / INT-COLL / CITY / SIP EXP / REHAB</p> <p>TERREBONNE / TOWN / SYSTEM</p>
<p>82</p> <p>COTTAGE GROVE / CITY / SIP IMP / REHAB / INT / II CORR</p> <p>TRI-CITY CO / REGIONAL / SIP (1) / REHAB / INT PS (1)</p>	<p>82</p> <p>COTTAGE GROVE / CITY / SIP IMP / REHAB / INT / II CORR</p> <p>TRI-CITY CO / REGIONAL / SIP (1) / REHAB / INT PS (1)</p>	<p>82</p> <p>COTTAGE GROVE / CITY / SIP IMP / REHAB / INT / II CORR</p> <p>TRI-CITY CO / REGIONAL / SIP (1) / REHAB / INT PS (1)</p>	<p>MMC / REGIONAL / SLUDGE</p> <p>COTTAGE GROVE / CITY / SIP IMP / REHAB / INT / II CORR</p> <p>TRI-CITY CO / REGIONAL / SIP (1) / REHAB / INT PS (1) / II CORR</p>
<p>TRI-CITY CO / KELLOGG / SLUDGE USA / ROCK CR / INT (1) / INT (2) / INT (3)</p> <p>TRI-CITY CO / REGIONAL / II CORR</p>	<p>TRI-CITY CO / KELLOGG / SLUDGE USA / ROCK CR / INT (1) / INT (2) / INT (3)</p> <p>TRI-CITY CO / REGIONAL / II CORR</p>	<p>TRI-CITY CO / KELLOGG / SLUDGE USA / ROCK CR / INT (1) / INT (2) / INT (3)</p> <p>TRI-CITY CO / REGIONAL / II CORR</p>	<p>83</p> <p>TRI-CITY CO / KELLOGG / SLUDGE USA / ROCK CR / INT (1) / INT (2) / INT (3)</p>
<p>83</p> <p>TERREBONNE / TOWN / SYSTEM TRI-CITY CO / REGIONAL / SIP (2) / INT-PS (2)</p> <p>BAKER / CITY / SIP IMP SEASIDE / CITY / SIP IMP / REHAB</p> <p>DOUGLAS CO / METRO / SIP (1) / SIP (2) / NORTH BANK / INT</p>	<p>83</p> <p>TERREBONNE / TOWN / SYSTEM TRI-CITY CO / REGIONAL / SIP (2) / INT-PS (2)</p> <p>BAKER / CITY / SIP IMP SEASIDE / CITY / SIP IMP / REHAB</p> <p>DOUGLAS CO / METRO / SIP (1) / SIP (2) / NORTH BANK / INT</p>	<p>83</p> <p>TERREBONNE / TOWN / SYSTEM TRI-CITY CO / REGIONAL / SIP (2) / INT-PS (2)</p> <p>BAKER / CITY / SIP IMP SEASIDE / CITY / SIP IMP / REHAB</p> <p>DOUGLAS CO / METRO / SIP (1) / SIP (2) / NORTH BANK / INT</p>	<p>83</p> <p>TERREBONNE / TOWN / SYSTEM TRI-CITY CO / REGIONAL / SIP (2) / INT-PS (2)</p> <p>BAKER / CITY / SIP IMP SEASIDE / CITY / SIP IMP / REHAB</p> <p>DOUGLAS CO / METRO / SIP (1) / SIP (2) / NORTH BANK / INT</p>
<p>NEWBERG / CITY / SIP IMP / REHAB</p> <p>USA / HILLSBORO / INT</p> <p>TRI-CITY CO / REGIONAL / SIP (3) SIP (4)</p> <p>NEWBERG / CITY / II CORR MMC / REGIONAL / PS #1 GRAND RONDE / AREA / SYSTEM MILINOWAH CO / INVERNESS / INT</p> <p>84</p> <p>HAPPY VALLEY / CITY / INT COOS BAY / CITY NO. 1 / SIP IMP</p> <p>SILVERTON / CITY / INT ROSEBURG / CITY / REHAB DALLAS / CITY / REHAB</p> <p>CLAISOP PLAINS / AREA / SYSTEM</p>	<p>83</p> <p>NEWBERG / CITY / SIP IMP / REHAB</p> <p>USA / HILLSBORO / INT</p> <p>NEWBERG / CITY / II CORR MMC / REGIONAL / PS #1 GRAND RONDE / AREA / SYSTEM MILINOWAH CO / INVERNESS / INT</p> <p>83</p> <p>HAPPY VALLEY / CITY / INT COOS BAY / CITY NO. 1 / SIP IMP</p> <p>SILVERTON / CITY / INT ROSEBURG / CITY / REHAB DALLAS / CITY / REHAB</p> <p>CLAISOP PLAINS / AREA / SYSTEM</p>	<p>83</p> <p>NEWBERG / CITY / SIP IMP / REHAB</p> <p>USA / HILLSBORO / INT</p> <p>NEWBERG / CITY / II CORR MMC / REGIONAL / PS #1 GRAND RONDE / AREA / SYSTEM MILINOWAH CO / INVERNESS / INT</p> <p>83</p> <p>HAPPY VALLEY / CITY / INT COOS BAY / CITY NO. 1 / SIP IMP</p> <p>TRI-CITY CO / REGIONAL / SIP (3) / SIP (4)</p> <p>SILVERTON / CITY / INT ROSEBURG / CITY / REHAB DALLAS / CITY / REHAB</p> <p>84</p> <p>CLAISOP PLAINS / AREA / SYSTEM</p>	<p>83</p> <p>NEWBERG / CITY / SIP IMP / REHAB / II CORR</p> <p>USA / HILLSBORO / INT</p> <p>GRAND RONDE / AREA / SYSTEM MILINOWAH CO / INVERNESS / INT</p> <p>TRI-CITY CO / REGIONAL / SIP (2) / INT-PS (2)</p> <p>84</p> <p>HAPPY VALLEY / CITY / INT COOS BAY / CITY NO. 1 / SIP IMP</p> <p>DALLAS / CITY / REHAB / SIP IMP</p> <p>CLAISOP PLAINS / AREA / SYSTEM</p>

TABLE B cont.
ALTERNATIVE PRIORITY LISTS
BASED ON 50 PERCENT FUNDING

ALTERNATIVE 1A
EQC APPROVED LIST
TRANSITION DISCONTINUED
COMPONENTS NOT COMBINED
75 PERCENT FUNDING

ALTERNATIVE 1B
EQC APPROVED CRITERIA
TRANSITION DISCONTINUED
COMPONENTS NOT COMBINED
50 PERCENT FUNDING

ALTERNATIVE 1C
EQC APPROVED CRITERIA
TRANSITION DISCONTINUED
COMPONENTS NOT COMBINED
PHASED 75 TO 50 PERCENT FUNDING

ALTERNATIVE 3B
TRANSITION CONTINUED
COMPONENTS COMBINED
50 PERCENT FUNDING

<p>FALLS CITY / CITY / SYSTEM DRAIN / CITY / SIP IMP BOVSA / WHEISTONE / INT CLACKAMAS CO / RHODD - WLCH / INT SW LINCOLN / SAN DIST / SYSTEM ASTORIA / WILLIAMSPT / INT DALLAS / CITY / SIP IMP IGONE / CITY / SYSTEM MT ANGEL / CITY / SIP IMP / II CORR S. SUBURBAN / SAN DIST / SIP IMP STANFIELD / CITY / SIP EXP / II CORR ELGIN / CITY / SIP IMP / II CORR CARLTON / CITY / SIP IMP SCIO / CITY / SIP IMP VERNONIA / CITY / SIP IMP PORTLAND / COL BVD REL / INT PORTLAND / SE REL / INT (3)</p>	<p>FALLS CITY / CITY / SYSTEM DRAIN / CITY / SIP IMP BOVSA / WHEISTONE / INT CLACKAMAS CO / RHODD - WLCH / INT SW LINCOLN / SAN DIST / SYSTEM ASTORIA / WILLIAMSPT / INT DALLAS / CITY / SIP IMP IGONE / CITY / SYSTEM MT ANGEL / CITY / SIP IMP / II CORR S. SUBURBAN / SAN DIST / SIP IMP STANFIELD / CITY / SIP EXP / II CORR ELGIN / CITY / SIP IMP / II CORR CARLTON / CITY / SIP IMP SCIO / CITY / SIP IMP VERNONIA / CITY / SIP IMP PORTLAND / COL BVD REL / INT PORTLAND / SE REL / INT (3) TRI-CITY CO / REGIONAL / SIP (3) / SIP (4)</p>	<p>FALLS CITY / CITY / SYSTEM DRAIN / CITY / SIP IMP BOVSA / WHEISTONE / INT CLACKAMAS CO / RHODD - WLCH / INT SW LINCOLN / SAN DIST / SYSTEM ASTORIA / WILLIAMSPT / INT DALLAS / CITY / SIP IMP IGONE / CITY / SYSTEM MT ANGEL / CITY / SIP IMP / II CORR S. SUBURBAN / SAN DIST / SIP IMP STANFIELD / CITY / SIP EXP / II CORR ELGIN / CITY / SIP IMP / II CORR CARLTON / CITY / SIP IMP SCIO / CITY / SIP IMP VERNONIA / CITY / SIP IMP PORTLAND / COL BVD REL / INT PORTLAND / SE REL / INT (3)</p>	<p>FALLS CITY / CITY / SYSTEM DRAIN / CITY / SIP IMP BOVSA / WHEISTONE / INT CLACKAMAS CO / RHODD - WLCH / INT SW LINCOLN / SAN DIST / SYSTEM ASTORIA / WILLIAMSPT / INT IGONE / CITY / SYSTEM MT ANGEL / CITY / SIP IMP / II CORR S. SUBURBAN / SAN DIST / SIP IMP STANFIELD / CITY / SIP EXP / II CORR ELGIN / CITY / SIP IMP / II CORR CARLTON / CITY / SIP IMP / II CORR SCIO / CITY / SIP IMP VERNONIA / CITY / SIP IMP PORTLAND / COL BVD REL / INT</p>
<p>PORTLAND / SE REL / INT (4) MMC / REGIONAL / SLUDGE (3) / SLUDGE (4) USA / CEDAR MILL / INT MMC / SPRINGFIELD / REHAB (2) USA / GASTON / INT MMC / REGIONAL / PS #2 CRESSWELL / CITY / SIP IMP / INT SHERIDAN / CITY / REHAB CORVALLIS / CITY / CSO CARLTON / CITY / II CORR ENTERPRISE / CITY / SIP IMP / II COR EAGLE PT / CITY / INT OKRIDGE / CITY / SIP IMP / REHAB LOWELL / CITY / SIP IMP / REHAB</p>	<p>PORTLAND / SE REL / INT (4) MMC / REGIONAL / SLUDGE (3) / SLUDGE (4) USA / CEDAR MILL / INT MMC / SPRINGFIELD / REHAB (2) USA / GASTON / INT MMC / REGIONAL / PS #2 CRESSWELL / CITY / SIP IMP / INT SHERIDAN / CITY / REHAB CORVALLIS / CITY / CSO CARLTON / CITY / II CORR ENTERPRISE / CITY / SIP IMP / II COR EAGLE PT / CITY / INT OKRIDGE / CITY / SIP IMP / REHAB LOWELL / CITY / SIP IMP / REHAB</p>	<p>PORTLAND / SE REL / INT (4) MMC / REGIONAL / SLUDGE (3) / SLUDGE (4) USA / CEDAR MILL / INT MMC / SPRINGFIELD / REHAB (2) USA / GASTON / INT MMC / REGIONAL / PS #2 CRESSWELL / CITY / SIP IMP / INT SHERIDAN / CITY / REHAB CORVALLIS / CITY / CSO CARLTON / CITY / II CORR ENTERPRISE / CITY / SIP IMP / II COR EAGLE PT / CITY / INT OKRIDGE / CITY / SIP IMP / REHAB LOWELL / CITY / SIP IMP / REHAB</p>	<p>USA / CEDAR MILL / INT USA / GASTON / INT CRESSWELL / CITY / SIP IMP / INT SHERIDAN / CITY / REHAB CORVALLIS / CITY / CSO ENTERPRISE / CITY / SIP IMP / II COR EAGLE PT / CITY / INT OKRIDGE / CITY / SIP IMP / REHAB / II CORR LOWELL / CITY / SIP IMP / REHAB / II CORR</p>
<p>OKRIDGE / CITY / II CORR ESTACADA / CITY / SIP IMP / II CORR K FALLS / REGIONAL / SIP EXP / II CORR LOWELL / CITY / II CORR GRANIS PASS / CITY / SIP IMP PHILOMATH / CITY / SIP IMP FLORENCE / CITY / SIP IMP / REHAB PORTLAND / CITY / SL GAS U / SL DISP</p>	<p>OKRIDGE / CITY / II CORR ESTACADA / CITY / SIP IMP / II CORR K FALLS / REGIONAL / SIP EXP / II CORR LOWELL / CITY / II CORR GRANIS PASS / CITY / SIP IMP PHILOMATH / CITY / SIP IMP FLORENCE / CITY / SIP IMP / REHAB PORTLAND / CITY / SL GAS U / SL DISP</p>	<p>OKRIDGE / CITY / II CORR ESTACADA / CITY / SIP IMP / II CORR K FALLS / REGIONAL / SIP EXP / II CORR LOWELL / CITY / II CORR GRANIS PASS / CITY / SIP IMP PHILOMATH / CITY / SIP IMP FLORENCE / CITY / SIP IMP / REHAB PORTLAND / CITY / SL GAS U / SL DISP</p>	<p>ESTACADA / CITY / SIP IMP / II CORR K FALLS / REGIONAL / SIP EXP / II CORR GRANIS PASS / CITY / SIP IMP PHILOMATH / CITY / SIP IMP FLORENCE / CITY / SIP IMP / REHAB USA / BANKS / INT OAKLAND / CITY / SIP IMP HERRARD / CITY / SIP IMP BROOKINGS / CITY / SIP IMP ST. HELENS / CITY / SIP IMP / II CORR</p>
<p>RAINIER / CITY / REHAB HEPNER / CITY / SIP IMP NEWPORT / CITY / SIP IMP / II CORR MODOC PT. / AREA / SYSTEM DUFUR / CITY / SIP IMP / II CORR JOSEPH / CITY / SIP IMP ONTARIO / CITY / SIP IMP THE DALLES / FOLEY LKS / INT FOSSIL / CITY / SIP IMP</p>	<p>RAINIER / CITY / REHAB HEPNER / CITY / SIP IMP NEWPORT / CITY / SIP IMP / II CORR MODOC PT. / AREA / SYSTEM DUFUR / CITY / SIP IMP / II CORR JOSEPH / CITY / SIP IMP ONTARIO / CITY / SIP IMP THE DALLES / FOLEY LKS / INT FOSSIL / CITY / SIP IMP</p>	<p>RAINIER / CITY / REHAB HEPNER / CITY / SIP IMP NEWPORT / CITY / SIP IMP / II CORR MODOC PT. / AREA / SYSTEM DUFUR / CITY / SIP IMP / II CORR JOSEPH / CITY / SIP IMP ONTARIO / CITY / SIP IMP THE DALLES / FOLEY LKS / INT FOSSIL / CITY / SIP IMP</p>	<p>RAINIER / CITY / REHAB HEPNER / CITY / SIP IMP NEWPORT / CITY / SIP IMP / II CORR MODOC PT. / AREA / SYSTEM DUFUR / CITY / SIP IMP / II CORR JOSEPH / CITY / SIP IMP ONTARIO / CITY / SIP IMP TRI-CITY CO / REGIONAL / SIP (3) / SIP (4) THE DALLES / FOLEY LKS / INT FOSSIL / CITY / SIP IMP</p>