

**10/15/1982**

**OREGON**

**ENVIRONMENTAL QUALITY**

**COMMISSION MEETING**

**MATERIALS**



State of Oregon  
**Department of  
Environmental  
Quality**

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OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

October 15, 1982

14th Floor Conference Room  
Department of Environmental Quality  
522 S. W. Fifth Avenue  
Portland, Oregon

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AGENDA

9:00 am CONSENT ITEMS

These routine items are usually acted on without public discussion. If any item is of special interest to the Commission or sufficient need for public comment is indicated, the Chairman may hold any item over for discussion.

APPROVED A. Minutes of August 27, 1982, EQC meeting; September 15 and October 5, 1982, conference call meetings.

APPROVED B. Monthly Activity Reports for July and August, 1982.

APPROVED C. Tax Credits.

9:05 am PUBLIC FORUM

This is an opportunity for citizens to speak to the Commission on environmental issues and concerns not a part of this scheduled meeting. The Commission may discontinue this forum after a reasonable time if an exceptionally large number of speakers wish to appear.

ACTION AND INFORMATION ITEMS

Public testimony will be accepted on the following except items for which a public hearing has previously been held. Testimony will not be taken on items marked with an asterisk (\*). However, the Commission may choose to question interested parties present at the meeting.

WITHDRAWN D. Mr. John Mullivan: Appeal of subsurface variance denial.

APPEAL DENIED E. Mr. Phil Youso and Mr. Robert Campbell: Appeal of subsurface variance denial.

APPEAL DENIED F. Mr. Dale Moore: Appeal of subsurface variance denial.

APPROVED G. Requests by Clatsop County and the cities of Cannon Beach and Seaside for extensions of variances from Rules Prohibiting Open Burning Dumps, OAR 340-61-040(2).

APPROVED w/ADDITIONAL LANGUAGE H. Request for variance by FMC Corporation, Portland, from OAR 340-22-170, surface coating in manufacturing, volatile organic compounds (VOC) emission limits.

APPROVED I. Request for variance from OAR 340-22-170(4)(a)(D), can (end) sealing compound VOC limit, for Carnation Can Company of Hillsboro.

(MORE)

- APPROVED J. Request for variance from OAR 340-21-015(2) (b) Visible Air Contaminant Limits, and OAR 340-21-030(2) (b) Particulate Emission Limits for the Champion International Corporation, Dee Hardboard Plant cyclones.
- APPROVED K. Approval of LRAPA kraft mill rule and LRAPA petition for transferring jurisdiction over kraft pulp mills in Lane County from DEQ to LRAPA.
- APPROVED L. Status report on Water Quality Stipulated Consent Orders and approval of revised order for:
  - City of Coquille
  - City of Cannon Beach
- PETITION M. Petition by Friends of the Earth to amend OAR 340-14-025(5).
- DENIED w/ADD. INSTRUCTION
- APPROVED \* N. Proposed adoption: Carbon monoxide control strategy for the Medford AQMA as a revision to the State Implementation Plan.
- APPROVED \* O. Proposed adoption: Revisions to the emission standards for hazardous air contaminants OAR 340-25-450 to 480 to make the Department's rules pertaining to control of asbestos and mercury consistent with the federal rules; and to amend standards of performance for new stationary sources OAR 340-25-505 to 645 to include the federal rule for new phosphate rock plants; and to amend the State Implementation Plan.
- APPROVED \* P. *Mission* Proposed adoption of amendment to on-site sewage disposal rules, as applied to the Clatsop Plains (a continuation of proposed action presented to the Commission on August 27, 1982, as Agenda Item O).
- APPROVED Q. City of Portland bond purchase agreement -- Concurrence in update of technical provisions.
- APPROVED R. Request from Roy H. Berg for alternative form of security for construction of sewerage facility for houseboat moorage.
- ACCEPTED S. Eligibility of land for bond fund loans.
- APPROVED T. Proposal to adopt a temporary rule to amend OAR 340-81-035(6) regarding bond fund debt retirement schedules.

WORK SESSION:

The Commission reserves this time, if needed, for further consideration of any item on the agenda.

Because of the uncertain length of time needed, the Commission may deal with any item at any time in the meeting except those set for a specific time. Anyone wishing to be heard on any item not having a set time should arrive at 9:00 am to avoid missing any item of interest.

The Commission will breakfast (7:30 am) at the Portland Motor Hotel, 1414 S. W. Sixth Avenue, Portland; and will lunch at 11170 S. W. Fifth Avenue, Beaverton.

OREGON ENVIRONMENTAL QUALITY COMMISSION

October 15, 1982

BREAKFAST AGENDA

1. Field burning season wrap-up O'Connell
2. Recycling legislative concepts Bree/Brown
3. Last-minute staff reports: Young/Sawyer  
"Eligibility of land for bond fund loans"; and  
"Proposal to adopt a temporary rule to  
amend OAR 340-81-035(6) regarding bond  
fund debt retirement schedules."
4. Job Climate Task Force letter Biles

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

TO: Environmental Quality Commission

DATE: October 12, 1982

FROM: Director

SUBJECT: Recycling Legislative Concepts

During the last EQC meeting, several concepts for recycling legislation were presented to the Commission. Staff were asked to return with one or two simplified versions for discussion. Attached are two concepts, both mandating some level of source separation activity.

Concept #1 ties source separation programs to local solid waste management plans which are required by amendments to ORS 459 and 468 by SB 925 (1979 Legislature). While this concept would not mandate statewide recycling, it would include the major population center (Portland metro). If successful in the metro area, future legislative sessions could expand the coverage. Some provision for variance in rural areas siting a landfill in EFU or receiving state aid would be necessary.

Concept #2 is broader in coverage. There are presently 38 landfills in the state that serve over 10,000 persons. Almost all of western Oregon and major population areas in eastern Oregon would be affected. This would put the policing of the programs on the landfill operators and the collectors using those sites. In the past, that concept has been opposed by industry.

The two concepts were presented to the Solid Waste Task Force on Rules and Program Direction on October 12th. The consensus of the task force was that any legislation mandating recycling would be hard to pass but, if a choice were to be made by the task force, it would be Concept #1.

The task force and audience also discussed the concept of limiting flow control to not affect recycling. Louisiana legislation and SB 479 (ORS 459.153) regarding Marion County flow control were cited as examples. Committee members also felt that the EQC may already have the authority under ORS 459.045(2) and 459.015(9) and (10) to require source separation and legislation might not be necessary.

SC730

REVISED RECYCLING LEGISLATIVE CONCEPTS

Legislative Concept #1 -- Source separation required  
as a part of all waste reduction programs

All waste reduction programs required under ORS 459.047 through 459.075 or ORS 468.220 shall include ~~a curbside collection program~~ for source-separated recyclable materials.

Waste reduction programs which were accepted by DEQ before the effective date of this act shall be amended to include this requirement before July 1, 1985.

*eliminate curbside collection*

Legislative Concept #2 -- Restrict the type of solid waste  
received at facilities which serve over 10,000 people

ORS 459.205

After July 1, 1984, the Department shall not issue or renew a solid waste disposal permit for any facility which serves a population of over 10,000 unless the facility restricts the receiving of solid waste to only material which has been processed by source separation to cause the removal of recyclable materials to a level acceptable to both State and local requirements. The Department shall amend the permits of all sites with expiration dates later than July 1, 1986, to include this condition effective July 1, 1986.

October 15, 1982

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Dear Mr. #E:

This June, several organizations concerned with Oregon's present economic situation presented to the Governor their recommendations designed to strengthen Oregon's ability to maintain and attract a healthy industrial community. The organizations participating in the Oregon Job Climate Report included Associated Oregon Industries, Associated General Contractors, Oregon State Home Builders Association, the Portland Chamber of Commerce and others. The report represents a serious and thoughtful analysis of Oregon's economic conditions, and offers many reasonable recommendations for improvement.

Several of the recommendations dealt with the environmental protection laws and regulations of our state, as administered by the Department of Environmental Quality. The report and our comments on the recommendations are attached. However, we would like to highlight one specific area where we and the Task Force are in total agreement, an area which we believe is a serious public concern to our state.

The Task Force recommended that the Governor discuss with the Department and Commission our specific plans to reduce air pollution emissions from non-traditional (population-related) sources of emissions. These people-related sources of pollution--wood heating, backyard burning, and automobile emissions--are the most difficult air pollution problems to solve.

For the past 20 years, the enthusiasm for air quality has been focused on industrial smokestacks. The industries and taxpayers of Oregon have dedicated many years of work and millions of dollars in purchasing thousands of pieces of pollution control equipment. This effort of the 1960's and 1970's produced recognizable benefits as black sooty smoke plumes were eliminated from the skylines of our cities. But this benefit in air quality is being quickly eroded by the rapid growth in people-related sources of air pollution--mostly from woodstoves and fireplaces.

#A  
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A once negligible and unmeasurable portion of urban air pollution, wood heating now accounts for up to 16% of the fine particulate emissions in the Portland airshed. In Medford and Ashland, up to 66% of the wintertime fine particulates pollution is wood heating. Other urban cities are also noticing the winter smoky haze--a haze which can mean unhealthful concentrations of particulates.

For several years we have directed special attention to area-wide pollution sources including an extensive statewide public information campaign regarding wood heating emissions and correct woodstove use, and a motor vehicle inspection and maintenance program for the Portland/Metropolitan area. These activities are a shift from previous pollution abatement strategies which were directed at industrial sources. Our success at convincing policy leaders and the public of the serious pollution problems caused by individual actions has not been outstanding. We remain concerned that air quality in Oregon will suffer serious degradation without proper attention to these areawide pollution sources. We are eager to discuss our concerns with you and will be calling in the next few weeks to schedule a time to meet with you and discuss this matter.

Joe B. Richards  
Chairman  
Environmental Quality Commission

Mary V. Bishop  
Member  
Environmental Quality Commission

Fred J. Burgess  
Vice Chairman  
Environmental Quality Commission

Wallace B. Brill  
Member  
Environmental Quality Commission

James E. Petersen  
Member  
Environmental Quality Commission

JAG:k  
FK1269  
Enclosures  
cc: Governor's Office  
Legislative Assembly  
Task Force Members



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THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED FORTY-THIRD MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

October 15, 1982

On Friday, October 15, 1982, the one hundred forty-third meeting of the Oregon Environmental Quality Commission convened at the Department of Environmental Quality, Portland, Oregon. Present were Commission members Mr. Joe B. Richards, Chairman; Mr. Fred J. Burgess; Mr. James Petersen, Mr. Wallace B. Brill; and Mrs. Mary V. Bishop. 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 S.W. 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. Commissioners Richards, Petersen, Brill, Burgess and Bishop were present, as were several members of the Department staff.

The following items were discussed:

1. Field Burning Season Wrap-up: Sean O'Connell, Field Burning Manager, reviewed the field burning season for the Commission.
2. Recycling Legislative Concepts: Bob Brown, Solid Waste Division, provided a handout and reviewed it for the Commission, and Bill Bree, Recycling, responded to questions. Roger Emmons, Oregon Sanitary Service Institute, commented on the proposals. Chairman Richards commented that he favored source separation, and the Commission seemed generally to favor Concept #1.
3. Two recent additions to the agenda were discussed, and the staff reports were distributed to the Commission at the beginning of the formal meeting.
4. Job Climate Task Force Letter: Stan Biles, Assistant to the Director, reviewed the draft letter with the Commission.

FORMAL MEETING

Commissioners Richards, Petersen, Burgess, and Bishop were present for the formal meeting. Commissioner Brill was temporarily absent.

AGENDA ITEM A: MINUTES OF THE AUGUST 27, 1982 MEETING.

It was MOVED by Commissioner Petersen, seconded by Commissioner Bishop, and carried unanimously that the Minutes be approved as submitted. Commissioner Brill was temporarily absent.

AGENDA ITEM B: MONTHLY ACTIVITY REPORT FOR JULY AND AUGUST, 1982.

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop, and passed unanimously that the Director's Recommendations be approved. Commissioner Brill was present but abstained.

AGENDA ITEM C: TAX CREDITS.

Joe Smith, ESCO Corporation Manager of Environmental Services, answered some questions from the Commission regarding his company's claim of constructive notice for certain projects claimed for tax credit.

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop, and passed that the Director's Recommendation be approved. Commissioner Petersen voted no.

PUBLIC FORUM: No one chose to appear.

AGENDA ITEM D: MR JOHN MULLIVAN - APPEAL OF SUBSURFACE VARIANCE DENIAL.

This item was withdrawn at the request of the appellant.

AGENDA ITEM E: MR. PHIL YOUSO AND MR. ROBERT CAMPBELL - APPEAL OF SUBSURFACE VARIANCE DENIAL.

Mr. Youso and Mr. Campbell appealed the decision of Mr. Sherman Olson, a Department Variance Officer, to deny their request for variance from the On-Site Sewage Disposal Rules.

Robert Campbell, appellant, spoke to the Commission in some detail regarding his appeal in this case.

Stanley Petrasek, Lane County Planning and Community Development Department, also spoke before the Commission.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission adopt the findings of the variance officer as the Commission's findings and uphold the decision to deny the variance.

It was MOVED by Commissioner Bishop, seconded by Commissioner Petersen, and passed that the Director's Recommendation be approved. Commissioners Brill and Burgess voted no.

AGENDA ITEM F: MR. DALE MOORE - APPEAL OF SUBSURFACE VARIANCE DENIAL.

Mr. Dale Moore appealed the decision of Mr. Sherman Olson, a Department Variance Officer, to deny his request for variance from the On-Site Sewage Disposal Rules.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission adopt the findings of the variance officer as the Commission's findings and uphold the decision to deny the variance.

Steve Wilson, Cascade Earth Sciences, Ltd., spoke on behalf of Dale Moore and disputed several claims made by the Variance Officer.

It was MOVED by Commissioner Brill, seconded by Commissioner Burgess, and passed that the Director's Recommendation be approved. Commissioner Richards voted no.

AGENDA ITEM G: REQUESTS BY CLATSOP COUNTY, CANNON BEACH SANITARY SERVICE AND SEASIDE SANITARY SERVICE FOR EXTENSIONS OF VARIANCES FROM RULES PROHIBITING OPEN-BURNING DUMPS. OAR 340-61-040(2).

A series of variances have been granted to solid waste disposal sites at Cannon Beach, Elsie and Seaside in Clatsop County to allow continued open burning of refuse. The most recent variances were granted in October 1981 and will expire on November 1, 1982. The disposal sites cannot be operated in compliance with the Department's rules and there is currently no alternative disposal site available. Accordingly, the operators (Clatsop County, Cannon Beach Sanitary Service, and Seaside Sanitary Service) have requested another extension of the variance.

Director's Recommendation

Based upon 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, 1983, to Clatsop County, Cannon Beach Sanitary Service and Seaside Sanitary Service, subject to the following conditions.

1. The county continues to actively pursue a regional landfill site and supplies the Department with a progress report and time schedule for siting a regional landfill by December 15, 1982.
2. The county investigates the feasibility of converting the Elsie Disposal Site to a transfer station.

Roger Emmons, Director of the Oregon Sanitary Services Institute, addressed the Commission on this matter.

It was MOVED by Commissioner Burgess, seconded by Commissioner Brill, and passed unanimously that the Director's Recommendation be approved.

AGENDA ITEM P: PROPOSED ADOPTION OF AMENDMENT TO ON-SITE SEWAGE DISPOSAL RULES, AS APPLIED TO THE CLATSOP PLAINS (A CONTINUATION OF A PROPOSED ACTION PRESENTED TO THE COMMISSION ON AUGUST 27, 1982, AS AGENDA ITEM O).

At the August 27 meeting, staff presented the Commission with a report that addressed a groundwater protection plan for the Clatsop Plains. The plan included proposed amendments to the On-Site Sewage Disposal Rules that would allow installation of on-site systems within the Clatsop Plains. During discussion, an issue was raised with respect to developments and clustered lot subdivisions. The Commission decided to further consider this issue at the next scheduled meeting and asked staff to return with specific rule language.

#### Director's Recommendation

Based upon the Summation, it is recommended the Commission adopt the proposed amendment to the On-Site Sewage Disposal Rules, OAR 340-71-400(5), as set forth in Attachment "A".

It was MOVED by Commissioner Burgess, seconded by Commissioner Petersen, and passed unanimously that the Director's Recommendation be approved.

AGENDA ITEM H: REQUEST FOR A VARIANCE BY FMC CORPORATION, PORTLAND, FROM OAR 340-22-170, SURFACE COATING IN MANUFACTURING, VOLATILE ORGANIC COMPOUND (VOC) EMISSION LIMITS.

In September 1980, the EQC adopted VOC regulations which required surface coating operations to meet specific emission limits by December 31, 1982.

FMC Corporation, which is a major rail car manufacturing facility located in Portland, has advised the Department that, in spite of efforts to comply, it has been unable to develop the coating which would both comply with the new emission limits and also meet the industry requirements. The Company has therefore requested a variance until December 31, 1986.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission grant a variance with the following conditions:

1. FMC Corporation shall proceed to control the emissions from the painting facility in accordance with the schedules cited in Summation Item No. 4.
2. Should compliance coatings and the necessary process equipment become available at an earlier date, FMC shall implement the use of compliance coatings and process equipment at the earliest possible date.
3. By January 1 of each year during the period of the variance, FMC shall submit a written progress report summarizing the previous 12 months' efforts in the coating development program and new compliance coating facility.
4. The variance shall terminate December 31, 1986.
5. The variance may be terminated by written notice from the Department that it has made a finding that the company has failed to make reasonable progress towards complying with the schedule increments and attainment of final compliance.

It was MOVED by Commissioner Burgess, seconded by Commissioner Petersen, and passed unanimously that the Director's Recommendation be approved with the following added language:

"5. Subject to an opportunity for hearing before the Commission, the variance may be..."

[underlined language to be added]

AGENDA ITEM I: REQUEST FOR A VARIANCE FROM OAR 340-22-170(4)(a)(D) CAN END-SEALING COMPOUND VOC LIMIT, FOR CARNATION COMPANY OF HILLSBORO.

The Carnation Company, Can Division, of Hillsboro is asking the Commission for a three-year variance from an OAR. They are within 3.9 tons/yr of being in compliance, so the variance will have almost no effect on the airshed's ozone attainment strategy.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission grant a variance to Carnation Company, Can Division, Hillsboro plant, from OAR 340-22-170(a)(D), VOC limitation in end-sealing compound, until a satisfactory compound is available which will meet the rule but not to exceed December 31, 1985 and require Carnation to submit an annual report detailing progress made toward meeting compliance.

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

AGENDA ITEM J: REQUEST FOR A VARIANCE FROM OAR 340-21-015(2) (b) VISIBLE AIR CONTAMINANT LIMITS AND OAR 340-21-030(2) PARTICULATE EMISSION LIMITS FOR THE CHAMPION INTERNATIONAL CORPORATION, DEE HARDBOARD PLANT CYCLONES.

OAR 340-21-015(2) (b) and 340-21-030(2) limit visible emissions and concentration of particulate matter from certain sources. As the result of changing manufacturing equipment from a knife planer to an abrasive planer, the waste material transfer cyclones have been unable to continuously comply with the visible emission standards.

The company has requested a variance from both the visible and concentration standard until January, 1984, when an emission control system will be operating. The company cites the negative cash flow corporation-wide and from this particular facility caused by the depressed wood products market as justification for the request.

Based on the submitted facts and existing wood products market conditions, the Department is recommending the Commission grant the variance and adopt the proposed compliance schedule.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission grant a variance from OAR 340-21-015(2) (b) and OAR 340-21-030(2) until January 1, 1984 for the four cyclones at the Champion International hardboard facility at Dee, Oregon, subject to the following conditions:

1. Achieve compliance by meeting the following increments of progress:
  - a. By no later than January 1, 1983, the permittee shall submit a Notice of Construction, including plans and specifications, to the Department for review.
  - b. By no later than July 1, 1983, the permittee shall issue purchase orders for major work and components.
  - c. By no later than August 1, 1983, the permittee shall begin construction.
  - d. By no later than December 1, 1983, the permittee shall complete construction.
  - e. By no later than January 1, 1984, the permittee shall demonstrate compliance.



2. If the Department determines that the cyclone emissions cause a nuisance to persons or property, this variance may be revised or revoked.

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

AGENDA ITEM K: APPROVAL OF LRAPA KRAFT MILL RULE AND LRAPA PETITION FOR TRANSFERRING JURISDICTION OVER KRAFT PULP MILLS IN LANE COUNTY FROM DEQ TO LRAPA.

Lane Regional Air Pollution Authority has petitioned the Commission for jurisdiction over kraft pulp mills in Lane County. LRAPA also recently adopted a rule, identical to the Department's, regulating air contaminants emitted from existing kraft pulp mills. This rule has also been sent to the Commission for approval.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the LRAPA kraft mill rule 33-070 be approved and that the petition be granted to transfer jurisdiction for air pollution control of kraft pulp mills in Lane County from the EQC to LRAPA; and that LRAPA rules for kraft pulp mills be submitted to EPA as a SIP revision with a request to delegate the program for this source class in Lane County to LRAPA.

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

AGENDA ITEM L: STATUS REPORT ON WATER QUALITY STIPULATED CONSENT ORDERS AND APPROVAL OF REVISED ORDERS FOR THE FOLLOWING:  
(A) CITY OF COQUILLE (WATER FILTRATION PLANT)  
(B) CITY OF CANNON BEACH (SEWAGE TREATMENT PLANT).

At the July EQC meeting, the staff gave status report on the outstanding water quality stipulated consent orders. This is a followup to that report. The stipulated orders for Cannon Beach and Coquille have been revised and are ready for Commission approval. Others are still being negotiated. For example, the City of Happy Valley has directed their engineer to prepare a work plan for defining and correcting their problems. The work plan is to be submitted to the City at its November 1, 1982, meeting. As soon as that work plan is adopted, a new stipulated order can be prepared for Happy Valley.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission approve revised stipulated consent orders for Coquille and Cannon Beach, provided they have been accepted by the cities prior to the Commission meeting.

It was MOVED by Commissioner Burgess, seconded by Commissioner Brill, and passed unanimously that the Director's Recommendation be approved.

AGENDA ITEM M: PETITION TO AMEND OAR 340-14-025(5).

Friends of the Earth has filed a Petition to Amend our Administrative Rules to allow any person dissatisfied with the terms of a permit issued by the Department to obtain a hearing before the Commission.

The Commission must act either by denying the request or by initiating formal rulemaking proceedings.

Director's Recommendation

We recommend that the rule not be changed as proposed.

Steven Karloff, Friends of the Earth/Oregon, spoke to the Commission in favor of the petition.

John Charles, Oregon Environmental Council, requested added language of "affected or aggrieved" parties to be added to the rule change being requested.

Llewellyn Matthews, Northwest Pulp & Paper Association, also spoke to the Commission on the matter.

It was MOVED by Commissioner Burgess, seconded by Commissioner Brill, and passed unanimously that the Director's Recommendation be approved with the added request to staff to research whether any process can be developed which would improve the process without a significant adverse impact on any applicant.

AGENDA ITEM N: PROPOSED ADOPTION OF THE CARBON MONOXIDE CONTROL STRATEGY FOR THE MEDFORD-ASHLAND AQMA AS A REVISION TO THE STATE IMPLEMENTATION PLAN.

This item concerns adoption of the carbon monoxide control strategy for the Medford area. A strategy to bring the Medford area into attainment with the carbon monoxide standard by 1987 has been developed and adopted by Jackson County and the City of Medford. Five persons gave verbal testimony at the DEQ public hearing. Two supported the plan in its proposed form, two recommended changes in the plan, and one was opposed in general to the plan. Adoption of this strategy by the Commission would revise the State Implementation Plan and avoid potential federal economic sanctions.

Director's Recommendation

Based on the Summation, the Director recommends that the EQC adopt the carbon monoxide attainment strategy for the Medford-Ashland AQMA and direct the Department to forward it to EPA as a revision of the State Implementation Plan.

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

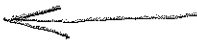
AGENDA ITEM O: PROPOSED ADOPTION OF REVISIONS TO THE EMISSION STANDARDS FOR HAZARDOUS AIR CONTAMINANTS, OAR 340-25-0450 TO 480, TO MAKE THE DEPARTMENT'S RULES PERTAINING TO CONTROL OF ASBESTOS AND MERCURY CONSISTENT WITH THE FEDERAL RULES; AND TO AMEND STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES, OAR 340-25-505 TO 645, TO INCLUDE THE FEDERAL RULE FOR NEW PHOSPHATE ROCK PLANTS; AND TO AMEND THE STATE IMPLEMENTATION PLAN.

The proposed rule changes would:

1. Amend hazardous air contaminants rules to bring them up to date with federal rule changes since 1975.
2. Make asbestos rule more stringent in several places to make it more enforceable.
3. Amend standards of performance for new stationary sources to bring them up to date with federal rule changes made since October 8, 1980.

Director's Recommendation

It is recommended that the Commission adopt the attached amendments to OAR 340-25-450 to 25-700, rules on Hazardous Air Contaminants and Standards of Performance for New Stationary Sources, and to direct the Department to transmit the amended rules to EPA as amendments to the State Implementation Plan, seeking delegation from EPA for administering state rules comparable to federal rules.

It was MOVED by Commissioner Bishop, seconded by Commissioner Burgess, and carried unanimously that the Director's Recommendation be approved, including an instruction to staff to determine if there are any users of beryllium in the state of Oregon. 

AGENDA ITEM Q: CITY OF PORTLAND BOND PURCHASE AGREEMENT--CONCURRENCE IN UPDATE OF TECHNICAL PROVISIONS.

The Bond Purchase Agreement for the City of Portland \$5 million revenue bond issue has been before the EQC on two previous occasions. Since it was initially signed, the EQC has approved modified language for provisions regarding debt security.

As a result of further studies by the City, project technical details have been changed although objectives remain the same.

The agreement has been updated to reflect these changes. Bond counsel has reviewed the revised agreement and rendered his opinion that the changes do not diminish the state's security for repayment of the bonds.

The Department recommended that the Commission concur in the updated agreement.

Director's Recommendation

It is recommended that the Commission concur in the attached updated Bond Purchase Agreement for the City of Portland.

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

AGENDA ITEM R: REQUEST FROM ROY H. BERG FOR ALTERNATIVE FORM OF SECURITY FOR CONSTRUCTION OF SEWERAGE FACILITY FOR HOUSEBOAT MOORAGE.

Some of the smaller developers are finding it impossible to acquire perpetual surety bonds for their private sewerage systems. If they cannot secure a perpetual bond or do not have the available cash to provide an equivalent savings account, they are unable to build their sewerage system, even to correct existing problems.

Mr. Berg is unable to get a perpetual bond but is willing to put up the cash deposit if it can be reduced to \$5,000. Since it is for a subsurface system, we can agree to reducing it to that amount.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission approve Mr. Berg's request and allow him to provide a \$5,000 insured savings account or equivalent, assigned to the Department in lieu of the \$10,000 security.

It was MOVED by Commissioner Burgess, seconded by Commissioner Brill, and passed unanimously that the Director's Recommendation be approved.

AGENDA ITEM S: ELIGIBILITY OF LAND FOR BOND FUND LOANS.

This is an informational item which responds to commissioner Peterson's request at the last regular meeting for some additional information regarding the eligibility of land for federal grants.

The report was accepted by the Commission.

AGENDA ITEM T: PROPOSAL TO ADOPT A TEMPORARY RULE TO AMEND OAR 340-81-035(6) REGARDING BOND FUND DEBT RETIREMENT SCHEDULES

The Department has been authorized by the Emergency Board to loan from the Pollution control Bond Fund to the City of Gresham and the Multnomah County Central County Service District to fund construction of sewers in the East Burnside Light Rail Corridor.

The Department's legal counsel has advised that a provision of existing Department rule which is more restrictive than statute appears to prohibit the loan under terms approved by the Emergency Board.

This item proposes a temporary rule to correct the problem so that a loan can be made prior to November 2, 1982.

The Department is in the process of rewriting the rules relating to pollution control bonds and will be before the Commission for hearing authorization within the next few months.

Director's Recommendation

Based on the findings in the Summation, the Director recommends that the Commission adopt the following revision to OAR 340-81-035(6) to be effective for 180 days after adoption:

"(6) The loan or bond retirement schedule of the agency must retire its debt obligation to the state at least as rapidly as the state bonds from which the loan funds are derived are scheduled to be retired; except that [when a dept requirement schedule longer than the state's bond repayment schedule is legally required,] special debt service requirements on the agency's loan [will] may be established by the Department[.] when (a) a debt retirement schedule longer than the state's bond repayment schedule is legally required, or (b) other special circumstances are present."

It was MOVED by Commissioner Burgess, seconded by Commissioner Brill, and passed unanimously that the Director's Recommendation be approved.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Jan Shaw  
EQC Assistant

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED FORTY--SECOND MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

August 27, 1982

On Friday, August 27, 1982, the one hundred forty-second meeting of the Oregon Environmental Quality Commission convened at the Department of Environmental Quality, Portland, Oregon. Present were Commission members Mr. Joe B. Richards, Chairman; Mr. Fred J. Burgess; Mr. James Petersen, Mr. Wallace B. Brill; and Mrs. Mary V. Bishop. 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 S.W. 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. Commissioners Richards, Petersen, Brill, Burgess and Bishop were present, as were several members of the Department staff.

The following items were discussed:

1. Response to Job Climate Task Force: Stan Biles, Assistant to the Director, reviewed for the Commission a draft letter he had prepared to be sent to legislators, editorial boards, and other community members in response to recommendations contained in the recent "Job Climate Task Force Report." Some minor changes in language were suggested.
2. Tax Credit Questions: Robb Haskins, Assistant Attorney General, reported that he hadn't completed his research on the questions put to him by the Department and asked for some additional time to finish his report.
3. Dan Saltzman, staff aide to Congressman Ron Wyden, spoke to the Commission members regarding Mr. Wyden's activities in connection with potential amendments to the Clean Air Act.

FORMAL MEETING

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

AGENDA ITEM A: MINUTES OF THE JULY 16, 1982 MEETING

It was MOVED by Commissioner Bishop, seconded by Commissioner Brill, and carried unanimously that the Minutes be approved as submitted.

AGENDA ITEM B: MONTHLY ACTIVITY REPORT FOR JUNE, 1982

It was MOVED by Commissioner Bishop, seconded by Commissioner Burgess, and passed unanimously that the Director's Recommendations be approved.

AGENDA ITEM C: TAX CREDITS

It was MOVED by Commissioner Burgess, seconded by Commissioner Brill, and passed unanimously that the Director's Recommendation be approved.

PUBLIC FORUM: No one chose to appear.

AGENDA ITEM D: REQUEST FOR AUTHORIZATION TO HOLD A PUBLIC HEARING ON REVISIONS TO THE EMISSION STANDARDS FOR HAZARDOUS AIR CONTAMINANTS (OAR 340-20-450 to 480) TO MAKE THE DEPARTMENT'S RULES PERTAINING TO CONTROL OF ASBESTOS AND MERCURY CONSISTENT WITH THE FEDERAL RULES; AND TO AMEND STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES (OAR 340-25-505 to 645) TO INCLUDE THE FEDERAL RULE FOR NEW PHOSPHATE ROCK PLANTS; AND TO AMEND THE STATE IMPLEMENTATION PLAN.

The Department proposes to bring its hazardous air contaminants and new source rules (NESHAPS and NSPS) up to date with EPA's. The Department found some deficiencies with the Federal NESHAPS asbestos rules, so some additions are proposed.

Director's Recommendation

It is recommended that the Commission authorize the Department to hold a hearing to consider the attached amendments to OAR 340-25-450 to 35-700, rules on Hazardous Air Contaminants and Standards of Performance for New Stationary Sources, and to consider those rule changes as amendments to the State Implementation Plan.

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

AGENDA ITEM E: MR. JOHN MULLIVAN -- APPEAL OF SUBSURFACE VARIANCE DENIAL

Mr. Mullivan appealed a variance officer's decision that his property is unsuitable for placement of an on-site sewage disposal system. The matter was originally scheduled for Commission review at the July 16, 1982, EQC meeting but was rescheduled for the August 27 meeting at the request of Mr. Mullivan's attorney, Mr. Mark P. O'Donnell. Mr. O'Donnell's office again asked the Commission to set over this item to the October 15 meeting.

It was MOVED by Commissioner Petersen, seconded by Commissioner Bishop, and passed unanimously that this matter be set over to the next regular EQC meeting on October 15, 1982.

AGENDA ITEM F: REQUEST FOR A VARIANCE FROM NOISE CONTROL REGULATIONS FOR INDUSTRY AND COMMERCE, OAR 340-35-035, FOR MEDFORD CORPORATION, ROGUE RIVER DIVISION.

Medford Corporation has requested a variance from the noise standards for its Rogue River veneer mill. Currently, the mill exceeds daytime and nighttime standards. Medco has agreed to install controls that should meet the daytime standards by July, 1983. The Department recommended granting a variance until controls are added and an evaluation of the feasibility of additional controls is conducted. Thus, the recommended variance would expire on December 31, 1983.

Director's Recommendation

Based upon the summation, it is recommended that the Medford Corporation, Rogue River Division, be granted a variance from strict compliance with the noise emission standards of OAR 340-35-035 Table 7. This variance shall be subject to the following conditions.

1. Engineering plans for proposed noise controls shall be submitted to the Department by November 1, 1982.
2. Proposed noise controls on the cutoff saw, log kickers, bark hammer hog and block chipper shall be installed by July 1, 1983.
3. A report evaluating the effectiveness of the control measures and, if necessary, proposing additional controls toward strict compliance, shall be submitted to the Department by September 1, 1983.
4. This variance shall expire on December 31, 1983 at which time, if necessary, an extension of this variance may be requested.

Lynn Newbry, Vice President of Medco, reported candidly that it was possible the company could not meet the Department's noise standards and might need to request an additional extension of time, particularly for the nighttime standards.

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



AGENDA ITEM G: PROPOSED ADOPTION OF A TEMPORARY REVISION OF ADMINISTRATIVE  
RULE 340-81-020 REGARDING THE ELIGIBILITY OF LAND COSTS  
USED IN PROVIDING STATE FINANCIAL ASSISTANCE TO PUBLIC  
AGENCIES FOR POLLUTION CONTROL FACILITIES (POLLUTION  
CONTROL BOND FUND)

This temporary rule revision would allow the proceeds of Pollution Control Bond Fund sales to be used for the purchase of land necessary for the construction of sewage facilities. Since 1971 when the program was established, land acquisition has been ineligible primarily because the Bond Fund was used almost exclusively to fund the local share of EPA grant-funded projects. Prior to 1977, land costs were not eligible for federal grants. In 1977, the federal law was modified to allow federal funding of some land costs. More importantly, we are seeing a growing demand for the use of the Pollution Control Bond fund for locally funded sewage projects.

Since the original reasons for land not being eligible are no longer applicable and since land costs are an integral part of a community's capital improvement strategy, it seems appropriate to make this rule revision. Failure to make the revision will adversely affect a number of communities that are currently seeking Bond Fund assistance.

A comprehensive update of the administrative rules governing use of the Pollution control Bond Fund is proposed prior to expiration of this temporary rule.

Director's Recommendation

Based on the findings in summation, the Director recommends that the Commission adopt a temporary revision to OAR 340-81-020 which will provide that costs related to land acquisition are eligible for state financial assistance. The temporary rule will be effective for 180 days after its adoption.

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

AGENDA ITEM H: REQUEST FOR DECLARATORY RULING AS TO THE APPLICABILITY  
OF OAR 340-61-031 TO THE APPLICATION OF THE METROPOLITAN  
SERVICE DISTRICT FOR PRELIMINARY APPROVAL OF A SOLID WASTE  
DISPOSAL SITE KNOWN AS WILDWOOD LANDFILL IN MULTNOMAH  
COUNTY.

The Commission was asked to accept for declaratory ruling the question of how our rule on preliminary approvals to applicants for solid waste disposal permits applies to proposed Wildwood Landfill site in northwest Portland. The site is one being considered for development by the Metropolitan Service District.

The applicant alternatively asked the Commission to direct the Department to inform Multnomah County officials that the preliminary approval we issued does not apply to a design concept being considered for land use approval by the County.

Director's Recommendation

Based upon the summation, it is recommended that the Environmental Quality Commission not issue a declaratory ruling in this matter.

James Finn, West Hill & Island Neighbors, Inc., appeared before the Commission to speak in support of the declaratory ruling.

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

AGENDA ITEM I: POLLUTION CONTROL BONDS SALE--REQUEST FOR APPROVAL OF RESOLUTION AUTHORIZING ISSUANCE OF POLLUTION CONTROL BONDS IN THE AMOUNT OF \$15 MILLION.

Director's Recommendation

The Director recommends that the Commission adopt the Resolution in Attachment 2 of the staff report amended to authorize the issuance of \$27.5 million in State of Oregon Pollution Control Bonds, Series 1982.

Dave Abraham, Clackamas County Utilities Director, offered support of the Director's Recommendation.

Bill Pye, MWMC, reported that the Metropolitan Wastewater District met recently and approved a \$12.5 million sale of bonds to DEQ, and for that reason they wish to support the program. However, MWMC has requested a delay which could probably be worked out at the staff level without impacting the EQC's decision today. On September 2, a formal answer will come from MWMC with respect to their not accepting the offer of \$5 million at 7-1/2% which has been offered by DEQ. That commission will probably request the full \$12.5 million, and he suggested that this matter be kept open in its current status until that date.

It was MOVED by Commissioner Burgess, seconded by Commissioner Brill, and passed unanimously that the Director's Recommendation be approved with the following language change:

"...issuance of up to \$27.5 million..."

[underlined language is added]

AGENDA ITEM J: STATUS REPORT - PORTLAND AREA BACKYARD BURNING

Legislation prohibiting the EQC from banning backyard burning has expired, and another backyard burning season begins in the Portland area on

October 1. This is a status report on the Department's backyard burning program and METRO's activities to develop alternative disposal methods and what alternative actions the EQC might take on this issue in the future. At this time, no action by the Commission is recommended.

#### Director's Recommendation

It is recommended that the EQC take no action on the Portland backyard burning issue at this time. It is recommended that the EQC direct the Department to fully evaluate the METRO yard debris demonstration project report when it is completed and further evaluate the most promising alternative actions the EQC could take in the future. A recommendation should be presented to the EQC as soon as practicable on which alternative would appear to be the best choice to follow.

The following people spoke to the Commission on this subject:

Daniel Ferguson, Waste By-Products.

T. Dan Bracken, Portland Air Quality Advisory Committee.

Maureen McFarlane, McFarlane's Bark, Inc., Clackamas.

It was MOVED by Commissioner Burgess, seconded by Commissioner Brill, and passed unanimously that the Director's Recommendation be approved. The report was accepted with the comment that a great deal of progress had been made in this area.

#### AGENDA ITEM K: PUBLIC MEETING: OREGON'S HAZARDOUS SUBSTANCES RESPONSE PLAN.

To implement Superfund, EPA provided the states with their "Guidance for Establishing the National Priorities List" on July 13, 1982. Within that guidance, a fairly tight time schedule was outlined for the states to identify those uncontrolled hazardous waste facilities which appear to warrant remedial action.

The National Priorities List, scheduled for release in October of '82, will be comprised of the top 400 scored facilities that the states or EPA have identified as appearing to warrant remedial action. To ensure consistency between states, EPA developed the National Hazard Ranking System to be used by all states to score the facilities. Placement on the National Priority List does not necessarily mean a facility will receive Superfund monies for remedial action. Such a determination will only be made if remedial action is not taken by a responsible party, enforcement measures fail to require a responsible party to take action, and/or a responsible party cannot be identified.

Over the last 2-1/2 years, DEQ and EPA Region X have investigated 108 sites and concluded in most cases that no existing or potential health hazards or environmental threats from past disposal practices exist. From those cases, 8 sites were ranked using the National Hazard Ranking System. Four of the sites were ranked at EPA's request, three were ranked because we perceive them as having the highest potential for some type of cleanup action, and Alkali Lake was ranked because of continued interest in the site.

In consideration of the objective of the National Priorities List, to identify for the states and the public those facilities which appear to warrant remedial actions, I am recommending that Rhone-Poulenc, Gould, Allied Plating, and, at EPA's request, Umatilla Army Depot be submitted for National Priority List consideration.

We intend to continue to work with EPA on the uncontrolled site program and to continue to pursue implementation of all facets of Superfund as they may positively benefit Oregon's environment.

Director's Recommendation

Based upon the Evaluation and Conclusions, it is recommended that the Commission concur with the Director's decision to submit a letter as outlined in option 3 of the Conclusions.

Richard Reiter, DEQ Hazardous Waste, outlined some recent changes in EPA's guidance.

It was MOVED by Commissioner Burgess, seconded by Commissioner Brill, that the Director's Recommendation be approved but with added direction to staff to resolve with EPA any questions regarding Teledyne Wah Chang Albany's disposal facility and potential disruptive effects of imposing additional facets into the ongoing state process. The Director's Recommendation with amendment was unanimously approved.

AGENDA ITEM M: PROPOSED ADOPTION OF AMENDMENTS TO RULES FOR EQUIPMENT BURNING SALT LADEN WOOD WASTE FROM LOGS STORED IN SALT WATER, OAR 340-21-020(2), AS AN AMENDMENT TO THE STATE IMPLEMENTATION PLAN.

A Weyerhaeuser mill on Coos Bay has been unable to meet particulate concentration and opacity rules. Their boiler stack emits up to 550 tons/year of salt particles from burning wood-waste derived from logs stored in salt water. This proposes to amend rules to give this mill a permanent salt exemption, with four mitigating conditions, designed to keep salt emissions and their impacts within practicable limits.

Director's Recommendation

Based on the summation, it is recommended that the Commission adopt amendments to OAR 340-21-020(2) (Attachment 1) concerning boilers out of compliance because of salt and instruct the Department to submit the amendments to EPA as a change to the State Implementation Plan.

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

AGENDA ITEM N: PROPOSED ADOPTION OF AMENDMENTS TO RULES GOVERNING ON-SITE SEWAGE DISPOSAL; FEES FOR MULTNOMAH COUNTY, OAR 340-72-070, AND FEES FOR JACKSON COUNTY, OAR 340-72-080.

At the July 16, 1982 meeting, the Commission authorized public hearings be held on the questions of amending the on-site sewage disposal fee schedule for Multnomah County and a new fee schedule for Jackson County. Public hearings were held on August 2, 1982 in Portland and Medford.

Director's Recommendation

Based on the summation, it is recommended that the Commission adopt proposed OAR 340-72-080, the schedule of fees to be charged by Jackson County, and adopt the proposed amendment to the Multnomah County fee schedule, OAR 340-72-070 (14).

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

AGENDA ITEM L: INFORMATIONAL REPORT - METRO WASTE REDUCTION PROGRAM

During the July 16, 1982 EQC meeting, staff presented an informational item on the status of waste reduction programs. At that time the Commission had questions regarding certain aspects of METRO's program and asked that a representative of METRO attend this meeting.

Director's Recommendation

It is recommended that the Commission receive testimony on this item and provide direction on subsequent action desired of the Department staff.

Rick Gustafson, METRO's Executive Director, described METRO's activities in the area of recycling, in addition to progress in other areas of his department.

Michael Sievers, Portland, claimed that METRO should allocate more resources to the recycling portion of its solid waste program.

Daniel Smith, Association of Oregon Recyclers, Vice President of Smith and Hill Systems, suggested that the Department withhold approval of METRO's Solid Waste Plan.

Jim Johnson, Chairman of Friends of the Earth, urged that METRO be required to resubmit a waste reduction plan which realistically describes a way to genuinely reduce solid waste.

John Charles, OEC, suggested that DEQ delay acceptance of METRO's Solid Waste Plan and concurred with the points made earlier by Daniel Smith.

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

AGENDA ITEM O: PROPOSED ACTION TO:

- (A) APPROVE THE CLATSOP PLAINS GROUNDWATER PROTECTION PLAN AS A REVISION TO THE STATEWIDE WATER QUALITY MANAGEMENT PLAN FOR THE NORTH COAST-LOWER COLUMBIA BASIN, AND
- (B) AMEND THE ON-SITE SEWAGE DISPOSAL RULES FOR THE CLATSOP PLAINS.

The Commission, in April 1977, placed the Clatsop Plains under moratorium. Over the years the moratorium has been modified as information was developed to provide a basis for making on-site waste disposal decisions. During the past two years, Clatsop County has been engaged in an intensive groundwater study to remove all remaining areas from moratorium. The study was completed in March of this year with the development of the Clatsop Plains Groundwater Protection Plan. The County has requested that the Plan be utilized to develop the appropriate geographic rule.

Staff has developed a rule and it has proceeded through the hearings process. We are now proposing that the Groundwater Plan itself be approved as an addition to the Statewide Water Quality Management Plan and adopt the geographic rule as it appears in Attachment A.

Director's Recommendation

Based upon the summation it is recommended that the Commission:

- (1) Approve the "Clatsop Plains Groundwater Protection Plan" as an addition to the Statewide Water Quality Management Plan;
- (2) Amend the moratorium areas rule (OAR 340-71-460) by deleting subsection (6) (e) and Appendix 1 (the Clatsop Plains moratorium area);
- (3) Amend the Geographic Area Special Consideration Rule, (OAR 340-71-400) by adding a new subsection (5), (Clatsop Plains Aquifer, Clatsop County), as presented in Attachment "A".

Curt Schneider, Clatsop County, suggested that part of the existing rule (page 2) remain in the proposed rule, i.e. referring to clustering on lots less than one acre each.

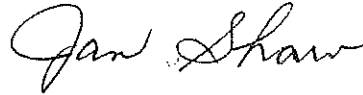
It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop, and passed unanimously that the Director's Recommendation be approved and that staff be directed to bring to the Commission's next regular meeting a modification to permit the use of a standard system in clustered housing in PUD's where it can be proven that no threat to the groundwater exists greater than otherwise controlled by the proposed rule.

There being no further business, the meeting was adjourned.

LUNCH MEETING

The Commission members met after lunch to continue discussions on the Department's proposed 83-85 budget and on further legislative concepts.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jan Shaw".

Jan Shaw  
Commission Assistant

MINUTES OF THE SPECIAL MEETING  
OF THE  
OREGON ENVIRONMENTAL QUALITY COMMISSION

September 15, 1982

On Wednesday, September 15, 1982, at 9:00 a.m. a special conference call meeting of the Commission was convened.

Connected by conference telephone were Chairman Joe B. Richards; Commissioner James Petersen; Commissioner Wally Brill; and Commissioner Fred Burgess. Commissioner Bishop was absent. Also present were the Department's Director, William H. Young; Howard Rankin, bond counsel; and several DEQ staff members.


After calling the roll at the start of the 10:30 conference call, the Director reviewed the Resolution Authorizing Issuance of bonds in the amount of \$27.5 million or, in the alternative, \$7.5 million. He also reviewed for the Commission the Notice of Sale and the Alternative Notice of Sale.

It was MOVED by Commissioner Burgess, seconded by Commissioner Brill, and passed unanimously that the Resolution be adopted.

It was MOVED by Commissioner Petersen, seconded by Commissioner Burgess, and passed unanimously that the Director be authorized to receive bids for the purchase of the state bonds; that he be instructed to prepare calculations of blending of interest rates based upon bids received; and that he be authorized to submit bids contingent upon the approval of the Commission to Tri-City and to Lane County Metropolitan Wastewater if, in his judgment, the intent of the Resolution just adopted by the Commission can be successfully accomplished; and that his action of submitting the bids to the two political subdivisions are conditional upon approval of the Commission on October 5.

There being no further business, the meeting was adjourned and the call terminated.

Respectfully submitted,



Jan Shaw  
EQC Assistant



MINUTES OF THE SPECIAL MEETING  
OF THE  
OREGON ENVIRONMENTAL QUALITY COMMISSION

October 5, 1982

On Tuesday, October 5, 1982, at 10:30 a.m. and again at 11:30 a.m., a special conference call meeting of the Commission was convened.

Connected by conference telephone were Chairman Joe B. Richards; Commissioner James Petersen; and Commissioner Wally Brill. Commissioners Burgess and Bishop were absent. Also present in the offices of bond counsel, at One S. W. Columbia, 16th Floor, were the Department's Director, William H. Young; Howard Rankin, bond counsel; representatives from Moore, Breithaupt & Assoc., Department's financial consultants; and several DEQ staff members.

After calling the roll at the start of the 10:30 conference call, the Director reviewed the bids received for the Commission. The lowest and best bid on the \$27.5 million issue was from First Interstate Bank as agent for Salomon Brothers with a net effective rate of interest of 9.4668%. Since this interest rate was below the 11.4% maximum that was calculated as the ceiling for the \$27.5 million issue, the Director recommended that bids for the alternative \$7.5 million issue be rejected.

The Director then reported that the Department's financial consultants, Moore, Breithaupt and Associates, had verified the low bid and completed calculations to blend the new interest rate with the rate on existing funds, producing an average blended interest rate of 8.85227%, including 0.1% administrative surcharge. The Director further stated that he was advised and agreed that the bid received was satisfactory and that the resulting rate should enable the Department to bid successfully on both the Lane County Metropolitan Wastewater Service District and Tri-City Service District of Clackamas County bond issues.

The Director then recommended that the Commission authorize him to submit unconditional bids before 11:00 a.m. on the following bonds at the appropriate blended interest rates.

Lane County Metropolitan Wastewater Service District	\$12,500,000
Tri-City Service District of Clackamas County, Series A	\$20,000,000
Tri-City Service District of Clackamas County, Series B	\$ 5,000,000

It was MOVED by Commissioner Petersen, seconded by Commissioner Brill, and passed unanimously that the Director be authorized to reject bids on the alternative \$7.5 million issue.

It was MOVED by Commissioner Petersen, seconded by Commissioner Brill, and passed unanimously that the Director be authorized to submit unconditional bids at the appropriate blended interest rates on:

Lane County Metropolitan Wastewater Service District	\$12,500,000
Tri-City Service District of Clackamas County, Series A	\$20,000,000
Tri-City Service District of Clackamas County, Series B	\$ 5,000,000

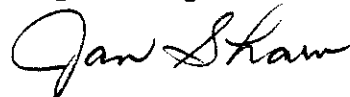
At 11:30 a.m., the Director began the second conference call by reporting that he had duly submitted bids on the Lane County Metropolitan Wastewater Service District and Tri-City Service District of Clackamas County and that upon public opening of the bids, it had been declared that the Department was the low bidder on both districts' bonds. The Director also reported that representatives of the two districts had verbally assured the Director that they would recommend acceptance of the Department's bids to their respective governing bodies.

The Director further stated that, with the advice of the State Treasurer's representative and bond counsel, he recommended that the Commission authorize him to formally accept the low bid on the \$27.5 million of State of Oregon bonds.

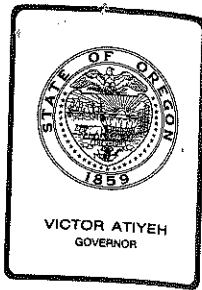
It was MOVED by Commissioner Petersen, seconded by Commissioner Brill, and passed unanimously that the Director be authorized to accept the low bid on the \$27.5 million of State of Oregon Pollution Control Bonds from First Interstate Bank as agent for Salomon Brothers at a net effective rate of interest of 9.4668%.

There being no further business, the meeting was adjourned and the call was terminated.

Respectfully submitted,



Jan Shaw  
Commission Assistant



## *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. B, October 15, 1982, EQC Meeting  
July and August, 1982 Program Activity Reports

### Discussion

Attached are the July and August, 1982 Program Activity Reports.

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 air, water and solid waste 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 activities and an historical record of project plan and permit actions;
- 2) to obtain confirming approval from the Commission on actions taken by the Department relative to air 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.

*Bill*

William H. Young  
Director

M. Downs:k  
229-6485  
September 22, 1982  
Attachments  
MK616 (2)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

July and August, 1982

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JULY 1982  
MONTHLY ACTIVITY REPORT

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

AQ, WQ, SW Divisions  
(Reporting Unit)

July 1982  
(Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	Month	FY	Month	FY	Month	FY	
<u>Air</u>							
Direct Sources	0	0	4	4	0	0	16
Small Gasoline Storage Tanks Vapor Controls	0	0	0	0	0	0	0
TOTAL	0	0	4	4	0	0	16
<u>Water</u>							
Municipal	18	18	18	18	2	2	13
Industrial	6	6	3	3	0	0	23
TOTAL	24	24	21	21	2	2	36
<u>Solid Waste</u>							
Gen. Refuse	1	1	1	1	0	0	15
Demolition	0	0	0	0	0	0	2
Industrial	1	1	2	2	0	0	4
Sludge	0	0	0	0	0	0	1
TOTAL	2	2	3	3	0	0	22
<u>Hazardous Wastes</u>							
	-	-	-	-	-	-	-
<u>GRAND TOTAL</u>	26	26	28	28	2	2	74

DEPARTMENT OF ENVIRONMENTAL QUALITY  
 AIR QUALITY DIVISION  
 MONTHLY ACTIVITY REPORT  
 DIRECT SOURCES  
 PLAN ACTIONS COMPLETED

COUNTY	NUMBER	SOURCE	PROCESS DESCRIPTION	DATE OF ACTION	ACTION
MULTNOMAH	810	PRECISION CAST PARTS	FOUNDY EXPANSION	07/27/82	APPROVED
LANE	220	WEYERHAEUSER CO. PPRBRD M	2ND STAGE BLOW HEAT CONDENSER	07/19/82	APPROVED
MORROCK	834	PGE BOARDMAN	ASH TRANSPORT & COLL SYS	06/16/82	APPROVED
CLATSOP	837	AMERICAN FOREST PRDT CORP	SANDER & LONG CONE CYC	07/08/82	APPROVED
TOTAL NUMBER QUICK LOOK REPORT LINES			4		

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

July, 1982  
(Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	Month	FY	Month	FY			
<u>Direct Sources</u>							
New	4	4	0	0	22		
Existing	0	0	1	1	19		
Renewals	14	14	5	5	74		
Modifications	<u>2</u>	<u>2</u>	<u>6</u>	<u>6</u>	<u>15</u>		
Total	20	20	12	12	130	1878	1919
<u>Indirect Sources</u>							
New	0	0	1	1	2		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>		
Total	0	0	1	1	2	203	205
<u>GRAND TOTALS</u>	20	20	13	13	132	2081	2124

Number of  
Pending Permits

Comments

18	To be drafted by Northwest Region
7	To be drafted by Willamette Valley Region
7	To be drafted by Southwest Region
2	To be drafted by Central Region
1	To be drafted by Eastern Region
17	To be drafted by Program Planning Division
24	To be drafted by Program Operations
25	Awaiting Public Notice
<u>29</u>	Awaiting the end of the 30-day period
130	TOTAL

MAR.5 (8/79)

AA2318 (1)



DEPARTMENT OF ENVIRONMENTAL QUALITY  
 AIR QUALITY DIVISION  
 MONTHLY ACTIVITY REPORT  
 DIRECT SOURCES  
 PERMITS ISSUED

COUNTY	SOURCE	PERMIT NUMBER	APPL. RECEIVED	STATUS	DATE ACHIEVED	TYPE APPL. PSEL
BENTON	OREGON STATE UNIVERSITY	02	2524 11/25/82	PERMIT ISSUED	07/01/82	RNW
LAKE	LOUISIANA PACIFIC CORP	19	0002 10/27/81	PERMIT ISSUED	07/01/82	RNW Y
MARION	STAYTON CANNING CO. COOP.	24	1010 10/22/81	PERMIT ISSUED	07/01/82	RNW
PORT. SOURCE	NORTHWEST SAND & GRAVEL CO	37	0233 05/01/82	PERMIT ISSUED	07/01/82	EXT
JACKSON	CROMAN CORP - LUMBER DIV	15	0016 06/29/82	PERMIT ISSUED	07/06/82	MOD
LINCOLN	PACIFIC COMMUNITIES HOSP.	21	0033 00/00/00	PERMIT ISSUED	07/14/82	MOD
LINCOLN	NORTH LINCOLN HOSPITAL	21	0039 00/00/00	PERMIT ISSUED	07/14/82	MOD
LINCOLN	NEW LINCOLN HOSPITAL	21	0040 00/00/00	PERMIT ISSUED	07/14/82	MOD
UMATILLA	PACIFIC ROCK PRODUCTS, INC	30	0003 00/00/00	PERMIT ISSUED	07/14/82	MOD
MULTNOMAH	CROWN ZELLEPBACH PKG DIV	26	2777 09/13/81	PERMIT ISSUED	07/15/82	MOD
MULTNOMAH	THE ABER	26	2934 05/12/82	PERMIT ISSUED	07/15/82	RNW
UNIION	HOFF-RONDE VALLEY LUMBER	31	0013 12/14/81	PERMIT ISSUED	07/15/82	RNW Y

TOTAL NUMBER QUICK LOOK REPORT LINES 12

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division	July, 1982
(Reporting Unit)	(Month and Year)

PERMIT ACTIONS COMPLETED

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

Indirect Sources

Washington	Grace Community 598 Spaces File No. 34-8205	7/16/82	Final Permit Issued
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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

July 1982  
(Month and Year)

PLAN ACTIONS COMPLETED 23

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
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MUNICIPAL WASTE SOURCES - 20

Marion	Isberg R.V. Park Phase I Fargo Road Interchange	6/30/82	P.A.	
Lane	MWMC - M-41 Agripac Force Main Pipe	7/8/82	P.A.	
Lane	MWMC - E-41 Agripac Aerators	7/8/82	P.A.	
Lane	MWMC - E-42 Irrigation System Agripac	7/8/82	P.A.	
Columbia	Vernonia Lagoon Expansion & Disinfection Facility	7/19/82	Plans Rejected	
Columbia	Riverwood Mobile Home Park Sewage Treatment Plant	7/20/82	Plans Rejected	
Lane	City of Creswell 2nd St. Sewer Extension	7/21/82	P.A.	
Lincoln	City of Newport New Primary Clarifier	7/26/82	P.A.	
Coos	Port of Bandon Coquille River Boat Basin Pumpout Stations	7/28/82	P.A.	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

July 1982  
(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 Continued

Marion	Silverton West Main Relief Trunk, Lift Station and Force Main	7/28/82	P.A.	
Marion	Silverton Lift Station Upgrading	7/28/82	P.A.	
Marion	Silverton Sanitary Sewer Interceptor Construction	7/28/82	P.A.	
Lincoln	West Coast Cable TV Ltd Keene-Spring Ave Extension Depoe Bay	7/29/82	P.A.	
Jackson	Lithia Park Village PUD Sewerage System Expansion Ashland	7/29/82	P.A.	
Tillamook	NTCSA Nehalem Bay Woodworks Necarney City	7/29/82	P.A.	
Douglas	Roseburg Denn Nora L.I.D.	7/29/82	P.A.	
Clackamas	Wilsonville L.I.D. No. 4 (Kinsman Road)	7/29/82	P.A.	
Douglas	Green S.D. Antella Subdivision	7/29/82	P.A.	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

July 1982  
(Month and Year)

PLAN ACTIONS COMPLETED 23

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

MUNICIPAL WASTE SOURCES Continued

Clackamas	Oregon City Lincrest View Estates Sewerage System Expansion	7/30/82	P.A.	
Linn	Millersburg Contract #2 Sanitary Sewage Collection System	7/30/82	P.A.	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division July, 1982  
 (Reporting Unit) (Month and Year)

PLAN ACTIONS COMPLETED 23

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

INDUSTRIAL WASTE SOURCES - 3

Lane	Weyerhaeuser Company Primary Effluent Line	7-7-82	Approved
Linn	National Fruit Canning Co. Irrigation Holding Pond and Sprinkler	7-12-82	Approved
Lincoln	CH2M/Hill Schooner Creek Water Treatment Plant	7-14-82	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

July, 1982  
(Month and Year)

SUMMARY OF WATER PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	Month	Fis.Yr.	Month	Fis.Yr.			
	* /**	* /**	* /**	* /**	* /**	* /**	* /**
<u>Municipal</u>							
New	0 /0	0 /0	0 /0	0 /0	3 /15		
Existing	0 /0	0 /0	0 /0	0 /0	0 /0		
Renewals	5 /1	5 /1	6 /0	6 /0	31 /2		
Modifications	0 /0	0 /0	0 /0	0 /0	2 /0		
Total	5 /1	5 /1	6 /0	6 /0	36 /17	238/108	241/123
<u>Industrial</u>							
New	0 /0	0 /0	1 /0	1 /0	1 /9		
Existing	0 /0	0 /0	0 /0	0 /0	0 /1		
Renewals	1 /0	1 /0	2 /3	2 /3	37 /15		
Modifications	0 /0	0 /0	2 /0	2 /0	0 /0		
Total	1 /0	1 /0	5 /3	5 /3	38 /25	370/179	371/189
<u>Agricultural (Hatcheries, Dairies, etc.)</u>							
New	0 /0	0 /0	0 /0	0 /0	1 /0		
Existing	0 /0	0 /0	0 /0	0 /0	0 /0		
Renewals	0 /0	0 /0	0 /0	0 /0	0 /0		
Modifications	0 /0	0 /0	0 /0	0 /0	0 /0		
Total	0 /0	0 /0	0 /0	0 /0	1 /0	53 /19	54 /19
<u>GRAND TOTALS</u>	6 /1	6 /1	11 /3	11 /3	75 /42	661/306	666/331

\* NPDES Permits

\*\* State Permits

11 General Permits Issued

MAR.5W (8/79) WG1431

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit)	July, 1982 (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 & Industrial Sources - NPDES Permits (9)

Jackson	Ashland STP	7-28-82	Permit Renewed	
Multnomah	Portland Groundwater Pumping	7-28-82	Permit Issued	
Multnomah	Gresham STP	7-28-82	Permit Renewed	
Marion	General Foods Corp. Birds Eye Division	7-28-82	Permit Renewed	
Linn	Halsey STP	7-28-82	Permit Renewed	
Umatilla	Harris Pine Mills	7-28-82	Permit Renewed	
Marion	Jefferson STP	7-28-82	Permit Renewed	
Douglas	Rice Hill - East Ranch Motel - STP	7-28-82	Permit Renewed	
Tillamook	Rockaway STP	7-28-82	Permit Renewed	



DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit)	July, 1982 (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 & Industrial Sources - State Permits (3)

Coos	Coos Head Timber McKenna Mill	7-29-82	Permit Renewed	
Umatilla	Pendleton Grain Growers Fertilizer & Chemical Wastes	7-29-82	Permit Renewed	
Yamhill	Sokol Blosser Winery	7-29-82	Permit Renewed	

Municipal & Industrial Sources - Modifications (2)

Hood River	Diamond Fruit Hood River Cannery	7-29-82	Addendum #1	
Hood River	Stadelman Fruit Whitney Fruit Packing	7-29-82	Addendum #1	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit)	July, 1982 (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 - GENERAL PERMITS (11)

Cooling Water, Permit 0100-J, file 32539 (1)

Linn	George Throop	7-9-82	General Permit Issued (Heat Pump)
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Water Filtration Plants, Permit 0200-J, File 32540 (1)

Curry	Langlois Water District	7-2-882	General Permit Issued
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Aquatic Animal Production, Permit 0300-J, File 32560 (1)

Lincoln	Oregon-Aqua Foods, Inc.	7-30-82	Transferred to General Permit
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Log Ponds, Permit 0400-J, File 32544 (1)

Columbia	Olympic Forest Products	7-23-82	General Permit Issued
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Portable Suction Dredges, Permit 0700-J, File 34547 (2)

Jackson	Robert Bumgardner	7-1-82	General Permit Issued
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Lane	James Appel	7-27-82	General Permit Issued
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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<u>Water Quality</u> (Reporting Unit)	<u>July, 1982</u> (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 - GENERAL PERMITS (Cont'd.)

Seafood Processing, Permit 0900-J, File 32585 (4)

Curry	Blanco Fisheries, Inc.	7-1-82	Transferred to General Permit
Clatsop	Astoria Seafoods Co.	7-1-82	General Permit Issued
Lincoln	Newport Shrimp Co., Inc.	7-7-82	Transferred to General Permit
Lincoln	Oregon-Aqua Foods, Inc.	7-30-82	General Permit Issued

Sewer Systems, Permit 1100, File 32590 (1)

Clackamas	City of Gladstone	7-15-82	Transferred to General Permit
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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division

July 1982

(Reporting Unit)

(Month and Year)

SUMMARY OF SOLID AND HAZARDOUS WASTE PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sites Under Permits	Sites Reqr'g Permits
	Month	FY	Month	FY			
<u>General Refuse</u>							
New	-	-	1	1	1		
Existing	-	-	-	-	-		
Renewals	2	2	2	2	15		
Modifications	1	1	1	1	-		
Total	3	3	4	4	16	167	167
<u>Demolition</u>							
New	-	-	1	1	-		
Existing	-	-	-	-	-		
Renewals	-	-	-	-	-		
Modifications	1	1	1	1	-		
Total	1	1	2	2	-	22	22
<u>Industrial</u>							
New	2	2	3	3	2		
Existing	-	-	-	-	1		
Renewals	3	3	-	-	9		
Modifications	-	-	-	-	-		
Total	5	5	3	3	12	104	104
<u>Sludge Disposal</u>							
New	-	-	-	-	1		
Existing	-	-	-	-	-		
Renewals	-	-	-	-	1		
Modifications	-	-	-	-	-		
Total	-	-	-	-	2	15	15
<u>Hazardous Waste</u>							
New	50	50	50	50	-		
Authorizations	-	-	-	-	-		
Renewals	-	-	-	-	-		
Modifications	-	-	-	-	-		
Total	50	50	50	50	-	-	-
<u>GRAND TOTALS</u>							
	59	59	59	59	30	308	308

SC613.A  
MAR.5S (4/79)

## DEPARTMENT OF ENVIRONMENTAL QUALITY

## MONTHLY ACTIVITY REPORT

<u>Solid Waste Division</u>		<u>July 1982</u>	
(Reporting Unit)		(Month and Year)	
<u>PERMIT ACTIONS COMPLETED</u>			
* County	* Name of Source/Project	* Date of	* Action
* /Site and Type of Same	* Action	* Action	* Action
* /Site and Type of Same	* Action	* Action	* Action
Clackamas	Clackamas Transfer and Recycling Center New Site	6/9/82	Permit Issued
Clackamas	McFarlane's Bark New Site	7/6/82	Permit Issued
Lane	Champion International Mapleton New Site	7/12/82	Permit Issued
Coos	Chris Short New Site	7/16/82	Letter Authorization Issued
Grant	Prairie City Existing Site	7/21/82	Permit Renewed
Deschutes	Diamond International New Site	7/21/82	Permit Issued
Morrow	US Army - Umatilla Depot Existing Site	7/27/82	Permit Renewed
Douglas	Oakland Transfer Station Existing Site	7/27/82	Permit Amended
Polk	Fowlers Demolition Site Existing Site	7/27/82	Permit Amended

SC613.D  
MAR.6 (5/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

July 1982  
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-SECURITY SYSTEMS, INC., GILLIAM CO.

WASTE DESCRIPTION

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

TOTAL DISPOSAL REQUESTS GRANTED (49)

OREGON (9)

7/13	Leaded gasoline tank bottoms	Industrial clean. serv.	0	500 drums	
7/19	Mixed solvents, xylene, IPA, etc.	Electronic	0	30,000 gal.	
7/19	Ignitable paint sludge	Ship repair	0	30 drums	
7/26	Ignitable paint sludge	Foundry	7 drums	60 drums	
7/26	Colloidal silica	Chemical co.	33 drums	0	
8/5	Ignitable polyester resin sludge	Resin/coating	0	50 drums	
8/5	Formaldehyde/caustic solution	Plywood	500 gal.	0	
8/5	Hydrochloric acid sol.	Electroplat.	0	120 drums	
8/5	PCB transformers	Plywood	0	650 gal.	
8/5	PCB transformers	Plywood	0	300 gal.	

WASHINGTON (15)

7/13	Methylene chloride with solid epoxy resin	Manuf. of water skis	0	1320 gal.	
7/13	Leaded gasoline tank bottoms	Industrial clean. serv.	0	500 drums	

SC613.E  
MAR.15 (1/82)

* * *	* * *	* * *	* * *	* * *	* * * <u>Quantity</u> * * *		* * *		
					* * *	* * *			
* * *	* * *	Type	* * *	Source	* * *	Present	* * *	Future	* * *
7/13		Phenol-contaminated water		Shipbuilding & construct.	0			10,000 gal.	
7/27		Arsenic wood-treating sludge		Wood treat.	0			500 gal.	
8/2		Methylene chloride		Electronics	0			1 drum	
8/2		Copper sulfate crystal		Electronics	0			5 drums	
8/2		Caustic soda solution		Electronics	0			1000 gal.	
8/2		Fluoboric acid		Electronics	0			600 gal.	
8/2		Sulfuric acid		Electronics	0			300 gal.	
8/2		Nitric acid		Electronics	0			600 gal.	
8/2		Pentachlorophenol sludge		Wood treat.	0			1500 gal.	
8/2		Boiler heat wastewater		Shipbuilding	0			6000 gal.	
8/2		Pesticide lab samples		State agency	0			25 gal.	
8/2		Miscellaneous lab solvents		State agency	0			2 drums	
8/2		PCB capacitors		Electric util.	0			24 units	

OTHER STATES (25)

7/15		Pesticides (Alberta)		Chemical co.	60 drums	0			
7/15		Sulfuric acid (B.C.)		Waste treat.	0			75 drums	
7/15		Lab chemicals (B.C.)		University	10 drums			30 drums	
7/23		Calcium fluoride sludge (Colorado)		Electronics	2500 gal.			45,000 gal.	
7/23		CaF <sub>2</sub> with sand blast waste (Colorado)		Electronics	2500 gal.			45,000 gal.	
7/27		Ignitable solvents (Colorado)		Electronics	0			15,000 gal.	
7/27		Chromic acid solution (Colorado)		Electronics	0			20,000 gal.	

SC613.E  
MAR.15 (1/82)

* * *	* * *	* * *	* * *	* * *	* * *	* * *
Date	Type	Source	Present	Quantity	Future	
7/27	Ignitable solvents (Colorado)	Manuf. of adhesives	0	100 drums		
7/27	Waste oil sludge (Colorado)	Manuf. of adhesives	0	50 drums		
7/27	Oily water (Colorado)	Manuf. of adhesives	0	80,000 gal.		
7/27	Ignitable solvents (Colorado)	Manuf. of adhesives	0	120 drums		
7/27	Adhesive latex, phenols, etc. (Col.)	Manuf. of adhesives	0	150 drums		
7/27	Mineral oil and fatty acids (Colorado)	Manuf. of adhesives	0	10 drums		
7/27	Asbestos (Colorado)	Manuf. of adhesives	0	100 drums		
8/2	Contaminated gasoline/ diesel (Montana)	Aluminum co.	0	4 drums		
8/2	Coal tar distillate (Montana)	Aluminum co.	0	1300 gal.		
8/2	Mixed lab chemicals (Montana)	Aluminum co.	0	4 drums		
8/3	Sodium hydroxide (Montana)	Aluminum co.	200 gal.	0		
8/3	Hydrochloric acid (Montana)	Aluminum co.	55 gal.	0		
8/3	Methyl alcohol (Montana)	Aluminum co.	55 gal.	0		
8/3	Ignitable solvents (Montana)	Aluminum co.	0	1500 gal.		
8/5	PCB-contaminated soil (Montana)	Tannery	10 drums	0		
8/5	Leaded tank bottoms (Utah)	Oil co.	0	60 drums		
8/5	PCB waste (Montana)	Electric util.	0	1700 lb.		
8/5	Salts from PCB treat- ment process (Pac. NW)	Mobile PCBX	0	2000 drums		

SC613.E  
MAR. 15 (1/82)



DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit)	July, 1982 (Month and Year)
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SUMMARY OF NOISE CONTROL ACTIONS

Source Category	New Actions Initiated		Final Actions Completed		Actions Pending	
	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>Last Mo</u>
Industrial/ Commercial	10	10	8	8	109	107
Airports			1	1	1	1

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program	July, 1982
(Reporting Unit)	(Month and Year)

FINAL NOISE CONTROL ACTIONS COMPLETED

County	* *      Name of Source and Location	* *      Date	* *      Action
Clackamas	Crown Zellerbach, West Linn	07/82	In Compliance
Clackamas	Molalla Sand & Gravel, Oregon City	07/82	In Compliance
Multnomah	The Skookum Company, Portland	07/82	No Violation
Multnomah	Weyerhaeuser, Inc., Cardboard Plant, Portland	07/82	In Compliance
Multnomah	U.S. Post Office, Kenton Branch, Portland	07/82	In Compliance
Lane	Safeway Store #311, Springfield	07/82	In Compliance
Lane	Diamond Wood Products, Eugene	07/82	In Compliance
Jackson	Southern Oregon Recycling, Ashland	07/82	No Violation
Klamath	Malin Airport Master Plan	08/07/82	Approved

CIVIL PENALTY ASSESSMENTS  
 DEPARTMENT OF ENVIRONMENTAL QUALITY  
 1982

CIVIL PENALTIES ASSESSED DURING MONTH OF JULY, 1982:

<u>Name and Location of Violation</u>	<u>Case No. &amp; Type of Violation</u>	<u>Date Issued</u>	<u>Amount</u>	<u>Status</u>
Stransky Lumber & Hardware Co. Portland, Oregon	AQOB-NWR-82-59 Open burned commercial wastes.	7/15/82	\$50	Paid on 8/2/82.
Glen Stearns dba/Glen Stearns Backhoe Beaver Creek, Oregon	SS-NWR-82-55 Installed an on-site sewage disposal system without first obtaining a permit.	7/23/82	\$100	Default Order and Judgment issued on 8/26/82. Paid on 9/10/82.

GC614

<u>ACTIONS</u>	<u>LAST MONTH</u>	<u>PRESENT</u>
Preliminary Issues	3	2
Discovery	0	0
Settlement Action	0	1
Hearing to be scheduled	4	3
Hearing scheduled	0	2
HO's Decision Due	2	2
Briefing	1	1
Inactive	4	4
 SUBTOTAL of cases before hearings officer.	 <u>14</u>	 <u>15</u>
HO's Decision Out/Option for EQC Appeal	2	2
Appealed to EQC	1	1
EQC Appeal Complete/Option for Court Review	0	0
Court Review Option Pending or Taken	0	0
Case Closed	3	3
 TOTAL Cases	 <u>20</u>	 <u>21</u>

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.

ACDP      Air Contaminant Discharge Permit  
AQ      Air Quality  
DEC Date      Date of either a proposed decision of hearings officer or a decision by Commission  
\$      Civil Penalty Amount  
ER      Eastern Region  
Fld Brn      Field Burning incident  
RLH      Robb Haskins, Assistant Attorney General  
Hrngs      Hearings Section  
Hrng Rfrl      Date when Enforcement Section requests Hearing Section schedule a hearing  
VAR      Van Kollias, Enforcement Section  
LMS      Larry Schurr, Enforcement Section  
MWR      Midwest Region (now WVR)  
NP      Noise Pollution  
NPDES      National Pollutant Discharge Elimination System wastewater discharge permit.  
NWR      Northwest Region  
FWO      Frank Ostrander, Assistant Attorney General  
OSS      On-Site Sewage  
P      Litigation over permit or its conditions  
Prtys      All parties involved  
Rem Order      Remedial Action Order  
Resp Code      Source of next expected activity in case  
SW      Solid Waste Division  
SWR      Southwest Region  
T      Litigation over tax credit matter  
Transcr      Transcript being made of case  
Underlining      New status or new case since last month's contested case log  
WVR      Willamette Valley Region  
WQ      Water Quality Division

July 1982

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	DEQ Atty	Hrng Date	Resp Code	Case Type & No.	Case Status
POWELL, Ronald	11/77	11/77	RLH	01/23/80	Prtys	\$10,000 Fld Brn 12-AQ-MWR-77-241	Stipulated settlement proposal to be drafted for presentation to EQC.
WAH CHANG	04/78	04/78	RLH		Prtys	16-P-WQ-WVR-78-2849-J NPDES Permit Modification	Current permit in force. Hearing deferred.
WAH CHANG	04/78	04/78	RLH		Prtys	08-P-WQ-WVR-78-2012-J NPDES Permit Modification	Current permit in force. Hearing deferred.
M/V TOYOTA MARU No. 10	12/10/79	12/12/79	RLH		Hrgs	17-WQ-NWR-79-127 Oil Spill Civil Penalty of \$5,000	Ruling due on requests for partial summary judgment.
HAYWORTH, John W. dba/HAYWORTH FARMS INC.	12/02/80	12/08/80	LMS	04/28/81	Hrgs	33-AQ-WVR-80-187 Field burning civil penalty of \$4,660	Decision due.
PULLEN, Arthur W. dba/Lakes Mobile Home Park	07/15/81	07/15/81	RLH		Prtys	16-WQ-CR-81-60	Dept. does not wish to actively pursue further enforcement action pending expected progress in establishing a community sewage facility.
FRANK, Victor	09/23/81	09/23/81	LMS	06/08/82	Hrgs	19-AQ-FB-81-05 FB civil penalty of \$1,000	Post hearing argument conducted 6/29/82. Decision due.
<del>GREEN, Douglas</del>	<del>09/28/81</del>	<del>10/07/81</del>	<del>LMS</del>	<del>04/13/82</del>	<del>Prtys</del>	<del>20-AQ-FB-81-03 FB-Civil-Penalty of-\$1,000</del>	<del>Modified-penalty-paid. No-appeal-to-EQC</del>
GATES, Clifford	10/06/81		LMS		Hrgs	21-SS-SWR-81-90	To be scheduled.
SPERLING, Wendell dba/Sperling Farms	11/25/81	11/25/81	LMS		Hrgs	23-AQ-FB-81-15 FB Civil Penalty of \$3,000	To be scheduled.
<del>Beraeve, Marvin</del>	<del>12/11/81</del>	<del>12/10/81</del>	<del>LMS</del>		<del>Prtys</del>	<del>25-AQ-FB-81-17 FB-Civil-Penalty of-\$3,000</del>	<del>Case-closed-by-stipulated order--Resp-paid-\$1,500 penalty</del>
NOFZIGER, Leo	12/15/81	01/06/82	LMS	06/29/82	Resp	26-AQ-FB-81-18 FB Civil Penalty of \$1,500.	Respondent to provide economic and financial data by 8/15/82.
OLD MILL MARINA		03/04/82	LMS		Hrgs	27-AQOB-NWR-82-01 Open Burning Civil Penalty	To be scheduled.
PULLEN, Arthur	03/16/82		RLH		Prtys	28-WQ-CR-82-16	See companion case above.
<del>ANDERSON, Douglas</del>	<del>04/03/82</del>		<del>VAR</del>	<del>06/24/82</del>	<del>Resp</del>	<del>29-AQOB-NWR-82-23</del>	<del>Decision-issued-7/9/82. Case-closed-without appeal-to-EQC</del>
BOWERS EXCAVATING & FENCING, INC.	05/20/82		LMS		Prtys	30-SW-CR-82-34	Preliminary Issues.
ADAMS, Gailen			VAR	08/25/82	Prtys	31-SS-NWR-82-51	Hearing Scheduled.
<u>KOENNECKE and WESTHILL ISLAND NEIGHBORS, INC.</u>					<u>Prtys</u>	<u>32-SW-NWR-82 Declaratory Ruling Request re: OAR 340-61-031 Wildwood Landfill</u>	<u>Before the Commission at its August 27, 1982 meeting.</u>

AUGUST 1982  
MONTHLY ACTIVITY REPORT

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

AQ, WQ, SW Divisions  
(Reporting Unit)

August 1982  
(Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>	
<u>Air</u>							
Direct Sources	7	7	8	12	0	0	15
Small Gasoline Storage Tanks Vapor Controls	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>7</b>	<b>7</b>	<b>8</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>15</b>
<u>Water</u>							
Municipal	22	40	6	24	2	2	24
Industrial	5	11	21	24	0	0	7
<b>TOTAL</b>	<b>27</b>	<b>51</b>	<b>27</b>	<b>48</b>	<b>2</b>	<b>2</b>	<b>31</b>
<u>Solid Waste</u>							
Gen. Refuse	1	2	1	2	0	0	4
Demolition	0	0	0	0	0	0	0
Industrial	1	2	2	4	0	0	3
Sludge	0	0	1	1	0	0	1
<b>TOTAL</b>	<b>2</b>	<b>4</b>	<b>4</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>8</b>
<u>Hazardous Wastes</u>							
	-	-	-	-	-	-	-
<b><u>GRAND TOTAL</u></b>	<b>36</b>	<b>62</b>	<b>39</b>	<b>67</b>	<b>2</b>	<b>2</b>	<b>54</b>

DEPARTMENT OF ENVIRONMENTAL QUALITY  
 AIR QUALITY DIVISION  
 MONTHLY ACTIVITY REPORT  
 DIRECT SOURCES  
 PLAN ACTIONS COMPLETED

COUNTY	NUMBER	SOURCE	PROCESS DESCRIPTION	DATE OF ACTION	ACTION
UMATILLA	821	TRUMBULL ORCHARDS	WIND MACHINE	08/18/82	APPROVED
CLACKAMAS	835	PARK PL WOOD PRODUCTS INC	BAGHOUSE	06/18/82	APPROVED
LINN	836	WOODTEX INC.	TEHP PELLET PILOT PLANT	08/12/82	APPROVED
LINN	840	DURAFRAKE CO	ENCLOSE CONV 2 INSTALL COLL	08/14/82	APPROVED
WASHINGTON	841	BRETTHAUER OIL CO.(UNION)	VOC VAPOR CONTROL SYSTEM	08/05/82	APPROVED
MARION	842	UNION OIL OF CALIFORNIA	VOC VAPOR CONTROL SYSTEM	08/05/82	APPROVED
MULTNOMAH	843	UNION OIL CO. (MT HOOD O)	VOC VAPOR CONTROL SYSTEM	08/05/82	APPROVED
JACKSON	844	UNION OIL CO. OF CALIF.	VOC VAPOR CONTROL SYSTEM	08/20/82	APPROVED

TOTAL NUMBER QUICK LOOK REPORT LINES 8



DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

August, 1982  
(Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	Month	FY	Month	FY			
<u>Direct Sources</u>							
New	2	6	4	4	19		
Existing	1	1	4	5	17		
Renewals	10	24	11	16	73		
Modifications	<u>4</u>	<u>6</u>	<u>1</u>	<u>7</u>	<u>17</u>		
Total	17	37	20	32	126	1886	1922
<u>Indirect Sources</u>							
New	1	1	1	1	3		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>		
Total	1	1	1	1	3	203	206
<u>GRAND TOTALS</u>	18	38	21	33	129	2089	2128

Number of  
Pending Permits

Comments

15	To be drafted by Northwest Region
8	To be drafted by Willamette Valley Region
5	To be drafted by Southwest Region
3	To be drafted by Central Region
1	To be drafted by Eastern Region
21	To be drafted by Program Planning Division
13	To be drafted by Program Operations
22	Awaiting Public Notice
<u>38</u>	Awaiting the end of the 30-day period
126	TOTAL

DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY DIVISION

MONTHLY ACTIVITY REPORT  
DIRECT SOURCES  
PERMITS ISSUED

COUNTY	SOURCE	PERMIT NUMBER	APPL. RECEIVED	STATUS	DATE ACHIEVED	TYPE APPL. PSEL
MARION	HUMANE SOCIETY	24	2327 10/22/81	PERMIT ISSUED	08/02/82	RNW
MULTNOMAH	SIMPSON TIMBER CO	26	3009 04/29/82	PERMIT ISSUED	08/02/82	NEW
MULTNOMAH	CARSON OIL CO	26	3079 11/18/81	PERMIT ISSUED	08/02/82	EXT
WASHINGTON	COAST VENDING MACHINE CO.	34	2645 03/16/82	PERMIT ISSUED	08/02/82	RNW
WASHINGTON	BRETTHAUER OIL CO. (UNION)	34	2652 12/21/81	PERMIT ISSUED	08/02/82	EXT
CLACKAMAS	SALVAGE SMELTERS	03	2662 01/07/82	PERMIT ISSUED	08/16/82	RNW
CLACKAMAS	CLACKAMAS COUNTY GRNG SUP	03	2675 06/17/82	PERMIT ISSUED	08/16/82	EXT N
DESCHUTES	MAYWOOD INDUSTRIES	09	0010 05/04/82	PERMIT ISSUED	08/16/82	RNW
MARION	WEST COAST BEET SEED	24	5742 05/21/82	PERMIT ISSUED	08/16/82	RNW
MULTNOMAH	SAKRETE OF PACIFIC NW. IN	26	1947 01/22/82	PERMIT ISSUED	08/16/82	EXT
MULTNOMAH	PORTLAND PROVISION CORP	26	1950 05/01/82	PERMIT ISSUED	08/16/82	RNW
MULTNOMAH	COLONIAL MORTUARY INC.	26	2803 05/12/82	PERMIT ISSUED	08/16/82	RNW
MULTNOMAH	GRESHAM COOPERATIVE	26	3073 10/01/81	PERMIT ISSUED	08/16/82	NEW
WASHINGTON	METRO WEST OIL INC	34	2655 10/22/81	PERMIT ISSUED	08/16/82	NEW
YAMHILL	C.C. MEISEL CO INC	36	5082 10/07/81	PERMIT ISSUED	08/16/82	RNW
YAMHILL	LINFIELD COLLEGE	36	5313 05/26/82	PERMIT ISSUED	08/16/82	RNW
PORT.SOURCE	WILDISH MEDFORD CO.	37	0010 03/03/82	PERMIT ISSUED	08/16/82	RNW Y
PORT.SOURCE	JOHNSON ROCK PRODUCTS INC	37	0201 12/07/81	PERMIT ISSUED	08/16/82	RNW Y
PORT.SOURCE	BRACELIN AND YEAGER ASPH	37	0289 05/10/82	PERMIT ISSUED	08/16/82	NEW Y
JACKSON	HOMESTEAD LOG HOMES	15	0181 07/15/82	PERMIT ISSUED	08/16/82	MOD N

TOTAL NUMBER QUICK LOOK REPORT LINES

20

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

August 1982  
(Month and Year)

PLAN ACTIONS COMPLETED - 27

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
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MUNICIPAL WASTE SOURCES - 6

Douglas	U. S. Forest Service Tiller Ranger District Mill Hill Sanitary Sewer Addition Roseburg	8-6-82	PA	
Multnomah	Oregon Pizza Time Theater Septic Tank/Seepage Pits Revision #3	8-16-82	Final Comments to N.W. Region	
Columbia	Sewer Ext. off of E.M. Watts Rd. Scappoose	8-10-82	PA	
Lane	Emporium Sand Filter Eugene	8-23-82	PA	
Lane	Downtown Force Main Sec. MWMC/Eugene	8-27-82	PA	
Lane	Northwest Force Main Sec. MWMC/Eugene	8-27-82	PA	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

August, 1982  
(Month and Year)

PLAN ACTIONS COMPLETED - 27

* County	* Name of Source/Project * /Site and Type of Same	* Date * Received	* Status	* * *
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INDUSTRIAL WASTE SOURCES - 21

Union	Borden Chemical (LaGrande) Spill Control and Treatment System	8-6-82	Approved	
Tillamook	Don Averill's Dairy Manure Control System	8-30-82	Approved	
Tillamook	Ramon Landolt Dairy Manure Control System	8-30-82	Approved	
Tillamook	Richard Gierger Manure Control System	8-30-82	Approved	
Tillamook	Premium Farms Animal Manure Tank	8-30-82	Approved	
Tillamook	Louis Plantenga Animal Waste, Tank, Dry Storage, Roofing, and Curbing	8-30-82	Approved	
Tillamook	Steve Beeler Dairy 2 Storage Tanks, Curbing, Roofing	8-30-82	Approved	
Tillamook	Rebob Dairy Liquid and Dry Manure Curbing	8-30-82	Approved	
Tillamook	James Metcalfe Dairy Manure Storage Factory, Roofing, Curbing	8-30-82	Approved	
Tillamook	Hurliman, Max Manure Tank	8-30-82	Approved	

MAR. 4 (5/79) WG1463

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

August, 1982  
(Month and Year)

PLAN ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date * Received	* Status	*
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INDUSTRIAL WASTE SOURCES (cont'd.)

Tillamook	Bruce Thomas Dairy Manure Control System Tillamook	8-30-82	Approved	
Tillamook	Traskvale Farm Manure Control System	8-30-82	Approved	
Tillamook	Richard Tohl Dairy Manure Control Facilities	8-30-82	Approved	
Tillamook	Randy Fenk Manure Control Facilities	8-30-82	Approved	
Tillamook	John Walquist Manure Control Facilities	8-30-82	Approved	
Tillamook	Dean Tohl Dairy Manure Control Facilities	8-30-82	Approved	
Tillamook	Wilker Gates Manure Control Facility	8-30-82	Approved	
Tillamook	Alan DeBakesy Manure Control Facility	8-30-82	Approved	
Tillamook	Raymond McMahon Manure Control Facility	8-30-82	Approved	
Tillamook	W. Lane Woods Manure Control Facility	8-30-82	Approved	
Tillamook	L & H Tillamook Jerseys Manure Control Facility	8-30-82	Approved	

MAR.4 (5/79) WG1463

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

August 1982  
(Month and Year)

SUMMARY OF WATER PERMIT ACTIONS

	Permit Actions Received				Permit Actions Completed				Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits	
	Month	Fis.Yr.		Month	Fis.Yr.							
	*	/**	*	/**	*	/**	*	/**	*	/**	*	/**
<u>Municipal</u>												
New	0	/4	0	/4	0	/2	0	/2	1	/16		
Existing	0	/0	0	/0	0	/0	0	/0	0	/0		
Renewals	7	/2	12	/3	4	/0	10	/0	35	/4		
Modifications	1	/0	1	/0	1	/0	1	/0	2	/0		
Total	8	/6	13	/7	5	/2	11	/2	38	/20	238/110	239/126
<u>Industrial</u>												
New	1	/1	1	/1	2	/0	3	/0	2	/9		
Existing	0	/0	0	/0	0	/0	0	/0	0	/1		
Renewals	3	/5	4	/5	1	/0	3	/3	39	/21		
Modifications	1	/0	1	/0	1	/0	3	/0	0	/0		
Total	5	/6	6	/6	4	/0	9	/3	41	/31	372/179	374/189
<u>Agricultural (Hatcheries, Dairies, etc.)</u>												
New	0	/0	0	/0	0	/0	0	/0	1	/0		
Existing	0	/0	0	/0	0	/0	0	/0	0	/0		
Renewals	0	/0	0	/0	0	/0	0	/0	0	/0		
Modifications	0	/0	0	/0	0	/0	0	/0	0	/0		
Total	0	/0	0	/0	0	/0	0	/0	1	/0	53/19	54/19
<u>GRAND TOTALS</u>	13	/12	19	/13	9	/2	20	/5	80	/51	663/308	667/334

\* NPDES Permits  
\*\* State Permits

7 General Permits Issued  
18 General Permits This Fiscal Year

MAR.5W (8/79)

WL1921

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

August 1982  
(Month and Year)

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 (7)

Clackamas	Electronic Controls Design Inc. Mulino	8/16/82	Permit Issued
Yamhill	City of Dayton STP	8/20/82	Permit Renewed
Josephine	Hidden Valley School Josephine County School District STP	8/20/82	Permit Renewed
Crook	City of Prineville STP	8/20/82	Permit Renewed
Clatsop	Longford-Hamilton Corp. (Gearhart Facility)	8/20/82	Permit Issued
Malheur	Ore-Ida Foods, Inc. Ontario	8/30/82	Permit Renewed
Columbia	City of St. Helens	8/30/82	Permit Extended

MUNICIPAL AND INDUSTRIAL SOURCES - STATE PERMITS (2)

Deschutes	Hillman Addition (Terrebonne Estates) STP	8/20/82	Permit Issued
Marion	Jack Isberg RV Park & Truck Repair STP	8/20/82	Permit Issued

MUNICIPAL AND INDUSTRIAL SOURCES - MODIFICATIONS (2)

Polk	Boise Cascade Valsetz	8/4/82	Letter Mod. Schedule C
Deschutes	Burtons Inn Sisters, STP	8/20/82	Addendum No. 1

MAR.6 (5/79)

WL1921.A

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<u>Water Quality Division</u>	<u>August 1982</u>
(Reporting Unit)	(Month and Year)

PERMIT ACTIONS COMPLETED

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

MUNICIPAL AND INDUSTRIAL SOURCES - GENERAL PERMITS (7)

Cooling Water, Permit 0100J, File 32539 (2)

Linn	Robert Bond Brownsville	8-3-82	General Permit Issued (Heat Pump)
Douglas	International Paper Sawmill Powerhouse	8-26-82	" " "

Log Ponds, Permit 0400 J, File 32544 (1)

Jackson	Kogap Manufacturing Co. Medford	8-3-82	Transferred to General Permit
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Small Placer Mines, Permit 0600, File 34545 (2)

Josephine	David Neubauer MEAC, Selma	8-4-82	General Permit Issued
Josephine	George Murphy Gold Bar Mine Cave Junction	8-25-82	Transferred to General Permit

Portable Suction Dredges, Permit 0700 J, File 34547 (1)

Coos	Dennis Gerber 3" Suction Dredge North Bend	8-20-82	General Permit Issued
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Gravel Operations, Permit 1000, File 32565 (1)

Multnomah	Cascade Aggregates, Inc. Portland	8-3-82	General Permit Issued
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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

August 1982  
(Month and Year)

SUMMARY OF SOLID AND HAZARDOUS WASTE PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sites Under Permits	Sites Reqr'g Permits
	Month	FY	Month	FY			
<u>General Refuse</u>							
New	1	1	1	2	1		
Existing	-	-	-	-	-		
Renewals	2	4	4	6	8		
Modifications	3	4	3	4	-		
Total	6	9	8	12	9	175	175
<u>Demolition</u>							
New	-	-	-	1	-		
Existing	-	-	-	-	-		
Renewals	-	-	-	-	-		
Modifications	1	2	1	2	-		
Total	1	2	1	3	-	21	21
<u>Industrial</u>							
New	-	2	2	5	1		
Existing	-	-	-	-	-		
Renewals	1	4	3	3	6		
Modifications	-	-	-	-	-		
Total	1	6	5	8	7	103	103
<u>Sludge Disposal</u>							
New	-	-	1	1	-		
Existing	-	-	-	-	-		
Renewals	2	2	1	1	1		
Modifications	-	-	-	-	-		
Total	2	2	2	2	1	11	11
<u>Hazardous Waste</u>							
New	66	116	66	116	-		
Authorizations	-	-	-	-	-		
Renewals	-	-	-	-	-		
Modifications	-	-	-	-	-		
Total	66	116	66	116	-	-	-
<u>GRAND TOTALS</u>	76	135	82	141	17	310	310

SC680.A  
MAR.5S (4/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

August 1982  
(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Union	Union Transfer Station New Site	8/3/82	Letter Authorization Issued	*
Lane	Short Mountain Landfill Existing Site	8/6/82	Permit Renewed	*
Marion	Brinegar - Krupicka Existing Site	8/10/82	Letter Authorization Renewed	*
Curry	Brookings Energy Facility Existing Site	8/18/82	Permit Amended	*
Multnomah	Hayden Island Sludge New Site	8/19/82	Permit Issued	*
Columbia	Vernonia Landfill Existing Site	8/19/82	Permit Renewed	*
Benton	Coffin Butte Landfill Existing Site	8/23/82	Permit Amended	*
Coos	Powers Disposal Site Existing Site	8/26/82	Permit Renewed	*
Douglas	Int'l. Paper - Gardiner Existing Site	8/31/82	Permit Renewed	*
Lane	Davidson Industries Existing Site	8/31/82	Permit Issued	*
Clatsop	Astoria Landfill Existing Site	8/31/82	Permit Renewed	*
Polk	Fowlers Demolition Site Existing Site	8/31/82	Permit Amended	*
Columbia	Clatskanie Log Yard Existing Site	8/31/82	Permit Renewed	*
Josephine	Mountain Fir Lumber - Madrone Tract Existing Site	8/31/82	Permit Renewed	*

SC680.D  
MAR.6 (5/79)

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

Wasco	Mountain Fir Lumber - Tygh Valley New Site	8/31/82	Permit Issued	
Yamhill	Whiteson Landfill Existing Site	8/31/82	Permit Amended	

SC680.D  
MAR.6 (5/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

August 1982  
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-SECURITY SYSTEMS, INC., GILLIAM CO.

WASTE DESCRIPTION

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

TOTAL DISPOSAL REQUESTS GRANTED (66)

OREGON (15)

8-18	Low Shift Catalyst with Chrome	Chemical Co.	86 drums	-0-	
8-18	Mixed Lab Chemicals	Federal Agency	-0-	5 drums	
8-18	Heavy Metals Sludge	Electronic	-0-	300 tons	
8-18	PCB Capacitors	Plywood Mill	48 units	-0-	
8-18	Acetone with Paint Residue	Sporting Equipment	-0-	4,000 gal.	
8-18	Rinse Water with Aliphatic, Diamine, Alcohol & IPA	Oil Company	300 gal.	-0-	
8-24	Tall Oil Skimming Sludge	Chemical Co.	-0-	41,600 gal.	
8-25	Organophosphorus Pesticide Spill Cleanup Debris	Spill	800 lb.	-0-	
8-30	Ferric Chloride Sol.	Chemical Co.	39 drums	-0-	
8-30	Mixed Lab Chemicals	School	2 drums	2 drums	
8-30	Ni-Cd Batteries	Electronic	-0-	8,000 lb.	
8-31	Copper Chromate Solution	Waste Trtmt.	5 drums	-0-	

MAR. 15 (1/82) SB1315

8-31	Copper Hydroxide Sludge	Waste Trtmt.	8 drums	-0-
9-1	Spent HF/HNO <sub>3</sub> Sol.	Metal Smltg.	-0-	4,800 gal.
9-1	Ignitable Trim-Sol Machine Oil Coolant	Machine Shop	-0-	800 gal.

WASHINGTON (39)

8-5	Heavy Metals Sludge	Waste Trtmt.	5,000 gal.	-0-
8-5	Waterfall Paint Booth Waste	Metal Shop	-0-	80 drums
8-9	Duplicating Fluid Con- taining KOH, H <sub>2</sub> SO <sub>4</sub> , Acetic Acid & Chromic Acid	Aerospace Co.	-0-	1,000 gal.
8-16	Hydraulic Fluid with PCBs (< 500 ppm)	A1 Rolling Mill	1,300 lb.	-0-
8-16	Oil Sludge with PCBs (< 500 ppm)	A1 Rolling Mill	-0-	48,000 lb.
8-16	Hoffman Filter Cake with PCBs (> 500 ppm)	A1 Rolling Mill	-0-	5 tons
8-16	Mill Collant Sludge with PCBs (> 500 ppm)	A1 Rolling Mill	74,469 lb.	-0-
8-16	PCB Capacitors	A1 Rolling Mill	-0-	1 drum
8-16	Trichloroethylene	A1 Rolling Mill	-0-	1 drum
8-16	Heavy Metals Con- taminated Debris	Aerospace	-0-	1,000 cu. yd.
8-19	Electroplating Solu- tions, Organic Sol- vents, Contaminated Absorbent Material	Aerospace	-0-	3,000 cu. ft.
8-19	Heavy Metals Con- taminated Carbon Filter Beds.	Aerospace	-0-	4,000 gal.
8-19	Dry Sewage Sludge	Sewage Trtmt. Plant	90 cu. yd.	-0-

MAR. 15 (1/82) SB1315

8-24	PCB Capacitors	Chemical Co.	11 units	-0-
8-24	PCB Capacitors	Lumber Mill	-0-	6 units
8-25	High Temperature Shift Catalyst	Petroleum Refining	250 drums	60 drums
8-25	Asbestos Insulation	Petroleum Refining	50 cu. yd.	80 cu. yd.
8-25	Ignitable Paint Sludge	Petroleum Refining	-0-	20 drums
8-25	Betz Petromeen OS-9 Aromatic Naptha	Petroleum Refining	10 drums	-0-
8-25	Carbon Disulfide	Petroleum Refining	-0-	4 drums
8-25	Lead Contaminated Kerosine/Pipe	Petroleum Refining	-0-	10 drums
8-25	Lead Contaminated Filters, Etc.	Petroleum Refining	-0-	10 drums
8-25	Trichloroethylene	Petroleum Refining	2 drums	-0-
8-25	Trichloroethylene	Petroleum Refining	1 drum	-0-
8-25	PCB Spill Cleanup Debris	Chemical Co.	2 drums	-0-
8-30	Orthocide Plus	Chemical Co.	43,000 lb.	-0-
8-30	Ethylene Glycol	Foundry	-0-	100 gal.
8-30	Paint Sludge	Foundry	-0-	4 drums
8-30	Asbestos	Paper Co.	-0-	2,000 lb.
8-30	Paint Sludge	Printing	16 drums	-0-
8-31	Hydrocarbon/Catalyst Sludge	Petroleum Refining	100 gal.	-0-
8-31	PCB Capacitors	Wood Products Co.	-0-	200 units
8-31	PCB Transformers	Wood Prod. Co.	-0-	390 cu. ft.

MAR.15 (1/82) SB1315

8-31	PCB Contaminated Transformers	Wood Prod. Co.	-0-	37 ft <sup>3</sup>
8-31	PCB Contaminated Fire Debris	Wood Prod. Co.	100 cu. yd.	-0-
9-1	Sodium Methasilicate	Federal Agency	-0-	15 drums
9-1	Calcium Chloride	Federal Agency	-0-	3 drums
9-1	Citric Acid	Federal Agency	-0-	5 drums
9-1	Asbestos	Oil Co.	-0-	200 cu. yd.

OTHER STATES (12)

8-5	Contaminated Tailings Pond Water <u>(Colorado)</u>	Chemical Co.	-0-	1,000,000 gal.
8-5	PCB Contaminated Water <u>(Idaho)</u>	Chemical Co.	-0-	7 drums
8-5	PCB Transformers <u>(Alaska)</u>	Oil Co.	-0-	1 drum
8-11	Polyphenoxy Polymers, Benzoic Acid Residues and Fuel Oil Sludge <u>(British Columbia)</u>	Chemical Co.	500 drums	150 drums
8-18	Monoethylamine/Dibutyl Carbitol Stripper <u>(Idaho)</u>	Electronic	-0-	10 drums
8-19	PCB Transformers, Capacitors and Fluids <u>(Montana)</u>	Mining Co.	-0-	2,500 gal.
8-19	Acid Lead Sludge <u>(Idaho)</u>	Sporting Equipment	-0-	50 cu. yd.
8-30	Perchloroethylene Contaminated Photopolymer Sludge <u>(British Columbia)</u>	Photo Engraving	10 drums	12 drums
8-30	Methylene Chloride-Urethane Sludge <u>(Colorado)</u>	Sporting Equipment	-0-	400 gal.
8-30	Sulfuric Acid <u>(Colorado)</u>	Sporting Equipment	-0-	3,000 gal.

MAR.15 (1/82) SB1315

8-30	Sodium Dichromate/ Sulfuric Acid <u>(Colorado)</u>	Sporting Equipment	-0-	3,000 gal.
9-1	Penta-Creosote Sludge Empty Containers and Hg Contaminated Materials <u>(British Columbia)</u>	Electric Utility	136 ft. <sup>3</sup>	6,500 ft. <sup>3</sup>



DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit)	August, 1982 (Month and Year)
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SUMMARY OF NOISE CONTROL ACTIONS

Source Category	New Actions Initiated		Final Actions Completed		Actions Pending	
	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>Last Mo</u>
Industrial/ Commercial	10	20	9	17	110	109
Airports			1	2	1	1

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program	August, 1982
(Reporting Unit)	(Month and Year)

FINAL NOISE CONTROL ACTIONS COMPLETED

County	Name of Source and Location	Date	Action
Clackamas	Cranston Machinery Company, Oak Grove	08-82	In Compliance
Clackamas	Northwest Sand & Gravel Company, (Jennifer Road), Clackamas	08-82	No Violation
Columbia	Columbia River Sand & Gravel Columbia County	08-82	In Compliance
Multnomah	Port of Portland Steel Unloading	08-82	No Violation
Washington	Oregon Roses Nursery, Hillsboro	08-82	No Violation
Benton	Parker Stadium, Corvallis	08-82	In Compliance
Marion	Southern Pacific Transportation Company, Woodburn	08-82	In Compliance
Coos	Weyco Mill, North Bend	08-82	In Compliance
Douglas	Pacific Power & Light - Winchester Substation, Winchester	08-82	In Compliance
Wasco	Rajneesh Airport Wasco County	08-82	Boundary Approved

CIVIL PENALTY ASSESSMENTS

DEPARTMENT OF ENVIRONMENTAL QUALITY  
1982

CIVIL PENALTIES ASSESSED DURING MONTH OF AUGUST, 1982:

<u>Name and Location of Violation</u>	<u>Case No. &amp; Type of Violation</u>	<u>Date Issued</u>	<u>Amount</u>	<u>Status</u>
Riverview Service Corporation Benton County	WQ-WVR-82-62 Violated the condi- tions of its WPCF permit.	8-5-82	\$350	Default Order and Judgment issued 9-7-82.
Norman Toedtemeier Monroe, Oregon	AQOB-WVR-82-65 Open burned tires.	8-18-82	\$250	Hearing request and answer filed 9-10-82.
Howard Logsdon Sumpter, Oregon	AQ-ER-82-72 Operated a portable rock crusher without first obtaining a permit.	8-18-82	\$2,000	Requested exten- sion to 9-24-82 to file hearing request and answer.
Richard Syler Salem, Oregon	AQOB-WVR-82-76 Open burned prohibit- ed materials.	8-25-82	\$100	Awaiting personal service by Marion County Sheriff.
Bill Olinger Lincoln Mercury, Inc. Portland, Oregon	WQ-NWR-82-73 Failed to clean up an oil spill.	8-25-82	\$1,500	Request for hearing filed 9-10-82. Filing of answer extended to 10-4-82.

VAK:bc  
GB1319

<u>ACTIONS</u>	<u>LAST MONTH</u>	<u>PRESENT</u>
Preliminary Issues	2	2
Discovery	0	0
Settlement Action	1	0
Hearing to be scheduled	3	3
Hearing scheduled	2	0
HO's Decision Due	2	4
Briefing	1	0
Inactive	4	4
 SUBTOTAL of cases before hearings officer.	 <u>15</u>	 <u>13</u>
 HO's Decision Out/Option for EQC Appeal	 2	 0
Appealed to EQC	1	1
EQC Appeal Complete/Option for Court Review	0	1
Court Review Option Pending or Taken	0	0
Case Closed	3	2
 TOTAL Cases	 <u>21</u>	 <u>17</u>

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.

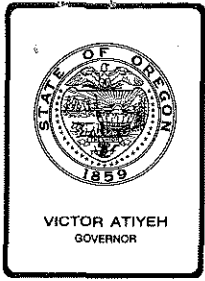
ACDP      Air Contaminant Discharge Permit  
AQ      Air Quality  
DEC Date      Date of either a proposed decision of hearings officer or a decision by Commission  
\$      Civil Penalty Amount  
ER      Eastern Region  
Fld Brn      Field Burning incident  
RLH      Robb Haskins, Assistant Attorney General  
Hrngs      Hearings Section  
Hrng Rfrl      Date when Enforcement Section requests Hearing Section schedule a hearing  
VAR      Van Kollias, Enforcement Section  
LMS      Larry Schurr, Enforcement Section  
MWR      Midwest Region (now WVR)  
NP      Noise Pollution  
NPDES      National Pollutant Discharge Elimination System wastewater discharge permit.  
NWR      Northwest Region  
FWO      Frank Ostrander, Assistant Attorney General  
OSS      On-Site Sewage  
P      Litigation over permit or its conditions  
Prtys      All parties involved  
Rem Order      Remedial Action Order  
Resp Code      Source of next expected activity in case  
SW      Solid Waste Division  
SWR      Southwest Region  
T      Litigation over tax credit matter  
Transcr      Transcript being made of case  
Underlining      New status or new case since last month's contested case log  
WVR      Willamette Valley Region  
WQ      Water Quality Division

CONTES.B (2)

August 1982

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	DEQ Atty	Hrng Date	Resp Code	Case Type & No.	Case Status
POWELL, Ronald	11/77	11/77	RLH	01/23/80	Prtys	\$10,000 Fld Brn 12-AQ-MWR-77-241	Stipulated settlement proposal to be drafted for presentation to EQC.
WAH CHANG	04/78	04/78	RLH		Prtys	16-P-WQ-WVR-78-2849-J NPDES Permit Modification	Current permit in force. Hearing deferred.
WAH CHANG	04/78	04/78	RLH		Prtys	08-P-WQ-WVR-78-2012-J NPDES Permit Modification	Current permit in force. Hearing deferred.
M/V TOYOTA MARU No. 10	12/10/79	12/12/79	RLH		Hrgs	17-WQ-NWR-79-127 Oil Spill Civil Penalty of \$5,000	Ruling due on requests for partial summary judgment.
HAYWORTH, John W. dba/HAYWORTH FARMS INC.	12/02/80	12/08/80	LMS	04/28/81	Hrgs	33-AQ-WVR-80-187 Field burning civil penalty of \$4,660	Decision due.
PULLEN, Arthur W. dba/Lakes Mobile Home Park	07/15/81	07/15/81	RLH		Prtys	16-WQ-CR-81-60	Dept. does not wish to actively pursue further enforcement action pending expected progress in establishing a community sewage facility.
FRANK, Victor	09/23/81	09/23/81	LMS	06/08/82	Hrgs	19-AQ-FB-81-05 FB civil penalty of \$1,000	Post hearing argument conducted 6/29/82. Decision due.
GATES, Clifford	10/06/81		LMS		Hrgs	21-SS-SWR-81-90	To be scheduled.
SPERLING, Wendell dba/Sperling Farms	11/25/81	11/25/81	LMS		Hrgs	23-AQ-FB-81-15 FB Civil Penalty of \$3,000	To be scheduled.
NOFZIGER, Leo	12/15/81	01/06/82	LMS	06/29/82	Resp	26-AQ-FB-81-18 FB Civil Penalty of \$1,500.	<u>Record closed 8/15/82.</u>
OLD MILL MARINA		03/04/82	LMS		Hrgs	27-AQOB-NWR-82-01 Open Burning Civil Penalty	To be scheduled.
PULLEN, Arthur	03/16/82		RLH		Prtys	28-WQ-CR-82-16	See companion case above.
ANDERSON, Douglas	04/03/82		VAK	06/24/82	Resp	29-AQOB-NWR-82-23	<u>Waiting for confirmation of service of hearings officer's final order.</u>
BOWERS EXCAVATING & FENCING, INC.	05/20/82		LMS		Prtys	30-SW-CR-82-34	Preliminary Issues.
ADAMS, Gallen			VAK	08/25/82	Prtys	31-SS-NWR-82-51	<u>Hearing conducted.</u>
KOENNECKE and WESTHILL ISLAND NEIGHBORS, INC.					Prtys	32-SW-NWR-82 Declaratory Ruling Request re: OAR 340-61-031 Wildwood Landfill	<u>Commission declined to issue declaratory ruling.</u>



# Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission  
From: Director  
Subject: Agenda Item C, October 15, 1982, EQC Meeting

TAX CREDIT APPLICATIONS

Director's Recommendation

It is recommended the Commission take the following actions:

1. Issue Pollution Control Facility Certificates to:

Appl. No.	Applicant	Facility
T-1393	Teledyne Industries, Inc.	Dust collection system
T-1441	Stimson Lumber Company	Rotary dryer, hogged fuel boilers, and multiclone particulate collector
T-1525	Weyerhaeuser Company	Bag filter
T-1537	Oregon Potato Company	Steam peeling equipment
T-1543	ESCO Corporation	Dust collection system
T-1547	Roseburg Paving Company	Mufflers
T-1550	ESCO Corporation	Bag filter dust collector modification
T-1551	ESCO Corporation	Hooding modifications
T-1552	ESCO Corporation	Dust collector upgrading
T-1553	Columbia Steel Casting, Inc.	Bag filter dust collection system
T-1555	Eagle Foundry, Inc.	Bag filter dust collection system

- Waive Preliminary Certification requirement and issue Pollution Control Facility Certificate to Norman Armstrong Dairy, Application T-1541, for a manure control facility (see attached review report).
- Deny tax relief applications T-1544, T-1545, and T-1546, ESCO Corporation, as applicant did not file for preliminary certification before construction (see attached review report).
- Revoke Pollution Control Facility Certificates 622, 729, 910, and 1187 issued to Georgia-Pacific Corporation as the certified facilities have been removed from service (see attached review report).

William H. Young



Contains Recycled Materials

CASplettstaszer

229-6484

9/22/82

Attachments

PROPOSED OCTOBER, 1982 TOTALS

Air Quality	\$ 977,259
Water Quality	212,384
Solid/Hazardous Waste	-0-
Noise	<u>9,200</u>
	\$ 1,198,843

CALENDAR YEAR TOTALS TO DATE

Air Quality	\$10,713,385
Water Quality	42,934,542
Solid/Hazardous Waste	25,430,219
Noise	<u>40,216</u>
	\$79,118,362

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Teledyne Industries, Inc.  
Teledyne Wah Chang Albany  
P.O. Box 460  
Albany, OR 97321

The applicant owns and operates a zirconium, hafnium, tantalum, titanium, and niobium production plant at 1600 Old Salem Road, 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 dust collection system to control emissions from the sand chlorination pneumatic feed transfer system which replaced a bucket elevator and conveyor belt transfer system.

Request for Preliminary Certification for Tax Credit was made on 9-13-76, and approved on 10-11-76.

Construction was initiated on the claimed facility in October 1976, completed on November 3, 1976, and the facility was placed into operation on November 3, 1976.

Facility Cost: \$31,243.00 claimed (Accountant's Certification was provided) of which \$22,873.00 is eligible.

3. Evaluation of Application

The claimed facility consisting of two (2) new Semco baghouses, six (6) new cyclones and six (6) existing cyclones is required to control emissions from the new pneumatic feed transfer system. This pneumatic feed transfer system replaced an old conveying system employing bucket elevators and conveyor belts for the transfer of sand and coke mix from the crude chlorination ball mill to the crude chlorination feed hoppers.

The claimed facility, with the new pneumatic feed transfer system, has been inspected by Department personnel and has been found to be operating in compliance with regulations and permit conditions.



Virtually all fugitive chlorine emissions emitted from the connection where feed enters the chlorinators and the coke dust emissions generated by the previous conveying system have been eliminated.

Since the cyclones are considered process equipment, the amount of the claimed facility cost eligible for tax credit consideration has been reduced by costs of both new and existing cyclones as noted below:

Claimed facility cost	-	\$31,243.00
Cyclone cost -	\$5,970.00	
Cyclone installation -	<u>\$2,400.00</u>	
Total cyclone costs -		<u>8,370.00</u>
Eligible facility cost -		\$22,873.00

The amount of coke and sand material collected by the Semco baghouses represents approximately 500 pounds per day which is recycled in the process. This feed material which is 80% zircon sand and 20% coke has an approximate value of \$140.00 per ton. Based upon an estimated operating time of 40 weeks per year, approximately \$9,800.00 per year would be collected and recycled. The annual operating expenses before taxes, excluding depreciation, exceed the value of the material collected. Therefore, there is no return on the investment in the facility and 80% or more of the eligible 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 is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the eligible 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 \$22,873.00 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1393.

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

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

The applicant owns and operates a sawmill, plywood and hardboard plant near Forest Grove.

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

2. Description of Claimed Facility

The facilities described in this application include a rotary dryer for hogged fuel, two new replacement Dutch oven hogged fuel boilers, and a multiclone particulate collector.

Preliminary Certification for Tax Credit was requested on January 10, 1978 for the hogged fuel dryer and boilers. Approval of the hogged fuel dryer was granted on February 23, 1979, and on the boilers on June 2, 1980. Upon demonstration by source test that the new boilers failed to meet emission limits, the company, by letter dated April 10, 1980, advised the Department of its intent to replace the old multiclone. The Department considered this to be an acceptable modification to the approved boilers plans and subject to the June 2, 1980 boiler certification.

Construction was initiated on the claimed facilities on February 1, 1978, completed on January 22, 1981, and placed into operation on January 22, 1981.

Facility Cost: \$1,192,424 (Revised as resubmitted on July 16, 1982). (Accountant's Certification was provided).

3. Evaluation of Application

Stimson Lumber Company operates a sawmill, plywood and hardboard plant below Skoggins Reservoir dam. The Company requested air quality pollution control facility tax relief certification on a rotary dryer for hogged fuel, portions of two Dutch oven hogged fuel (replacement) boilers and a multiclone particulate collector for the boilers. Auxillary equipment included as part of the project were modifications to existing Dutch oven air preheaters, boiler feedwater conditioning system and the addition of monitoring instrumentation.

The generated steam is used for the plant's lumber dry kilns and veneer log conditioning and is sold to the company's Forest Fiber Products Division hardboard plant.

Alternatives considered by the applicant included installing baghouse or wet scrubber controls on the existing boiler exhaust stacks. These costs were estimated to be \$1,000,000 and \$750,000 respectively. Switching to lower emitting gas fuels was also an alternative considered. The applicant indicated that gas or oil fuel bills would be about \$100,000 per month.

The total certified cost of all facilities was \$1,192,424. The company claimed that \$890,933 (74.7 percent) was properly allocable to pollution control. This claim was based on allocating about 66 percent of the boilers and 100 percent of the other items.

Because the bark fuel dryer and boilers are discrete operating units, and since the multiclone particulate collector is a recognized pollution control device, individual tax credit analyses were made. Itemized certified cost data were supplied by the applicant.

Bark fuel dryer: Stimson constructed the rotary type fuel dryer which utilizes waste heat from the boiler stack gases to produce a lower, more uniform moisture bearing fuel. The use of such fuel improves combustion and less air contaminants are emitted in the boiler exhaust. The bark fuel dryer was source tested and complied with Department emission standards. While the fuel dryer serves to minimize boiler emissions, it is a new emission source which might have increased net plant site emissions by as much as 100 tons per year.

The Company indicated that the dryer also results in a boiler fuel savings of two units per hour. The annual value of this savings is \$158,400. Annual operating costs of the dryer are estimated by the Company to be \$256,543. The dryer cost was \$265,220. The Company indicated that by constructing the dryer from used and salvaged hardware, they effected a cost savings of about 50% of the price of a completely new dryer.

A return on investment analysis yields a negative return, therefore, there is no net economic benefit to the Company from constructing and operating the bark fuel dryer. Fuel reduction savings (\$158,400) - operating costs (\$256,543) = negative cash flow (-\$98,143).

The Department has concluded that the purpose of the bark fuel dryer is for pollution control, therefore, a certificate of \$265,220 with 80% or more allocated to pollution control should be issued for the bark fuel dryer and directly associated equipment (conveyors).

Replacement boilers: The two boilers which were replaced had a combined steam rate capacity of 75,000 lbs/hr. The two new units in

combination, are capable of 106,000 lbs/hr. In addition, the new design incorporated oversizing the grate areas and combustion spaces to improve combustion and to reduce exhaust gas velocities which would result in less particulate matter entrainment. The new boilers are limited to an 0.1 g/dscf emission and 20% opacity, whereas the older units were subject to 0.2 g/dscf and 40% opacity limits.

Cost of the boilers and auxillary equipment was \$876,435 (excluding multiclone particulate collector). Operating costs are estimated to be \$256,543 for the new boiler complex. This reflects some cost saving over the \$261,600 annual labor and maintenance expenditure attributed to the two replaced boilers (1977-78).

Stimson Lumber Company noted in their request for construction approval that the two original boilers could not consistently meet the 0.2 g/dscf emission standard. The Department, in the NC approval report and subsequent report to the Commission, stated that a 1976 source test demonstrated (conducted at 43% of rated capacity) that the existing boilers were capable of operating in compliance with the 0.2 g/dscf emission limit. Two opacity violations were documented in 1973. Between 1975 thru 1978 all Department scheduled inspections indicated opacity compliance. A complaint about smoke from the boilers was registered with the Department in late 1978.

Based on recommendations of the Department staff, the Commission at its April 28, 1978 meeting denied a request for preliminary certification. It was believed that the project did not comply with the applicable tax relief provisions of the ORS and rules. Stimson Lumber Company appealed this action. Preliminary tax credit certification for the replacement hogged fuel boilers was approved by a Department hearings officer on June 2, 1980.

The Department hearings officer ordered that "Stimson's application for preliminary tax pollution credit certification be accepted." This ruling stated: "To satisfy the 'substantial purpose' requirement, pollution control need not be an exclusive or primary purpose". The hearing officer pointed out that fuel savings was not documented to be a preclusive motivation for construction; nor was it established by hearing that Stimson had prior ability to meet emission standards consistently.

Source test data and Department observations of the new boilers have documented boiler compliance with emission standards. Actual emissions of the new boilers were about 70 percent of allowable when operating at 52 percent of rated capacity.

Since the new boilers would supply all required steam while being operated below their rated capacity, with corresponding reduction of emissions, the company claimed they would in effect be pollution control equipment. Stimson maintains that all "oversizing" (addition of rated steam generation capability above the design rating of the

replaced units) of the boilers is allocable to pollution control. They claim that operating the original boilers at 123 percent of rated capacity to supply peak loads was evidence that adequate steaming capacity previously existed.

The Company has 31,000 lb/hr rated steam capacity that did not exist with the replaced boilers, irrespective that the original boilers supplied the same steam (but at 123 percent operating overload).

The Department considers some boiler complex components such as the air heaters and feed water treatment to be production or process elements essential in good system design and construction for new boilers. The operation of Dutch oven boiler systems at the less than rated capacity with consistent quality fuel is recognized by the Department to minimize emissions. However, surplus capacity in Dutch oven boilers does not lend itself to an evaluation of pollution control benefits for tax credit purposes. In addition, Dutch oven boilers are historically and presently considered to be sources of air pollution.

The Department has concluded that some identifiable components of the boiler complex are eligible for pollution control facility tax credit, specifically the ducting from the boiler to the fuel dryer (\$52,9116) and a portion of the instrumentation, including the smoke density meters, oxygen analyzers and TV monitors (\$39,675) because of the direct relationship to minimizing emissions. Certified costs of these components were itemized in the application. The total cost of eligible components for the boiler complex is \$92,591 with 80% or more allocable to pollution control.

Multiclone collector: A new multiclone particulate collector was installed to replace an existing smaller similar collector. This replacement was not initially planned but it was determined to be necessary when a particulate source test on the new boilers and fuel dryer failed to demonstrate emission compliance. The Company claims no salvage value of the removed unit. There is no positive cash flow from the multiclone and its primary purpose is considered to be pollution control. Therefore, 80 percent or more of the \$50,768 multiclone cost is allocable to pollution control.

4. Summation

- a. The fuel dryer, hogged fuel boilers and multiclone were constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facilities were constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).

- c. Facilities were designed in part for and are being operated to some extent for the purpose of preventing, controlling, or reducing air pollution.
- d. The facilities 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:

Bark fuel dryer	80% or more of \$265,220
Eligible boiler components	80% or more of \$ 92,591
Ducting and piping to dryer, smoke density and oxygen meters, TV monitors	
Multiclone collector	80% or more of \$ 50,768

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate be issued for those elements of the facilities described in Tax Credit Application No. T-1441 set forth below:

Bark fuel dryer:	\$265,220 with 80 percent or more allocable to pollution control.
Eligible boiler components:	\$92,591 with 80% or more allocable to pollution control.
Multiclone collector:	\$50,768 with 80 percent or more allocable to pollution control.

H.M. Patterson:h  
AH291  
(503) 229-5364  
April 13, 1982

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Weyerhaeuser Company  
Willamette Region  
P.O. Box 275  
Springfield, OR 97477

The applicant owns and operates a lumber planing mill along with other wood product manufacturing operations at Springfield.

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 bag filter to control particulate emissions from a truck loading bin cyclone serving a new precision lumber trimmer and material from an existing overs screen.

Plans and specifications were reviewed and approved by Lane Regional Air Pollution Authority (LRAPA).

Request for Preliminary Certification for Tax Credit was made on January 14, 1981, and approved on February 9 1981.

Construction was initiated on the claimed facility on March 2, 1981, completed on March 31, 1981, and the facility was placed into operation on April 1, 1981.

Facility Cost: \$22,104.00 (Accountant's Certification was provided).

3. Evaluation of Application

An existing cyclone and bin received wood waste from an overs screen. A new precision end trimmer was installed which also discharges its wood waste to the same collection system and bin. The existing cyclone was replaced with a larger cyclone that discharges to the new Clarke's bag filter.

The Company has made application for pollution control facility tax credit for the bag filter, the air lock, rebuilding of a motor/fan which returns bag filter collected dust to the cyclone, ducts, and costs incurred with the installation of this equipment. No portion of

the material blower to the cyclone was claimed. The primary purpose of the bag house and associated equipment is pollution control. There is no significant economic value to the material collected by the bag filter.

The system as installed complies with LRAPA air emission standards.

The portion of the project claimed for the tax credit has the primary purpose of pollution control and therefore, 80% or more of those costs should be certified for pollution control tax credit.

The application was received and considered complete on May 10, 1982.

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 \$22,104.00 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1525

F.A. Skirvin:a  
(503) 229-6414  
July 29, 1982  
AA2379 (1)



State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

Oregon Potato Company  
P.O. Box 169  
Boardman, OR 97818

The applicant owns and operates a potato processing plant at Boardman.

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

2. Description of Claimed Facility

The facility described in this application is steam peeling equipment for the processing of potatoes. The equipment consists of:

- a. steam accumulators
- b. two steam peelers
- c. steam lines, valves, and insulation

Request for Preliminary Certification for Tax Credit was made December 3, 1981, and approved December 4, 1981. Construction was initiated on the claimed facility December 26, 1981, completed January 15, 1982, and the facility was placed into operation January 15, 1982.

Facility Cost: \$186,212.20 (Accountant's Certification was provided).

The accountant's certified facility cost was \$270,577.00. However, this included a cost of \$78,364.80 for 4 model 26 scrubbers. The scrubbers, used to remove the loosened potato skins, are merely replacements of old units. In addition, the applicant has estimated a salvage value of \$6000 for the old caustic peelers. These costs have been subtracted from the certified facility cost.

3. Evaluation of Application

Prior to installation of the claimed facility, potatoes were peeled using a 12% caustic solution. Effluent from the peelers is disposed of through the Port of Morrow's land irrigation system. Caustic peelers tend to have a high loss of potato solids and the sodium in the waste water can plug soils over a period of time. With the installation of the steam peelers, caustic use has been eliminated which greatly benefits the efficiency of the land disposal system. Since the installation of the steam peelers, the applicant estimates an annual savings of \$144,100 (caustic \$82,500, reduction in peel loss \$61,600). The factor of internal rate of return ( $\$186,213/144,100$ ) is 1.292, which gives a rate of return in excess of 50 percent. Based on Table 1 on Page VI-3 of Department's Tax Credit Guidance Handbook, the actual cost of the claimed facility allocable to pollution control is less than 20 percent.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing water pollution.
- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is less than 20 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$186,212.20 with less than 20 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1537.

Charles K. Ashbaker:1  
(503) 229-5325  
September 20, 1982

WL1951

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

ESCO Corporation  
Manufacturing Division  
2141 N.W. 25th Avenue  
Portland, OR 97210

The applicant owns and operates a steel foundry at 2141 N.W. 25th Avenue, 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 consists of a dust collection system for the molding line sand system and foundry shakeout.

Request for Preliminary Certification for Tax Credit was made on January 12, 1981, and approved on January 21, 1982.

Construction was initiated on the claimed facility on February 18, 1981, completed on August 21, 1982, and the facility was placed into operation on August 21, 1982.

Facility Cost: \$156,894.19 (Accountant's Certification was provided).

3. Evaluation of Application

The claimed facility consisting of a bag filter dust collector, hooding, ductwork and blower is required to control emissions from the V-process molding line sand system and foundry shakeout.

The claimed facility has been inspected by Department personnel and has been found to be operating in compliance with regulations and permit conditions.

The V-process is a closed system utilizing chromite sand which contains approximately 1-1/2%, 250 minus mesh particles. This means that the original 400 tons of sand used in the system contained approximately 6 tons of fines. As a result of the nature of the V-process and the hardness of chromite sand, there is little attrition

of the chromite sand in the process, meaning that the original 6 tons of fines are continually recycled in the process. This has been verified during the one year the system has been operating. The annual operating expenses before taxes exclusive of Depreciation are as follows:

Utilities	\$24,429.00
Maintenance	7,700.00
Insurance	<u>15.60</u>
Total	\$32,144.60

These operating expenses of \$32,144.60 far exceed the value of the 6 tons of chromite sand fines which is \$1,050.00. Therefore, there is no return on the investment in the facility and 80% or more of the facility cost is allocable to pollution control.

The application was received on July 12, 1982, additional information was received on August 24, 1982, and the application was considered complete on August 24, 1982.

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 \$156,894.19 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1543.

F.A. Skirvin:a  
AA2524 (1)  
(503) 229-6414  
September 3, 1982

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Roseburg Paving Company  
P.O. Box 1487  
Roseburg, OR 97470

The applicant owns and operates an asphalt hot mix plant at Roseburg.

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

2. Description of Claimed Facility

The facility described in this application is a 30 inch diameter muffler and a 20 inch diameter muffler mounted on an enclosure around the asphalt burner system on a newly constructed asphalt plant.

Request for Preliminary Certification for Tax Credit was made on March 9, 1979 and approved on March 30, 1979.

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

Facility Cost: \$9,200 (Accountant's Certification was provided).

3. Evaluation of Application

This plant is located approximately 300 feet from noise sensitive property, a trailer park. The burner systems on similar facilities have been the source of noise complaints. No complaints have been registered since this plant was placed into operation in June 1979. A cost of \$9200 was attributed to sound suppression equipment at which 100 percent is allocated for noise pollution control.

The application was received on December 24, 1981, additional information was received on July 23, 1982, and the application was considered complete on July 23, 1982.

4. Summation

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

- b. Facility was constructed on or after January 1, 1977, as required by ORS 468.165(1)(b).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing noise pollution.
- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 467, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80% 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 \$9200 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1547

John Hector:a  
(503) 229-5989  
August 9, 1982  
NA 2426 (1)

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

ESCO Corporation  
Manufacturing Division  
2141 N.W. 25th Avenue  
Portland, OR 97210

The applicant owns and operates a steel foundry at 2141 N.W. 25th Avenue, 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 consists of a bag filter dust collector modification.

Request for Preliminary Certification for Tax Credit was made on January 12, 1982, and approved on March 15, 1982.

Construction was initiated on the claimed facility on February 1, 1982, completed on April 10, 1982, and the facility was placed into operation on April 10, 1982.

Facility Cost: \$13,045.00 (Accountant's Certification was provided).

3. Evaluation of Application

The claimed facility consists of modifications to the Slinger Bay (large casting molding area) bin vent bag filter dust collector. These modifications were required by the Department to prevent fugitive emissions resulting in violations and complaints. The fugitive emissions occurred during transfer of sand from railroad cars to the storage bins by a pneumatic transfer system. The air used to blow the sand in was vented through the dust collector mounted on top of the bin vents. Leakage was prevalent and frequent rupture of bags occurred resulting in violations. The dust collector, which had never been certified for tax credit, was modified by installing new tube sheets, new bags, bag cages, magnahelic gauge and related hardware. All existing parts removed were scrapped.

The claimed facility has been inspected by Department personnel and has been found to be operating in compliance with regulations and permit conditions. In addition, no further complaints have been received.

All material collected by the bin vent bag filter dust collector drops back into the storage bin where it enters the process. All fines which are considered undesirable in the molding process are removed during shakeout in another bag filter dust collection system and disposed of at a landfill. Therefore, since the claimed facility was installed solely to correct an air pollution problem, there is no return on the investment in the facility.

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 \$13,045.00 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1550.

H.M. Patterson:a  
AA2554 (1)  
(503) 229-6414  
September 13, 1982



State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

ESCO Corporation  
Manufacturing Division  
2141 N.W. 25th Avenue  
Portland, OR 97210

The applicant owns and operates a steel foundry at 2141 N.W. 25th Avenue, 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 consists of hooding modifications.

Request for Preliminary Certification for Tax Credit was made on November 12, 1981, and approved on January 14, 1982.

Construction was initiated on the claimed facility on November 20, 1981, completed on April 10, 1982 and the facility was placed into operation on April 10, 1982.

Facility Cost: \$16,106.91 (Accountant's Certification was provided).

3. Evaluation of Application

The claimed facility consists of the addition of side draft hoods to existing hooding over the casting shakeout area. These hood modifications were voluntarily installed by ESCO to capture additional dust emissions which were being drawn out of the room by ventilation fans. These captured emissions are ducted by existing ductwork to an existing baghouse for treatment.

The facility has been inspected by Department personnel and has been found to be operating in compliance with regulations and permit conditions.

All material captured by the revised hooding and collected by the existing baghouse is disposed of at a landfill. The facility, which was installed solely for air pollution control, has no return on the

investment in the facility, therefore, 80% or more of the facility cost is allocable to pollution control.

The application was received on August 24, 1981, and the application was considered complete on August 24, 1982.

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 \$16,106.91 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1551.

F.A. Skirvin:a  
AA2523 (1)  
(503) 229-6414  
September 3, 1982

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

ESCO Corporation  
Manufacturing Division  
2141 N.W. 25th Avenue  
Portland, OR 97210

The applicant owns and operates a steel foundry at 2141 N.W. 25th Avenue, 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 consists of the "Rotoblast" dust collector upgrading.

Request for Preliminary Certification for Tax Credit was made on November 12, 1981 and approved on January 14, 1982.

Construction was initiated on the claimed facility on November 12, 1981, completed on February 2, 1982, and the facility was placed into operation on February 2, 1982.

Facility Cost: \$41,864.05 (Accountant's Certification was provided).

3. Evaluation of Application

The existing "Rotoblast" bag filter dust collector was upgraded by converting from a mechanical shaker system to reverse pulse bag cleaning. This upgrading also required installation of a different, more efficient type of filtering bag. This upgrading was required by the Department to eliminate intermittent excessive emissions following each bag cleaning cycle.

The claimed facility has been inspected by Department personnel and has been found to be operating in compliance with regulations and permit conditions.

The material collected in the dust collector (which had never received certification for tax credit) is disposed of at a landfill. All items removed from the dust collector during the upgrading were not salvaged

and have no economic value. Therefore, there is no rate of return on the investment in the upgrading and 80% or more of the cost is allocable to pollution control.

The application was received on August 24, 1982, additional information was received on September 13, 1982, and the application was considered complete on September 13, 1982.

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 \$41,864.05 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1552.

H.M. Patterson:a  
AA2559 (1)  
(503) 229-5364  
September 13, 1982

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Columbia Steel Casting, Inc.  
10425 North Bloss Avenue  
Portland, OR 97203

The applicant owns and operates a steel foundry at 10425 N. Bloss Avenue, 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 consists of a bag filter dust collection system.

Request for Preliminary Certification for Tax Credit was made on September 25, 1979 and approved on November 28, 1979.

Construction was initiated on the claimed facility on October 28, 1980, completed on September 18, 1981, and the facility was placed into operation on September 21, 1981.

Facility Cost: \$217,271.44 (Accountant's Certification was provided).

3. Evaluation of Application

Installation of the bag filter dust collection system was required to control emissions from the new IOTT Whiting electric arc furnace.

The installation has been inspected by Department personnel and has been found to be operating in compliance with regulations and permit conditions. Source tests of the system to determine compliance indicated an average grain loading of  $6.69 \times 10^{-3}$  gr/scf with a mass emission rate of 1.53 lbs/hr.

The metallic/oxide dust collected in the claimed facility is mixed with water and disposed of on company property. Therefore, there is no return on the investment in the facility and 80% or more of the cost of the facility is allocable to pollution control.

The application was received on August 24, 1982 and the application was considered complete on August 24, 1982.

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 \$217,271.44 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1553.

Harold M. Patterson:a  
AA2556 (1)  
(503) 229-5364  
September 13, 1982

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Eagle Foundry, Inc.  
P.O. Box 250  
Eagle Creek, OR 97022

The applicant owns and operates a steel foundry at S.E. Eagle Creek Road, Eagle Creek, 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 bag filter dust collection system.

Request for Preliminary Certification for Tax Credit was made on September 10, 1980 and approved on December 19, 1980.

Construction was initiated on the claimed facility on December 19, 1980, completed on May 20, 1981, and the facility was placed into operation on May 20, 1981.

Facility Cost: \$78,487.15 (Accountant's Certification was provided).

3. Evaluation of Application

The claimed facility, consisting of a bag filter dust collection system, is required to control emissions from the sand reclaimer and the sand classifier.

The facility has been inspected by Department personnel and has been found to be operating in compliance with regulations and permit conditions.

The fines collected by the dust collection system is wetted down and the slurry is disposed of in a landfill. Therefore, there is no return on the investment in the facility and 80% or more of the cost of the facility is allocable to pollution control.

The application was received on September 3, 1982, additional information was received on September 10, 1982, and the application was considered complete on September 10, 1982.

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 \$78,487.15 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1555.

Harold M. Patterson:a  
AA2557 (1)  
(503) 229-5364  
September 13, 1982



State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

Norman Armstrong Dairy  
1915 Tillamook River Road  
Tillamook, OR 97141

The applicant owns and operates a dairy farm at Tillamook.

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 manure control facility consisting of (1) a roofed 15,205 ft.<sup>3</sup> above ground concrete liquid manure tank, (2) a covered 40' x 60' x 6' dry manure storage facility, (3) curbing and roofing for an existing confinement slab, (4) guttering, and (5) agitator, pump, and plumbing facilities. Also included are two white 2-60 diesel tractors.

The applicant submitted a Notice to Construct, but the form was not marked to request Preliminary Certification for Tax Credit. The Department gave construction approval on November 13, 1981, but did not act on the tax credit portion due to lack of a request. Applicant requests that Commission waive requirements for filing.

Construction was initiated on the claimed facility November 15, 1981, completed December 15, 1981, and the facility was placed into operation December 15, 1981.

Facility Cost: \$26,172 (Accountant's Certification was provided).

The Accountant's Certification shows a Facility Cost of \$76,172. However, the U.S. Department of Agriculture participated in cost sharing a total of \$50,000 of this project. The remaining \$26,172 is eligible for tax credit consideration. In computing the original facility cost, the applicant only allowed 80 percent of the cost of the tractors since 20 percent of their hourly usage is devoted to other farm matters.

3. Evaluation of Application

Prior to installation of the claimed facility, the lack of adequate manure storage facilities forced the disposal of manure onto fields during wet weather conditions. Field runoff was often contaminated

with manure. The claimed facility provides for storage and collection of solid and liquid wastes. The buildings and slabs have also been guttered and roofed to separate storm runoff from the collection system. The claimed facility significantly reduces the contamination of field runoff from the dairy operation. There is no return on investment from this facility.

The Department was aware of this project prior to commencement of construction. Department staff assisted the applicant in completing the Notice of Construction form but did not properly advise him regarding the request for Preliminary Certification. Had the applicant requested Preliminary Certification, the Department would have granted it. Therefore, the Department believes that the requirement for filing a request for Preliminary Certification should be waived.

4. Summation

- a. Special circumstances exist which made the filing of an application for Preliminary Certification unreasonable, and the facility would otherwise be eligible for tax credit.
- 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 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 the requirement for filing a request for Preliminary Certification be waived and that a Pollution Control Facility Certificate bearing the cost of \$26,172 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1541.

Charles K. Ashbaker:1  
WL2010  
(503) 229-5325  
September 30, 1982

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

ESCO Corporation  
Manufacturing Division  
2141 N.W. 25th Avenue  
Portland, OR 97210

The applicant owns and operates a steel foundry at 2141 N.W. 25th Avenue, Portland.

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 Hapco oil-water separator.

Timely request for Preliminary Certification was not made; applicant requests that Commission waive requirements for filing.

Construction was initiated on the claimed facility September 5, 1978, completed October 1, 1978, and the facility was placed into operation October 1, 1978.

Facility Cost: \$19,155.98 (Accountant's Certification was provided).

3. Evaluation of Application

The applicant installed the oil-water separator, at the request of the City of Portland, to remove oils from the waste water prior to discharging to the sanitary sewer. The facility has been reviewed by the City of Portland and, although it is not in total compliance with the sewer ordinance, it does significantly reduce the quantity of oil in the discharge. The claimed facility meets all requirements for certification as a water pollution control facility with the exception of the requirement for Preliminary Certification. Since collected oils result in an insignificant return on investment, 80 percent or more of the cost would be allocated to pollution control except for the requirement for Preliminary Certification.

On December 24, 1981, a request for Preliminary Certification was received by the Department. Approximately 3 years had elapsed since the project was completed. Thus the request was not approved. Prior to receipt of the request for preliminary certification, the Department had no information in its files regarding this project.

The application was received on July 12, 1982, and the application was considered complete, except for the Preliminary Certification on July 12, 1982.

4. Summation

- a. The Department is not aware of special circumstances which made the filing of an application for Preliminary Certification unreasonable; however, the facility would otherwise be eligible for tax credit.
- 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 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 be denied for the facility claimed in Tax Credit Application No. T-1544.

CKA:g  
(503) 229-5374  
August 30, 1982

WG1503

CAPABILITIES IN STEEL



ESCO CORPORATION 2141 N.W. 25TH AVENUE, PORTLAND, OREGON 97210 U.S.A. TELEPHONE (503) 228-2141 TELEX 36-0590

June 29, 1982

Mr. Charles R. Clinton  
Regional Supervisor  
Northest Region  
Department of Environmental Quality  
522 Southwest Fifth Avenue  
Portland, OR 97207

Dear Mr. Clinton:

In your letter to me on March 24, 1982, you asked if ESCO could document the specific contacts with the Department of Environmental Quality on projects: 1) Plant 3 sand reclaimer emission reduction projects, 2) Noise silencers installed on eight fans, 3) a HAPCO oil/water separator and 4) a pelletizing facility for dust collector. As I had explained to you in my letter of February 9, 1982, (copy attached) ESCO has followed the procedure of pre-notification in many other projects both before and after the above projects. ESCO was most likely contacted first by the DEQ on the four projects. ESCO then would have had to contact DEQ on the correct engineering of these projects in order to meet the required DEQ standards. As you well know a company and the DEQ are partners in putting together a project that will reduce the pollution, emissions, or noise of a large industrial property. ESCO had to have made many contacts with the DEQ in order for these projects to accomplish their intended purpose; i.e., reduce pollution. Unfortunately the turnover at ESCO, do to poor economic conditions, has made it difficult to accurately document each and every contact made with DEQ on these specific projects. However, it surely was not the intent of the law to penalize a good corporate taxpayer who has a history of working co-operatively with the state agencies to reduce pollution merely because the formal written notice was not timely filed.


ESCO CORPORATION

Charles R. Clinton  
Page 2  
June 30, 1982

It is possible that the DEQ may have better records or even people who might remember these projects, and who could substantiate ESCO's claim of pre-contact/notification. Joe Smith, from ESCO, will meet with you next week in order to further explore what ESCO can do to illustrate that the pre-notification did occur via the pre-construction contacts ESCO had made to engineer the projects, mentioned supra.

I hope that you will be able to facilitate the tax credit approval on these projects. If I can assist you or Joe Smith in any way please advise me.

Regards,

  
Dale MacHaffie  
Tax Manager  
ESCO Corporation

JP

cc: Joe Smith - ESCO Corporation

Charles R. Clinton  
Page 2  
June 30, 1982

It is possible that the DEQ may have better records or even people who might remember these projects, and who could substantiate ESCO's claim of pre-contact/notification. Joe Smith, from ESCO, will meet with you next week in order to further explore what ESCO can do to illustrate that the pre-notification did occur via the pre-construction contacts ESCO had made to engineer the projects, mentioned supra.

I hope that you will be able to facilitate the tax credit approval on these projects. If I can assist you or Joe Smith in any way please advise me.

Regards,



Dale MacHaffie  
Tax Manager  
ESCO Corporation

JP  
cc: Joe Smith - ESCO Corporation



## Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

March 24, 1982

Mr. Dale MacHaffie, Tax Manager  
 ESCO Corporation  
 2141 N.W. 25th Avenue  
 Portland, OR 97210

Re: AQ, WQ, NP, SW-ESCO Corporation  
 Multnomah County  
 AQ File Nos. 26-2067 & 26-2068  
 WQ NC No. W-459

Dear Mr. MacHaffie:

This is in response to your letter dated February 8, 1982, and confirmation of our telephone conversation on March 2, 1982, concerning four requests for preliminary certification for tax credit. The projects involved are: (1) the Plant 3 sand reclaimer emission reduction project, (2) noise silencers installed on 8 fans, (3) a Hapco oil/water separator, and (4) a pelletizing facility for dust collector.

As I mentioned, this issue can be resolved before the Environmental Quality Commission if you submit the final application for tax credit for each of the individual projects. It is my understanding that you plan to submit the final application as soon as you can.

The application for tax credit should include any documentation of contacts that were made with the Department concerning the specific project. Enclosed you will find the request for Preliminary Certification and the information that you submitted with your February 8, 1982 letter.

If you have any questions concerning this matter, please feel free to call me at 229-6955.

Sincerely,

Charles R. Clinton  
 Regional Supervisor  
 Northwest Region

CRC:o

RO848 (1)

Enclosure(s)

cc: Air Quality Division, DEQ  
 Water Quality Division, DEQ  
 Solid Waste Division, DEQ  
 Mike Downs, DEQ



CAPABILITIES IN STEEL



ESCO CORPORATION 2141 N.W. 25TH AVENUE, PORTLAND, OREGON 97210 U.S.A. TELEPHONE (503) 228-2141 TELEX 36-0590

February 8, 1982

Mr. Charles R. Clinton  
 Regional Supervisor  
 Northwest Region  
 Department of Environmental Quality  
 522 Southwest Fifth Avenue  
 Portland, OR 97207

Dear Mr. Clinton:

ESCO Corporation would like to explain some of the mitigating circumstances which were involved in ESCO's failure to file the appropriate "requests for a Preliminary Certification for Tax Credits". The projects where ESCO failed to obtain the proper "written" notification were (1) the Plant 3 sand reclaimer emission reduction project, (2) noise silencers installed on eight fans (3) a Hapco oil/water separator, and (4) pelletizing facility (dust collector).

BACKGROUND:

ESCO has worked with the Oregon State Department of Environmental Quality on reducing particulate matter in the air and other pollution control problems since 1968. We have submitted applications numbered the following:

1968 T29, T30, T31, T32, T34, & T35  
 1969 T633  
 1970 T214  
 1971 T632  
 1972 T630, T634  
 1973 T631  
 1975 T956  
 1976 T954, T955  
 1980 T2068

ESCO has filed timely on these projects and received certification for them.

The Engineering Staff at ESCO Corporation (a group of dedicated professionals) have on all pollution control projects kept the Department of Environmental Quality informed as to the possible environmental impacts, any permitting processes required, and the types of pollution control processes ESCO was considering implementing. ESCO has received Oregon State recognition for its pollution control efforts; i.e., Dept. of Environmental Quality Cup Award for 1973, 1974, 1976, 1977 and 1978. In order for ESCO

Mr. Charles R. Clinton  
Page 2  
February 9, 1982

to have obtained this recognition we needed detailed assistance from the DEQ on the types of projects which reduce pollution. Phone calls, meetings and other forms of communication between ESCO personnel and DEQ personnel were involved with all pollution control projects, including the ones where specific written notice was not sent. The DEQ was on "constructive notice" that ESCO Corporation was actively seeking to reduce the pollution created by its operations. The DEQ had "constructive notice" as to the specific projects via phone conversations meetings, discussions, etc. and the mere failure to comply with "a formal written notice" requirement should not be a sufficient transgression to invoke such a harsh penalty as the loss of pollution control tax credits for ESCO.

The intent of the Legislature in passing the tax laws dealing with pollution control, was to encourage subsidizing Oregon corporations, through tax credits, their pollution control efforts and thus to improve the air and water quality of Oregon for all Oregon taxpayers. The legislature also recognized the harshness of the prenotification requirement by amending the law in 1979 to put in a waiver provision, i.e.,

"For facilities constructed on or after October 3, 1979, the commission may waive the filing of the "Request for Preliminary Certification for Tax Credit" if it finds the filing inappropriate because special circumstances rendered the filing unreasonable in accordance with ORS 468.175(1)."

It seems that ESCO has complied with the intent of the law (i.e., reduce Oregon pollution) and has fallen into the class of people whom the Legislature was trying to protect by the "waiver provision", supra.

In looking at other examples of when a statutory waiver is applied DEQ could look at an example in the corporate income tax penalty area.

"A corporate taxpayer is excused from the late filing penalty where it relied upon the advice of a CPA firm as to filing time and had furnished the expert with complete information for the preparation and filing of its return. I.S.A, Vol. XXV, No.22, of 276, May 3, 1974".

In ESCO's case we relied on professional engineers and a prior employee CPA to file the notices timely. Since these professionals failed to advise ESCO or the DEQ of the necessity to timely file the written notice it seems like ESCO should have the statutory notice requirement waived; or projects begun both after 1979 and before 1979.

Mr. Charles R. Clinton  
Page 3  
February 9, 1982

CONCLUSION:

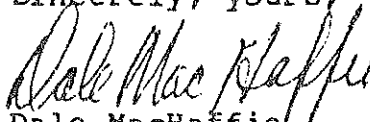
ESCO Corporation believes it has met the intent of the State of Oregon, DEQ-administered pollution control tax credit laws. This is evidenced by ESCO's applications for air and water pollution control tax credit notices and preliminary certification for tax credit for past pollution control projects and the issuance of certificates by the DEQ approving these applications.

From the very outset ESCO's intentions were to make use of the available environmental economic incentives. ESCO with the assistance of ESCO engineers worked very closely with DEQ staff to assess the potential environmental impact and obtain the appropriate pollution control equipment, ESCO should not be penalized for professionals who erred, especially since DEQ had "Constructive Notice" of the projects.

The pollution control facilities were required to comply with appropriate Federal, State and Local limits and standards. The facilities were designed and constructed, and have been operated to a substantial extent for the purpose of preventing, controlling, and reducing pollution. The facilities costs have been properly allocated to pollution control (80 percent or more).

We appreciate your consideration of our request. If you have any questions, please do not hesitate to contact us. We will be glad to meet with you to discuss this matter in greater detail.

Sincerely, yours,

  
Dale MacHaffie  
Tax Manager  
ESCO Corporation

JP

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

ESCO Corporation  
Manufacturing Division  
2141 N.W. 25th Avenue  
Portland, OR 97210

The applicant owns and operates a steel foundry and metal fabrication facility at 2141 N.W. 25th Avenue, Portland.

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

2. Description of Claimed Facility

The facility described in this application are seven (7) absorbtive silencers installed on the following fans:

- a) one exhaust odor sand mixer fan
- b) one combustion air to natural gas burner fan
- c) five exhaust air from baghouse dust collector fans

Timely request for Preliminary Certification was not made; applicant requests that Commission waive requirements for filing.

Construction was initiated on the claimed facility on December 15, 1980, completed on January 23, 1981, and the facility was placed into operation on January 23, 1981.

Facility Cost: \$5,949 (Accountant's Certification was provided).

3. Evaluation of Application

Project was conducted without Department involvement. Although a complaint was filed on September 10, 1980, the complainant asked the complaint be withdrawn on September 30, 1980 because "the company is working privately to correct the problem". No further information is contained in the Department files on this matter until a request for preliminary certification for tax credit was received on December 24, 1981. Approximately twelve (12) months had elapsed since the project was completed. Thus the request was not approved. Inspection and evaluation of the noise control devices concluded that the controls

meet the intent of the Commission's noise rules and all (100%) of the claimed costs would be otherwise allocated to noise control.

The application was received on July 12, 1982 and the application was considered complete, except for the preliminary certification, on August 6, 1982.

4. Summation

- a. The Department is not aware of special circumstances which made the filing of an application for preliminary certification unreasonable, however, the facility would otherwise be eligible for tax credit.
- b. Facility was constructed on or after January 1, 1977, as required by ORS 468.165(1)(b).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing noise pollution.
- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 467, and the rules adopted under that chapter.
- e. The portion of the facility cost that could be 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 be denied for the facility claimed in Tax Credit Application No. T-1545.

John Hector:a  
(503) 229-5989  
August 9, 1982  
NA2425 (1)

CAPABILITIES IN STEEL



ESCO CORPORATION 2141 N.W. 25TH AVENUE, PORTLAND, OREGON 97210 U.S.A. TELEPHONE (503) 228-2141 TELEX 36-0590

June 29, 1982

Mr. Charles R. Clinton  
Regional Supervisor  
Northeast Region  
Department of Environmental Quality  
522 Southwest Fifth Avenue  
Portland, OR 97207

Dear Mr. Clinton:

In your letter to me on March 24, 1982, you asked if ESCO could document the specific contacts with the Department of Environmental Quality on projects: 1) Plant 3 sand reclaimer emission reduction projects, 2) Noise silencers installed on eight fans, 3) a HAPCO oil/water separator and 4) a pelletizing facility for dust collector. As I had explained to you in my letter of February 9, 1982, (copy attached) ESCO has followed the procedure of pre-notification in many other projects both before and after the above projects. ESCO was most likely contacted first by the DEQ on the four projects. ESCO then would have had to contact DEQ on the correct engineering of these projects in order to meet the required DEQ standards. As you well know a company and the DEQ are partners in putting together a project that will reduce the pollution, emissions, or noise of a large industrial property. ESCO had to have made many contacts with the DEQ in order for these projects to accomplish their intended purpose; i.e., reduce pollution. Unfortunately the turnover at ESCO, do to poor economic conditions, has made it difficult to accurately document each and every contact made with DEQ on these specific projects. However, it surely was not the intent of the law to penalize a good corporate taxpayer who has a history of working co-operatively with the state agencies to reduce pollution merely because the formal written notice was not timely filed.

Charles R. Clinton  
Page 2  
June 30, 1982

It is possible that the DEQ may have better records or even people who might remember these projects, and who could substantiate ESCO's claim of pre-contact/notification. Joe Smith, from ESCO, will meet with you next week in order to further explore what ESCO can do to illustrate that the pre-notification did occur via the pre-construction contacts ESCO had made to engineer the projects, mentioned supra.

I hope that you will be able to facilitate the tax credit approval on these projects. If I can assist you or Joe Smith in any way please advise me.

Regards,



Dale MacHaffie  
Tax Manager  
ESCO Corporation


JP  
cc: Joe Smith - ESCO Corporation

Charles R. Clinton  
Page 2  
June 30, 1982

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Regards,

  
Dale MacHaffie  
Tax Manager  
ESCO Corporation

JP  
cc: Joe Smith - ESCO Corporation





## Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

March 24, 1982

Mr. Dale MacHaffie, Tax Manager  
 ESCO Corporation  
 2141 N.W. 25th Avenue  
 Portland, OR 97210

Re: AQ, WQ, NP, SW-ESCO Corporation  
 Multnomah County  
 AQ File Nos. 26-2067 & 26-2068  
 WQ NC No. W-459

Dear Mr. MacHaffie:

This is in response to your letter dated February 8, 1982, and confirmation of our telephone conversation on March 2, 1982, concerning four requests for preliminary certification for tax credit. The projects involved are: (1) the Plant 3 sand reclaimer emission reduction project, (2) noise silencers installed on 8 fans, (3) a Hapco oil/water separator, and (4) a pelletizing facility for dust collector.

As I mentioned, this issue can be resolved before the Environmental Quality Commission if you submit the final application for tax credit for each of the individual projects. It is my understanding that you plan to submit the final application as soon as you can.

The application for tax credit should include any documentation of contacts that were made with the Department concerning the specific project. Enclosed you will find the request for Preliminary Certification and the information that you submitted with your February 8, 1982 letter.

If you have any questions concerning this matter, please feel free to call me at 229-6955.

Sincerely,

Charles R. Clinton  
 Regional Supervisor  
 Northwest Region

CRC:o

RO848 (1)

Enclosure(s)

cc: Air Quality Division, DEQ  
 Water Quality Division, DEQ  
 Solid Waste Division, DEQ  
 Mike Downs, DEQ

CAPABILITIES IN STEEL



ESCO CORPORATION 2141 N.W. 25TH AVENUE, PORTLAND, OREGON 97210 U.S.A. TELEPHONE (503) 228-2141 TELEX 36-0590

February 8, 1982

Mr. Charles R. Clinton  
 Regional Supervisor  
 Northwest Region  
 Department of Environmental Quality  
 522 Southwest Fifth Avenue  
 Portland, OR 97207

Dear Mr. Clinton:

ESCO Corporation would like to explain some of the mitigating circumstances which were involved in ESCO's failure to file the appropriate "requests for a Preliminary Certification for Tax Credits". The projects where ESCO failed to obtain the proper "written" notification were (1) the Plant 3 sand reclaimer emission reduction project, (2) noise silencers installed on eight fans (3) a Hapco oil/water separator, and (4) pelletizing facility (dust collector).

BACKGROUND:

ESCO has worked with the Oregon State Department of Environmental Quality on reducing particulate matter in the air and other pollution control problems since 1968. We have submitted applications numbered the following:

1968 T29, T30, T31, T32, T34, & T35  
 1969 T633  
 1970 T214  
 1971 T632  
 1972 T630, T634  
 1973 T631  
 1975 T956  
 1976 T954, T955  
 1980 T2068

ESCO has filed timely on these projects and received certification for them.

The Engineering Staff at ESCO Corporation (a group of dedicated professionals) have on all pollution control projects kept the Department of Environmental Quality informed as to the possible environmental impacts, any permitting processes required, and the types of pollution control processes ESCO was considering implementing. ESCO has received Oregon State recognition for its pollution control efforts; i.e., Dept. of Environmental Quality Cup Award for 1973, 1974, 1976, 1977 and 1978. In order for ESCO

Mr. Charles R. Clinton  
Page 2  
February 9, 1982

to have obtained this recognition we needed detailed assistance from the DEQ on the types of projects which reduce pollution. Phone calls, meetings and other forms of communication between ESCO personnel and DEQ personnel were involved with all pollution control projects, including the ones where specific written notice was not sent. The DEQ was on "constructive notice" that ESCO Corporation was actively seeking to reduce the pollution created by its operations. The DEQ had "constructive notice" as to the specific projects via phone conversations meetings, discussions, etc. and the mere failure to comply with "a formal written notice" requirement should not be a sufficient transgression to invoke such a harsh penalty as the loss of pollution control tax credits for ESCO.

The intent of the Legislature in passing the tax laws dealing with pollution control, was to encourage subsidizing Oregon corporations, through tax credits, their pollution control efforts and thus to improve the air and water quality of Oregon for all Oregon taxpayers. The legislature also recognized the harshness of the prenotification requirement by amending the law in 1979 to put in a waiver provision, i.e.,

"For facilities constructed on or after October 3, 1979, the commission may waive the filing of the "Request for Preliminary Certification for Tax Credit" if it finds the filing inappropriate because special circumstances rendered the filing unreasonable in accordance with ORS 468.175(1)."

It seems that ESCO has complied with the intent of the law (i.e., reduce Oregon pollution) and has fallen into the class of people whom the Legislature was trying to protect by the "waiver provision", supra.

In looking at other examples of when a statutory waiver is applied DEQ could look at an example in the corporate income tax penalty area.

"A corporate taxpayer is excused from the late filing penalty where it relied upon the advice of a CPA firm as to filing time and had furnished the expert with complete information for the preparation and filing of its return. I. S. A, Vol. XXV, No.22, of 276, May 3, 1974".

In ESCO's case we relied on professional engineers and a prior employee CPA to file the notices timely. Since these professionals failed to advise ESCO or the DEQ of the necessity to timely file the written notice it seems like ESCO should have the statutory notice requirement waived; or projects begun both after 1979 and before 1979.

Mr. Charles R. Clinton  
Page 3  
February 9, 1982

CONCLUSION:

ESCO Corporation believes it has met the intent of the State of Oregon, DEQ-administered pollution control tax credit laws. This is evidenced by ESCO's applications for air and water pollution control tax credit notices and preliminary certification for tax credit for past pollution control projects and the issuance of certificates by the DEQ approving these applications.

From the very outset ESCO's intentions were to make use of the available environmental economic incentives. ESCO with the assistance of ESCO engineers worked very closely with DEQ staff to assess the potential environmental impact and obtain the appropriate pollution control equipment, ESCO should not be penalized for professionals who erred, especially since DEQ had "Constructive Notice" of the projects.

The pollution control facilities were required to comply with appropriate Federal, State and Local limits and standards. The facilities were designed and constructed, and have been operated to a substantial extent for the purpose of preventing, controlling, and reducing pollution. The facilities costs have been properly allocated to pollution control (80 percent or more).

We appreciate your consideration of our request. If you have any questions, please do not hesitate to contact us. We will be glad to meet with you to discuss this matter in greater detail.

Sincerely, yours,

  
Dale MacHaffie  
Tax Manager  
ESCO Corporation

JP

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

---

1. Applicant

ESCO Corporation  
Manufacturing Division  
2141 N.W. 25th Avenue  
Portland, OR 97210

The applicant owns and operates a steel foundry at 2770 N.W. Yeon, 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 consists of duct work to connect two (2) new machines to an existing baghouse.

Timely request for Preliminary Certification was not made; applicant requests that Commission waive requirements for filing.

Construction was initiated on the claimed facility on December 15, 1980, completed on December 19, 1980, and the facility was placed into operation on February 15, 1981.

Facility Cost: \$4,878.85 (Accountant's Certification was provided).

3. Evaluation of Application

The claimed facility, consisting of ductwork to interconnect two (2) new machines to an existing baghouse, was installed without the knowledge of the Department. On December 24, 1981 a request for preliminary certification was received by the Department. This request subsequently was returned on January 14, 1982 as being unacceptable for filing due to the completion of the project prior to filing.

The installation, which was not required by the Department, was required to prevent excessive emissions.

The installation has been inspected by Department personnel and has been found to be operating in compliance with Department regulations and permit conditions.

The claimed facility meets all requirements for certification as an air pollution control facility with the exception of the requirement for preliminary certification. All material collected is disposed of at a landfill. Therefore, since there is no return on the investment in the facility, 80% or more of the cost would be allocable to pollution control except for the requirement for preliminary certification.

The application was received on July 12, 1982, and the application was considered complete, except for the preliminary certification, on July 12, 1982.

4. Summation

- a. The Department is not aware of special circumstances which made the filing of an application for preliminary certification unreasonable; however, the facility would otherwise be eligible for tax credit.
- 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 could be 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 be denied for the facility claimed in Tax Credit Application No. T-1546.

F.A. Skirvin:a  
AA2470 (1)  
(503) 229-6414  
August 23, 1982

CAPABILITIES IN STEEL



ESCO CORPORATION 2141 N.W. 25TH AVENUE, PORTLAND, OREGON 97210 U.S.A. TELEPHONE (503) 228-2141 TELEX 36-0590

June 29, 1982

Mr. Charles R. Clinton  
Regional Supervisor  
Northeast Region  
Department of Environmental Quality  
522 Southwest Fifth Avenue  
Portland, OR 97207

Dear Mr. Clinton:


In your letter to me on March 24, 1982, you asked if ESCO could document the specific contacts with the Department of Environmental Quality on projects: 1) Plant 3 sand reclaimer emission reduction projects, 2) Noise silencers installed on eight fans, 3) a HAPCO oil/water separator and 4) a pelletizing facility for dust collector. As I had explained to you in my letter of February 9, 1982, (copy attached) ESCO has followed the procedure of pre-notification in many other projects both before and after the above projects. ESCO was most likely contacted first by the DEQ on the four projects. ESCO then would have had to contact DEQ on the correct engineering of these projects in order to meet the required DEQ standards. As you well know a company and the DEQ are partners in putting together a project that will reduce the pollution, emissions, or noise of a large industrial property. ESCO had to have made many contacts with the DEQ in order for these projects to accomplish their intended purpose; i.e, reduce pollution. Unfortunately the turnover at ESCO, do to poor economic conditions, has made it difficult to accurately document each and every contact made with DEQ on these specific projects. However, it surely was not the intent of the law to penalize a good corporate taxpayer who has a history of working co-operatively with the state agencies to reduce pollution merely because the formal written notice was not timely filed.

Charles R. Clinton  
Page 2  
June 30, 1982

It is possible that the DEQ may have better records or even people who might remember these projects, and who could substantiate ESCO's claim of pre-contact/notification. Joe Smith, from ESCO, will meet with you next week in order to further explore what ESCO can do to illustrate that the pre-notification did occur via the pre-construction contacts ESCO had made to engineer the projects, mentioned supra.

I hope that you will be able to facilitate the tax credit approval on these projects. If I can assist you or Joe Smith in any way please advise me.

Regards,

  
Dale MacHaffie  
Tax Manager  
ESCO Corporation

JP  
cc: Joe Smith - ESCO Corporation




Charles R. Clinton  
Page 2  
June 30, 1982

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I hope that you will be able to facilitate the tax credit approval on these projects. If I can assist you or Joe Smith in any way please advise me.

Regards,

  
Dale MacHaffie  
Tax Manager  
ESCO Corporation

JP  
cc: Joe Smith - ESCO Corporation



## Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

March 24, 1982

Mr. Dale MacHaffie, Tax Manager  
 ESCO Corporation  
 2141 N.W. 25th Avenue  
 Portland, OR 97210

Re: AQ, WQ, NP, SW-ESCO Corporation  
 Multnomah County  
 AQ File Nos. 26-2067 & 26-2068  
 WQ NC No. W-459

Dear Mr. MacHaffie:

This is in response to your letter dated February 8, 1982, and confirmation of our telephone conversation on March 2, 1982, concerning four requests for preliminary certification for tax credit. The projects involved are: (1) the Plant 3 sand reclaimer emission reduction project, (2) noise silencers installed on 8 fans, (3) a Hapco oil/water separator, and (4) a pelletizing facility for dust collector.

As I mentioned, this issue can be resolved before the Environmental Quality Commission if you submit the final application for tax credit for each of the individual projects. It is my understanding that you plan to submit the final application as soon as you can.

The application for tax credit should include any documentation of contacts that were made with the Department concerning the specific project. Enclosed you will find the request for Preliminary Certification and the information that you submitted with your February 8, 1982 letter.

If you have any questions concerning this matter, please feel free to call me at 229-6955.

Sincerely,

Charles R. Clinton  
 Regional Supervisor  
 Northwest Region

CRC:o

RO848 (1)

Enclosure(s)

cc: Air Quality Division, DEQ  
 Water Quality Division, DEQ  
 Solid Waste Division, DEQ  
 Mike Downs, DEQ

CAPABILITIES IN STEEL



ESCO CORPORATION 2141 N.W. 25TH AVENUE, PORTLAND, OREGON 97210 U.S.A. TELEPHONE (503) 228-2141 TELEX 36-0590

February 8, 1982

Mr. Charles R. Clinton  
 Regional Supervisor  
 Northwest Region  
 Department of Environmental Quality  
 522 Southwest Fifth Avenue  
 Portland, OR 97207

Dear Mr. Clinton:

ESCO Corporation would like to explain some of the mitigating circumstances which were involved in ESCO's failure to file the appropriate "requests for a Preliminary Certification for Tax Credits". The projects where ESCO failed to obtain the proper "written" notification were (1) the Plant 3 sand reclaimer emission reduction project, (2) noise silencers installed on eight fans (3) a Hapco oil/water separator, and (4) pelletizing facility (dust collector).

BACKGROUND:

ESCO has worked with the Oregon State Department of Environmental Quality on reducing particulate matter in the air and other pollution control problems since 1968. We have submitted applications numbered the following:

1968 T29, T30, T31, T32, T34, & T35  
 1969 T633  
 1970 T214  
 1971 T632  
 1972 T630, T634  
 1973 T631  
 1975 T956  
 1976 T954, T955  
 1980 T2068

ESCO has filed timely on these projects and received certification for them.

The Engineering Staff at ESCO Corporation (a group of dedicated professionals) have on all pollution control projects kept the Department of Environmental Quality informed as to the possible environmental impacts, any permitting processes required, and the types of pollution control processes ESCO was considering implementing. ESCO has received Oregon State recognition for its pollution control efforts; i.e., Dept. of Environmental Quality Cup Award for 1973, 1974, 1976, 1977 and 1978. In order for ESCO

Mr. Charles R. Clinton  
Page 2  
February 9, 1982

to have obtained this recognition we needed detailed assistance from the DEQ on the types of projects which reduce pollution. Phone calls, meetings and other forms of communication between ESCO personnel and DEQ personnel were involved with all pollution control projects, including the ones where specific written notice was not sent. The DEQ was on "constructive notice" that ESCO Corporation was actively seeking to reduce the pollution created by its operations. The DEQ had "constructive notice" as to the specific projects via phone conversations, meetings, discussions, etc. and the mere failure to comply with "a formal written notice" requirement should not be a sufficient transgression to invoke such a harsh penalty as the loss of pollution control tax credits for ESCO.

The intent of the Legislature in passing the tax laws dealing with pollution control, was to encourage subsidizing Oregon corporations, through tax credits, their pollution control efforts and thus to improve the air and water quality of Oregon for all Oregon taxpayers. The legislature also recognized the harshness of the prenotification requirement by amending the law in 1979 to put in a waiver provision, i.e.,

"For facilities constructed on or after October 3, 1979, the commission may waive the filing of the "Request for Preliminary Certification for Tax Credit" if it finds the filing inappropriate because special circumstances rendered the filing unreasonable in accordance with ORS 468.175(1)."

It seems that ESCO has complied with the intent of the law (i.e., reduce Oregon pollution) and has fallen into the class of people whom the Legislature was trying to protect by the "waiver provision", supra.

In looking at other examples of when a statutory waiver is applied DEQ could look at an example in the corporate income tax penalty area.

"A corporate taxpayer is excused from the late filing penalty where it relied upon the advice of a CPA firm as to filing time and had furnished the expert with complete information for the preparation and filing of its return. I.S.A, Vol. XXV, No.22, of 276, May 3, 1974".

In ESCO's case we relied on professional engineers and a prior employee CPA to file the notices timely. Since these professionals failed to advise ESCO or the DEQ of the necessity to timely file the written notice it seems like ESCO should have the statutory notice requirement waived; or projects begun both after 1979 and before 1979.

Mr. Charles R. Clinton

Page 3

February 9, 1982

CONCLUSION:

ESCO Corporation believes it has met the intent of the State of Oregon, DEQ-administered pollution control tax credit laws. This is evidenced by ESCO's applications for air and water pollution control tax credit notices and preliminary certification for tax credit for past pollution control projects and the issuance of certificates by the DEQ approving these applications.

From the very outset ESCO's intentions were to make use of the available environmental economic incentives. ESCO with the assistance of ESCO engineers worked very closely with DEQ staff to assess the potential environmental impact and obtain the appropriate pollution control equipment, ESCO should not be penalized for professionals who erred, especially since DEQ had "Constructive Notice" of the projects.

The pollution control facilities were required to comply with appropriate Federal, State and Local limits and standards. The facilities were designed and constructed, and have been operated to a substantial extent for the purpose of preventing, controlling, and reducing pollution. The facilities costs have been properly allocated to pollution control (80 percent or more).

We appreciate your consideration of our request. If you have any questions, please do not hesitate to contact us. We will be glad to meet with you to discuss this matter in greater detail.

Sincerely, yours,



Dale MacHaffie  
Tax Manager  
ESCO Corporation

JP

State of Oregon  
Department of Environmental Quality

REVOCATION OF POLLUTION CONTROL FACILITY CERTIFICATE

---

1. Certificates Issued To:

Georgia-Pacific Corporation  
Toledo Division  
900 S. W. Fifth Avenue  
Portland, Oregon 97204

Certificates were issued for water and solid waste pollution control facilities.

2. Summation

By letter of August 17, 1982 (copy attached), the Department was informed that the facilities certified in Pollution Control Facility Certificates 622, 729, 910 and 1187 had been removed from service.

Pursuant to ORS 317.072(10), it is necessary that the Commission revoke these Pollution Control Facility Certificates.

3. Director's Recommendation

It is recommended that the Commission revoke the following Pollution Control Facility Certificates as of the cited dates, as the certified facilities have been removed from service.

Certificate 622 - December 1981  
Certificate 729 - October 1979  
Certificate 910 - December 1980  
Certificate 1187 - July 1981

CASplettstaszer  
229-6484  
9/22/82  
Attachments



**Georgia-Pacific Corporation**

900 S.W. Fifth Avenue  
Portland, Oregon 97204  
Telephone (503) 222-5561

August 17, 1982

Department of Environmental Quality  
Management Services Division  
P.O. Box 1760  
Portland, OR 97207

Management Services Div.  
Dept. of Environmental Quality

RECEIVED  
AUG 22 1982

Attn: Ms. Carol A. Splettstaszer

Dear Ms. Splettstaszer:

We would like to notify you of the following abandonments or retirements of certified pollution control facilities:

1. Toledo Sump Pump  
Toledo, OR  
Certificate #622-1975 \$ 13,398.00  
  
Abandoned in December 1981, replaced by new clarifier.
2. Toledo Rotary Disc Screen  
Toledo, OR  
Certificate #729-1976 \$ 53,139.00  
  
Abandoned in October 1979, replaced by tube belt chip conveyor.
3. Shredded Tire Storage  
Metering System  
Toledo, OR  
Certificate #910-1978 \$ 91,083.00  
  
Discontinued use in December 1980, shredded tires no longer used as fuel.
4. Oil Separator  
Toledo, OR  
Certificate #1187 \$ 23,523.00  
  
Abandoned, discontinued using in July 1981.

Should you have any questions, please contact us.

Sincerely,



Manuel L. Moore  
Assistant Controller, Oregon  
Wood Products Division

MLM/nlb

cc: L. R. Chabot  
R. C. Dubay



Certificate No. 622Date of Issue 10-24-75State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITYApplication No. T-641**POLLUTION CONTROL FACILITY CERTIFICATE**

Issued To: <span style="float: right;">As: Owner</span> Georgia-Pacific Corporation Toledo Division 900 S. W. Fifth Avenue Portland, Oregon 97204	Location of Pollution Control Facility: Paper Mill site Toledo, Oregon Lincoln County
Description of Pollution Control Facility: Worthington 14-QL-18 pump installed in a sump which collects wastewater from the paper mill portion of the plant.	
Date Pollution Control Facility was completed and placed in operation: <u>08-74; 08-74</u>	
Actual Cost of Pollution Control Facility:     \$ <u>13,398.00</u>	
Percent of actual cost properly allocable to pollution control: <p style="text-align: center;">Eighty percent (80%) or more</p>	

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 Loren Kramer, Director  
Department of Environmental Quality  
 Approved by the Environmental Quality Commission

 on the 24th day of October 19 75

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 729

Date of Issue 10/15/76

Application No. T-774

## POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: Georgia Pacific Corp. Toledo Division P. O. Box 580 Toledo, Oregon 97391	Location of Pollution Control Facility:  Toledo, Oregon Coos County
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility: A Radar Pneumatics Rotary Disc Screen for screening wood chips at the head of the chip conveyor belt.	
Type of Pollution Control Facility: <input type="checkbox"/> Air <input checked="" type="checkbox"/> Water <input type="checkbox"/> Solid Waste	
Date Pollution Control Facility was completed: <u>May 1975</u> Placed into operation: <u>May 1975</u>	
Actual Cost of Pollution Control Facility: \$ <u>53,139.00</u>	
Percent of actual cost properly allocable to pollution control: <u>100%</u>	

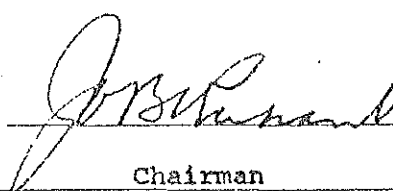
In accordance with the provisions of ORS 468.155 et seq., it is hereby certified that the facility described herein and in the application referenced above is a "Pollution Control Facility" within the definition of ORS 468.155 and that the air and water or solid waste facility was erected, constructed or installed on or after January 1, 1967, or January 1, 1973 respectively, and on or before December 31, 1980, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air, water or solid waste pollution, and that the facility is necessary to satisfy the intents and purposes of ORS Chapters 459, 468 and the 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 the type of pollution as indicated above.
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

  
Chairman

Approved by the Environmental Quality Commission on

the 15th day of October, 1976

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 910

Date of Issue 6/30/78

Application No. T-968

## POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: Georgia-Pacific Corporation 900 S. W. Fifth Avenue Portland, Oregon 97204	Location of Pollution Control Facility: Toledo, Oregon
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility: Shredded tire storage and metering system	
Type of Pollution Control Facility: <input type="checkbox"/> Air <input type="checkbox"/> Noise <input type="checkbox"/> Water <input checked="" type="checkbox"/> Solid Waste	
Date Pollution Control Facility was completed: <u>October 1976</u> Placed into operation: <u>November 1976</u>	
Actual Cost of Pollution Control Facility: <u>\$ 91,083.00</u>	
Percent of actual cost properly allocable to pollution control: 100%	

In accordance with the provisions of ORS 468.155 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 468.155 and that the air or water facility was constructed on or after January 1, 1967, the solid waste facility was under construction on or after January 1, 1973, or the noise facility was constructed on or after January 1, 1977, and the facility is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air, water, noise or solid waste pollution, and that the facility is necessary to satisfy the intents and purposes of ORS Chapter 459, 467 or 468 and the regulations adopted 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 the type of pollution as indicated above.
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 \_\_\_\_\_

*Joe B. Richards*  
Joe B. Richards, Chairman

Approved by the Environmental Quality Commission on

the 30th day of June, 1978

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 1187

Date of Issue 12/19/80

Application No. T-1296

## POLLUTION CONTROL FACILITY CERTIFICATE

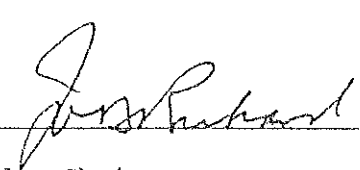
Issued To: Georgia-Pacific Corporation 900 Southwest Fifth Avenue Portland, Oregon 97204	Location of Pollution Control Facility:  Toledo Paper Division Toledo, Oregon 97391
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility:  The facility consists of an oil/water separator, oil holding tank, and a pump.	
Type of Pollution Control Facility: <input type="checkbox"/> Air <input type="checkbox"/> Noise <input checked="" type="checkbox"/> Water <input type="checkbox"/> Solid Waste <input type="checkbox"/> Hazardous Waste <input type="checkbox"/> Used Oil	
Date Pollution Control Facility was completed: <u>October 1977</u> Placed into operation: <u>October 1977</u>	
Actual Cost of Pollution Control Facility: \$ <u>23,523.00</u>	
Percent of actual cost properly allocable to pollution control:  <u>80% or more</u>	

Based upon the information contained in the application referenced above, the Environmental Quality Commission certifies that the facility described herein was erected, constructed or installed in accordance with the requirements of ORS 468.175 and subsection (1) of ORS 468.165, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air, water or noise pollution or solid waste, hazardous wastes or used oil, and that it is necessary to satisfy the intents and purposes of ORS Chapters 454, 459, 467 and 468 and rules adopted 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 the type of pollution as indicated above.
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.

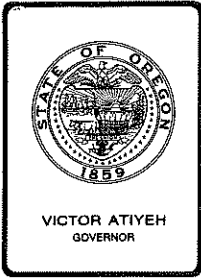
NOTE — The facility described herein is not eligible to receive tax credit certification as an Energy Conservation Facility under the provisions of Chapter 512, Oregon Law 1979, if the person issued the Certificate elects to take the tax credit relief under ORS 316.097 or 317.072.

Signed 

Title Joe B. Richards, Chairman

Approved by the Environmental Quality Commission on

the 19th day of December, 1980.



## *Environmental Quality Commission*

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

### MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. D, October 15, 1982, EQC Meeting

Mr. John Mullivan - Appeal of Subsurface Variance Denial

### Background

The pertinent legal authorities are summarized in Attachment "A".

On December 11, 1981, a 11,250 square foot lot identified as tax lot 4700, in section 20 BD, township 2 north, range 10 west, Tillamook County, was evaluated for on-site sewage disposal by Ms. Kimberley Swift, Tillamook County Sanitarian. She characterized the property as having rapidly draining dune sands over a permanent groundwater aquifer. Because of the small lot size, rapidly drained soils, and permanent groundwater, she determined the property could be approved for a split waste system, using a gray-water seepage bed and a Department of Commerce approved non-discharging toilet. A full waste load system using either a sand filter or pressurized system could not be approved because the design flow would exceed the maximum loading rate ratio of 450 gallons per 1/2 acre per day allowed by rule.

An application from Mr. Mullivan for variance from the on-site sewage disposal rules was received by the Department and was assigned to Mr. Gregory Baesler, variance officer. Mr. Mullivan was notified of the assignment and provided a summary of the questions upon which the decision would be based (Attachment "B"). On February 26, 1982, Mr. Baesler examined the proposed site and held a public information-type hearing. He found the property to be located on a fore-dune and deflation plain of Nedonna Beach, with a soil profile consisting of rapidly draining unconsolidated dune sands overlaying a permanently perched water table. The City of Rockaway provides water to this area from two wells located approximately 1900 feet northeast of this property. The Rockaway wells draw stored groundwater from the Nedonna Beach aquifer. Mr. Mullivan proposed that a pressurized system (seepage bed), to treat and dispose of the full waste load from a three-bedroom home, would not result in an observable decrease in usability of the groundwater. The Oregon Department of Water Resources indicates that the groundwater gradient needs

to be established for this aquifer, and that the aquifer recharge area should not be further jeopardized by allowing the density of septic waste disposal systems to increase. After closing the hearing, Mr. Baesler evaluated the information provided by Mr. Mullivan and others. He determined that because the groundwater gradient had not been established, the impact of increased pollutant loading on the aquifer could not be made. The property was found by Tillamook County staff to be acceptable for a split waste gray water system, using a pressurized seepage bed and a Department of Commerce approved non-discharging toilet fixture. Mr. Baesler was unable to find that strict compliance with the rule limiting sewage flow loading rates in rapidly draining material was inappropriate for cause, or that the property possessed special physical conditions to render strict compliance unreasonable. Mr. Mullivan was notified of the variance denial by letter dated April 22, 1982 (Attachment "C").

On May 14, 1982, the Department received from Mr. Mullivan a letter (Attachment "D") appealing Mr. Baesler's decision, listing the following particulars:

1. The decision is not supported by substantial evidence.
2. The decision is contrary to existing law.
3. It is improperly construed implacable law.
4. The decision reflects a failure to follow a procedure applicable to the matter.

The Department notified Mr. Mullivan by letter (dated May 25, 1982) that the appeal would be scheduled for Commission review at the July 16, 1982 EQC meeting. At the July meeting the Commission postponed consideration of this matter until August 27, 1982, at the request of Mr. Mullivan's attorney, Mark P. O'Donnell. At the August meeting the appeal was postponed until the next meeting in Portland.

#### Evaluation

Pursuant to ORS 454.660, decisions of the variance officer may be appealed to the Environmental Quality Commission. Mr. Mullivan made such an appeal. The Commission must determine if strict compliance with the rule or standard is inappropriate for cause, or that special physical conditions render strict compliance to be unreasonable, burdensome, or impractical.

Upon the Department's receipt of the complete variance application, Mr. Mullivan was notified by letter of the time and location of the site visit and information gathering hearing. Information contained in the notice letter constitutes, for the record, a summary of the questions which would determine the matter. After evaluating the site and after holding an information gathering hearing to gather testimony relevant to the requested variance, Mr. Baesler was unable to determine that pollution of the Nedonna

Beach aquifer would not occur if the proposed system was installed. He was unable to find that strict compliance with the Department's rule was inappropriate, or that special physical conditions render strict compliance to be unreasonable.

Summation

1. The pertinent legal authorities are summarized in Attachment "A".
2. Tillamook County staff evaluated the property for on-site sewage disposal and determined that because of the small lot size, rapidly draining soils, and presence of a permanent groundwater aquifer, the only system that can be approved for the property is a split waste system.
3. Mr. Mullivan submitted a variance application to the Department. The application was assigned to Mr. Baesler. Mr. Mullivan was notified by letter of the time and place of the site visit and hearing. He was also provided a summary of the questions which would determine the matter.
4. Mr. Baesler examined the property and conducted an information gathering hearing. After closing the hearing Mr. Baesler reviewed and evaluated the variance record. He found the testimony provided did not support a favorable decision. Although the variance request to install a full waste load system was denied, the split waste gray water system remains an option Mr. Mullivan could use.
5. Mr. Mullivan filed for appeal of the decision by letter.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission adopt the findings of the variance officer as the Commission's findings and uphold the decision to deny the variance.



William H. Young

Attachments: 4  
Attachment "A" Pertinent Legal Authorities  
Attachment "B" Assignment Letter  
Attachment "C" Variance Denial Letter  
Attachment "D" Letter of Appeal

Sherman O. Olson, Jr:1  
229-6443  
June 24, 1982  
XL1728

ATTACHMENT "A"

1. Administrative rules governing subsurface sewage disposal are provided for by Statute: ORS 454.625.
2. The Environmental Quality Commission has been given statutory authority to grant variances from the particular requirements of any rule or standard pertaining to subsurface sewage disposal systems if after hearing, it finds that strict compliance with the rule or standard is inappropriate for cause or special physical conditions render strict compliance unreasonable, burdensome or impractical: ORS 454.657.
3. The Commission has been given statutory authority to delegate the power to grant variances to special variance officers appointed by the Director of the Department of Environmental Quality: ORS 454.660.
4. Mr. Baesler was appointed as a variance officer pursuant to the Oregon Administrative Rules: OAR 340-71-415.
5. Decisions of the variance officers to grant variances may be appealed to the Commission: ORS 454.660.

XL1728.A  
9/10/82





## Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

February 23, 1982

John Mullivan  
3885 NW Jackson School Rd.  
Hillstoro, OR 97123

Re: NQ-SES-Variance Assignment  
T.L. 4700; Sec. 20BD;  
T. 2N; R. 10W, W.M.;  
Tillamook County

Dear Mr. Mullivan:

The Department of Environmental Quality is in receipt of a completed application for variances from Oregon Administrative Rules governing subsurface sewage disposal, OAR Chapter 340, Division 71.

As discussed with Ms. Mullivan in a telephone conversation on February 23, 1982, a public information gathering hearing to consider your requests is being scheduled for February 26, 1982. I will meet with you at the proposed drainfield site at 9:30 a.m. to examine the test pits that you are to provide, to gather soils and topographical information relevant to your proposal. As specified on the variance application form, the test pits must be dug to a depth of five (5) feet or to bedrock. Please refer to the attached plan of your proposal for the most desirable locations to place these test pits.

Immediately after the site visit, an information gathering hearing, as provided for in OAR Chapter 340, 71-430, will be held at the Tillamook County Courthouse. You are invited to have your attorney, consultant, and any other interested person in attendance at both the site visit and the information gathering hearing.

At the time of your hearing, please be prepared to offer those facts and reasons which you feel give assurance that your requested variance, if granted, will not result in the creation of a public health hazard or cause pollution of public waters. Also be prepared to offer the reasons why you find that strict compliance with the rules would be unreasonable, burdensome, or impractical.

John Mullivan  
February 23, 1982  
Page 2

By receipt of a copy of this letter, Tillamook County Environmental Health Department is notified of this pending variance. It is requested that a representative from this section be in attendance at both the site visit and the hearing.

If you have any questions, please feel free to contact me at 229-5296.

Sincerely,

Gregory D. Haasler, R.S.  
Environmental Analyst  
Northwest Region

GDE:s  
RC177  
Enclosure

cc: On-Site Sewage Section, DEQ  
Oregon Water Resources Department  
Attn: William Bartholomew  
North Coast Branch, Astoria, DEQ  
Tillamook County Environmental Health Department  
Attn: Kim Swift, R.S.  
William H. Doak, R.S.



## Department of Environmental Quality

522 S.W. 5th AVENUE, BOX 1760, PORTLAND, OREGON 97207

April 22, 1982

John Mullivan  
3885 N.W. Jackson School Road  
Hillsboro, Oregon 97123

CERTIFIED MAIL No. 348625  
Return Receipt Requested

Re: WQ-SSS-Variance Denial  
T.L. 4700; Sec. 20BD  
T2N; R.10W; W.M.  
Tillamook County

Dear Mr. Mullivan:

This correspondence will serve to verify that your requested variance hearing, as provided for in Oregon Administrative Rules, Chapter 340, Rule 71-430 was held on February 26, 1982 and continued to April 8, 1982 for receipt of additional testimony.

Just prior to the public information gathering hearing I visited the proposed site to gather soils and topographical information relevant to your variance proposal. The subject property is located on the foredune and deflation plain of Nedonna Beach. The warranty deed describes the property as a platted lot (50x100') and also conveys the area between the lot and the Pacific Ocean. One test pit was evaluated at the time of my visit to the property. The profile consisted of rapidly draining unconsolidated dune sands overlying a permanently perched water table with no observable water to eighty-four inches. (During an earlier site evaluation by Tillamook County, the permanent water table was measured at eighty (80) inches below ground surface.) The slope of the deflation plain is approximately 5%. Lots in the subdivision where this property is located are served with water from the city of Rockaway. The city has two (2) wells approximately 1900 feet northeast of the subject property.

Due to the rapidly draining soil characteristics, and lot size (a loading rate of four hundred fifty (450) gallons per acre per day would be exceeded), your lot was not found to be acceptable for a standard on-site system. It was, however, approved for a gray water pressurized distribution system - an alternative on-site sewage disposal system.

To overcome the site limitations, you, with the aid of your consultant, proposed to install a 20' x 30' pressurized seepage bed with one hundred lineal feet of pressure distribution pipe spaced four (4) feet apart. The seepage bed was to be installed twenty-four (24) to thirty-five (35)

John Mullivan  
April 22, 1982  
Page 2

inches deep. Other components incorporated into the proposal include a 1,000 gallon concrete septic tank, a 1,000 gallon dosing tank and a 1/3 h.p. pump with float controls. The proposed system was designed to serve a three (3) bedroom single family dwelling and to dispose of both black and gray water.

Variations from particular requirements of the rules or standards pertaining to on-site sewage disposal systems may be granted if it is found that strict compliance with the rule or standard is inappropriate for cause or special physical conditions render strict compliance unreasonable, burdensome or impractical.

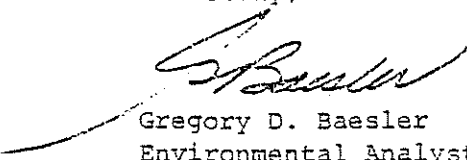
Your proposal, although well prepared, has failed to convince me that strict compliance with the rule addressing sewage flow loading rates in rapidly draining material is inappropriate for cause. Because the ground water gradient underlying the property has not been established by a hydrogeological study the impact of increased pollutant loading on the developed aquifer is unknown. The rule allowing the use of a gray water system was made to utilize properties of deficient size by decreasing the loading rates to a receiving ground water body. By installing this type of split waste system a reduction of pollutants by approximately fifty (50) percent can be realized.

Therefore, based on my evaluation of the verbal and written testimony contained in the record, I am not able to find strict compliance with the rule is inappropriate for cause, or that there are special physical conditions present which render strict compliance unreasonable. Your variance request is regretfully denied.

Pursuant to OAR 340-71-440, my decision to deny your variance request may be appealed to the Environmental Quality Commission. Requests for appeal must be made by letter, stating the grounds for appeal, and addressed to the Environmental Quality Commission, in care of Mr. William H. Young, Director, Department of Environmental Quality, Box 1760, Portland, Oregon 97207, within twenty (20) days of the date of the certified mailing of this letter.

Please feel free to contact me at 229-5296 if you have questions regarding this decision.

Sincerely,



Gregory D. Baesler  
Environmental Analyst  
Northwest Region

GDB/emc  
cc: William H, Doak  
NorthCoast Branch Office, DEQ  
On-Site Sewage Section, DEQ  
Tillamook County Health Department

May 14, 1982

Department of Environmental Quality  
522 S.W. Fifth Avenue, Box 1760  
Portland, Oregon 97207

Re: WG-SSS - Variance Denial  
T.L. 4700; Sec.20BD  
T2N; R.10W; W.M.  
Tillamook County

Dear Mr. Young:

We wish to appeal Mr. Baesler's decision for the following reasons;

1. The decision is not supported by substantial evidence.
2. The decision is contrary to existing law.
3. It is improperly construed implacable law.
4. The decision reflects a failure to follow a procedure applicable to the matter.

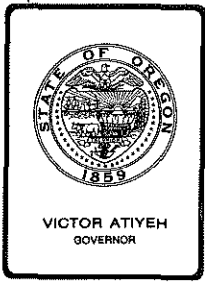
Please notify us when the appeal date is set.

Sincerely yours,

John Mullivan  
3885 N.W. Jackson School Road  
Hillsboro, Oregon 97123

RECEIVED  
MAY 14 1982

DEPT. OF ENVIRONMENTAL QUALITY



## *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, October 15, 1982, EQC Meeting

Mr. Phil Youso and Mr. Robert Campbell - Appeal of  
Subsurface Variance Denial

### Background

The pertinent legal authorities are summarized in Attachment "A".

Mr. Youso and Mr. Campbell own approximately three (3) acres of property located between Highway 126 and the Siuslaw River. Years ago it was developed as an R.V. Park. In 1976, the sewage disposal system was repaired with the installation of nine hundred fifteen (915) linear feet of disposal trench. At that time the park had thirty-one (31) spaces. Currently there are forty (40) RV spaces and two (2) mobile homes on the property. Plans to convert a recreation room in an existing building into a fifty-four (54) seat tavern prompted a review of the sewage disposal system. The design peak loading rate from a tavern this size is estimated to be twenty-seven hundred (2700) gallons per day. Staff from the Lane County Division of Water Pollution Control determined the existing system was inadequate for this projected increase in sewage flow. Because of high permanent groundwater tables and limited area, a permit could not be issued so as to allow an increase in the sewage system capacity.

An application for variance from the on-site sewage disposal rules was received by the Department and assigned to Mr. Sherman Olson, variance officer. On June 30, 1982, Mr. Olson visited the site and conducted a public information-type hearing. The property has approximately six hundred fifty four (654) feet of frontage along the Siuslaw River, and at the greatest width is about two hundred five (205) feet deep between the river and the highway right-of-way. The existing drainfield is on the first flood plain terrace above the river. The sandy alluvial soils are mottled at the ground surface, and on June 30th had groundwater within eight (8) inches of the surface. A natural drainage channel to the west and southwest has a tide gate that restricts flooding of the drainage channel during high tide. The rest of the property to the northeast has been filled to the extent that annual flooding is unlikely. The groundwater level below the filled area is unknown. The proposal was to construct a new sand filter, to provide treatment of all waste waters generated at the property, and discharge the treated effluent into the existing drainfield.

After closing the hearing Mr. Olson evaluated the information gathered. He determined the proposal would require variance from the following rules:

1. OAR 340-71-290(3)(b), which limits the use of sand filter systems in sandy soils to sites where the highest level attained by a permanent water table would be greater than twenty-four (24) inches below the bottom of the disposal trench. The existing system was installed with trenches eighteen (18) inches deep, thus a permit to construct a new sand filter could not be issued if a permanent groundwater level rose closer than forty-two (42) inches. High groundwater levels at the site are expected to reach the ground surface.
2. OAR 340-71-290(3)(c), which limits the use of sand filters to sites where the discharge rate would not exceed four hundred fifty (450) gallons per one-half (1/2) acre per day. With approximately three (3) acres of land, the maximum daily flow would be limited to twenty-seven hundred (2700) gallons. The projected design sewage flow from the RV sites, mobile homes, and proposed tavern would be approximately seventy-six hundred (7600) gallons per day.
3. OAR 340-71-150(4)(a), which requires there be sufficient usable area to provide for replacement of the system. In addition to other requirements, the usable area must comply with the minimum setback distances from property lines and the river. More than half of the property is within one hundred (100) feet of the river.

Mr. Olson was unconvinced that the system, even with the addition of a sand filter, would function properly without flowing to the ground surface during periods when the water table was high. Also, given the projected daily sewage load and small property size, the groundwater quality below the site could be adversely affected, and ultimately seepage into the Siuslaw River could occur. Mr. Olson was unable to find that strict compliance with the Department's rules was inappropriate for cause, or that the property possessed special physical conditions to render strict compliance unreasonable. Mr. Youso and Mr. Campbell were notified of the variance denial by letter dated August 10, 1982 (Attachment "B").

On August 30, 1982, the Department received a letter from Mr. Campbell appealing the variance decision. He indicates the Fire Marshall would limit the tavern accommodations to twenty-six (26) people, thus reducing the sewage flow originally contemplated. The RV business is seasonal, from June through October. During other months, when the water table is highest, the peak occupancy is low. He states that the drainfield and the Siuslaw River would be benefited if the system could be installed (Attachment "C").

Evaluation

Pursuant to ORS 454.660, decisions of the variance officer may be appealed to the Environmental Quality Commission. Mr. Campbell made such an appeal. The Commission must determine if strict compliance with the rule or standard is inappropriate for cause, or that special physical conditions render strict compliance to be unreasonable, burdensome, or impractical.

After examining the existing drainfield site, and after holding a public information type hearing to gather testimony relevant to the requested variance, Mr. Olson was not convinced that the existing drainfield would function properly by adding a sand filter and increasing the sewage flow into the system. He was not able to find that strict compliance with the Department's rules to be inappropriate, or that special physical conditions render strict compliance to be unreasonable.

Summation


1. The pertinent legal authorities are summarized in Attachment "A".
2. The property was developed years ago as a RV park. In 1976, the sewage disposal system was repaired. At that time there were thirty-one (31) RV spaces.
3. The current owners propose to convert a recreation room in an existing building into a tavern. This conversion would result in an increase in the projected daily sewage flow.
4. Lane County staff reviewed the existing sewage system and found it was not designed to accommodate the projected increase in sewage flow. They also determined a permit could not be issued so as to allow an increase in the system capacity.
5. Mr. Campbell and Mr. Youso submitted a variance application to the Department. The application was found to be complete, and was assigned to Mr. Olson.
6. Mr. Olson visited the site and conducted an information gathering hearing. After closing the hearing, Mr. Olson reviewed and evaluated the variance record. He found the testimony provided did not support a favorable decision.
7. Mr. Campbell filed for appeal of the decision by letter.



EQC Agenda Item No. E  
October 15, 1982  
Page 4

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission adopt the findings of the variance officer as the Commission's findings and uphold the decision to deny the variance.

  
William H. Young

Attachments: 3  
Attachment "A" Pertinent Legal Authorities  
Attachment "B" Variance Denial Letter  
Attachment "C" Letter of Appeal

S00:1  
229-6442  
September 17, 1982

XL1952

ATTACHMENT "A"

1. Administrative rules governing subsurface sewage disposal are provided for by Statute: ORS 454.625.
2. The Environmental Quality Commission has been given statutory authority to grant variances from the particular requirements of any rule or standard pertaining to subsurface sewage disposal systems if after hearing, it finds that strict compliance with the rule or standard is inappropriate for cause or because special physical conditions render strict compliance unreasonable, burdensome or impractical: ORS 454.657.
3. The Commission has been given statutory authority to delegate the power to grant variances to special variance officers appointed by the Director of the Department of Environmental Quality: ORS 454.660.
4. Mr. Olson was appointed as a variance officer pursuant to the Oregon Administrative Rules: OAR 340-71-425.
5. Decisions of the variance officers to grant variances may be appealed to the Commission: ORS 454.660.

SOO:1  
XVAD.1 (6/82)  
XL1954



## Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

August 10, 1982

CERTIFIED MAIL

Mr. Phil Youso  
 Mr. Robert Campbell  
 07790 Highway 126  
 Florence, OR 97439

Re: WQ-OSS - Variance Denial  
 TL 1200, 1300, 1400, and 1700;  
 Sec. 15 and 16; T. 18 S.;  
 R. 11 W.; Lane County

Gentlemen:

This correspondence will serve to verify that your requested variance hearing, as provided for in Oregon Administrative Rules, Chapter 340, Rule 71-430 was held beginning at approximately 2 p.m. on June 30, 1982, at the proposed site.

The property is located between Highway 126 and the Siuslaw River, and is approximately three (3) acres in size. Years ago it was developed as an RV park. In 1976 the sewage disposal system was reconstructed (repaired) with installation of nine hundred fifteen (915) linear feet of disposal trench. At that time the park had thirty one (31) spaces. Currently there are forty (40) RV spaces and two (2) mobile homes on the property. Plans to convert a recreation room in an existing building into a fifty four (54) seat tavern prompted a review of the sewage disposal system. Staff from the Lane County Division of Water Pollution Control determined the existing system was inadequate for the projected increase in sewage flow. Because of high permanent groundwater tables and limited area, a permit could not be issued to enlarge the drainfield.

Just prior to the variance hearing I examined the existing drainfield area. It is located on the first flood plain terrace above the Siuslaw River. The test pit provided was filled to within eight (8) inches of the surface with water, and the sandy soils were mottled at the surface. This is a permanent water table that is influenced by the level of the Siuslaw River.

You have proposed to install a sand filter unit to receive sewage effluent from the RV spaces, mobile homes, and tavern. The sand filter would discharge into the existing drainfield.

Your proposal would require variance from the following rules.

1. OAR 340-71-290(3)(b), which limits the use of sand filter systems to sites where the highest level attained by a permanent water table would be greater than twenty four (24) inches below the bottom of the disposal trench. Your existing system was installed eighteen (18) inches deep, therefore the permanent water level could not rise higher than forty two (42) inches below the ground surface. A water level

Mr. Phil Youso  
Mr. Robert Campbell  
August 10, 1982  
Page 2

was observed at eight (8) inches, and is expected to rise to the ground surface.

2. OAR 340-71-290(3)(c), which limits the use of sand filters to sites where the discharge rate would not exceed four hundred fifty (450) gallons per one half (1/2) acre per day. With approximately three (3) acres of land, the maximum daily flow would be limited to twenty seven hundred (2700) gallons. The projected design sewage flow from the RV sites, mobile homes, and proposed tavern would be approximately seven thousand six hundred (7600) gallons, but a lesser flow based upon reliable peak water usage data from similar complexes could be considered.
3. OAR 340-71-150(4)(a), which requires there be sufficient usable area to provide for full replacement of the original system. In addition to other requirements, the usable area must comply with the minimum setback distances from property lines and the river. More than half of the property is within one hundred (100) feet of the river.

Variance from particular requirements of the rules or standards pertaining to on-site sewage disposal systems may be granted if a finding can be made that strict compliance with the rule or standard is inappropriate for cause, or that special conditions render strict compliance unreasonable, burdensome, or impractical. In my opinion, it is unlikely the proposed system would function in a satisfactory manner. When the groundwater levels are high, the disposal field is totally inundated. The discharge of sewage effluent into a flooded system usually results in system failure. The groundwater degradation issue is also of significant concern, particularly because of the potential for ultimate seepage into the Siuslaw River. Based upon my review of the verbal and written testimony contained in the record, I am not able to make a favorable finding. Your variance request is regretfully denied.

Pursuant to OAR 340-71-440, my decision to deny your variance request may be appealed to the Environmental Quality Commission. Requests for appeal must be made by letter, stating the grounds for appeal, and addressed to the Environmental Quality Commission, in care of Mr. William H. Young, Director, Department of Environmental Quality, Box 1760, Portland, Oregon 97207, within twenty (20) days of the date of the certified mailing of this letter.

Please feel free to contact me at 229-6443 if you have questions regarding this decision.

Sincerely,



Sherman O. Olson, Jr.  
Assistant Supervisor  
On-Site Sewage Systems Section  
Water Quality Division

S00:g  
XG1462

cc: Lane County  
Willamette Valley Region Office, DEQ

August 26, 1982

Mr. William Young, Director  
 Dept. Environmental Quality  
 Box 1760  
 Portland, Or. 97207

RECEIVED

AUG 30 1982

Water Quality Division  
 Dept. of Environmental Quality

Re: WQ-055 - Variance Denial  
 Tr. 1200, 1300, 1400 and 1700;  
 Sec. 15 and 16; T. 18 S;  
 R. 11 W., Lane County

State of Oregon  
 DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

AUG 30 1982

OFFICE OF THE DIRECTOR

Dear Mr. Young,

We are requesting an appeal to letter dated August 10th, received from Sherman Olson Jr., Water Quality Division, which denied a variance for the Tavern at Midway Dock, which Lane County had granted.

There are several requirements that are impractical in this situation. First of all the tavern will not accommodate 54 people as stated in the letter. As per the Fire Marshall in Eugene it would accommodate 26 people. This then will reduce the amount of water flow.

Secondly, the RV business is seasonal from June to October. The other 8 months the park is virtually empty.

Contd next page

Page 2

Re: WQ-OSS-Variance Denial

The 8 months that there is a limited amount of trailers in the park is when the water table is the highest.

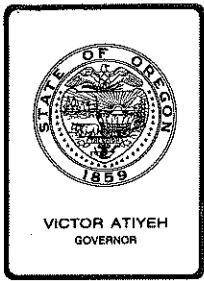
Therefore, if some device or system was installed there would be less solids into the drainfield and less contamination to the Siuslaw River.

We are requesting that this denial be reviewed and something is granted so that business can be continued.

Robert Campbell

07790 Hwy 126

Florence, Or. 97439



## *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, October 15, 1982, EQC Meeting

Mr. Dale Moore - Appeal of Subsurface Variance Denial

### Background

The pertinent legal authorities are summarized in Attachment A.

Mr. Moore owns a 72 foot by 100 foot lot in Tillamook County, identified as Tax Lot 3400, in Section 12 DB, Township 5 South, Range 11 West, also known as Lot 21, Block 2, Horizon View Hills Subdivision. The lot was evaluated for on-site sewage disposal by Mr. James L. Seabrandt, the Supervising Sanitarian for Tillamook County, on November 12, 1979. Mr. Seabrandt issued a Certificate of Favorable Site Evaluation on December 14, 1979, with the following conditions:

1. 180 square feet (90 linear feet) of drainfield per bedroom.
2. Limited to a 2 bedroom structure.
3. Use serial system in drainfield.

On March 2, 1980, the Environmental Quality Commission adopted a temporary rule that voided all Certificates of Favorable Site Evaluation issued in Tillamook County from January 1, 1974 through December 31, 1979. The temporary rule provided that each property owner may request the property be re-evaluated without fee.

Mr. Moore submitted a request for re-evaluation to the Department's North Coast Branch Office. Department staff examined the property on two separate occasions and determined the lot did not comply with the Department's minimum standards for installation of either a standard or alternative sewage disposal system. Because of the small lot size and setback requirements there was not sufficient area to install a system, with room for future replacement. Mr. Moore was notified of the re-evaluation denial by letter dated February 17, 1982.

An application for a variance from the on-site sewage disposal rules was received by the Department, and was assigned to Mr. Sherman Olson, Variance Officer. On June 15, 1982, Mr. Olson examined the site and held a public information gathering hearing. After closing the hearing, Mr. Olson evaluated the information gathered. He found the property to be severely limited with respect to development of an on-site sewage disposal system. The lot is small, with an escarpment that falls within the western side of the property. Effective soil depth varies. The deepest soils are found along the eastern portion of the property, extending an estimated forty (40) feet into the property from Horizon View Avenue. Beyond that distance the depth to rock becomes very shallow. This lot is also within a drainage channel that receives the seasonal runoff from the concave land area upgradient to the east. In the past a seasonal stream flowed through the lot. The stream is now intercepted in the northeast along the lot line and piped along the east and south lot lines to where it discharges. Surface erosion has occurred along the south line, indicating that the piping may not be able to carry all of the water flow from above. The system proposed to overcome the site limitations was composed of a septic tank, dosing tank and sand filter, with discharge into a seepage trench disposal field. Topsoil fill would need to be placed as deep as thirty (30) inches in an area proposed for future replacement because the natural soil is too shallow. Mr. Olson was not convinced that the proposed system could be physically installed on the lot, or that the seepage trenches would function properly. A failure of this system would likely result in a discharge of treated effluent into the intermittent stream channel. Mr. Moore was notified of the variance denial by letter dated August 6, 1982 (Attachment "B").

On August 17, 1982, the Department received a letter from Mr. Moore's consultant, Mr. Steven Wilson, appealing the variance officer's decision (Attachment "C"). Mr. Wilson states the concern about soil fills is with respect to the potential settlement and possible disruption of disposal trenches installed therein. He feels a two (2) year period after fill placement should alleviate this potential hazard. The need to install a replacement disposal trench would not likely occur in this short time. The Department's On-Site Experimental Program has findings to conclude that disposal trenches may last longer when receiving treated effluent from a sand filter. Mr. Wilson feels a twenty five (25) foot setback from the escarpment is reasonable because drainage from the disposal field would not be towards the escarpment. Also, the sand filter unit performs primary effluent treatment with intermittent dosing, thus it is unlikely to be a nuisance or threat to public health. The fifty (50) foot setback from the seasonal drainage is also unreasonable from the standpoint of public health or nuisance concerns. Drainage flows through a buried pipe. DEQ experimental studies indicate that a ten (10) foot horizontal setback was adequate to prevent movement of septic tank effluent constituents into perforated drain tile. A sand filter unit removes a high percentage of constituents before discharge into the disposal field. Since the drainage piping is non-perforated, the potential for contamination of the drainage waste is very remote. Mr. Wilson believes that by using seepage trenches, the linear footage requirement for the initial system is sixty seven (67)



feet, plus an equal amount for the future replacement. A total of one hundred forty (140) linear feet of trench were staked out on the property and shown on a scaled plan (Exhibit "D").

#### Evaluation

Pursuant to ORS 454.660, decisions of the variance officer may be appealed to the Environmental Quality Commission. Such an appeal was made. The Commission must determine if strict compliance with the rules or standards is inappropriate for cause, or that special physical conditions render strict compliance to be unreasonable, burdensome, or impractical.

After evaluating the site and after holding a public information gathering hearing to gather testimony relevant to the requested variance, Mr. Olson was not convinced that the property was large enough to install a functional system, or that the proposed system would function satisfactorily even if it could be installed. He was unable to make a favorable finding.

#### Summation

1. The pertinent legal authorities are summarized in Attachment "A".
2. On November 12, 1979, Mr. James Seabrandt evaluated Mr. Moore's property to determine if an on-site system could be installed. Mr. Seabrandt issued a Certificate of Favorable Site Evaluation, subject to three (3) conditions.
3. The Environmental Quality Commission adopted a temporary rule on March 21, 1980, that voided all Certificates of Favorable Site Evaluation issued in Tillamook County from January 1, 1974 through December 31, 1979.
4. The property was re-evaluated by Department staff on two (2) occasions. It was determined the property did not meet the Department's minimum standards to install an on-site system.
5. Mr. Moore submitted a variance application to the Department. It was assigned to Mr. Olson.
6. Mr. Olson examined the property and conducted an information gathering hearing. After closing the hearing Mr. Olson reviewed and evaluated the variance record. He found the testimony provided did not support a favorable decision, and therefore denied the variance request.
7. Mr. Moore filed for appeal of the variance denial.

Directors Recommendation

Based upon the findings in the Summation, it is recommended that the Commission adopt the findings of the variance officer as the Commission's findings and uphold the decision to deny the variance.

*Bill*

William H. Young

Attachments: (4)

Attachment "A"	Pertinent Legal Authorities
Attachment "B"	Variance Denial Letter
Attachment "C"	Letter of Appeal
Attachment "D"	Proposed Plan

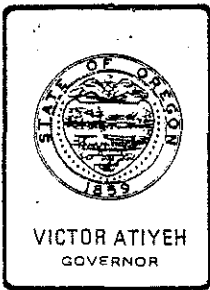
Sherman O. Olson, Jr.;g  
229-6443  
September 20, 1982

XG1576

ATTACHMENT "A"

1. Administrative rules governing subsurface sewage disposal are provided for by Statute: ORS 454.625.
2. The Environmental Quality Commission has been given statutory authority to grant variances from the particular requirements of any rule or standard pertaining to subsurface sewage disposal systems if after hearing, it finds that strict compliance with the rule or standard is inappropriate for cause or because special physical conditions render strict compliance unreasonable, burdensome or impractical: ORS 454.657.
3. The Commission has been given statutory authority to delegate the power to grant variances to special variance officers appointed by the Director of the Department of Environmental Quality: ORS 454.660.
4. Mr. Olson was appointed as a variance officer pursuant to the Oregon Administrative Rules: OAR 340-71-425.
5. Decisions of the variance officers to grant variances may be appealed to the Commission: ORS 454.660.

XVAD.1 (6/82)  
XG1576.A



# Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

August 6, 1982

Mr. Dale H. Moore  
2319 N.W. 88th Street  
Vancouver, WA 98665

Re: WQ-SSS-Variance Denial  
T.L. 3400; Sec. 12 DB;  
T. 5 S.; R. 11 W., W.M.;  
Jackson County

Dear Mr. Moore:

This correspondence will serve to verify that your requested variance hearing, as provided for in OAR 340-71-430, was held beginning at approximately 11:50 a.m. on June 15, 1982, at the proposed site. The property was originally evaluated for on-site sewage disposal by Tillamook County staff on November 12, 1979. A Certificate of Favorable Site Evaluation was issued on December 14, 1979. The Certificate limited the dwelling to two (2) bedrooms. Action by the Environmental Quality Commission in March of 1980 caused your Certificate and others within Tillamook County to be voided. Subsequently, the property was re-evaluated by DEQ staff and was found unsuitable for installation of either a standard system or a more complex alternative system. The major limitations concerned the small size of the lot and location of an escarpment downslope. Insufficient area exists on the property to install a system, with room for a full replacement, while maintaining required setbacks from property lines, etc.

With the assistance of C.E.S., Ltd., you have proposed to overcome the site limitations through use of a sand filter-seepage trench system. The seepage trenches would have twenty-four (24) inches of gravel depth. A topsoil fill (twelve (12) to thirty (30) inches deep) would be placed over that part of the proposed replacement area where the existing soil depth is shallow.

The system you propose would require variance from the following rules:

1. OAR 340-71-220(2)(a), which requires the soils through the site have an effective soil depth that extends at least six (6) inches below the trench bottom. Portions of the site will not meet this requirement with the installation of seepage trenches.
2. OAR 340-71-220(2)(e), which prohibits the placement of fill. With the placement of up to thirty (30) inches of fill in the future repair area, a seepage trench could be installed to meet the requirement of OAR 340-71-220(2)(a), while the effective sidewall of the trench would be in the fill.

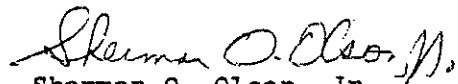
3. OAR 340-71-220(2)(i)(Table 1)(5), which requires the soil absorption system maintain a fifty (50) foot setback from intermittent streams. This property is in a drainage channel that receives the seasonal runoff from the lots upgradient. To alleviate this problem, drainage piping along the east and south property lines has been installed. It appears this drainage system does not intercept all of the seasonal flow as surface erosion is apparent along the south property line.
4. OAR 340-71-220(2)(i)(Table 1)(10), which requires a minimum fifty (50) foot setback be maintained between an escarpment and the soil absorption system. As proposed, not less than a twenty five (25) foot setback would be maintained. Drainage from the absorption system would not be toward the escarpment.

Variance from particular requirements of the rules or standards pertaining to on-site sewage disposal systems may be granted if a finding can be made that strict compliance with the rule or standard is inappropriate for cause, or that special physical conditions render strict compliance unreasonable, burdensome or impractical. I am not convinced that the property has sufficient area available to install a functional system, or that the proposed system will function satisfactorily even if it could be installed. Based upon my review of the verbal and written testimony contained in the record, I am unable to make a favorable finding. Your variance request is regretfully denied.

Pursuant to OAR 340-71-440, my decision to deny your variance request may be appealed to the Environmental Quality Commission. Requests for appeal must be made by letter, stating the grounds for appeal, and addressed to the Environmental Quality Commission, in care of Mr. William H. Young, Director, Department of Environmental Quality, Box 1760, Portland, Oregon 97207, within twenty (20) days of the date of the certified mailing of this letter.

Please feel free to contact me at 229-6443 if you have questions regarding this decision.

Sincerely,



Sherman O. Olson, Jr.  
Assistant Supervisor  
On-Site Sewage Systems Section  
Water Quality Division

SOO:g  
XG1445

cc: Steve Wilson  
Tillamook County  
North Coast Branch Office  
Northwest Region Office, DEQ

P. O. Box 137 • Corbett, Oregon 97019-0137  
Telephone (503)695-5760

255 E. Queen, Suite A • Albany, Oregon 97321-3393  
Telephone (503)926-7737



Soil & Waste Management Consultants

August 16, 1982

RECEIVED  
AUG 17 1982

Mr. William H. Young  
Director, Dept. of Environmental Quality  
P.O. Box 1760  
Portland, OR 97207

Water Quality Division  
Dept. of Environmental Quality

RE: Variance denial appeal for Mr. Dale H. Moore--T.L. 3400, Sec 12DB-T5S-R11W, Tillamook Co.

Dear Mr. Young,

An application for variance approval of an on-site sewage disposal system on the above referenced lot was denied pursuant to OAR 340-71-440. The decision was based on an opinion that the proposed system would not function in a satisfactory manner. This conclusion is not acceptable to Mr. Moore and an appeal to the Environmental Quality Commission is therefore requested.

The proposed on-site sewage disposal system required a variance from the following rules:

- 1) OAR 340-71-220(2) (a), requiring an effective soil depth to extend at least six inches below the disposal trench bottom.
- 2) OAR 340-71-220(2) (e), which requires that the site has not been filled or modified in a way that would adversely affect system function.
- 3) OAR 340-71-220(2) (i), requiring disposal fields to be setback 50 feet from intermittent streams.
- 4) OAR 340-71-220(2) (i), which requires a 50 foot setback from escarpments.

To minimize area requirements for the system, a sand filter followed by seepage trenches was proposed. Seepage trenches (OAR 340-71-280) allow for greater depth of filter material than standard disposal trenches and are commonly used on older lots of record where area limitations are present. Soil characteristics in the proposed initial seepage trench locations are adequate for this purpose. Soil effective depth in the replacement disposal field is inadequate. For this reason, placement of topsoil fill was recommended in the variance proposal. Fill would be inspected for quality and depth prior to issuance of a certificate of satisfactory completion on the sand filter and initial disposal field.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
AUG 17 1982

RECEIVED  
AUG 17 1982

Water Quality Division  
Dept. of Environmental Quality

OFFICE OF THE DIRECTOR

Concerns regarding the use of soil fills in a disposal field area stem from potential settlement and disruption of disposal or seepage trenches. As much as two years should be allowed for natural settlement in a soil fill to alleviate this potential hazard. Results of the extensive experimental program for on-site sewage disposal systems conducted by the Oregon DEQ indicate that the life of disposal trenches is prolonged where sand filter treatment systems are used. For this reason, it is unlikely that the filled replacement area would be used before natural settlement could take place. With design specifications for fill quality and placement and subsequent field inspection, I cannot agree with conclusions that this site modification will have an adverse affect on the functioning of the system.

Fill placement as described addresses the first two rules from which variance was requested. The third and fourth rules at issue regard setbacks from an escarpment and a seasonal drainage way. Setbacks from escarpments are intended to prevent downslope migration and surfacing of sewage effluent. In this case, as noted in the variance denial letter, drainage from the disposal field would not flow in the direction of the escarpment. Further, since the proposed system utilizes a sand filter unit to obtain primary effluent treatment with intermittent dosing, downslope movement or surfacing of effluent which would create a nuisance or threat to public health is unlikely. For these reasons, a 25 foot setback appears justified. As staked out on the lot for the variance hearing, the initial disposal field would be at least 40 feet from the escarpment.

Similarly, a 50 foot setback from the seasonal drainage way is unreasonable from the standpoint of public health or nuisance concerns. As noted in the denial letter, drainage flows through a buried, sealed pipe along the south boundary line. Although minor evidence of surface erosion was noted near the lower end of the line, this was likely caused by brief periods of intensive rainfall. An "intermittent stream" (OAR 340-71-100 (50)) flows continuously for a period of greater than two months in a given year. No evidence of surface water was noted in the February 10, 1981, re-evaluation by a DEQ representative.

Studies conducted under the DEQ experimental program (unpublished report) indicated that a 10 foot horizontal setback was adequate to prevent movement of septic tank effluent constituents into perforated drain tile. Again, the proposed system includes a sand filter pre-treatment unit which removes a high percentage of constituents such as BOD, NO<sub>3</sub>-N, and fecal organisms before discharge into the disposal field. Since the drainage piping in this case is nonperforated, the potential for contamination of drainage water is very remote.

Using a seepage trench disposal field as proposed, the lineal footage requirement is 67 feet for the initial system plus 67 feet for future replacement. A total of 140 lineal feet of seepage trench were staked out on the property and shown on a scaled plot plan submitted with the variance application. Fifty lineal feet were laid out in the proposed fill area. Based on the above, the property does, indeed, have sufficient area to install a functional system.

RE: Variance denial appeal--T.L. 3400, Sec 12DB-T5S-R11W  
August 16, 1982  
Page 3

The purpose of the Oregon on-site sewage disposal rules is to maintain the quality of public waters and to protect public health. Although the rules provide valuable guidance for the determination of site feasibility, the standards are not essential for their intended purpose in all cases. The system proposed for Mr. Moore's lot addresses all limitations cited in previous denial letters. Please assist him in resolving this matter by scheduling his appeal on the EQC agenda as soon as possible.

Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Steven A. Wilson".

Steven A. Wilson, C.P.S.S.

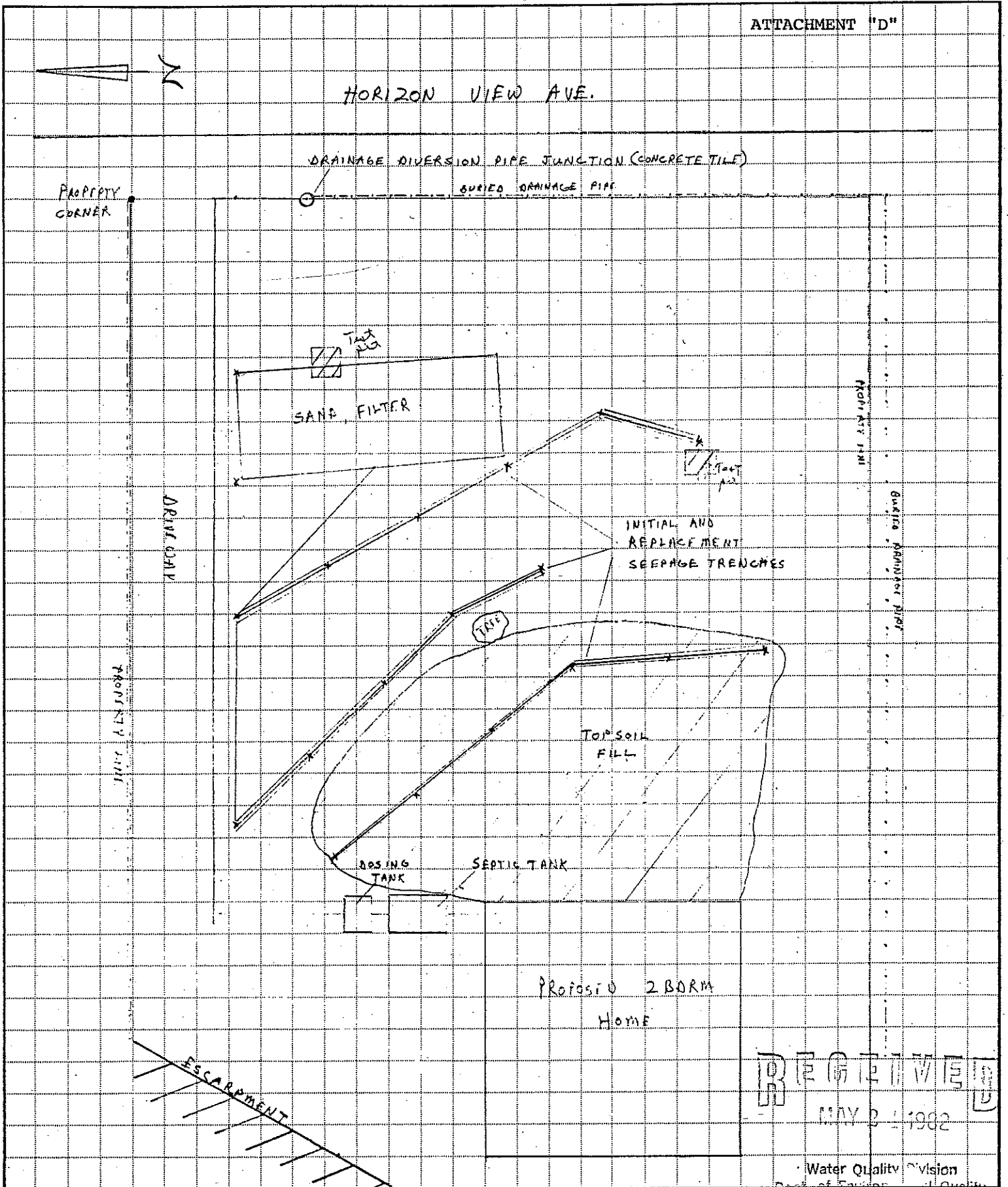
cc: Dale Moore



CES  
255 E. Queen Ave. Suite A  
ALBANY, OREGON 97321  
(503) 926-7737

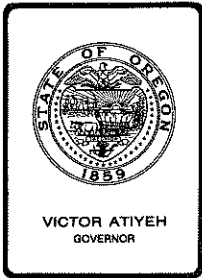
JOB DALE MOORE  
SHEET NO. 1 OF 2  
CALCULATED BY S. Wilson DATE 5/17/82  
CHECKED BY \_\_\_\_\_ DATE \_\_\_\_\_  
SCALE 1" = 12.5'

ATTACHMENT "D"



RECEIVED  
MAY 2 1982

Water Quality Division  
Dept. of Environment & Quality



## *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 , October 15, 1982, EQC Meeting

Requests by Clatsop County, Cannon Beach Sanitary Service and Seaside Sanitary Service for Extensions of Variances from Rules Prohibiting Open-Burning Dumps, OAR 340-61-040(2).

### Background and Problem Statement

A series of variances have been granted to solid waste disposal sites at Cannon Beach, Elsie, and Seaside in Clatsop County to allow continued open burning of refuse. The most recent variances were granted in October 1981 (copy of staff report attached) and will expire on November 1, 1982. The disposal sites cannot be operated in compliance with the Department's rules and there is currently no alternative disposal site available. Accordingly, the operators (Clatsop County, Cannon Beach Sanitary Service and Seaside Sanitary Service) have requested another extension of the variances. Copies of letters from the operators and a letter of support from the city of Cannon Beach are attached. The Commission may grant variances in accordance with ORS 459.225(3).

### Alternatives and Evaluation

The three open-burning sites do not have sufficient suitable area to allow continued operation without open burning. Denying the variances would therefore cause the disposal sites to close, and there are currently no alternative disposal sites available.

The county has identified a potential regional landfill site and has been working to get it approved. A feasibility study has been completed and the Department has granted Preliminary Approval of the site in accordance with OAR 340-61-031. The project has been interrupted, however, because it was discovered that the county had made some procedural errors during the land use approval process. The county has had to withdraw its application and now must go back through the land use process.

When the variances were last renewed, the operators requested a two-year extension. The Commission granted only a one-year extension, but indicated that another one-year extension would be granted if reasonable progress was being made. The staff believes that reasonable progress has been made by the county. However, we are concerned that the process was interrupted. Although the county's letter (attached) indicates a continued commitment, we have not been aware of any activity since the application was withdrawn in June. The county has been subjected to a great deal of pressure by nearby residents and by the cities of Warrenton and Hammond to abandon this proposed site. To help assure continued progress, it is again recommended that any extension of the variances be conditional and based on the county's performance.

In regard to the county's disposal site at Elsie, it has recently come to our attention that the refuse collector from Vernonia, in Columbia County, is providing service to some Elsie area residences. He has indicated that it would be possible for him to establish a small transfer station at the Elsie Disposal Site, if an agreement can be made with the county. This would eliminate the need for open burning. The staff believes this is a logical solution and recommends that the county be required to investigate it.

The private operators at Cannon Beach and Seaside are essentially at the mercy of the county. They cannot be expected at this time to find their own replacement landfills. It should be noted, however, that the operators have taken steps to reduce the amount of exposed waste at their disposal sites. This has reduced adverse environmental impacts and will facilitate proper closure. Also, the city of Cannon Beach has implemented an active recycling program.

#### Summation

1. Clatsop County has requested a one-year variance extension, to allow open burning of refuse while they pursue a regional landfill site. Cannon Beach Sanitary Service and Seaside Sanitary Service have requested a similar temporary extension of their variance.
2. The lack of suitable area at each of the three open-burning sites (Elsie, Cannon Beach and Seaside) prevents their conversion to landfills. Denial of the variance extension would result in closure of the sites and there is currently no alternative site available.
3. The Commission has previously stated that the variances would be extended if reasonable progress was being made.
4. A proposed regional landfill site has been identified and the county has initiated action to acquire and develop the site. However, a procedural delay and strong local opposition have caused concern about continued progress.

5. It appears that it may be feasible to convert the Elsie Disposal Site to a transfer station and haul wastes to the Vernonia Landfill in Columbia County.
6. The private operators at Cannon Beach and Seaside have taken steps to improve their disposal sites.
7. The Department finds that the applicants' 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 applicants.
  - b. Special conditions exist that render strict compliance unreasonable, burdensome, or impractical.
  - c. Strict compliance would result in substantial curtailment or closing of the disposal sites and no alternative facility or alternative method of solid waste management is available at this time.

Director's Recommendation

Based upon 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, 1983, to Clatsop County, Cannon Beach Sanitary Service and Seaside Sanitary Service, subject to the following conditions:

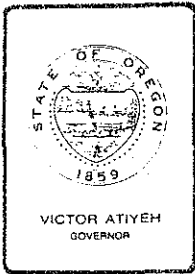
1. The county continues to actively pursue a regional landfill site and supplies the Department with a progress report and time schedule for siting a regional landfill by December 15, 1982.
2. The county investigates the feasibility of converting the Elsie Disposal Site to a transfer station.

*Bill*

William H. Young

Attachments I. Agenda Item Q, October 9, 1982, EQC Meeting  
II. Letter from Roger A. Berg, dated 9/13/82, with attachment  
III. Letter from Pete Anderson and Dick Walsborn, dated 9/1/82  
IV. Letter from Lucille Houston, dated 8/16/82 with attachment

William H. Dana:b  
229-6266  
September 22, 1982  
SB1360



## *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. Q, October 9, 1981, EQC Meeting

Request by Clatsop County for Extension of Variances from  
Rules Prohibiting Open Burning Dumps, OAR 340-61-040(3)

### Background and Problem Statement

A series of variances have been granted to disposal sites in Clatsop County to allow continued operation of open burning dumps at Cannon Beach, Elsie, and Seaside. The most recent variance was granted in November 1980 (copy of staff report attached). At that time, the County was hoping to obtain property owned by Bonneville Power Administration (BPA) for a regional sanitary landfill. As a condition of the variance, the County was directed to report on their progress by July 1, 1981, and the facility operators were to explore the possibility of using the Astoria Landfill as an interim measure. The variance expires on November 1, 1981.

The proposed regional landfill site on BPA property did become available to the County in the spring of 1981. However, the previous owner of the property challenged the County in its bid for the site and threatened to engage them in a potentially lengthy legal battle (copy of letter from John H. Tuthill is attached). Faced with this new obstacle, the County decided to abandon the BPA site and pursue the No. 2 site on its list. Development of this site is proceeding in a satisfactory manner, but the County estimates that it may take up to two years before the facility is ready to open.

Also in the spring of 1981, the County met with the City of Astoria to explore the possible use of the City's landfill as an interim regional site. The City was very strongly opposed to this idea and it is no longer considered an option.

In view of the above, the County is again requesting a two-year variance for its disposal site at Elsie and for the privately operated sites at Cannon Beach and Seaside (copy of letter attached). The Commission may grant such variances in accordance with ORS 459.225(3).

Solid Waste Division  
Dept. of Environmental Quality

RECEIVED  
OCT, 1 1981

### Alternatives and Evaluation

The staff feels some frustration at having to again support requests for variances in Clatsop County. Clearly, these open burning dumps should have been closed by now. It would be unfair, however, to hold the County and the other site operators responsible for the setbacks which have occurred. In any event, the County is clearly moving ahead with good intentions at this point and denying the variances would only serve to worsen the situation.

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.

The current candidate site for a regional landfill is owned primarily by Crown Zellerbach Corporation. The County has begun negotiations and the company seems to be receptive. Based on the limited information available to date, the staff believes the site can be reasonably developed as an acceptable landfill. The County's consultants have nearly completed a geotechnical report which the staff expects to receive during the week of September 20th. Barring unforeseen delays, the staff should be prepared to comment on this report by the time the Commission meets.

The County predicts that it may take up to two years to get this site operational. The biggest delays would be in trying to get voter approval for funding and in possible condemnation procedures to acquire some small parcels of property which adjoin the Crown Zellerbach property. On the other hand, if everything went smoothly, the site could conceivably be available for use as early as next summer (i.e., final engineering and construction could easily be completed within six months).

In order to emphasize the Department's position that open burning dumps are an unacceptable means of solid waste disposal and that such facilities should be closed at the earliest possible date, it is recommended that the variances be extended only for a period of one year.

### Summation

1. The lack of suitable area at each of the three open burning site in Clatsop County prevents their conversion to landfills. Denial of the variance extension would result in closure of the sites and there is currently no alternative site available.
2. A proposed regional landfill site has been identified and the County has initiated action to acquire and develop the site.
3. 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.
4. As an alternative, the Commission could limit the variance to one year since the new landfill could conceivably be available within that time.

5. The Department finds that the applicants' 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 applicants.
  - b. Special conditions exist that render strict compliance unreasonable, burdensome, or impractical.
  - c. Strict compliance would result in substantial curtailment or closing of the disposal sites and no alternative facility or alternative method of solid waste management is available at this time.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission grant an extension of variances to OAR 340-61-040(3), until November 1, 1982, for the Cannon Beach, Elsie, and Seaside disposal sites.

*Bill*

William H. Young

Attachments

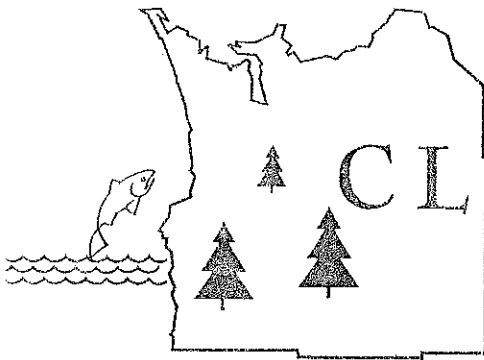
- I. Agenda Item No. I, November 21, 1980, EQC Meeting
- II. Letter dated April 2, 1981, from John H. Tuthill
- III. Letter dated September 10, 1981, from John Dooley

W. H. Dana:c

SC15

229-6266

September 17, 1981



# CLATSOP COUNTY

Courthouse . . . . Astoria, Oregon 97103

September 13, 1982

Mr. Robert L. Brown, Supervisor  
Solid Waste Operations  
Solid Waste Division  
P. O. Box 1760  
Portland, Oregon 97207

Re: Solid Waste - Clatsop County

Dear Mr. Brown:

In reply to your letter of July 28, 1982, please be advised that the Clatsop County Solid Waste Service District has been in the process of correcting procedural deficiencies and difficulties which necessitated the withdrawal of the application for the Perkins Road site. We have recently received the DLCD guidelines as per Mr. Cortright's letter of August 30, which is attached. We still have our original goal of completing our solid waste project, but because of the problems in the past, we cannot have this done by November 1, 1982. We, therefore, request an extension until November 1, 1983.

If there are any questions regarding the above, please call.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Roger A. Berg".

Roger A. Berg, Commissioner  
Board of County Commissioners

RAB/slw

enc.

Solid Waste Division  
Dept. of Environmental Quality  
**RECEIVED**  
SEP 14 1982





## Department of Land Conservation and Development

1175 COURT STREET N.E., SALEM, OREGON 97310-0590 PHONE (503) 378-4926

August 30, 1982

Curt J. Schneider  
Department of Planning & Development  
Clatsop County Courthouse  
Astoria, OR 97103



Dear Curt:

The Planning Commission and the Board of Commissioners have asked if it is possible to take a "general" rather than a site specific exception to allow establishment of a regional sanitary landfill on forest land. I'd like to answer this question in two ways.

First, I think the basic concern may be whether or not LCDC would ever approve a site specific exception to locate a landfill on forest land. The answer is "yes," provided Goal 2's needs and alternatives tests for an exception have been met.

Second, taking a "general" exception now is an approach we would urge you to avoid. The Department believes the County can achieve the same purpose by incorporating Goal 2's exception requirements into the site selection process.

This could be done by adding discussion to the comprehensive plan that:  
(1) describes the need for a new regional sanitary landfill;  
(2) indicates general limitations on landfill siting (as discussed above); and (3) lays out future steps the County will take in evaluating and selecting a landfill site. These future steps would include factors required for a Goal exception: consideration of alternative sites, analyzing consequences and assuring compatibility with surrounding uses. (These are all probably part of the landfill siting process anyhow.)

The actual Goal exception would be taken by adopting a plan amendment (and any needed ordinance amendments) for the site selected. This would occur when the County chooses from alternative sites that have been studied and compared. Findings supporting the amendment would be based on the analysis already prepared. It is not necessary for a Goal 2 exception to complete detailed studies (such as complete site engineering) for each site. A general analysis of alternative sites is sufficient if it provides compelling reasons and facts to select one site over the available alternatives.

While the resulting plan amendment would require LCDC post acknowledgment review, acceptance of the amendment would be reasonably certain if adequate exception findings are adopted.

Curt J. Schneider

-2-

August 30, 1982

In short, the Department believes the approach described above is more appropriate than pursuing a "general" exception. Feel free to contact me for any questions and if you would like our staff to look any draft language you may propose.

Sincerely,

*Bob Cortright*

Robert Cortright  
Field Representative

BC:af  
0842B/3B

cc: Jim Knight  
Mike Morgan  
Craig Greenleaf

September 1, 1982

Department of Environmental Quality  
P.O. Box 1760  
Portland, Oregon 97207

Solid Waste Division  
Dept. of Environmental Quality  
**RECEIVED**  
SEP 3 1982

Re: Seaside Disposal Site  
Solid Waste Permit #22  
Clatsop County

Gentlemen:


Seaside Sanitary Service and Cannon Beach Sanitary Service request that variances be extended at our present disposal sites. We have limited our dumping to as small an area as practical and we have closed over half the original disposal sites. We have been inspected by D.E.Q. personnel on a periodic basis and have always been in complete compliance with our permits.


The Clatsop County Commissioners have experienced many difficulties in developing a new regional landfill and at the present time have not developed definite plans. We have attended all meetings and have been as supportive as possible. We recognize that our present sites are an interim facility, however, at the present time we have no practical options until the regional landfill is developed.

At the present time the State Department of Forestry with the help of Crown Zellerbach and C.E.T.A. workers are cleaning up refuse illegally dumped along the roadways on the tree farm. We are accepting this refuse free of charge at our facilities. Illegal dumping has been an on-going problem in the area for years due to easy access to the tree farm and the remoteness of the roads.

We feel that without some disposal facility in this area available for public use, illegal dumping would become epidemic. Our present sites do not and can not meet EPA-DEQ standards, however, we try to come as close as possible and considering the impact of closure on public health and safety, we think a temporary extension of our variances is justified. To our knowledge there are no alternative sites in our county or any surrounding counties that might be available.

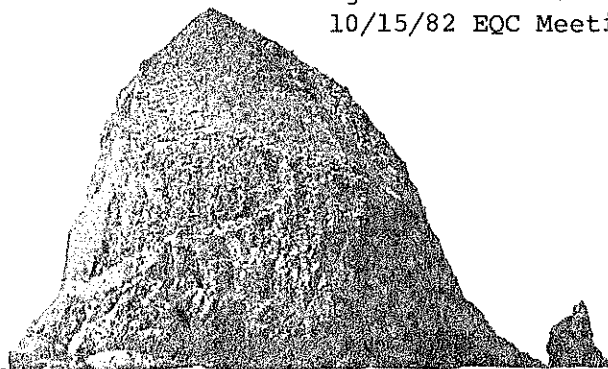
Very truly yours,

  
Pete Anderson, Owner  
Seaside Sanitary Service

  
Dick Walsborn, Owner  
Cannon Beach Sanitary Service

PA/jw

# CITY OF CANNON BEACH



*"The Beach of a Thousand Wonders"*

P. O. BOX 368  
CANNON BEACH  
OREGON 97110

August 16, 1982

To Department of Environmental Quality,

I am writing to support an extension of the permit for the land fill area used by the Cannon Beach Sanitary Service.

The history of the search for an acceptable alternate for this area is well known. The problems encountered are complex. Until a solution is reached we wage a favorable response to the request for more time.

The fact that Cannon Beach has had a volunteer recycling project since October, 1975 alters vastly the impact on the landfill. Enclosed you will find a portion of a report made to the City Council relative to that project. We have continued at approximately the same tempo on a regular basis since that time. So it is easy to see that the quantity of material going to the land fill is vastly diminished. I could up-date this if it was useful to you. One could predict that the planned initiation of another recycling center in Astoria in October will also have an impact in that area. Maybe more emphasis on recycling as a partial solution from land fill problems should be pursued.

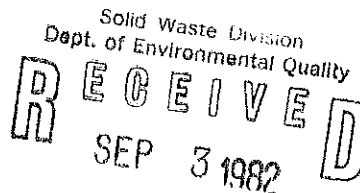
But in the meantime we favor an extension of time for Mr Walsborn.

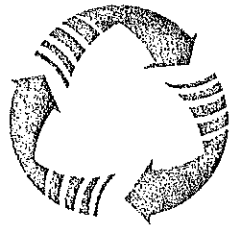
Sincerely,

*Lucille Houston*  
Lucille Houston, Mayor  
City of Cannon Beach

enclosure

LH:mc





# PORTLAND RECYCLING TEAM

1801 N.W. Irving, Portland, Oregon 97209 (503) 228-5375

lbs	OCT <sub>'75</sub>	NOV <sub>'75</sub>	DEC <sub>'75</sub>	JAN <sub>'76</sub>	FEB <sub>'76</sub>	MAR <sub>'76</sub>
GLASS	3800	3200	4200	3600	3600	4800
NEWS	6500	4000	4000	2200	2500	3640
TIN CANS	440	480	320	600	640	640
Aluminum	60	100	40	25	40	100
Corrugated	350	950	600	600	2100	2500
WASTE PAPER	300	3470	1000	450	800	2000
MISC	—	250 (phone books)	—	—	—	—

This is a total of 64,895 pounds of material that have been recycled--and thus kept out of landfills. The figures for April have not been included and those for May were not yet available.

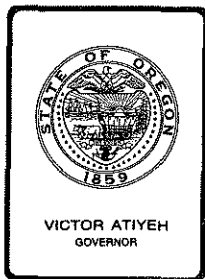
Taking just a few liberties with the variations in density of materials, this represents approximately 60,480 cu. ft. of glass, newsprint, cans, etc.. That figure becomes more meaningful when one realizes that this quantity would fill these Council chambers four times! Or it would fill a pit with diameter of 40 feet to a depth of 48 feet!!!

The fact that Council has given financial support to this project would indicate that you are already aware of the saving in resources, in energy and in pollution by recycling at least these materials.

8-16-82

This is data for the first six months of operation of Cannon Beach Recycling. We have been in 'business' for approximately seven years.

L.H.



## *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. H, October 15, 1982, EQC Meeting

Request for a Variance by FMC Corporation, Portland, from OAR 340-22-170, Surface Coating in Manufacturing, Volatile Organic Compound (VOC) Emission Limits

### Background

FMC Corporation, Marine and Rail Equipment Division, operates a rail car painting operation at 4700 N.W. Front Avenue in Portland. By letter dated April 1, 1982 (Attachment No. 1), FMC reported that it will be unable to attain compliance with the Department's VOC Rules for surface coating manufacturing because coatings have not yet been developed which will meet the requirements of the railcar industry. Therefore, the company requested a variance from the emission limitation in OAR 340-22-170(1)(B) Forced Air Dried or Air Dried and Compliance Determination 340-22-107(2)(3) (increments of progress in Table 1).

### Evaluation

In September 1980, the Environmental Quality Commission adopted volatile organic compound (VOC) emission limits for surface coating manufacturing which requires certain categories of manufacturing to meet specific VOC emission limitations by December 31, 1982. In the case of FMC, which falls under the classification of "Forced Air Dried or Air Dried," the facility may not emit more than 3.5 pounds of VOC per gallon of coating after the above compliance date.

In 1979 FMC produced and painted 6200 railroad cars and two marine barges. All coatings were solvent-base. The basic paint is an alkyd enamel containing approximately 40 percent solids by volume, with lead dryers and pigments. Total VOC compound emissions from the paint facility solvent average approximately 4.1 pounds per gallon of paint. Total annual emissions are estimated at 1086 tons VOC on the basis of 6200 cars and two barges produced. Railcar production in 1981 was less than 30 percent of normal sales. Currently the plant is shutdown (1200 people laid-off) and expects to build fewer than 200 cars in 1982 (estimated emissions 28 tons/year). Future operation will depend very heavily on the nation's economic recovery.

FMC has been actively involved in trying to develop paints which are acceptable from an industry and an environmental standpoint. FMC may have difficulty developing a paint or having a paint developed to be acceptable to them and to the railroad industry.

In 1981 FMC notified all of the approved paint suppliers of its need to meet the subject standard. The suppliers were requested to address the problem and begin submitting samples for testing. Development of an acceptable coating is not a simple matter of readjusting solvent content but involves the development of resins which in conjunction with the solvents and other constituents results in a coating which meet criteria for color, drying time, recoat time, short-term hardness development, resistance to outdoor environment, and a low and consistent dry film thickness. To date none of the samples tested by FMC at their Portland facility meet the established criteria.

An additional factor involved in meeting the 3.5 pounds VOC/gal. limit is the need to develop and install process equipment that will handle these new coatings of higher solid content. Consideration will have to be given to new pumping equipment, drying systems, surface pretreatment, preheating systems, and ventilation.

The company has confirmed its commitment by its continuing efforts towards the development of acceptable coatings and by initiating the design of a replacement painting facility capable of handling the new coating. By letter dated August 16, 1982 (Attachment No. 2), FMC submitted proposed schedules including increments of progress which would result in compliance by January 1, 1987.

Strict compliance with the rule at this time would be unreasonable from both a technical and economic standpoint.

This facility is located in a non-attainment area for ozone. However, it appears that present economic conditions will dictate a much reduced production level and a corresponding reduction in emissions from this plant.

#### Summation

1. FMC Corporation in Portland, Oregon has by letter dated April 1, 1982 requested a variance of the volatile organic emission limits, specifically, OAR 340-22-170, Surface Coating Mfg. and 340-22-107 Compliance Determination.
2. The current standard requires FMC to use paints that emit no more than 3.5 pounds VOC per gallon by 12-31-82. FMC presently emits approximately 4.1 pounds/gal.
3. The variance is requested upon the basis of non-availability of compliance coatings and the necessity of designing, financing, and installing the equipment necessary to handle the higher solid content paints.

4. FMC has established a continuing commitment towards the development of acceptable paints as evidenced by its programs for sampling/testing of coatings and by recently letting a contract for the design of the equipment necessary to handle the higher solid content paints. The respective schedules and increments of progress are as follows:
  - a. Coating Development Program
    - 9/30/81 Determine product coating requirements.
    - 1/31/82 Paint vendors reformulating "new" paint systems.
    - 1/31/83 Paint vendors conducting "in-house" tests and product evaluations.
    - 1/31/84 Paint vendors conducting "on-site" and field tests.
    - 1/31/85 Paint system testing and evaluation for production in specific systems.
    - 1/31/86 Paint system evaluation for purposes of customer satisfaction, warranties, and final customer approval.
    - 1/31/87 New paint system in use.
  - b. New Compliance Coating Facility
    - 3/31/82 Preliminary Design Funds Approved
    - 4/30/83 Preliminary Design Effort Completed
    - 8/31/83 Preliminary Design Approval Obtained
    - 5/31/84 Final Design Effort Completed
    - 9/30/84 Final Design Approval Obtained
    - 2/28/85 Project Funds Authorization Approved
    - 12/31/86 Building Construction Completed
5. Whereas the plant produced 6200 cars and two barges in 1981 and emitted 1086 tons of VOC, current economic conditions project that less than 200 cars will be produced in 1982 (less than 28 tons VOC).
6. FMC Corp. is located in a non-attainment area for oxidants. At a maximum production rate of 6200 cars/year (1086 tons VOC), FMC's 1979 contribution to the nonattainment area annual volatile organic emissions represents approximately 2 percent of the total emissions.
7. ORS 468.325 provides that the Commission may grant specific variances if it finds that strict compliance with the rule or standard is unappropriate because:
  - a. Conditions exist that are beyond the control of the persons granted such variance.
  - b. Special circumstances render strict compliance unreasonable, burdensome, or impractical due to special physical conditions or cause; or
  - c. Strict compliance would result in substantial curtailment or closing down of a business, plant, or operation, or;



- d. No other alternative facility or method of handling is yet available.
8. Strict compliance is judged to be unreasonable and impractical at this time due to the fact that compliance coatings have not been developed and the necessary process equipment must be designed to handle such coatings.

Director's Recommendation

Based upon the findings in the summation, it is recommended that the Commission grant a variance with the following conditions:

1. FMC Corporation shall proceed to control the emissions from the painting facility in accordance with the schedules cited in Summation Item No. 4.
2. Should compliance coatings and the necessary process equipment become available at an earlier date, FMC shall implement the use of compliance coatings and process equipment at the earliest possible date.
3. By January 1st of each year during the period of the variance, FMC shall submit a written progress report summarizing the previous 12 months efforts in the coating development program and new compliance coating facility.
4. The variance shall terminate December 31, 1986.
5. The variance may be terminated by written notice from the Department that it has made a finding that the company has failed to make reasonable progress towards complying with the schedule increments and attainment of final compliance.

*Bill*

William H. Young

Attachment 1 - FMC Letter 4-1-82  
Attachment 2 - FMC Letter 8-16-82

Thomas R. Bispham:b  
229-5292  
June 7, 1982  
RB188

**FMC Corporation**

Marine and Rail Equipment Division  
4700 Northwest Front Avenue  
Box 3616  
Portland Oregon 97208  
(503) 228 9281 Telex 36 0672

ATTACHMENT NO. 1

April 1, 1982

**FMC**

Department of Environmental Quality

P. O. Box 1760

Portland, Oregon 97207

Re: Compliance Schedule

    OAR 340-22-170

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
APR 5 1982

AIR QUALITY CONTROL

Gentlemen:

This letter is submitted in response to requirements of OAR 340-22-170 for submittal of plans for achieving compliance with volatile organic compound emission limits for surface coating operations.

FMC Corporation, Marine and Rail Equipment Division (MRED), will be unable to attain compliance with those organic compound emission limits by December 31, 1982, as required in OAR 340-22-170. As detailed below, FMC reached this conclusion based on the following considerations:

- Despite the best efforts by local and national paint manufacturers, acceptable low-emission surface coatings have not been developed to meet the requirements of the railcar industry.
- A proposed new railcar paint facility at MRED's Portland plant, which will incorporate features needed to accommodate higher

April 1, 1982

Department of Environmental Quality

Page Two

solids coatings and other equipment needed to meet a 3.5 lb/gallon standard, will not be in operation until 1986.

- Our railcar production in 1981 was less than 30% normal sales. The plant is currently shut down and we expect to build fewer than 500 cars in 1982.

FMC has participated fully in the VOC standard-setting process in Oregon, in California and in other states where FMC facilities operate equipment painting lines. Our position in the Oregon deliberations was (and is) that our railcar manufacturing facility should be considered in a separate portion of the regulation, based on requirements unique to our industry. The research and development efforts within FMC and the surface coating industry, which were underway then, have continued and increased in intensity.

The results of these efforts to date, however, have yet to result in commercially available coatings that meet the 3.5 lb. VOC/gal. requirement while also meeting basic acceptability limits for air drying coating systems. These acceptability criteria include color range (specified by customers, rather than FMC), drying time, recoat time, short-term hardness development, resistance to outdoor environment, and a low and consistent dry film thickness. The limitations of our present Portland facility are an additional

April 1, 1982

Department of Environmental Quality

Page Three

factor for FMC, though less important than the basic nonavailability of satisfactory coatings.

We have been actively searching for a coating system for our railcar facility that will meet both DEQ and FMC requirements. In late 1981, we formally requested 13 suppliers of surface coatings (both local and nationwide) to send sample quantities of high solids, solvent-based coatings to us for evaluation. Earlier tests by FMC Central Engineering Laboratory and others had already shown water-borne surface coating systems to be unacceptable from a durability standpoint, based on standard ASTM tests.

To date, five suppliers, including four major nationwide coating manufacturers, have provided samples for evaluation and testing in Portland. None of the five has proven acceptable. Some, for example, never dried to an acceptable hardness. Others had problems with second color coats (most of our orders are two or more colors) lifting first color coats.

Most of the other suppliers from whom we requested test samples have informed us that their development efforts have not yet produced acceptable compliance coatings.

April 1, 1982

Department of Environmental Quality

Page Four

FMC is committed to making every possible effort to meet air quality regulations. We are presently designing a replacement railcar painting facility for Portland, of the same capacity as the existing one, which is scheduled for full operation in 1985-86. This facility is being specifically designed to employ the latest in surface coating system components and their application.

FMC fully believes that the solution to the VOC emission problem from surface coating operations is within the grasp of the coating suppliers. The fact that California has allowed interim limits attests to the difficulty in meeting technology-forcing standards on the time frame originally conceived by the regulators.

Our railcar manufacturing facility in Portland is presently shut down. Although full capacity for the plant is about 5,000 railcars per year, 1981 orders produced 1,600 cars and present 1982 projections are for fewer than 500 cars, mostly prototype models. Given present economic conditions, we are unable to project when we will resume normal operations or approach prior levels of production.

Since the production level of the present facility is almost zero, and there are no acceptable compliance coatings available and a replacement facility designed to meet all the needs of the new coatings and their application is

April 1, 1982

Department of Environmental Quality

Page Five

already on the drawing boards, FMC proposes that full compliance for its railcar manufacturing facility in Portland be set to coincide with operation of the new paint facility.

Recognizing that you will have technical and procedural questions, we will look forward to meeting with DEQ staff to discuss this proposal and move toward establishing a formal compliance program for MRED.

Yours very truly,

A handwritten signature in cursive script that reads "Robert McClelland".

Robert McClelland

Manager, Manufacturing Engineering

pk

FMC Corporation

ATTACHMENT NO. 2

Marine and Rail Equipment Division  
4700 Northwest Front Avenue  
Box 3616  
Portland Oregon 97208  
(503) 228 9281 Telex 36 0672

August 16, 1982



Dept. of Environmental Quality

Mr. Thomas R. Bispham  
Regional Manager  
Department of Environmental Quality  
522 S. W. Fifth Avenue  
P. O. Box 1760  
Portland, Oregon 97204

RECEIVED

AUG 17 1982

NORTHWEST REGION

Dear Mr. Bispham:

Our discussion last week on short term limits for organic emissions did not consider all of the plant site emitting sources, I.E., Marine Painting, etc. Therefore I have developed a schedule of "most probable" emissions based upon our projected business forecast.

1983.....	779 tons/yr. -
1984.....	781 tons/yr. -
1985.....	1086 tons/yr.
1986.....	1086 tons/yr.
1987.....	963 tons/yr. - Compliant Paint System in use.

The Paint Building Project is heavily dependent upon the economic conditions of the country and considering the neurotic state of the economy these days, we have developed the following tentative project schedule.

Preliminary Design Funds Approved	3/82
Preliminary Design Effort Completed	4/83
Preliminary Design Approval Obtained	8/83
Final Design Effort Completed	5/84
Final Design Approval Obtained	9/84
Project Funds Authorization Approved	2/85
Building Construction Completed	12/86

The new compliant paint development and testing program is not going well at all. The paints must be completely reformulated from the very basic resins through every ingredient. This is very costly and time consuming. As of today, we have conducted a dozen tests or more and do not have an acceptable system (or even close). However we believe that the task is not impossible, only difficult.

August 16, 1982

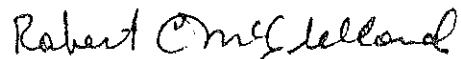
Mr. Thomas R. Bispham

We developed the following paint testing schedule in late 1981 and are making every effort to follow it.

- 9/81 Determine product coating requirements.
- 1/82 Paint vendors reformulating "new" paint systems.
- 1/83 Paint vendors conducting "in-house" tests and product evaluations.
- 1/84 Paint vendors conducting "on-site" and field tests.
- 1/85 Paint system testing and evaluation for production in specific systems.
- 1/86 Paint system evaluation for purposes of customer satisfaction, warranties, and final customer approval.
- 1/87 New paint system in use.

If you have any questions or if I can be of any help, please call me.

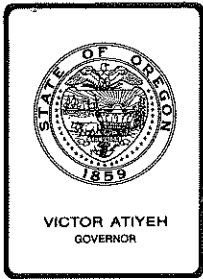
Very truly yours,



R. C. McClelland  
Manager, Manufacturing  
Engineering

nas





## *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, October 15, 1982, EQC Meeting

Request for a Variance from OAR 340-22-170(4)(a)(D)  
Can End-Sealing Compound VOC Limit, for Carnation Company  
of Hillsboro

### Background

Carnation Company, Can Division, operates a can manufacturing plant at Hillsboro, Oregon. The cans are coated in California. Only the end-sealing compound causes release of Volatile Organic Compound (VOC) into the metropolitan airshed from the Hillsboro plant (negligible amounts of VOC are also released from the plant's natural-gas-fired space heaters in the non-ozone season). About 50 tons of hexane per year are released from the end-sealing compound in the process of forming the can.

In December of 1978, rule 340-22-170(4)(a)(D) was adopted to limit end-sealing compound emissions to 3.7 lbs of VOC per gallon of compound after December 31, 1982. This rule was part of the EPA required VOC rules for the Portland area ozone non-attainment area. Presently, most of Carnation's end-sealing compound emits 4.03 lbs of VOC per gallon, while the remainder emits 4.39 lbs of VOC per gallon.

### Problem

The Carnation Company has not completed their evaluation and testing of end-sealing compound with a lower solvent content which will conform to the 3.7 lb/gal rule. According to the Can Manufacturers Institute, lower solvent end-sealing compounds are not proven. Carnation is working with their suppliers to develop lower solvent compounds. Because so many cans are filled with food for human consumption, Carnation must satisfy itself and the federal Food and Drug Administration (FDA) that new formulations are compatible with present sanitary requirements and will be strong enough to hold the end of the can on.

### Alternatives and Evaluation

Carnation has requested a variance from the rule until December 31, 1985. By that time they expect formulations to be available which will be in compliance with the 3.7 lb/gal rule.

The variance could be denied and the rule deadline extended to December 31, 1985. Administratively, a rule change takes more manpower, hearings, and EPA involvement.

If the variance is granted, the VOC reduction strategy is lacking a reduction of only 3.9 tons per year. Therefore, to grant a variance, so that Carnation Can Company of Hillsboro could continue to operate with an end-sealing compound slightly out of compliance with rule OAR 340-22-170(4)(a)(D), would cause no significant harm to the environment.

The variance is sought under a law ORS 468.345(1) that can be satisfied in three ways:

- (a) Conditions are beyond the control of the plant, namely, they cannot buy an FDA approved end-sealing compound which complies with our rule which is compatible with their can forming process;
- (b) Strict compliance would close down the plant;
- (c) No alternative method is yet available.

Carnation's case satisfies all three conditions.

### Summation

1. Carnation Company, Can Division, has requested a variance from OAR 340-22-170(4)(a)(D) until December 31, 1985, for their end-sealing compound which emits about 50 tons per year of hexane.
2. Conformance with the rule would only reduce emissions by about 3.9 tons of VOC per year. The plant is nearly in compliance with the rule now. In terms of the effect on the airshed, 3.9 tons is considered negligible.
3. The Commission has the authority under ORS 468.345 to grant this variance for any of three reasons allowed by the law:
  - a) conditions beyond control of the plant,
  - b) strict compliance would close the plant,
  - c) no alternative compliance method is available.

The situation at Carnation Can satisfies all three reasons.

### Director's Recommendation

Based upon the findings in Summation, it is recommended that the Commission grant a variance to Carnation Company, Can Division, Hillsboro plant, from

EQC Agenda Item No. I  
October 15, 1982  
Page 3

OAR 340-22-170(4)(a)(D), VOC limitation in end-sealing compound, until a satisfactory compound is available which will meet the rule but not to exceed December 31, 1985 and require Carnation to submit an annual report detailing progress made toward meeting compliance.



William H. Young

Attachment: Carnation Letter

John F. Kowalczyk:a  
AA2587 (1)  
229-6459  
September 23, 1982



Can Division

34-2677

5045 Wilshire Boulevard  
Los Angeles, California 90036  
Telephone: (213) 932-6000

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

June 21, 1982

Mr. Peter <sup>P.S.D.</sup> Bosserman  
Senior Environmental Engineer  
Dept. of Environmental Quality  
522 S.W. 5th Avenue  
Portland, Oregon 97207

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
JUN 6 1982  
AIR QUALITY CONTROL

Re: VOC Emissions Permit - Hillsboro, Oregon Can Plant

Dear Mr. Bosserman:

Enclosed is our application for air contaminant discharge permit for the end sealing compound process and a check in the amount of \$2450 to cover the necessary filing and application fees.

Since we presently cannot meet your rule 340-22-170 limit of 3.7 lbs. of VOC per gallon of coating on our end sealing compound by the end of 1982, we herein respectfully request a variance for an extension of the 12/31/82 end sealing compound compliance date to 12/31/85.

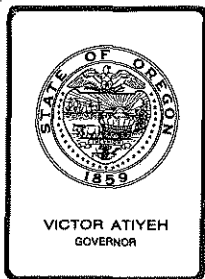
Sincerely,

Oscar M. Ilacad  
Project Engineer  
CAN DIVISION

OMI:tjb

- cc: J. F. Hickey - Hillsboro, OR
- R. D. Johnson - Can Division
- R. W. Branch - Can Division
- J. J. Person - Environmental Affairs

Encl.



## *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, October 15, 1982, EQC Meeting

Request for a Variance from OAR 340-21-015(2)(b) Visible Air Contaminant Limits and OAR 340-21-030(2) Particulate Emission Limits for the Champion International Corporation, Dee Hardboard Plant Cyclones.

### Background and Problem Statement

Champion International Corporation owns and operates a hardboard manufacturing mill at Dee, Oregon, a rural unincorporated community ten miles south of Hood River. The company utilizes four cyclones in the transfer of wood waste from various saws, an abrasive planer and a hog to the boiler for use as fuel. Cyclones #1 and #2 are in parallel and jointly in series with #3 and #4 for the transfer of wood waste generated by the abrasive planer, rip saw and hog to the boiler.

The company's Air Contaminant Discharge Permit (18-0002) sets the maximum opacity from these cyclones at 20 percent. During inspections in 1980, Department personnel observed excessive emissions from at least two cyclones. Later inspections verified that three cyclones could not meet the 20 percent standard. Regional staff determined that the cyclone emissions were not causing a nuisance condition near the plant site nor were they particularly offensive to nearby residents.

The company requested the Department to change the opacity limit for these cyclones to 40 percent. This would be allowed by OAR 340-21-015(1)(a) for existing sources outside of special control areas. However, because the company replaced a knife planer with an abrasive planer (which changed the character of the generated waste material) in 1978, the cyclones are considered a new source and the appropriate opacity limit is 20 percent. An abrasive planer characteristically produces finer particles which cyclones cannot capture as effectively as coarser material.

Champion International has submitted a variance request to postpone the correction of the excessive emissions from the cyclones until January 1, 1984 to ". . . allow sufficient time to obtain a viable cost-effective

solution and to obtain the required capital necessary to reduce the cyclone emissions and eliminate the existing opacity problem."

The variance request includes information on Champion's present financial condition and states that the cash flow of the Dee Hardboard operations represent a proportionate share of the economics of the Building Products Division. The Building Products Division lost \$25 million during the first six months of 1982. The Dee facility has operated at 40 percent of a normal 24 hour per day, 52 weeks per year operating schedule for the first seven months of 1982, which the company states reflects the lack of orders and the rather poor economic picture.

The Commission is authorized by ORS 468.345 to grant variances from Department rules if it finds strict compliance is inappropriate for one of the reasons specified in the statute, including: "conditions exist that are beyond the control of the persons granted such variance".

#### Alternative and Evaluation

The company has submitted a compliance schedule for bringing the cyclones into compliance by January 1, 1984. The schedule assumes that an engineering analysis will call for the installation of two bag filters to control the emissions. A preliminary analysis which suggested controlling emissions with bag filters estimated facility costs at \$200,000.

Champion proposed the following detailed schedule: Complete an engineering analysis and obtain bids for construction by November 30, 1982; begin construction by July 31, 1983; complete construction by November 30, 1983 and demonstrate compliance by January 1, 1984.

An alternative available but not considered reasonable in view of the assessed environmental impact and economic conditions would be to require immediate compliance and invoke civil penalties.

An alternative also available would be to require compliance at an earlier date than proposed by the company. The staff is of the opinion that the five month period from the "fund request" to "fund approval" might be shortened; however, corporate procedures were not investigated. Similarly, over four months from initiation of construction to completion might be shortened.

Based on the company's financial status and the assessed environmental impact of the facilities, it is not considered unreasonable for the company to request a long compliance schedule. The additional time should allow the company to budget for the corrections. The schedule should also assure compliance with each step and decrease the likelihood of the company returning to the Commission for an extension.

The Department, therefore, supports the variance request, essentially as submitted by Champion International, for the cyclones at the Dee plant subject to the following conditions:

1. The company shall meet the compliance schedule contained in the Director's Recommendation.
2. The variance may be revised or revoked if the Department determines that the cyclone emissions cause a nuisance to persons or property.

#### Summation

1. Champion International has requested a variance from OAR 340-21-015(2)(b) Visible Air Contaminant Limits, and OAR 340-21-030(2) Particulate Emission Limits, for specific cyclones at its Dee, Oregon hardboard facility.
2. The Commission has the authority under ORS 468.345 to grant a variance from a rule if "conditions exist which are beyond the control of the persons granted such variance".
3. Champion International has submitted information which shows a negative cash flow from their Building Products Division. The Dee mill has operated at only 40 percent of normal for the last seven months.
4. Emissions from three of four cyclones have been observed by Region staff significantly above the 20 percent opacity limit of the company's Air Contaminant Discharge Permit.
5. Alternatives to the extended compliance schedule requested by the company (i.e., immediate strict enforcement of the OAR's or the tightest compliance schedule feasible) may be unreasonable. Emissions from the cyclones currently have not been found to create a nuisance condition near the plant site nor are offensive to surrounding residents. This, and the poor economic conditions of the Dee mill, provide evidence that strict enforcement of the rules or the tightest compliance schedule physically possible may be inappropriate.
6. The staff has recommended a compliance schedule with increments of progress and other appropriate conditions to be included in the variance.

#### Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission grant a variance from OAR 340-21-015(2)(b) and OAR 340-21-030(2) until January 1, 1984 for the four cyclones at the Champion International hardboard facility at Dee, Oregon, subject to the following conditions:

1. Achieve compliance by meeting the following increments of progress:

- a. By no later than January 1, 1983, the permittee shall submit a Notice of Construction, including plans and specifications, to the Department for review.
  - b. By no later than July 1, 1983, the permittee shall issue purchase orders for major work and components.
  - c. By no later than August 1, 1983, the permittee shall begin construction.
  - d. By no later than December 1, 1983, the permittee shall complete construction.
  - e. By no later than January 1, 1984, the permittee shall demonstrate compliance.
2. If the Department determines that the cyclone emissions cause a nuisance to persons or property, this variance may be revised or revoked.

*Bill*

William H. Young

- Attachments (3):
1. Department letter to company dated February 2, 1982
  2. Variance Request dated June 3, 1982
  3. Variance Request Addendum dated July 27, 1982

H.M. Patterson:a  
AA2570 (1)  
229-5364  
September 16, 1982





*Department of Environmental Quality*  
CENTRAL REGION

2150 N.E. STUDIO ROAD, BEND, OREGON 97701 PHONE (503) 388-6146

February 2, 1982

Mr. Harry Bartels  
Champion International Corporation  
P.O. Box 10228  
Eugene, OR 97440

AQ - Champion (Dee)  
Hood River County  
18-0002

Dear Mr. Bartels:

This letter follows our meeting of January 26, 1982. Also attending the meeting were Ralph Heinert of your office and Dick Nichols of this office.

As we discussed, the Department interprets the replacement of a knife planer with an abrasive planer as a new source. Oregon Administrative Rule 340-21-005(3) defines a new source as any air contaminant source installed, constructed or modified after June 1, 1970. We believe the planer change is clearly a modification. We have interpreted such a change to be a modification in the past.

Although we have not formally notified you of a permit violation, five inspections during the last two years at the Dee facility show that cyclone emissions cannot meet the 20% opacity limit. We believe that the abrasive planer is the cause of the excess emissions, but we agree that a study of cyclone emissions needs to be done to verify the cause of the emissions and to identify feasible solutions. At this time we have no evidence to indicate that the cyclone emissions are causing a nuisance or an ambient air quality problem. Still it is our duty to require all industrial sources to meet the same air quality regulations.

Therefore, please submit a schedule to begin and complete an analysis of the cyclone emissions and solutions to bring these emissions into compliance. As long as you submit a schedule that is satisfactory to us, we will not pursue enforcement actions on the excessive cyclone emissions. Please submit the schedule by April 1, 1982.

Thank you for your cooperation in this matter. Please call me if you have any questions or comments.

Sincerely,

RD:dmc

Robert Danko

cc:Air Quality Division,  
DEQ Portland

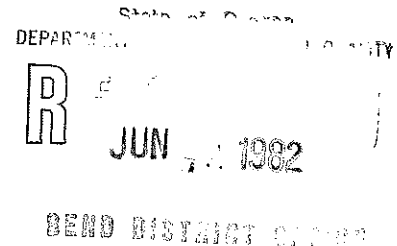


Contains  
Recycled  
Materials



1600 Valley River Drive  
P.O. Box 10228  
Eugene, Oregon 97401

June 3, 1982



Mr. Robert Danko  
Department of Environmental Quality -  
Central Region  
2150 N. E. Studio Road  
Bend, Oregon 97701

Subject: Dee - Request for Variance AQ-18-0002

Dear Mr. Danko:

Based on previous discussions and correspondence, with your department, concerning the proposed compliance schedule for the Dee operations, it is necessary to request approval of a variance to the Air Quality Permit #18-002, governing the cyclone emissions, at this facility. This request relates only to the 20% opacity and particulate limit covering the cyclone emissions and is made on the basis that "conditions exist which are beyond our control".

A variance is requested so that sufficient time is made available to arrive at the most cost-effective solution and to obtain the required capital necessary for correction and at the same time avoid any citations which could result in a cease and desist order necessitating the shutdown of this operation. Since the Dee operations are an integral part of the Corporation's overall financial picture and because capital availability is being greatly affected, by the present economic uncertainties, extreme limitations have been placed on capital expenditures and is expected to continue through 1983.

It is felt that a variance request is not unreasonable in light of the gains that have been made at this operation in the past 5 years. A number of environmental improvement projects have been completed at this location including the installation of a hogged-fuel boiler and a process waste water treatment system. The hogged-fuel boiler allowed the elimination of a Wigwam Burner at Neal Creek and the treatment system reduced substantially the fiber solids being discharged into the Hood River. Along with these two projects slightly more than \$2,300,000.00 have been invested in environmental control projects during the previous 5 year period.

Approval of a variance to last until January 1, 1984 should allow sufficient time to obtain a viable, cost-effective solution and to obtain the required capital necessary to reduce the cyclone emissions and eliminate the existing opacity problem. At present,

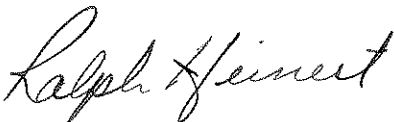
Mr. Robert Danko  
June 3, 1982  
Page -2-

the alternates to be considered consist of:

1. Analysis of the entire air handling system for balance of distribution and modification to reduce individual point sources.
2. Evaluation of the existing system with new high efficiency cyclones.
3. Evaluation of the existing system with bag houses installed as a secondary filter-collector.

If you have any questions concerning this request, or if you should require additional information, please contact me at telephone 503/687-4643.

Sincerely,



Ralph Heinert  
Environmental Affairs

RH:ms

cc: Tom Alley - Lebanon  
Don Judd - Dee  
Dick Davis - Dee  
Ed Clem - Stamford  
H. Bartells/file  
Jim Deacon - Eugene

1) DOLLAR FIGURES (CONTROLLING SHARE)

2) COSTS OF CONTROLS

3) \$ spent on improvements  
(depend)

P.O. Box 10228  
1600 Valley River Drive  
Eugene, Oregon 97440  
503 687-4729, 503 687-4643

ATTACHMENT 3

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
JUL 28 1982

BEND DISTRICT OFFICE



July 27, 1982

Mr. Bob Danko  
Department of Environmental Quality  
Central Region  
2150 N. W. Studio Road  
Bend, OR 97701

SUBJECT: Dee - Request for Variance AQ-18-0002  
Additional Information

Dear Mr. Danko:

This letter is in response to the request by Mr. Nichols for additional information needed to draft a report to the Environmental Quality Commission. The report relates to Champion's request for a variance to the air quality permit at Dee, Oregon which would allow the needed time to reduce emissions from the cyclones at that location.

Assuming the choice for correction is to install bag filters on the uncontrolled cyclones, two separate bag filters will probably be required. The preliminary engineering estimate is as follows:

Basic Equipment:	\$145,000.00
Miscellaneous Equipment Installation, Labor and Materials:	50,000.00
Engineering:	<u>5,000.00</u>
Total	\$200,000.00

The economics of the Dee Hardboard operations represent a proportionate share of Champion's financial position as reported in the quarterly and annual reports. A News Release is attached which reports a second quarter operating loss of 4.1 million dollars for the Building Products Division. Building Products' losses for the first six months of 1982 are reported at 25.3 million dollars.

For the seven-month period ending July 31, 1982, it is projected that the plant at Dee will have operated at only 40.75% of a normal operating

Mr. Bob Danko  
July 27, 1982  
Page 2

schedule. This reduced schedule is due primarily to the lack of orders. Couple this with reduced sales and prices and a rather poor economic picture for Dee's 1982 operations appears to be eminent. Because of the overall economic situation, capital expenditures by the Corporation are being scrutinized for necessity and then prioritized against the limited funding available.

The Dee operation has, within the past few years, invested considerably in making environmental improvements to their facilities. Installation of aeration and treatment ponds and related equipment and enlargement of an existing pond improved the waste water being discharged considerably. BOD improved by approximately 80% and solids were estimated to have reduced to approximately 1,100 pounds per day. The total expenditure for this improvement was nearly \$175,000.00.

The hogged-fuel boiler installation eliminated the need for a wigwam burner at Neal Creek and was equipped with pollution control equipment capable of controlling the quantity of particulates emitted and demonstrated by test that the particulate levels were actually well below the State's allowable limits. The total project cost of \$1,344,000.00 had a considerable beneficial environmental impact on the area, primarily through air quality improvements.

Installation of the dissolved air floatation (DAF) system and belt press further improved the quality of the process waste water stream. This installation was completed for \$678,000.00. The annual operating costs for the water treatment system, including the ponds, ran in excess of \$350,000.00 in 1981.

Various other miscellaneous projects that were installed to improve the environmental controls at Dee totaled nearly \$100,000.00.

The preliminary compliance schedule for providing control equipment would be as follows:

1. Perform engineering analysis, design modifications to the system and obtain bids - Complete By 11/30/82.
2. Prepare and initiate funding approval request - Complete By 1/15/83.
3. Obtain funding approval - By 6/15/83.
4. Order and receive equipment and materials and begin construction - By 7/31/83.
5. Construction complete; start-up and debug - By 11/30/83.
6. Verify compliance - By 1/1/84.

Mr. Bob Danko  
July 27, 1982  
Page 3

I trust this information will allow you to complete the report to the Commission; however, should you require additional information, please contact me at 687-4643.

Also, I would appreciate hearing from you when you know the date Dee's variance request will be acted upon by the Commission.

Sincerely,



Ralph Heinert  
Assistant Manager  
Western Environmental Affairs

RH/se

Enclosure

cc Tom Alley-Lebanon  
Don Judd-Dee  
Dick Davis-Dee  
Bob Cheney-Dee  
Vern Daniels-Eugene  
Ed Clem-Stamford

Champion Drive

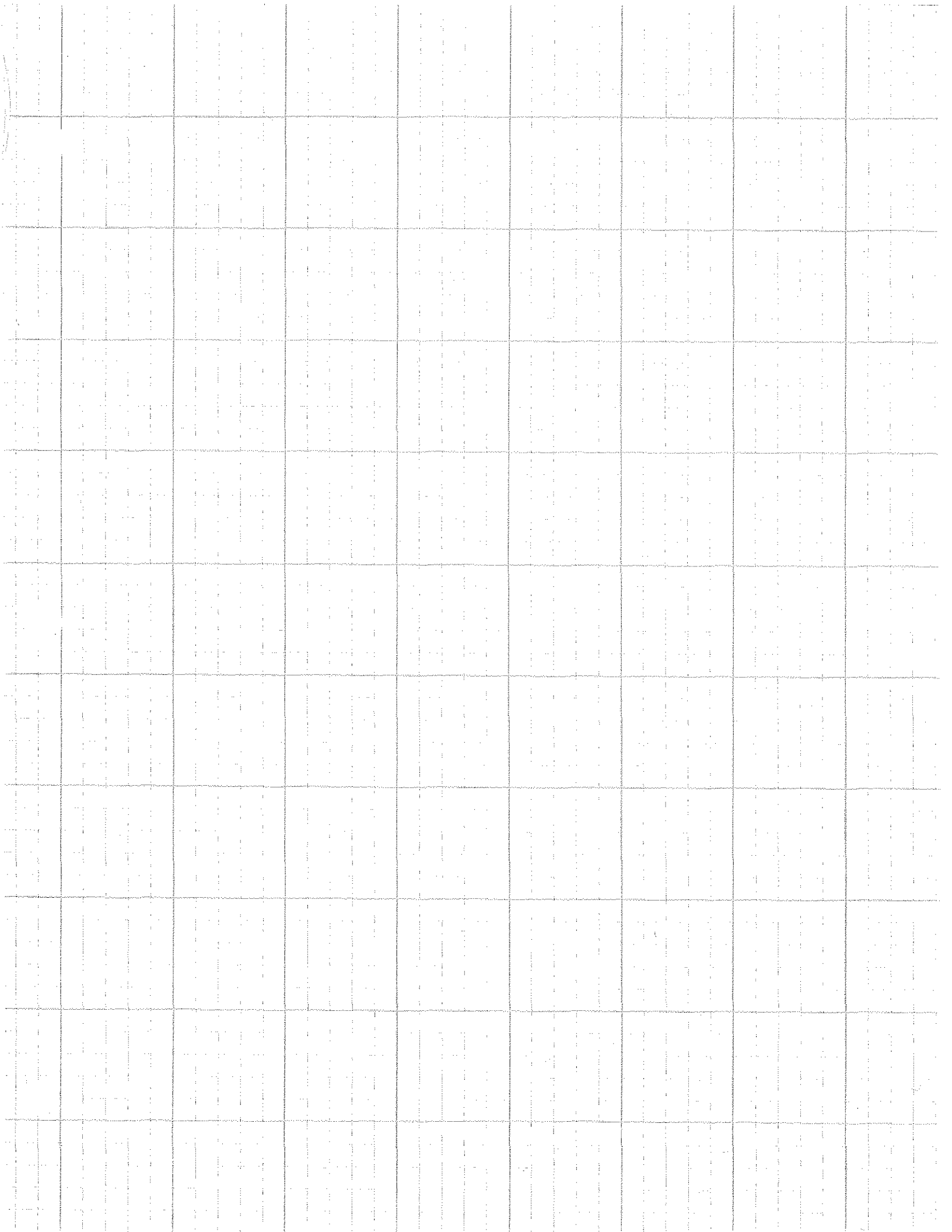
1982			July 82	
			11-30-82	EMP P15 Bids
			1-15-83	Fund Request
			6-15-83	Fund Approval
			7-8-82	DATE BANK Initiate Constr
			11-30-83	Construction Complete start H.P.
			1-1-84	Verify compliance
1983			July 83	
1984			July 84	

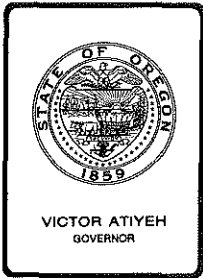
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## *Environmental Quality Commission*

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 , October 15, 1982, EQC Meeting

Approval of LRAPA Kraft Mill Rule and LRAPA Petition for Transferring Jurisdiction over Kraft Pulp Mills in Lane County from DEQ to LRAPA

### Background

At the December 28, 1967 meeting of the Oregon State Sanitary Authority (now the EQC) the Lane Regional Air Pollution Authority (LRAPA) was approved under ORS 468.505. On the same date, the Sanitary Authority retained jurisdiction over pulp and paper mills, pursuant to ORS 468.540(1) for the following reasons:

- (1) The kraft odor was a problem throughout the state and needed to be dealt with uniformly statewide.
- (2) At that time (December 1967), methods of measurement and analysis were not known to be available within regional capabilities.
- (3) Adequate ambient air or source emission standards were not yet promulgated.
- (4) Adequate monitoring for pulp mill emissions requires equipment which at that time were considered to be beyond the budget capabilities of the regional programs involved.

### Petition and Findings

In a September 17, 1982 letter, Attachment 1, LRAPA petitioned the Commission for jurisdiction over kraft pulp mills, pursuant to ORS 468.540(2). There is one kraft pulp mill, Weyerhaeuser Company in Springfield, in Lane County. Weyerhaeuser was contacted and they have no objection to a change in jurisdiction.

Since 1967, the regional problem of the kraft odor has been substantially abated. These reductions were accomplished by new state rules, compliance schedules, and air contaminant discharge permit conditions.

At the present time, LRAPA's monitoring and analysis capabilities are considered adequate to deal effectively with kraft mills.

Ambient air and source emission standards adequate for controlling kraft pulp mill air pollution have now been developed and have been adopted by LRAPA.

LRAPA has sufficient budget to maintain ambient air monitoring needed for monitoring the pulp mill's emissions.

#### Rules

LRAPA now has the same rules in force as DEQ. LRAPA has submitted rule 33-070 to the Commission for approval and submission to EPA as a SIP revision in a separate letter also dated September 17, 1982. For existing mills, DEQ finds that LRAPA Title 33, definitions, and Section 33-070 are equivalent and as stringent as OAR 340-25-150 to -205. For kraft mill modifications, the LRAPA (New Source Performance Standard) rule 37-020(11) is the same as OAR 340-25-630, which is the same as the federal rule 40 CFR 60.280 to 60.285.

#### Qualified Personnel

LRAPA has hired a professional engineer to be in charge of kraft mill air pollution control. While DEQ has more than one staff member with expertise on pulp and paper mills, usually only one engineer is assigned to a pulp mill at DEQ; therefore, DEQ's advantage of depth of expertise over LRAPA is not significant. Also, the Department will provide technical assistance to LRAPA if needed.

#### Odor Surveillance

DEQ has closed its Eugene office, thus inspection personnel must travel from Salem or Portland. Odor complaints therefore would have a quicker possibility of being investigated and resolved by a staff who live and work in the area of the mill.

#### EPA Action Requested

LRAPA also requested that, upon EQC approval of their rules and transfer of jurisdiction, the Department submit the rules to EPA as a revision of the Oregon State Implementation Plan. LRAPA requested, in a letter of June 23, 1981 that EPA delegate authority through DEQ to allow LRAPA to administer the NSPS for kraft pulp mills in Lane County.

#### Alternatives

The Commission can either grant or deny the petition. If the petition is not granted, DEQ will continue to incur travel costs for personnel living in Harrisburg and Salem to cover the Weyerhaeuser kraft mill in Springfield. LRAPA will continue its current jurisdiction over other

emissions from the co-located Weyerhaeuser sawmill, plywood, particle-board, and boiler operations.

If the petition is granted, LRAPA jurisdiction should improve the efficiency of overall environmental management by allowing Weyerhaeuser to deal with only one authority regarding air pollution matters at its Springfield plant and should save DEQ some surveillance travel time which can be used for other source work.

#### Summation

1. LRAPA has submitted its recently adopted kraft mill rules for EQC approval and submission to EPA and has petitioned the Commission to shift jurisdiction over kraft pulp mills to LRAPA. The petition cites sufficient and justifiable reasons for the petition to be granted. (Attachment 1).
2. Kraft pulp mills have moved from an air pollution emission reduction phase, to a surveillance phase where meeting present rules and permit limits constitute a maintenance action on the part of the regulatory agency.
3. The Department believes LRAPA has rules identical to the Department's, and has staff expertise and adequate monitoring capability to assume complete jurisdiction for air pollution control activities relating to kraft pulp mills in Lane County.
4. Weyerhaeuser's Springfield plant is the only source affected by the petition and they have no objection to the change in jurisdiction.
5. Transfer of kraft mill air pollution matters to LRAPA should result in a more efficient environmental management program.

#### Director's Recommendation

Based upon the findings in the Summation, it is recommended that the LRAPA kraft mill rule 33-070 be approved and that the petition be granted to transfer jurisdiction for air pollution control of kraft pulp mills in Lane County from the EQC to LRAPA; and that LRAPA rules for kraft pulp mills be submitted to EPA as a SIP revision with a request to delegate the program for this source class in Lane County to LRAPA.

*Bill*

William H. Young

Attachments: (1) 9/17/87 Petition Letter  
(2) LRAPA Rules on Kraft Mills: 33-070, and 37-020(11)

J.F. Kowalczyk:a  
AA2589 (1)  
229-6459  
September 23, 1982

LANE REGIONAL

AIR POLLUTION AUTHORITY



(503) 686-7618  
1244 Walnut Street, Eugene, Oregon 97403

Donald R. Arkell, Director

September 17, 1982

Mr. Joe Richards, Chairman  
Environmental Quality Commission  
P. O. Box 1760  
Portland, OR 97207

Re: Kraft Pulp Mill Air  
Pollution Control -  
Petition to Transfer  
Jurisdiction from  
State to LRAPA

Dear Mr. Richards:

Pursuant to ORS 468.540(2), it is herewith requested that regulatory jurisdiction for air pollution control of kraft pulp mills be transferred from the Environmental Quality Commission to the Lane Regional Air Pollution Authority, such jurisdiction to be exercised solely within the territory of the Authority, which is Lane County, Oregon.

In support of this petition, the following is presented:

1. The Authority is lawfully constituted under the provisions of Oregon Statutes 468.500 through 468.580. It has maintained an approved air pollution control program since 1968 and has exercised exclusive jurisdiction in Lane County in the manner provided for the Commission and the Department of Environmental Quality to carry out the same functions throughout the State. LRAPA's jurisdiction is extended to all sources authorized by law and regulations, with the exceptions of agricultural burning and forest land burning, as required by law, and of kraft pulp mills.
2. Regulatory jurisdiction for the only kraft pulp mill in Lane County, owned and operated by the Weyerhaeuser Company, is now retained by the Commission based on past findings that control of this source category is beyond the capabilities of regional authorities, due to the complexity and magnitude of the processes involved. It has also been the expressed desire of the Commission and the Department of Environmental Quality to maintain uniform control requirements on the various paper manufacturing operations throughout the State, so as not to create inequities among the several companies involved.
3. The Authority has the capabilities to maintain an adequate program of air pollution control of the kraft mill in Lane County. The Authority's staff possesses the necessary technical and administrative expertise and knowledge to respond appropriately to the needs of the public of Lane County and the affected kraft mill. This includes professional engineering, field enforcement, and monitoring capabilities.

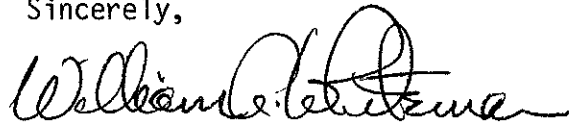
Joe Richards  
September 17, 1982  
Page 2

At its regular meeting on September 14th, 1982, the Board of Directors of the Lane Regional Air Pollution Authority adopted regulations which have been reviewed by the Department staff and found to be equivalent. This establishes an appropriate legal framework to carry out a program equivalent to that administered by the Department of Environmental Quality. The rules have been submitted for SIP approval according to established procedures.

It is the belief of the LRAPA Board of Directors that this transfer of regulatory jurisdiction will facilitate the Authority's efforts to maintain good air quality in Lane County.

It is requested that this petition be placed on the Commission's agenda for consideration at the next regular meeting. If the Commission or the Department staff have questions or concerns, we are available, at your convenience. Thank you for your consideration.

Sincerely,



William A. Whiteman, Chairman  
Board of Directors

DRA/mjd

cc: E. J. Weathersbee  
Joyce Benjamin

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

SEP 20 1982

OFFICE OF THE DIRECTOR

## SECTION 33-070

## KRAFT PULP MILL RULES

DEFINITIONS

1. "Continual Monitoring" means sampling and analysis, in a continuous or timed sequence, using techniques which will adequately reflect actual emission levels or concentrations on a continuous basis.
2. "Emission" means a release into the atmosphere of air contaminants.
3. "Kg S/metric ton" means kilograms of Total Reduced Sulfur per metric ton of production. The corresponding English unit is "lb S/ton."
4. "Kraft Mill" or "Mill" means any industrial operation which uses for a cooking liquor an alkaline sulfide solution containing sodium hydroxide and sodium sulfide in its pulping process.
5. "Lime Kiln" means any production device in which calcium carbonate is thermally converted to calcium oxide.
6. "Non-Condensibles" means gases and vapors, contaminated with TRS gases, from the digestion and multiple-effect evaporation processes of a mill that are not condensed with the equipment used in said processes.
7. "Other Sources" means sources of TRS emissions in a kraft mill other than recovery furnaces and lime kilns, including but not limited to:
  - a. Vents from knotters, brown stock washing systems, evaporators, blow tanks, smelt tanks, blow heat accumulators, black liquor storage tanks, black liquor oxidation system, pre-steaming vessels, tall oil recovery operations;
  - b. Any operation connected with the treatment of condensate liquids within the mill; and,
  - c. Any vent which is shown to be a significant contributor of odorous gases.
8. "Particulate Matter" means all solid material in an emission stream which may be removed on a glass fiber filter maintained during sampling at stack temperature or above the water vapor dew point of the stack gas, whichever is greater, but not more than 202°C. (400°F.). The glass fiber filter to be used shall be MSA 1106BH or equivalent.
9. "Parts Per Million (ppm)" means parts of a contaminant per million parts of gas by volume on a dry-gas basis (1 ppm equals 0.0001% by volume).

September 14, 1982

(These definitions are to be incorporated into Title 11 at a later date.)

10. "Production" means the daily average amount of air-dried unbleached kraft pulp, or equivalent, produced as determined by dividing the monthly total production by the number of days specific production equipment operates, and expressed in air-dried metric tons (admt) per day. The corresponding English unit is air-dried tons (adt) per day.
11. "Recovery Furnace" means the combustion device in which pulping chemicals are converted to a molten smelt and wood solids are incinerated. For these regulations, and where present, this term shall include the direct contact evaporator.
12. "Standard Dry Cubic Meter" means the amount of gas that would occupy a volume of one cubic meter, if the gas were free of uncombined water, at a temperature of 20°C. (68°F.) and a pressure of 760 mm of Mercury (29.92 inches of Mercury). The corresponding English unit is standard dry cubic foot. When applied to recovery furnace gases "standard dry cubic meter" requires adjustment of the gas volume to that which would result in a concentration of 8% oxygen if the oxygen concentration exceeds 8%. When applied to lime kiln gases "standard dry cubic meter" requires adjustment of the gas volume to that which would result in a concentration of 10% oxygen if the oxygen concentration exceeds 10%.
13. "Total Reduced Sulfur (TRS)" means the sulfur in hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present in an oxidation state of minus two.



approved in writing by the Agency. The recorded information shall be kept for a period of at least one year and shall be made available to the Agency upon request.

- H. The person responsible for the sources of particulate emissions shall make or have made tests once every year to determine the type, quantity, quality and duration of emissions, and process parameters affecting emissions, in conformance with test methods on file with the Agency. If this test exceeds the annual emission limitation then three (3) additional tests shall be required at three (3) month intervals with all four (4) tests being averaged to determine compliance with the annual standard. No single test shall be greater than twice the annual average emission limitation for that source.

Source testing shall begin within 90 days of the date by which compliance is to be achieved for each individual emission source.

These source testing requirements shall remain in effect unless waived in writing by the Agency upon adequate demonstration that the source is consistently operating at lowest practicable levels.

### Section 33-070 Kraft Pulp Mills

#### A. General Provisions

Recent technological developments have enhanced the degree of malodorous emissions control possible for the kraft pulping process. While recognizing that complete malodorous and particulate emission control is not presently possible, consistent with the meteorological and geographical conditions in Oregon, it is hereby declared to be the policy of the Authority to:

1. Require, in accordance with a specific program and time table for all sources at each operating mill, the highest and best practicable treatment and control of atmospheric emissions from kraft mills through the utilization of technically feasible equipment, devices, and procedures. Consideration will be given to the economic life of equipment, which when installed, complies with the highest and best practicable treatment requirements.
2. Require degrees and methods of treatment for major and minor emissions points that will minimize emissions of odorous gases and eliminate ambient odor nuisances.
3. Require effective monitoring and reporting of emissions and reporting of other data pertinent to air quality or emissions. The Authority will use these data in conjunction with ambient air data and observation of conditions in the surrounding area to develop and revise emission and ambient air standards, and to determine compliance therewith.

4. Encourage and assist the kraft pulping industry to conduct a research and technological development program designed to progressively reduce kraft mill emissions, in accordance with a definite program, including specified objectives and time schedules.

B. Highest and Best Practicable Treatment and Control Required

1. Notwithstanding the specific emission limits set forth in rule 33-070, C, in order to maintain the lowest possible emission of air contaminants, the highest and best practicable treatment and control currently available shall in every case be provided, with consideration being given to the economic life of the existing equipment.
2. All installed process and control equipment shall be operated at full effectiveness and efficiency at all times, such that emissions of contaminants are kept at lowest practicable levels.

C. Emission Limitations

1. Emission of Total Reduced Sulfur (TRS):

a. Recovery Furnaces:

- (1) The emissions of TRS from each recovery furnace placed in operation before January 1, 1969, shall not exceed 10 ppm as a daily arithmetic average and 0.15 Kg S/metric ton (0.30 lb S/ton) of production as a monthly arithmetic average.
- (2) TRS emissions from each new recovery furnace placed in operation after January 1, 1969, or any recovery furnace modified significantly to expand production shall be controlled such that the emissions of TRS shall not exceed 5 ppm as a daily arithmetic average and 0.08 Kg S/metric ton (0.15 lb S/ton) of production as a monthly arithmetic average.

b. Lime Kilns. Lime kilns shall be operated and controlled such that emissions of TRS shall not exceed:

- (1) 40 ppm and 0.1 Kg S/metric ton (0.2 lb S/ton) of production as monthly arithmetic averages.
- (2) As soon as practicable, but not later than July 1, 1978, 20 ppm and 0.05 Kg S/metric ton (0.1 lb S/ton) of production as monthly arithmetic averages.
- (3) As soon as practicable, but not later than July 1, 1983, 20 ppm as a daily arithmetic average and 0.5 Kg S/metric ton (0.1 lb S/ton) of production as a monthly arithmetic average.

- (4) 20 ppm as a daily arithmetic average and 0.05 Kg S/metric ton (0.1 lb S/ton) of production as a monthly arithmetic average from each new lime kiln placed in operation or any lime kiln modified significantly to expand production.

c. Non-Condensibles:

- (1) Non-condensibles from digesters and multiple-effect evaporators shall be continuously treated to destroy TRS gases by thermal incineration in a lime kiln or incineration device capable of subjecting the non-condensibles to a temperature of not less than 650°C. (1200°F.) for not less than 0.3 seconds.
- (2) When steam- or air-stripping of condensates or other contaminated streams is practiced, the stripped gases shall be subjected to treatment in the non-condensable system or otherwise given equivalent treatment.

d. Other Sources:

- (1) As soon as practicable, but not later than July 1, 1978, the total emissions of TRS from other sources including, but not limited to, knotters and brown stock washer vents, brown stock washer filtrate tank vents, black liquor oxidation vents, and contaminated condensate stripping shall not exceed 0.1 Kg S/metric ton (0.2 lbs/ton) of production.
- (2) Miscellaneous Sources and Practices. When it is determined that sewers, drains, and anaerobic lagoons significantly contribute to an odor problem, a program for control shall be required.

- e. Compliance Program. As soon as practicable, but not later than January 1, 1983, each mill with lime kiln(s) not in compliance with the 1983 limits shall submit a program and schedule for achieving compliance.

2. Particulate Matter:

- a. Recovery Furnaces. The emissions of particulate matter from each recovery furnace stack shall not exceed a monthly arithmetic average of:
  - (1) 2.0 kilograms per metric ton (four (4) pounds per ton) of production; and
  - (2) 0.30 grams per standard cubic meter (0.13 grains per standard cubic foot).

- b. Lime Kilns. The emissions of particulate matter from each lime kiln stack shall not exceed a monthly arithmetic average of:
  - (1) 0.50 kilogram per metric ton (one (1) pound per ton) of production; and
  - (2) 0.46 grams per standard cubic meter (0.20 grains per standard cubic foot).
- c. Smelt Dissolving Tanks. The emission of particulate matter from each smelt dissolving tank stack shall not exceed a monthly arithmetic average of 0.25 Kg/metric ton (one-half (1/2) pound per ton of production).
3. Sulfur Dioxide (SO<sub>2</sub>). Emissions of sulfur dioxide from each recovery furnace stack shall not exceed a daily arithmetic average of 300 ppm on a dry-gas basis except during start-up and shut-down periods.
4. New facility Compliance. As soon as practicable, but no later than within 180 days of the start-up of a new kraft mill or of any new or modified facility having emissions limited by these regulations, that facility shall be operated, controlled, or limited to comply with the applicable provisions of these regulations and the mill shall conduct source sampling or monitoring as appropriate to demonstrate compliance.

#### D. More Restrictive Emission Limits

The Authority may establish more restrictive emission limits than the numerical emission standards contained in rule 33-070, C. and maximum allowable daily mill site emission limits in kilograms per day for an individual mill upon a finding that the individual mill is located or is proposed to be located in a special problem area or an area where ambient air standards are exceeded or are projected to be exceeded.

#### E. Plans and Specifications

Prior to construction of new kraft mills or modification of facilities affecting emissions at existing kraft mills, complete and detailed engineering plans and specifications for air pollution control devices and facilities and such other data as may be required to evaluate projected emissions and potential effects on air quality shall be submitted to and approved by the Authority. All construction shall be in accordance with plans as approved in writing by the Authority.

#### F. Monitoring

##### 1. General:

- a. The details of the monitoring program for each mill shall be submitted to and approved by the Authority. This submittal shall include diagrams and descriptions of all monitoring systems, monitoring frequencies, calibration schedules,

descriptions of all sampling sites, data reporting formats and duration of maintenance of all data and reports. Any changes that are subsequently made in the approved monitoring program shall be submitted in writing to the Authority for review and approved in writing prior to change.

- b. All records associated with the approved monitoring program including, but not limited to, original data sheets, charts, calculations, calibration data, production records and final reports shall be maintained for a continuous period of at least 365 days and shall be furnished to the Authority upon request.
2. Total Reduced Sulfur (TRS). Each mill shall continually monitor TRS in accordance with the following:
  - a. The monitoring equipment shall determine compliance with the emission limits and reporting requirements established by these regulations, and shall continually sample and record concentrations of TRS.
  - b. The sources monitored shall include, but are not limited to, the recovery furnace stacks and the lime kiln stacks.
  - c. At least one per year, vents from other sources as required in subsection 33-070, C, 1, d., Other Sources, shall be sampled to demonstrate the representativeness of the emissions of TRS and the results shall be reported to the Authority.
3.
  - a. Particulate Matter. Each mill shall sample the recovery furnace(s), lime kiln(s) and smelt dissolving tank(s) for particulate emissions with:
    - (1) The sampling method; and
    - (2) The analytical method approved in writing by the Authority.
  - b. Each mill shall provide continual monitoring of opacity of emissions discharged to the atmosphere from the recovery furnace or particulate matter from the recovery furnace(s) in a manner approved in writing by the Authority.
4. Sulfur Dioxide (SO<sub>2</sub>). Representative sulfur dioxide emissions from the recovery furnace(s) shall be determined at least once each month.
5. Combined Monitoring. The Authority may allow the monitoring of a combination of more than one emission stream if each individual emission stream has been demonstrated to be in compliance with all the emission limits of rule 33-070, C. The emission limits for the combined emission stream shall be established by the Authority.

## G. Reporting

Unless otherwise authorized or required by permit, data shall be reported by each mill for each calendar month by the fifteenth day of the subsequent month as follow:

1. Daily average emissions of TRS gases expressed in parts per million of H<sub>2</sub>S on a dry gas basis for each source included in the approved monitoring program.
2. Monthly average emissions of TRS gases in kilograms of sulfur per metric ton of pulp processed for each source included in the approved monitoring program.
3. Monthly average emission of SO<sub>2</sub> based on all samples collected from the recovery furnace(s), expressed as ppm, dry basis.
4. Monthly average emission of particulates in grams per standard cubic meter and kilograms per metric ton of pulp produced based upon the sampling conducted in accordance with the approved monitoring program.
5. Average monthly equivalent kraft pulp production.
6. Average daily and the value of the maximum hourly opacity, and/or the average daily and the value of the maximum hourly particulate emissions in grams per standard cubic meter for each recovery furnace stack on a daily basis.
7. The results of each recovery furnace particulate source test in grams per standard cubic meter and for the same source test period the continual average opacity or the particulate monitoring record obtained in accordance with the approved continual monitoring program required in Section 33-070, F., 3.
8. Unless otherwise approved in writing, the cumulative number of hourly averages each day that the recovery furnace particulate and TRS, and lime kiln TRS emissions exceed the numerical regulatory or permit limits.
9. Upset conditions shall be reported in accordance with Section 33-070, H., 3.
10. Each kraft mill shall furnish, upon request of the Authority, such other pertinent data as the Authority may require to evaluate the mill's emission control program.

## H. Upset Conditions

1. Each mill shall immediately report abnormal mill operations including control and process equipment maintenance, or breakdowns which result in violations of regulatory or air contaminant discharge permit limits. The mill shall also take immediate corrective action to reduce emission levels to regulatory or permit levels.

2. Significant upsets shall be reported in writing with an accompanying report on measures taken or to be taken to correct the condition and prevent its reoccurrence.
3. Each mill shall report the cumulative duration in hours each month of the upsets reported in section (1) of this rule and classified as to:
  - a. Recovery Furnace:
    - (1) TRS;
    - (2) Particulate.
  - b. Lime Kiln:
    - (1) TRS;
    - (2) Particulate.
  - c. Smelt Tank Particulate.

#### I. Chronic Upset Conditions

If the Authority determines that an upset condition is chronic and correctable by installing new or modified process or control procedures or equipment, a program and schedule to effectively eliminate the deficiencies causing the upset conditions shall be submitted. Such reoccurring upset conditions causing emissions in excess of applicable limits may be exempted from Rule 21-050 and may be subject to civil penalty or other appropriate action.

LANE REGIONAL AIR POLLUTION AUTHORITY  
1244 Walnut Street  
Eugene, Oregon 97403

TITLE 37

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Section 37-005 Applicability

This rule shall be applicable to stationary sources identified in Rule 37-025 for which construction or modification has been commenced after the effective dates of these rules.

Section 37-010 General Provisions

Title 40, CFR, Part 60, Subpart A, as promulgated prior to October 8, 1980, is by this reference adopted and incorporated herein. Subpart A includes paragraphs 60.1 to 60.16 which address, among other things, definitions, performance tests, monitoring requirements, and modification.

Section 37-020 Performance Standards

Title 40, CFR, Parts 60.40 through 60.154, and 60.250 through 60.335, as established as final rules prior to October 8, 1980, is by this reference adopted and incorporated herein. As of October 8, 1980, the Federal Regulations adopted by reference set the following emission standards for the following new stationary source categories (these are summarized here for easy screening, but testing conditions, the actual standards, and other details will be found in the Code of Federal Regulations):

- (1) Standards of Performance for Fossil Fuel-Fired Steam Generators. The pertinent Federal rules are 40 CFR 60.40 to 60.46, also known as Subpart D. The following emission standards, summarizing the Federal standards set forth in Subpart D, apply to each fossil fuel-fired and to each combination wood-residue fossil fuel-fired generating unit of more than 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 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 for one six-minute period per hour of not more than 27 percent opacity.



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.
- (11) Standards of Performance for Kraft Pulp Mills. The pertinent Federal rules are 40 CFR 60.280 to 60.285, also known as Subpart BB. The standards for kraft pulp mills' facilities, summarizing the Federal standards set forth in Subpart BB, are applicable only to a recovery furnace, smelt dissolving tank, lime kiln, digester system, brown stock washer system, multiple-effect evaporator system, black liquor oxidation system, and condensate stripper system 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 or
      - (ii) exhibit 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.

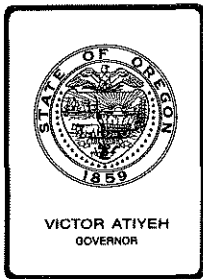
- (b) No owner or operator shall cause to be discharged in the atmosphere Total Reduced Sulfur compounds, (TRS), which are hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide:
  - (A) from any digester system, brown stock washer system, multiple-effect evaporator system, black liquor oxidation system, or condensate stripper system in excess of 5.0 ppm by volume on a dry basis, corrected to the actual oxygen content of the untreated gas stream.
  - (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.

(12) Standards of Performance for Glass Manufacturing Plants. The pertinent Federal rules are 40 CFR 60.290 to 60.296, also known as Subpart CC. The following particulate matter standard, summarizing the Federal standards set forth in Subpart CC, applies to each glass melting furnace which commenced construction or modification after June 16, 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:

- (a) 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 40 CFR 60.292.

(13) Standards of Performance for Grain Elevators. The pertinent Federal rules are 40 CFR 60.300 to 60.304, also known as Subpart DD. The following emission standards, summarizing the Federal standards set forth in Subpart DD, apply to any grain terminal elevator (over 2.5 million bushel storage capacity) or any grain storage elevator (over 1 million bushel storage capacity) 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:



## *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 , October 15, 1982, EQC Meeting

Status Report on Water Quality Stipulated Consent Orders  
and Approval of Revised Orders for the Following:

- (a) City of Coquille (water filtration plant)
- (b) City of Cannon Beach (sewage treatment plant)

### Background

In July the Department presented a staff report on the status of stipulated consent orders written in conjunction with waste discharge permits for the purpose of upgrading waste treatment facilities. Delays in federal construction grants had delayed projects so that construction schedules were out of date.

The July report listed seven stipulated consent orders which needed to be revised in order to reflect current construction schedules. Some of the construction schedules would need to be revised to reflect new grant offer dates. Others would have to be revised to reflect construction schedules without federal grants.

### Problem and Evaluation Statement

The City of Coquille has submitted a construction schedule which has been incorporated into a draft revised consent agreement. It has been sent to them for their signature. Hopefully it will be signed by the City and ready for Commission approval prior to the meeting.

A Step 2, 3 grant award, out of innovative technology funds, has been certified for Cannon Beach. If they receive a grant offer prior to September 30, they will be able to proceed with design of their improvements. They are planning a bond election in the spring. If Ballot Measure 3 passes, it may require modification of local financing plans and delay the project. A new consent order has been drafted with their projected construction schedule, provided they are able to proceed as planned. The consent order has been sent to them for their approval and signature. Hopefully it will be ready for Commission approval prior to the meeting.

A grant has been certified for Cottage Grove. Details for buying their bonds are also proceeding. As soon as they receive a grant offer from EPA, the construction schedule can be firmed up and the consent order revised.

The City of Newport has proceeded on their own to make sewage treatment plant improvements. They may soon be in compliance so that a consent order will no longer be necessary. If it appears they they will still be out of compliance for several months, a new consent order will be drafted.

Department staff have met with City representatives of Happy Valley. Progress has been made regarding the scope of the project required. Negotiations on a financial program for making the necessary connections are in progress. We are expecting a letter from the City engineer outlining a corrective program. Once those elements are agreed upon, a new consent order will be drafted.

In the Astoria (Williamsport) area, the Department is making further evaluations as to the extent of the problem. Establishment of a new schedule and consent order will be based upon the findings.

The City of Seaside has already undertaken some short range improvements as approved by the Commission earlier this year. These short range improvements should bring them into compliance with their effluent limits. In that case no new consent order would be necessary. The long range improvement schedule will be put into their renewed permit.

Ballot Measure 3 has raised a considerable cloud over the whole public works construction issue. Until its outcome, we will be unable to complete negotiations on some of the schedules.

#### Summation

1. A status report on water quality stipulated consent orders was presented to the EQC in July.
2. Seven of the consent orders were off schedule and appeared to need revision.
3. Revised consent orders for Coquille and Cannon Beach have been drafted. Hopefully they will be accepted by the cities and ready for Commission approval at the October 15 meeting.
4. Revision of consent orders for Seaside and Newport may not be necessary because both cities have initiated improvements which should shortly bring them into compliance with their permit limits.
5. The remaining three consent orders are still being negotiated and will be brought before the Commission at a later date.
6. The prospect of approval of Ballot Measure 3 has raised a cloud over the ability to finance public works facilities in the future.

EQC Agenda Item No. L  
October 15, 1982  
Page 3

Director's Recommendation

Based upon the findings in the summation, it is recommended that the Commission approve revised stipulated consent orders for Coquille and Cannon Beach, provided they have been accepted by the cities prior to the Commission meeting.

*Bill*

William H. Young

Attachments: 2

- A. Stipulated Consent Order for Coquille
- B. Stipulated Consent Order for Cannon Beach

Charles K. Ashbaker:1  
229-5325  
September 24, 1982

WL1985

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY, )  
OF THE STATE OF OREGON, )  
Department, )  
v. )  
CITY OF COQUILLE, )  
Respondent. )

STIPULATION AND FINAL ORDER  
No. WQ-SWR-82-84  
COOS COUNTY

WHEREAS:

1. On or about November 14, 1977, the Department of Environmental Quality ("Department") issued National Pollutant Discharge Elimination System Waste Discharge Permit Number 2646-J ("Permit") to City of Coquille, ("Respondent") pursuant to Oregon Revised Statutes ("ORS") 468.740 and the Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500. The Permit authorizes the Respondent to construct, install, modify or operate waste water treatment control and disposal facilities and discharge adequately treated waste waters from Respondent's water treatment plant into the Coquille River, waters of the State, in conformance with the requirements, limitations and conditions set forth in the Permit. This stated expiration date on the Permit is July 31, 1982. On February 16, 1982, Department received Respondent's Permit Renewal Application No. OR-202118-1. Pursuant to ORS 183.430(1), Respondent's Permit was in effect at all material times herein.

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///

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

4           "Settleable Solids shall not exceed 0.10 ml/l"

5           3. Since the Permit issuance date, Respondent has exceeded the  
6 settleable solids water quality limitations of the Permit continuously  
7 during filter backwash operations causing objectionable discoloration of  
8 the Coquille River, in violation of Condition 1 of Schedule A of the  
9 Permit, ORS 468.720, and Oregon Administrative Rules (OAR) 340-41-325(2)(k)  
10 and (1).

11           4. On or about June 14, 1977, Department and Respondent entered into  
12 Stipulated Consent Agreement No. WQ-SWR-77-104. That agreement required  
13 Respondent to meet the following schedule to achieve compliance with the  
14 Permit conditions:

<u>Date</u>	<u>Required Action</u>
March 15, 1978	Submit final engineering plans and specifications.
May 1, 1978	Start construction of settling basins and recirculation facilities to recirculate clarified waste waters.
July 1, 1978	Complete construction and eliminate the discharge of all waste waters to the Coquille River.

23           5. Respondent did not construct settling basins and recirculation  
24 facilities by July 1, 1978, in violation of that agreement, nor has  
25 Respondent constructed such to this date.

26 ///

1           6. On or about August 16, 1982, Coquille City Council voted to  
2 place a \$1.5 million bond measure on the November 2, 1982 ballot. If said  
3 bond measure passes, Respondent intends to reconstruct Respondent's water  
4 treatment filter plant and contain and treat the filter backwash waters  
5 within the plant.

6           7. Department and Respondent recognize and admit the violations  
7 described in Paragraph 3 will continue until Respondent constructs and  
8 operates basins to settle out the solids in the filter backwash water,  
9 recirculates the clarified waste water, and eliminates the discharge of all  
10 waste water to the Coquille River.

11           8. The Department and Respondent also recognize that the  
12 Environmental Quality Commission has the power to impose a civil penalty  
13 and to issue an abatement order for any such violation. Therefore,  
14 pursuant to ORS 183.415(4), the Department and Respondent wish to resolve  
15 those violations in advance by stipulated final order.

16           9. The Department and Respondent intend to limit the violations which  
17 this stipulated final order will settle to all those violations specified  
18 in Paragraphs 3, 4, and 7 above, occurring from November 14, 1977 through  
19 July 31, 1984.

20           NOW THEREFORE, it is stipulated and agreed that the Environmental  
21 Quality Commission shall issue a final order:

22           I. Requiring Respondent to comply with the following schedule:

23           A. On or before May 1, 1983, submit final engineering plans and  
24 specifications to the Department for approval.

25           B. On or before July 31, 1983, start construction of settling  
26 basins and recirculation facilities to recirculate clarified waste waters.



1 C. On or before July 31, 1984, complete construction and  
2 eliminate the discharge of all waste waters to the Coquille River.

3 II. The violations set forth in Paragraph 3, 4, and 7 are expressly  
4 settled herein.

5 III. Respondent acknowledges that it has actual notice of the contents  
6 and requirements of this stipulated and final order and that failure to  
7 fulfill any of the requirements hereof would constitute a violation of this  
8 stipulated final order and would be subject to a civil penalty assessment  
9 pursuant to OAR 340-12-055(1)(a).

10  
11  
12 DEPARTMENT OF ENVIRONMENTAL QUALITY

13  
14 \_\_\_\_\_ By \_\_\_\_\_  
15 Date WILLIAM H. YOUNG  
16 Director

17 RESPONDENT

18  
19 \_\_\_\_\_ By \_\_\_\_\_  
20 Date (Name \_\_\_\_\_)  
(Title \_\_\_\_\_)

21 FINAL ORDER

22 IT IS SO ORDERED:

23 ENVIRONMENTAL QUALITY COMMISSION

24  
25 \_\_\_\_\_ By \_\_\_\_\_  
26 Date WILLIAM H. YOUNG, Director  
Department of Environmental Quality  
Pursuant to OAR 340-11-136(1)



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

Parameter	Average Effluent Concentrations		<u>Effluent Loadings</u>		
	Monthly	Weekly	Monthly Average kg/day (lb/day)	Weekly Average kg/day (lb/day)	Daily Maximum kg (lbs)
May 20 - Sept. 19: No discharge without written permission from the Department.					
Sept. 20/May 19:					
BOD	30 mg/l	45 mg/l	86 kg/day 188 lb/day	128 kg/day 282 lb/day	170 kg 376 lb
TSS	50 mg/l	80 mg/l	146 kg/day 312 lb/day	227 kg/day 500 lb/day	284 kg 624 lb

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

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

Parameter	Average Effluent Concentrations		<u>Effluent Loadings</u>		
	Monthly	Weekly	Monthly Average kg/day (lb/day)	Weekly Average kg/day (lb/day)	Daily Maximum kg (lbs)
May 20 - Sept. 19: No discharge without written permission from the Department.					
Sept. 20 - May 19:					
BOD	45 mg/l	60 mg/l	128 kg/day 282 lb/day	190 kg/day 376 lb/day	256 kg 562 lb
TSS	60 mg/l	90 mg/l	170 kg/day 376 lb/day	256 kg/day 562 lb/day	340 kg 752 lb

5. The Department and Respondent recognize and admit that:

a. Until the proposed new or modified waste water treatment facility is completed and put into full operation, Respondent will violate the effluent limitations set forth in Paragraph 2 above much of the time that effluent is discharged.

b. Respondent has committed violations of the Permit and related statutes and regulations. Those violations have been disclosed in Respondent's waste discharge monitoring reports to the Department, covering the period from June 12, 1978 through the date which the order below is issued by the Environmental Quality Commission.

c. Respondent did not submit a proper and complete facility plan report and Step II grant application to the Department by March 31, 1978, in violation of the December 20, 1977 amendment to the

///

1 Environmental Quality Commission Order No. WQ-SNCR-77-212 and  
2 Conditions 1a and 1b of Schedule C of the Permit.

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

10 7. The Department and Respondent intend to limit the violations which  
11 this stipulated final order will settle to all those violations specified  
12 in Paragraph 5 above, occurring through December 31, 1983.

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

18 NOW THEREFORE, it is stipulated and agreed that:

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

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

21 (a) Start construction of approved facilities by May 1,  
22 1983.

23 (b) Complete construction of approved facilities by  
24 November 30, 1983.

25 ///

26 ///

1 (c) Attain operational level and demonstrate compliance  
2 with the waste discharge limitations specified in  
3 Condition 2 of Schedule A of the Permit by January 1,  
4 1984.

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

9 (3) Requiring Respondent to comply with all the terms, schedules  
10 and conditions of the Permit, except those modified by  
11 Paragraphs A(1) and (2) above.

12 B. The violations set forth in Paragraph 5 above are expressly  
13 settled herein.

14  
15 C. Respondent acknowledges that it has actual notice of the contents  
16 and requirements of this stipulated and final order and that  
17 failure to fulfill any of the requirements hereof would constitute  
18 a violation of this stipulated final order and would be subject to  
19 a civil penalty assessment pursuant to OAR 340-12-055(1)(a).

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DEPARTMENT OF ENVIRONMENTAL QUALITY

\_\_\_\_\_

By \_\_\_\_\_

Date

WILLIAM H. YOUNG

Director

RESPONDENT

\_\_\_\_\_

By \_\_\_\_\_

Date

(Name \_\_\_\_\_)

(Title \_\_\_\_\_)

FINAL ORDER

IT IS SO ORDERED:

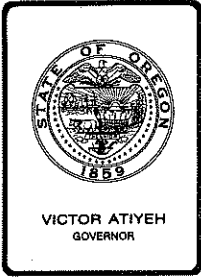
ENVIRONMENTAL QUALITY COMMISSION

\_\_\_\_\_

By \_\_\_\_\_

Date

WILLIAM H. YOUNG, Director  
Department of Environmental Quality  
Pursuant to OAR 340-11-136(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. M, October 15, 1982, EQC Meeting

Petition to Amend OAR 340-14-025(5)

### Background

Friends of the Earth/Oregon Branch (FOE/O), a citizen group, has petitioned the Commission to amend its rules to expand the scope of administrative review to allow any person dissatisfied with the conditions or limitations of a permit issued by the Department to obtain a contested case hearing before the Commission. A copy of the petition is attached.

Under the current rule, only a permit applicant may obtain Commission review. The rule provides:

#### OAR 340-14-025(5)

(5) If the applicant is dissatisfied with the conditions or limitations of any permit issued by the Department, he may request a hearing before the Commission or its authorized representative. Such a request for hearing shall be made in writing to the Director within 20 days of the date of mailing of the notification of issuance of the permit. Any hearing held shall be conducted pursuant to the regulations of the Department.

FOE/O would substitute "any person" in place of "the applicant" in the rule. \*

At its October 15, 1982 meeting the Commission must either deny the petition or initiate rulemaking proceedings.

\* This memorandum addresses only the specific rule proposal before the Commission for consideration.



### Considerations

In analyzing the need for this rule change, the fundamental question is whether a proper balance is reached between the sometimes conflicting goals of assuring access to the system in order to protect the public interest, and the need for expeditious processing of the variety of permits issued by the agency in the regular course of its operations. The nature of the permitting process, the availability of alternate methods of gaining access to the Commission, the availability of judicial review, and the need for timely permit issuance, all suggest that the proposed rule would inhibit rather than achieve a reasonable balance.

The permit process involves the application of predetermined rules to a specific facility. The Department's authority to impose permit terms is fairly circumscribed by the rules and standards established by the Commission. Adoption of rules is always preceded by a public participation process in which citizen comment is elicited and addressed. The rules establish the parameters of each permit. In that sense, the drafting of a permit is a mechanical or ministerial process because the content of the permit is defined by preexisting standards. Policy decisions as to, for example, safe and allowable emission quantities, have already been made. And while not mandated by law, it is the practice of the Department to conduct informational hearings prior to issuing permits in which public interest has been expressed. At these hearings, interested persons have the opportunity to point out any perceived misapplication of the agency's rules and standards to the facility being regulated. These hearings are informational rather than "adversarial." They do not require sworn testimony, cross examination is not undertaken, and neither refined rules of pleading nor the rules of evidence are applied.

The rule change proponent would like to be able to enter the review process at the administrative level rather than employing the judicial review process. FOE/O "asserts that the present rule does not equally provide for the rights of all" and "is prejudicial to the interests of the public in that (it) does not provide an equal opportunity to both applicant and affected parties to challenge conditions and limitations of a permit for which (sic) the public or applicant may be dissatisfied."

While a member of the public cannot compel a trial-type proceeding at the administrative level, the public position does have its advocate. The agency's mission, as reflected in ORS 468.035, is to restore and preserve the quality and purity of the air and the waters of the state in accordance with the rules and standards established by the Commission. In developing and issuing permits, as in its other functions, the agency is the proponent and protector of the public interest. It is this public interest that the agency serves in applying statutes and regulations in development of a permit. The permit applicant stands in a different position than the public. In recognition of the particular interests of permit applicants,

the legislature granted dissatisfied applicants the right to advocate their position in a contested case before the agency. ORS 468.070(3); 183.310(2)(C). The legislature has not accorded this right to the public at large.

It is established law that in the absence of a particular statute or rule requiring it (and neither exists in this case) an agency need not offer a contested case (trial-type) hearing before issuing a permit. N. W. Envr. Def. v. Air Poll. Auth., 16 Or Ap 638, 519 P2d 1271, Sup. Ct. review denied (1974). However the public is not left without a remedy to correct any purported failure of the agency to apply correct standards or procedure in issuing a permit. Under ORS 183.480 "any individual adversely affected or aggrieved by an order" is entitled to judicial review. A permit is an order contemplated in this grant of access to the courts. ORS 183.310(5)(a). Thus, citizens favoring or opposing the issuance or terms of a permit have the right to test the agency's action by judicial review. ORS 183.484 confers jurisdiction for such review on the circuit court.

There are also other means of directing the Commission's attention to issues of public concern about permit conditions. The agency's interpretation of a rule or statute may be challenged by a petition for declaratory ruling. ORS 183.410. Just as the applicant in this case did, any interested person may petition the Commission to promulgate, amend or repeal a rule. ORS 183.390. With a minimum of formality, any member of the public may claim the Commission's attention with a presentation of concerns at the public forum which precedes Commission action on the scheduled agenda at each Commission meeting.

Adding administrative review to the review procedure already available could increase the cost and time needed to issue legitimate permits. House Bill 3305 (Oregon Laws 1982, First Special Session, Ch. 3), enacted this year, enjoins state agencies to act without undue delay in completing review of permit applications. It provides:

**SECTION 1.** (1) It is the policy of the State of Oregon that every state agency authorized or required to approve or to issue permits shall accomplish its review and make its decision expeditiously and without undue delay.

(2) Every state agency authorized or required to approve or to issue permits shall adopt rules establishing the timetable to be followed by the agency when issuing permits. Whenever possible, the period of time between receipt of the properly completed application and completion of the agency's review shall not exceed 60 days unless other law specifies a longer period of time.

(3) Whenever any person proposes a project and submits a properly completed application to the appropriate state agency for the necessary permit, the state agency shall promptly acknowledge receipt of the application. If the state agency contemplates it will be unable to complete action to approve or disapprove the application within 60 days of receipt of the application, the state agency shall submit to the applicant a procedural timetable for completion of the agency's review at the time it acknowledges receipt of the application.

(4) As used in this section:

- (a) "Permit" means any approval required from a state agency prior to construction or operation of a project.
- (b) "Project" means any public or private construction or expansion or addition that requires as a prerequisite to such construction, expansion or addition the approval of a state agency, excluding activities subject to ORS 469.570, 469.590 to 469.621 and 469.930.
- (c) "State agency" means "agency" as that term is defined in ORS 183.310.

Encumbering the permit application process with an additional hurdle can tie up agency resources in issues which are costly to litigate administratively (probably requiring the use of expert witnesses and undoubtedly requiring the counsel and representation of an attorney), but which do not escape judicial scrutiny. The Department issues 200 permits annually regulating air quality alone. Applicants for these permits for new or planned facilities could be confronted with serious delays. Significant contested cases before the agency typically involve trial to a hearings officer preceded or followed by motions, discovery, exchanges of legal memoranda, delays to accommodate attorney and witness schedules, transcription of a hearing record, and a detailed decision. Repetition of some of these elements occurs in appeals of the hearings officer's decision to the Commission. Unbridled by judicial rules of procedure and evidence, contested case participants have considerable latitude in the presentation of their cases. This lesser degree of formality can be helpful, but it tends to create a more diffuse and extensive proceeding record than is found in court trials. There are attendant costs, not the least of which is the dampener that protracted or cumulative litigation places on planned facility development. A further concern is that the proposed rule change, as drafted, allows anyone, however tenuous his interest in the permit, to become a party.

EQC Agenda Item No. M  
October 15, 1982  
Page 5

In short, the opportunity for public participation prior to the issuance of permits, alternate methods of reaching the Commission with concerns, the existence of a judicial review procedure, and the need for an expeditious method of permit processing all make the present system outweigh the advantage of providing contested case hearings on demand to the public.

Recommendation

I recommend that the rule not be changed as proposed.

A handwritten signature in cursive script that reads "Bill".

William H. Young

Attachment (1) Petition to Amend OAR 340-14-025(5)

L. K. Zucker:k  
229-5383  
September 29, 1982  
HK1288

SEP 21 1982

Hand Delivered  
State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
SEP 14 1982



FRIENDS OF THE EARTH / Oregon Branch

P.O. Box 1251 - Portland, OR 97207 - (503) 243-2806

OFFICE OF THE DIRECTOR

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF OREGON

In the Matter of  
Proposed Amendment  
to OAR 340-14-025(5)  
Relating to Issuance  
of a Permit

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FRIENDS OF THE EARTH  
PETITION TO AMEND  
OAR 340-14-125(5)

1. The Oregon Branch of Friends of the Earth (FOE/O) petitions to initiate a rule amendment. FOE/O offices are located at Suite 810, Dekum Building, 519 S.W. 3rd Ave., Portland, Or., 97204. Our mailing address is P.O. Box 1251, Portland, Or., 97207.

2. The Oregon Branch has approximately 1000 members within the State of Oregon. Many of the members live, work and recreate in the vicinity of facilities that may be constructed, installed, modified or operated as a result of the issuance of a permit by the DEQ. Further, FOE/O members eat food irrigated from rivers of the state of Oregon and breathe the air that may be affected by a permit to emit, discharge or dispose of wastes in accordance with specified limitations as determined by the Department. Friends of the Earth has a long-time commitment and involvement in issues involving air and water quality and the distribution of pollutants into the environment.

3. Petitioner asserts that the present rule does not adequately provide the public sufficient ability to address concerns about conditions or limitations of a permit issued by the Department.

4. Petitioner asserts that the present rule does not equally provide for the rights of all the people of the State of Oregon in that the existing rule allows a permit applicant the right to

request a hearing before the Commission if the applicant is dissatisfied with the conditions or limitations of any permit issued by the Department. However, it DOES NOT provide the same right to any affected parties.

5. Petitioner asserts that the existing rule is prejudicial to the interests of the public in that the present rule does not provide an equal opportunity to both the applicant and affected parties to challenge conditions and limitations of a permit for which the public or applicant may be dissatisfied.

6. Petitioner asserts that the amended rule would more adequately provide for the interests of the people of the State of Oregon and petitions the Department of Environmental Quality to initiate a rulemaking proceeding to address this issue.


7. OAR 340-14-025(5) relating to Issuance of a Permit should read as follows:

"(5) If (the applicant) any person is dissatisfied with the conditions or limitations of any permit issued by the Department, he may request a hearing before the Commission or its authorized representative. Such a request for hearing shall be made in writing to the Director within 30 days of the date of mailing of the notification of issuance of the permit. Any hearing held shall be conducted pursuant to the regulations of the Department."

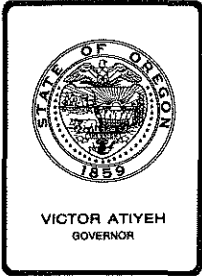
8. Petitioner asserts that the issue of adequate and equal opportunity of the public to address concerns about conditions and limits attached to the issuance of permits by the Department is an issue of importance and interest to all Oregonians. FOE/O believes that all parties involved in applications for permits from DEQ have an interest in the outcome of the proposed rulemaking.

Wherefore, petitioner requests DEQ adopt the proposed amendment to OAR 340-14-025(5).

DATED: Sept 14, 1982

  
James L. Johnson, Jr. - State Chair.  
FRIENDS OF THE EARTH/OREGON BRANCH

RECEIVED SEP 16 1982



## *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. N, October 15, 1982, EQC Meeting

Proposed Adoption of the Carbon Monoxide Control Strategy  
for the Medford-Ashland AQMA as a Revision to the State  
Implementation Plan

### BACKGROUND AND PROBLEM STATEMENT

On March 3, 1978, the Environmental Protection Agency (EPA) designated the the Medford-Ashland Air Quality Maintenance Area (AQMA) as nonattainment for carbon monoxide (CO). The Jackson County Board of Commissioners, as the designated lead agency, initially performed a CO analysis which showed that implementation of all reasonably available transportation control measures would fail to meet the 8-hour CO standard by the federal deadline of December 31, 1982. Consequently, on June 8, 1979, the EQC adopted a revised CO State Implementation Plan (SIP) for the Medford-Ashland AQMA with an extension request for the attainment of the 8-hour CO standard beyond 1982. The CO plan, containing the extension request, was submitted to EPA on June 20, 1979. EPA approved the extension request on June 29, 1980, (45 FR 42278) stipulating that the State submit a detailed SIP control strategy before the statutory deadline of July 1, 1982. EPA also required the plan to show attainment of standards as soon as practicable, but no later than December 31, 1987 pursuant to Clean Air Act requirements.

Since that time a plan to bring the Medford-Ashland AQMA into attainment with the federal 8-hour CO standard has been developed and adopted by Jackson County and the City of Medford. The proposed control strategy plan is shown in Attachment 1 and primarily consists of the following measures:

1. Continue federal motor vehicle emission control program on new vehicles.



2. Implement a County-wide biennial vehicle inspection and maintenance program.
3. Computerize the central area traffic signal system.
4. Make selected roadway improvements around the site of the Rogue Valley Mall.
5. Maintain current levels of staggered work hours and carpool and transit usage.
6. Establish downtown parking controls.
7. Implement the portion of the Medford Bicycle Plan in the nonattainment area.

Under the plan the CO nonattainment area is defined as the central commercial area of Medford (refer to Figure 4.9.1-2 shown in Attachment 1). The plan will bring the area into attainment by December 31, 1987. The proposed plan would replace the preliminary SIP material submitted to EPA on June 20, 1979.

A public hearing was held on September 15, 1982. The Hearing Report is contained in Attachment 2 and includes the final Public Hearing Notice.

#### Problem Statement

The CO plan is needed in order to meet the requirements of the Clean Air Act Amendments of 1977. According to the statute, the plan was due to EPA by July 1, 1982. However, a key component of the technical analysis, the Medford Area Transportation Study, was completed by a consultant about nine months later than expected. This has resulted in a delayed submittal. Despite the delay, EPA has indicated that an October plan submittal would demonstrate reasonable efforts toward submitting a plan. Therefore, possible federal sanctions related to industrial growth and federal transportation and sewage treatment plant assistance grants under Sections 176 and 316 of the Act will be avoided.

#### Authority for the Commission to Act

ORS Chapter 468, Section 020, gives the Commission authority to adopt necessary rules and standards; Section 305 authorizes the Commission to prepare and to develop a comprehensive plan. Attachment 3 contains the Statement of Need for Rulemaking and the Fiscal and Economic Impact Statement.

## ALTERNATIVES AND EVALUATION

### Alternative Course of Action

If the proposed rule is not adopted, Section 176 of the Clean Air Act Amendments of 1977 states that the Administrator of the EPA shall not approve any projects or award any federal transportation assistance grants other than for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance. Other sanctions related to sewage treatment grants and industrial growth could be imposed. It is doubtful whether EPA could or would develop a CO attainment plan for the area lacking State action; therefore, failure to act would likely leave the area without any adopted strategy to attain the State and federal air quality standard.

### Rule Development Process

As the designated lead agency, the Jackson County Board of Commissioners had overall responsibility for producing the final CO control strategy. As part of the strategy development, an analysis of alternative control measures was performed by Jackson County and submitted to EPA in July, 1980.

Since the CO nonattainment area is within the City of Medford, the City agreed to do a detailed air quality analysis as part of the development of the Medford Parking and Traffic Circulation Plan. The City in turn engaged the services of a transportation consulting firm to do the necessary traffic and air quality analysis. The consultant's work became known as the Medford Area Transportation Study (MATS). MATS was to be completed by June 1980, but several delays extended the completion date to March 1981.

A joint effort by the City of Medford, Jackson County, DEQ and Oregon Department of Transportation expanded the MATS work. Traffic volumes and pollutant emissions were modeled to evaluate various control measures.

The Medford Parking and Traffic Circulation Plan (PTCP) was adopted by the City Council on August 12, 1982. The PTCP was incorporated into the overall CO control strategy prepared by Jackson County staff. The CO control strategy was adopted by the Jackson County Commissioners on August 25, 1982.

The A-95 Intergovernmental Review was invited to comment on the CO strategy. A DEQ public hearing was held on September 15, 1982. The hearing report is contained in Attachment 2 and includes the public hearing notice. Significant issues raised at the public hearing are addressed in the following section. Minor corrections and clarifications noted by the Oregon Department of Transportation have been incorporated into the proposed CO SIP.

Significant Issues Raised in Public Hearing

Five persons gave verbal testimony at the public hearing: two supported the plan in its proposed form, two recommended changes in the plan, and one was opposed in general to the plan. The issues raised are discussed below:

Issue: Is a county-wide I/M program necessary to attain CO standards in Medford?

Response: Jackson County evaluated several control options. An I/M program was found to be one of the most effective measures (second only to continuation of the federal new car tailpipe control program) to reduce CO levels in Medford. The County was unable to identify a package of control measures without I/M that was sufficient to ever attain CO standards in Medford. Without I/M the downtown area is projected to be in marginal attainment by 1987, but the north Medford area is projected to be in violation through 1992 and beyond.

The Jackson County Air Quality Advisory Committee considered the exclusion of rural areas of Jackson County from an I/M program. But the Committee recommended a county-wide I/M program since Medford is the regional commercial center and attracts vehicles from the entire county. A City of Medford I/M program would only be about 65% as effective as a county-wide I/M program.

Issue: Should a locally enforced I/M program, separate from motor vehicle registration enforcement, be included in the CO SIP in case the 1983 Legislature does not authorize a tie-in with the motor vehicle registration system?

Response: In its evaluation of I/M options, Jackson County concluded that enforcement by motor vehicle registration (as done in Portland) would result in the most equitable and efficient program. However, efforts to secure the necessary authorization to tie-in a Jackson County I/M program to motor vehicle registration failed in both the 1979 and 1981 Legislatures. (The House and Senate approved separate I/M bills in 1979 but the conference committee was unable to reach agreement. The House approved an I/M bill in 1981 but the bill was in a Senate committee at adjournment.)

Other I/M options were evaluated by Jackson County. These other options included locally enforced window-sticker programs. Enforcement costs would be much higher than with a motor vehicle registration program. Authorization would be much more complicated since a county-authorized program would not apply within incorporated cities. A Medford-only

I/M program would only reduce emissions from approximately 60% of the vehicle-miles-travelled (VMT) in the CO nonattainment area. These other I/M options are considered infeasible since they would be much more expensive and much less efficient. They could also result in serious inequities between local jurisdictions.

Issue: Should the Medford arterial street program be included in the CO SIP?

Response: Some additional road improvement projects will be evaluated and implemented in the Medford arterial street program and are not included in the CO SIP. These additional projects would generally reduce CO levels in the downtown area but would not significantly reduce CO levels in the north Medford area which is expected to be the most difficult area in which to attain the CO standard by 1987. Traffic and emission modeling results indicate that these additional projects are not essential to attain the CO standard in the downtown area.

The City of Medford has chosen to prioritize and implement these road improvement projects separate from the CO SIP process. Inclusion in the CO SIP would delay the SIP adoption process and could make future reprioritization of arterial street projects subject to EPA review. Another key consideration was that funds for the street improvements are not currently available and may be difficult to secure.

The Jackson County Air Quality Advisory Committee discussed the proposed arterial street program in its review of the CO SIP. The Committee recognized that the proposed road projects are consistent with the CO SIP and would hasten attainment of the CO standard in some portions (particularly downtown) of the non-attainment area. But the Committee also recognized that the costs of these projects could not be justified for air quality benefits alone.

Public testimony, relative costs, and traffic flow improvements, as well as air quality benefits, will probably determine final prioritization by the Medford City Council. The Council has directed staff to prepare a recommended arterial street plan by October 30, 1982. The Council has also passed a resolution to present a bond issue for a public vote on the selected road improvement projects in March 1983.

Issue: Is the CO SIP adequate to ensure attainment by 1987?

Response: The traffic and emissions modeling indicates that the proposed CO SIP would result in attainment of the CO standard in all portions of the non-attainment area by 1987 except for two intersections in north Medford. The modeling indicates that these intersections would be in attainment by 1988 due to the area-wide control measures in the CO SIP. The Medford arterial street program would further reduce CO levels in the downtown area but would not significantly reduce levels in the north Medford area. Jackson County, the City of Medford, the MATS consultant and DEQ have been unable to identify any reasonable area-wide control measures which would clearly result in attainment by 1987 at these two intersections. But site-specific measures, such as inclusion of the traffic signals at these two intersections into the computerized traffic signal system, will be evaluated following completion of the Rogue Valley Mall in 1984 and are expected to result in attainment at these intersections by December 31, 1987.

Issue: Should the entire Bicycle Master Plan for Medford be included in the CO SIP?

Response: The Bicycle Master Plan will be coordinated and funded with the arterial street program. The City of Medford chose to include only a portion of the bicycle plan (that portion which is in the CO nonattainment area) in the CO SIP. Implementation of the Bicycle Master Plan will be phased together with the arterial street improvements. The Medford Bicycle Committee concurred with this approach.

Issue: Should any of the bicycle plan be included in the CO SIP?

Response: The CO emission reduction benefit attributed to the bicycle plan is relatively small (less than 1%). But the proposed pedestrian/bicycle bridges would provide east/west access to the north/south Bear Creek Bikeway located on the east side of the nonattainment area. The bridges would also improve access to employee parking on the east side of Bear Creek, thus complementing the parking management plan currently under discussion. The bicycle plan will help meet basic transportation needs in the downtown area.

### Principal Impacts of the Plan

Implementation of the bicycle plan elements within the CO nonattainment area would cost approximately \$120,000. Funding is dependent upon voter approval of street improvement bonds. Computerization of the traffic signal system is programmed at a cost of \$1.8 million which will allow inclusion of 60 of the City's 75 traffic signal locations. Developers of the Rogue Valley Mall will spend \$1.7 million to upgrade streets and intersections next to the Mall site.

A schedule to secure the necessary enabling legislation for an I/M program from the State Legislature has been developed. Jackson County has indicated that it will introduce I/M legislation in the 1983 Oregon Legislature through the local delegation. The Jackson County I/M program would closely parallel the existing Portland I/M program. Mandatory vehicle inspections would start in 1984. Jackson County has budgeted \$15,000 for fiscal year 1982-1983 for public education and awareness. Approximately 25% of that amount will be used exclusively for I/M.

The inspection costs of a biennial inspection maintenance program could be funded by a \$7.00 fee per motor vehicle per biennium as is done in Portland. Based on the Portland program, 40% of the inspected vehicles are expected to fail the test at an average repair cost of \$25 per failing vehicle. Some motorists will realize savings as a result of proper maintenance.

In terms of growth provisions in the plan, new major sources (100 tons/year of carbon monoxide) locating in the defined central commercial CO nonattainment area of Medford will be subject to offsets. However, location of such sources in the central commercial area would appear to be unlikely.

### SUMMATION

1. A plan to meet the requirements of the Clean Air Act Amendments of 1977 has been developed to bring the Medford-Ashland AQMA into attainment with the federal 8-hour carbon monoxide (CO) standard by December 31, 1987. The official boundary of the CO nonattainment area has been redefined as the central commercial area of Medford (Attachment 1, Fig. 4.9.1-2).
2. By agreement between the Jackson County Board of Commissioners and the City of Medford, the City was given responsibility for doing the required technical transportation and air quality work. Jackson County retained overall responsibility for producing the final CO control strategy.
3. The plan consists of continuation of the federal motor vehicle emission control program, maintained levels of carpool and transit

usage and staggered work hours, a portion of the Medford Bicycle Plan, computerized traffic signal system, selected roadway improvements, downtown parking controls, and biennial inspection and maintenance (I/M) program.

4. Local and state agencies have been unable to identify a package of control measures without I/M that is sufficient to ever attain CO standards in Medford. Without I/M the downtown area is projected to be in marginal attainment by 1987, but the north Medford area is projected to be in violation through 1992 and beyond.
5. The programmed cost of the computerized traffic signal system is \$1.8 million. The cost of selected roadway improvements around the site of Rogue Valley Mall is \$1.7 million (100% funded by the developers). Jackson County has committed for I/M purposes approximately 25% of \$15,000 budgeted for fiscal year 1982-83 for public education and awareness. The inspection costs of a biennial inspection maintenance program could be funded by a \$7.00 fee per motor vehicle per biennium as is done in Portland. About 40% of the inspected vehicles are expected to fail the test at an average repair cost of \$25 per failing vehicle.
6. A DEQ public hearing was held on September 15, 1982 to obtain comment on the plan (Attachment 2).
7. Failure to adopt the proposed rule could lead to sanctions under Sections 176 and 316 of the Federal Clean Air Act. Sections 176 and 316 affect federal assistance grants for certain transportation projects and sewage treatment plant construction, respectively. New major source growth sanctions could also be imposed.

#### DIRECTOR'S RECOMMENDATION

Based on the Summation, the Director recommends that the EQC adopt the carbon monoxide attainment strategy for the Medford-Ashland AQMA and direct the Department to forward it to EPA as a revision of the State Implementation Plan.

*Bill*

William H. Young

- Attachments 1) Proposed Medford-Ashland AQMA SIP for CO, 1982  
2) Hearing Officer's Report and Statements of Need, Fiscal Impact and Land Use Consistency

J.F. Kowalczyk:ac  
229-6459  
September 21, 1982  
AA2512 (1)

Section 4.9

Control Strategy For  
Medford-Ashland Air Quality Maintenance Area  
1982 State Implementation Plan Revision  
For Carbon Monoxide

August, 1982

Jackson County

Oregon Department of Environmental Quality  
United States Environmental Protection Agency



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4.9.0 MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA STATE IMPLEMENTATION  
PLAN FOR CARBON MONOXIDE

4.9.0.1 Introduction

The Clean Air Act Amendments of 1977 (CAAA) require states to submit plans to demonstrate how they will attain and maintain compliance with national ambient air standards for those areas designated as "non-attainment." The Act further requires these plans to demonstrate compliance with primary standards no later than December 31, 1982. An extension up to December 31, 1987, is possible if the state can demonstrate that despite implementation of all reasonably available control measures the December 31, 1982, date cannot be met.

On March 3, 1978, the Medford portion of the Medford-Ashland AQMA was designated by the Environmental Protection Agency (EPA) as a non-attainment area for carbon monoxide (CO). In accordance with Section 174 of the Clean Air Act Amendments of 1977, former Governor Straub designated the Jackson County Board of Commissioners as the lead agency for the development of the CO State Implementation Plan (SIP) revisions for the Medford-Ashland AQMA.

On June 20, 1979, the Governor submitted a CO plan for the Medford-Ashland AQMA to EPA with a request for an extension beyond 1982 for the attainment of the CO standard.

The EPA printed an approval of this request in the Federal Register on June 24, 1980, (45 FR 42278) with the condition that New Source Review Regulations (OAR 340-20-190 through 197) would be approved by the

Department of Environmental Quality (DEQ) within six months (by December 24, 1980) meeting the following conditions:

i) A specific emission offset program with regulations be adopted and submitted.

ii) The rules governing multiple sources under single ownership be modified so as to require that other sources owned by the company applying for a permit be in compliance "with all applicable emission limitations and standards under the Act."

The approval allowed for an extension of the Medford CO attainment date beyond December 31, 1982, but before December 31, 1987, with a specific date to be identified in the alternatives analysis due to EPA on July 1, 1980.

All of the non-attainment problems identified for 1982, were within the Central Business District (CBD) of the City of Medford. Based on this information, Jackson County agreed that it would be appropriate for the City of Medford to perform the evaluation of the projected growth in population, employment, traffic conditions and the resulting air quality conditions for downtown Medford in 1982 and 1987.

It was also agreed that Jackson County should have primary responsibility for writing the CO plan for the region. Jackson County began the analysis of the transportation control measures in November 1979. The results were submitted to EPA in July, 1980.

#### 4.9.0.2 Summary of Plan

A. It is estimated that CO transportation emissions represented 74% of the total CO emissions generated in the Medford-Ashland AQMA in 1980. In 1987, 56 percent of the CO emissions are still projected to be from transportation.

B. The air quality analysis in this SIP revision indicates that a few streets in the Medford central city area are the only locations in the entire AQMA to violate the eight-hour CO ambient air quality standard in 1982.

C. By December, 1987, all streets are projected to be in compliance with the CO standard via the implementation of the control measures cited in this document. Major CO control measures that are a part of this plan are:

- \* County-wide biennial inspection and maintenance program (I/M).
- \* Downtown parking controls.
- \* Computerized signal system.
- \* Roadway improvements.
- \* Federal motor vehicle control program.
- \* Continued levels of carpool and transit usage.
- \* Maintained levels of staggered work hours.
- \* Medford Bicycle Plan.

D. A description of previously implemented transportation control measures is included in this SIP revision. Participating jurisdictions have made a commitment to implement the control measures listed in this plan.

E. The analysis of the central business district (CBD) in Medford demonstrated that there is no projected CO problem in the CBD beyond the year 1987.

F. Medford's CO design value for 1979 is 19.1 milligrams per cubic meter ( $\text{mg}/\text{m}^3$ ) calculated from readings taken at the CAM station. The eight-hour CO standard (State and Federal) is  $10 \text{ mg}/\text{m}^3$ .

G. While lacking authority for implementation of an I/M program in 1982, Jackson County has made a commitment to implement an I/M program contingent upon state enabling legislation.

H. The Medford Parking and Traffic Circulation Plan commits the city to extensive traffic flow improvement projects.

I. CO Modeling projections indicate that the implementation of all the control strategies identified in this plan will result in only isolated CO hot spots that will not attain the CO eight-hour standard ( $10\text{mg}/\text{m}^3$ ) by 1987. Site specific measures will be evaluated and implemented in the interim to eliminate these hot spots, if practicable, by 1987.

#### 4.9.1 GEOGRAPHIC DESCRIPTION

Southwestern Oregon is a rugged mountainous region interspersed with small, low-lying valleys, of which the Rogue River Valley is the largest. The region is bounded by the Pacific Ocean to the west, the Willamette and Umpqua Valleys to the north, the Cascade Mountains to the east, and the northern highlands of California to the south.

The mountainous areas of the region are generally sparsely-populated forest lands. The valley areas have traditionally been utilized for various farming and lumber-related manufacturing practices. Medford, the largest city (40,000 pop.) in southwestern Oregon, is centrally located in the Rogue River Valley. Actually, the Medford area is locally known as the Bear Creek Valley, while the Rogue River traverses the northerly edge of the valley, which is approximately 20 miles long, (running north - south) and from 2 miles (to the south) to 10 miles (to the north) in width, and being 5 miles across at Medford.

The Medford-Ashland Air Quality Maintenance Area boundary, figure 4.9.1-1, generally follows the 2000-foot elevation line around the valley, enclosing almost all of the valley floor. As noted above, EPA designated the Medford-Ashland area as an AQMA in 1974 when it was determined that 1970 Clean Air Act standards had a high potential to be consistently violated in the area. The legal description of the Air Quality Maintenance Area is in Appendix 4.9-7.



The AQMA includes some 228 square miles at an elevation of 1200 feet. The surrounding mountains range from 3000 to 9500 feet in elevation. The natural mountainous boundary forms the sides of the bowl in which the AQMA is located. It is the small physical size of this bowl, coupled with an average wind speed of less than 5 miles per hour and frequent air inversions, which limits the amount of air available for emission dispersal. Limited dispersal capability and substantial quantities of CO emissions combine to cause the Medford area to violate federal clean air standards.

Within, and approximately near the center of, the AQMA is Medford's Carbon Monoxide Nonattainment Area which generally includes that part of central Medford from the Big Y on the north to 12th Street on the south, and from Interstate 5 on the east to Oakdale Street on the west. The highest carbon monoxide concentrations have been measured within this area, consistently violating State/Federal eight-hour health standards. Refer to Table 4.9.2-1 for specific violation levels and Table 4.9.4-2 for frequency.

In the 1979 Medford-Ashland CO SIP revision, submitted to EPA, the actual CO Nonattainment area had not been identified. This led to a submittal that cited the entire AQMA as being in nonattainment. More recent CO sampling surveys and computer modeling has provided sufficient information to now identify the actual nonattainment area.

The Carbon Monoxide Nonattainment Area is wholly contained within the City of Medford central commercial area. Figure 4.9.1-2 illustrates the 1979 carbon monoxide nonattainment area.

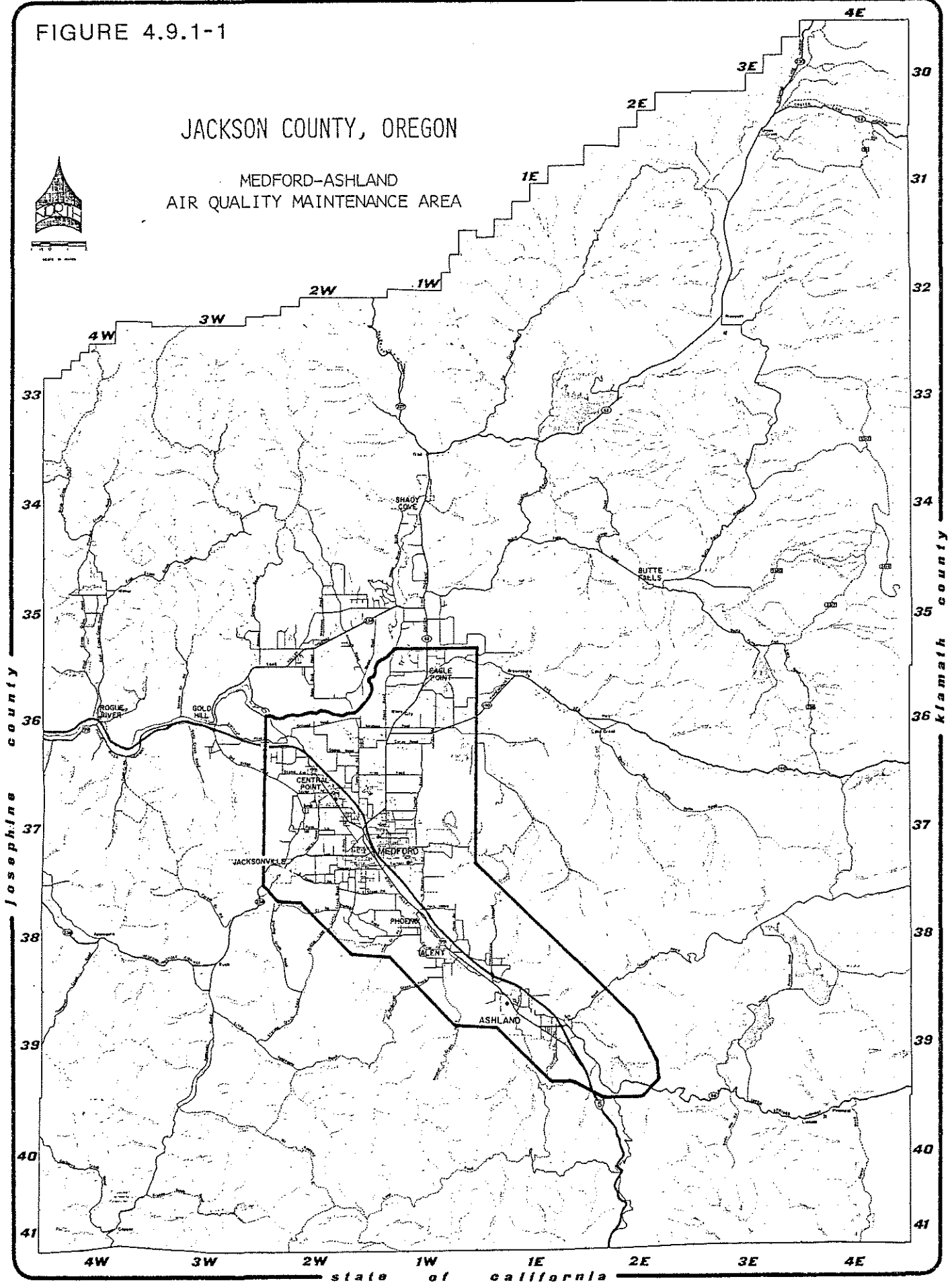
The carbon monoxide nonattainment area boundary is as follows:

Beginning at the intersection of Crater Lake Highway (Highway 62) south on Biddle Road to the intersection of Fourth Street, west on Fourth Street to Riverside Avenue (Highway 99), south on Riverside Avenue to Tenth Street, west on Tenth Street to the intersection with Oakdale Avenue, north on Oakdale Avenue to the intersection with Fourth Street, east on Fourth Street to Central Avenue, north on Central Avenue to Court Street, North on Court Street to the intersection with Crater Lake Highway (Highway 62) and east on Crater Lake Highway to the point of beginning, with extensions along McAndrews Road east from Biddle Road to Crater Lake Avenue, and along Jackson Street east from Biddle Road to Crater Lake Avenue.

FIGURE 4.9.1-1

# JACKSON COUNTY, OREGON

MEDFORD-ASHLAND  
AIR QUALITY MAINTENANCE AREA



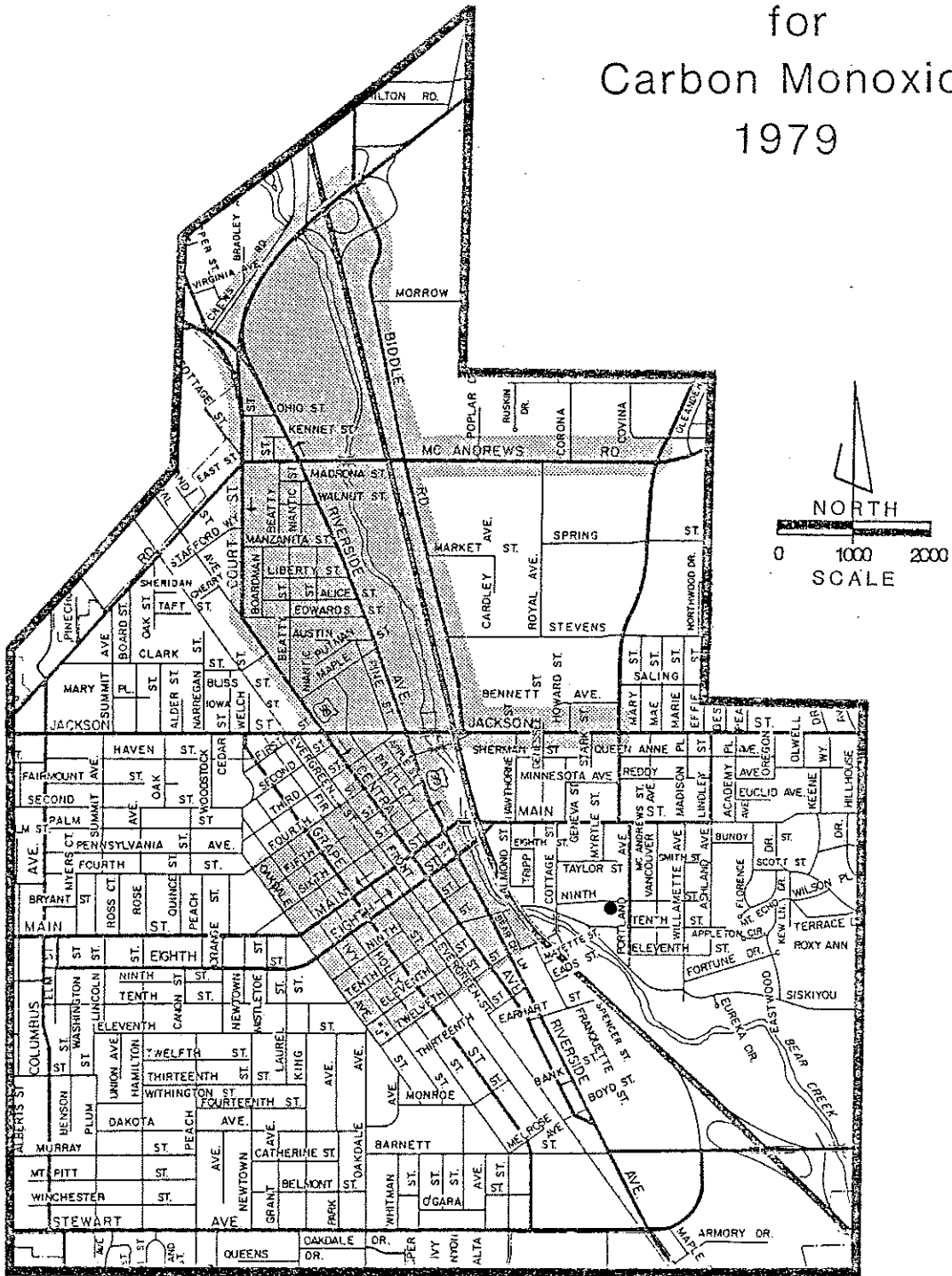
Josephine county

Klamath county

state of california

FIGURE 4.9.1-2

# NON-ATTAINMENT AREA for Carbon Monoxide 1979



SHADED PORTION OF MAP INDICATES CO NON-ATTAINMENT AREA

SOURCE: JACKSON COUNTY PLANNING DEPT.

#### 4.9.2 AMBIENT AIR QUALITY

##### 4.9.2.1 Monitoring Data

Ambient carbon monoxide measurements are taken at one site located at Main and Central in downtown Medford. The monitor is located and operated in accordance with Environmental Protection Agency requirements. Table 4.9.2-1 indicates the exceedences of the carbon monoxide standard recorded from 1977 through 1981. Table 4.9.2-2 displays the frequency of eight hour standard exceedences by month.

Several special CO sampling surveys have taken place in Medford in the past. The most recent two took place in December, 1978, by the DEQ, and in December, 1979, through January, 1980, by Earth Metrics, an air quality consultant for the City of Medford.

Each of these surveys had similar findings in defining the boundaries of the CO nonattainment area, and the concentrations at selected receptor sites.

Figure 4.9.2-1 displays the results of the DEQ survey, and the results of a screen line analysis used to determine streets with a potential to exceed the eight hour CO standard. The screen line analysis used traffic volumes, speeds, emission density, and receptor distance to determine CO concentration.

Table 4.9.2-3 lists sampling sites and number of samples taken during the Earth Metrics CO survey. Figure 4.9.2-2 displays the results of that survey.

#### 4.9.2.2 Design Concentration

Based on Environmental Protection Agency guidelines, the second highest eight-hour carbon monoxide concentration observed during the last three years for which complete data is available is to be used as the design concentration upon which control strategies are to be based. In Medford's case, that would be 20.9 mg/m<sup>3</sup>, from 1978. However, as shown in Table 4.9.2-1 below, carbon monoxide concentrations experienced since 1978 have steadily decreased. Therefore, a second method, provided by the Environmental Protection Agency using a weighted average, was utilized to determine a design value. Appendix 4.9-2 describes the methodology utilized for this calculation. The design value has been determined to be 19.1 mg/m<sup>3</sup> based upon this methodology.

Table 4.9.2-1

#### CO CONCENTRATIONS - DOWNTOWN MEDFORD

<u>Year</u>	<u>Geometric Mean</u>	<u>1 - Hour Averages</u>		<u>8 - Hour Averages</u>	
		<u>Max.</u>	<u>2nd High</u>	<u>Max.</u>	<u>2nd High</u>
1977	4.47	33.3	31.0	21.8	19.8
1978	4.16	39.1	33.3	22.1	20.9
1979	2.78	27.6	25.0	17.0	15.8
1980	2.51	31.3	27.4	22.1	18.0
1981	2.90	21.9	21.3	17.2	16.6

Source: DEQ Oregon Air Quality Report, 1980 - page 1 - 27.

Table 4.9.2-2

NUMBER OF DAYS PER MONTH WITH 8-HOUR CARBON MONOXIDE CONCENTRATIONS  
GREATER THAN 10 mg/m<sup>3</sup> (MEDFORD)

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YEAR TOTAL
Brophy Building -- 1520119													
1976	Station started December 1976											27	27
1977	20	15	6	5	2	0	22	21	17	22	26	20	176
1978	17	14	18	8	4	4	14	21	16	20	24	24	184
1979	15	5	7	5	2	3	4	13	11	19	22	15	121
1980	9	8	2	0	1	1	1	3	4	7	12	20	68
1981	13	6	2	0	2	0	3	0	3	4	8	12	53

Table 4.9.2-3

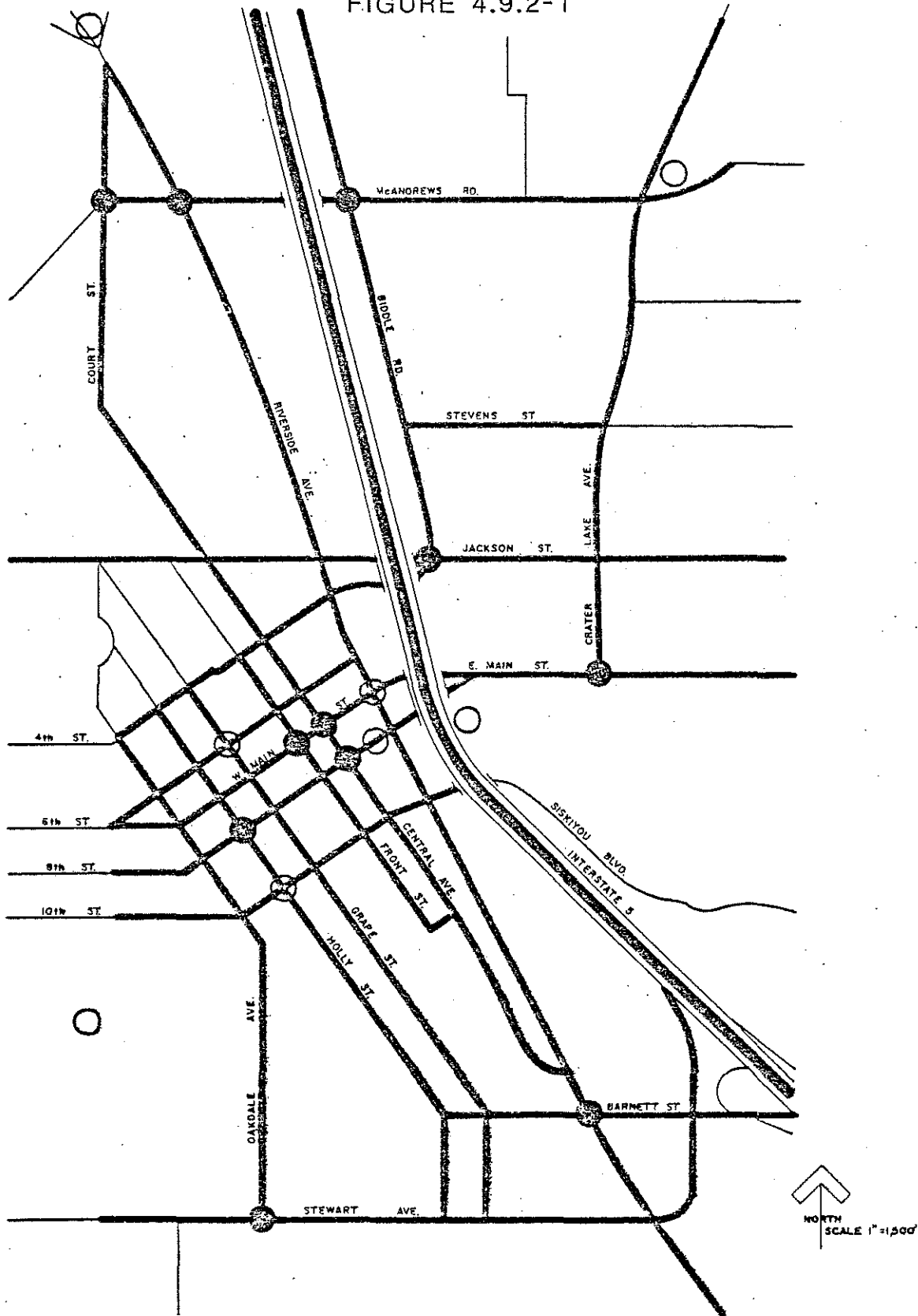
EARTH METRICS CARBON MONOXIDE MONITORING SUMMARY MEDFORD, OREGON

LOCATION OF SAMPLING SITE	NUMBER OF SAMPLES ACQUIRED
*1. North East Corner of McAndrews Road and Riverside Avenue	10
*2. East Side of Crater Lake Highway between Riverside and Interstate 5	10
*3. North Side of McAndrews at railroad tracks	6
*4. South West Corner of McAndrews and Court Street	10
5. North East Corner of Central Avenue and Beatty	5
6. West Side of Riverside between Edwards and Austin	5
7. North East Corner of Biddle Road and Jackson Street	11
*8. North West Corner of Biddle Road and McAndrews Road	11
*9. South East Corner of Biddle Road and Crater Lake Highway	11
*10. South West Corner of Crater Lake Avenue and McAndrews	9
11. South Side of Hillcrest Road at Lyman	6
12. South Side of East Main Street at Crater Lake Avenue	9
13. South East Corner of Central Avenue and 8th	11
14. South East Corner of Riverside Avenue and Main	12
15. North East Corner of Central Avenue and Main - DEQ Site	12
16. West Side of Bartlett South of 6th	12
17. East Side of Front Street South of 5th	11
18. East Side of Riverside Avenue South of 4th	11
19. South Side of West Main St between Grape and Holly Streets	9
20. West Side of Hamilton Street between Dakota and Withington	8
21. South East Corner of Stewart Avenue and Oakdale Avenue	10
22. South East Corner of Riverside and Stewart	10
23. North Side of Barnett Road East of Riverside	10
24. South East Corner of Main and Elm Street	10
*25. East Side of the Big Y Intersection	7
26. South East Corner of Barnett Road and Black Oak Drive	6
27. North Side of 8th Street between Ivy and Holly	5
28. North Side of 13th Street between Central and Riverside	7

\* Sampling sites selected for the shopping center study.

MEDFORD 1979 SCREENLINE ANALYSIS & CO SURVEY SITES

FIGURE 4.9.2-1



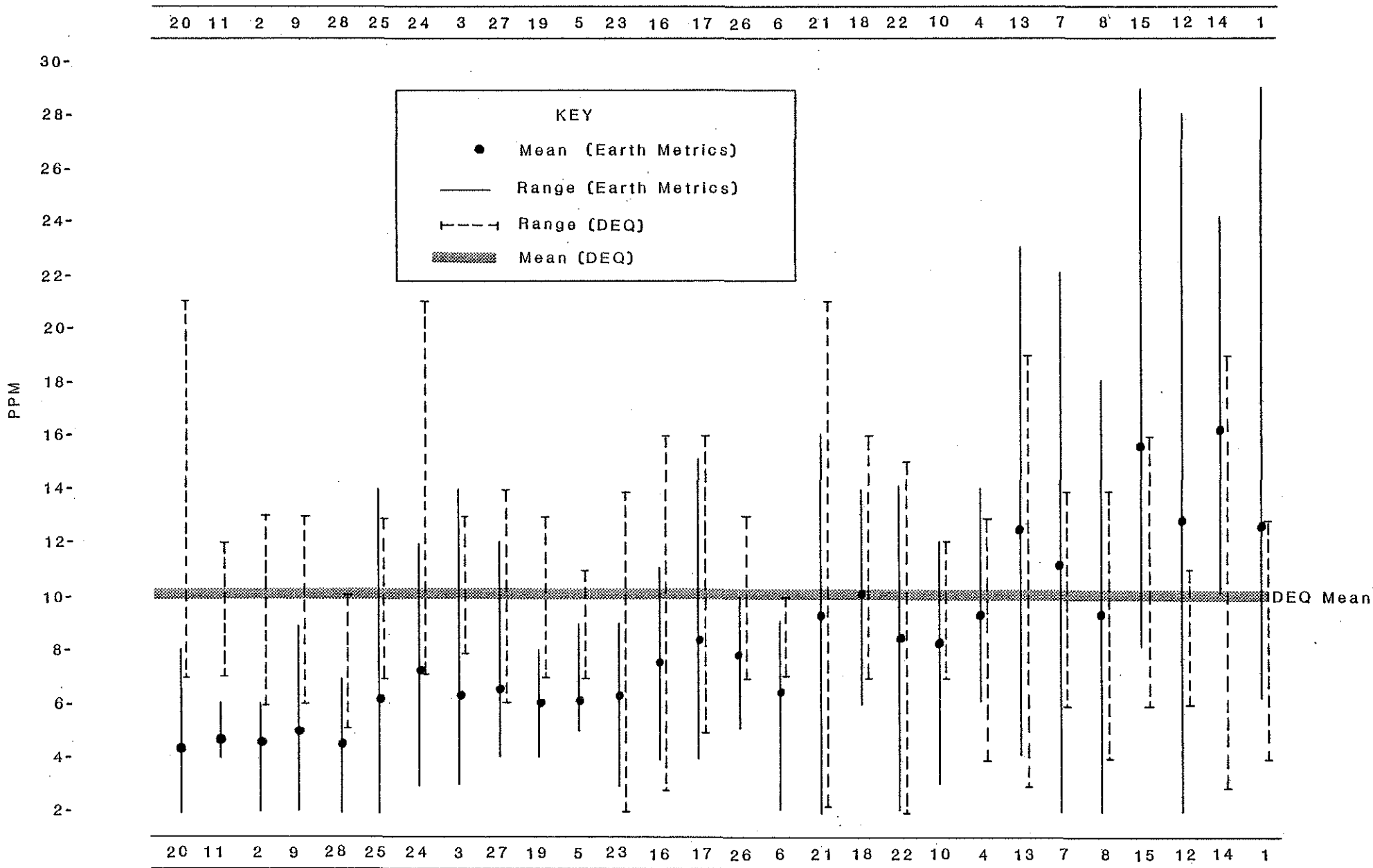
- INDICATE STREETS WITH POTENTIAL FOR EXCEEDING CO STATE AND FEDERAL STANDARDS BASED ON MODELING.
- CO SURVEY SITES EXPERIENCING LEVELS ABOVE STATE AND FEDERAL STANDARDS IN DECEMBER, 1978 AND JANUARY, 1979
- CO SURVEY SITES EXPERIENCING LEVELS BELOW STATE AND FEDERAL STANDARDS IN DECEMBER, 1978 AND JANUARY, 1979



FIGURE 4.9.2-2

CO 15-MINUTE LEVELS (PPM) IN MEDFORD, OREGON, DECEMBER 5, 1979 TO JANUARY 11, 1980

SEE TABLE 4.9.2-3 FOR SITE LOCATIONS



#### 4.9.3 REGIONAL EMISSION INVENTORY

##### 4.9.3.1 Emission Inventory

The calendar years 1979, 1982, and 1987 emission inventories are summarized by source category in Table 4.9.3-1. A detailed emission inventory is contained in Appendix 4.9.1. The base or design year is 1979. Tables have been rounded to the nearest hundred, consistent with the precision of available emission factors.

Table 4.9.3-1

Medford-Ashland AQMA CO Inventory, Tons/Year (tpy)

<u>Source</u>	<u>1979</u>	<u>%</u>	<u>1982</u>	<u>%</u>	<u>1987</u>	<u>%</u>
Industrial Processes	1700	3	1800	4	2000	4
Space Heating	10800	21	13500	28	17800	38
Transportation	38400	74	31900	66	26200	56
Solid Waste Disposal	300	1	300	1	300	1
<u>Miscellaneous</u>	<u>900</u>	<u>2</u>	<u>900</u>	<u>2</u>	<u>900</u>	<u>2</u>
Total	52100	100%	48400	100%	47200	100%

##### 4.9.3.1.1 Industrial Sources

Industrial CO emissions were calculated using source test information or emission factors. No major industrial sources are located within the CO nonattainment area. The major industrial CO source in the AQMA is Reichhold Chemicals, Inc. located in White City about 12 kilometers north of the Medford CO nonattainment area. Two wood products industries located in north Medford each emit about 100 tons

of CO per year. All other industrial sources in the AQMA emit less than 100 tons of CO per year. CO emissions from the largest industrial CO sources are as follows:

<u>Source</u>	<u>Inventory Number</u>	<u>CO Emissions, Tons/Year</u>
Reichhold Chemicals, Inc.	EI 15-0041	1300
Medford Corporation	EI 15-0048	120
Boise Cascade Corporation	EI 15-0054	100

#### 4.9.3.1.2 Motor Vehicles

Carbon Monoxide emissions were originally estimated using EPA's Mobile 1 emission factor computer program. In the fall of 1981 and early 1982, the carbon monoxide emissions analysis was completely revised using EPA's latest Mobile 2 emission factor computer program. The revised analysis was conducted for the downtown area which includes the identified carbon monoxide problem area (see Figure 4.9.1-2). The modeling included a separate category for parking lot emissions. Details of the carbon monoxide emissions modeling methodology are documented in Appendix 4.9-3.

#### 4.9.3.1.3 Other Sources

The estimated CO emissions from space heating, solid waste disposal, and miscellaneous sources were based on emission factors. Most of the CO emissions from these other sources are from wood stoves or fireplaces.

Transportation CO sources have a much higher impact per ton of CO emissions than do wood stoves and fireplaces. This is due to the proximity of the transportation sources to the problem intersections and road links. The modeled CO impact of wood stove and fireplace emissions was about 1 mg/m<sup>3</sup> in 1979. Continued increase in the use of wood stoves for home heating could increase this impact to almost 2 mg/m<sup>3</sup> by 1987. Proposed control measures, intended primarily for the control of particulate pollution, would maintain the CO impact from wood stoves at or below 1 mg/m<sup>3</sup>. CO emissions from wood stoves were considered as part of the CO background in the development of this CO strategy.

#### 4.9.3.2 Emission Reduction Necessary for Attainment

In 1977, calculations showed that the carbon monoxide standard was exceeded along approximately 20 miles of roadway. Several conditions have occurred since that time to reduce the number of street miles where the standard is exceeded.

Most notable of these influencing conditions include: higher fuel costs, causing a reduction in travel; declining retail activities in the central business district, thus reducing the number of trips to the area; and the federal motor vehicle control program.

Carbon monoxide concentrations were originally estimated in the Medford Area Transportation Study (MATS) which is contained in Appendix 4.9-8. The MATS concentration analysis for 1987 assumed implementation of an

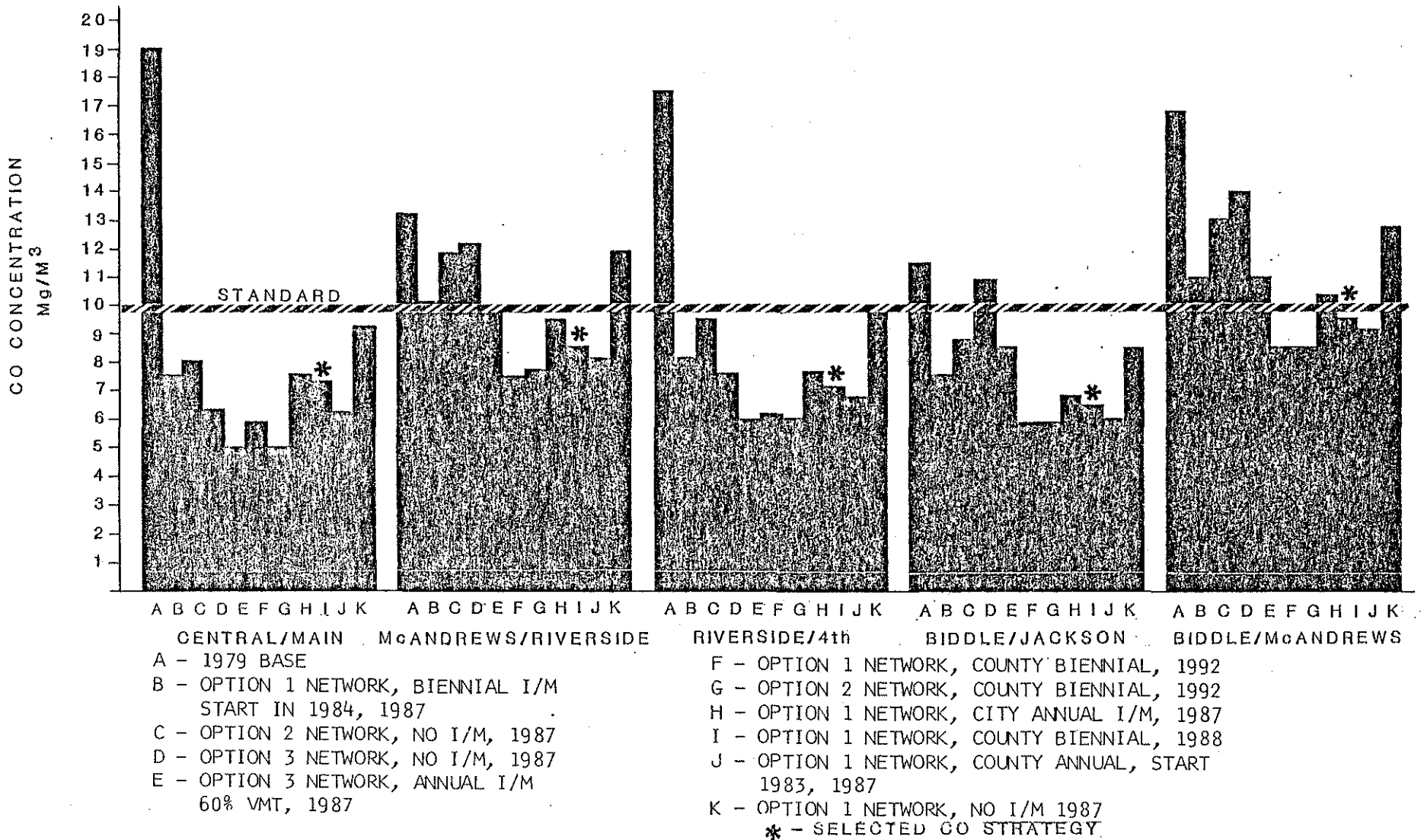
annual inspection maintenance program, starting in 1982. The analysis concluded that two carbon monoxide "hot spots" would remain beyond 1987.

To broaden the scope of the original analysis and to incorporate EPA's latest emission factor methodology, a completely new analysis was undertaken. The revised carbon monoxide emissions modeling, which utilized Mobile 2, provided the basic information for examining a variety of possible control strategies (see Figure 4.9.3-1). The analysis tested various combinations of annual and biennial inspection maintenance programs along with alternative roadway improvement programs (see Section 4.9.4 for a description of the roadway improvements).

To simplify the carbon monoxide concentration analysis so that a comprehensive set of alternatives could be examined in a timely fashion, concentrations were determined by applying emissions ratios to the design concentration of  $19.1 \text{ mg/m}^3$ , 8-hour average. The details of the concentration analytical methodology are presented in Appendix 4.9-9.

An allowable regional CO emission limit is somewhat misleading in that CO concentrations build up to unhealthful levels only at specific sites near heavily traveled roadways. However, based upon monitoring data and CO modeling, an emission reduction of 53.3 percent has been calculated as necessary to meet ambient standards at the CAM site. See Appendix 4.9-2 for methodology used.

FIGURE 4.9.3-1  
CO CONCENTRATIONS AT  
SELECTED RECEPTOR SITES



SOURCE: JACKSON COUNTY PLANNING

#### 4.9.4 CONTROL STRATEGY

The Clean Air Act Amendments, August 1977, lists in Section 105 eighteen transportation control measures. Each of these measures has been evaluated and where emission reduction potential exists incorporated in this plan. See Appendix 4.9-6 for a discussion on these measures.

##### 4.9.4.1 Strategies Already Implemented (Prior to 1982)

There are several programs and projects currently under way which serve to reduce CO emissions in the Medford-Ashland AQMA. The following is a summary of these measures.

##### 4.9.4.1.1 Federal Motor Vehicle Control Program (FMVCP)

The Federal Motor Vehicle Control Program (FMVCP) is the first measure recognized in the area which reduces emissions and enhances carbon monoxide air quality. The FMVCP is a program that requires new motor vehicles sold in the United States to meet specific emission limits.

The FMVCP is projected to reduce emissions at the rate of 3.25 percent per year through the study period, 1979-1987, for a total emission reduction of 26 percent. This program represents the largest emission reduction potential of any of the programs considered, with the possible exception of the I/M program.

Any significant relaxation of new car emission limits will have a direct impact on the attainment projections of this plan.

#### 4.9.4.1.2 Traffic Flow Improvement

##### A. Signalization

The City of Medford recently approved and funded a computerized signalization program for the downtown area. The program includes sophisticated equipment linked to the City's computer in City Hall. Eventually, sixty intersections will be programmed at a cost of \$1.8 million. Completion is scheduled for 1983.

The Medford computerized signal control system project includes the installation of a "Central Master Computer" to be located in City Hall. The Central Master will control signal operations and timing at 60 of the City's 75 traffic signal locations. The balance of signalized intersections not initially on the computer will be added later as funds permit. All new signals installed will be connected to the "Central Master" computer.

The project also includes the installation of 60 new local signal controllers installed at existing signalized intersections. These new controllers are of the type required to receive and transmit data to the centralized master.

The computerized signal system will improve traffic flow, city-wide, with the exception of Biddle Road and Crater Lake Avenue. Signals on these two arterials will retain their present "Traffic Actuated" timing patterns and programming. These arterials will be added to the computerized system at a later date.



Expected benefits are a a 15 percent reduction in total travel time, 15 percent less delay, and 24 percent fewer stops when the new system is in service.

Also expected is some reduction in total number of accidents. It is generally accepted traffic engineering theory that reducing the number of stops will reduce accidents.

One of the on-going benefits of the computer signalization project is the computer's ability to adjust signal light sequences to maximize air quality, energy consumption, traffic speeds, or traffic delay benefits. This program will allow the city to adjust traffic signals to reduce emissions on a site specific basis. The City of Medford intends to use these abilities, in conjunction with CO monitoring, to maximize the benefits at the CO hot spot locations. See Appendix 4.9-10 for program details.

#### B. North Interchange Development

Road improvements associated with development around the north interchange area are targeted for completion in 1983. Developers of the Rogue Valley Mall will spend \$1.7 million to upgrade adjacent streets and intersections as part of the mall development. See Table 4.9.4-1, road improvement impacts on level of service.

##### 1. General Description of Street Improvements

###### a. Court Street North of McAndrews

Widen North Approach on Court Street from three lanes to five lanes to provide for three thru lanes plus one right turn lane and one left turn lane.

b. McAndrews Road from 300 feet West of Court to Bear Creek Bridge

Widen McAndrews Road to provide for two lanes Eastbound and two lanes Westbound plus a two way left turn median which will be left turn only lanes at intersections.

c. Riverside Avenue from McAndrews to Crater Lake Highway

Widen Riverside from three to four lanes to provide for an acceleration, deceleration lane along Rogue Valley Mall, including improvements at the intersection known as the "Big Y."

d. Biddle Road at McAndrews

Widen Biddle Southbound at McAndrews by installing a "Right Turn Only" lane. On Biddle Road Northbound at McAndrews, widen "Left Turn Only" lane from one to two lanes.

e. Crater Lake Highway, Riverside to I-5

Add additional lane along Rogue Valley Mall. Provide two left turn lanes from Westbound on Crater Lake Highway to the Southbound I-5 on-ramp.

f. Signalization

Install new traffic signal installations at the following locations:

- McAndrews & Court
- McAndrews & Riverside
- McAndrews & Rogue Valley Mall
- Crater Lake Highway & Rogue Valley Mall
- Riverside & Ohio
- Court & Ohio
- Biddle & McAndrews

2. 1987 Level of Service Around Mall

Table 4.9.4-1

Intersection	1981 level of service	1987 level of service without Mall and no street improvements	1987 level of service with Mall & street improvements
Court & McAndrews	E	E	E
Riverside & McAndrews	D	E	E
Biddle & McAndrews	C	D	E
Biddle & I-5 N.B. on and off ramps	B	C	C
Biddle & Crater Lake Hwy W.B. on-off ramps	A	B	B
Crater Lake Hwy & I-5 S.B. on-off ramps	C	E	E
Riverside & Crater Lake Hwy	D	E	E
Court & Ohio	A	B	B
McAndrews & Rogue Valley Mall	N/A	N/A	B
Riverside & Ohio	A	A	B
Crater Lake Hwy & Rogue Valley Mall	N/A	N/A	C

Level of service A through F describes the driving conditions experienced during peak traffic conditions. Level of service A provides the highest degree of speed and freedom of movement, while service level F is a condition of very restricted movement and very slow speeds. See Appendix 4.9-3 for a complete description.

3. In conjunction with commercial development in the north interchange area, a continuous CO monitoring station will be installed at, or near, the intersection of Biddle and McAndrews Roads. This unit will be sited and operated according to EPA guidelines. Information gathered will be used to augment RFP progress and to define the need for site specific control measures. The anticipated schedule is as follows:

a. A continuous CO monitoring station will be installed in the north Medford CO problem area in 1984 by the Rogue Valley Mall; the specific location will be determined after discussions between the mall developers and the DEQ have occurred;

b. Ambient CO data and potential traffic adjustments will be evaluated by 1986;

c. Traffic signal changes or other site-specific improvements will be implemented to reduce CO concentrations at hot spot locations, to standard levels if practicable, by 1987.

4.9.4.1.3 Transit Service

The Rogue Valley is serviced with public transit under the auspices of the Rogue Valley Transportation District (RVTD). The transit service includes buses and vans, several routes, and weekday service throughout Medford and connecting Medford with the cities of Jacksonville, Talent, Phoenix and Ashland. Three other cities - Eagle Point, White City (unincorporated) and Central Point - may soon be serviced by the transportation district. The districts' service and ridership have increased significantly between 1977 and 1982, see Table 4.9.4-2.

Table 4.9.4-2

<u>Date</u>	<u>Average Daily Ridership</u>
July 77 - Nov. 77	200
Dec. 77 - Apr. 78	300
May 78 - Nov. 78	450
December 78	600
March 79	800
September 79	1200
July 80	1000
July 81	1075
July 82	1100 source: RVTD
1983 and following years	+5% source: RVTD

The Oregon Department of Transportation (ODOT) has indicated that 40% of the 1980 Jackson County population, 132,456 persons, falls into the "transportation disadvantaged" category. This means that approximately 53,000 persons in Jackson County are unable to drive due to age, health or income. Expanded public transit could enhance their mobility. In addition, public transit would also greatly benefit the other 60% of the county population in the event of a gasoline shortage. Other

benefits from increased usage of mass transit, in addition to improved air quality, would be reduced gasoline usage, insurance savings, and reduced maintenance and parking costs.

According to a recent study, the Medford Area Transportation Study (MATS), even comparatively modest gains in transit usage would entail very significant changes in travel habits and existing conditions, especially regarding downtown parking. The following table, 4.9.4-3, identifies specific numbers regarding trip types and usage.

Table 4.9.4-3

Transit Scenarios\*

<u>% Transit</u>	<u>Daily Transit Riders</u>	<u>Daily Auto Trips</u>	<u>% Increase Transit Trips</u>	<u>% Decrease Auto Trips</u>
0.4%	1,000	166,000		
1.0%	2,500	165,000	+ 150%	-0.6%
3.0%	7,500	162,000	+ 650%	-2.4%
5.0%	12,500	158,000	+1,150%	-4.8%
10.0%	25,000	150,000	+2,500%	-9.6%

+ Source: Medford Area Transportation Study, Page 68

As the table indicates, even a tremendous increase in transit usage (2,500%) would only modestly reduce daily auto trips (-9.6%). The MATS study indicated that a realistic projection for transit usage in Medford's future would be 1% to 2% of total ridership. Nevertheless, the RVTB has made a commitment to pursue all available funding sources to provide broader transit coverage.

#### 4.9.4.1.4 Bicycle Plan

The City of Medford produced a Bikeway Master Plan in 1977. This plan identified the existing bikeway system and defined a phased development of an extended bikeway system throughout the city. To this point there has been little implementation of the plan, however. There are various reasons for this, one of which being the change in philosophy in recent years towards the provisions of bikeway facilities. This has been moved away from Class I bikeway, or more capital intensive type of bikeway that is independent of other transportation facilities, towards the Class III bikeway which can be integrated at far lower cost into an existing road system.

#### 4.9.4.1.5 Carpool Program

Carpool and vanpool programs act as a happy medium between private auto usage and the transit mode of travel. Often times it is easier to develop carpool usage, versus transit, because of the common trip end; hours of work; familiarity with participants; and, economic considerations.

In June of 1981, the Jackson County Planning Department conducted a survey regarding parking and commuting for downtown employees. Approximately 6,000 questionnaires were handed to employees, while an additional 700 questionnaires were given to employers. The return rate was 26 percent and 38 percent respectively. Respondents indicated that to commute to work: 85 percent drive alone, 8.5 percent ride in carpools (with 2.7 riders per vehicle), 4 percent walk or ride

bicycles, 0.8 percent take the bus, and 1.7 percent fall into the "other" category. See Appendix 4.9-5 for survey details.

#### 4.9.4.1.6 Staggered Work Hours

Jackson County Planning Department conducted a survey in June, 1981, regarding downtown Medford parking and commuting conditions. The largest single work shift population was 8:00 a.m. to 5:00 p.m. with 39 percent of the respondents. The next largest was 8:00 a.m. to 6:00 p.m. with only 8.2 percent of the respondents. See Appendix 4.9-5 for survey details.

#### 4.9.4.2 Strategies Scheduled for Implementation

##### 4.9.4.2.1 Medford Parking and Traffic Circulation Plan

###### A. Parking Modifications

The Medford City Council and Parking Commission are in the process of revising the parking element of this plan. The expected completion date of this process will be September 30, 1982. The parking element will then follow this document and become a part of the CO attainment strategy. See Appendix 4.9-11.

###### B. Bicycle Transportation Element

###### 1. Bicycle Master Plan

The further development of a linked bicycle network will focus on the planned arterial street road system. The plan is to continue to increase the bicycle network to provide for increased



accessibility for bicycle users, to provide for a realistic alternative mode of travel, and a network linking the downtown area, most residential areas and schools.

The bicycle element of the Medford Area Transportation Study will be utilized to implement the bicycle plan. As the plan is based on the arterial street network, its implementation will be phased together with the arterial program.

Bicycle facilities recommended in the MATS plan are of four principal types:

a. New bike-lanes striped onto existing streets or onto new/improved streets; approximately 14 miles of striped bikelane are recommended.

b. Signed bike-routes on new/improved streets; a further 14 miles of this facility type are recommended, comprising wide curb-lanes (fourteen feet) for mixed auto and bicycle use.

c. Signed bike-routes on existing streets; a total of 43 miles are recommended, largely requiring the re-striping of existing traffic lanes to provide for a wider curb lane.

Actual width of the curb lane will depend on individual street configurations, layouts and right-of-way width.

d. Bicycle bridge; two bicycle bridges (wooden trestles) are recommended, crossing Bear Creek and linking the Bear Creek bikeway to the downtown. The bridges (10-12 feet wide)

are recommended to be located in the area of the Main and 8th Street crossings. They could be either immediately adjacent to the existing roadway structures, or free-standing units.

## 2. Funding

This plan references only those portions of the bicycle plan that lie within the CO Non-Attainment area. The basic bicycle network, focusing on bike-lanes and signed bicycle routes would be a \$1.1 million capital improvement program. The cost estimate for those portions that lie within the CO Non-Attainment area is \$120,000.

Funding is dependent upon voter approval of a street improvement bond fund levy.

### 4.9.4.2.2 Motor Vehicle Inspection and Maintenance (I/M)

Several air quality studies, including this plan, have assessed the need for I/M to attain the carbon monoxide standard. Each study has come to the conclusion that attaining the CO standard will be very unlikely without an I/M program.

The Jackson County Board of Commissioners, the Medford and Ashland City Councils, the Rogue Valley Council of Governments, and several Air Quality Advisory Committees have all supported I/M as an integral part of the CO attainment strategy.

However, local government does not have legal authority to require I/M, specifically tied into vehicle registrations. Local government

authority is also limited to their area of jurisdiction; thus, Jackson County could not require vehicles registered within the various cities to pass an I/M test.

Efforts to secure enabling legislation, from the State Legislature, were made in the 1979 and 1981 sessions. On both occasions House passed bills were defeated in the State Senate. The 1983 session will also witness an aggressive effort to secure legislation. Jackson County has made a commitment to pursue I/M through various means. These program commitments include: budgeting \$15,000 for fiscal year 1982-83 for public education and awareness, approximately 25 percent of which will be used exclusively for I/M; and, communications with state legislators regarding the need for an I/M program.

The State Department of Environmental Quality currently operates an I/M program in the Portland Metropolitan area. While program parameters for Jackson County may be structured somewhat by enabling legislation, it is anticipated that any program initiated in Jackson County would be equivalent to the Portland program. The parameters of the Portland program are included in the Portland ozone SIP, Appendix 4.3-8, which are also on file with the Environmental Protection Agency.

Responsibility for introducing I/M legislation in the 1983 session will lie with the Jackson County Board of Commissioners. Attempts to introduce legislation will be made through the Governor's office, the Speaker of the House, President of the Senate, and through the local delegation.

Jackson County will draft the initial authorizing legislation, based on legislation introduced in previous sessions.

The final decision will lie with the Oregon State Legislature. Jackson County will rely on the input of the EPA and Oregon Department of Environmental Quality to assist in presenting technical and legal testimony.

Several assumptions regarding I/M were made in developing this plan. One of those assumptions was that I/M would start up in January of 1984. Table 4.9.4-4 suggests a schedule necessary to meet that start up date.

Table 4.9.4-4  
Projected I/M Implementation Schedule

Jackson County Board of Commissioners forward legislative concept form to local state representative.	October, 1982
State Representative submits form to legislative counsel for drafting of necessary legislation.	December, 1982
State legislature meets/considers bill	January-July, 1983
Governor signs authorizing legislation	July, 1983
Voluntary emission testing starts	November, 1983
Mandatory emission testing begins	January, 1984

4.9.4.3 Additional Road Improvement Projects Consistent with the CO Attainment Strategy

In the course of this plan development several sets of road improvements and I/M combinations were tested for air quality impacts.

The network improvement scenarios were divided into three categories: Option 1, Option 2, and Option 3.

The Option 1 network included only committed projects: signalization, road improvements around the Rogue Valley Mall, and proposed changes in parking.

The Option 2 scenario included all of the measures in the Option 1 scenario, plus additional road projects.

The Option 3 included the Option 2 scenario, plus more road projects.

The Option 1 scenario is the strategy adopted in this plan. However, it is likely that the City of Medford will implement some or all of the road projects looked at, for reasons other than air quality. In fact, these projects would hasten attainment though their costs could not be justified for air quality benefits alone.

The following sections describe the Option 2 and Option 3 road improvements programs.

#### Option 2 Plan

The Option 2 Plan includes all the elements and projects of the Option 1 Plan. It expands the scope of street projects of the Option 1 Plan by adopting the following street improvement projects.

- A. Three-Lane Central or Re-Locate Central Traffic to Front Street

This project will involve one of two choices. Both appear to provide approximately the same level of additional street capacity. Relocating arterial traffic from Central to Front may provide for somewhat better air quality improvement rather than utilizing three lanes on Central.

1. Three-Lane Central

To facilitate three traffic lanes on Central will require the removal of approximately 120 parking spaces on both sides of the street from 4th to 10th.

Traffic signals and street signs would require modifications and some street work would be necessary at intersections.

Three-Lane Central project could be implemented for approximately \$300,000.

2. Re-Locate Traffic from Central to Front

This option involves building new street connections from Central to Front between 2nd and 3rd Streets and from Front to Central between 9th and 10th Streets.

Front Street would be re-built along both curb lanes from 3rd to 9th Streets to provide for three lanes of traffic with no parking permitted.

Current plans call for converting Central to a two-way traffic flow once the Front Street facility has been completed.

The cost of this option is estimated at \$1,200,000 - \$1,700,000, including the signalization, striping and signing revisions to convert Central to a two-way traffic flow.

Which option will be adopted has yet to be approved.

Either option will improve and speed up traffic flow and reduce traffic delay and congestion.

B. McAndrews Road from Court Street to Jackson Street

This project will widen McAndrews Road from two lanes to five lanes from Court to Jackson. Also included will be a four-lane overpass over the Southern Pacific Railroad right-of-way.

Estimated project cost is \$2,800,000.

C. Stewart Avenue from Columbus to Riverside

This project will widen Stewart Avenue from two lanes to five lanes from Columbus to Riverside. The project includes new traffic signals and street re-alignment of Columbus at Stewart and Kings Highway at Stewart.

Estimated total project cost is \$2,900,000.

Funding and scheduling of all three projects listed in the Option 2 Plan are dependent upon the city review process leading to City Council approval and voter approval of an arterial street fund bond levy.

### Option 3 Plan

The Option 3 Plan includes all of the elements and projects of both the Option 1 and Option 2 Plans. It also adds three street construction projects to the list of roadway improvements to be adopted.

#### A. Biddle Road Extension from Jackson to Barnett

This project will extend Biddle Road to the south to a southerly termination at the intersection of Alba and Barnett. The new roadway would be constructed parallel to the I-5 freeway along the edge of Hawthorne Park, past the Senior Citizen Center and continuing south around the Little League ball fields to a connection at Alba Drive. Biddle Road would be constructed to four lanes with left turn storage lanes at intersections and high turning movement locations. Traffic signals would be installed at the new intersections of Biddle and Main and at Biddle and 10th Streets. A preliminary estimate from the Oregon Department of Transportation indicates that traffic volumes on Biddle from Jackson to 10th will be 18,500 vehicles per day in 1987, with many trips diverted from Riverside and Central. Cost of constructing the Biddle Road extension is estimated at \$2,500,000.

#### B. Crater Lake Avenue from Jackson to Main

This project will widen Crater Lake Avenue from two lanes to four lanes. The project includes new traffic actuated signalization at the intersection of Crater Lake Avenue and Main Street.



C. Crater Lake Avenue Grandview to Delta Waters

This project will widen Crater Lake Avenue from two lanes to four lanes from Grandview to Delta Waters.

Estimated project cost is \$500,000.

Construction schedule and project funding for all three projects listed in the "Option 3 Plan" are dependent upon the city review process leading to City Council approval and voter approval of an arterial street fund bond levy.

4.9.4.4 Air Quality Benefits of this Plan

The implementation of the elements listed in this plan will have a significant impact on CO emissions within the nonattainment area. The emission reduction at Central and Main, where a 53 percent reduction is needed, will equal 57 percent. The area wide emission reduction will equal 44 percent, with each measure having the following impact on 1987 emissions:

Table 4.9.4-5  
Emission Reduction Benefits

<u>Measure</u>	<u>Area Wide</u>	<u>Biddle/McAndrews</u>	<u>Central/Main</u>
Federal motor vehicle control program	26%	23%	40%
Biennial motor vehicle inspection & maintenance	13%	11%	4%
Parking & traffic circulation plan	5%	2%	13%
Computer signalization	2%	0%	11%
North interchange road projects	1%	0%	0%
Transit	.5%	.5%	.5%
Bicycle Plan	.5%	.5%	.5%
Carpool program	.5%	.5%	.5%
Staggered work hours	.5%	.5%	.5%
Parking plan	to be determined		

Road Projects consistent with the strategy, not part of the plan

Option 2	+ .7%	0%	4%
Option 3	+ .5%	+6%	13%

#### 4.9.5 PROVISIONS FOR PROGRESS REPORTING

##### 4.9.5.1 Reasonable Further Progress

The Clean Air Act requires a demonstration that Reasonable Further Progress (RFP) is being made each year towards the attainment of all air quality standards. RFP is defined as annual incremental reductions in emissions sufficient to achieve compliance with standards by the required date.

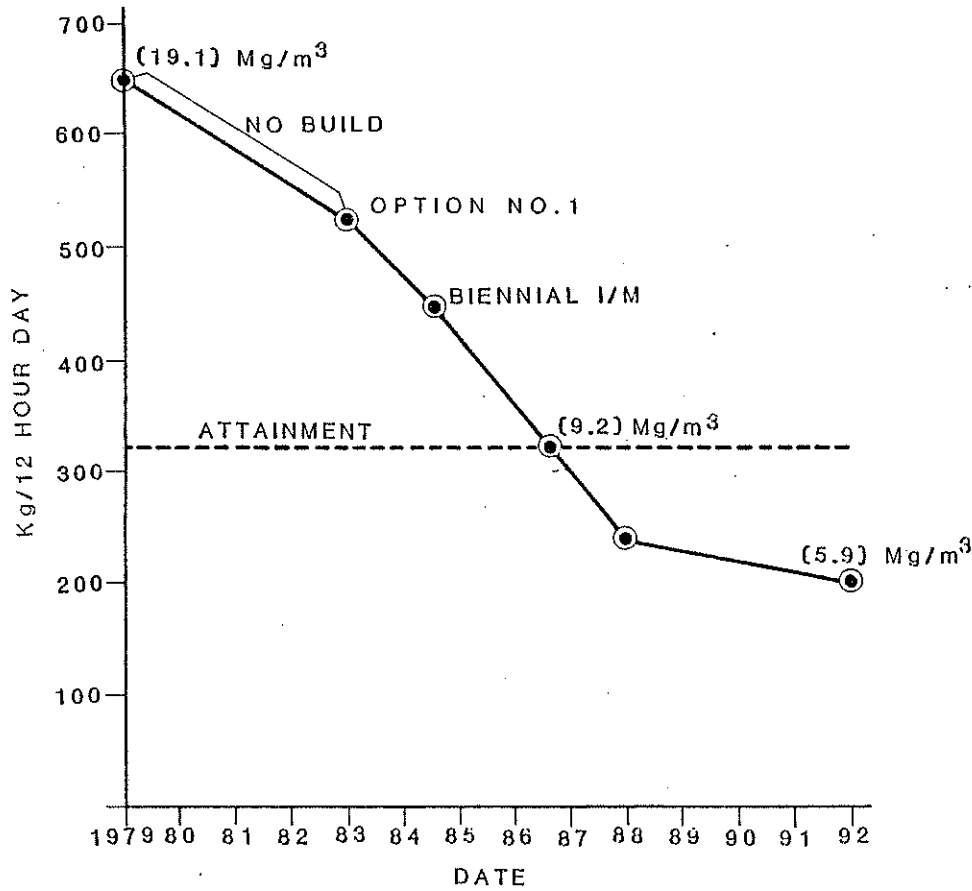
Figures 4.9.5-1 and 4.9.5-2 display RFP at two sites in Medford. The Central and Main site is the location for continuous CO monitoring and has been the site of highest concentrations. The Biddle and McAndrews site is projected to be the most difficult site to show attainment. Both sites' RFP lines represent emissions modeled for the strategies included in this plan. Figure 4.9.5-3 displays the only hot spot area projected for 1987.

##### 4.9.5.2 Monitoring Plan

A monitoring plan to periodically assess the extent to which the transportation measures are actually resulting in meeting this RFP requirement has been established. The primary indicator used to make this judgement will be ambient air quality monitoring. However, traffic counts and land use development will also serve as indicators.

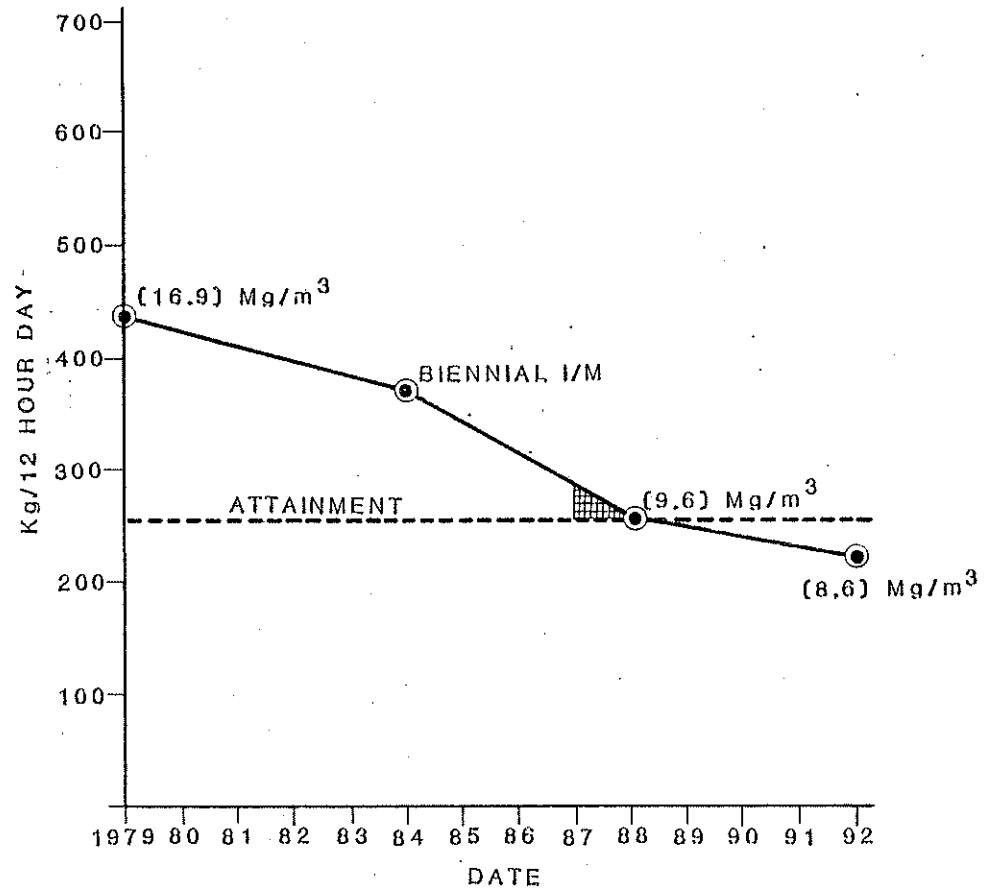
The ambient monitoring data will be collected by the DEQ at the Medford continuous air monitoring station (site no. 1520119 - 10 N. Central), and a station to be operated by others will be installed at, or near, the Biddle and McAndrews Roads intersection.

FIGURE 4.9.5-1  
 REASONABLE FURTHER PROGRESS  
 \*CAM SITE  
 CENTRAL & MAIN



\* CAM, CONTINUOUS AIR MONITORING

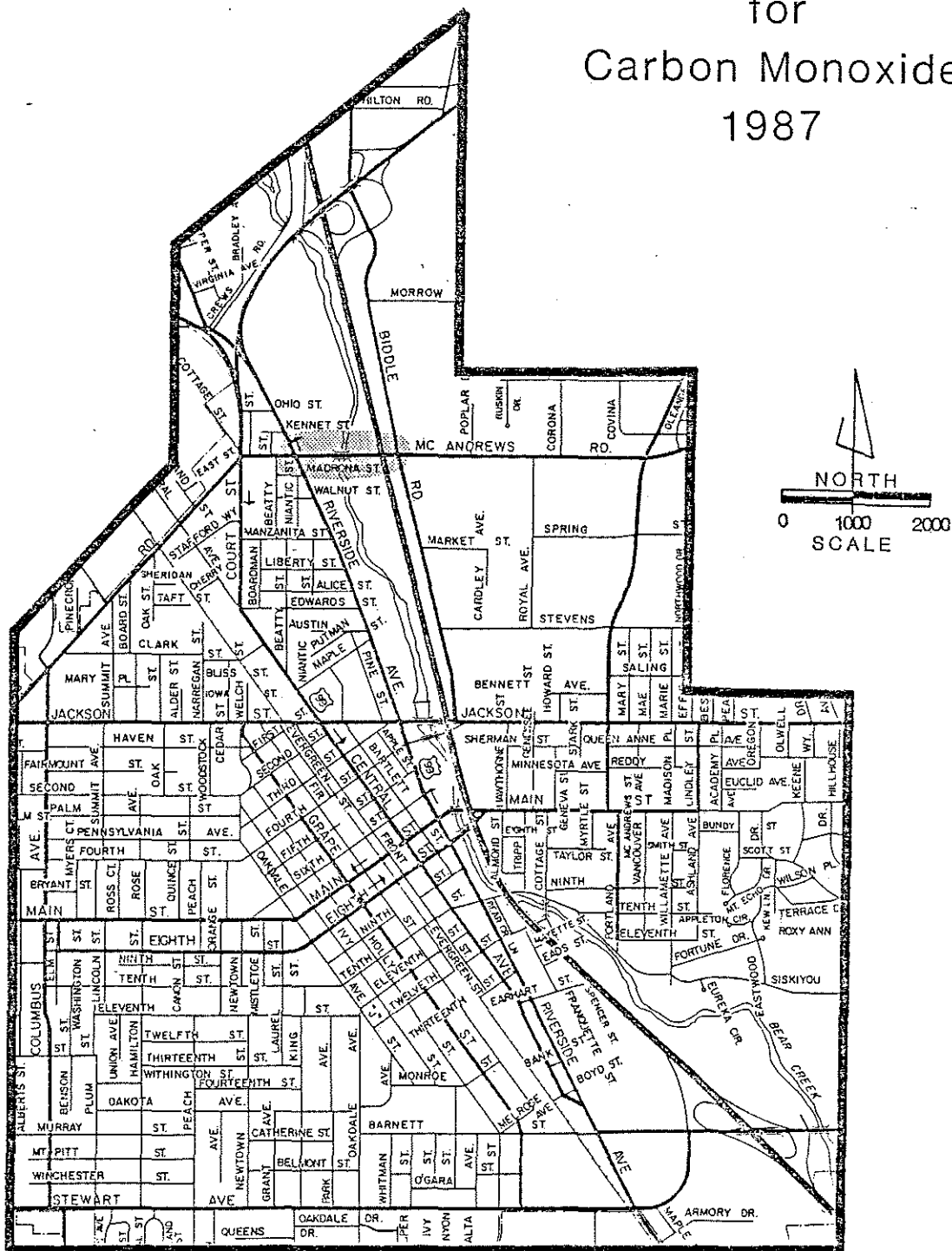
FIGURE 4.9.5-2  
 REASONABLE FURTHER PROGRESS  
 BIDDLE & McANDREWS



### PERIOD BEYOND 1987 ATTAINMENT DEADLINE

FIGURE 4.9.5-3

# NON-ATTAINMENT AREA for Carbon Monoxide 1987



SHADED PORTION OF MAP INDICATES CO NON-ATTAINMENT AREA

SOURCE: JACKSON COUNTY PLANNING DEPT.

Quarterly traffic counts will be conducted by the City of Medford. The City of Medford will also prepare a quarterly land use inventory report.

#### 4.9.5.3 Contingency Provision

In the case of the region not being able to demonstrate annual RFP, a "contingency plan" process to identify and implement additional control measures that will compensate for any unanticipated shortfalls in emission reductions has been established. The initial determination of annual RFP compliance will be made by DEQ. If their determination is that RFP is not being met, they will contact the City of Medford and Jackson County.

Jackson County will review the CO strategy elements to see if any projects that were expected to assist in pollution reductions have been delayed or if projects with an adverse effect have been included. The City will review the Downtown PTCP to see if measures scheduled for adoption have been delayed. If either agency identifies problems with delays, every effort will be made to bring the projects back on line. If any transportation projects with adverse impacts are identified, they will be delayed while other measures are adopted to make up for the shortfall. Any new measures that need to be adopted will become part of a revised SIP and will be adopted through the consultation of state and local government officials, and the public hearing processes described in Section 4.9.7.

#### 4.9.5.4 Annual Report

DEQ and the City of Medford will jointly submit a report each July 1, for the preceding calendar year which will comply with the following requirements:

- A. identification of major new or modified existing sources, minor new sources (less than 100 tons/year), and mobile sources;
- B. reduction in emissions for existing sources;
- C. update of the emission inventory;
- D. land use inventory;
- E. ambient CO measurements;
- F. quarterly traffic counts; and,
- G. determination of RFP compliance.

#### 4.9.5.5 Conformity of Federal Actions

U.S. Department of Transportation rules require that the Regional Transportation Plan and Transportation Improvement Program conform with air quality State Implementation Plans. Transportation plans and programs are determined to be in conformance with SIP's if they:

- A. Reflect reasonable progress in implementing those transportation control measures that are called for in the SIP to meet air quality standards; and
- B. Do not include actions that would reduce the effectiveness of planned transportation control measures.

However, in the Medford case, no regional transportation plan or transportation improvement program exists. This is due to the fact that Medford was not designated an urban area until after the 1980 census.

What transportation planning has occurred has resulted from Oregon Department of Transportation work, city and county comprehensive land use planning, and the Rogue Valley Transportation District capital projects planning.

The City of Medford has adopted the Parking and Traffic Circulation Plan elements in its comprehensive land use plan.

All projects will still be evaluated in accordance with procedures specified in the National Environmental Policy Act. For major projects which require an Environmental Impact Statement, a micro-scale air quality analysis will be performed. If the analysis indicates that the project will contribute to or exacerbate a violation of air quality standards, all practicable mitigation measures will be incorporated into the design of the project. Projects and facilities will comply with all provisions and requirements of the SIP regardless of initial conformity findings by the local review process.

Prior to any State of Oregon or federal agency guaranteeing funding for any project, the City of Medford shall submit findings of conformance with the parking and traffic circulation plan, and the Department of Environmental Quality shall submit findings that the project is in conformance with the SIP.



#### 4.9.6 RESOURCE COMMITMENT

##### 4.9.6.1 City of Medford

The City of Medford has made a substantial commitment to see the provisions of this plan implemented. Adequate funding has been budgeted for implementation of the parking controls, and assistance to the Rogue Valley Transportation District for signs within the city limits. Street and road improvement projects will be funded through voter approved bond sales.

Sufficient city staff time has been allocated for traffic counts and preparation of reports to the Department of Environmental Quality.

##### 4.9.6.2 Jackson County

Jackson County has made the necessary commitments to see the provisions of this plan implemented. The county has allocated 1.2 full time equivalent persons to the program.

The county has also budgeted funds for public awareness and education. These funds will be used in the encouragement towards transit and rideshare programs.

The county has also committed itself to an aggressive effort at securing I/M legislation in the 1983 state legislative session.

#### 4.9.6.3 Department of Environmental Quality

The Department of Environmental Quality and Environmental Quality Commission have the ultimate responsibility of ensuring all regions of the state are in compliance with state and federal air quality regulations and standards. As such, they have invested heavily in air quality studies, monitoring, public awareness, and local government assistance.

This plan commits the department to continue that level of service through the timeframe of the plan. This commitment will take the form of air quality monitoring, reasonable further progress determination and project conformance reviews.

#### 4.9.6.4 Rogue Valley Transportation District

The Rogue Valley Transportation District (RVTD) is a separate entity established by the voters. The RVTD is funded via a three year serial levy, and grants from the state and federal Departments of Transportation.

The primary service RVTD provides is public transportation to the transportation disadvantaged, see Section 4.9.4.1.3.

The RVTD has aggressively pursued funding sources, both within and without the district boundaries, to continue its service, or expand both frequency and geographical coverage. The district is committed to pursue that policy.

#### 4.9.7 DESCRIPTION OF THE PLANNING PROCESS

##### 4.9.7.1 Designation of Lead Agency

The Jackson County Board of Commissioners was designated by the Governor as the lead agency for transportation related pollutants on March 30, 1978. The Environmental Protection Agency concurred on April 14, 1978.

Jackson County, in conjunction with the Air Quality Advisory Committee, meets the lead agency requirements of the Clean Air Act for air quality transportation planning.

##### 4.9.7.2 Interagency Coordination

Interagency coordination between the City of Medford, Jackson County, Oregon Department of Transportation, and the Oregon Department of Environmental Quality is discussed in subsections 4.9.7.2.1 - 4.9.7.2.4 of this section.

##### 4.9.7.2.1 The Medford-Ashland Air Quality Maintenance Area Air Quality Work Plan

The work plan outlines the overall transportation planning program by Jackson County, City of Medford, Oregon Department of Transportation, and the Department of Environmental Quality during 1979 through 1981.

The roles and responsibilities of each agency are shown in Table 4.9.7-1.

Table 4.9.7-1

Planning Roles and Responsibilities

<u>Role/Responsibility</u>	<u>Agency</u>
1. Lead agency for air quality planning; Program Management	Jackson County
2. Air Quality Advisory Committee support	Jackson County
3. Mobile source emission estimates	DEQ/ODOT
4. Stationary source emission estimates	DEQ
5. Air quality analysis	DEQ
6. Technical analysis and evaluation of control	ODOT
a. mobile	Jackson County/ City of Medford
b. stationary	DEQ
7. Implementing regulations and schedules	City of Medford
a. mobile	Jackson County/ DEQ
b. stationary	DEQ
8. Preparing mobile source control strategies	Jackson County/ City of Medford
9. Preparing stationary source control measures	DEQ
10. State Implementation Plan revision hearing	DEQ
11. Hearing and adoption	DEQ/EQC

4.9.2.2.2 Project Participants

Development of this plan occurred through the joint efforts of the following entities: Environmental Protection Agency (EPA), Depart-

ment of Environmental Quality, State of Oregon (DEQ), Jackson County, Jackson County Air Quality Advisory Committee (AQAC), City of Medford, Oregon Department of Transportation (ODOT), and the Urban Mass Transit Administration (UMTA).

A. Environmental Protection Agency

EPA is the reviewing agency appointed by Congress to ascertain that all State Implementation Plans (SIP's) properly address all provisions of the 1970 Clean Air Act and the 1977 Clean Air Act Amendments.

B. Oregon Department of Transportation

ODOT is the resource agency for all transportation computer modeling utilized in the SIP. All necessary base data was programmed into the ODOT computer and, utilizing appropriate modeling techniques, statistical projections were developed for future traffic levels and speeds based on a number of air quality improvement scenarios.

C. Urban Mass Transit Administration

UMTA is the Federal agency responsible for primary funding (via grants) of the SIP. Over the last three years UMTA has committed \$102,000 toward the completion of the local portion (transportation measures) of the state's efforts to meet Federal Ambient Air Quality standards for carbon monoxide.

D. City of Medford

The City of Medford, in conjunction with Jackson County, gathered base data, conducted analysis of the data, developed attainment procedures to achieve federal air quality standards for carbon monoxide, and completed a transportation study of the Medford area.

E. Department of Environmental Quality

DEQ holds ultimate responsibility for statewide air quality planning. Additional responsibility includes stationary source controls, air quality monitoring, technical assistance in the analysis of control strategies, and related functions.

F. Air Quality Advisory Committee (AQAC)

AQAC, the county advisory committee on air quality matters, has provided citizen involvement leadership since 1978. AQAC accomplishments include extensive public education, air control strategy recommendations, preliminary analysis of various attainment measures, and other similar activities. See Appendix 4.9-4 for a list of committee members and entities represented.

G. Jackson County

Jackson County is the lead agency for transportation-related air quality planning in the Medford-Ashland area as designated by the

Governor on March 30, 1978. The County Board of Commissioners provides policy direction for conducting the transportation planning program.

#### 4.9.7.2.3 Elected Official Involvement

Adoption of each control measure will be by the governmental entity responsible for implementing the respective measure.

Each of the AQMA cities and the Rogue Valley Transportation District were invited to name an elected official to the AQAC. This allowed for elected official involvement throughout the process of review and selection of control measures.

#### 4.9.7.2.4 A-95 Review

This control strategy is subject to A-95 review. A summary of comments is in Appendix 4.9-4 and were submitted to the Environmental Protection Agency.

#### 4.9.7.3 Citizen Participation

##### 4.9.7.3.1 Citizen Involvement

Citizen involvement was provided through the Air Quality Advisory Committee, public hearings held on specific control measures, public hearings held on this plan, and through submitting certain portions of this plan to a public vote.

The Air Quality Advisory Committee accomplishments included extensive public education through the media, recommendations regarding a total suspended particulate strategy, recommendation for a motor vehicle inspection and maintenance program, and recommendations regarding the Medford Parking and Traffic Circulation Plan. See Appendix 4.9-4 for public comment.

Appendix 4.9.4 contains the hearing notice and paid advertisements pertaining to the control strategy.

#### 4.9.8 PUBLIC HEARING

Public hearings were held on July 8 and July 15, 1982, by the Medford Planning Commission and Medford City Council. A summary of testimony is in Appendix 4.9-4 and was submitted to the Environmental Protection Agency. The Department of Environmental Quality has also scheduled public hearings on September 15, 1982. A summary of testimony received is also included in Appendix 4.9-4. This plan was also submitted for local and state clearinghouse review. Comments received are included in Appendix 4.9-4.



STATE OF OREGONDEPARTMENT OF ENVIRONMENTAL QUALITYINTEROFFICE MEMO

TO: Environmental Quality Commission                      DATE: September 17, 1982

FROM: Hearing Officer

SUBJECT: Hearing Report on September 15, 1982, Hearing, "Proposed Revisions to the State Clean Air Act Implementation Plan (SIP) for the Medford-Ashland Air Quality Maintenance Area (AQMA) Carbon Monoxide Control Strategy"

Summary of Procedure

Pursuant to public notice, a public hearing was convened at the Medford City Hall, Municipal Courtroom, located at 411 W. 8th Street in Medford, at 7:10 p.m. on September 15, 1982. The purpose was to receive testimony regarding proposed revisions to the SIP for a carbon monoxide control strategy for the Medford-Ashland AQMA. This report summarizes the testimony related to the carbon monoxide control strategy.

Summary of Written Testimony

Oregon Department of Transportation noted a few problems with the text and recommended some minor corrections and additions to clarify the documentation.

Summary of Oral Testimony

Mr. Hayes H. Rossman, Chairman of the Medford Planning Commission stated that a great deal of effort, time, research, and funds were expended by the City, County and federal government. He referred to the control plan as being comprehensive and he stated that it will bring the area within compliance with the federal air standards. He acknowledged that the plan contains some controversial propositions and referred in particular to the proposed County biennial inspection/maintenance (I/M) program. Mr. Rossman stated that the City can only support legislation to bring it about. He emphasized that I/M is a major abatement item, vital to the area. Mr. Rossman summarized the City's efforts in pursuing an arterial street plan. Recommendations on the arterial street plan will go before the Medford City Council before November 1, 1982. He also summarized the activities for a parking plan. First recommendations on the parking plan are expected to be forwarded to the City Council by October 15, 1982. Mr. Rossman stressed the concerns about possible future negative economic effects of failure to clean up the carbon monoxide problem. He mentioned the possibility of federal growth sanctions, but thought that the greatest potential impact could be on the ability of the area to diversify economically. If the area fails to clean up the problem and if the area fails to get support from the Legislature, even though there is local support for the clean up effort, the Medford area may never be able to

adequately solicit new industry. Mr. Rossman concluded that the SIP was vital to the Southwest region as well as to the Medford-Ashland AQMA and urged that it be adopted by the Commission and forwarded to EPA.

Mr. Maurice Watts stated that he is strongly opposed to the proposed action. Auto emission controls are not needed in sparsely settled areas of the County. He acknowledged that Medford might have an air quality problem, but not the County. He also stated that the plan is a usurpation of citizen's rights. Any restrictions should be confined to Medford, if that is what is desired.

Mr. John Ferris stated that the Bicycle Master Plan should be an integral part of the SIP. Mr. Ferris is concerned about the fact that the I/M program is being tied to State legislative action. He cited the failure in the last legislature and thought that the very same thing could happen again. He would like to see other enforcement provisions for an I/M program to enable the County to provide an I/M program. He cited a possible County enforcement procedure through some manner of policing.

Ms. Genevieve Sage, Oregon Lung Association stated that her organization supports the proposed carbon monoxide control strategy. Ms. Sage maintained that the automobile is the source of the carbon monoxide pollution and should therefore be the appropriate source to be controlled. She pointed out that the AQMA has 80-90 percent of the motor vehicles in the County, and on that basis, a County-wide biennial I/M program makes sense. She stated another major reason for singling out support for the biennial I/M program is that it works - pollution from automobiles has come down in places where I/M has been introduced. She also declared that in most places where I/M has been in effect for a couple of years the program has won the support of the population because they can see that it works. Another factor favoring an I/M program is that the cost is relatively small for the benefits.

Mr. Stuart Foster, Greater Medford Chamber of Commerce stated that he has been a member of the Jackson County Air Quality Liaison Committee and has been involved with the air quality issue since 1978. Mr. Foster is opposed to the SIP in two regards: 1) the bicycle transportation element is not needed; 2) the SIP is insufficient to meet air quality standards without an aggressive arterial street program. Regarding the first issue, there is insufficient data to justify any bicycle transportation element in the plan. The plan sets forth new bike lanes striped into existing streets and signed bike routes in existing streets, with a total of 43 miles recommended. This would largely require a restriping of existing traffic lanes to provide a wider curb area. This will create two potential problems: a) it will further reduce parking which is the key to the viability of the downtown area; b) the interface of bicycles and auto traffic in the core area will cause a further deterioration of the air quality. Mr. Foster felt that any statistics supporting a bicycle program are invalid. On the second issue, the proposed SIP is insufficient in that it will not meet attainment by 1987. Even though the Chamber has always supported an I/M program, the Chamber does not believe that the projected results will be achieved. The key CO problems center around certain

intersections (Central and Main in particular). Reducing emissions in the overall core area through an I/M program is not going to resolve the problem of large concentrations of traffic at key intersections. The Chamber's position is that an aggressive arterial street program is the only way to achieve the air quality goals of the Clean Air Act. The Chamber's expert witness, Bob Gantenbein, testified before the City Council that the proposed SIP will be insufficient to meet the standards. Mr. Foster concluded that the problems of large concentrations of automobiles at key intersections can in large part be resolved through Option 2, outlined in the plan, and Option 2 should therefore be a mandatory part of the plan.

Testimony received in written form only:

Oregon Department of Transportation

Oral Testimony was offered by:

Hayes H. Rossman  
Maurice Watts  
John Ferris  
Genevieve Pisarski Sage  
Stuart Foster

Recommendations

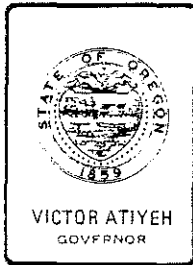
The Hearing Officer makes no recommendations. Respectfully submitted,

*Howard W. Harris*

Howard W. Harris  
Hearing Officer

Attachments: 1. Notice of Public Hearing  
2. Testimony of Oregon Department of Transportation

J.F. Kowalczyk:ac  
229-6459  
AA2577 (1)



## Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

Prepared: August 2, 1982  
Hearing Date: September 15, 1982

### NOTICE OF PUBLIC HEARING

#### A CHANCE TO BE HEARD ABOUT:

Proposed Revision to the State  
Clean Air Act Implementation Plan  
for the Medford-Ashland  
Air Quality Maintenance Area:  
Carbon Monoxide Control Strategy

The Department of Environmental Quality is proposing to amend its State Implementation Plan (SIP) in accordance with the federal Clean Air Act Amendments of 1977. The proposed carbon monoxide control strategy would bring the Medford area into compliance with the carbon monoxide standard by December 31, 1987. The DEQ will submit the strategy adopted by the Environmental Quality Commission to the U.S. Environmental Protection Agency for approval and incorporation into the Oregon State Implementation Plan. A hearing on this matter will be held in Medford on September 15, 1982.

#### WHAT IS THE DEQ PROPOSING:

Interested parties should request a copy of the complete proposed State Implementation Plan amendments.

Highlights of the carbon monoxide control strategy are:

- \*\* County-wide biennial inspection and maintenance program (I/M)
- \*\* Downtown Medford parking controls
- \*\* Computerized Medford traffic signal system
- \*\* Roadway improvements in north Medford
- \*\* Federal motor vehicle emission control program
- \*\* Continued existing levels of carpool and transit usage
- \*\* Maintained existing levels of staggered work hours

WHO IS AFFECTED BY THIS PROPOSAL:

The residents of Medford and Jackson County.

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 September 15, 1982.

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

<u>City</u>	<u>Time</u>	<u>Date</u>	<u>Location</u>
Medford	7:00 p.m.	September 15, 1982	Municipal Courtroom Medford City Hall (2nd Floor) 411 W. 8th St. Medford, Oregon

WHERE TO OBTAIN ADDITIONAL INFORMATION:

Copies of the proposed rules may be obtained from:

Merlyn Hough  
DEQ Air Quality Division  
Box 1760  
Portland, Oregon 97207  
503-229-6446 (or toll free: 1-800-452-7813)

LEGAL REFERENCES FOR THIS PROPOSAL:

This proposal amends OAR 340-20-047. It is proposed under authority of ORS 468.020, 468.295, and 468.305.

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 October 15, 1982 as part of the agenda of a regularly scheduled Commission meeting.

Statements of Need, Fiscal Impact and Land Use Planning Consistency are attached to his notice.

MLH:a  
AA2388 (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

Federal Clean Air Act as Amended 1977 (PL 95-95). ORS Chapter 468, including Section 020 which gives the Commission authority to adopt necessary rules and standards, Section 295 which authorizes the Commission to establish air quality standards for the State, and Section 305 which authorizes the Commission to prepare and develop a comprehensive plan.

### Need for the Rule

Parts of the Medford area currently exceed the federal 8-hour carbon monoxide standard. For a designated nonattainment area that cannot attain standards by December 31, 1982, the Clean Air Act requires submittal of a detailed control strategy plan by July, 1982. The plan must show attainment of standards as soon as practicable, but not later than December 31, 1987. The proposed control strategy is projected to bring the area into attainment by December 31, 1987.

### Principal Documents Relied Upon

1. Clean Air Act Amendments of 1977 (PL 95-95).
2. DEQ Updated Emission Inventory.
3. EPA, State Implementation Plans: Approval of 1982 Ozone and Carbon Monoxide Plan, Revisions for Areas Needing an Attainment Date Extension; and Approved Ozone Modeling Techniques; Final Policy and Proposed Rulemaking, Federal Register/Vol. 46, No. 14/Thursday, January 22, 1981/Rules and Regulations.
4. Traffic Safety, Circulation and Parking, Downtown Medford, Carl H. Buttke, Inc., October 1978.
5. Medford Area Transportation Study, PRC Voorhees, March 1981.

## FISCAL IMPACT STATEMENT

The City of Medford is in the process of installing a computerized traffic signalization system at a cost of \$1.8 million. Federal funds (88%), state funds (6%) and City of Medford general funds (6%) are being used for this project. Developers of the Rogue Valley Mall will spend \$1.7 million to upgrade adjacent streets and intersections as part of the mall development.

The inspection costs of a biennial inspection maintenance program could be funded by a \$7.00 fee per motor vehicle per biennium as is done in Portland. Motorists could incur some costs as a result of properly maintaining their vehicles. Based on the Portland program, 40% of the inspected vehicles are expected to fail the test at an average repair cost of \$25 per failing vehicle. Some motorists will realize savings as a result of proper maintenance. Businesses with large fleet operations, primarily government and utility companies, could experience some fiscal impact. Some small businesses in the automobile repair industry would economically benefit from the inspection maintenance program. Other small businesses would not be significantly affected by the program.

The bikeway improvements would cost \$120,000. This cost would be part of an arterial street improvement bond issue subject to voter approval. The parking management measures would be funded by \$8,000 from the City of Medford general fund and have been coordinated with downtown businesses through the Medford Chamber of Commerce and Downtown Parking Commission. These measures are expected to reduce employee use of parking spaces in the central business district. This would increase the availability of parking spaces to shoppers and increase the competitiveness of downtown businesses with businesses in outlying areas.

LAND USE PLANNING CONSISTENCY STATEMENT

The Department has concluded that the proposal conforms with the Statewide Planning Goals and Guidelines.

Goal 6 (Air, Water and Land Resources Quality): This proposal is designed to improve and maintain air quality in the affected area and is consistent with the goal.

Goal 9 (Economy of the State): This proposal would allow economic development in the affected area and is consistent with the goal. Failure to implement the proposal could result in economic sanctions and prevent some types of industrial development in the affected area.

Goal 11 (Public Facilities and Services): This proposal does not impact this goal.

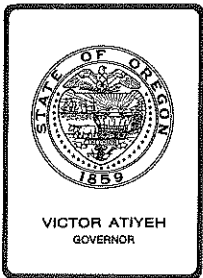
Goal 12 (Transportation): Roadway, bikeway and traffic signal improvements are included in the proposal and comply with the goal by providing a safe, convenient and economic transportation system which minimizes environmental impacts.

Goal 13 (Energy Conservation): The traffic signal improvements, the motor vehicle inspection maintenance program and the encouragement of the use of carpools, vanpools and mass transit are expected to reduce energy use, thereby complying with the goal.

Public comment on any land use issue involved 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 Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflict brought to our attention by local, state or federal authorities.

August 2, 1982  
AA2396 (1)



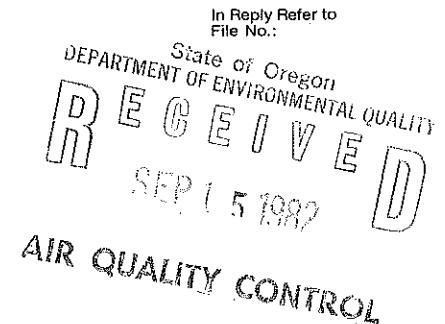
## Department of Transportation

### HIGHWAY DIVISION

TRANSPORTATION BUILDING, SALEM, OREGON 97310

September 12, 1982

Mr. Merlyn L. Hough  
 Department of Environmental Quality  
 Air Quality Division  
 P.O. Box 1760  
 Portland, Oregon 97207



Subject: Comments on the Proposed Revisions to the  
 State Clean Air Act Implementation Plan for  
 the Medford-Ashland AQMA: Carbon Monoxide  
 Control Strategy

Dear Mr. Hough:

We have reviewed the subject draft and have several comments which appear below. Generally, we found the document straight forward and well done. The comments that follow pertain to specific parts which are referenced by the section number and page of the draft (number 9) which we reviewed.

Section 4.9.1 (Page 7) and Figure 4.9.1-2 (Page 9)  
 Carbon monoxide nonattainment area boundary.

The shaded portion of the map (figure 4.9.1-2) includes sections of McAndrews and Jackson between Biddle and Crater Lake Highway. These areas are not included in the written description on Page 7, however.

Figure 4.9.2-2 (Page 14)  
 Chart of CO levels.

This figure is confusing without some explanation of the string of numbers across the top and bottom. Some indication should be given that the figure provides information for a number of sample sites.

Section 4.9.4.1.2, Part B.1 (Pages 23, 24)  
 General description of street improvements.

It was our understanding that the 'Big Y' intersection would be improved by the developer along



Mr. Hough  
Page two  
September 13, 1982

with the other improvements cited. Since the 'Big Y' lies within the nonattainment area, it should be mentioned.

Section 4.9.4.1.5 (Pages 28, 29)  
Parking and commuting for downtown employees.

There may have been some double counting in the survey results. When the percentages of employees commuting by different modes is summed, the total is 109 percent. Respondents to these surveys have a tendency to overstate their use of modes other than auto. They may respond with what they think they should be doing rather than what they are actually doing.

Section 4.9.4.3, Option 3.A (Page 37)  
Biddle Road Extension from Jackson to Barnett

The forecast year for the 18500 vehicles on the Biddle extension, 1987, should be mentioned in this section.

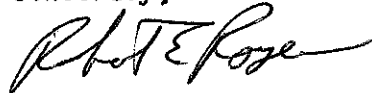
Section 4.9.5.5 (Page 44)  
Transportation planning conducted thus far in Medford

We don't feel that 'very little' is an apt description of transportation planning activities in the Medford area to date. The level of effort has not been on a par with programs in the larger urbanized areas but it has been significant. Perhaps, the principal disadvantage thus far with respect to transportation planning has been the lack of a formal process and a means to coordinate the various efforts in the area.

Mr. Hough  
Page three  
September 13, 1982

We appreciate the opportunity to review this draft and hope our comments will be helpful. Please call me if you wish additional clarification.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert E. Royer".

Robert E. Royer  
Planning Engineer

RMCS:dpy

cc Bruce Shaw  
Erick East



## Department of Environmental Quality

522 S.W. 5th AVENUE, BOX 1760, PORTLAND, OREGON 97207

September 24, 1982

### MEMORANDUM

To: Environmental Quality Commission

From: Director *Bill*

Subject: Agenda Item 0, October 15, 1982, EQC Meeting

Proposed Adoption of Revisions to the Emission Standards for Hazardous Air Contaminants, OAR 340-25-450 to 480, to Make the Department's Rules Pertaining to Control of Asbestos and Mercury Consistent with the Federal Rules; and to Amend Standards of Performance for New Stationary Sources, OAR 340-25-505 to 645, to Include the Federal Rule for New Phosphate Rock Plants; and to Amend the State Implementation Plan.

USEPA Administrator, Ms. Anne Gorsuch, has instructed the EPA Regional Administrators to speed delegation of National Environmental Standards for Hazardous Air Pollutants (NESHAPS) and New Source Performance Standards (NSPS) to the States.

Accordingly, Region X EPA has prepared notices and taken other administrative actions to delegate NESHAPS for Asbestos and Mercury to DEQ based on the understanding that the EQC was scheduled to adopt revised rules at its October meeting.

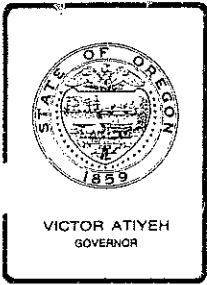
Region X EPA has specifically requested DEQ to get this item on the October EQC agenda if at all possible.

We agreed to try to accommodate EPA's request; however, to do so will require late mailing of this agenda item to the Commission.

Specifically, the Public Hearing on these proposed rules revisions is scheduled for October 5. If there is not much testimony, as is expected to be the case, the staff report probably can be completed for mailing on Friday, October 8, and should be received by you on Monday, October 11. This would give you a few days to familiarize yourselves with the proposed rules changes prior to the meeting on October 15. If the report cannot be completed in time to mail it on Friday, we will take the item off the agenda.

If you are unwilling to consider this item in this manner, please let me know so I can notify EPA and schedule it for the December meeting.

EJWeathersbee:ahe



## *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. 0, October 15, 1982, EQC Meeting

Proposed Adoption of Revisions to the Emission Standards for Hazardous Air Contaminants, OAR 340-25-450 to 480, to Make the Department's Rules Pertaining to Control of Asbestos and Mercury Consistent with the Federal Rules; and to Amend Standards of Performance for New Stationary Sources, OAR 340-25-505 to 645, to Include the Federal Rule for New Phosphate Rock Plants; and to Amend the State Implementation Plan.

### Background and Problem Statement

#### Background

The U.S. Environmental Protection Agency (EPA) began adopting National Emission Standards for Hazardous Air Pollutants (NESHAPS) in June 1973. To acquire delegation to administer these standards, the Commission adopted OAR 340-25-450 to 480, in September 1975; subsequently, the Department received delegation to administer emission standards for asbestos, beryllium, beryllium rocket motor firing, and mercury in Oregon.

EPA began adopting New Stationary Source Performance Standards (NSPS) in 1971. To acquire delegation to administer these standards, the Commission adopted OAR 340-25-505 to 705 in September 1975, and amended them in 1981. EPA delegated certain NSPS to the Department in 1976 and in 1981.

In a March 3, 1982 letter, John R. Spencer, EPA Region X Administrator, asked that the Department adopt nine federal changes to the NESHAPS asbestos rules, three changes to the NESHAPS mercury rules, and several changes to the NSPS rules. This would keep the State and Federal rules consistent, and keep delegation up to date.

As the Department prepared updates of the federal asbestos rule, several problems were uncovered dealing with enforceability of the rules and effectiveness of the disposal requirements. The rule, which the Commission authorized on August 27, 1982 for a hearing, had proposed changes which would make the Oregon rule more stringent than the existing federal rule, to deal with these problems.

The hearing authorized by the Commission was held October 5, 1982. The Hearing Officer's report is Attachment 3 to this Memorandum.

### Problem

The decision before the Commission is whether to take no action, which would mean pertinent Oregon rules would not be up to date with EPA's and therefore, there would be split jurisdiction on certain sources, adopt part of the proposed rule changes, or to adopt the rules changes recommended by the Director (see Attachment 1).

Authority for the Commission to act is given in Oregon Revised Statutes 468.020 and 468.295(3) where the Commission is authorized to establish emission standards for sources of air contaminants.

A "Statement of Need for Rulemaking" is Attachment 2 of this memorandum.

### Proposed Rule Changes and Additions

Most of the proposed rule changes and additions are completely described in the August 27, 1982 Hearing Authorization Report, EQC Agenda Item D (Attachment 4). Minor changes were requested by seven persons who offered written hearing testimony; these changes are described in the middle of Attachment 3, the Hearing Officer's Report. The actual language of the proposed rule changes are shown in Attachment 1, where the proposed added words are underlined and the proposed deletions are [bracketed].

### Changes to Rule Caused by Enforcement Problems

In December 1980, the Washington State Pollution Control Hearings Board ruled against Puget Sound Air Pollution Control Agency, setting aside violations against their asbestos rule and \$1250 in civil penalties against Consumers Central Heating Co. The agency had not actually witnessed visible emissions, although the circumstantial evidence left behind in asbestos debris was incontrovertible. The agency's asbestos rule is the existing federal rule, 40 CFR 61.22(d), adopted by the Washington State Department of Ecology and the Agency by reference.

To avoid having a similar problem in Oregon, new rule 340-25-465(10)(e) was written to forbid open piles of asbestos. Testimony was received which resulted in some improvements to this rule, but no testimony was received objecting to it. During the final review, only the first sentence of the rule was retained. The remainder is considered to weaken the enforceability of the rule; it will be retained as an instruction to the field staff, but is not recommended as a rule.

In 1978, the Supreme Court ruled against EPA in *Adamo v. EPA*, saying that 40 CFR 61.22 was not an emission standard but a work practice, and therefore invalid.

Oregon law, ORS 468.020(1), allows adoption of "such rules and standards as it considers necessary and proper in performing the functions vested by law in the Commission". To avoid DEQ work practice requirements from being invalidated, like EPA in the *Adamo v. EPA* case, the words "and Procedural Requirements" are being added to the title of the State NESHAPS rules and to the title of the asbestos rule, to cover the obvious inclusion of "work practices", with emission standards. There was no testimony on these additions.

Encapsulation

The Department had believed there were other methods of encapsulating friable asbestos, rather than wetting it down in demolition, or rather than removing it in hard to get at places in renovation. Proposed rule 340-25-465(4)(b)(D) was written to allow encapsulation as an alternative to wetting or removal. There was no written testimony received on this subject. The Department has since found that added documentation on the effectiveness of encapsulating is not available yet but may soon be in the form of an ASTM report. Therefore, until an ASTM report is released with more details, 340-25-465(4)(b)(D) as proposed, should not be adopted.

Burning Beryllium in Incinerators

Rule 340-25-470(2)(d) allows incinerators to burn beryllium and/or beryllium containing waste; so does the nine-year-old federal rule 40 CFR 61.32(c). Dr. Carl H. Lawyer, M.D., testified that beryllium poisoning is so similar to sarcoidosis, which is common in Oregon, occasionally fatal, that he would like to see the rule changed to forbid even incinerators from burning beryllium and/or beryllium containing waste. The hearing officer's report reviews the unlikely chance that significant amounts of beryllium could be spread through the airsheds by incinerator exhaust gases. Other than prohibitions in air permits of known beryllium users, the Department does not think an outright prohibition against burning beryllium-containing waste in incinerators is necessary or practical to enforce.

Negative Declarations For Rules Which Are Not Needed in Oregon

There are some standards which have been issued by EPA which it is believed will never apply in Oregon because such sources will not locate here. For these standards listed below, the Department proposes to make a negative declaration to EPA, and proposes not to include them in the Oregon Administrative Rules.

<u>Source</u>	<u>Rule</u>	<u>Date of Federal Register</u>
Vinyl Chloride Production Plants	40 CFR 61.63 Subpart F	October 21, 1976
Primary Copper Smelters	Subpart P (40 CFR 60)	January 15, 1976 March 3, 1978
Primary Zinc Smelters	Subpart Q	January 15, 1976 March 3, 1978
Primary Lead Smelters	Subpart R	January 15, 1976 March 3, 1978
Phosphate Fertilizer Industry	Subparts T,U,V,W,X	August 6, 1975 March 3, 1978
Painting in Auto and Light Duty Truck Assembly Plants	Subpart MM	December 24, 1980
Ammonium Sulphate Manufacture	Subpart PP	November 12, 1980

### State Implementation Plan

Changes in these rules are changes in the Oregon State Implementation Plan (SIP). Therefore, should the Commission approve rule changes, the Commission should also direct the Department to submit the changes to EPA for approval as SIP changes, and seek renewed delegation for administering the federal NESHAPS and NSPS rules in Oregon. EPA has reviewed the proposed rules and has indicated they are approvable.

### Summation

1. EPA adopted the first New Stationary Source Performance Standards (NSPS) in 1971. More have been added since then, the most recent two in April 1982.
2. EPA adopted the first National Emission Standards for Hazardous Air Pollutants (NESHAPS) in June 1973. They added a rule for vinyl chloride in October 1976 and have amended the other NESHAPS rules.
3. To acquire delegation to administer NSPS and NESHAPS in Oregon, the Commission adopted equivalent administrative rules in September 1975, and subsequently received delegation for all sources then covered by federal rules.
4. The Commission amended the Department's NSPS rules in April 1981, adding 8 new rules. Ten other NSPS rules were not adopted for the following reasons:

Five source types were considered unlikely to locate in Oregon:

Primary Copper Smelters	Subpart P
Primary Zinc Smelters	Subpart Q
Primary Lead Smelters	Subpart R
Phosphate Fertilizer Industry, 5 Categories	Subparts T,U,V,W,X

Primary Aluminum Plant, Subpart S, was less stringent than OAR 340-25-265(1)

Lime Manufacturing, Subpart HH, had been remanded to EPA by the courts for amending.

5. In a March 3, 1982 letter, EPA requested the Department to bring its NESHAPS rules up-to-date with federal changes to asbestos and mercury NESHAPS rules, and to adopt the most recent federal NSPS changes, so delegation of these standards could be made. These changes are also changes to the State Implementation Plan (SIP).
6. Of the new NSPS that EPA has requested DEQ to adopt, the Commission should not adopt the following, as it is unlikely they will ever be built in Oregon.

<u>Source</u>	<u>Rule</u>	<u>Date of Federal Register</u>
Vinyl Chloride Production	Subpart F 40 CFR 61.63	October 21, 1976
Painting in Auto and Light Duty Truck Assembly Plants	Subpart MM 40 CFR 60.392	December 24, 1980
Ammonium Sulphate Manufacturers	Subpart PP 40 CFR 60.422	November 12, 1980

7. Environmental Agencies have lost two appeals of important enforcement actions of EPA's asbestos NESHAPS rule. Therefore, the Department, after careful study, is proposing improvements to the EPA asbestos rule. (These are mentioned on page 2).

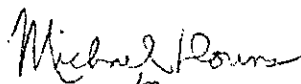
8. The proposed rule changes (Attachment 1) should bring the State rules up-to-date with the federal EPA NESHAPS and NSPS rules, where needed. The regulated sources affected are:

- a. Asbestos mills
- b. Road surfacing with asbestos containing waste materials
- c. Asphalt concrete manufacturing
- d. Demolition contractors, workers
- e. Fabrication using asbestos as a raw material
- f. Asbestos insulation
- g. Waste disposal sites which plan to accept asbestos waste
- h. Sewage treatment plants burning sludge
- i. Gas turbines
- j. Lead-acid battery manufacturing plants
- k. Phosphate rock plants

9. Since it is not certain yet that the proposed, alternative encapsulation technique for handling asbestos is as effective as other required alternatives, it is recommended that the proposed rule, 340-25-465(4)(b)(D), not be adopted allowing encapsulation.

#### Director's Recommendation

It is recommended that the Commission adopt the attached amendments to OAR 340-25-450 to 25-700, rules on Hazardous Air Contaminants and Standards of Performance for New Stationary Sources, and to direct the Department to transmit the amended rules to EPA as amendments to the State Implementation Plan, seeking delegation from EPA for administering state rules comparable to federal rules.

  
William H. Young

- Attachments:
1. Proposed Rules 340-25-450 to 340-25-700
  2. Statement of Need for Rulemaking
  3. Hearing Officer's Report
  4. EQC Agenda Item No. D, August 27, 1982 Meeting

J.F. Kowalczyk:a  
AA2645 (1)  
229-6459  
October 7, 1982



**Emission Standards and Procedural Requirements**  
**For Hazardous Air Contaminants**

**Policy**

340-25-450 The Commission finds and declares that certain air contaminants for which there is no ambient air standard may cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness, and are therefore considered to be hazardous air contaminants. Air contaminants currently considered to be in this category are asbestos, beryllium, and mercury. Additional air contaminants may be added to this category provided that no ambient air standard exists for the contaminant, and evidence is presented which demonstrates that the particular contaminant may be considered as hazardous. It is hereby declared the policy of the Department that the standards contained herein and applicable to operators are to be minimum standards, and as technology advances, conditions warrant, and Department or regional authority rules require or permit, more stringent standards shall be applied.

**Definitions**

340-25-455 As used in this rule, and unless otherwise required by context:

(1) "Asbestos" means actinolite, amosite, anthophyllite, chrysotile, crocidolite, or tremolite.

(2) "Asbestos manufacturing operation" means the combining of commercial asbestos, or in the case of woven friction products, the combining of textiles containing commercial asbestos with any other material(s) including commercial asbestos, and the processing of this combination into a product as specified in rule 340-25-465.

(3) "Asbestos material" means asbestos or any material containing at least 1% asbestos by weight, including particulate asbestos material.

(4) "Asbestos mill" means any facility engaged in the conversion or any intermediate step in the conversion of asbestos ore into commercial asbestos.

(5) "Asbestos tailings" means any solid waste product of asbestos mining or milling operations which contains asbestos.

(6) "Beryllium" means the element beryllium. Where weight or concentrations are specific in these rules, such weights or concentrations apply to beryllium only, excluding any associated elements.

(7) "Beryllium alloy" means any metal to which beryllium has been added in order to increase its beryllium content, and which contains more than 0.1 percent beryllium by weight.

(8) "Beryllium containing waste" means any material contaminated with beryllium and/or beryllium compounds used or generated during any process or operation performed by a source subject to these rules.

(9) "Beryllium ore" means any naturally occurring material mined or gathered for its beryllium content.

(10) "Commercial asbestos" means any variety of asbestos which is produced by extracting asbestos from asbestos ore.

(11) "Commission" means the Environmental Quality Commission.

(12) "Demolition" means the wrecking or removal of any boiler, duct, pipe, or [load supporting] structural member insulated or fireproofed with asbestos material or of any other thing made of friable asbestos such as decorative panels.

(13) "Department" means the Department of Environmental Quality.

(14) "Director" means the Director of the Department or regional authority and authorized deputies or officers.

(15) "Friable asbestos material" means any asbestos material easily crumbled or pulverized by hand, resulting in the release of particulate asbestos material. This definition shall include any friable asbestos debris.

(16) "Hazardous air contaminant" means any air contaminant considered by the Department or Commission to cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness and for which no ambient air standard exists.

(17) "Mercury" means the element mercury, excluding any associated elements and includes mercury in particulates, vapors, aerosols, and compounds.

(18) "Mercury ore" means any mineral mined specifically for its mercury content.

(19) "Mercury ore processing facility" means a facility processing mercury ore to obtain mercury.

(20) "Mercury chlor-alkali cell" means a device which is basically composed of an electrolyzer section and a denuder (decomposer) section, and utilizes mercury to produce chlorine gas, hydrogen gas, and alkali metal hydroxide.

(21) "Particulate asbestos material" means any finely divided particles of asbestos material.

(22) "Person" means any individual(s), corporation(s), association(s), firm(s), partnership(s), joint stock company(ies), public and municipal corporation(s), political sub-division(s), the state and agency(ies) thereof, and the federal government and any agency(ies) thereof.

(23) "Propellant" means a fuel and oxidizer physically or chemically combined, containing beryllium or beryllium compounds, which undergoes combustion to provide rocket propulsion.

(24) "Propellant plant" means any facility engaged in the mixing, casting, or machining of propellant.

(25) "Regional authority" means any regional air quality control authority established under the provisions of ORS 468.505.

(26) "Renovation" means the removing or stripping of friable asbestos material used to insulate or fireproof any pipe, duct, boiler, tank, reactor, turbine, furnace, decorative panel, or structural member.

(27) [26] "Startup" means commencement of operation of a new or modified source resulting in release of contaminants to the ambient air.

(28) "Structural member" means any load-supporting member, such as beams and load-supporting walls; or any non-supporting-member, such as ceilings and non-load-supporting walls.

(29) "Asbestos-containing waste material" means any waste which contains commercial asbestos and is generated by a source subject to the provisions of this subpart, including asbestos mill tailings, control device asbestos waste, friable asbestos waste material, and bags or containers that previously contained commercial asbestos.

### General Provisions

340-25-460 (1) Applicability. The provisions of these rules shall apply to any source which emits air contaminants for which

a hazardous air contaminant standard is prescribed. Compliance with the provisions of these rules shall not relieve the source from compliance with other applicable rules of the Oregon Administrative Rules, Chapter 340, or with applicable provisions of the Oregon Clean Air Act Implementation Plan.

(2) Prohibited activities:

(a) No person shall operate any source of emissions subject to these rules without first registering such source with the Department following procedures established by ORS 468.320 and OAR 340-20-005 through 340-20-015. Such registration shall be accomplished within ninety (90) days following the effective date of these rules.

(b) After the effective date of these rules, no person shall construct a new source or modify any existing source so as to cause or increase emissions of contaminants subject to these rules without first obtaining written approval from the Department.

(c) No person subject to the provisions of these emission standards shall fail to provide reports or report revisions as required in these rules.

(3) Application for approval of construction or modification. All applications for construction or modification shall comply with the requirements of rules 340-20-020 through 340-20-030 and the requirements of the standards set forth in these rules.

(4) Notification of startup. Notwithstanding the requirements of rules 340-20-020 through 340-20-030, any person owning or operating a new source of emissions subject to these emission standards shall furnish the Department written notification as follows:

(a) Notification of the anticipated date of startup of the source not more than sixty (60) days no less than thirty (30) days prior to the anticipated date.

(b) Notification of the actual startup date of the source within fifteen (15) days after the actual date.

(5) Source reporting and approval request. Any person operating any existing source, or any new source for which a standard is prescribed in these rules which had an initial startup which preceded the effective date of these rules shall provide the following information to the Department within ninety (90) days of the effective date of these rules:

(a) Name and address of the owner or operator.

(b) Location of the source.

(c) A brief description of the source, including nature, size, design, method of operations, design capacity, and identification of emission points of hazardous contaminants.

(d) The average weight per month of materials being processed by the source and percentage by weight of hazardous contaminants contained in the processed materials, including yearly information as available.

(e) A description of existing control equipment for each emission point, including primary and secondary control devices and estimated control efficiency of each control device.

(6) Source emission tests and ambient air monitoring:

(a) Emission tests and monitoring shall be conducted using methods set forth in 40 CFR, Part 61, Appendix B, as published in the [Federal Register, Volume 38, No. 66, Friday, April 6, 1973] Code of Federal Regulations last amended by the Federal Register, June 8, 1982, pages 24703 to 24716. The methods described in 40 CFR, Part 61, Appendix B, are adopted by reference and made a part of these rules. Copies of these methods are on file at the Department of Environmental Quality.

(b) At the request of the Department, any source subject to standards set forth in these rules may be required to provide emission testing facilities as follows:

(A) Sampling ports, safe sampling platforms, and access to sampling platforms adequate for test methods applicable to such source.

(B) Utilities for sampling and testing equipment.

(c) Emission tests may be deferred if the Department determines that the source is meeting the standard as proposed in these rules. If such a deferral of emission tests is requested, information supporting the request shall be submitted with the request for written approval of operation. Approval of a deferral of emission tests shall not in any way prohibit the Department from canceling the deferral if further information indicates that such testing may be necessary to insure compliance with these rules.

(7) Delegation of authority. The Commission may, when any regional authority requests and provides evidence demonstrating its capability to carry out the provisions of these rules relating to hazardous contaminants, authorize and confer jurisdiction within its boundary until such authority and

jurisdiction shall be withdrawn for cause by the Commission.

Stat. Auth. ORS Ch.

Hist: DEQ 96.f. 9-2-75, ef. 9-25-75

**Emission Standards and Procedural Requirements For Asbestos**

340-25-465 (1) Emission standard for asbestos mills. [There shall be no] No person shall cause to be discharged into the atmosphere any visible emissions [to the outside air] from any asbestos milling operation except as provided under section (7) of this rule. For purposes of these rules, the presence of uncombined water in the emission plume shall not be cause for failure to meet the visible emission requirement. Outside storage of asbestos materials is not considered a part of an asbestos mill.

(2) Roadways and Parking Lots. The surfacing of roadways, parking lots or any other surface covering on which vehicle traffic might reasonably be expected to occur, with asbestos tailings or asbestos material is prohibited, except for temporary roadways on an area of asbestos ore deposits. For purposes of these rules, the deposition of asbestos tailings on roadways covered by snow or ice is considered surfacing.

(3) Manufacturing. [There shall be no] No person shall cause to be discharged into the atmosphere any visible emissions [to the outside air], except as provided in section (7) of this rule, from any building or structure in which manufacturing operations utilizing commercial asbestos are conducted, or directly from any such manufacturing operations if they are conducted outside buildings or structures. Visible emissions from boilers or other points not producing emissions directly from the manufacturing operation and having no possible asbestos material in the exhaust gases shall not be considered for purposes of this rule. The presence of uncombined water in the exhaust plume shall not be cause for failure to meet the visible emission requirements. Manufacturing operations considered for purposes of these rules are as follows:

(a) The manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials.

(b) The manufacture of cement products.

(c) The manufacture of fireproofing and insulating materials.

(d) The manufacture of friction products.

(e) The manufacture of paper, millboard, and felt.

(f) The manufacture of floor tile.

(g) The manufacture of paints, coatings, caulks, adhesives, or sealants.

(h) The manufacture of plastics and rubber materials.

(i) The manufacture of chlorine.

(j) The manufacture of shotgun shells.

(k) The manufacture of asphalt concrete

l [(j)] Any other manufacturing operation which results or may result in the release of asbestos material to the ambient air.

(4) Demolition and renovation. All persons, both the contractor and the owner, intending to demolish any institutional, commercial, or industrial building, including apartment buildings having four or more dwelling units, structure, facility, installation, or any vehicle or vessel including, but not limited to, ships; or any portion thereof which contains any boiler, pipe, duct, tank, reactor, turbine, furnace, or [load supporting] structural member that is insulated or fireproofed with friable asbestos material shall comply with the requirements set forth in this rule:

(a) Notice of intention to demolish and/or renovate shall be provided to the Department [at least ten (10) days] prior to commencement of such demolition and/ or renovation [at any time prior to commencement of demolition covered under subsection (4)(c) of this rule]. Such notice shall include the following information:

(A) Name and address of person intending to engage in demolition.

(B) Description of building, structure, facility, installation, vehicle, or vessel to be demolished or renovated, including address or location where the demolition is to be accomplished.

(C) Schedule starting and completion dates of demolition.

(D) Method of demolition and/or of renovation to be employed.

(E) Procedures to be employed to insure compliance with provisions of this section.

(F) Name and address or location of the waste disposal site where the friable asbestos waste will be deposited.

(G) Name and address of owner of facility to be demolished or renovated.

(b) The following procedures shall be employed to prevent emissions of particulate asbestos material into the ambient air:

(A) Friable asbestos materials used to insulate or fireproof any boiler, pipe, duct, or [load supporting] structural member shall be wetted and removed from any building, structure, facility, installation, or vehicle or vessel before demolition of [load supporting] structural members is commenced. Boilers, pipe, duct, or [load supporting] structural members that are insulated or fireproofed with friable asbestos materials may be removed as units or in sections without stripping or wetting, except that where the boiler, pipe, duct, or structural member is cut or disjointed the exposed friable asbestos material shall be wetted. Friable asbestos debris shall be wetted adequately to insure that such debris remains wet during all stages of demolition and related handling operations.

(B) No pipe, duct, or [load supporting] structural member that is covered with asbestos material shall be dropped or thrown to the ground from any building structure, facility, installation, vehicle, or vessel subject to this section, but shall be carefully lowered or taken to ground level in such a manner as to insure that no particulate asbestos material is released to the ambient air.

(C) No friable asbestos debris shall be dropped or thrown to the ground from any building structure, facility, installation, vehicle, or vessel subject to this section, or from any floor to any floor below. Any debris generated as a result of demolition occurring fifty (50) feet (15.24 meters) or greater above ground level shall be transported to the ground via dust-tight chutes or containers.

[ ~~(D) Equivalent methods of encapsulating asbestos may be submitted to the Department in writing, and upon written approval may be substituted as approved for (A), (B), or (C) above. ]~~

(D) [E] For renovation operations, local exhaust ventilation and collection systems may be used, instead of wetting; these systems shall comply with 340-25-465(7).

(c) Any person intending to demolish a building, structure, facility, or installation subject to the provisions of this section, but which has been declared by proper state or local



authorities to be structurally unsound and which is in danger of imminent collapse is exempt from the requirements of this section, other than the reporting requirements specified in subsection (4)(a) of this rule, and the wetting of friable asbestos debris as specified in paragraph (4)(b)(A) of this rule.

(d) Sources located in cities or other areas of local jurisdiction having demolition regulations or ordinances no less restrictive than those of this rule may be exempted from the provisions of this section. Such local ordinance or regulation must be filed with and approved by the Department before an exemption from these rules may be issued. Any authority having such local jurisdiction shall annually submit to the Department a list of all sources subject to this section operating within the local jurisdictional area and a list of those sources observed by the local authority during demolition operations.

(5) Spraying:

(a) [There shall be no] No person shall cause to be discharged into the atmosphere any visible emissions [to the ambient air] from any spray-on application of materials containing more than one (1) percent asbestos on a dry weight basis used to insulate or fireproof equipment or machinery, except as provided in section (7) of this rule. Spray-on materials used to insulate or fireproof buildings, structures, pipes, and conduits shall contain less than one (1) percent asbestos on a dry weight basis. In the case of any city or area of local jurisdiction having ordinances or regulations for spray application materials more stringent than those in this section, the provisions of such ordinances or regulations shall apply.

(b) Any person intending to spray asbestos materials to insulate or fireproof buildings, structures, pipes, conduits, equipment, or machinery shall report such intention to the Department [at least twenty (20) days] prior to the commencement of the spraying operation. Such report shall contain the following information:

(A) Name and address of person intending to conduct the spraying operation.

(B) Address or location of the spraying operation.

(C) The name and address of the owner of the facility being sprayed.

(c) The spray-on application of materials in which the asbestos fibers are encapsulated with a bituminous or resinous binder during spraying and which are not friable after drying is exempted from the requirements of paragraphs (5)(a) and (5)(b).

(6) Options for air cleaning. Rather than meet the no visible emissions requirements of sections (1), (3), and (4) of this rule, owners and operators may elect to use methods specified in section (7) of this rule.

(7) Air cleaning. All persons electing to use air cleaning methods rather than comply with the no visible emission requirements must meet all provisions of this section.

(a) Fabric filter collection devices must be used, except as provided in subsections (b) and (c) of this section. Such devices must be operated at a pressure drop of no more than four (4) inches (10.16 cm) water gauge as measured across the filter fabric. The air flow permeability, as determined by ASTM Method D737-69, must not exceed  $30 \text{ ft.}^3/\text{min.}/\text{ft.}^2$  ( $9.144 \text{ m}^3/\text{min.}/\text{m}^2$ ) for woven fabrics or  $35 \text{ ft.}^3/\text{min.}/\text{ft.}^2$  ( $10.67 \text{ m}^3/\text{min.}/\text{m}^2$ ) for felted fabrics with the exception that airflow permeability for  $40 \text{ ft.}^3/\text{min.}/\text{m}^2$  ( $12.19 \text{ m}^3/\text{min.}/\text{m}^2$ ) for woven and  $45 \text{ ft.}^3/\text{min.}/\text{ft.}^2$  ( $13.72 \text{ m}^3/\text{min.}/\text{m}^2$ ) for felted fabrics shall be allowed for filtering air emissions from asbestos ore dryers. Each square yard (square meter) of felted fabric must weigh at least 14 ounces (396.9 grams) and be at least one-sixteenth ( $1/16$ ) inch (1.59 cm) thick throughout. Any synthetic fabrics used must not contain fill yarn other than that which is spun.

(b) If the use of fabric filters creates a fire or explosion hazard, the Department may authorize the use of wet collectors designed to operate with a unit contacting energy of at least forty (40) inches (101.6 cm) of water gauge pressure.

(c) The Department may authorize the use of filtering equipment other than that described in subsections (7)(a) and (b) of this rule if such filtering equipment is satisfactorily demonstrated to provide filtering of asbestos material equivalent to that of the described equipment.

(d) All air cleaning devices authorized by this section must be properly installed, operated, and maintained. Devices to bypass the air cleaning equipment may be used only during upset and emergency conditions, and then only for such time as is necessary to shut down the operation generating the particulate asbestos material.

(e) All persons operating any existing source using air cleaning devices shall, within ninety (90) days of the effective date of these rules, provide the following information to the Department:

(A) A description of the emission control equipment used for each process.

(B) If a fabric is utilized, the following information shall be reported:

(i) The pressure drop across the fabric filter in inches water gauge and the airflow permeability in  $\text{ft.}^3/\text{min.}/\text{ft.}^2$  ( $\text{m}^3/\text{min.}/\text{m}^2$ ).

(ii) For woven fabrics, indicate whether the fill yarn is spun or not spun.

(iii) For felted fabrics, the density in ounces/yard<sup>3</sup> (gms/m<sup>3</sup>) and the minimum thickness in inches (centimeters).

(C) If a wet collector is used the unit contact energy shall be reported in inches of pressure, water gauge.

(D) All reported information shall accompany the information required in paragraph 340-25-460(5)(a)(E).

(8) Fabricating: No person shall cause to be discharged into the atmosphere any visible emissions except as provided in paragraph (7) of this section, from any fabricating operations, including the following, if they use commercial asbestos or, from any building or structure in which such operations are conducted.

(a) The fabrication of cement building products.

(b) The fabrication of friction products, except those operations that primarily install asbestos friction materials on motor vehicles.

(c) The fabrication of cement or silicate board for ventilation hoods; ovens; electrical panels; laboratory furniture; bulkheads, partitions and ceilings for marine construction; and flow control devices for the molten metal industry.

(9) Insulating: Molded insulating materials which are friable and wet-applied insulating materials which are friable after drying, installed after the effective date of these regulations, shall contain no commercial asbestos. The provisions of this paragraph do not apply to insulating materials which are spray applied; such materials are regulated under (3).

(10) Waste disposal for manufacturing, fabricating, demolition, renovation and spraying operations: The owner or operator of any source covered under the provisions of paragraphs (3), (4), (5), or (8) of this section shall meet the following standards:

(a) There shall be no visible emissions to the outside air, except as provided in paragraph (10)(c) of this section, during the collection; processing, including incineration; packaging; transporting; or deposition of any asbestos-containing waste material which is generated by such source.

(b) All asbestos-containing waste material shall be disposed of at a disposal site authorized by the Department.

(A) Persons intending to dispose of waste-containing asbestos shall notify the landfill operator of the type and volume of the waste material and obtain the approval of the landfill operator prior to bringing the waste to the disposal site.

(B) All waste-containing asbestos shall be stored and transported to the authorized disposal site in leak-tight containers such as plastic bags with a minimum of thickness of 6 mil., or fiber or metal drums.

(C) The waste transporter shall immediately notify the landfill operator upon arrival of the waste at the disposal site. Off-loading of waste-containing asbestos shall be done under the direction and supervision of the landfill operator.

(D) Off-loading of waste-containing asbestos shall occur at the immediate location where the waste is to be buried. The waste burial site shall be selected in an area of minimal work activity that is not subject to future excavation.

(E) Off-loading of waste-containing asbestos shall be accomplished in a manner that prevents the leak-tight transfer containers from rupturing and prevents visible emissions to the air.

(F) Immediately after waste-containing asbestos is deposited at the disposal site, it shall be covered with at least 2 feet of soil or other waste before compacting equipment runs over it. If other waste is used to cover the asbestos-containing material prior to compaction, the disposal area shall be covered with 1 foot of soil before the end of the operating day.

(c) Rather than meet the requirements of this section, an owner or operator may elect to use an alternative disposal method which has received prior approval by the Department in writing.

(d) All asbestos-containing waste material shall be sealed into containers labeled with a warning label that states:

Caution

Contains Asbestos  
Avoid Opening or Breaking Container  
Breathing Asbestos is Hazardous  
to Your Health

Alternatively, warning labels specified by Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 CFR 1910-93a(g)(2)(ii) may be used, or its Oregon State equivalent OAR 437-115-040(2)(b).

(e) Open storage or accumulation of friable asbestos material or asbestos-containing waste material is prohibited. [When-found-in-violation-of-this-rule-against-open-storage-or-accumulation, the owner, operator and/or contractor at any site subject to these rules shall immediately cover or otherwise control friable asbestos material upon being notified of its uncovered state and remove the friable asbestos material within one week.]

Stat. Auth. ORS Ch.

Hist: DEQ 96. f. 9-2-75. ef. 9-25-75.

**Emission Standard For Beryllium**

340-25-470 (1) Applicability. The provisions of this rule are applicable to the following emission sources of beryllium.

(a) Extraction plants, ceramic plants, foundries, incinerators, and propellant plants which process beryllium, beryllium ore, oxides, alloys, or beryllium containing waste.

(b) Machine shops which process beryllium, beryllium oxides, or any alloy when such alloy contains more than five percent (5%) beryllium by weight.

(c) Other sources, the operation of which results or may result in the emission of beryllium to the outside air.

(2) Emission limit:

(a) No person shall cause to be discharged into the atmosphere emissions [to the ambient air] from any source [shall not exceed] exceeding 10 grams of beryllium for any 24 hour period [, except as provided in subsection (2)(b) of this rule].

(b) [Rather than meet the requirements of subsection (a) of this section, persons operating sources of beryllium emissions may request approval from the Department to comply with an ambient air concentration limit for beryllium emissions in the

vicinity of the source. The ambient concentration shall not exceed 0.0 micrograms per cubic meter as an average of all samples taken during any one month period. Approval of such requests may be granted by the Director provided that:

(A) At least three (3) years of ambient sampling data is available which demonstrates that the future ambient concentrations of beryllium will not exceed this standard concentration in the vicinity of the source. Such three (3) year period shall be the three years ending thirty (30) days before the effective date of these rules.

(B) The person requesting this approval makes such request in writing to the Department within forty-five (45) days after the effective date of these rules, including the following information:

(i) A description of the sampling procedures, including methods of sampling, method and frequency of calibration, and averaging technique for determining monthly concentrations.

(ii) Identification of sampling sites, including number of stations, distance, and heading from the source, ground elevations, and height above ground of sampling inlets.

(iii) Plots of source and surrounding area, including emission points, sampling sites, and topographic features significantly affecting dispersion of contaminants.

(iv) Information necessary for estimating dispersion, including stack height and inside diameter, exit gas temperature and velocity or flow rate, and beryllium concentration in exit gases.

(v) Air sampling data as required in subsection (2)(b) of this rule, including data for individual samples and site locations used to develop the one month average concentrations; and a description of data and procedures (methods or models) used to design the air sampling network.

(c) Within sixty (60) days of receipt of such report, the Department will notify persons making the request of the decision to approve or deny the request. Prior to denying approval of provisions of subsection (2)(b) of this rule, the Department will consult with representatives of the source for which the report was submitted.]

(d)]The burning of beryllium and/or beryllium containing waste except propellants is prohibited except in incinerators, emissions from which must comply with the standard.

(c)[(e)] Stack sampling:

(A) Unless a deferral of emission testing is obtained under the provisions of subsection 340-25-460(6)(c), each person operating a source subject to the provisions of this standard shall test emissions from his source subject to the following schedule:

(i) Within ninety (90) days of the effective date of these rules for existing sources or for new sources having startup dates prior to the effective date of this standard.

(ii) Within ninety (90) days of startup in the case of a new source having a startup date after the effective date of this standard.

(B) The Department shall be notified at least thirty (30) days prior to an emission test so that they may, at their option, observe the test.

(C) Samples shall be taken over such periods and frequencies as necessary to determine the maximum emissions occurring during any 24 hour period. Calculations of maximum 24 hour emissions shall be based on that combination of process operating hours and any variation in capacities or processes that will result in maximum emissions. No changes in operation which may be expected to increase total emissions over those determined by the most recent stack test shall be made until estimates of the increased emissions have been calculated, and have been reported to and approved in writing by the Department.

(D) All samples shall be analyzed and beryllium emissions shall be determined and reported to the Department within thirty (30) days following the stack test. Records of emission test results and other data needed to determine beryllium emissions shall be retained at the source and made available for inspection by the Department for a minimum of two (2) years following such determination.

[(f) Ambient air sampling:

(A) Sources subject to the provisions of this section shall locate and operate ambient air sampling sites in accordance with a plan submitted to and approved in writing by the Department. Such sites shall be located in such a manner as to detect maximum ambient air concentrations in the vicinity of the source.

(B) All monitoring sites shall be operated in such a manner as to provide continuous samples, except for a reasonable time allowed for instrument calibration and repair, or for replacement of equipment needing repair.

(C) Filters shall be analyzed and contaminant concentrations calculated within thirty (30) days of the date they are collected. Concentrations of contaminants at all sampling sites shall be reported to the Department each calendar month. Records of concentrations and other data necessary to determine concentrations shall be retained at the source and made available for inspection by the Department for a minimum of two (2) years after determinations have been made.

(D) The Department may require changes in the sampling network at any time in order to insure that the maximum ambient air concentrations of beryllium in the area of the source are being measured.]

#### **Emission Standard For Beryllium Rocket Motor Firing**

340-25-475 The emission standard for Beryllium Rocket Motor Firing, 40 CFR, Part 61, Section 61.40 through 61.44, adopted Friday, April 6, 1973, and as amended on August 17, 1977 and March 3, 1978. is adopted by reference and made a part of these rules. A copy of this emission standard is on file at the Department of Environmental Quality.

#### **Emission Standard for Mercury**

340-25-480 (1) Applicability. The provisions of this rule are applicable to sources which process mercury ore to recover mercury, sources using mercury chlor-alkali cells to produce chlorine gas and alkali metal hydroxide, and to any other source, the operation of which results or may result in the emission of mercury to the ambient air.

(2) Emission Standard. No person shall cause to be discharged into the atmosphere emissions [to the ambient air] from any source [shall not] exceed ing 2,300 grams of mercury during any 24 hour period, except that mercury emissions to the atmosphere from sludge incineration plants, sludge drying plants, or a combination of these that process wastewater treatment plant sludges shall not exceed 3200 grams of mercury per 24-hour period.

(3) Stack sampling:

(a) Mercury ore processing facility:

(A) Unless a deferral of emission testing is obtained under subsection 340-25-460(6)(c) of these rules, each person operating a source processing mercury ore shall test emissions from his source, subject to the following:



(i) Within ninety (90) days of the effective date of these rules for existing sources or for new sources having startup dates prior to the effective date of this standard.

(ii) Within ninety (90) days of startup in the case of a new source having a startup date after the effective date of this standard.

(B) The Department shall be notified at least thirty (30) days prior to an emission test so that they may, at their option, observe the test.

(C) Samples shall be taken over such periods and frequencies as necessary to determine the maximum emissions occurring during any 24 hour period. Calculations of maximum 24 hour emissions shall be based on that combination of process operating hours and any variation in capacities or processes that will result in maximum emissions. No changes in operation which may be expected to increase total emissions over those determined by the most recent stack test shall be made until estimates of the increased emissions have been calculated, and have been reported to and approved in writing by the Department.

(D) All samples shall be analyzed and mercury emissions shall be determined and reported to the Department within thirty (30) days following the stack test. Records of emission test results and other data needed to determine mercury emissions shall be retained at the source and made available for inspection by the Department for a minimum of two (2) years following such determination.

(b) Mercury chlor-alkali plant:

(A) Hydrogen and end-box ventilation gas streams. Unless a deferral of emission testing is obtained under subsection 340-25-460(6)(c), each person operating a source of this type shall test emissions from his source following the provisions of subsection (3)(a) of this rule.

(B) Room ventilation system:

(i) Unless a deferral of emission testing is obtained under subsection 340-25-460(6)(c), all persons operating mercury chlor-alkali plants shall pass all cell room air in forced gas streams through stacks suitable for testing.

(ii) Emissions from cell rooms may be tested in accordance with provisions of paragraph (3)(b)(A) of this rule or may demonstrate compliance with paragraph (3)(b)(B)(iii) of this rule and assume ventilation emissions of 1,300 grams/day of mercury.

(iii) If no deferral of emission testing is requested, each person testing emissions shall follow the provisions of subsection (3)(a) of this rule.

(c) Any person operating a mercury chlor-alkali plant may elect to comply with room ventilation sampling requirements by carrying out approved design, maintenance, and housekeeping practices. A summary of these approved practices shall be available from the Department.

(d) Stack sampling and sludge sampling at wastewater treatment plants shall be performed in accordance with 40 CFR 61.53(d) or 40 CFR 61.54, last amended by Federal Register June 8, 1982, page 24703.

## **Standards of Performance for New Stationary Sources**

### **Statement of Purpose**

340-25-505 The U.S. Environmental Protection Agency has adopted in Title 40, Code of Federal Regulations, Part 60, Standards of Performance for certain new stationary sources. It is the intent of this rule to specify requirements and procedures necessary for the Department to implement and enforce the aforementioned Federal Regulation.

### **Definitions**

340-25-510 (1) "Administrator" herein and in Title 40, Code of Federal Regulations, Part 60, means the Director of the Department or appropriate regional authority.

(2) "Federal Regulation" means Title 40, Code of Federal Regulations, Part 60, as promulgated prior to [June 1, 1975] April 17, 1982.

(3) "CFR" means Code of Federal Regulations.

(4) "Regional authority" means a regional air quality control authority established under provisions of ORS 468.505.

### **Statement of Policy**

340-25-515 It is hereby declared the policy of the Department to consider the performance standards for new stationary sources contained herein to be minimum standard; and, as technology advances, conditions warrant, and Department or regional authority rules require or permit, more stringent standards shall be applied.

## Delegation

340-25-520 The Commission may, when any regional authority requests and provides evidence demonstrating its capability to carry out the provisions of these rules, authorize and confer jurisdiction upon such regional authority to perform all or any of such provisions within its boundary until such authority and jurisdiction shall be withdrawn for cause by the Commission.

## Applicability

340-25-525 This rule shall be applicable to stationary sources identified in rules 340-25-550 through [340-25-645]

340-25-655 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.

## General Provisions

340-25-530 Title 40, CFR. Part 60, Subpart A. as promulgated prior to [October 8, 1980] April 17, 1982, is by this reference adopted and incorporated herein. Subpart A includes paragraphs 60.1 to 60.16 which address, among other things, definitions, performance tests, monitoring requirements, and modification.

## Performance Standards

### Federal Regulations Adopted by Reference

340-25-535 Title 40, CFR, Parts 60.40 through 60.154, and 60.250 through [60.335] 60.404, as established as final rules prior to [October 8, 1980] April 17, 1982, is by this reference adopted and incorporated herein. As of [October 8, 1980], April 17, 1982, the Federal Regulations adopted by reference set the emission standards for the new stationary source categories set out in rules 340-25-550 through [340-25-645] 340-25-655 (these are summarized for easy screening, but testing conditions, the actual standards, and other details will be found in the Code of Federal Regulations).

:::

### Standards of Performance for Gas Turbines

340-25-645 The pertinent federal rules are 40 CFR 60.330 to 60.335, also known as Subpart GG. The following emission standards, summarizing the federal standards set forth in Subpart GG, 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 i [except as noted in subsection (1)(c) of this rule:]

(1) 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 the rates specified in 40 CFR 60.332.

[(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.]

(2) 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.

#### Standards of Performance for Lead-Acid Battery Manufacturing Plants

340-25-650 The pertinent federal rules are 40 CFR 60.370 to 60.374, also known as Subpart KK. The following standards set forth in Subpart KK apply to any lead-acid battery manufacturing plant that produces or has the design capacity to produce in one day (24 hours) batteries containing an amount of lead equal to or greater than 5.9 Mg (6.5 tons), for which construction or modification of any facility affected by the rule commenced after January 14, 1980.

Standards for Lead No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere:

(1) From any grid casting facility any gases that contain lead in excess of 0.40 milligram of lead per dry standard cubic meter of exhaust (0.000176 gr/dscf).

(2) From any paste mixing facility any gases that contain in excess of 1.00 milligram of lead per dry standard cubic meter of exhaust (0.00044 gr/dscf).

(3) From any three-process operation facility any gases that contain in excess of 1.00 milligram of lead per dry standard cubic meter of exhaust (0.00044 gr/dscf).

(4) From any lead oxide manufacturing facility any gases that contain in excess of 5.0 milligrams of lead per kilogram of lead feed (0.010 lb/ton).

(5) From any lead reclamation facility any gases that contain in excess of 4.50 milligrams of lead per dry standard cubic meter of exhaust (0.00198 gr/dscf).

(6) From any other lead-emitting operation any gases that contain in excess of 1.00 milligram per dry standard cubic meter of exhaust (0.00044 gr/dscf).

(7) From any affected facility other than a lead reclamation facility any gases with greater than 0 percent opacity.

(8) From any lead reclamation facility any gases with greater than 5 percent opacity.

#### Standards of Performance for Phosphate Rock Plants

340-25-655 The pertinent federal rules are 40 CFR 60.400 to 60.404, also known as Subpart NN. The following standards set forth in Subpart NN apply to phosphate rock plants which have a maximum plant production capacity greater than 3.6 megagrams per hour (4.0 tons per hour), for which construction or modification of the facility affected by this rule commenced after September 21, 1979.

Standard for Particulate No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere:

(1) From any phosphate rock dryer any gases which:

(a) Contain particulate matter in excess of 0.030 kilogram per megagram of phosphate rock feed (0.060 lb/ton), or

(b) Exhibit greater than 10-percent opacity.

(2) From any phosphate rock calciner processing unbeneficiated rock or blends of beneficiated and unbeneficiated rock, any gases which:

(a) Contains particulate matter in excess of 0.12 kilogram per megagram of phosphate rock feed (0.23 lb/ton), or

(b) Exhibit greater than 10-percent opacity.

(3) From any phosphate rock calciner processing beneficiated rock any gases which:

(a) Contain particulate matter in excess of 0.055 kilogram per megagram of phosphate rock feed (0.11 lb/ton), or

(b) Exhibit greater than 10-percent opacity.

(4) From any phosphate rock grinder any gases which:

(a) Contain particulate matter in excess of 0.006 kilogram per megagram of phosphate rock feed (0.012 lb/ton), or

(b) Exhibit greater than zero-percent opacity.

(5) From any ground phosphate rock handling and storage system any gases which exhibit greater than zero-percent opacity.

#### **Compliance**

340-25-700 Compliance with standards set forth in this rule shall be determined by performance tests and monitoring methods as set forth in the Federal Regulation adopted by reference in rule 340-25-530.

#### **More Restrictive Regulations**

340-25-705 If at any time there is a conflict between Department or regional authority rules and the Federal Regulation (40 CFR, Part 60), the more stringent shall apply.

AA2363 (1)  
10/8/82

**STATEMENT OF NEED FOR RULEMAKING**

Pursuant to ORS 183.335(2), this statement provides information on the intended action to amend a rule, OAR 340-25-450 to OAR 340-25-700.

**Legal Authority**

The statutory authority is ORS 468.020(1) and ORS 468.295(3) where the Commission is authorized to establish different rules for different sources of air pollution.

**Need for the Rule**

Two rule changes are needed to protect workers and to protect people who later enter the premises from cancer-causing asbestos particles. These proposed changes in the Emission Standards and Procedures For Asbestos would make the Oregon rules more stringent than the existing federal rule (40 CFR 61.22):

1. No exemption for small demolition and renovation projects (where friable asbestos is less than 260 lineal feet or 160 square feet);
2. An Oregon rule to forbid any open storage or accumulation of asbestos or asbestos-containing waste material in 340-25-465(10)(e).

The other changes bring the older Oregon rules up-to-date with the latest changes and additions to the federal "National Emission Standards for Hazardous Air Pollutants", 40 CFR 61, and with the federal "Standards of Performance for New Stationary Sources", 40 CFR 60. As Oregon rules are kept up-to-date with the federal rules, then the federal EPA delegates jurisdiction for their rules to the Department, allowing Oregon industry and commerce to be regulated by only one environmental agency. This action was urged most recently by EPA's March 3, 1982 letter.

**Principal Documents Relied Upon**

1. 40 CFR 60, 61 Code of Federal Regulations, as amended in recent Federal Registers concerning "Standards of Performance for New Stationary Sources", and "National Emission Standards for Hazardous Air Pollutants".
2. Adamo v. EPA, 1978, Supreme Court decision declaring that EPA's asbestos rule 40 CFR 61.22 was not an emission standard but a work practice.
3. Consumers Central Heating Co. v. PSAPCA, a December 3, 1980 Washington State Pollution Control Hearings Board final order which vacated violations and \$1250 civil penalties because no visible emissions were

witnessed, in spite of the circumstantial evidence of considerable asbestos debris left on the premises.

4. Asbestos and Disease, by Dr. Irving J. Selikoff and Dr. Douglas H.K. Lee, 1978, Academic Press, New York.
5. U.S. Environmental Protection Agency letter, March 3, 1982, John R. Spencer, Region X Administrator, to W.H. Young, DEQ Director, concerning delegation of federal rules to Oregon.
6. Federal Register, September 2, 1982, pages 38832-38859, Proposed NSPS for Lime Plants, response to court remand.
7. Federal Register, September 3, 1982, page 38982, Notice of Delegation of NSPS to Oregon for Aluminum Plants, approving OAR 340-25-255 through -285 to be used instead of 40 CFR 60.190 through .195.

#### Fiscal Impact Statement

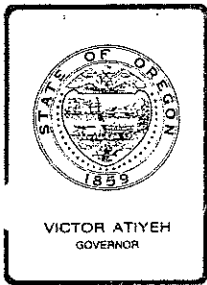
Asbestos rules and the other NESHAPS and NSPS rules are already promulgated by EPA. Adoption by and delegation to DEQ simplifies environmental administration generally at less costs. However, DEQ has proposed changes to make the state asbestos rule more stringent than the federal rule, and these changes would affect small businesses. The changes are:

1. No exemption would be allowed for small demolition and renovation jobs, causing some demolition and renovation contractors to purchase specially marked bags, apply more water, and incur special dump fees.
2. Open storage or accumulation of asbestos or asbestos-containing waste material would be forbidden, causing the owner (or contractor) some additional clean-up and disposal costs.

To somewhat mitigate these increased costs on small businesses, the Department has removed 10 and 20 day prior notice requirements in the federal rule, simplified the rule leaving out 9 definitions and nearly 2 pages of waste site practices used only at asbestos mines (there are no mines of asbestos in Oregon).

DEQ feels these improvements to the federal rule are necessary to protect the public health from carcinogenic asbestos particles escaping to the atmosphere and the costs that may be incurred by small businesses would be far outweighed by the health benefits.





## *Environmental Quality Commission*

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

### MEMORANDUM

Attachment 3

To: Environmental Quality Commission

From: Hearing Officer, Peter Bosserman

Subject: Public Hearing Report on Revising NESHAPS and NSPS Rules, Considering Changes Making the State Asbestos Rule More Stringent Than the Federal Rule

### Summary of Procedure

Legal notice of the hearing was given in the Secretary of State's bulletin; notice of the hearing was mailed to 560 parties; and more than 40 copies of the proposed rule changes were mailed out to interested parties. The public hearing was convened in Room 1400 of the Yeon Building, 522 S.W. 5th, Portland, Oregon at 3:00 p.m. on October 5, 1982. No one gave verbal testimony; written testimony was received from nine persons before, during, and up to the 5 p.m. deadline for testimony as announced in the Hearing Notice. The written testimony is on file at the Department of Environmental Quality, in the Air Quality Division, at the above address. Eight people attended the hearing; the Hearing Officer waited until 4:35 p.m. before vacating the room.

### Testimony and Hearing Officer's Comment

#### Minor Testimony

Bruce Shaw, Jackson County resident, asked that 340-25-465(2) be expanded to include parking lots and other surfaces where vehicles might be driven (i.e., paved log decks). His county has deposits of asbestos mixed with rock which has gotten into road paving. Therefore, the prohibition should be broadened from "asbestos-containing waste materials" to "asbestos material," which is anything (i.e., crushed rock) with more than 1% asbestos.

Laura Barlow of the Accident Prevention Division of Oregon Workers' Compensation Department presented their Division's testimony by letter at the hearing. They desired the addition of "duct" and deletion of "load-supporting" in 340-25-455(12) and 340-25-465(4)(b)(A) and (B). This is agreed with and proposed for Commission action.

D'Arcy P. Banister, Bureau of Mines, Department of Interior, wanted some assurance that mining, milling, mine waste dumps, and mill waste dumps were in a different category, and regulated by other standards and rules. While 340-25-465(10)(e), forbidding open piles of asbestos, is not applicable to the categories enumerated by Banister, 340-25-465(1) specifically covers milling, as does the existing, equivalent federal rule 40 CFR 61.22(a). Oregon has no asbestos mines and mills, although Oregon has some asbestos deposits.

James A. Broad, DEQ Northwest Region engineer, noted that the next to last paragraph on page 5 of the rules should be a lower case, rather than an upper case, "C". Condition 340-25-465(10)(e) should specify action as soon as practicable but within one week.

In the Beryllium rule, and in one phase in the Mercury rule, certain options were allowed when the rule was first put into force in 1975. There is no record of anyone availing themselves of these alternatives. Therefore, Mr. Broad recommended that this alternative language be stricken because it is no longer effective and when it was, no one availed themselves of it. See deletions recommended on pages 13, 14, 15, and 16 of the rules.

The rule quoted in rule 340-25-480(3)(a)(A) has a typing error. The rule cited is 340-25-460(6)(c), not 340-25-465(6)(c) in versions sent out for hearing.

David W. St. Louis, DEQ Willamette Valley Region engineer, desired two changes in the definitions of demolition: removal of "load supporting" and the addition of language to include demolition of buildings where the only asbestos was in decorative panels. See page 2 of the rule.

The definition of Renovation also omits decorative panels made of friable asbestos.

Renovation should be included in 340-25-465(4)(a)(B) and (D). See added words on page 7 of rule.

In the first paragraph on page 8, it is the address of the owner of the facility (the building or boiler), not of the property which is desired.

In paragraphs (A) and (B) on page 8, the words "load supporting" should be deleted in four places, as the requirement to wet down applies to all structural members covered with friable asbestos.

On page 9 in paragraph (6), the reference to (2) is a typing error; it should refer to (3).

On page 11, Mr. St. Louis wanted paragraph (8) to include all fabricating operations by changing the third line to read "from any operations including the following if they use commercial".

On page 13, Mr. St. Louis asked for a sentence requiring immediate covering of the asbestos (or wetting down), then removal within a week in paragraph (e).

Van A. Kollias, DEQ Regional Operations staff, noted correct legal phrasing for a rule in 340-25-650: "No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere..... from any facility any gases with greater than zero percent opacity". The following rules should be rephrased to make a person responsible: 340-25-465(1), -465(3), -465(5), -465(8), -470(2)(a), -480(2).

Joe Weller, Oregon Lung Association, wrote the following:

"Because asbestos exposure to workers and the general public may lead to the development of permanent lung injury, special procedures for its handling are required.

"The Oregon Lung Association has reviewed the proposed rules and supports all detailed changes. We believe that public exposure to asbestos will not increase and may decrease as a result of the proposed changes."

The preceding testimony is considered minor, as all that was proposed improved the rules and made them more consistent, and the testimony was not contradictory. For example, even the testimony to expand 340-25-465(8) to include all fabricating with asbestos met with no objection by safety engineer James Zimmerman of the Associated General Contractors, who attended the hearing to review the testimony received.

#### Major Testimony

##### Encapsulation

Mark H. Hooper, EPA Region X Chemical Engineer, summarized federal EPA comments in his September 20, 1982 letter. Proposed 340-25-465(4)(b)(D), offering an alternative of encapsulation during renovation, is proposed for deletion for lack of substantiating evidence. The local exhaust option is then renumbered from (E) to (D). Otherwise, Mr. Hooper sees the proposed rules as being EPA-approvable.

The Hearing Officer phoned Ed Drazga, Sr., of KRZ Co., Moorestown, N.J., a nationally recognized expert on encapsulation of friable asbestos. This was done at the suggestion of Ken Wong of Sanderson Safety Supply of Portland, Oregon, and at the urging of two persons attending the hearing, where they learned of EPA's testimony requesting deletion of 340-25-465(4)(b)(D). The current authoritative study on encapsulation is by Battelle, and cites both good and unacceptable practices. Copies are not available for the hearing record. A new authoritative study by American Society for Testing Materials (ASTM) is being prepared for release on October 20, 1982, by Committee E-6, on which Ed Drazga, Sr., serves.

The Hearing Officer reviewed the matter in a phone call with Ken Wong of Sanderson Safety Supply. It is doubtful whether a safe rule allowing some encapsulation could be written from the hearsay evidence gathered to date. Therefore, the staff will try to keep up-to-date on safe (and unsafe) encapsulation methods. Some time later, the asbestos rule can be modified to include the best methods of encapsulation as alternatives.

#### Burning Beryllium in Incinerators

Carl H. Lawyer, M.D., of the Thoracic Clinic, a specialist in diseases of the lungs, objected to 340-25-470(2)(d), allowing incinerators to burn beryllium and/or beryllium-containing waste. The Hearing Officer gives the following reasons for this nine-year-old rule allowing incinerators to burn it.

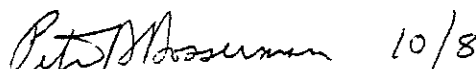
Beryllium may only be found as a minor alloying element in nonsparking tools, and in small percentages in rarely used alloys poured at aluminum plants and brass and bronze foundries. Whether trash and waste from these sources would find its way into mass burning incinerators so as to emit more than the rule allows (10 grams of beryllium per 24 hours) would be determined from tests on the mass burners. More likely, the aluminum plants and foundries would recycle metal or landfill slag for beryllium and beryllium-containing waste.

Also, beryllium has a melting point of 1284° C (2343° F) and a vaporization point of 2767° C (5013° F). Therefore, it is highly likely that nonsparking tools would come out in the bottom ash of an incinerator and end up recycled or in a landfill, because incinerator temperatures are not hot enough to melt or vaporize tools.

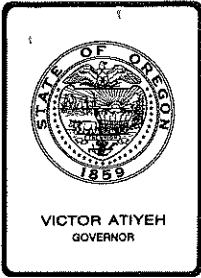
Since Dr. Lawyer's testimony needs more time for study, the hearing officer recommends the following action:

1. Users of beryllium and alloys containing beryllium should be polled about their waste disposal practices.
2. Are products containing beryllium likely to be put into incinerators in Oregon?
3. Depending upon investigation results, and after competent review, the Department should implement sufficient controls over beryllium and beryllium containing waste either through rule action or through appropriate conditions in air contaminant discharge permits.
4. No rule changes are advised at this time.

Respectfully submitted,

 10/8

Peter B. Bosserman, Hearing Officer



## *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. Q, October 15, 1982, EQC Meeting

### City of Portland Bond Purchase Agreement -- Concurrence in Update of Technical Provisions

### Background

The bond purchase agreement between the Department and the City of Portland has been before the Commission on two previous occasions:

- December 4, 1981 for consideration and approval of purchase of city revenue bonds with pollution control bond funds.
- April 16, 1982 for consideration and approval of an amendment to an agreement provision dealing with debt security.

The pollution control facilities being constructed with bond fund proceeds are described in the agreement as "sewage sludge dewatering and drying facilities."

### Status and Evaluation

Bids have been received on the dewatering portion of the facilities and are awaiting award.

At the time of the Bond Purchase Agreement approval, pilot studies were underway for sludge drying equipment. Results have since caused the City to re-evaluate this component and ultimately to select a different technology for further stabilizing and reducing the moisture content of sludge for ultimate utilization and/or disposal. A closed vessel composting process has now been selected. This process has a higher capital cost but will have a lower operating cost. The Department has reviewed the information developed by the city and concurs in their selection of the composting process.

EQC Agenda Item No.  
October 15, 1982  
Page 2

The City has proposed to update the bond purchase agreement to include the April 16, 1982 Commission approved amendment and to reflect the appropriate details of the composting process. This includes updating the project cost data and the details for the subsequent revenue bond issue planned in FY 82-83.

Bond counsel has reviewed the updated agreement and has advised that the Department's security is not reduced by the changes.

In order to facilitate the City's schedule to get the project underway, the Department has proceeded with the updated agreement. However, Commission concurrence in this action is appropriate.

Director's Recommendation

It is recommended that the Commission concur in the attached updated Bond Purchase Agreement for the City of Portland.



William H. Young

Attachment I

Harold L. Sawyer:g  
229-5324  
September 24, 1982

WG1594

STATE OF OREGON  
DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFER AND ACCEPTANCE - BOND PURCHASE AGREEMENT

(REVISED SEPTEMBER \_\_\_\_\_, 1982)

PART A - SECTION I - OFFER

1. Location of Project (State, County, City) Project Number

Oregon # C410557  
Multnomah  
Portland

2. Legal Name and Address of Public Agency (Applicant)

City of Portland  
1220 S. W. 5th Avenue  
Portland, OR 97204

3. Project Financing under Terms of this Offer

Total Estimated Project Cost	15,677,950
Debt Reserve Account Requirement.	
Series 1982 Bond Sale (to DEQ)	582,050
Series 1983 Bond Sale (proposed public sale)	1,740,000
Total Eligible Cost	18,000,000
Bond Principal (Series 1982 to DEQ)	5,000,000

4. Description of Project

Sewage sludge dewatering and composting facilities

The City of Portland, hereinafter referred to as the "public agency," has applied to the State of Oregon, acting by and through the Department of Environmental Quality, hereinafter referred to

as the "Department," for funds for the purpose of construction of sewage sludge dewatering and composting facilities, hereinafter referred to as the "project," for the treatment of wastes and to serve an area lawfully within its jurisdiction to serve.

Whereas, it is necessary for the public agency to raise a portion of the cost of such undertaking by issuance of its bonds, and the Department intends to assist the public agency in such undertaking by purchasing the bonds lawfully issued by it, as authorized by Article XI-H of the constitution of Oregon and its implementing acts;

Now therefore, in consideration of the foregoing and of the mutual covenants and undertaking hereinafter set forth, the Department offers:

To purchase from the public agency, Revenue Bonds lawfully issued by it for the aforesaid purposes, in an amount not exceeding the lesser of \$5,000,000.00 or 100 percent of the eligible project costs as determined by the Department. Such series of bonds are hereinafter referred to as "Revenue Bonds".

This offer is subject to the assurances, undertaking and covenants included in this document as Section II, and subject to the completion of Parts A, B and C of this offer and acceptance and the following conditions:

The public agency will segregate \$582,050 of the proceeds received from the bond sale in a special debt service reserve account to be known as the Dept Redemption Fund Reserve Account.

The initial deposit of monies to this account is determined to be an amount, sufficient to pay the maximum amount of principal and interest which shall become due on the bonds in any year, and the amount of monies to be maintained in the reserve may, after payment of the maximum annual debt service, be reduced to an amount equal to the maximum amount of principal and interest which shall become due on the bonds in any succeeding year.

Monies deposited to this account may be invested as allowed and restricted by law. Proceeds thereof may be deposited to accounts or funds as determined by the Public Agency.

The monies on deposit in this account shall be used and applied solely to the payment of principal and interest on the bonds and shall not be used for any other purpose whatsoever, and shall be so applied to such payments when and if other sources are insufficient to meet such payments.



When and if any money is paid out of this account, monthly credits shall immediately be commenced, increased, or resumed, as the case may be, from the sewage disposal fund or other sources available therefor, and continued until the amount is replaced or the amount of the deficiency satisfied; provided, further, that the monthly payments will be amounts calculated to replace or replenish the account in full according to the above requirements prior to the next bond principal maturity date.

Any surplus remaining in the Reserve Account after all bonds have been paid shall be deposited in the Sewage Disposal Fund.

This offer was originally made by the Department on December 16, 1981, and accepted by the Public Agency on January 12, 1982. This Bond Purchase Agreement with the accompanying offer, Assurance and Covenants, acceptance and supporting documents have been subsequently revised as of the date appearing below, based on: 1) A change in language approved by the Environmental Quality Commission (EQC) on April 16, 1982 in agenda item Q affecting Part A, Section I, Assurances and Covenants, paragraph II, A, 13, (ii) and, 2) A change in a component of the sludge processing technology to be employed (From sludge drying to closed vessel composting) by the public agency to better achieve the project's original objective of providing a long term economical, reliable and environmentally sound sludge disposal and utilization program.

FOR THE STATE OF OREGON, DEPARTMENT OF ENVIRONMENTAL QUALITY

William N. Young  
Director

9/23/82  
Date

PART A - SECTION II - ASSURANCES AND COVENANTS

Now therefore, in consideration of the premises and of the mutual covenants and undertakings of the public agency hereinafter set forth in II:

I. The Department agrees to purchase from the public agency, by placing a bid at the advertised sale held by the public agency, the bonds lawfully issued by said public agency in an amount determined by the Department.

II. The public agency agrees to the following covenants and provisions:

A. Financing Provisions

1. The Revenue Bonds shall be special obligations of the public agency payable from and secured by an irrevocable first lien on and pledge of the revenues of the Sewage Disposal Fund, established under Section 5.04.160 of the public agency's City Code, after deduction of the expenses of operation, maintenance and administration of the related sewerage facilities.
2. The public agency shall establish and fix such user rates and other fees in connection with the facilities and services pertaining to its Sewage Disposal Fund as will provide Net Operating Revenues equal in any Fiscal Year to at least 1.3 times the amount required in any such fiscal year to pay the principal of and interest on all outstanding bonds payable directly or indirectly out of the Sewage Disposal Fund including Parity Revenue Bonds outstanding, if any. For the purposes of this section, Net Operating Revenues are defined as Operating Revenues from service charges, fees and assessments less Operating Expenses including salaries, wages, operating supplies, repairs and maintenance, utilities, insurance and administrative expenses.
3. The public agency hereafter and until the Revenue Bonds are fully paid, shall only issue Parity Revenue Bonds if the following conditions have been met, as acknowledged in writing by the Department:

- (a) The public agency is not in default as to any covenant, condition or obligation contained in the Revenue Bonds or herein; and
  - (b) The public agency certifies in writing to the Department that the Net Operating Revenues as defined in II A 2 above in each fiscal year thereafter are estimated to be at least equal to 1.3 times the average annual principal and interest requirements of all Revenue Bonds and Parity Revenue Bonds to be outstanding after delivery of the then proposed Parity Revenue Bonds. "Parity Revenue Bonds" means additional revenue bonds payable equally and ratably on a parity with the Revenue Bonds.
4. To provide all necessary legal opinions required to insure marketability of its bonds from competent bond counsel at its own expense; and to comply with all instructions pertaining to bond preparation and issuance as may be required by bond counsel or the Department.
  5. To obtain a rating for the issue by Moody's Investor Services, Inc.
  6. To have prepared on its behalf and to adopt ordinances or resolutions deemed necessary by the Department providing for the issuance of its bonds, or entering into of contracts, and containing such terms and in such form as are required by state statutes or regulations of the Department.
  7. To provide for a public sale after due advertisement of such bonds in a manner consistent with applicable state statutes and acceptable to the Department.
  8. To place the net proceeds of the Revenue Bonds in the Sewage Construction Fund which provides for payment of construction costs of the project; and to establish funds necessary to provide for payment of debt service on the Revenue Bonds.

This section shall not be deemed to prevent the public agency from investing the proceeds of the bonds in securities authorized by the public agency if the income resulting from such investments is earmarked for the payment of bonded

indebtedness upon the bonds purchased by the Department and for the payment of construction, operating and maintenance costs of the facility; and provided further that such investment shall not violate Section 103 of the Federal Internal Revenue Code and regulations adopted thereunder.

9. To use the proceeds of sale of the Revenue Bonds less any amounts required to be segregated in the Debt Redemption Fund Reserve Account and any expenses of sale of the bonds only for the purposes of financing the project as detailed in Part B -- Supplemental Project Information -- of this agreement. In the event that not all the net proceeds are expended on the project, the public agency will send a written report to the Department setting out the physical and financial status of the project and expenditures and advise the Department of its intention to use the remaining funds to either (a) prepay outstanding Revenue Bonds or (b) construct other specified sewerage facilities. The public agency will not proceed to use such remaining funds without the prior written approval of the Department.
10. That in the event that the public agency receives Federal Grant funds applicable to all or any portion of the project, such Federal funds will be applied to prepay outstanding Revenue Bonds.
11. To repay and retire all bonded indebtedness to the Department as rapidly as the State of Oregon is required to repay and retire its bonded indebtedness for pollution control bonds sold at public sale. Such payments shall be made, upon a repayment schedule prepared by the Department, at least 30 days prior to the dates required for state installment payments upon its bonded indebtedness. The public agency may accelerate its repayments to the Department without penalty. The required schedule of principal and interest payments on the Revenue Bonds is contained in Part C of this agreement.
12. To prepare and offer its bonds for sale to the Department at par to an even multiple of \$5,000 in an amount not to exceed the total eligible project cost as determined by the Department.

The public agency agrees to issue a single bond in lieu of serial bonds at the option of the Department if otherwise authorized by law.

13. The Department shall have the following remedies upon default;

(i) upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant, assurance or agreement contained in the Revenue Bonds, or this Bond Purchase Agreement, or in the instruments incidental thereto, the Department at its option may (a) for the account of the public agency incur and pay reasonable expenses for repair, maintenance and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default; (b) take possession of the facility, repair, maintain and operate or rent it; (c) utilize any available, equitable or special remedies pursuant to law; (d) a combination of (a), (b) or (c); default under the provisions of the Revenue Bonds, the Bond Purchase Agreement or any instrument incidental thereto may be construed by the Department to constitute default under any other instrument held by the Department and executed or assumed by the public agency and default under any such instrument may be construed by the Department to constitute a default under the Bond Purchase Agreement.

(ii) If the public agency fails to pay principal or interest on any Revenue Bonds when due, the Department may specify legally permissible actions to be taken by the public agency to remedy such default and prevent future defaults. If the public agency fails to commence implementation of such actions within 60 days after the public agency receives written notice from the Department specifying the actions to be taken, the Department may declare the principal of all outstanding Revenue Bonds immediately due and payable.

#### B Construction Contract Provisions

1. The public agency's procurement of contracts for the design and construction of the project will be in accordance with applicable state statutes and

conforming public agency codes, ordinances and procedures; and the actual construction work will be performed by lump sum (fixed price) or unit price method.

2. The public agency shall not proceed with construction of any segment of the project without the prior approval by the Department of final plans and specifications for the segment of the project proposed for construction.
3. That construction contracts will require contractors to furnish a performance and payment bond, in an amount equal to the contract amount, and to maintain during the life of the contract adequate fire and extended coverage, workmen's compensation, public liability and property damage insurance.
4. To comply with the provisions of ORS Chapters 279 and 187 relating to bidding, required statements, preference of materials, contributions, liens, payments, labor and working conditions, contract termination and all other conditions and terms necessary to be inserted into public contracts.
5. To demonstrate to the Department that the public agency has a fee simple or other estate or interest in the site of the project, including necessary easements and rights-of-way that is sufficient to assure undisturbed use and possession for the purposes of construction and operation for the life of the proposed loan.

C. Construction Provisions

1. That any change or changes in the contract which make any major alteration in the work required by the plans and specifications or which raise the cost of the project above the latest estimate approved by the Department will be submitted to the Department for prior approval.
2. That competent engineering supervision and inspection at the facility will be provided and maintained to insure that the construction conforms with the approved plans and specifications.

D. Operational Provisions

1. It will maintain complete books and records relating to the operation of the facility, the Sewage Disposal Fund and its financial affairs and will cause such books and records to be audited annually at the end of each fiscal year and an audit report prepared, and will furnish the Department with a copy of each annual audit report. At all times, the Department shall have the right to inspect the facility and the records, accounts and data of the public agency relating thereto. The Department, at the discretion of the Director, shall have the right to obtain an independent expert review of the public agency's financial and audit data at the public agency's expense.
2. It will maintain such insurance coverage, which may include a program for self insurance, performance or fidelity bonds in such amounts and in such form as may reasonably be required by the Department for the term of this agreement.

E. Continuing Provisions

1. To indemnify and reimburse the Department for any payments made or losses suffered by the Department on behalf of the public agency as a result of its negligence, omissions or breach of any covenant or condition of this agreement.
2. To not cause or permit any voluntary dissolution of itself, merge or consolidate with another public agency, dispose of or transfer its title to the project, or any part thereof, other than for normal replacement purposes, including lands and interest in lands by sale, mortgage, lease or other encumbrances without obtaining the prior written consent of the Department. It is understood by the Department and the Department hereby consents to the City leasing a portion of the Columbia Boulevard Sewage Treatment Plant property described herein and attached as Attachment 3. It is further understood that the purpose for lease of the property is to provide space for compost storage and a compost product bagging and mixing plant to be operated through a 20 year agreement with a compost marketing and distribution contractor.

This section shall not be deemed to prevent mergers or consolidations initiated or commenced as a result of proceedings authorized by the Legislative Assembly of Oregon.

3. It will comply with applicable state laws and the rules and regulations of the Department and continually operate and maintain the facility in good condition upon completion of construction.
4. The Department shall have at all times the right to inspect any contracts or other documents executed by the public agency in connection with the operation, maintenance, extension or improvement of the project or its other sewage facilities.
5. It will not modify or cause to be modified or amended its Charter or Ordinances relating in any manner to its sewerage facilities or their operation which would materially and adversely affect the integrity of the Sewage Disposal Fund, or which would materially and adversely affect the ability of the public agency to charge fees sufficient to pay principal and interest on the Revenue Bonds as and when they become payable, without obtaining the prior written consent of the Department.

This section shall not be deemed as a restriction upon the public agency to fulfill its legislative authority and responsibility to its electorate and citizens in governing its local affairs. The purpose of this section is to insure that the public agency continues to maintain sufficient income rates and tolls for the payment of bonded indebtedness and operating and maintenance costs as set forth in its application and supporting documents.

6. To submit copies of or references to all charters, ordinances or resolutions regarding the public agency's authority to contract, issue bonds and perform all functions and duties necessary and incidental to this advancement of funds that may be required by the Department.
7. The provisions herein may be provided for in more specific detail in any resolutions or ordinances necessary to implement this agreement, or in any



supporting documents necessary to establish or to provide for the public agency's eligibility to receive an advancement of funds.

PART A - SECTION III - ACCEPTANCE

This acceptance was originally made by the Public Agency on January 12, 1982, based upon an offer made by the Department on December 16, 1981. This Bond Purchase Agreement, acceptance, offer, accompanying Assurances and Covenants, and supporting documents have been subsequently revised as of the date appearing in the revised offer, based on: 1) A change in language approved by the Environmental Quality Commission (EQC) on April 16, 1982, in agenda item Q affecting Part A, Section II, Assurances and Covenants, Paragraph II, A, 13, (ii) and, 2) A change in a component of the sludge processing technology to be employed (From sludge drying to closed vessel composting) by the public agency to better achieve the project's original objective of providing a long term economical, reliable and environmentally sound sludge disposal and utilization program.

On behalf of the City of Portland, I, the undersigned, being duly authorized to take such action as evidenced by the attached certified copy of authorization by the public agency's governing body do hereby accept this offer and make the assurances and covenants contained herein.

_____ Signature of Representative	_____ Date
_____ John M. Lang, Public Works Administrator Name and Title of Representative	

STATE OF OREGON  
DEPARTMENT OF ENVIRONMENTAL QUALITY

PART B SUPPLEMENTAL PROJECT INFORMATION

for

City of Portland Sludge Dewatering and Composting Facilities

1. Project Location:

The project is located within the City of Portland, Multnomah County, and the State of Oregon.

2. Legal Name and Address of City:

City of Portland  
1220 S. W. 5th Avenue  
Portland, Oregon 97204

3. Project Changes Since Original Offer Dated December 16, 1982, and Acceptance:

The public agency has re-evaluated a component of the sludge processing technology to be employed and determined that its original objective of providing a long term economical, reliable and environmentally sound sludge disposal and utilization program will be enhanced by constructing a closed vessel sludge composting facility in lieu of the originally proposed sludge drying process. Sludge dewatering facilities originally proposed continue to be a required sludge conditioning process for closed vessel composting.

4. Status of Project Plans and Specifications

Dewatering facilities - Specifications for dewatering equipment have been prepared and approved. Competitive bids have been received but a contract has not been awarded. Plans and Specifications for the installation of equipment and construction of related facilities are currently being prepared.

Compost Facilities. A sole source contract for both the design and construction of compost facilities has been negotiated with a U.S. firm holding the exclusive North American license for the Kneer II closed vessel composting system from Gebruder Wiess K.G. of Dillenberg, West Germany.

The Public Agency has determined that the Kneer II composing system will best meet its objective of providing a long term sludge disposal and utilization program. Formal authorization of the sole source contract will occur on the date of the Public Agency's authorization of this revised bond purchase agreement.

5. Site Data:

See attachment No. 1.

6. Project Cost Estimate Summary.

A. Construction (1)

1	Contract A	776,157
2	Contract B	1,857,000
3	Contract C	<u>11,400,000</u>

Subtotal 14,033,157

B. Engineering Contract 468,033

C. Legal and Fiscal

1	Series 1982 Bond (to DEQ)	15,000
2	Series 1983 Bond (proposed public sale)	<u>345,000</u>

Subtotal 360,000

D. Administration

1	Dewatering Facility	180,000
2	Composting Facility	<u>381,050</u>

Subtotal 561,050

E. Project Contingency

1	Dewatering Facility	55,710
2	Composting Facility	<u>200,000</u>

Subtotal 255,710

Total Capital Cost 15,677,950

F. Bond Reserve Account

1	Series 1982 Bond (to DEQ)	582,050
2	Series 1983 Bond (proposed public sale)	1,740,000
	Subtotal	<u>2,322,050</u>

Total Financial Requirement 18,000,000

7. Funds Available for Construction of Total Project.

A.	Cash	0
B.	General Obligation Bonds	0
C.	Revenue Bonds	
1	Series 1982 (to DEQ)	5,000,000
2	Series 1983 (proposed public sale)	13,000,000
D.	State Grant.	0
E.	Federal Grant.	0
	Total Available	<u>18,000,000</u>

8. Estimated Annual Revenues and Expenses:

SEWAGE DISPOSAL FUND ANNUAL OPERATING REVENUE AND EXPENSE

(\$ x 1000)

FY	79/80	80/81	81/82	82/83	83/84	84/85
Operating Revenue <sup>1</sup>	16,713	17,094	17,601	20,137	21,025	24,126
Operating Expense <sup>2</sup>	<u>10,869</u>	<u>12,702</u>	<u>15,358</u>	<u>16,662</u>	<u>17,437</u>	<u>18,907</u>
Net Operating Revenue	5,844	4,392	2,242	3,474	3,588	5,219
Dept Service						
Old Issue 1971	847	972	656			
Series 1982 (to DEQ) <sup>3</sup>				370	418	415
Series 1983 (proposed/ public sale) <sup>4</sup>					<u>1,740</u>	<u>1,740</u>
Total Debt Service	847	972	656	370	2,158	2,155
Debt Service Ratio <sup>5</sup>	6.90	4.52	3.42	9.40	1.66	2.42

Footnotes:

1. Operating Revenue - All income from service charges, fees and assessments. Includes user charges for sewer service, connection charges, rents, reimbursements, permit fees and other miscellaneous operating revenue. Operating revenue does not include interest income from investments.
2. Operating Expense - All expenses incurred in the operation of the sewage disposal system. Includes salaries, wages, operating supplies, repairs and maintenance, utilities, insurance and administrative expenses, excluding depreciation expense.
3. Base on existing retirement schedule (Part C).
4. Based on \$13,000,000 revenue bond sale by FEB 1983 (20 years, at 12%).
5. Net operating revenue ÷ Total Debt Service that year.

The undersigned representative of the public agency certifies that the information contained above and in any attached statements and materials in support thereof is true and correct to his best knowledge.

\_\_\_\_\_  
Signature of Representative

\_\_\_\_\_  
(Date)

John M. Lang, Public Works Administrator  
\_\_\_\_\_  
Name and Title of Representative

NOTES TO  
PROJECT COST ESTIMATE SUMMARY

A. Construction

Contract A.

Sludge dewatering equipment fabrication. Lump sum contract for fabrication of sludge belt presses.

Total estimated cost: \$ 776,157

Contract B.

Sludge dewatering equipment installation and construction of related improvements. Unit price contract consisting of the following major elements;

- |   |               |
|---|---------------|
| 1. Sludge building modification and dewatering equipment installation including the removal of existing equipment;                      | \$ 861,000    |
| 2. Construction of pumping facilities at the existing sludge lagoon enabling delivery of high solids sludge to the dewatering facility; | 559,000       |
| 3. Construction of pipeline crossing of the Columbia Slough for lagoon pump pressure line, electrical conduit and potable water supply; | 162,000       |
| 4. Conversion of an existing sludge tank to a blending tank;  | 193,000       |
| 5. Solid polymer handling equipment installation:   | <u>82,000</u> |

Total estimated cost: 1,857,000

Contract C.

Sludge composting facility. Design, equipment acquisition, construction, construction supervision and facility start up. Lump sum contract.

1. Preliminary and Final Design Engineering	850,000	
2. Equipment purchase. Facility outfeed devices, chain conveyors and mixers.	2,000,000	
3. Construction of composting facility including erection of compost reactors, carbonaceous material silos, foundations, equipment enclosures, installation of equipment, all necessary piping, electrical and control equipment, start up and operator training	<u>8,550,000</u>	
Total Estimated Cost		11,400,000

B. Engineering Contracts

1 Dewatering Facility

Design Engineering.  
Project Design is currently in process.

354,679

Construction Engineering.  
Engineering services during construction include preparation of an O & M Manual and start up services.

113,354

Total Dewatering Engineering 468,033

2 Sludge composting Facility. Both design and construction engineering services for the sludge composting facility are provided within the sludge composting construction contract, Contract C.

C. Legal and Fiscal.

Legal and fiscal costs associated with the Series 1982 Revenue Bond sale

1. Financial consulting services in relation to the sale of revenue bonds;	3,500
2. Bond counsel services in relation to the sale of revenue bonds;	3,800
3. Investment rating services in relation to the sale of revenue bonds:	4,000
4. Miscellaneous fiscal and legal services provided internally in relation to the administration of construction and design contracts:	<u>3,700</u>

Estimated Series 1982 cost: 15,000

Legal and fiscal costs associated with the proposed Series 1983 Bond sale

1. Engineers Report for Official statement	25,000
2. Bond Counsel services in relation to the sale of Bonds	20,000
3. Financial Advisor services in relation to the sale of Bonds	20,000
4. Printing of the City's Official Statement and Bonds	15,000
5. Bond Rating service	5,000
6. Bond Discount	<u>260,000</u>

Estimates Series 1983 Cost 345,000

Total Project legal and fiscal cost 360,000



D. Administrative.

Project administrative services include City engineering and contract administration associated with all phases of the project.

Dewatering Facility. Estimated city engineering and construction contract administration.

180,000

Compost Facility. Estimated city engineering and construction contract administration

381,050

Total estimated administrative cost

561,050

E. Project Contingency.

Dewatering Facilities. Contingency based on 3% of contract B necessary for unforeseen costs

55,710

Composting Facilities. Contingency based on 1.9% of construction of contract C.

200,000

Total project contingency

255,710

F. Bond Reserve Account

Series 1982 Bond (to DEQ)

Funds reserved in a special account sufficient to pay the maximum amount of principal and interest which shall become due on the bonds in any year. (Require in Part A, Section 1-4 of this Bond Purchase Agreement.

582,050

Series 1983 Bond. (proposed public sale)

Funds reserved in a special account sufficient to pay the maximum amount of principal and interest which shall become due on the bonds in any year.

1,740,000

Total Bond Reserve Account

2,322,050

TOTAL PROJECT FINANCIAL REQUIREMENT

18,000,000



CITY OF

**PORTLAND, OREGON**

OFFICE OF CITY ATTORNEY

Christopher P. Thomas, City Attorney  
1220 S.W. 5th Avenue  
Portland, Oregon 97204  
(503) 248-4047

October 27, 1981

State of Oregon  
Department of Environmental Quality  
522 SW 5th Avenue  
Portland, Oregon 97204

ATTN: Mr. Bill Young, Director

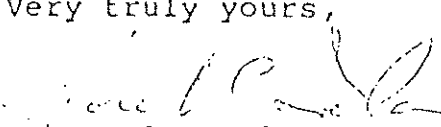
Re: C-410557, Sludge Dewatering & Drying Project

Gentlemen:

In connection with the proposed Revenue Bond Purchase agreement, Part B, supplemental project information, between the State of Oregon, Department of Environmental Quality and the City of Portland for the purchase by the State of Oregon of \$5,000,000 sewer revenue bonds from the City of Portland, please be advised that I have examined the title to the parcel described on the attached Exhibit A, and it is my opinion that the City of Portland is presently vested with fee simple title to that property. I find no mortgages, deeds of trust, liens or other encumbrances which would affect the value or utility of the site for the purposes intended.

I further find that all documents required to be recorded in order to protect the title of the owner and the interests of the applicant have been duly recorded wherever necessary.

Very truly yours,

  
Robert C. Ireland  
Sr. Deputy City Attorney

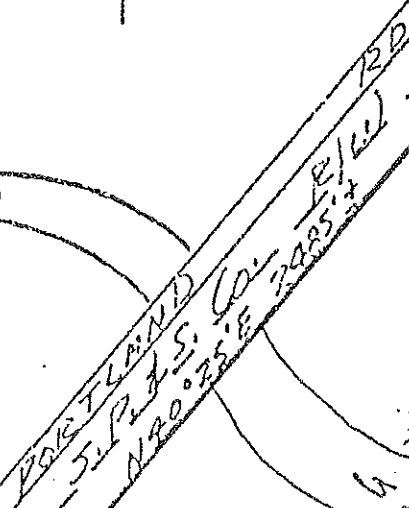
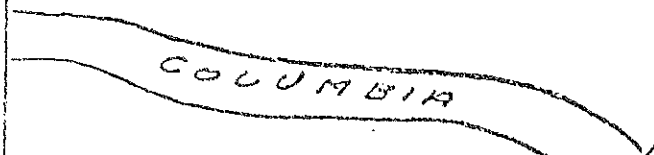
RCI:djb  
Enclosure

BOUNDARY DESCRIPTION OF THE NORTH COLUMBIA BOULEVARD  
SEWAGE DISPOSAL TREATMENT PLANT PROPERTY.

Beginning at the point of intersection of the north right-of-way line of the O.W.R.R. & N. Co. and the southeasterly right of way line of the S.P. & S. Railway Co.; thence N.  $40^{\circ} 25'$  E. along the southeasterly right of way line of the S.P. & S. Railway Co. 693 feet, more or less to a point where said line makes a right angle; thence N.  $49^{\circ} 35'$  W. 150 feet; thence N.  $40^{\circ} 25'$  E. along said right of way 2,485 feet, more or less, to the southwest edge of a pond or lake which forms a part of the northwest boundary of the Wesley Van Schuyver D.L.C. in Section 5 T.1N., R.1E., W.M.; thence N.  $40^{\circ} 36''$  E., continuing along said southeasterly line of said S.P. & S. Railway Co. right of way a distance of 1270 feet more or less, to the west line of that 150 foot right of way conveyed by H.C. Laycock and G.B. Laycock to the O.W. R. & N. Co. by deed recorded January 29, 1908 in Book 426 at Page 367, Deed Records; thence southerly along the west line of said 150 foot right of way along a curve to the left, whose initial tangent bears S.  $14^{\circ} 43'$  W. a distance of 382.4 feet; thence along a transition curve decreasing in curvature  $0^{\circ} 15'$  every 30.38 feet, a distance of 334.2 feet; thence S.  $0^{\circ} 28'$  W. along the west line of said right of way 1778.5 feet to the south bank of Mud Slough; thence along said south slough bank N.  $64^{\circ} 38'$  W. 321.8 feet, more or less, to a point in the east line of the Wesley Van Schuyver D.L.C. being also the west line of Alexander Brown D.L.C. which point bears N.  $0^{\circ} 28'$  E. 328.02 feet from the southwest corner of said Brown D.L.C.; thence southerly along the east line of the Wesley Van Schuyver D.L.C. a distance of 946.21 feet, more or less, to the northeast corner of that certain tract which was conveyed by Union Pacific Railroad Company to Western Auto Supply Company by deed dated March 28, 1964, and recorded in Book 10 at Page 414, Multnomah County Film Records; thence S.  $89^{\circ} 48'$  W. along the northerly line

of said Western Auto Supply Company tract a distance of 795.0 feet to a corner; thence S.  $38^{\circ} 17'$  W. continuing along the northerly line of said Western Auto Supply Company tract a distance of 40.71 feet to an angle point in the westerly line of that certain tract conveyed by Natale Lasagna and Louisa Lasagna to Portland Terminal Investment Company by deed dated March 6, 1941; thence S.  $0^{\circ} 15'$  E. a distance of 687.0 feet, more or less, to an iron pipe in the northerly line of the O.W. R.R. & N. Co. right of way; thence northwesterly along said northerly right of way line a distance of 1573.66 feet, more or less, to the point of beginning, all in Section 5, T1N, R1E, W.M., in the City of Portland, Multnomah County, Oregon, subject to the rights of the State of Oregon in and to that portion lying within the Columbia Slough.

IN SECTION 5  
T.1N, R.1E, W.1M



E. L. WESLEY  
VAN SCHUYVER  
D. L. C.

N. 49° 35' W  
150'

693.7'  
N. 20° 25' E

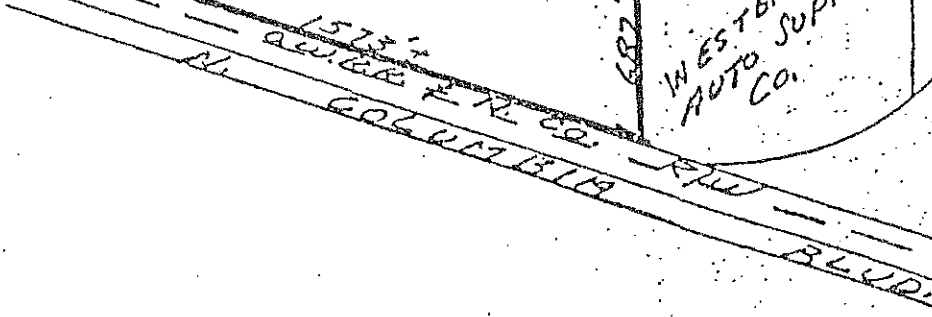
4071'

WESTERN  
AUTO SUPPLY  
CO.

846.7'  
S. 53° 21' 00"

3494.7'

NEW BR & M CO. R/W



MAP SHOWING  
COLUMBIA BLVD.  
SEWAGE TREATMENT  
PLANT PROPERTY  
PORTLAND, ORE.

## Leased Area

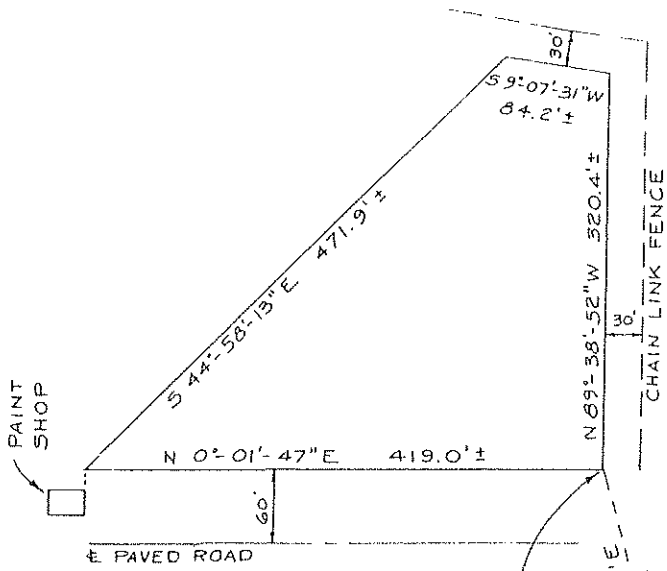
B

Beginning at an iron pipe in the northerly line of the O.W.R. & N. Co. (now U.P.R. Co.) right-of-way at the southwest corner of the Western Auto Supply Co. tract and the southerly southeast corner of the City of Portland Columbia Blvd. Sewage Treatment Plant property; thence N.  $0^{\circ}15'W$ . a distance of 687.0 feet more or less to a point; thence No.  $74^{\circ}38'33"E$ . a distance of 222.87 feet more or less to the true point of beginning, said true point of beginning being the point of intersection of a line 60-feet east and parallel to the centerline of the paved road running north-south at the eastside of the Treatment Plant property with a line 30-feet north and parallel to the chain link fence between the Treatment Plant and the Western Auto Supply Co. properties; thence N.  $00^{\circ}01'47"E$ . a distance of 419 feet more or less along a line 60-feet east and parallel to the centerline of the paved road at the east side of the Treatment Plant property to a point of intersection with the south line of the paint shop building extended easterly; thence S.  $44^{\circ}58'13"E$ . a distance of 471.9 feet more or less to a point of intersection with a line 30-feet west and parallel to the chain link fence along the easterly boundary of the Treatment Plant property; thence S.  $09^{\circ}07'31"W$ . a distance of 84.2 feet more or less along the line 30-feet west and parallel to the chain link fence to a point of intersection with a line 30-feet north and parallel to the chain link fence between the Treatment Plant and Western Auto Supply Co. properties; thence N.  $89^{\circ}38'52"W$ . a distance of 320.4 feet more or less along

B

the line 30-feet north and parallel to between the Treatment Plant and Western Auto Supply Co. properties to the true point of beginning.

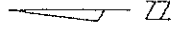
Approximate Area =



COLUMBIA BLVD.  
WASTEWATER  
TREATMENT  
PLANT

TRUE POINT  
OF BEGINNING

WESTERN AUTO  
SUPPLY CO.



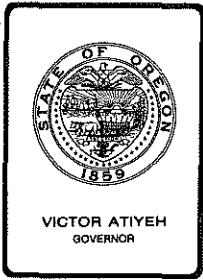
SCALE - 1" = 100'

N 0°-15' W 687.0' ±









## *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. R, October 15, 1982, EQC Meeting

Request from Roy H. Berg for Alternate Form of Security for Construction of Sewerage Facility for Houseboat Moorage

### Background

Mr. Roy H. Berg is constructing a houseboat moorage on Multnomah Channel in Columbia County. A sewerage system, consisting of a 10,000-gallon septic tank and large drainfield, will serve the facility.

Oregon Administrative Rules 340 Division 15 requires that every person proposing to construct facilities for collecting treatment, or disposal of sewage with a design capacity over 5,000 gallons per day, file with the Department a surety bond, insured savings account assigned to the Department, or other security in form and amount as specifically approved by the Commission.

Mr. Berg claims he has not been able to get anyone to provide him a \$10,000 bond of the perpetual nature required by the rules. Department staff have contacted one of the local insurance companies who have provided these surety bonds in the past and have verified that they are not willing to provide a perpetual bond for a small operator like Mr. Berg. He also does not have the \$10,000 available for a cash deposit.

### Problem and Evaluation Statement

Mr. Berg is anxious to construct the drainfield before winter weather arrives. He is stymied because of his inability to get a surety bond.

Since he is constructing a standard-type septic tank and drainfield with no pumps or other high-maintenance components, the necessity of a perpetual surety bond is far less than if he were constructing a mechanical-type sewage treatment plant.

Mr. Berg can get a short-term surety bond without difficulty. He requests that he be allowed to get a surety bond with an expiration date of two years to cover the construction of the sewerage facility and one year of operation. In lieu of that he requests that the cash deposit be reduced to \$5,000.

Because of the critical need for houseboat moorages with sewerage facilities and the low-maintenance characteristics of the facilities proposed, the Department staff can support Mr. Berg's request for the reduced cash deposit. A reduced-level cash deposit would be more satisfactory than a short-term surety bond for the continued operation and maintenance of the system.

#### Summation

1. OAR 340 Division 15 requires perpetual security for all private sewerage facilities with a design capacity of over 5,000 gallons per day.
2. Mr. Roy Berg is proposing a 10,000-gallon-per-day septic tank and drainfield for a houseboat moorage.
3. Surety Companies are unwilling to write a perpetual surety bond for individuals like Mr. Berg.
4. The system being proposed is a low-maintenance system and the need for perpetual security is not great.
5. Mr. Berg can get a short-term surety bond during construction or provide a cash deposit of \$5,000.
6. Mr. Berg has requested relief from the requirement for the \$10,000 perpetual security for the sewerage system.

#### Director's Recommendation

Based upon the summation, it is recommended that the Commission approve Mr. Berg's request and allow him to provide a \$5,000 insured savings account or equivalent, assigned to the Department in lieu of the \$10,000 security.



William H. Young

Attachments: 1

- A. Letter from Roy Berg

Charles K. Ashbaker:1  
WL2024  
229-5325  
10/7/82

EQC/Staff:

ATTACHMENT A has not been received but  
will be attached to the staff report  
and a copy provided you as soon as it  
arrives.

October 7, 1982

Charles K. Ashbaker, Supervisor Source Control Section  
Water Quality Division  
Department of Environmental Quality  
P.O. Box 1760  
Portland, Oregon 97207


Dear Mr. Ashbaker;

In regards to our phone conversation today concerning the bond for the drain field for River Port Moorage, I would ask your department if it is possible to reduce the time limit on the surety bond from a perpetual time limit to that of one for two years. We have not been able to find a bonding company that will bond it for a perpetual time, however I feel if that stipulation could be modified to a two year time period, we would be successful in finding a bonding company.

If the department cannot see their way to make this change, then our other alternative would be to reduce the security requirements from \$10,000 to \$5,000 on an insured savings account assigned to the department with interest earned by such account made payable to the assignor (Roy H. Berg.) This would help to reduce the hardship imposed on us by these requirements.

As you know time is very important, as the rainy season is almost here, and we need good weather to put in the drain field. Please let me know your decision as soon as possible.

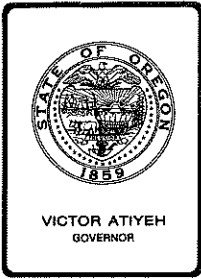
Sincerely,



Roy H. Berg 655-9301  
River Port Moorage  
1150 Clayton Way  
Gladstone, Oregon 97027

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**R E C E I V E D**  
OCT 8 1982

OFFICE OF THE DIRECTOR



## *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. S, October 15, 1982, EQC Meeting

Eligibility of Land for Bond Fund Loans

### Background

At the last regular EQC meeting, Commissioner Petersen requested additional information regarding the eligibility of land for Federal grants in the Sewerage Works Construction Program. The history of the federal program dates back to 1948 and 1956 Laws and the rationale for decisions cannot be fully determined without extensive research.

The following points seem significant:

1. 1948 -- Law passed creating Public Works Construction Program provided for grants and 33% loans for handling municipal wastes. Loans to construct private industrial waste facilities were initially included in the bill but were deleted from the final version of the bill. Treatment works were defined as facilities to "treat" and "dispose" of waste. Program was pushed by large cities to help upgrading and rebuilding and to protect their water supplies from raw discharges from small communities. Program was not funded.
2. 1956 -- Law passed creating and funding the beginning of the current grant program for public facilities. No loans. The 30% grant with a \$250,000 maximum made it a benefit to small cities, with only minor help to the large. The treatment works definition from the 1948 Law was included. The Law authorized grants for construction. Grant payment was to be reimbursement for work in place.

The 1956 Law did not specifically authorize "acquisition" of land to be eligible for grants.

EQC Agenda Item No. S  
October 15, 1982  
Page 2

From the beginning of the 1956 program, the land upon which the treatment works was constructed was not eligible for grant reimbursement. It was to be provided by the community as part of its local responsibility for the project.

In 1977, Congress made land for "land treatment" (by irrigation or other means) eligible as a way of encouraging land intensive alternative technologies. This can be interpreted as consistent with the 1948 definition of eligible treatment works. Where land is eligible, the federal government maintains an interest in the property and it cannot be disposed of without federal approval.

Thus, it appears that the local government was expected to provide the land, the local share of the project and pre-finance the federal share. Local bond issues have generally been voted and sold to cover these costs.

If the Department is going to purchase the local bond issue to finance either the non-federal share or the total project where there is no federal grant, either land acquisition will have to be an acceptable inclusion, or we will have to require that bond issues be split and the land acquisition portion sold elsewhere.

*Bill*

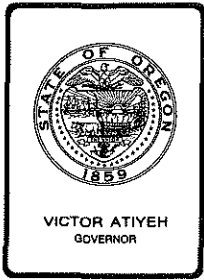
William H. Young  
Director

Attachments

Harold L. Sawyer:g  
229-5324  
October 13, 1982

WG1637





## *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. T, October 15, 1982, EQC Meeting

Proposal to Adopt a Temporary Rule to Amend  
OAR 340-81-035(6) Regarding Bond Fund Debt  
Retirement Schedules

### Background

On September 2, 1982, the Legislative Emergency Board authorized the Department to loan up to \$3 million from the Pollution Control Bond Fund to fund the costs of installing sewers in the Light Rail Transit Corridor on East Burnside Street in Multnomah County. The loan was requested by Metro on behalf of the City of Gresham and the Multnomah County Central County Service District. The sewers are needed to aid in elimination of cesspools in the area. Failure to install the sewers along with the light rail project would cause higher costs and transit disruptions later. Portions of the sewer would remain "dry" until added lines are constructed to connect them to existing treatment facilities.

The E-Board approval recognized a "nonstandard" repayment program which defers initial repayment until 1987, completes repayment in 1997, and relies on the loan recipient's ability to forfeit state shared revenues as ultimate security.

The Department's legal counsel has, by letter (Attachment A), advised that he interprets a section of the Department's rules - specifically OAR 340-81-035(6) as being inconsistent with the E-Board approved repayment program. Accordingly, he has suggested rule amendment language to remedy the problem.

### Evaluation

It is important that sewers be installed in the area in conjunction with the light rail project which is in initial phases of construction. Failure to initiate construction now will cause increased costs, disruptions, and public inconvenience later. It is also important that the loan be completed before November 2, since Ballot Measure 3, if passed, may limit repayment options if the loan is made after that date.

Summation

1. The Legislative Emergency Board has authorized the Department to loan Pollution Control Bond Funds to finance the immediate construction of sewers in the East Burnside Light Rail Corridor.
2. Department legal counsel advises that, in his opinion, OAR 340-81-035(6) should be amended to allow the E-Board approved repayment schedule.
3. Failure to adopt a temporary rule to amend OAR 340-81-035(6) pursuant to recommendations of Legal Counsel, will prejudice the public's interest by precluding the timely completion of the loan, delaying the construction of the sewers, causing increased costs of the sewers when eventually constructed, and causing delay and disruption to the Light Rail Transit Project now being constructed with public funds.

Director's Recommendation

Based on the findings in the Summation, the Director recommends that the Commission adopt the following revision to OAR 340-81-035(6) to be effective for 180 days after adoption:

"(6) The loan or bond retirement schedule of the agency must retire its debt obligation to the state at least as rapidly as the state bonds from which the loan funds are derived are scheduled to be retired; except that [when a debt requirement schedule longer than the state's bond repayment schedule is legally required,] special debt service requirements on the agency's loan [will] may be established by the Department[.] when(a) a debt retirement schedule longer than the state's bond repayment schedule is legally required, or (b) other special circumstances are present."

*Bill*

William H. Young

Attachments: 2

- Attachment A - Letter from Attorney General
- Attachment B - Statement of Need for Rulemaking

Harold L. Sawyer:1  
229-5325  
October 13, 1982

WL2038

DAVE FROHNMAYER  
ATTORNEY GENERAL



## DEPARTMENT OF JUSTICE

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

October 12, 1982

HAND DELIVERED

Harold Sawyer, Administrator  
Water Quality Division  
Department of Environmental Quality  
522 S.W. Fifth Avenue  
Portland, Oregon

Re: Metro Banfield Light Rail Sewer Project -  
Pollution Control Fund

Dear Hal:

Metro has made a proposal to borrow funds from Pollution Control Fund proceeds to finance the subject project. Part of Metro's proposal includes delaying the commencement of a repayment schedule for approximately 4 years.

Although the proposal has been approved by the State Emergency Board, such a repayment schedule would not be consistent with OAR 340-81-035(6) which provides as follows:

"(6) The loan or bond retirement schedule of the agency must retire its debt obligation to the state at least as rapidly as the state bonds from which the loan funds are derived are scheduled to be retired; except that when a debt retirement schedule longer than the state's bond repayment schedule is legally required, special debt service requirements on the agency's loan will be established by the Department."

It has long been held that an administrative agency must follow its own rules. Therefore I suggest that the Commission amend that section as follows in order to allow Metro's proposal:

"(6) The loan or bond retirement schedule of the agency must retire its debt obligation to the state at least as rapidly as the state bonds from which the loan funds are derived are scheduled to be retired; except that [when a debt retirement schedule longer than the state's bond repayment schedule is legally required,]

Water Quality Division  
Dept. of Environmental Quality

RECEIVED  
OCT 12 1982

Harold Sawyer, Administrator  
October 12, 1982  
Page Two

special debt service requirements on the agency's loan [will] may be established by the Department[.] when (a) a debt retirement schedule longer than the state's bond repayment schedule is legally required, or (b) other special circumstances are present."

Please call me if you have any questions.

Sincerely,



Robert L. Haskins  
Assistant Attorney General  
Natural Resources Section

gs

cc: Fergus O'Donnell

P.S. I think that you should bring this to Bill's attention promptly.

Agenda Item No. T, October 15, 1982, EQC Meeting

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183-335(7), this statement provides information on the Environmental Quality Commission's intended actions to consider a temporary revision to OAR Chapter 340, Division 81, Section 035(6).

(1) Legal Authority

ORS 468.020 authorizes the Environmental Quality Commission to adopt rules and standards in accordance with ORS Chapter 183.

(2) Need for the Rule

This modification is needed in order to better implement the intent of ORS Chapter 468 and ORS 454.505 et seq which establishes a program for state aid to assist in the construction of municipal sewage treatment works and is needed to accomplish the state's policy of water purity as stated in ORS 468.710. The proposed rule will enable the Department of Environmental Quality to execute a loan using repayment schedules which have been approved by the Emergency Board. The failure of the EQC to act promptly on this proposed temporary rule will result in serious prejudice to a pending application for loan assistance from the pollution control bond fund. The project involves construction of needed sewers in an efficient manner as part of the Light Rail Transit Project on East Burnside Street. If the temporary rule is not adopted, the project will be delayed, with resulting increased costs and with delay and disruption to the Light Rail Project.

(3) Principal Documents Relied Upon in This Rulemaking

- (a) ORS Chapter 454 and 468
- (b) OAR Chapter 340, Division 81

(4) Fiscal and Economic Impact of Rulemaking

The fiscal impact of this rulemaking is upon municipalities and special districts seeking to borrow money from the Pollution Control Bond Fund. The proposed temporary rule will add flexibility to establish repayment schedules to accommodate local circumstances provided that repayment of state bonds is not impaired.

CAPABILITIES IN STEEL



*Item C*

Management Services Div.  
Dept. of Environmental Quality

*Young  
EQC*

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OCT 08 1982

ESCO CORPORATION 2141 N.W. 25TH AVENUE, PORTLAND, OREGON 97210 U.S.A. TELEPHONE (503) 228-2141 TELEX 36-0590

October 7, 1982

Environmental Quality Commission  
Department of Environmental Quality  
P. O. Box 1760  
Portland, Oregon 97207

Subject: Application for Pollution  
Control Facilities Tax  
Credit  
Numbers: T-1544, T-1545, T-1546

In the October 15, 1982 meeting of the Environmental Quality Commission, ESCO Corporation will have several applications for Pollution Control Tax Credits under consideration. On three of these requests referenced above by Numbers T-1544, T-1545 and T-1546, the staff report has recommended denial based solely upon the lack of request for preliminary certification. Under our interpretation of the rules, the Environmental Quality Commission does not have the authority to waive requirement for preliminary certification on projects initiated prior to October 1979. On this basis, we can understand and accept the staff report recommending denial on T-1544.

The other two projects, T-1545 and T-1546, cover projects started during 1980 for which the Environmental Quality Commission may consider waiver of preliminary certification requirements. In both these cases, the staff report confirms that the facilities would qualify for pollution tax credits in all matters other than proper filing of preliminary certification.

Project T-1545 covers approximately \$6,000 worth of noise control devices which were installed voluntarily based on a neighborhood complaint. As pointed out in the staff report, this complaint was known and filed with the DEQ on September 10, 1980, and then subsequently withdrawn because the company was working privately to correct the problem.

Project T-1546 covers additional duct work to connect two new machines to an existing baghouse. Because of ESCO's proven commitment to improved air quality, we went ahead and installed proper pollution control equipment at the time these machines were installed.

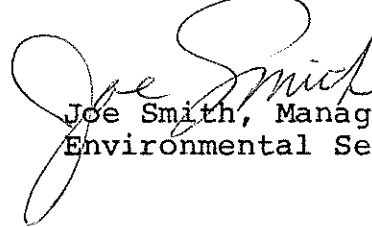
Environmental Quality Commission  
October 7, 1982

Page 2

We acknowledge ESCO's failure to properly submit request for preliminary certification and request reconsideration by the Environmental Quality Commission based upon the spirit and intent in which both of these projects were completed. We do not believe ESCO should be penalized on a technicality since we feel the intent of the Pollution Tax Credit Program is to encourage industry to utilize sound environmental quality practices in designing and installing equipment and processes.

Thank you for your consideration.

Yours truly,



Joe Smith, Manager  
Environmental Services

/pct

cc: Bill Young - DEQ  
Jack Weathersbee - DEQ  
Sean Gilronan

# MEMORANDUM

Item E

lane county



TO Environmental Quality Commission  
FROM Roy Burns, <sup>RB</sup> Contract Agent Lane County  
SUBJECT Agenda Item E, Appeal of Subsurface  
Variance Denial - Mr. Phil Youso and  
Mr. Robert Campbell

DATE October 14, 1982

We have reviewed the denial of the above referenced variance and concur with the findings of the Variance Officer regarding the physical conditions which exist on the site. No option for on-site methods exists under current regulations for a proposal of this nature if it was a vacant parcel.

The existing septic tank and disposal field has been an existing disposal method and has been repaired under Administrative Rules of the Commission.

We reviewed the proposal for the issues related to waste loading and impact of sand filtration treatment prior to discharge. Based upon our analysis we found sand filtration treatment of the total waste load of the R.V. Park and tavern would contribute less contaminants to the existing disposal field system and affected waters than would continued discharge of septic tank effluent only from the R.V. Park.

We do not believe the applicants provided detailed information regarding this element to the Variance Officer for consideration.

We would request that the Variance Officer be provided an opportunity to review this information and report back to the Commission prior to final action.

Attached is a summary on our calculations.

RLB/jbw



Attachment "A"

Sand Filter Effluent

	<u>Septic Tank Effluent</u>	<u>Sand Filter Effluent</u>
99% BOD Reduction	217 mg/l-----	3.2 mg/l
93% Suspended Solid Reduction	146 mg/l-----	9.6 mg/l
47% Total Nitrogen Reduction	57.5 mg/l-----	30.3 mg/l
3 log decrease in fecal coliforms		
2 log reduction in total coliforms		

40 RV x 100 g/d/RV 4000 g/d + 2 MH x 450 = 900 = 4900 g/d total peak flow

RV Park only with Standard System:

$$4900g \times 3.78 \text{ l/g} = 18522 \text{ l/d}$$

$$18522 \text{ l/d} \times 217 \text{ mg/l BOD} = 4,019,274 \text{ mg} = 140 \text{ lb. BOD/day}$$

$$18522 \text{ l/d} \times 146 \text{ mg/l SS} = 2,704,212 \text{ mg} = 94.6 \text{ lb. SS/day}$$

$$18522 \text{ l/d} \times 57.5 \text{ mg/l nitrogen} = 1,065,015 \text{ mg} = 37.3 \text{ lb. total nitrogen/day}$$

With Tavern & RV Park on Sand Filter:

$$4900g \times 2700g = 7600 \times 3.78 \text{ 28712.8 l/d}$$

$$28712.8 \text{ l/d} \times 3.2 \text{ mg/l} = 91880.0 \text{ or } 91881 \text{ mg BOD} = 3.2 \text{ lb. BOD/day}$$

$$28712.8 \text{ l/d} \times 9.6 \text{ mg/l} = 27564 \text{ mg SS} = 0.9 \text{ lb. SS/day}$$

$$28712.8 \text{ l/d} \times 30.3 \text{ mg/l} = 869998 \text{ mg Total Nitrogen} = 30.4 \text{ lb. Total Nitrogen/day}$$

LANE REGIONAL

AIR POLLUTION AUTHORITY



*Otem K*

*EQC  
Young*

(503) 686-7618

1244 Walnut Street, Eugene, Oregon 97403

Donald R. Arkell, Director

September 17, 1982

Mr. Joe Richards, Chairman  
Environmental Quality Commission  
P. O. Box 1760  
Portland, OR 97207

Re: Kraft Pulp Mill Air  
Pollution Control -  
Petition to Transfer  
Jurisdiction from  
State to LRAPA

Dear Mr. Richards:

Pursuant to ORS 468.540(2), it is herewith requested that regulatory jurisdiction for air pollution control of kraft pulp mills be transferred from the Environmental Quality Commission to the Lane Regional Air Pollution Authority, such jurisdiction to be exercised solely within the territory of the Authority, which is Lane County, Oregon.

In support of this petition, the following is presented:

1. The Authority is lawfully constituted under the provisions of Oregon Statutes 468.500 through 468.580. It has maintained an approved air pollution control program since 1968 and has exercised exclusive jurisdiction in Lane County in the manner provided for the Commission and the Department of Environmental Quality to carry out the same functions throughout the State. LRAPA's jurisdiction is extended to all sources authorized by law and regulations, with the exceptions of agricultural burning and forest land burning, as required by law, and of kraft pulp mills.
2. Regulatory jurisdiction for the only kraft pulp mill in Lane County, owned and operated by the Weyerhaeuser Company, is now retained by the Commission based on past findings that control of this source category is beyond the capabilities of regional authorities, due to the complexity and magnitude of the processes involved. It has also been the expressed desire of the Commission and the Department of Environmental Quality to maintain uniform control requirements on the various paper manufacturing operations throughout the State, so as not to create inequities among the several companies involved.
3. The Authority has the capabilities to maintain an adequate program of air pollution control of the kraft mill in Lane County. The Authority's staff possesses the necessary technical and administrative expertise and knowledge to respond appropriately to the needs of the public of Lane County and the affected kraft mill. This includes professional engineering, field enforcement, and monitoring capabilities.

Joe Richards  
September 17, 1982  
Page 2

At its regular meeting on September 14th, 1982, the Board of Directors of the Lane Regional Air Pollution Authority adopted regulations which have been reviewed by the Department staff and found to be equivalent. This establishes an appropriate legal framework to carry out a program equivalent to that administered by the Department of Environmental Quality. The rules have been submitted for SIP approval according to established procedures.

It is the belief of the LRAPA Board of Directors that this transfer of regulatory jurisdiction will facilitate the Authority's efforts to maintain good air quality in Lane County.

It is requested that this petition be placed on the Commission's agenda for consideration at the next regular meeting. If the Commission or the Department staff have questions or concerns, we are available, at your convenience. Thank you for your consideration.

Sincerely,



William A. Whiteman, Chairman  
Board of Directors

DRA/mjd

cc: E. J. Weathersbee  
Joyce Benjamin

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
SEP 20 1982

OFFICE OF THE DIRECTOR

Item M

EQC  
Young  
Zucker

## NORTHWEST PULP & PAPER

October 13, 1982

Joe Richards, Chairman  
Environmental Quality Commission  
PO Box 1760  
Portland, OR 97207

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**R E C E I V E D**  
OCT 18 1982

RE: FOE/O PETITION TO AMEND OAR 340-14-025(5)  
AGENDA ITEM NO. M, OCTOBER 15, 1982

OFFICE OF THE DIRECTOR

Dear Chairman Richards:

The Friends of the Earth/Oregon Branch (FOE/O) have petitioned the EQC to allow interested parties the same right to appeal permits issued by the DEQ as permit applicants now have under OAR 340-14-025(5). The Northwest Pulp and Paper Association (NWPPA) opposes this change for practical as well as legal reasons.

In terms of the practical aspects, the change proposed by FOE/O would add a great deal of delay or uncertainty to the permitting process as well as expense of preparing for contested case hearings on a routine basis. These problems are compounded by the fact that most permits for industrial installations are re-issued or must be renewed on a periodic basis. Thus there is the possibility of disruption to existing operations as well as the possibility of delay for the proposed projects.

In terms of the legal aspects, NWPPA is opposed to the proposal because of the number of legal issues which are not addressed by the proposal. These unanswered legal issues can be divided into two areas: (1) whether parties other than permit applicants are entitled under concepts of due process to the type of appeal requested by FOE/O; and (2) if so, what is the nature of that review, i.e., should it differ from that which the permit applicant now enjoys. These are taken up separately below.

### I. Right to Appeal Permits by Non-Applicant Parties

The issue of whether non-applicant parties are entitled to appeal permits to the EQC revolves around the question of whether there is some fundamental unfairness to such parties who might otherwise be denied the opportunity to raise their concerns somewhere in the process.

As amply described in the DEQ staff memorandum, a party other than the permit applicant has a variety of avenues available to raise their

concerns. They may participate in the initial hearings held by the DEQ on permit applications. They may take a judicial appeal. If they are concerned about a regulation establishing the conditions under which a permit would be granted then they may participate in the original hearing process for that regulation or they may petition to amend or otherwise re-open a regulation. Informal avenues to raise concerns before the EQC are also available. Given the variety of these options it is unlikely that an interested party, other than the permit applicant, is denied the opportunity to raise issues of a type requiring a contested case type hearing before the EQC. Nor is it likely that general issues and concerns could be developed more accurately or more fairly in a contested case hearing. The current system, when viewed in its totality is not "fundamentally unfair" to non-applicant parties.

The petition prepared by FOE/O contains the argument that they are only seeking the same appeal right as a permit applicant. Due process does not require that they have the same appeal right in terms of contested case hearings before the EQC for the very simple reason that their interest in a permit is not of the same magnitude as that of the permit applicant. A permit applicant would experience potential jeopardy of fundamental property interests if permits could be delayed by appeal to the EQC in this manner and the livelihood of the business could be affected. A non-applicant interested party may be representing important environmental interests of an organized group, nevertheless, their interests at stake are not similar to that of the permit applicant.

On the other hand, a contested case hearing should be available to a permit applicant who is grieved by the denial of a permit or conditions imposed. The permit applicant will have special familiarity with the technical and environmental aspects of the project, the intricacies of project management and the economics of the project as affected by permit conditions. These narrow and specific concerns warrant the additional protection afforded by an appeal and contested case hearing before the EQC.

In sum, due process does not generally require that all parties have the same appeal rights. This may vary according to the type of interest at stake. Due process does require that the system, when viewed as a whole, be fundamentally fair and that non-applicant interested parties be given the opportunity to present their views. As outlined in the DEQ staff memorandum, there are ample opportunities for participation by non-applicant interested parties which are commensurate with the level of concerns and type of information which would be raised by such parties.

## II. Nature of Review for Appeals by Non-Applicant Parties

Despite due process arguments, if the EQC were to grant a right of appeal and contested case hearings to non-applicant interested parties there are many issues which would need to be addressed which are not adequately reflected in the FOE/O petition. These include:

- Should the types of issues which are appealable by non-applicant parties be limited? Would they be limited to issues raised in the prior hearing or could new issues be raised?
- Should the right of appeal by non-applicant parties be automatic or limited by some criteria?
- What would be the standard of review applied by the EQC to appeals raised by non-applicant parties? Should there be a de novo review or some more limited review?
- What would be the effect of an appeal on a project for which a permit has been granted? If the effect is to stay the permit and/or temporarily enjoin the permitted activity, would the non-applicant parties be required to post a bond?
- What would be the effect on later judicial review where there has been a contested case hearing as a result of an appeal to the EQC by non-applicant parties?

The petition submitted by the FOE/O belies the complexity of the issue. It is not enough to simply substitute the words "any person" for "the applicant." The differing interests of these parties suggest that the answers to most of the above questions should be very different depending on who is appealing.

In sum, due process does allow different procedural considerations depending on the interests of the appealing party. It does not appear that under the Oregon procedures that a non-applicant party needs recourse through a contested case appeal to the EQC, as there are ample other opportunities to raise their concerns. Lastly, if some type appeal to the EQC is granted to such parties it should not be automatic and should be limited in nature.

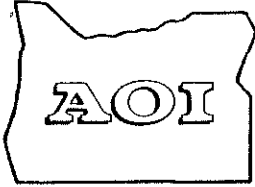
Thank you for the opportunity to submit these views.

Sincerely,



Llewellyn Matthews  
Executive Director

ALM:sd



## ASSOCIATED OREGON INDUSTRIES

MAILING ADDRESS: P.O. BOX 12519 / SALEM, OREGON 97309 / 503 588-0050  
LOCATION: 1149 COURT ST. N.E. PORTLAND AREA 503 227-5636

*Ivan Congleton, president*

October 13, 1982

Mr. Bill Young, Director  
Department of Environmental Quality  
522 SW Fifth Ave.  
Portland, OR 97207

Dear Bill,

Enclosed please find a copy of a letter to your EQC Chairman Joe Richards. In an attached envelop, I have enclosed the original, addressed to Chairman Richards, and copies for the other members of the Commission.

You indicated during our phone conversation of a couple of weeks ago, that such a letter detailing our position on the petition to amend OAR 340-14-025 would be appropriate.

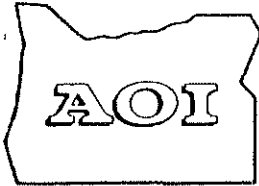
I certainly appreciate your forwarding a copy of your DEQ recommendation. Any similarity between that recommendation and my letter is coincidental.

I would appreciate your arranging for the distribution of letter to the Commission members.

I wish Donaca would hurry and return from Europe!

*Thanks!*

*Jack*  
Jack Munro



## ASSOCIATED OREGON INDUSTRIES

MAILING ADDRESS: P.O. BOX 12519 / SALEM, OREGON 97309 / 503 588-0050  
LOCATION: 1149 COURT ST. N.E. PORTLAND AREA 503 227-5636

*Ivan Congleton, president*

October 13, 1982

Mr. Joe B. Richards  
Chairman, Oregon Environmental  
Quality Commission  
P. O. Box 1760  
Portland, OR 97207

RE: Petition to amend OAR 340-14-025(5)

Dear Chairman Richards:

In the absence of the vacationing Tom Donaca, our regular spokesperson before the Environmental Quality Commission, I would like to indicate AOI's opposition to the proposed change in OAR 340-14-025(5).

Recognizing that the issue before the EQC is the preliminary question of whether or not to commence the formal rulemaking process to amend the existing rule, I will but briefly outline the nature of our concern with that proposal.

The proposed change is neither necessary nor appropriate. It is unnecessary because the existing process already provides adequate opportunity for interested parties to express their concerns and interests. It is inappropriate because it will only tend to complicate and impede your permit granting process.

### Procedure

#### Permits-Adoption of Standards:

A permit authorizes one to conduct or participate in an activity subject to any conditions imposed by the grantor. The granting process involves the matching and weighing of the proposed activity against a set of existing standards or rules constituting the conditions for granting or denying a permit. The act performed by the granting authority is clearly ministerial.

The rules and standards that stipulate the conditions that must be met in order to obtain a permit are not developed without more than adequate opportunity for public participation. There is an extensive and detailed process for the enactment of such standards that requires public notice and hearings and guarantees public right to participate in rule development, ORS 183.310. Furthermore, a rule and the agency's interpretation of that standard is subject to judicial examination, ORS 183.410.



2....

Clearly, interested members of the public are afforded an opportunity to be involved in development of the standards governing permit approval and, likewise, have an opportunity to test both an agency's authority to formulate rules as well as the actual standard or rule.

Permits-Granting:

The EQC/DEQ represents the public interest in the permit granting process. It applies the state's statutes and derived standards utilizing power delegated by and emanating from the elected government. The agency is not only the grantor, but has a duty to represent and uphold the public's interest.

The process for the granting of most major permits, including those of the EQC/DEQ, provides for a public exchange of information and ideas. While not mandated by law, that informal exchange allows for public comment that certainly is ultimately reflected in the granting of permits.

While parties other than the agency and the applicant may not have any official role in the administrative-ministerial process relative to weighing the permit application/proposal against existing statutes and standards, affected members of the public are entitled to subject the resultant permit to judicial scrutiny, ORS 183.480. That ability to subject the permit to judicial review provides more than adequate public protection.

Impact:

There has been growing concern about the time that it takes to process many permit applications. Recognizing the adverse impact of slow moving permitting processes, the legislative trend has been to place its agencies under rather strict time limitations whenever possible.

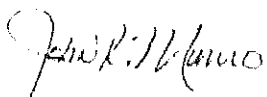
Further formalizing the existing EQC/DEQ permit granting processes runs counter to that trend. The additional complexity will surely result in a more lengthy process with result in costs in time and money. It is a cost that will be borne by both the applicant and the public's representative, the agency.

Due process certainly calls for an opportunity to question and contest the agency's action. That opportunity is currently afforded to affective parties.

The proposed change is simply not appropriate when the public's interest are already adequately provided for and represented.

We urge that the EQC deny the petition.

Sincerely,



John R. Munro  
Vice President - Assistant Counsel

JRM:lh

R E C E I V E D

OCT 13 1982

OFFICE OF THE DIRECTOR

HAND DELIVERED



FRIENDS OF THE EARTH / Oregon Branch

P.O. Box 1251 - Portland, OR 97207 - (503) 243-2806

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY

OF THE STATE OF OREGON

In the matter of	)	
Proposed Amendment	)	FRIENDS OF THE EARTH
to OAR 340-14-025(5)	)	RESPONSE TO DEQ STAFF
Relating to Issuance	)	MEMORANDUM 9/29/82
of a Permit	)	

The Oregon Branch of Friends of the Earth (FOE/O) received a copy of the DEQ staff memo recommending that the rule not be changed by going to the DEQ offices and obtaining a copy on October 6th. The memo was dated September 29th. The delay in making the memo available to FOE/O has made it difficult to respond to DEQ in a timely manner with a response that can be provided to the Environmental Quality Commission (EQC) prior to the October 15th meeting.

1. DEQ proposes there be no public hearing on FOE's petition to amend the rule. There has been no notice in the paper or notice given to interested public interest groups. FOE/O questions what good reasons DEQ offers for not permitting the public to have a hearing on FOE/O's request?

2. The DEQ staff has misinformed the EQC . The report falsly claimed that the legislature has only given the permit applicant the right to a contested case hearing. ORS 468.070(3) was cited, however there is no mention of applicants there. The procedure in this section is available to all. Only the EQC administrative rules limit it to the applicants. ORS 183.310(2)(c) is also cited, which is a definition section. The definitions also provide for other situations. The staff report ignored the (2)(b) and (2)(d) sections. The report says that the legislature has not accorded the right to the public at large. Staff is misreading and omitting part of the statute. It is the agency administrative rule that limits the case to ORS 183.310(2)(c).

3. DEQ has failed to provide sufficient reason why the DEQ is to be viewed as the sole "proponent and protector of the public interest." FOE/O offers to the Commission the suggestion that the staff perception of the agency is incorrect.

4. The staff report says that citizens have an alternative to the proposed appeal process and cites the opportunity to petition to amend a rule. This is unrealistic in that once a permit is issued, a rule change has no effect.

FOE/O is making the reasonable request that the public receive equal consideration in concerns about permit conditions. The staff memo sidesteps this issue and speaks of FOE/O efforts to add a procedure that could "increase the cost and time needed to issue legitimate permits." Making reference to HB 3305, the memo argues that giving the public equal appeal opportunity with the permit applicant would encumber the permit process.

FOE/O argues that the ability of ANY party to request a hearing to appeal permit conditions could cause delays in the issuance of permits. That ability to cause delays is afforded to permit applicants under DEQ rules regardless of the adequate nature of the permitting process, the availability of alternate methods of gaining access to the Commission, the availability of judicial review, and the need for timely permit issuance.

The right to equal avenues of appeal is not a more cumbersome process. The right to appeal in itself certainly is more cumbersome a process than a situation without it. Democracy also is a more cumbersome process than some other forms of government. Regardless, the staff memo failed to cite reasons why DEQ feels the permit applicant should have access to a process that the public is denied. For what reasons can it be assumed that the public would request a Commission hearing for tenuous reasons and that the applicant would not?


FOE/O is concerned also with the nature of the language in the staff memo that does not convey the intent of Friends of the Earth. The requested rule change would permit any person with objections to conditions of a permit to "request a hearing before the Commission". The staff report says that the proposed amendment would enable the public to "demand" a hearing. The wording in the DEQ rule reasonably expresses the intent of Friends of the Earth. Our question then is, does a "request" by a permit applicant or member of the public necessarily translate into the ability of a party to "demand" a hearing for ANY reason, be it spurious or sound? Is it not true that there are certain limits on the ability of any party to receive a hearing?

DEQ proposes to continue to relegate citizen's groups and cities to the courts. FOE/O requests the opportunity to have equal footing with the permit applicant before the agency. We do not feel that DEQ has adequately or accurately presented reasons sufficient to cause the Commission to deny our request to amend the rule.

FOE/O requests a proper hearing before the Commission so that we and other environmental organizations and concerned citizens can present our arguments in favor of the proposed rule change.

DATED: October 13, 1982

ENCL: (2)

  
James L. Johnson, Jr. -STATE CHAIRPERSON  
FRIENDS OF THE EARTH/OREGON BRANCH

# Friends of Earth call permit policy unfair

By JOHN HAYES  
of The Oregonian staff

A newly formed environmental organization is attacking a state policy that has frustrated Oregon environmentalists since 1972.

The policy allows companies to appeal limits in pollution permits to the state Environmental Quality Commission but denies the same opportunity to members of the public.

The Oregon chapter of Friends of the Earth, formed only last month, has formally requested a change in the state rule. The matter will come before the Environmental Quality Commission on Oct. 15.

"The rules right now are prejudiced in favor of the applicant for a permit," said James Johnson, state chairman of Friends of the Earth and an Oregon City commissioner. "Once they've received the permit conditions, they can go

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**'I think the rule is way too restrictive. Even if you get involved early as a legitimate party, you don't have the same rights to appeal as the permittee does'**

---

through the relatively inexpensive process of asking the EQC for a hearing to change the conditions. This is not an opportunity afforded to the public."

"I thought it was important that we try to obtain equality for the public."

Johnson argued that a member of the public living next to the site of a proposed factory should have the same opportunity to appeal the conditions in a pollution permit as the company that owns the factory.

The rule singled out by Friends of the Earth is a pet peeve of other environmentalists, said John Charles, director of the Oregon Environmental Council.

"I think the rule is way too restrictive," he said. "It's unfair. Even if you get involved early as a legitimate party, you don't have the same rights to appeal as the permittee does."

The target of the rule-change application is a section of the state administrative rules that governs the way the Department of Environmental Qual-

ity grants pollution permits.

In the section describing the permit-issuing process, the rules say: "If the applicant is dissatisfied with the conditions or limitations of any permit issued by the department, he may request a hearing before the commission or its authorized representative."

Johnson has suggested substitution of "any person" in place of "the applicant" in the rule.

Normally, pollution permits are issued by the director of the DEQ, without being brought before the Environmental Quality Commission, which sets environmental policy for the state.

Only the applicant can bring a permit issue before the commission, leaving members of the public, environmental groups or local governments who might object to the permit with the state court system as the only avenue of appeal.

Joe Richards, chairman of the EQC, said Thursday that he had taken no position on the proposed rule change.

But Bill Young, director of the DEQ,

suggested that the change, if it were granted, could add several months to the time required for the DEQ to issue pollution permits.

"It could have the effect of increasing the time-frame for issuing permits," he said. "You could be looking at a process of a year or longer when there is any kind of legitimate controversy over a permit."

DEQ hearings officer Linda Zucker, who has been asked to analyze the arguments for and against the proposal, suggested that the change could lead to "a much more cumbersome process."

Both Friends of the Earth and the Oregon Environmental Council are involved in negotiations over a state pollution permit for the garbage-burning plant that the Metropolitan Service District has proposed to build in Oregon City.

Johnson acknowledged that the rule change would make it possible for environmentalists to gain the right to appeal the garbage-burning plant's pollution permit without taking the matter to court.

The EQC will consider the matter during a daylong meeting Oct. 15 in Room 1400 of the DEQ headquarters, 522 S.W. Fifth Ave., Portland. No time has been set for the discussion, but Zucker said it would be sometime after 10:30 a.m.

# Plan for contesting pollution permits opposed

By JOHN HAYES  
of The Oregonian staff

10/9/82

The director of Oregon's Department of Environmental Quality has opposed a proposal to give the public the right to challenge DEQ pollution permits in hearings before the Environmental Quality Commission.

Holders of pollution permits who object to DEQ requirements have been entitled to hearings before the Environmental Quality Commission since the agency's first administrative rules were adopted in 1972.

The Oregon chapter of Friends of the Earth, an environmental organization, petitioned for a change in state rules to give members of the public the same right as holders to appeal per-

mit conditions.

But environmental quality department Director Bill Young, in a report to the EQC made public Friday, recommended against the rule change the Friends of the Earth had requested.

"The department issues 200 permits annually regulating air quality alone," Young said in a report to the commission, the public board that sets environmental policy for Oregon. "Applicants for these permits for new or planned facilities could be confronted with serious delays."

Young argued that the rule change proposed by the Friends of the Earth would allow anyone, "however tenuous his interest in the permit," to hold up the issuance of a pollution

permit while the matter is argued before the commission.

And Young argued that the public interest is protected in any permit proceeding because the DEQ itself is "the proponent and protector of the public interest."

Young, in making his recommendation to the commission, relied on legal research and a report prepared for him by Linda Zucker, a hearings officer for the DEQ and the EQC.

Young's recommendation will be considered by the commission at a meeting Friday in Portland.

Friends of the Earth Chairman Jim Johnson called Young's report "insulting in its claim

that the DEQ is the sole guardian of the public interest."

"He is recommending that we shouldn't even get a formal rule-making hearing on our proposal," Johnson said Friday. "All we are asking is that the public and the cities be given the same rights of appeal as the polluters themselves."

"If he gets his way, not a city or an individual or any affected party has the opportunity that the polluter has to get changes in a permit," Johnson said. "DEQ relegates the citizens groups and the cities to the courts, but we want the chance to change the bureaucrats' minds, to persuade them — not just get a court decision."

*Young*  
EQC

# OREGON ENVIRONMENTAL COUNCIL

2637 S.W. Water Avenue, Portland, Oregon 97201

Phone: 503/222-1963

October 12, 1982

TO: Members of the Environmental Quality Commission

FM: John A. Charles, Oregon Environmental Council(OEC)

RE: EQC meeting, Oct. 15, Agenda Item M; Petition to amend OAR 340-14-025(5)

**OFFICERS**

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President

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*Caryn Talbot Throop*

*Don Waggoner*

*David F. Werschkul*

*Toni A. Zenker*

**EXECUTIVE DIRECTOR**

*John A. Charles*

Friends of the Earth/Oregon(FOE/O) has petitioned for an amendment to OAR 340-14-025(5) which would entitle "any person" to a contested case hearing before the Commission on the conditions or limitations of a DEQ permit. The rule as it now stands allows such Commission review only to permit applicants.

DEQ director William Young has recommended that the rule be left as is.

OEC believes it reasonable for the Commission to adopt a compromise rule which would allow contested case review at the instance of persons directly affected by the issuance of a permit. Thus, the provision at issue would read:

(5) Any person adversely affected or aggrieved by the conditions or limitations of any permit issued by the Department may request a hearing before the Commission or its authorized representative...

This amendment to the rule would address FOE/O's concerns, which OEC shares, concerning the unfair exclusion of affected persons other than permit applicants from the administrative review process.

Further, where affected persons must now await administrative action before contributing to the process on judicial review with a closed record, under OEC's proposal, such persons could put all the facts before the Commission, thus increasing the likelihood of a complete and accurate decision and decreasing the need for judicial review.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**RECEIVED**

OCT 14 1982

OFFICE OF THE DIRECTOR

Memo to EQC  
10/12/82  
Page Two

The suggested language has the advantage of clarity derived from prior judicial constructions of identical language in the judicial review statute, ORS 183.410.

OEC believes experience with other agencies will not support the argument that permits would often be delayed by contested case proceedings. To decide that only permit applicants have sufficiently important interests to obtain contested case review is to deny the significance of environmental impacts which are the very reason for the Commission's existence.

OEC urges the Commission to initiate rule-making proceedings in order to consider more fully our compromise language as well as other proposals from the public.

cc: Bill Young ✓  
Linda Zucker  
Rob Haskins

AGENDA ITEM Q:  
City of Portland  
bond purchase

*why EQC  
Young*

RANKIN, McMURRY, VAVROSKY & DOHERTY

LAWYERS

1600 BENJ. FRANKLIN PLAZA  
ONE S.W. COLUMBIA STREET  
PORTLAND, OREGON 97258

STODDARD D. JONES  
(1945-1982)  
TELEPHONE 226-6400  
AREA CODE 503

HOWARD A. RANKIN  
GARRY P. McMURRY  
DENNIS R. VAVROSKY  
PATRIC J. DOHERTY  
E. KIMBARK MACCOLL, JR.  
ROGER R. WARREN  
PETER R. MERSEREAU  
RONALD L. WADE  
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MARK W. EVES  
KARLI L. OLSON  
RONALD W. ATWOOD  
LAURIE A. COPENHAVER  
JAMES A. FITZHENRY  
MIRIAM FEDER  
MELISSA A. TURNER  
JUNE A. SMITH

October 8, 1982

Department of Environmental Quality  
P.O. Box 1760  
Portland, Oregon 97207

Attention: Harold L. Sawyer, Administrator  
Water Quality Division

Dear Mr. Sawyer:

You have provided us with a form of revised "Offer and Acceptance - Bond Purchase Agreement" with the City of Portland. This Agreement provides for the financing of "sewage sludge dewatering and composting facilities". It amends a prior Agreement dated January 12, 1982 between the Department of Environmental Quality and the City of Portland relating to the purchase by the Department of the City of Portland Sewer Revenue Bonds in the amount of \$5,000,000.

The enclosed Agreement reduces to writing a change in the January 12, 1982 Agreement relating to action to be taken by the Department in the event of default and a change in the component of the sludge processing from a sludge drying to a closed vessel composting. You have asked for our opinion as to whether these changes in the revised Offer and Acceptance - Bond Purchase Agreement with the City of Portland will in any way diminish the State's security for the payment of the City of Portland Revenue Bonds.

We have reviewed the Agreement of January 12, 1982 and the enclosed revised Agreement and it is our opinion that the changes do not diminish the State's security for the payment of the City of Portland Revenue Bonds.

Very truly yours,

RANKIN, McMURRY, VAVROSKY  
& DOHERTY

*Howard A. Rankin*  
Howard A. Rankin

HAR:llm

RECEIVED  
OCT 11 1982

Water Quality Division  
Dept. of Environn. al Quality

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
RECEIVED  
OCT 11 1982

OFFICE OF THE DIRECTOR