

7/8/1983

OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS



State of Oregon
**Department of
Environmental
Quality**

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OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

July 8, 1983

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

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 May 20, 1983, EQC meeting.

APPROVED

B. Monthly Activity Report for April and May, 1983.

APPROVED*

C. Tax Credits. [*T-1605, Vernon Duyck, granted]

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.

HEARING AUTHORIZATIONS

APPROVED

D. Request for authorization to hold a public hearing to amend standards of performance for new stationary sources OAR 340-25-510 to 655 to include new federal rules for asphalt processing and asphalt roofing and five volatile organic compound sources; and to amend the State Implementation Plan.

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.

APPROVED

E. Request for a variance from OAR 340-21-015(2)(b) and OAR 340-21-030 for the Mid-Oregon Crushing Company asphaltic concrete plant, Deschutes County.

APPROVED

F. Request for approval of variance from Lane Regional Air Pollution Authority rules section 33-065 charcoal-producing plants, extension of final compliance date for the Kingsford Company, Springfield, Oregon, LRAPA Board Order No. 1983-1.

(more)

- APPROVED G. Proposed facilities and time schedule to remove or alleviate condition alleged dangerous to public health at Ocean View Mobile Estates in Harbor, Curry County, Oregon; Certification of Approval to Health Division in accordance with ORS 431.720.
- DISCUSSION H. Surety bonds for sewerage facilities--discussion of alternatives.
- UPHELD I. Appeal of Hearing Officer's decision in DEQ v. Frank.
- ACCEPTED J. Relationships with other agencies.
- ACCEPTED K. Status report on Mt. Mazama Plywood Plant, Sutherlin, variance.
- DISCUSSED/
APPROVED L. Composition of Woodstove Advisory Committee.

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 DEQ Headquarters, 522 S. W. Fifth Avenue, Portland.

OREGON ENVIRONMENTAL QUALITY COMMISSION

July 8, 1983

BREAKFAST AGENDA

1. Status report: Oregon Sun Ranch
2. Clean Air Act sanctions

Danko

Weathersbee/
Vlastelicia

LUNCH

1. Legislative update

Biles

Summary_of_Administrator's_Decisions
on_the_Air_Sanctions_Policy

In developing options for implementing an air sanctions policy, the Agency was guided by the following objectives:

- (1) Be consistent with the Clean Air Act
- (2) Move the nation closer to the health goals of the Act
- (3) Strengthen federal, state, and local air pollution control programs and build cooperation between these levels of government
- (4) Treat all parties fairly
- (5) Encourage States to fulfill their obligations to plan and implement but not by being punitive
- (6) Avoid unnecessary economic disruption

Exerting pressure on Congress to amend the Act was not a goal.

At a briefing held on June 16, 1983, EPA staff presented a range of options to the Administrator and he made the following decisions:

A. Construction Moratorium (Sec. 110(a)(2)(I))

Impose the construction moratorium where a State is not making "reasonable efforts" to correct a SIP deficiency. Such a deficiency can include failure to implement a part of the SIP, failure to comply with a condition under a conditional approval, and failure to submit a required SIP revision in the time specified. Failure to attain the standard by a specified deadline would not trigger the construction moratorium if the State was making good faith efforts to implement an EPA-approved SIP. The construction moratorium would be removed when the condition causing it to be imposed was remedied.

B. Highway Grants/Air Grants (Section 176(a))

Impose Section 176(a) funding restrictions for failure to make reasonable efforts to submit a plan. Sanctions would be removed upon the demonstration of reasonable efforts. Reasonable efforts consist of submission of an aggressive schedule for the development of a plan and accomplishing critical milestones in that schedule.

C. Air Grants (Section 176(b))

Propose 176(b) sanctions for all States that failed to implement the SIP in the past (pre-January 1983). Make 176(b) sanctions final on the basis of failure to make progress when both pre-1983 actions and more current actions are considered. This policy on final action would be announced as part of the proposals. If there is any evidence of future backsliding on the part of a Jurisdiction now promising to implement the SIP (e.g., I/M by January 1984), the 176(b) sanction could be made final immediately without a reproposal. Sanctions would be removed when evidence of progress in implementation was provided.

D. Sewage Treatment Grants (Section 316)

Retain discretion to apply sewage treatment plant funding sanctions on a case-by-case basis, triggered by a clear failure to perform on the part of the State and imposed in those cases where such sanctions would not be environmentally counterproductive.

The Administrator also decided that for newly discovered nonattainment areas, the State would be allowed to determine the control strategies required for attainment and to submit a SIP containing such strategies in a reasonable time. Failure to submit a SIP in the time specified, or to implement the provisions of an approved SIP would result in the imposition of the appropriate sanctions, which would be removed when the deficiency was corrected.
Cover page for speech

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PRESS RELEASE 6-23-83

EMBARGOED FOR RELEASE AT 5:00 P.M.
THURSDAY, JUNE 23 1983

(202) 382-4355

EPA ANNOUNCES
POLICY ON AIR
SANCTIONS

U.S. Environmental Protection Agency Administrator William D. Ruckelshaus announced tonight in Atlanta (8 P.M., EDT) that the agency no longer intends to impose sanctions against certain communities for failure to achieve air quality standards when reasonable efforts have been made to carry out EPA-approved implementation plans.

However, sanctions will be imposed, Ruckelshaus said, where states have not made reasonable efforts to solve air quality problems.

The agency is also planning to impose some funding restrictions on those states that have not yet implemented a motor vehicle Inspection and Maintenance (I/M) program.

The new EPA policy would change a February 3, 1983 proposal announced in the Federal Register that could have resulted in automatic sanctions against those counties EPA believed did not meet the Clean Air Act's December 31, 1982 deadline.

At that time the agency listed a number of counties it thought had failed to meet those deadlines, and 33 counties that may have failed to meet other requirements of the act. In a parallel action, EPA listed 17 states that had received extensions until 1987 to meet standards for automobile related air pollutants whose plans to attain the standards by then were proposed for disapproval. A total of 213 counties were thought to have been out of compliance with one or more requirements of the law.

R-99

(more)

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JUL 5 1983

Oregon Operations Office
EPA-REGION 8

Mr. Ruckelshaus, speaking at the Air Pollution Control Association annual meeting, said his decision to reverse the policy was based on recommendations made by an agency task force commissioned to study the issue.

'Our main intent is, and should be -- 'Are we moving as quickly as we can to achieve the health and welfare goals of the Act,' not--'How can we punish those who have not complied fully in the past.'

'The point is,' he stressed, 'it seems fundamentally unfair to impose sanctions when states have made reasonable efforts to address their air quality problems and EPA has participated in those efforts by blessing the state plan.'

Ruckelshaus indicated that the EPA staff will develop a draft of detailed guidelines and discuss them with state and local air pollution control agency directors prior to publishing them in the Federal Register in about sixty days. EPA staff will then discuss in detail with each state how these guidelines apply to the specific cases. EPA will then determine whether or not a particular area is out of compliance with the law, how the area could come back into compliance with the law, and whether or not the new policy suggests that sanctions must be applied in the meantime.

Ruckelshaus, recalling his testimony and that of fellow former EPA Administrators Doug Costle and Russ Train before Senate Clean Air Act hearings, said, '...there was one theme that ran through all of our testimony. That theme was the need for more flexibility. We all believed that the successful application of the law depended upon the ability to make constructive adjustments.'



Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

MEMORANDUM

TO: Environmental Quality Commission

FROM: Stan Biles, Assistant to the Director

RE: Status of Legislation as of July 7, 1983

D.E.Q. Bills

HB-2235	Woodstoves	Signed by Governor
HB-2236	Solid Waste Fees	Signed by Governor
HB-2237	Hazardous Waste Fees	Signed by Governor
HB-2238	Hazardous Waste Program	Passed House, to Senate Floor with "Do Pass" Recommendation
HB-2239	10-yr. Water Permits	Passed House/Tabled in Senate
HB-2240	Sludge Regulation	Signed by Governor
HB-2241	Financial Assurance - Landfill Closure	Passed House, to Senate Floor with "Do Pass" Recommendation
HB-2242	Environmental Notice	Tabled in House
HB-2243	Affirmative Defense	Tabled in House
HB-2244	Recycling	Tabled in House
SB-112	Tax Credits	Passed Senate, In House Revenue Committee

Others' Bills

SB-405	Recycling	Passed House and Senate
SB-225	Minimum Stream Flows	Passed House and Senate
SB-407	Nursery Exemption from Noise Regulation	Passed House and Senate
SB-418	Medford I & M	Signed by Governor
SB-509	Exempts 20-yr.-Old Cars from Portland I & M	Passed House and Senate
SB-569	Bottle Bill Exemption for Milk/Soy Based Products	Passed Senate, in House E & E
SB-721	Requires EQC to Give Priority to Eco. Dev.	Passed House and Senate
SB-771	New Crops Research Board	Passed House and Senate
SB-5543	DEQ Budget	Signed by Governor
SB-5570	Authorization to Sell PCBF Bonds	In Joint Ways & Means

MEMORANDUM

July 7, 1983

Page 2

House Bills

HB-2295	Land Use Revision	Passed House, on Senate Floor 7/8 or 7/9
HB-2544	Office of Administrative Hearings	Tabled in House Committee
HB-2738	Council on Infrastructure Development	Passed House and Senate
HB-2741	Exempts Firing Ranges from Noise Control	Tabled in Committee
HJR-27	Allows PCBF to be used for Economic Development	Passed House, in Senate Committee

As of July 7, 1983, four EQC/DEQ priority measures are alive and awaiting final action prior to adjournment:

HB-2238	Hazardous Waste Program Delegation
HB-2241	Financial Assurance-Landfill Closure
SB-112	Tax Credit Revisions
SB-405	Recycling

HB-2238, HB-2241, and SB-405 appear to be in excellent condition. Each requires action only by the Senate Floor. HB-2238 and HB-2241 have been recommended unanimously by Senate Committees. SB-405 has already passed the Senate once; (24-5). Simple concurrence with two non-controversial House amendments is required. SB-112 is awaiting Committee action. Some members, including the Chair have philosophical concerns with the program and this Bill may serve as an opportunity to express their interests. However, the bill should pass. Unfortunately, the Committee has higher priorities (sales tax, expenditure limitation), thus a quick adjournment could hurt our chances here.

SB:k

FK2070

cc: William H. Young, Director
DEQ Administrators

Amended

JK
H. A. King
file

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EOC

MINUTES OF THE ONE HUNDRED FORTY-NINTH MEETING State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

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JULY 8, 1983

AIR QUALITY CONTROL

On Friday, July 8, 1983, the one hundred forty-ninth meeting of the Oregon Environmental Quality Commission convened at the Department of Environmental Quality, Portland, Oregon. Present were Commission members Chairman James Petersen; Fred J. Burgess, Vice-Chairman; Wallace B. Brill; Arno Denecke; and Mary 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 SW 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

1. Legislative update: Stan Biles, Assistant to the Director, reviewed a summary of the status of bills which are of interest to the Department.
2. Oregon Sun Ranch - status report: Bob Danko, DEQ Central Region, reported that the company is now in compliance and no complaints have been received for at least six weeks.
3. Clean Air Act sanctions policy: Jack Weathersbee, Administrator, Air Quality Division, reported on the previous policy of former EPA head Anne Burford to strictly enforce sanction provisions of the CAA. The new EPA administrator, William Ruckelshaus, apparently has a more lenient policy and appears to be more flexible than the previous administrator. John Vlastelicia, EPA Oregon Operations Office, distributed a summary of Mr. Ruckelshaus's policy and reviewed it for the Commission.
4. Tillamook County: The Director reported on discussions he and staff have held with the County regarding their implementation of the sub-surface program in that county.

FORMAL MEETING

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

AGENDA ITEM A: Minutes of the May 20, 1983, EQC Meeting

It was MOVED by Commissioner Bishop, seconded by Commissioner Brill, and carried unanimously that the Minutes be approved. Commissioner Bishop requested staff to include in the Minutes a report of the total number of variances issued and in effect.

AGENDA ITEM B: Monthly Activity Reports for April and May, 1983

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

AGENDA ITEM C: Tax Credits

An addendum to this staff report was submitted requesting the Commission to deny the request for preliminary certification for tax credit submitted by Freres Lumber Company, Inc., Lyons.

Robert J. Pranger, USDA Soil Conservation Service, appeared in behalf of Vernon Duyck, application number T-1605 for an animal waste control facility. He reported that Mr. Duyck had relied on his agency to initiate and to follow through with the preliminary certification process.

Edd Evans, Soil Conservation Service, appeared and affirmed what Mr. Pranger had said in regard to their presumed responsibility.

Vernon Duyck, applicant, appeared to further explain his reliance on these government agencies and his private contractor in this matter.

It was MOVED by Commissioner Burgess, seconded by Commissioner Brill, and passed unanimously to grant Mr. Duyck's tax credit (T-1605) because of special circumstances which included an oversight by government agencies.

It was further MOVED by Commissioner Burgess, seconded by Commissioner Brill, and passed unanimously to approve numbers 1 and 3 in the Director's Recommendation.

PUBLIC FORUM

No one chose to appear.

AGENDA ITEM D: Request for Authorization to Hold a Public Hearing to Amend Standards of Performance for New Stationary Sources, OAR 340-25-510 through 655, to Include New Federal Rules for Asphalt Processing and Asphalt Roofing and Five Volatile Organic Compound Sources; and to Amend the State Implementation Plan.

Five more federal new source performance standards have been added in the last year to EPA air regulations. The Department requests hearing authorization to add these rules to Oregon Administrative Rules and then delegation to administer them can be sought. The alternative to delegation would be that EPA would administer these regulations for Oregon sources.

Director's Recommendation

It is recommended that the Commission authorize the Department to hold a hearing to consider the attached amendments to OAR 340-25-510 to 340-25-675, rules on Standards of Performance for New Stationary Sources, and to submit those rule changes to EPA as amendments to the State Implementation Plan.

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

AGENDA ITEM E: Request for a Variance from OAR 340-21-015(2) (b) and OAR 340-21-030 and Mid-Oregon Crushing Company Asphaltic Concrete Plant

Mid-Oregon Crushing Company operates an asphalt plant at Lower Bridge, seven miles northwest of Redmond. The company is requesting a variance from both particulate and visible emission limits through the remainder of this year's paving season. The company received its first variance from the Commission in July 1981. That variance expired last October.

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 until November 1, 1983 for emissions from the asphaltic concrete plant owned by Mid-Oregon Crushing Company, subject to the company meeting the conditions contained in the Summation.

Robert Johnnie, Mid-Oregon Crushing Company, appeared to speak further in behalf of his variance request.

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

AGENDA ITEM F: Request for Approval of Variance from Lane Regional Air Pollution Authority Rules Section 33-065, Charcoal Producing Plants, Extension of Final Compliance Date from December 31, 1982 to October 31, 1983 Granted to Kingsford Company, Springfield, Oregon, LRAPA Board Order No. 1983-1

The Lane Regional Air Pollution Authority Board of Directors granted a variance to the Kingsford Company on May 2, 1983, for operation of their charcoal briquette plant in violation of the emission limit in the LRAPA charcoal-producing plant rule until October 31, 1983. Kingsford has spent about \$2,880,000 on pollution control-related plant improvements, but the emission reductions have not been adequate to comply with the rule. The additional time granted by the LRAPA Board will be used by the company to complete and evaluate further improvements.

The Lane Regional Air Pollution Authority is required to submit all variances to the Commission for approval, denial, or modification. The Department recommends that the Commission approve the variance granted by the Lane Regional Air Pollution Authority Board for the Kingsford plant.

Director's Recommendation

Based on the findings in the Summation, it is recommended that the Commission approve the variance as granted to the Kingsford Company, Springfield, by the Lane Regional Air Pollution Authority Board of Directors (LRAPA Board Order No. 1983-1).

Don Arkell, Lane Regional Air Pollution Authority, answered questions from the Commission.

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

AGENDA ITEM G: Proposed Facilities and Time Schedule to Remove or Alleviate Condition Alleged Dangerous to Public Health at Ocean View Mobile Estates in Harbor, Curry County, Oregon; Certification of Approval to Health Division in Accordance with ORS 431.720

This is a request for approval of preliminary plans, specifications and time schedule to remove an alleged health hazard near the existing Harbor Sanitary District in Curry County. (An involuntary annexation to a sanitary district differs from an involuntary annexation to a city. In this case, approval and certification of plans precedes actual determination by the Health Division of health hazard. With a city, EQC action on plans follows the declaration of Health Hazard.)

Director's Recommendation

Based upon our findings in the Summation, it is recommended that the Commission approve the proposal of Curry County, certify said approval to the Health Division, and inform Curry County of said approval.

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

AGENDA ITEM H: Surety Bonds for Sewerage Facilities -- Discussion of Alternatives

The Department is having difficulty implementing the statutory requirements for filing surety bonds for private sewage collection, treatment and disposal facilities.

This item was prepared to outline the problems and certain alternatives. The Department is looking for direction from the Commission in narrowing the alternatives which should be further investigated.

Director's Recommendation

It is recommended that the Commission discuss the alternatives and advise the Department on those that should be further developed.

C. Kent Ashbaker, Water Quality Division, appeared and answered questions from the Commission.

George Ward, consulting civil engineer, offered to share with the Department some new federal guidelines which might be of help to staff in dealing with this matter.

The Chairman suggested that staff pursue an investigation into a possible cash and bond combination in amounts not less than \$25,000.

AGENDA ITEM I: DEQ v. Victor Frank

Victor Frank has asked the Commission to review the hearing officer's decision affirming a \$1,000 civil penalty levied against him for unauthorized field burning.

Mr. Frank relied on the written materials submitted, and the Department was represented by Robb Haskins, Department of Justice.

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop, and passed unanimously that the hearing officer's decision be upheld.

AGENDA ITEM J: Relationships with Other Agencies

At the April EQC meeting, the Commission had before them a petition asking for a declaratory ruling on the Department's decision not to require a water quality permit for the spraying of a pesticide to eradicate mud and ghost shrimp in Tillamook Bay.

In denying the petition, the Commission requested that staff return with a report detailing our relationships with other agencies where we may work with another agency to ensure their permits are adequate to provide environmental protection. This report is an inventory of those agencies and the types of activities involved. This report will be followed by another which will characterize our relationships with these agencies in greater detail.

This report was accepted by the Commission which looks forward to receiving the final report in the future.

AGENDA ITEM K: Status Report: Request for an Additional Extension of Variance From OAR 340-25-315(1)(b). Dryer Emission Limits, by Mt. Mazama Plywood Company. Supplementary Report to the April 8, 1983 EQC Meeting.

Mt. Mazama Plywood Company has been under variance from veneer dryer emission limit rules since March 21, 1980. Since the initial variance in 1980, the Environmental Quality Commission has granted three additional variances -- on July 17, 1981; April 16, 1982; and April 8, 1983.

In each instance, the company has failed to meet the conditions of the variances, pleading economic hardships and inability to raise the funds to install the necessary control equipment.

It has been brought to the Department's attention that Mt. Mazama Timber Products, Inc., voluntarily filed Chapter 11 reorganizational bankruptcy proceedings in May 1983.

Members of the staff met in Sutherlin on June 1, 1983, with representatives of Mt. Mazama Plywood Company.

It is recommended that the Commission grant an extension to the variance until the end of the 120-day period allowed for Chapter 11 reorganization and reconsider the Mt. Mazama variance at the November 18, 1983, meeting.

Director's Recommendation

Based on the Summation, it is recommended that the Commission grant an extension to the variance with final compliance and incremental progress steps for Mt. Mazama Plywood Company as follows:

1. By November 20, 1983, issue purchase orders for all major emission control equipment components.
2. By December 1, 1983, begin construction and/or installation of the emission control equipment.
3. By May 1, 1984, complete installation of emission control equipment and demonstrate compliance with both mass emission and visible standards.

Further, that Mt. Mazama Plywood Company continue to supply the Department with monthly financial data. In addition, the Department is to be informed by October 1, 1983, of the company's position relative to the outcome of Mt. Mazama Timber Products, Inc., Chapter 11 reorganization bankruptcy proceedings and the forecast of economic impacts upon continued operation.

Jim Kline, General Manager, Mt. Mazama Plywood, appeared before the Commission to confirm the facts in the staff report and to answer questions from the Commission.

Chairman Petersen suggested that the Trustee and the parent company commit to writing an agreement to install the pollution control equipment at Mt. Mazama Plywood if the parent company is successful in liquidating sufficient assets to do so.

It was MOVED by Commissioner Denecke, seconded by Commissioner Burgess and passed unanimously that the Director's Recommendation be approved and in addition instructed staff to contact the Trustee and others with the Commission's concerns that the company's control equipment be allowed to be brought up to standard.

Chairman Petersen suggested that the Department initiate contacts with the owners and the Court to secure assurances (either written by the company or by inclusion as part of the reorganization plan) that the pollution control requirements be met upon realization of the plan itself.

AGENDA ITEM L: Proposed Establishment of Woodstove Advisory Committee

HB 2235, establishing a statewide woodstove certification program, recently passed both the House and the Senate and has been signed into law by the Governor. A first step in proceeding toward EQC rulemaking on this issue is establishment of an advisory committee to assist the EQC in adopting woodstove emission standards and testing procedures. The staff report makes a recommendation to establish a specific 6- or 7-member committee.

Director's Recommendation

It is recommended the EQC establish the 7-member Woodstove Advisory Committee as specified in Attachment 1. The Department should also be directed to request organizations to appoint committee members who have a strong technical background and experience to address issues associated with wood combustion and testing methods.

Keith Cochran, Oregon Chimney Sweeps Association, suggested that a member of his organization be included in the membership of the woodstove advisory committee, if such is established.

Tom Donaca, Associated Oregon Industries, recommended that only technical personnel be included as members of the committee and others (such as AOI representatives or members from the chimney sweeps) be included as ex officio members. He also noted that he was convinced that the Legislature was particularly firm in assigning the July 1, 1984, compliance date and expected that date to be strictly held to.

John Charles, Oregon Environmental Council, suggested that an eighth member should be a representative from the chimney sweeps and went on to suggest that a ninth person should be a representative from the public health sector, such as was included on the Coal Burning Advisory Committee.

Commissioner Burgess said he wanted the charge to the committee to be articulated and submitted for approval by the EQC at the time they participate in a conference call to approve the membership of the committee.

Chairman Petersen said he wanted circulated in advance of the conference call the list of those people being proposed and any possible suggestions as to who could act as chairman of this committee. He recommended a 7-person committee and wants to follow closely the charge of the statute.

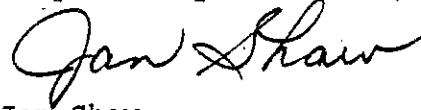
Commissioner Denecke suggested that a member of the chimney sweeps should be included on the committee. He also wanted staff to have approval power over the slate of names forwarded to the Commission.

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop, and passed unanimously to direct Department staff to proceed to formulate an advisory committee, not to exceed nine persons, consisting of the representation on Attachment 1 but with the possibility of adding two more. The agencies will be asked to nominate an individual or individuals. The staff will come back to the Commission by telephone conference call, together with a charge to the committee, and a timetable for action will be included in that charge.

Commissioner Brill asked that staff send the names and resumes of the nominees to the Commission at least a week before the conference call in order to provide time for a proper review.

There being no further business, the meeting was adjourned.

Respectfully submitted,

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

Jan Shaw
Commission Assistant

JS:d
DOD25

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED FORTY-EIGHTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

May 20, 1983

On Friday, May 20, 1983, the one hundred forty-eighth meeting of the Oregon Environmental Quality Commission convened at Department of Environmental Quality, Portland, Oregon. Present were Commission members Chairman Joe B. Richards, Mr. Fred J. Burgess, Vice-Chairman; Mr. Wallace B. Brill; Mr. James Petersen; and Commissioner Mary 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

1. Hayworth case: The Director briefed the Commission on the status of the Hayworth case, indicating what options they would have in dealing with the matter. The Commission asked what is the legal status of the Hearing Officer's Order, once appealed, when the Commission doesn't have a majority vote or has a tie vote. Robb Haskins, Assistant Attorney General, said that essentially there was no action without affirmation or overturning of the Order, and the civil penalty could not be collected.
2. Legislative update: Stan Biles, Assistant to the Director, reviewed the status of the Agency's proposed legislation.
3. EQC meeting schedule and locations: Proposed dates for meetings for the remainder of the year were approved. The Commission will generally meet in Portland.

FORMAL MEETING

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

AGENDA ITEM A: MINUTES OF THE APRIL 8, 1983 EQC MEETING

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

AGENDA ITEM B: MONTHLY ACTIVITY REPORTS FOR MARCH 1983

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

AGENDA ITEM C: TAX CREDITS

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

PUBLIC FORUM

No one chose to appear.

The following four hearing authorizations (Items D, E, F and G) were unanimously approved on a motion by Commissioner Burgess and seconded by Commissioner Brill.

AGENDA ITEM D: REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING TO AMEND THE RULES FOR AIR POLLUTION EMERGENCIES, OAR CHAPTER 340, DIVISION 27, AS A REVISION TO THE OREGON STATE IMPLEMENTATION PLAN.

The existing State plan for dealing with air pollution emergencies, OAR 340-27-005 through OAR 340-27-030, is in need of revision. Changes in the ozone standards since the plan was adopted and staff's experience with the implementation of the plan led the Department to believe that revision of the plan is much needed. This report proposes several changes to streamline the operation of the emergency action plan without sacrificing any effectiveness of the plan.

Director's Recommendation

Based on the Summation, the Director recommends that authorization for public hearing be granted to hear testimony on the proposed amendments and additions to the rules for Air Pollution Emergencies OAR Chapter 340, Division 27. If adopted, all except OAR 340-27-012 would be submitted as a revision to the Oregon State Implementation Plan.

[NOTE: Page 5 of this report was amended.]

AGENDA ITEM E: AUTHORIZATION TO HOLD A HEARING TO AMEND GASOLINE MARKETING RULE OAR 340-22-110(1) (a) FOR THE MEDFORD AQMA IN RESPONSE TO A MARCH 28, 1983 PETITION FROM EIGHT (8) BULK GASOLINE PLANT OPERATORS IN THE MEDFORD AREA.

Eight bulk gasoline plant owners have petitioned the Commission for an exemption for customers with 1,000 gallon or smaller gasoline tanks from adding submerged fill-pipes as required by OAR 340-22-110(1) (a).

The Department recommends that the Commission authorize a hearing to amend the rule as desired by the petitioners since the ozone standard has been attained in the area from controls applied to larger sources and the addition of fill-pipes to very small tanks would be an economic burden to some small businesses.

Director's Recommendation

It is recommended that the Commission accept the petition from the Medford bulk gasoline plant operators and direct the Department to proceed with rulemaking that would exempt small gasoline tanks (1,000 gallons capacity or less) in the Medford AQMA from OAR 340-22-110(1) (a) which requires submerged fill. It is also recommended that the commission authorize a hearing, both to amend the rule as petitioned and also to amend the State Implementation Plan.

AGENDA ITEM F: REQUEST FOR AUTHORIZATION TO HOLD A PUBLIC HEARING ON MODIFICATIONS TO WATER QUALITY RULES RELATED TO WASTE DISPOSAL WELLS, OAR 340, DIVISION 44.

Now that Bend, Redmond and Madras have been sewered and most of the sewage waste disposal wells in Central Oregon have been eliminated, the waste disposal well rules need to be updated and revised from rules which phase out drain holes to rules which specify under what limited conditions they may continue to exist. In addition, the waste disposal well rules need to be modified to address other types of underground injection activities which are not adequately defined. Authorization for a hearing on modification of these rules is being requested.

Director's Recommendation

Based on the Summation, the Director recommends that the Commission authorize the department to hold a public hearing on the proposed changes in the waste disposal well regulations.

AGENDA ITEM G: REQUEST FOR AUTHORIZATION TO HOLD A PUBLIC HEARING ON THE CONSTRUCTION GRANTS PRIORITY MANAGEMENT SYSTEM AND LIST FOR FY '84.

This item is a request for authorization for a public hearing on the FY84 priority list and management system for the wastewater treatment construction grants program. The draft priority list was developed subsequent to the preparation of the staff reports and is available for review by the Commission. Substantial progress has been made in funding to near completion projects like Bend, MWMC and the Tri-City Service District and completion of funding of the public health hazards from previous lists.

Director's Recommendation

Based on the Summation, the Director recommends that the Commission authorize a public hearing on the FY84 priority management system and

priority list, to be held on June 24, 1983. All testimony entered into the record by 5 p.m. on June 29, 1983, will be considered by the Commission.

The above four items (Items D, E, F and G) were unanimously approved.

UNSCHEDULED ITEM: HAYWORTH FARMS APPEAL, CONTESTED CASE
NO. 33-AQ-WVR-80-187

At the April EQC meeting, the Commission considered Hayworth Farms' appeal of the hearings officer's contested case decision.

There was some question about the effectiveness of the Commission's two-to-one vote to reverse.

The parties have submitted briefs on that question and are prepared to discuss both the vote and, if appropriate, the merits of the appeal.

Robert Ringo appeared as counsel for Respondent, and Michael Huston, Assistant Attorney General, appeared as counsel for the Department.

In response to a question from the Commission, Robb Haskins, Assistant Attorney General described what obligation a commission has to follow the Attorney General's opinions and what would be the consequences if they chose not to follow his advice. Mr. Haskins noted that a commission tends to be more protected by the law when following advice of counsel. The Chairman asked what would be the legal effect of the Director's imposition of a civil penalty and what would be the effect of the Hearings Officers Opinion once that has been appealed to the full Commission. It was Mr. Haskin's opinion that the Hearings Officer's Opinion, once appealed, has no status without affirmation or reversal by the Commission and that the civil penalty could not be collected.

It was MOVED by Commissioner Brill, seconded by Commissioner Burgess, and passed to grant the appeal. Commissioners Brill, Burgess and Petersen voted yes. Commissioner Bishop and Chairman Richards voted no. The appeal was granted and the civil penalty was disallowed.

Commissioner Petersen strongly recommended that the staff pursue the questions in this matter by gaining legislative clarification of ORS 174.130.

AGENDA ITEM I: PROPOSED MODIFICATION OF RULES FOR HAZARDOUS WASTE STORAGE
OR TREATMENT BY GENERATORS, OAR 340-63-215(8) AND 340-63-
405(1)(a).

Due to a high potential for human health and environmental damage, hazardous waste requires special management controls. This need has been recognized since 1971, when Oregon initially adopted hazardous waste legislation. However, in 1976, the Resource Conservation and Recovery Act placed hazardous waste management in the federal province but included provisions for EPA to authorize a state program to operate in lieu of the federal program.

The authorization process consists of Interim and Final Authorization. The purpose of Interim Authorization is to give a state time to bring its program into compliance with federal standards. The DEQ is currently preparing major revisions to its rules with that objective in mind.

Interim Authorization likewise consists of two phases. The DEQ received Phase I Interim Authorization on July 16, 1981, and is currently seeking Phase II Interim Authorization. The proposed rules will clear up the program deficiency which is currently an obstacle to the DEQ receiving Phase II Interim Authorization.

Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the proposed modifications of OAR 340-63-215(8) and 340-63-405(1) (a).

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

AGENDA ITEM J: REQUEST FOR APPROVAL OF PRELIMINARY PLAN, SPECIFICATIONS AND SCHEDULE FOR SANITARY SEWERS TO SERVE HEALTH HAZARD ANNEXATION AREA KNOWN AS PELICAN CITY, CONTIGUOUS TO CITY OF KLAMATH FALLS, KLAMATH COUNTY.

The State Health Division has certified a health hazard to exist as a result of inadequate sewage disposal in an area northwest of the City of Klamath Falls. Pursuant to statute, the City is required to develop plans and a time schedule for alleviation of the hazard and submit them to the EQC for review and certification of adequacy. Upon EQC certification of adequacy, the City is required by law to annex the area and construct a facility.

Director's Recommendation

Based upon the findings in the summation, it is recommended that the Commission approve the proposal of the City of Klamath Falls and certify approval to the City.

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

AGENDA ITEM L: PROPOSED ADOPTION OF INCREASES IN AIR CONTAMINANT DISCHARGE PERMIT FEES (OAR 340-20-155, TABLE 1 AND OAR 340-20-165).

The Department is recommending increases in the fees for Air Contaminant Discharge Permits effective July 1, 1984. The recommendation is for an across-the-board increase of 7.8% (rounded) for the Compliance Determination Fees and a \$25 increase in the Filing Fee. These increases are recommended to partially offset inflationary costs sustained in operation of the permit program.

Four letters were received and accepted as testimony during the public hearing process. Three of these letters favored no increase and recommended decreases due to the present economic recession. The fourth letter was an endorsement from the Governor. The proposal was also discussed with the Air Contaminant Discharge Permit Fee Task Force. Although taking no formal position, the Task Force generally felt that any increase was inappropriate at this time.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission adopt the proposed modifications to OAR 340-20-155, Table 1, Air Contaminant Sources and Associated Fee Schedule (Attachment 1), which includes an exemption for small boilers and small non-pathological incinerators, and OAR 340-20-165, Fees. It is also recommended that the Commission direct the Department to submit the rule revision to the EPA as a modification to the State Implementation Plan.

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

AGENDA ITEM M: PROPOSED ADOPTION OF RULES AMENDING WATER QUALITY PERMIT FEES TO INCREASE REVENUES FOR 1983-85 BIENNIUM. OAR 340-45-070, TABLE 2.

On February 25, 1983, the EQC authorized the Water Quality Division to hold a hearing regarding a proposed increase in water quality permit fees. The hearing was held on April 15, 1983. Now the Division is back to request formal adoption.

Director's Recommendation

Based on the Summation, the Director recommends that the Commission adopt the new fee schedule which modifies Table 2 of OAR 340-45-070.

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

AGENDA ITEM N: PROPOSED ADOPTION OF RULES AMENDING THE DESCHUTES BASIN WATER QUALITY MANAGEMENT PLAN TO INCLUDE A SPECIAL GROUNDWATER QUALITY PROTECTION POLICY FOR THE LAPINE SHALLOW AQUIFER, OAR 340-41-580.

During the past two and a half years, Deschutes County completed a 208 Water Quality Planning Study in the LaPine area. The study concluded that the groundwater in the LaPine core area was significantly affected by nitrate-nitrogen contamination from on-site waste disposal systems. Using the study findings, the County developed and adopted an aquifer management plan which recommends several management actions including sewerage the LaPine core area; developing a community drinking water system; utilizing

the current on-site waste disposal rules; and encouraging periodic monitoring of well water and underground liquid storage tanks.

Staff has developed the proposed rule supporting the County Aquifer Management Plan and establishing a schedule for planning and providing sewerage facilities in the LaPine core area. The proposed rule also supports the other management plan recommendations by encouraging well water and underground liquid storage tank testing and development of a safe drinking water supply.

On February 25, 1983, the EQC authorized the Department to conduct a public rule-making hearing. The hearing was held on April 18, 1983. Based on the 208 study findings, Deschutes County actions, and the hearing testimony, the Department requests the EQC adopt rules amending the Deschutes Basin Water Quality Management Plan to include a special groundwater quality protection policy for the LaPine Shallow Aquifer, OAR 340-41-580.

Director's Recommendation

Based on the Summation, it is recommended that the Commission amend the Deschutes Basin Water Quality Management Plan to include a special groundwater quality protection policy for the LaPine shallow aquifer, OAR 340-41-580 (Attachment A).

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

AGENDA ITEM K: PUBLIC HEARING ON A REQUEST FOR A VARIANCE FROM NOISE CONTROL RULES FOR MOTOR SPORTS VEHICLES AND FACILITIES (OAR 340-35-040) AT JACKSON COUNTY SPORTS PARK IN WHITE CITY.

The Jackson County Parks and Recreation Department owns and operates a drag-racing strip located near White City. The County has requested a variance from the portion of the noise control rule requiring the installation of mufflers on drag-racing vehicles.

The County believes a variance is justified as a noise suppression berm at their facility reduces noise into the neighborhood and thus vehicle mufflers may not be necessary. In addition, the County believes the mandatory muffler rule would cause a significant economic burden due to the reluctance of out-of-state participants to comply with muffler requirements.

The County believes the noise control rules should be amended in such a way as to accept the noise berm as an alternative to vehicle mufflers. They propose a study during the 1983 racing season to evaluate their berm with the hope of Department support for future rule amendments exempting their facility from the muffler requirement. Thus, a variance from the muffler requirement is requested for this time period.

The Department believes a time-limited variance is warranted based on the available data. Thus, it is recommended that the variance be granted for the 1983 racing season and staff will gather additional data on these issues to be made available at the end of this year.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Jackson County Sports Park be granted a variance from the muffler requirements of OAR 340-35-040(2) (a) for drag race vehicles operated on the Park's drag strip. This variance shall be subject to the following conditions:

1. A study to be conducted by Department staff, with cooperation from Jackson County staff, will assess the following during the 1983 racing season:
 - a) The effectiveness of the Jackson County Sports Park noise suppression berm.
 - b) The effectiveness of other external noise control devices that may be incorporated into motor racing facilities.
 - c) The noise impact of drag race activities at the Sports Park on noise sensitive property in the vicinity of the track.
 - d) The economic impact of mufflers on race competitors.
 - e) The economic impact to Oregon facilities due to the reluctance of Oregon and non-Oregon competitors to comply with the muffler requirements.
2. This variance shall expire at the end of the 1983 racing season (October 31, 1983.)
3. A report, documenting the study described in Item 1 above, shall be available to the Commission prior to December 31, 1983. This report shall also contain recommendations on:
 - a) The need for rule amendments to recognize the benefits of external noise control devices at motor race facilities.
 - b) The need for rule relaxation to address any severe adverse economic impacts.
 - c) The need for continued variances at the Jackson County Sports Park.

It was MOVED by Commissioner Burgess to amend the Director's Recommendation No. 2 to read:

"2. This variance shall be in effect from sunrise until 10:00 p.m. and shall expire..."

[Underlined language is added.]

The motion failed for lack of a second.

It was MOVED by Commissioner Brill, seconded by Commissioner Burgess, that the Director's Recommendation be approved. Commissioners Brill and Burgess voted yes. Commissioners Petersen, Bishop, and Chairman Richards voted no. The motion failed.

It was MOVED by Commissioner Bishop, seconded by Commissioner Petersen, to amend No. 2 in the Director's Recommendation to read:

"2. This variance shall be in effect from sunrise until one-half hour after sunset and shall expire..."

[Underlined language is added.]

It was MOVED by Commissioner Bishop, seconded by Commissioner Petersen, to approve the Director's Recommendation as amended. The motion passed unanimously.

AGENDA ITEM O: PROPOSED ADOPTION OF AMENDMENTS TO RULES GOVERNING ON-SITE SEWAGE DISPOSAL, OAR 340-71-100 THROUGH 340-71-600 AND 340-73-080.

At the February 25, 1983, meeting, the Commission authorized public hearings to be held on several proposed amendments to the On-Site Sewage Disposal rules. Five hearings were conducted on April 5, 1983, in Portland, Newport, Medford, Pendleton, and Bend. After completing the hearings, staff reviewed the testimony and revised some of the proposed amendments in the fee schedule.

Director's Recommendation

Based on the Summation, it is recommended that the Commission adopt the proposed amendments to OAR 340-71-100 through 340-71-600 and OAR 340-73-080, as set forth in Attachment "C."

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

AGENDA ITEM P: INFORMATIONAL REPORT - DEQ ACTIVITIES FOR MEETING FEDERAL REQUIREMENTS TO PROTECT VISIBILITY IN CLASS I AREAS.

At the April 16, 1983, EQC meeting, the Commission supported the Department's recommendation that the Department should monitor visibility during the summer of 1982 but that no action should be taken to develop a visibility SIP at that time. Instead, the Commission asked that the matter be brought before them by June 1, 1983, so that they could review recent events and set a course of action for the future. The Department is recommending a specific course of action for development of a visibility SIP in this report.

Director's Recommendation

This is an informational report and no formal action by the Commission is necessary. However, the Director recommends that the Commission

confirm the Department's proposed course of action with respect to meeting Federal requirements to protect visibility in Class I areas, which is:

1. Continue monitoring during 1983 to better characterize visibility, determine what sources are impacting visibility, and determine if the impacts are significant.
2. Hold informational hearings after the 1983 visibility data is analyzed to acquaint all concerned parties with the results of the monitoring program and solicit input on the contents of an Oregon visibility SIP.
3. Develop a new SIP with a target date of July 1, 1984, taking into consideration the monitoring data and the status of EPA's resolution of the petitions to reconsider their regulation.

The report was accepted by the Commission.

AGENDA ITEM Q: INFORMATIONAL REPORT - BERYLLIUM USE AND WASTE HANDLING SURVEY REQUESTED BY THE COMMISSION IN RESPONSE TO CONCERNS ABOUT THE HAZARDOUS AIR EMISSION STANDARDS FOR BERYLLIUM (OAR 340-25-470(2)(b)).

When the Commission adopted amendments to Hazardous Air Contaminants Rules last fall, they noticed concern by a Portland lung specialist over one of those rules permitting beryllium to be burned in an incinerator. The Commission requested the staff to do a survey of beryllium use in Oregon, researching whether any is burned in incinerators, and to respond to Dr. Lawyer's concerns about potentially harmful exposure from smoke produced by burning beryllium-containing wastes. The informational report before the Commission indicates that the Department's rules which limit beryllium emissions are adequate and there should be no public health hazard from beryllium handling in Oregon.

Dr. Lawyer has sent a recent letter to the Commission commenting on this report. A copy of this letter and a Department response was sent to the Commission this week as an addendum to their staff report.

Director's Recommendation

Based on the Summation it is recommended that the Commission take no further action at this time on regulating beryllium use in Oregon.

The report was accepted by the Commission.

AGENDA ITEM R: INFORMATIONAL REPORT - REVIEW OF FY84 STATE/EPA AGREEMENT AND OPPORTUNITY FOR PUBLIC COMMENT.

Each year, the Department and EPA negotiate an agreement whereby EPA provides basic program grant support to the air, water, and solid waste programs in return for commitments from the Department to perform planned work on environmental priorities of the state and federal government.

At this time the Department is asking for comment from the Commission and the public on the draft Agreement.

Director's Recommendation

It is recommended that the Commission:

1. Provide opportunity for public comment at today's meeting on the draft State/EPA Agreement; and
2. Provide staff its comments on the policy implications of the draft agreement.

[Commissioner Petersen had to leave the meeting at this point.]

John Charles, Oregon Environmental Council, outlined some suggestions for improving on the goals intended in the draft S/EA

Chairman Richards praised the S/EA document as an extremely helpful tool and as a complete and concise statement of the direction of the Department.

The Report was accepted by the Commission.

AGENDA ITEM 5: THE USE OF VARIANCES

The Commission has acted on several variance requests at its last few meetings. This information report reviews the Commission's legal basis for granting variances, along with other methods currently in practice for granting time extensions or waivers. It also reviews the present status of all existing variances.

The Department recommends that the Commission concur in the revised procedures for evaluating air quality variances and note that the federal regulations regarding the continued use of open-burning dumps in Eastern Oregon is uncertain. Because of the Commission's direct involvement in granting variances, the Department recommends that this type of informational report be prepared for the Commission every year. Staff is also prepared to develop any additional information or analysis on specific variance programs.

Director's Recommendation

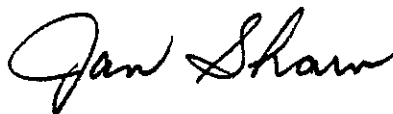
The Commission should concur in the revised procedures for processing air quality variances. A clearer direction should be sought from the federal Environmental Protection Agency regarding the section of the Resource Conservation and Recovery Act requiring the closure of open-burning dumps. If the federal law requires that all open-burning dumps be closed in the future regardless of environmental impact, discussions and additional planning should commence with those eastern Oregon communities which currently rely on open-burning dumps for waste disposal.

Due to the Commission's direct action in variance requests, the Commission should receive a variance status report annually. In addition, those variances which do not comply with scheduled deadlines should be highlighted in the Commission's monthly activity reports.

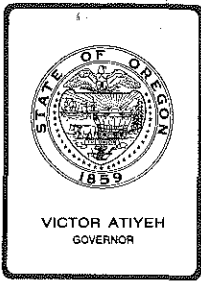
The report was accepted.

There being no further business, the meeting was adjourned.

Respectfully submitted,

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

Jan Shaw
EQC 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 B, July 8, 1983, EQC Meeting

APRIL-MAY, 1983 PROGRAM ACTIVITY REPORT

Discussion

Attached are the April and May, 1983 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 a historical record of project plan and permit actions;
2. To obtain confirming approval from the Commission on actions taken by the Department relative to air 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.

William H. Young

CASplettstaszer
229-6484
6/17/83

PROGRAM ACTIVITY REPORT
APRIL 1983

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

April-May 1983

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

AQ, WQ, SW Divisions
(Reporting Unit)

April, 1983
(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	11	69	13	72	0	1	16
Small Gasoline Storage Tanks Vapor Controls	0	0	0	0	0	0	0
TOTAL	11	69	13	72	0	1	16
<u>Water</u>							
Municipal	19	159	5	150	0	3	22
Industrial	7	55	6	63	0	0	7
TOTAL	26	214	11	213	0	3	29
<u>Solid Waste</u>							
Gen. Refuse	1	17	0	11	0	0	5
Demolition	0	1	1	2	0	0	0
Industrial	1	18	4	17	0	0	4
Sludge	2	11	1	10	0	0	2
TOTAL	4	47	6	40	0	0	11
<u>Hazardous Wastes</u>							
	2	10	0	8	0	0	2
<u>GRAND TOTAL</u>	43	340	30	333	0	4	58

MAR.2 (1/83) MK2021

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

COUNTY	NUMBER	SOURCE	PROCESS DESCRIPTION	DATE OF ACTION	ACTION
MARION	889	RIVERBEND SAND & GRAVEL	VENTURI SCRUBBER	04/15/83	APPROVED
HOOD RIVER	894	LARIZA ORCHARDS, INC.	ORCHARD FANS	04/18/83	APPROVED
TOTAL NUMBER QUICK LOOK REPORT LINES			2		

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

April, 1983
(Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>			
<u>Direct Sources</u>							
New	2	25	3	27	10		
Existing	1	7	1	17	15		
Renewals	7	121	20	149	63		
Modifications	<u>4</u>	<u>31</u>	<u>4</u>	<u>35</u>	<u>16</u>		
Total	14	184	28	228	104	1741	1766
<u>Indirect Sources</u>							
New	1	4	0	4	3		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	<u>0</u>	<u>4</u>	<u>0</u>	<u>4</u>	<u>0</u>		
Total	1	8	0	8	3	206	209
<u>GRAND TOTALS</u>	15	192	28	236	107	1947	1975

Number of
Pending Permits

Comments

22	To be reviewed by Northwest Region
8	To be reviewed by Willamette Valley Region
16	To be reviewed by Southwest Region
7	To be reviewed by Central Region
6	To be reviewed by Eastern Region
9	To be reviewed byt Program Operations Section
12	To be reviewed by Planning & Development Section
9	Awaiting Public Notice
<u>15</u>	Awaiting End of 30-day Notice
104	

MAR.5 (8/79)
AZ234

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
HOOD RIVER	HANEL LUMBER CO.	14	0009 03/01/83	PERMIT ISSUED	03/29/83	MOD
MULTNOMAH	OWENS-ILLINOIS	26	1876 06/10/81	PERMIT ISSUED	03/30/83	RNW
JACKSON	ROCUE AGGREGATES INC	15	0043 01/10/83	PERMIT ISSUED	04/01/83	RNW
JACKSON	HARRY AND DAVID	15	0079 01/24/83	PERMIT ISSUED	04/01/83	RNW
JOSEPHINE	MENASHA CORP-WOOD FIBRE	17	0058 02/08/83	PERMIT ISSUED	04/01/83	RNW
MULTNOMAH	EAST SIDE PLATING, INC.	26	2805 02/24/83	PERMIT ISSUED	04/01/83	RNW
MULTNOMAH	WINTER PRODUCTS CORP.	26	3033 11/12/82	PERMIT ISSUED	04/01/83	NEW
YAMHILL	YAMHILL FARM & HOME SUPP.	36	9016 01/14/83	PERMIT ISSUED	04/01/83	RNW
PORT.SOURCE	DESCHUTES READY MIX S & G	37	0220 01/13/82	PERMIT ISSUED	04/06/83	RNW
DOUGLAS	MT. MAZAMA PLYWOOD	10	0022 04/01/83	PERMIT ISSUED	04/11/83	MOD
COLUMBIA	MIST SHAKE & RIDGE	05	1786 04/01/83	PERMIT ISSUED	04/15/83	MOD
COLUMBIA	J.E. NEUMAN	05	2587 04/01/83	PERMIT ISSUED	04/15/83	MOD
DESCHUTES	BEND AGGREGATE & PAVING	09	0026 11/01/82	PERMIT ISSUED	04/15/83	RNW
DESCHUTES	DESCHUTES READY MIX S & G	09	0053 02/08/83	PERMIT ISSUED	04/15/83	RNW
JACKSON	SOUTHWEST FOREST INDUSTR.	15	0012 07/19/82	PERMIT ISSUED	04/15/83	RNW
JEFFERSON	BRIGHT WOOD CORP.	16	0003 07/30/82	PERMIT ISSUED	04/15/83	RNW
LINN	BOISE CASCADE CORP.	22	7008 05/01/82	PERMIT ISSUED	04/15/83	RNW
MAKON	BROOKMAN CAST INDUSTRIES	24	4980 12/02/82	PERMIT ISSUED	04/15/83	RNW
MARION	OVERHEAD DOOR CORPORATION	24	5221 11/25/81	PERMIT ISSUED	04/15/83	RNW
MULTNOMAH	MACADAM ALUMINUM & BRONZE	26	1841 03/07/83	PERMIT ISSUED	04/15/83	RNW
MULTNOMAH	REYNOLDS ALUMINUM	26	1851 11/09/82	PERMIT ISSUED	04/15/83	RNW
MULTNOMAH	GREGONIAN PUBLISHING CO.	26	3045 12/21/82	PERMIT ISSUED	04/15/83	NEW
POLK	FORT HILL LUMBER CO	27	3001 07/13/82	PERMIT ISSUED	04/15/83	RNW
WASHINGTON	LEAR SIEGLER PEERLESS DIV	34	2670 09/10/81	PERMIT ISSUED	04/15/83	EXT
PORT.SOURCE	GRANT CONSTRUCTION CO	37	0292 08/31/82	PERMIT ISSUED	04/15/83	NEW
WASHINGTON	J PETERKORP & CO	34	2644 01/13/82	PERMIT ISSUED	04/18/83	RNW
PORT.SOURCE	FOWLER CRUSHING	37	0159 08/31/82	PERMIT ISSUED	04/18/83	RNW
PORT.SOURCE	COPELAND SAND & GRAVEL	37	0160 01/05/83	PERMIT ISSUED	04/18/83	RNW
TOTAL NUMBER QUICK LOOK REPORT LINES				28		

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division

(Reporting Unit)

April 1983

(Month and Year)

PLAN ACTIONS COMPLETED 31

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

MUNICIPAL WASTE SOURCES

Columbia	City of Vernonia Lagoon Upgrade and Expansion	4-4-83	Comments to Engineer
Clackamas	Salvation Army Subsurface System Camp Trestle Glen	4-8-83	Comments to Engineer
Lincoln	Quiet Woods Campground Subsurface System Eckman Lake, Waldport	4/8/83	Comments to Region
Marion	City of Donald Collection System, Treatment Lagoons and Disposal Farm	4-12-83	Comments and Review with the Engineers
Coos	Powers Sewage Collection System Powers Ranger Station (USFS)	4-14-83	P.A.
Hood	City of Hood River Sanitary Sewers	4-14-83	P.A.
Morrow	Port of Morrow Rebuild of Pump Station Boardman	4-15-83	Comments to Engineer
Douglas	Sutherlin Lane Street Pressure Sewer Main	4-15-83	P.A.
Yamhill	City of Sheridan West Main Collection System	4-26-83	Comments to Engineer

MAR.3 (5/79) WG2228

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

April 1983
(Month and Year)

PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES (Continued)

Clackamas	Salvation Army Subsurface System Camp Trestle Glen	4-28-83	P.A.
Douglas	Sutherland Cascade Estates - 2nd Addition 60 foot extension	4-28-83	P.A.
Jackson	BCVSA - Arnold Lane Project No. 83-3 Gravity Sewers and Pump Station	4-28-83	P.A.
Jackson	BCVSA - Justice Road Area Project No. 81-13 Gravity Sewers and Pump Station	4-28-83	P.A.
Jackson	City of Ashland Granite St. Lateral Extension	4-28-83	P.A.
Jackson	City of Ashland Nevada St. Parallel Trunk Sewer into STP	4-28-83	P.A.
Lane	Creswell Pump Station and Sanitary Sewer	4-28-83	P.A.
Clackamas	City of Sandy Janz Berryland Sanitary Sewer	4-28-83	P.A.
Coos	City of Lakeside Adams First Addition Sanitary Sewers	4-28-83	P.A.

MAR.3 (5/79) WG2228

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

April 1983
(Month and Year)

PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES (Continued)

Jackson	City of Phoenix Coleman Creek Extension Sanitary Sewers	4-28-83	P.A.
Lincoln	City of Newport N.W. NYE Sanitary Sewer	4-28-83	P.A.
Baker	City of Baker Sage Hills Subdivision	4-29-83	P.A.
Tillamook	NTCSA Lateral 0-3 Poysky and Oak Streets Tillamook	4-29-83	P.A.
Deschutes	Redmond Mida Addition	4-29-83	P.A.
Multnomah	Glenwood Park Condos Sanitary Sewer	4-29-83	P.A.
Tillamook	Bay City "D" Street Extension	4-29-83	P.A.
Baker	City of Baker Hwy. 30 (Railroad Crossing, S.E. to South Bridge St.)	4-29-83	P.A.
Lane	MWMC Septage Receiving Facility Eugene	5-3-83	Approved

MAR.3 (5/79) WG2228

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

April 1983
(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)

Clackamas	Oaklodge Sanitary Dist. Trunk "D" Reroute Milwaukie	5-3-83	P.A.	
Columbia	City of Rainier West Rainier Sewer (and water) Project	5-4-83	P.A.	
Deschutes	Starwood San. Dist. Three Community Septic Tank and Sand Filter Systems Bend-Redmond Highway	5-4-83	Comments to Engineer	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division	April, 1983
(Reporting Unit)	(Month and Year)

PLAN ACTIONS COMPLETED 31

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

INDUSTRIAL WASTE SOURCES 1

Linn	Robin P. Looney Animal Waste Control Facility Scio	4/6/83	Approved
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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

April, 1983
(Month and Year)

SUMMARY OF WATER PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	Month	Fis. Yr.	Month	Fis. Yr.			
	* /**	* /**	* /**	* /**	* /**	* /**	* /**
<u>Municipal</u>							
New	0 /1	3 /13	0 /2	1 /20	3 /5		
Existing	0 /0	0 /0	0 /0	0 /0	0 /0		
Renewals	1 /1	50 /13	4 /1	50 /10	31 /8		
Modifications	0 /0	3 /3	1 /1	3 /3	0 /0		
Total	1 /2	56 /29	5 /4	54 /33	34 /13	239/126	242/131
<u>Industrial</u>							
New	0 /2	5 /9	0 /0	4 /5	4 /6		
Existing	0 /0	0 /0	0 /0	0 /0	0 /1		
Renewals	6 /3	37 /33	1 /1	22 /20	48 /25		
Modifications	0 /1	3 /1	0 /1	5 /1	0 /0		
Total	6 /6	45 /43	1 /2	31 /26	52 /32	385/204	389/211
<u>Agricultural (Hatcheries, Dairies, etc.)</u>							
New	0 /0	0 /0	0 /0	1 /0	1 /0		
Existing	0 /0	0 /0	0 /0	0 /0	0 /0		
Renewals	0 /0	0 /3	0 /0	0 /1	0 /3		
Modifications	0 /0	0 /0	0 /0	0 /1	0 /0		
Total	0 /0	0 /3	0 /0	1 /2	1 /3	62 /14	63 /14
<u>GRAND TOTALS</u>	7 /8	101/75	6 /6	86 /61	87 /48	686/344	694/356

* NPDES Permits

** State Permits

16 General Permits Granted

1 NPDES Application Place on General Permit

1 WPCF Application Cancelled

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit)	April, 1983 (Month and Year)
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PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
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MUNICIPAL AND INDUSTRIAL SOURCES - NPDES (5)

Yamhill	City of Carlton STP	4-11-83	Permit Renewed	
Jackson	Boise Cascade Corp. White City Plant	4-11-83	Permit Renewed	
Union	City of LaGrande STP	4-15-83	Permit Renewed	
Benton	Skyline West San. Dist. STP	4-15-83	Permit Renewed	
Lane	City of Veneta STP	4-18-83	Permit Renewed	

MUNICIPAL AND INDUSTRIAL SOURCES - STATE (4)

Deschutes	Jakes Truck Stop & Restaurant (Jacob M. Wolfe) STP	4-11-83	Permit Issued	
Coos	Bohemia, Inc. Lakeside Sawmill	4-11-83	Permit Renewed	
Sherman	City of Rufus STP	4-11-83	Permit Renewal	
Wasco	The Great American Adven. Columbia River Gorge Resort - STP	4-22-83	Permit Issued	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit)	April, 1983 (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 - MODIFICATIONS (3)

Deschutes	City of Redmond - STP	4-11-83	Addendum #1
Multnomah	Widing Transportation, Inc. Portland	4-13-83	Addendum #1 Deleted
Clackamas	USFS - Timber Lake Ripplebrook STP	4-26-83	Addendum #1

MUNICIPAL AND INDUSTRIAL SOURCES - GENERAL PERMITS (16)

Cooling Water - Permit No. 0100J, File 32550 (5)

Columbia	Boise Cascade St. Helens, Veneer	4-13-83	Transferred
Lane	Cascade Resins, Inc. Eugene	4-13-83	Transferred
Benton	Martin Thompson (Heat Pump) Corvallis	4-22-83	General Permit Issued
Benton	Frank Freeman (Heat Pump) Philomath	4-22-83	General Permit Issued
Linn	Peter Romans (Heat Pump) Albany	4-22-83	General Permit Issued

Filter Backwash - Permit No. 0200J, File 32555 (2)

Yamhill	City of Amity WTP	4-18-83	Transferred
Lane	City of Lowell WTP	4-20-83	Transferred

MAR.6 (5/79) WG2319

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit)	April, 1983 (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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Aquatic Animal Production - Permit No. 0300J, File 32560 (1)

Josephine	Ken & Betty Wirz Cave Junction	4-1-83	Transferred	
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Log Ponds - Permit No. 0400J, File 32575 (1)

Lane	Champ. International Corp. Idana Mill	4-20-83	Transferred	
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Boiler Blowdown - Permit No. 0500J, File 32540 (1)

Columbia	Boise Cascade St. Helens Veneer (Note: Also granted 0100J)	4-13-83	Transferred	
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Gold Mines - Permit No. 0600, File 32580 (1)

Jackson	NAGA Mining Corp. Ashland	4-4-83	General Permit Issued	
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Portable Suction Dredges - Permit No. 0700J, File 32600 (3)

Jackson	Tim Tingleaf 8" Suction Dredge	4-8-83	General Permit Issued	
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Jackson	Robert B. Lara 8" Suction Dredge	4-22-83	General Permit Issued	
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Polk	Thomas J. Sylsberry 2" Suction Dredge	4-29-83	General Permit Issued	
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Seafood Processing - Permit No. 0900J, File 32585 (1)

Coos	Anadromous, Inc. North Spit, Coos Bay	4-13-83	General Permit Issued	
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Gravel Mining - Permit No. 1000, File 32565 (1)

Polk	Agate Crushing Co. Dallas	4-13-83	General Permit Issued	
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MAR.6 (5/79) WG2319

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

April 1983
(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	-	3	-	3	1		
Existing	-	-	-	-	-		
Renewals	-	25	-	23	14		
Modifications	4	12	1	8	4		
Total	4	40	1	34	19	176	176
<u>Demolition</u>							
New	-	-	-	1	-		
Existing	-	-	-	-	-		
Renewals	-	1	-	1	-		
Modifications	-	5	-	4	1		
Total	-	6	-	6	1	21	21
<u>Industrial</u>							
New	1	8	2	11	4		
Existing	-	-	-	-	-		
Renewals	-	18	6	13	10		
Modifications	-	3	-	-	-		
Total	1	29	8	24	14	102	102
<u>Sludge Disposal</u>							
New	-	7	1	8	-		
Existing	-	-	-	-	-		
Renewals	1	3	-	2	1		
Modifications	-	2	-	3	-		
Total	1	12	1	13	1	17	17
<u>Hazardous Waste</u>							
New	2	10	2	5	5		
Authorizations	51	575	51	575	-		
Renewals	-	-	-	-	-		
Modifications	-	5	-	5	-		
Total	53	590	53	585	5	15	20
<u>GRAND TOTALS</u>							
	59	677	63	662	40	331	336

SC959.A
MAR.5S (4/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<u>Solid Waste Division</u>	<u>April 1983</u>
(Reporting Unit)	(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project	* Date of	* Action	*
*	* /Site and Type of Same	* Action	*	*
*	*	*	*	*
Coos	Roseburg Lumber, Coquille Existing landfill	4/1/83	Permit renewed	
Coos	Wilkins Corner Existing landfill	4/1/83	Permit renewed	
Douglas	Hayward Landfill Existing facility	4/1/83	Permit renewed	
Jackson	Burrill Lumber Existing landfill	4/1/83	Permit renewed	
Jefferson	Cache Creek Lagoon New sludge facility	4/1/83	Permit issued	
Umatilla	Pilot Rock Landfill Existing facility	4/1/83	Permit amended	
Wallowa	Boise Cascade, Elgin New landfill	4/1/83	Permit issued	
Douglas	Glide Lumber Products New landfill	4/15/83	Permit issued	
Multnomah	Esco, Willbridge Existing landfill	4/15/83	Permit renewed	
Morrow	Umatilla Depot New hazardous waste collection site	4/22/83	License issued	
Coos	Georgia-Pacific Existing landfill	4/26/83	Permit renewed	
Clackamas	Kleenair Products Co. Pilot hazardous waste pyrolysis facility	4/28/83	Letter authorization issued	

SC959.D
MAR.6 (5/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division

(Reporting Unit)

April 1983

(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 - 51

OREGON - 12

4/7	Magnesium salt sortings	Metal reduction	0	16 tons	
4/7	Crucible dump salt with Mg	Metal reduction	0	130 tons	
4/7	Smokehouse residues mostly magnesium salts and oxides	Metal reduction	0	140 tons	
4/7	Magnesium chloride with Mg, Zr, Hf & Ti	Metal reduction	0	110 tons	
4/13	Phenol-formaldehyde resin	Plywood mill	10 drums	50 drums	
4/13	Decanter waste containing iso-octyl alcohol, xylene and chlorophenol	Chemical plant	0	200 drums	
4/18	PCB capacitors	Steel mill	0	2600 lb.	
4/20	Electrolyte battery acid	Shop	4 drums	200 gal.	
4/20	Ferric chloride soln.	Electronic co.	0	30,000 gal.	
4/20	Magnesium chloride	Metal reduction	0	2000 tons	
4/20	PCB transformers	Radio station	0	50 gal.	
4/26	PCB transformers	Electric util.	6 drums	0	

SC959.E

MAR.15 (1/82)

* Date *	Type	Source	Present	Quantity Future
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WASHINGTON - 37

4/5	Methylene chloride sludge	Polyurethane foam	0	43 drums
4/5	Epoxy resins, paint, catalysts, etc.	Electronic co.	0	15 drums
4/5	Ammonia/penta solution	Chemical co.	15,000 gal.	20,000 gal.
4/5	Paint sludge	State agency	50 drums	0
4/5	Heavy metals contaminated demolition debris	Fed. agency	0	100 cu.yd.
4/5	Cyanide-contaminated demolition debris	Fed. agency	0	50 cu.yd.
4/5	Heavy metals-contaminated electroplating equipment	Fed. agency	0	7500 cu.ft.
4/5	Cyanide-contaminated tanks and liners	Fed. agency	0	500 cu.ft.
4/5	Heavy metals treatment sludge	Fed. agency	0	100 drums
4/5	Paint sludge	Fed. agency	0	8 drums
4/5	Oily bilge sludge	Fed. agency	0	30 drums
4/5	Flammable chemicals	School	0	1 drum
4/5	Toxic lab chemicals	School	0	5 drums
4/5	Oxidizing lab chem.	School	0	1 drum
4/6	PCB capacitors	University	0	12,000 lb.
4/6	PCB-contaminated sawdust	University	0	50 cu.ft.
4/20	Penta/creosote sludge	Wood treatmt.	0	6000 gal.
4/20	Penta/creosote-contaminated clinker	Wood treatmt.	288 cu.ft.	0
4/20	PCB transformers	Paper container mfg.	0	1425 gal.

SC959.E
MAR.15 (1/82)

* * *	* Date *	* Type *	* Source *	* Present *	* <u>Quantity</u> Future *	* *
	4/20	Cyanide/sulfide lab packs	University	0	25 drums	
	4/20	Flammable liquid chem.	University	0	12 drums	
	4/20	Toxic solid chemicals	University	0	25 drums	
	4/20	Flammable solid chem.	University	0	4 drums	
	4/20	Corrosive liquid chem.	University	0	8 drums	
	4/20	Corrosive solid chem.	University	0	4 drums	
	4/20	Liquid oxidizing chem.	University	0	8 drums	
	4/20	Solid oxidizing chem.	University	0	8 drums	
	4/20	PCB-contaminated solids	Paper co.	0	20 drums	
	4/20	PCB liquid	Paper co.	0	20 drums	
	4/20	Decontaminated trans- former bodies	Paper co.	0	3 units	
	4/20	Sulfuric acid	Chemical co.	4000 gal.	25,000 gal.	
	4/20	Sodium chlorate	Fed. agency	0	20 drums	
	4/20	Sodium hydroxide	Research fac.	24 drums	24 drums	
	4/20	Aluminum nitrate	Research fac.	2 drums	2 drums	
	4/20	Hydrofluoric acid	Research fac.	4 drums	6 drums	
	4/20	Sulfuric acid	Research fac.	4 drums	6 drums	
	4/25	PCB materials	Fed. agency	3484 cu.ft.	0	
OTHER STATES - 2						
	4/5	PCB capacitors	Fed. agency (Idaho)	12 units	3 drums	
	4/20	Tetraethyl lead chem.	Oil co. (MT)	7 drums	10 drums	

SC959.E
MAR.15 (1/82)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program April, 1983
 (Reporting Unit) (Month and Year)

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	13	73	4	69	108	99
Airports				9	1	1

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit)	April, 1983 (Month and Year)
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FINAL NOISE CONTROL ACTIONS COMPLETED

County	Name of Source and Location	Date	Action
Multnomah	Prime Rib Restaurant Portland,	04-83	In Compliance
Multnomah	Pacific Northwest Bell Switching Facility, NE 24th and Stanton, Portland	04-83	In Compliance
Washington	Damerow Ford, Beaverton	04-83	In Compliance
Benton	Publishers Paper, Philomath	04-83	In Compliance

CIVIL PENALTY ASSESSMENTS
DEPARTMENT OF ENVIRONMENTAL QUALITY
1983

CIVIL PENALTIES ASSESSED DURING MONTH OF APRIL, 1983:

<u>Name and Location of Violation</u>	<u>Case No. & Type of Violation</u>	<u>Date Issued</u>	<u>Amount</u>	<u>Status</u>
Norman Pettijohn Portland, OR	AQOB-NWR-83-39 Open burned demolition waste.	4-7-83	\$50	Paid 4/13/83
Billy Jackson	AQOB-NWR-83-23 Open burned industrial and demolition waste.	4-28-83	\$250	Paid 5/17/83
Albert Mauck dba/ Goodman Sanitation Ser. Clackamas County	SS-NWR-83-36 Improper disposal of sewage.	4-28-83	\$500	Paid 5/31/83
Clearwater Industries, Inc. Washington County	SS-NWR-83-44 Represented itself as being in business of performing sewage disposal services w/o first obtaining a license.	4-28-83	\$100	Default Order and Judgment issued 6/10/83.

GB2187

PROGRAM ACTIVITY REPORT
MAY 1983

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

AQ, WQ, SW Divisions
(Reporting Unit)

May, 1983
(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	6	58	2	59	0	1	18
Small Gasoline Storage Tanks Vapor Controls	0	0	0	0	0	0	0
TOTAL	6	58	2	59	0	1	18
<u>Water</u>							
Municipal	14	140	30	145	0	3	8
Industrial	5	48	1	57	0	0	6
TOTAL	19	188	31	202	0	3	14
<u>Solid Waste</u>							
Gen. Refuse	3	20	2	13	0	0	6
Demolition	1	2	0	2	1	1	0
Industrial	2	20	1	18	0	0	5
Sludge	0	11	0	10	0	0	2
TOTAL	6	53	3	43	1	1	13
<u>Hazardous Wastes</u>	5	15	5	13	0	0	2
<u>GRAND TOTAL</u>	36	314	41	317	0	5	47

QUICK LOOK REPORT

06/08/83

OREGON COMPLIANCE DATA SYSTEM
PLAN ACTIONS AWAITING EGC ACTION

PAGE 1

CNTY	SRCE	EP	AN	COUNTY NAME	PDES	SOURCE NAME	PROCESS DESCRIPTION	DATE SCH	ACTION	DESCRIPT
26	2028	650	02	MULTNOMAH	963	SHELL OIL COMPANY	VAPOR RECOVERY EQUIP MOD	02/09/83	APPROVED	
14	0002	650	02	HOOD RIVER	875	CHAMPION BUILDING PRODUCT	ROTOCLONE INSTAL	04/28/83	APPROVED	
07	0001	651	02	CROOK	979	CLEAR PINE MOULDINGS INC	DUST COLLECTION SYS	05/03/83	APPROVED	
34	2638	653	02	WASHINGTON	935	TEKTRONIX INC	MULTICLONE INSTAL	04/19/83	APPROVED	
26	1369	650	02	MULTNOMAH	890	COLUMBIA STEEL CASTINGS	BAGHOUSE INSTAL	05/19/83	APPROVED	
26	2931	651	02	MULTNOMAH	893	GRAPHIC ARTS CENTER	CATALYTIC AFTERBURNER	05/26/83	APPROVED	
26	2479	651	02	MULTNOMAH	895	GATX TANK STORAGE TERM	TANK TR VAP REC SYS	05/16/83	APPROVED	
26	3110	650	02	MULTNOMAH	899	TREASURE CHEST CO INC	PRESS, DRYERS & AFTERBURNER	05/26/83	APPROVED	
14	9528	650	02	HOOD RIVER	979	BEACHMAN ORCHARDS	GASOLINE PWRED WIND MACHINE	05/11/83	APPROVED	
10	0036	651	02	DOUGLAS	900	INTERNATIONAL PAPER	REPL MIST ELIMINATOR	05/31/83	APPROVED	
14	9529	650	02	HOOD RIVER	901	C.K. BENTON ORCHARD	WIND MACHINE	05/11/83	APPROVED	
22	4009	650	02	LINN	906	EUGENE CHEMICAL WORKS	CAUSTIC PUMP, TANK & COND	05/31/83	APPROVED	
21	0005	651	02	LINCOLN	908	GEORGIA PACIFIC CORP	NON-COND GAS COLL & INCIN SY	05/27/83	APPROVED	

TOTAL NUMBER QUICK LOOK REPORT LINES 13

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

May, 1983
(Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>			
<u>Direct Sources</u>							
New	3	28	1	28	12		
Existing	4	11	4	21	15		
Renewals	26	147	1	150	79		
Modifications	<u>8</u>	<u>39</u>	<u>11</u>	<u>46</u>	<u>19</u>		
Total	41	225	17	245	125	1746	1773
<u>Indirect Sources</u>							
New	0	4	0	4	3		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	<u>2</u>	<u>6</u>	<u>0</u>	<u>4</u>	<u>2</u>		
Total	2	10	0	8	5	206	209
<u>GRAND TOTALS</u>	43	235	17	253	130	1952	1982

Number of
Pending Permits

Comments

29	To be reviewed by Northwest Region
15	To be reviewed by Willamette Valley Region
21	To be reviewed by Southwest Region
6	To be reviewed by Central Region
6	To be reviewed by Eastern Region
13	To be reviewed by Program Operations Section
10	To be reviewed by Planning & Development Section
14	Awaiting Public Notice
<u>11</u>	Awaiting End of 30-day Notice
125	

MAR.5 (8/79)
AZ270

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
YAMHILL	WILLAMINA LUMBER CO	36	8008 04/27/83	PERMIT ISSUED	04/28/83	MOD
MULTNOMAH	HYSTER COMPANY	26	3032 05/04/81	PERMIT ISSUED	05/02/83	EXT
UMATILLA	LAMB-WESTON INC	30	0075 10/11/82	PERMIT ISSUED	05/02/83	MOD
PORT.SOURCE	KIEWIT PACIFIC CO.	37	0015 04/15/83	PERMIT ISSUED	05/02/83	MOD
PORT.SOURCE	WESTERN MIXING CO	37	0068 04/29/83	PERMIT ISSUED	05/09/83	MOD
PORT.SOURCE	R D MAC, INC	37	0203 05/02/83	PERMIT ISSUED	05/09/83	MOD
BENTON	PHILOMATH FOREST PRODUCTS	02	7077 04/28/83	PERMIT ISSUED	05/11/83	MOD
JACKSON	CASCADE WOOD PRODUCTS INC	15	0005 03/10/83	PERMIT ISSUED	05/11/83	MOD
MULTNOMAH	SHELL OIL COMPANY	26	2028 01/27/82	PERMIT ISSUED	05/16/83	NEW
LINN	WILLAMETTE IND MIDWAY VEN	22	7005 05/18/83	PERMIT ISSUED	05/18/83	EXT
MULTNOMAH	UNION OIL OF CALIFORNIA	26	2026 05/18/83	PERMIT ISSUED	05/18/83	EXT
MULTNOMAH	GATX TANK STORAGE TERM	26	2479 05/18/83	PERMIT ISSUED	05/18/83	MOD
PORT.SOURCE	KIEWIT PACIFIC CO.	37	0015 05/01/83	PERMIT ISSUED	05/18/83	MOD
MULTNOMAH	MOSIL OIL CORP	26	2029 02/17/81	PERMIT ISSUED	05/24/83	MOD
MULTNOMAH	ATLANTIC RICHFIELD CO.	26	2030 05/04/82	PERMIT ISSUED	05/24/83	MOD
MULTNOMAH	TEXACO USA, PORT DIST TER	26	2478 09/21/82	PERMIT ISSUED	05/24/83	EXT
MULTNOMAH	PORTLAND TERMINALS, INC.	26	2966 12/21/81	PERMIT ISSUED	05/24/83	RNW

TOTAL NUMBER QUICK LOOK REPORT LINES 17

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

May 1983
(Month and Year)

PLAN ACTIONS COMPLETED 11

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

MUNICIPAL WASTE SOURCES 5

Yamhill	City of Sheridan West Main Collection System and Northside Rehabilitation	5-23-83	P.A.	
Deschutes	Starwood S. D. Collection System, Septic Tanks and Bottomless Sand Filters, Phase I	5-24-83	P.A.	
Clackamas	Oak Lodge S.D. Sanitary Sewers Nelson Lane Extension	6-3-83	P.A.	
Douglas	Sutherlin Koleno Sewer Extension	6-3-83	P.A.	
Douglas	Twin Rivers Vacation Park Subsurface, Low Pressure System	6-6-83	Comments to Designer	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

May, 1983
(Month and Year)

PLAN ACTIONS COMPLETED

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

Linn	Teledyne Wah Chang Two 30,000-gallon storage liquid waste storage tanks Albany	5-5-83	Approved	
Marion	Stayton Canning 2,000 ft. extension to irrigation disposal system Stayton	5-11-83	Approved	
Benton	Rainbow Trout Gardens Trout farm settling pond	5-11-83	Approved	
Tillamook	Brownlee Bush Dairy Manure control system Tillamook	5-31-83	Approved	
Tillamook	Donald Averill Manure control system Tillamook	5-31-83	Approved	
Yamhill	Publishers Paper 6 aerators, one mixer, and rerouting of belt filter line Newberg	5-31-83	Approved	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division May, 1983
 (Reporting Unit) (Month and Year)

SUMMARY OF WATER PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	Month	Fis. Yr.	Month	Fis. Yr.			
	* /**	* /**	* /**	* /**			
<u>Municipal</u>							
New	0 /1	3 /14	0 /0	1 /20	3 /6		
Existing	0 /0	0 /0	0 /0	0 /0	0 /0		
Renewals	6 /0	56 /13	5 /1	55 /11	32 /7		
Modifications	1 /0	4 /3	1 /0	4 /3	0 /0		
Total	7 /1	63 /30	6 /1	60 /34	35 /13	237/126	240/132
<u>Industrial</u>							
New	0 /1	5 /10	0 /0	4 /5	4 /7		
Existing	0 /0	0 /0	0 /0	0 /0	0 /1		
Renewals	0 /0	37 /33	4 /7	26 /27	42 /18		
Modifications	1 /0	4 /1	0 /0	5 /1	1 /0		
Total	1 /1	46 /44	4 /7	35 /33	47 /26	394/203	398/211
<u>Agricultural (Hatcheries, Dairies, etc.)</u>							
New	0 /0	0 /0	0 /0	1 /0	1 /0		
Existing	0 /0	0 /0	0 /0	0 /0	0 /0		
Renewals	0 /0	0 /3	0 /0	0 /1	0 /3		
Modifications	0 /0	0 /0	0 /0	0 /1	0 /0		
Total	0 /0	0 /3	0 /0	1 /2	1 /3	62 /14	63 /14
<u>GRAND TOTALS</u>	8 /2	109/77	10 /8	96 /69	83 /42	693/343	701/357

* NPDES Permits
 ** State Permits
 15 General Permits Granted

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit)	May, 1983 (Month and Year)
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PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
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MUNICIPAL AND INDUSTRIAL SOURCES - NPDES (9)

Douglas	Winchester Bay S.D. STP	5-3-83	Permit Renewed	
Curry	Gold Beach STP	5-9-83	Permit Renewed	
Coos	Coquille WTP	5-16-83	Permit Renewed	
Lane	Lowell STP	5-16-83	Permit Renewed	
Polk	Mt. Fir Lumber Co. Independence	5-16-83	Permit Renewed	
Lane	Oakridge STP	5-16-83	Permit Renewed	
Yamhill	Yamhill STP	5-16-83	Permit Renewed	
Coos	Coos Bay Packing, Inc. Coos Bay	5-23-83	Permit Renewed	
Coos	Main Rock Products, Inc. North Bend	5-23-83	Permit Renewed	

MUNICIPAL AND INDUSTRIAL SOURCES - STATE (8)

Lane	Bohemia, Inc. Saginaw	5-3-83	Permit Renewed	
Jackson	Bristol Silica & Limestone, Inc. Gold Hill	5-3-83	Permit Renewed	
Lane	Georgia-Pacific Corp. Eugene - Prairie Rd.	5-3-83	Permit Renewed	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit)	May, 1983 (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 - STATE (Continued)

Linn	Wyne Poultry Farms, Inc. Brownsville	5-3-83	Permit Renewed	
Lane	Bohemia, Inc. Coburg	5-6-83	Permit Renewed	
Marion	Church of LDS St. Paul Cannery	5-16-83	Permit Renewed	
Deschutes	Stage Stop, Inc. Stage Stop Meadows LaPine, STP	5-16-83	Permit Renewed	
Clackamas	Glenn L. Althausen Deep Creek S & G Boring	5-25-83	Permit Renewed	

MUNICIPAL AND INDUSTRIAL SOURCES - MODIFICATIONS (1)

Lane	Eugene, STP	4-28-83	Schedule C modification by letter	
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MUNICIPAL AND INDUSTRIAL SOURCES - GENERAL PERMITS (15)

Cooling Water - Permit No. 0100J, File 32550 (5)

Union	Boise Cascade Particle Board Plant LaGrande	5-4-83	Transferred	
Benton	Albert East (Heat Pump) Corvallis	5-17-83	General Permit Issued	
Benton	Charles Currell (Heat Pump) Corvallis	5-17-83	General Permit Issued	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<u>Water Quality</u> (Reporting Unit)	<u>May, 1983</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 (Continued)Cooling Water - Permit No. 0100J, File 32550 (Continued)

Benton	Gary Noble (Heat Pump) Corvallis	5-17-83	General Permit Issued	
Lane	Borden Chemical Springfield	5-19-83	Transferred	

Filter Backwash - Permit No. 0200J, File 32555 (1)

Marion	Deer Creek Estates Water Association Aurora, WTP	5-12-83	Transferred	
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Log Ponds - Permit No. 0400J, File 32575 (1)

Benton	Philomath Forest Prod. Co. Philomath	5-4-83	Transferred (from Hobin Lmbr. Co.)	
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Boiler Blowdown - Permit No. 0500J, File 32540 (2)

Columbia	Boise Cascade Particle Board Plant LaGrande	5-4-83	Transferred	
Lane	Borden Chemical Springfield	5-19-83	Transferred	

Gold Mines - Permit No. 0600, File 32580 (2)

Jackson	Theron G. Boye Jacksonville	5-3-83	General Permit Issued	
Grant	Mining Ventures Unlimited, Inc. Salem	5-5-83	General Permit Issued	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit)	May, 1983 (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 (Continued)

Portable Suction Dredges - Permit No. 0700J, File 32600 (4)

Marion	Victor Lee Miller 4" Suction Dredge Salem	5-3-83	General Permit Issued	
Jackson	Bill Newton 6" Suction Dredge Rogue River	5-5-83	General Permit Issued	
Jackson	Kenneth A. Smith 5" Suction Dredge Central Point	5-26-83	General Permit Issued	

Gravel Mining - Permit No. 1000, File 32565 (1)

Curry	Freeman Rock Enterprises Brookings	5-27-83	Transferred	
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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

May 1983
(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	4	-	3	2		
Existing	-	-	-	-	-		
Renewals	-	25	1	24	13		
Modifications	-	12	2	10	2		
Total	1	41	3	37	17	176	176
<u>Demolition</u>							
New	1	1	1	2	-		
Existing	-	-	-	-	-		
Renewals	1	2	1	2	-		
Modifications	-	5	1	5	-		
Total	2	8	3	9	0	21	21
<u>Industrial</u>							
New	1	9	2	13	3		
Existing	-	-	-	-	-		
Renewals	-	18	1	14	9		
Modifications	-	3	-	-	-		
Total	1	30	3	27	12	102	102
<u>Sludge Disposal</u>							
New	-	7	-	8	-		
Existing	-	-	-	-	-		
Renewals	-	3	1	3	-		
Modifications	-	2	-	3	-		
Total	0	12	1	14	0	17	17
<u>Hazardous Waste</u>							
New	2	12	-	5	7		
Authorizations	105	680	105	680	-		
Renewals	-	-	-	-	-		
Modifications	-	5	-	5	-		
Total	107	697	105	690	7	15	20
<u>GRAND TOTALS</u>	111	788	115	777	36	331	336

SC1010.A
MAR.5S (4/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division

(Reporting Unit)

May 1983

(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Lane	Short Mt. Landfill Existing facility	5/3/83	Permit amended	*
Lake	Louisiana-Pacific Existing facility	5/4/83	Permit renewed	*
Linn	Sweet Home Transfer Station Existing facility	5/4/83	Permit renewed	*
Tillamook	Port of Tillamook Bay New landfill	5/4/83	Permit issued	*
Clatsop	Westwind Racquet Club New landfill	5/6/83	Letter authorization denied	*
Lane	Bloomberg Disposal Site Existing facility	5/12/83	Letter authorization renewed	*
Coos	Hempstead Lagoon Existing facility	5/20/83	Permit renewed	*
Lane	Weyerhaeuser, Springfield New landfill	5/26/83	Permit issued	*
Jackson	Prospect Landfill Existing facility	5/26/83	Permit amended	*
Washington	Hillsboro Landfill Existing facility	5/26/83	Permit amended	*

SC1010.D
MAR.6 (5/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

May 1983
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-SECURITY SYSTEMS, INC., GILLIAM CO.

WASTE DESCRIPTION

* Date *	Type	Source	Present	Quantity	Future
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DISPOSAL REQUESTS GRANTED - 105

OREGON - 17

5/2	PCB-contaminated debris	Electric util.	0	30 cu.yd.	
5/2	Hydrofluoric acid	Electronic co.	0	48,000 gal.	
5/2	Pickling acid	Metal fab.	0	5000 gal.	
5/9	Ignitable and chlorinated still bottoms	Solvent recy.	0	1000 drums	
5/9	Naphthenes/benzene solvent	Construction equip. assembly	0	6 drums	
5/9	Pesticides	Ag. chem. suppl.	0	3,154 lb.	
5/12	Lead sludge	Radiator manuf.	0	30 drums	
5/19	Paint sludge	Paint formulator	0	2000 gal.	
5/25	Asphalt sump bottoms	Oil co.	4000 gal.	0	
5/25	Lead chromate/lead molybdate ink sludge	Ink manuf.	0	10 drums	
5/26	Mixed lacquer thinner/mineral spirits	Public school	0	4000 gal.	
5/26	Asbestos	Public school	0	5 cu.yd.	
5/26	Chlorinated still bottoms	Solvent recy.	0	200 drums	

SC1010.E
MAR.15 (1/82)

* * *	* * *		* * *	* * *	* * * <u>Quantity</u> * * *		* * *		
* * *	* * *	Type	* * *	Source	* * *	Present	* * *	Future	* * *
5/26		Petroleum tank wash water		Oil co.		2500 gal.	0		
5/26		Sodium nitrite		Dockyard		140 lb.	0		
5/26		Sulfamic acid		Dockyard		2200 lb.	0		
5/26		Grinder area rotoclone sludge with Zr & Ti		Metal fab.		0		30 cu.yd.	

WASHINGTON - 53

5/2		Chromic acid protective coating solution		Coil manuf.		0		11 drums	
5/3		1,1,1-trichloroethane		Electrical shop		0		20 drums	
5/4		Mixed acids with heavy metals		Shipyard		0		200,000 gal.	
5/4		Cu ₂ O, LiOH & MgO catal.		Shipyard		0		10 drums	
5/4		Ion exchange resin of polystyrene		Shipyard		0		20 drums	
5/5		PCB transformers		Site cleanup		2 drums	0		
5/5		PCB capacitors		Electric util.		64 cu.ft.	0		
5/5		Sump sludge with heavy metals		Paper box manuf.		0		32 drums	
5/4		Alkaline Cu solution with formaldehyde		Electronic co.		0		3600 gal.	
5/4		Sulfuric acid		Electronic co.		0		3600 gal.	
5/4		Nitric acid		Electronic co.		0		3600 gal.	
5/4		Equipment washing with glycol, methylene chloride & polyol		Polyurethane foam productn.		0		19 drums	
5/4		Isocyanate/methylene chloride & water		Polyurethane foam productn.		0		1 drum	
5/4		Polymerized methylene bis (4-phenyl isocyanate)		Polyurethane foam productn.		0		8 drums	

SC1010.E
MAR.15 (1/82)

* * *	* * *	* * *	* * *	* * *	* * *	* * *
Date	Type	Source	Present	Quantity	Future	
5/9	Alkaline solution with phenol, dichloromethane & heavy metals	Shipyards	0	100,000 gal.		
5/5	Heavy metals sludge	Waste treatment	0	70 drums		
5/9	Paints, resins, etc., in lab packs	Electronic co.	0	15 drums		
5/4	Fertilizer with dirt & heavy metals	Site cleanup	6000 cu.yd.	0		
5/4	Zinc oxide sludge with heavy metals	Site cleanup	8000 tons	0		
5/4	Flue ash with heavy metals	Site cleanup	10,000 tons	0		
5/9	Soil fumigant VAPAM tank sludge	Ag. chem. suppl.	0	35 drums		
5/9	Telone II/Telone C-17 tank sludge	Ag. chem. suppl.	0	20 drums		
5/10	Ammonium bisulfate/H ₂ SO ₄ solution	Chemical co.	20,000 gal.	0		
5/10	Chrome sludge w/ lead	Electroplating	0	25 drums		
5/12	Paint sludge	Superfund proj.	230,400 gal.	0		
5/12	PCB transformers/oils	Superfund proj.	611 cu.ft.	0		
5/12	Electroplating sludge	Superfund proj.	70,000 gal.	0		
5/12	Pickling acid with heavy metals	Superfund proj.	76,000 gal.	0		
5/12	Ink sludge with heavy metals	Superfund proj.	2211 gal.	0		
5/12	Methylene chloride	Superfund proj.	2750 gal.	0		
5/12	Methyl ethyl ketone	Superfund proj.	400 drums	0		
5/12	Trichloroethylene	Superfund proj.	500 drums	0		
5/12	Phosphoric acid	Superfund proj.	1100 gal.	0		

SC1010.E
MAR.15 (1/82)

* * *	* * *		* * *	* * *	<u>Quantity</u>		* * *
* Date	* Type	* Source	* Present	* Future			
5/12	Nitric acid	Superfund proj.	5500 gal.	0			
5/12	Sulfuric acid	Superfund proj.	19,250 gal.	0			
5/12	Hydrochloric acid	Superfund proj.	275 gal.	0			
5/12	Isopropyl alcohol	Superfund proj.	3300 gal.	0			
5/12	Perchloroethylene	Superfund proj.	5500 gal.	0			
5/19	Acetone	Superfund proj.	44,000 gal.	0			
5/19	Ignitable lab solvents	Electronic co.	30 gal.	0			
5/19	Metal etch primer with xylene, toluene and chrome	Plywood mill	0	45 drums			
5/19	Metal etch primer with chrome	Plywood mill	55 drums	10,000 lb.			
5/19	Penchlorophenol sludge	Wood treatment	0	6 drums			
5/19	Electroplating sludge	Electroplating	0	48 drums			
5/25	Penta/creosote-bearing sludge	Wood treatment	0	10 drums			
5/26	Lime sludge with chlorinated organics	Site cleanup	390 tons	0			
5/31	Styrene monomer	Chemical co.	0	1000 lb.			
5/31	Various lab chemicals	Chemical co.	0	10 drums			
5/31	Freon 113	Fed. facility	0	25-40 drums			
5/31	Paint residue with lead	Electroplating	0	12 drums			
5/26	Sulfuric acid	Superfund proj.	20 drums	0			
5/31	Sump sludge with lead	Superfund proj.	15,000 gal.	0			
5/31	Contaminated crushed drums	Superfund proj.	4000 cu.ft.	0			

SC1010.E
MAR.15 (1/82)

* Date *	Type	* Source *	* Present *	Quantity * Future *	* *
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OTHER STATES - 35

5/3	Paint thinners	Research fac. (ID)	0	5 drums	
5/3	Ignitable organic solvents	Research fac. (ID)	0	1 drum	
5/2	Plating wastewater treatment sludge	Electronic co. (UT)	0	500,000 lb.	
5/5	Biocide with IPA and 1-alkyl amino-3-amino propane diacetate	Oil co. (MT)	5 drums	0	
5/5	Biocide with n-alkyl benzyl & n-alkyl ethyl benzyl ammonium chloride	Oil co. (MT)	2 drums	0	
5/4	Toxic lab chemicals	University (ID)	0	25 drums	
5/4	Corrosive lab chem.	University (ID)	0	25 drums	
5/4	Oxidizing lab chem.	University (ID)	0	25 drums	
5/4	Ignitable lab chem.	University (ID)	0	25 drums	
5/9	Soil contaminated with heavy metals, phenols and penta	Site cleanup (B.C.)	339 cu.yd.	0	
5/9	Paint sludge	Electronic co. (ID)	0	5300 gal.	
5/9	Tramp hydraulic oil/water	Electronic co. (ID)	0	2500 gal.	
5/9	Trim-sol machine coolant	Electronic co. (ID)	0	600 gal.	
5/9	Trichloroethane	Electronic co. (ID)	0	1000 gal.	
5/9	Trichloroethane still bottoms	Electronic co. (ID)	0	2000 gal.	
5/9	Machine coolant with IPA, butyl cellosolve, etc.	Electronic co. (ID)	0	4000 gal.	
5/9	Freon	Electronic co. (ID)	0	2000 gal.	

SC1010.E
MAR.15 (1/82)

* * *	* Date *	* Type *	* Source *	* Present *	* Quantity Future *	* *
	5/9	Ignitable solvents	Electronic co. (ID)	0	3000 gal.	
	5/9	Electroless nickel bath	Electronic co. (ID)	0	6000 gal.	
	5/9	Photoresist polymer	Electronic co. (ID)	0	11,000 lb.	
	5/9	Heavy metals sludge	Electronic co. (ID)	0	480 cu.yd.	
	5/9	Paint sludge (water- based)	Electronic co. (ID)	0	8000 gal.	
	5/9	Cadmium-contaminated solids	Electronic co. (ID)	0	2000 lb.	
	5/9	Chromium-contaminated Al sludge	Electronic co. (ID)	0	4000 gal.	
	5/9	Aluminum sludge	Electronic co. (ID)	0	4000 gal.	
	5/12	PCB capacitors	Magnesium prod. (UT)	0	27 gal.	
	5/17	Jet fuel tank bottoms	Oil co. (AK)	0	50 drums	
	5/19	PCB capacitors	Electric util. (MT)	10,000 lb.	0	
	5/31	PCB-contaminated transformers	Electric util. (MT)	0	15 units	
	5/31	PCB transformers	Electric util. (MT)	0	20 units	
	5/31	PCB-contaminated oil	Electric util. (MT)	0	30 units	
	5/31	PCB oil	Electric util. (MT)	0	20 drums	
	5/31	Non-leaky PCB capaci- tors	Electric util. (MT)	0	40 drums	
	5/31	Leaky PCB capacitors	Electric util. (MT)	0	80 drums	
	5/31	PCB-contaminated debris	Electric util. (MT)	18,100 cu.ft.	0	

SC1010.E
MAR.15 (1/82)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program
(Reporting Unit)

May, 1983
(Month and Year)

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	11	84	7	76	112	108
Airports			2	11	1	1

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<u>Noise Control Program</u>	<u>May, 1983</u>
(Reporting Unit)	(Month and Year)

FINAL NOISE CONTROL ACTIONS COMPLETED

County	* * Name of Source and Location	* * Date	* * Action
Clackamas	Cattle Company Restaurant, Milwaukie	05-83	In Compliance
Clackamas	Bob DeLashmutt Dog Kennel, Clackamas County	05-83	Noise Discontinued
Multnomah	Fred Meyer Store, Rockwood Portland	05-83	In Compliance
Multnomah	M and N Plastics, Portland	05-83	In Compliance
Washington	McCormack Industrial Sandblasting, Banks	05-83	In Compliance
Jackson	Gold Dredging on Rogue River, Gold Hill	05-83	No Violation
Morrow	Don Jorgensen Trucking Company, Irrigon	05-83	Noise Discontinued
Multnomah	Troutdale Airport, Troutdale	05-83	Boundary Approved
Crook	Goering Airport, Alfalpa	05-83	Boundary Approved

CIVIL PENALTY ASSESSMENTS

DEPARTMENT OF ENVIRONMENTAL QUALITY
1983

CIVIL PENALTIES ASSESSED DURING MONTH OF MAY, 1983:

<u>Name and Location of Violation</u>	<u>Case No. & Type of Violation</u>	<u>Date Issued</u>	<u>Amount</u>	<u>Status</u>
McInnis Enterprises, Ltd. dba/Schulz Sanitation Portland, Oregon	SS/SW-NWR-83-47 Disposal of a load of sewage/industrial sludge pumpings at unauthorized location.	5-19-83	\$500	Awaiting response to notice.
Walter E. Lawson dba/A-Active Septic Tank Service Washington County	SS-NWR-83-49 Pumping septic tanks without being licensed.	5-19-83	\$500	In default.

GB2309

APRIL - MAY 1983
DEQ/EQC Contested Case Log

<u>ACTIONS</u>	<u>LAST MONTH</u>	<u>PRESENT</u>
Preliminary Issues	7	6
Discovery	1	1
Settlement Action	0	3
Hearing to be scheduled	6	1
Hearing scheduled	1	4
HO's Decision Due	2	2
Briefing	0	0
Inactive	4	4
 SUBTOTAL of cases before hearings officer.	 <u>21</u>	 <u>21</u>
HO's Decision Out/Option for EQC Appeal	1	0
Appealed to EQC	3	1
EQC Appeal Complete/Option for Court Review	1	0
Court Review Option Pending or Taken	0	1
Case Closed	0	4
 TOTAL Cases	 <u>26</u>	 <u>27</u>

15-AQ-NWR-81-178 15th Hearing Section case in 1981 involving Air Quality Division violation in Northwest Region jurisdiction in 1981; 178th enforcement action in the Department in 1981.

\$ Civil Penalty Amount

ACDP Air Contaminant Discharge Permit

AGL Attorney General 1

AQ Air Quality Division

AQOB Air Quality, Open Burning

CR Central Region

DEC Date Date of either a proposed decision of hearings officer or a decision by Commission

ER Eastern Region

FB Field Burning

FWO Frank Ostrander, Assistant Attorney General

Hrng Rfrl Date when Enforcement Section requests Hearing Section schedule a hearing

Hrngs Hearings Section

LMS Larry Schurr, Enforcement Section

NP Noise Pollution

NPDES National Pollutant Discharge Elimination System wastewater discharge permit.

NWR Northwest Region

OSS On-Site Sewage Section

P Litigation over permit or its conditions

Prtys All parties involved

RLH Robert L. Haskins, Assistant Attorney General

Rem Order Remedial Action Order

Resp Code Source of next expected activity in case

SS Subsurface Sewage (now OSS)

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

VAK Van Kollias, Enforcement Section

WQ Water Quality Division

WVR Willamette Valley Region

CONTES.B (2)

April - May 1983

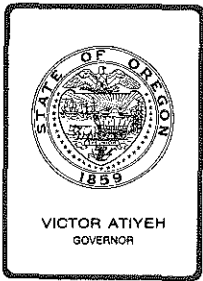
DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	DEQ Atty	Hrng Date	Resp Code	Case Type & No.	Case Status
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	03-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		<u>Prtys</u>	17-WQ-NWR-79-127 Oil Spill Civil Penalty of \$5,000	<u>Decision drafted. Prtys agree on scope of summary judgment.</u>
HAYWORTH, John W. dba/HAYWORTH-FARMS ENG.	12/02/80	12/06/80	LMS	04/20/81	Prtys	33-AQ-WVR-80-187 FB Civil Penalty of \$4,660	EQC allowed Resp appeal. Case closed.
PULLEN, Arthur W. dba/Foley Lakes Mobile Home Park	07/15/81	07/15/81	RLH		Prtys	16-WQ-CR-81-60 Violation of EQC Order, Civil Penalty of \$500	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	<u>Dept</u>	19-AQ-FB-81-05 FB Civil Penalty of \$1,000	<u>Depts brief on appeal due 6/20/83.</u>
GATES, Clifford	10/06/81		LMS	<u>08/23/83</u>	Prtys	21-SS-SWR-81-90 SS Civil Penalty of \$275	<u>Hearing rescheduled.</u>
SPERLING, Wendell dba/Sperling Farms	11/25/81	11/25/81	LMS	03/17/83	Hrgs	23-AQ-FB-81-15 FB Civil Penalty of \$3,000	Decision due.
NOFZIGER, Leo	12/15/81	01/06/82	LMS	06/29/82	Hrgs	26-AQ-FB-81-18 FB Civil Penalty of \$1,500	<u>Decision drafted.</u>
PULLEN, Arthur dba/Foley Lakes Mobile Home Park	03/16/82	<u>03/29/82</u>	RLH		Prtys	28-WQ-CR-82-16 Violation of EQC Order, Civil Penalty of \$4,500	See companion case above.
BOWERS EXCAVATING & FENCING, INC.	05/20/82	<u>05/25/82</u>	LMS	06/08/83	Prtys	30-SW-CR-82-34 SW Civil Penalty of \$1,000	<u>Negotiated settlement before EQC 7/8/83.</u>
ADAMS, Gailen			VAR	08/25/82	Prtys	31-SS-NWR-82-51 SS Civil Penalty of \$100	EQC affirmed HO's decision. Penalty paid. Case closed.
OLINGER, Bill Inc.	09/10/82	09/13/82	RLH		Prtys	33-WQ-NWR-82-73 WQ Civil Penalty of \$1,500	Discovery.
FOEDTEMEIER, Norman	09/10/82	09/13/82	LMS	07/14/83	Hrgs	34-AQOB-WVR-82-65 OB Civil Penalty of \$250	<u>Hearing scheduled.</u>
SYLER, Richard E.	09/20/82	09/28/82	VAK	05/24/83	Prtys	35-AQOB-WVR-82-76 OB Civil Penalty of \$100.	<u>Hearing held. Agency considering post-hrng conciliation.</u>
FIREBALL CONSTRUCTION CORP. & Glenn Dorsey	09/27/82		RLH		<u>Prtys</u>	38-SS-SWR-82-85 Remedial Action Order	<u>A repair permit has been issued. Hearing deferred pending resolution of environmental problem.</u>
MORRE, Dale	12/06/82	12/06/82		01/14/82	Prtys	40-SS-NWR-82 Appeal of Variance Denial	To be before EQC at April 8, 1983 meeting.
TIPPET, James	12/02/82	12/06/82	LMS	<u>09/15/83</u>	<u>Prtys</u>	39-AQ-FB-82-AG1 Ag. Burning Civil Penalty of \$50	<u>Hearing scheduled.</u>
GIANELLA, Vermont	12/17/82	<u>12/28/82</u>	VAK	<u>06/28/83</u>	<u>Prtys</u>	41-AQ-FB-82-08 FB Civil Penalty of \$1,000	<u>Hearing scheduled.</u>

April - May 1983

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	DEQ Atty	Hrng Date	Resp Code	Case Type & No.	Case Status
SCHLEGEL, George L.	12/30/82	01/03/83	VAK	09/21/83 (tentative)	Hrgs	43-AQ-FB-82-05 FB Civil Penalty of \$400	To be scheduled.
FAXON, Jay dba/Faxon Farms	01/03/83	01/07/83	LMS	10/12/83 (tentative)	Prtys	44-AQ-FB-82-07 FB Civil Penalty of \$1,000	Preliminary Issues
MARCA, Gerald	01/06/83	01/11/83	LMS	08/10/83 (tentative)	Prtys	45-SS-SWR-82-101 SS Civil Penalty of \$500, 46-SS-SWR-82-114 Remedial Action Order	Preliminary Issues
ALTHAUSER, Glenn L.	01/28/83	02/03/83	LMS		Prtys	47-SW-NWR-82-111 Solid Waste Civil Penalty of \$350	Preliminary Issues
OREGON ENVIRONMENTAL COUNCIL	02/01/83				<u>Resp</u>	48-Declaratory Ruling	<u>EQC declined to issue declaratory ruling.</u>
CITY-OF-ESTACADA	02/16/83	02/17/83	RLH		Prtys	49-WQ-NWR-83-08 WQ Civil Penalty of \$2,500	<u>Stipulated settlement of \$300 approved by EQC 5/20/83. Case closed.</u>
HAYWORTH FARMS, INC., and HAYWORTH, John W.	01/14/83	02/28/83			Prtys	50-AQ-FB-82-09 FB Civil Penalty of \$1,000	Preliminary Issues
<u>OREGON SUN RANCH</u>	<u>04/04/83</u>	<u>04/12/83</u>	<u>RLH.</u>		<u>Prtys</u>	<u>51-AQ-CR-83-33 AQ Civil Penalty of \$500.</u>	<u>Preliminary Issues</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, July 8, 1983, EQC Meeting

TAX CREDIT APPLICATIONS

Director's Recommendation

It is recommended the Commission take the following actions.

1. Approve tax credit applications:

Appl. No.	Applicant	Facility
T-1578	Georgia-Pacific Corporation	Wastewater clarifier, pumping station and associated equipment; underflow sludge pumping station and associated equipment
T-1591	Teledyne Industries, Inc.	Caustic system for ZrO ₂ scrubbers
T-1611	Martin Marietta Aluminum, Inc.	Dust collector and associated equipment
T-1615	Gray & Company	Wastewater irrigation holding system

2. Deny pollution control tax credit to Vernon E. Duyck, application number T-1605, as request for preliminary certification was not made (see attached review report).
3. Revoke Pollution Control Facility Certificate 737, issued to Weyerhaeuser Company, as certified facility has been removed from service (see attached review report).

Bill

William H. Young

CASplettstaszer
229-6484
6/17/83
Attachments

Agenda Item C
July 8, 1983, EQC Meeting
Page 2

PROPOSED JULY 1983 TOTALS

Air Quality	\$ 81,497
Water Quality	2,824,179
Solid/Hazardous Waste	-0-
Noise	-0-
	<u>\$ 2,905,676</u>

CALENDAR YEAR TOTALS TO DATE

Air Quality	\$ 6,190,405
Water Quality	24,251,926
Solid/Hazardous Waste	1,329,526
Noise	-0-
	<u>\$31,771,857</u>

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

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

The applicant owns and operates an integrated kraft pulp and paper production facility at Toledo, Oregon.

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

2. Description of Claimed Facility

The facility described in this application consists of a 160 foot diameter Door Oliver wastewater clarifier, a raw wastewater pumping station and pipeline, a Parkson traveling screen, an underflow sludge pumping station and associated electrical equipment and instrumentation. The costs are summarized below:

Clarifier and rake assembly	\$1,389,447.00
Solids pumps (#1 and #2) to waste plant	49,837.00
Mill sewers	133,930.00
Traveling bar screen	130,294.00
Clear effluent lines	494,646.00
Associated sumps and lines	286,840.00
Electrical equipment and instrumentation	<u>160,191.00</u>
Total	\$2,645,185.00

Request for Preliminary Certification for Tax Credit was made on March 3, 1981, and approved on March 10, 1981 as a water quality tax credit.

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

Facility Cost: \$2,645,185.00 (Accountant's Certification was provided).

3. Evaluation of Application

Prior to the installation of the 160 foot diameter clarifier and the associated screen and piping system, Georgia Pacific Corp. used a 70 foot diameter clarifier at the Toledo Paper Division. This small clarifier was hydraulically overloaded and removed only 2,000 to 4,000 pounds of solids per day. Fifty percent of these removed solids were useful fiber, used as a raw material in the paper manufacturing process.

Completion of the new system allows the plant to remove approximately 35,000 pounds of solids per day. The majority of this fiber used to carry over in the clarifier effluent and flow to an earthen settling basin which precedes the mill's biological waste treatment ponds. The earthen settling basin was periodically dredged and the solids were disposed of in the mill's landfill.

Georgia Pacific Corp. previously applied for tax credit for this project as a solid waste pollution control facility. However, it was denied by the Environmental Quality Commission on February 25, 1983. The Commission recommended that Georgia Pacific Corp. resubmit the application under the water quality program.

The annual income based on the value of the useable fiber as shown in the water quality application is \$284,955. The value as shown in the solid waste application is \$382,000. Georgia Pacific Corp. indicated the reason for the higher value in the solid waste application is due to 1) a higher tonnage figure based on a rough estimate of the clarifier underflow volume, 2) an insufficient look at the material composition to see what percent is usable, and 3) an overstatement of the value of the material on a dollars per ton basis due to the bookkeeping procedures used at the time. Prior to resubmitting the application under the water quality program, Georgia Pacific Corp. conducted a study and determined that an average of 8.5 ADT/day of fiber is useable (45% of the recycled clarifier solids).

Based on a total annual operating expense of \$228,374, the net profit for both annual income figures is as follows:

- a. $\$284,955 - 228,374 = \$ 56,581$
- b. $\$382,000 - 228,374 = \$153,626$

The Factor of Internal Rate of Return similarly is as follows:

- a. $\$2,645,095 / 56,581 = 46.749$
- b. $\$2,645,095 / 153,626 = 17.218$

The rate of return using a 10-year life and Table 2 on Page VI-9 of the Department's Pollution Control Facilities Tax Credit Guidance Handbook is less than 1 percent based on both sets of figures as noted

in a and b above. From Table I on Page VI-3 of the same handbook, the percent of the cost of this facility that is allocable to pollution control is 80 percent or more.

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 80 percent or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$2,645,185.00 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1578.

Charles K. Ashbaker:g
WG2326
(503) 229-5374
May 6, 1983

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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, Oregon.

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

2. Description of Claimed Facility

The facility described in this application includes a caustic system for the ZrO_2 calciners scrubbers consisting of caustic storage and supply, electrical service, caustic tank berm and some duct work. The facility also includes a pH analyzer/ recorder/controller, and caustic/water flow meters.

Request for Preliminary Certification for Tax Credit was made on March 21, 1977, and approved on March 28, 1977.

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

Facility Cost: \$38,117 (Accountant's Certification was provided).

3. Evaluation of Application

The facility claimed in this application are essential components of the applicant's ZrO_2 calciner off-gas treatment system. Parts of this system include primary and back-up scrubbers which reduce SO_2 emissions to limits set forth in the applicant's Air Contaminant Discharge Permit.

The caustic system and duct work claimed herein facilitate full-time efficient collection and removal of SO_2 from the calciner exhaust by serving both the primary and the back-up scrubbers. Adding caustic to the scrubber liquor greatly enhances SO_2 capture.

The pH and flow metering equipment claimed herein serve the back-up scrubber which is used when the primary scrubber is off-line for repairs or maintenance.

Although the sodium sulfite solution produced by the total SO₂ control system (of which the claimed facility represents a small cost) is used in the applicant's water pollution control system, the solution value is less than SO₂ scrubber system operating costs. Since there are no positive economic benefits to the applicant, 80% or more of the claimed facility is allocable to pollution control.

The application was received on January 4, 1983, additional information was received on May 24, 1983, and the application was considered complete on May 24, 1983.

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 \$38,117 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1591.

F. Skirvin:a
AA3274
(503) 229-6414
April 28, 1983

State of Oregon
Department of Environmental Quality
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Martin Marietta Aluminum, Inc.
P.O. Box 711
The Dalles, OR 97058

The applicant owns and operates an alumina and petroleum pitch ship unloading and railcar loading facility at 2600 N. River Street, Portland, Oregon.

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

2. Description of Claimed Facility

The facility described in this application is a bag-type dust collector and associated ducting, air locks discharge conveyor, compressed air piping and electrical controls for the collection of dust at the transfer points and railcar filling nozzles of a system which conveys pelletized petroleum pitch from a vacuum ship unloader to railcars.

Request for Preliminary Certification for Tax Credit was made on October 19, 1981, and approved on March 15, 1982.

Construction was initiated on the claimed facility on March 25, 1982, completed on November 17, 1982, and the facility was placed into operation on February 21, 1983.

Facility Cost: \$43,380 (Accountant's Certification was provided).

3. Evaluation of Application

Installation of the claimed facility was necessary to comply with particulate emission limits set forth in the applicant's air contaminant discharge permit. Inspections and emission test results indicate that the facility operates in compliance with the permit conditions.

Although the pitch dust collected by the claimed facility is discharged into railcars with the pelletized pitch for transporting to the applicant's aluminum plants, the value of the dust is considered negligible due primarily to the small particle size. Since no significant economic benefits result from the claimed facility, 80% or more of its cost is allocable to pollution control.

The application was received on March 21, 1983, and the application was considered complete on March 21, 1983.

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 \$43,380 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1611.

F.A. Skirvin:a

AA3276

(503) 229-6414

April 29, 1983

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

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

The applicant owns and operates a cherry brining facility near Dayton.

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 waste water irrigation seasonal holding system consisting of a 12 million gallon earthen holding pond, 6 floating aerators, piping, pumps and valves, electrical equipment, and 8 acres of land (on which the pond is located).

Request for Preliminary Certification for Tax Credit was made July 6, 1981, and approved August 12, 1981. Construction was initiated on the claimed facility September 1, 1981, completed November 19, 1981, and the facility was placed into operation November 1981.

Facility Cost: \$178,994 (Accountant's Certification was provided).

3. Evaluation of Application

During the Department's inspection of the waste water disposal operation in early 1981, it was noted that a significant quantity of contaminated runoff was occurring due to disposal during periods of saturated soil conditions. Gray & Company was informed that additional storage capacity was needed to hold waste waters throughout the winter. The claimed facility provides storage from November through March and allows disposal to occur during dry weather. The storage pond is designed for treatment of the brining waste to minimize the potential for odor generation. This system has eliminated surface runoff of contaminated waste water. There is no return on investment from this 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 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 bearing the cost of \$178,994 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1615.

Charles K. Ashbaker:g
WG2435
(503) 229-5325
June 7, 1983

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Vernon E. Duyck
Route 1, Box 370
Forest Grove, OR 97116

The applicant owns and operates a dairy farm near Forest Grove.

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

2. Description of Claimed Facility

The facility described in this application is an animal waste control system consisting of a 250,000 gallon glass-lined metal storage tank, pump, agitator, and associated accessories.

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

Construction was initiated on the claimed facility June 15, 1982, completed September 20, 1982, and the facility was placed into operation November 22, 1982.

Facility Cost: \$75,224 (Accountant's Certification was provided).

The Accountant's Certification showed a total facility cost of \$78,724. However, the U. S. Department of Agriculture Soil Conservation Service funded \$3,500 of this project. Therefore, \$75,224 (\$78,724 - \$3,500) will be used as the facility cost.

3. Evaluation of Application

The applicant claims that prior to installation of the claimed facility, the lack of adequate manure facilities forced storage in a pile where contaminated liquids ran off in an uncontrolled manner. The claimed facility provides for collection and storage of solids and liquid wastes and allows land application during the summer months.

The installation was inspected by Department personnel on April 6, 1983 and was found to be operating in compliance with Department regulations.

This claimed facility meets all requirements for certification as a water pollution control facility with the exception of the requirement for preliminary certification. Since the manure is disposed of on land with no significant return on investment, 80% or more of the cost would be allocable to pollution control except for the requirement for preliminary certification.

Although the applicant worked closely with the U. S. Department of Agriculture Soil Conservation Service, the requirements for tax credit were not discussed until after completion of construction. The Department was unaware of this project throughout its construction. The application was received on January 25, 1983, but additional information was required by letter dated March 21, 1983. The application was considered complete on March 29, 1983, except for the preliminary certification.

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-1605.

Charles K. Ashbaker:g
(503) 229-5325
May 4, 1983
WG2317

State of Oregon
Department of Environmental Quality

REVOCATION OF POLLUTION CONTROL FACILITY CERTIFICATE

1. Certificate Issued To:

Weyerhaeuser Company
Wood Products Division
P. O. Box 275
Springfield, Oregon 97477

Certificate was issued for a water pollution control facility.

2. Summation

By letter of May 11, 1983 (copy attached), the Department was informed that the facility certified in Pollution Control Facility Certificate 737 had been removed from service effective January 1, 1983.

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

3. Director's Recommendation

It is recommended the Commission revoke Pollution Control Facility Certificate 737 effective January 1, 1983, as the certified facility has been removed from service.

CASplettstaszer
229-6484
6/17/83
Attachments



Weyerhaeuser Company

P.O. Box 275
Springfield, Oregon 97477
A/C 503 • 746-2511

May 11, 1983

DEPARTMENT OF ENVIRONMENTAL QUALITY
Management Service Division
P.O. Box 1760
Portland OR 97207

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
MAY 13 1983
AIR QUALITY CONTROL

ATTENTION: Don Neff

Dear Mr. Neff:

Effective 1/1/83 the following project will be out of service and no longer operational. I am requesting you to decertify the project:

Certificate 737 - C/G PLYWOOD WASHDOWN WATER LAGOON

Thank you for your cooperation.

Sincerely,

Gary Shearer

Gary L. Shearer
Property Tax Accountant

GLS:jp

cc: R.J. Bollen

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 737
Date of Issue 10/15/76
Application No. T-812

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: Weyerhaeuser Company Wood Products Division P. O. Box 275 Springfield, Oregon 97477	Location of Pollution Control Facility: Cottage Grove, Oregon Lane County
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility: 100,000 gallon, covered lagoon, pumps, piping, related controls for recirculating the veneer dryer washdown.	
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>November 1974</u> Placed into operation: <u>November 1974</u>	
Actual Cost of Pollution Control Facility: <u>\$ 56,032</u>	
Percent of actual cost properly allocable to pollution control: <u>100%</u>	

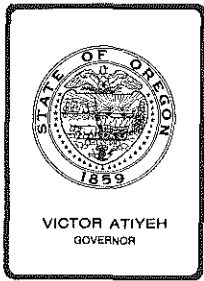
In accordance with the provisions of ORS 468.155 et seq., it is hereby certified that the facility described herein and in the application referenced above is a "Pollution Control Facility" within the definition of ORS 468.155 and that the air and water or solid waste facility was erected, constructed 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, 19 76



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: Addendum No. 1, Agenda Item C, July 8, 1983, EQC Meeting

TAX CREDIT APPLICATIONS

Director's Recommendation

It is recommended the Commission deny the request for preliminary certification for tax credit submitted by Freres Lumber Company, Inc. as the requested facility is not eligible for tax relief (see attached review report).

Michael Young
for
William H. Young

CASplettstaszer
229-6484
7/1/83
Attachments

State of Oregon -- Department of Environmental Quality

PRELIMINARY CERTIFICATION REVIEW REPORT

1. Applicant

Freres Lumber Co., Inc.
PO Box 312
Lyons, Oregon 97358

The applicant owns and operates a green veneer and stud manufacturing plant at Lyons, Oregon.

Preliminary certification is required for a solid waste pollution control facility.

2. Description of Claimed Facility

The facility described in this application consists of paving of a log storage area (no acreage figure was given). Projected cost was estimated at \$200,000. Applicant indicated construction was to begin July 1, 1983.

3. Evaluation of Application

Policy guidance adopted by the EQC effective December 31, 1980, states as follows:

Page 2, #2:

"Wood waste, with few exceptions, is no longer considered to be a severe solid waste problem. Accordingly, facilities associated with wood waste utilization (e.g., hog fuel boilers, heat sources, hogs, chippers, particleboard plants, log yard paving and assorted hog fuel handling equipment) will normally no longer be certified. Also, the Department will not consider any of the facilities described above to be a new or different solution to a solid waste problem."

The above policy was adopted after consideration of ORS 468.170(9)(b) which is effective for facilities under construction prior to December 31, 1983.

In light of the existing statutes and policy, a facility consisting entirely of log yard paving for recovery of wood waste and commenced prior to December 31, 1983, should not be eligible. There is no mention in the application of circumstances which would render this facility an exception to the policy.

4. Summation

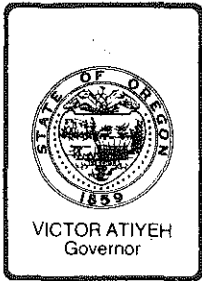
- a. Preliminary certification for a solid waste tax credit for log deck paving was submitted by the applicant. Anticipated start of construction was July 1, 1983.
- b. ORS 468.170(9)(b) clarified by EQC policy effective December 31, 1980, states that facilities associated with wood waste utilizations, with few exceptions, will not be eligible if construction is begun prior to December 31, 1983.
- c. There are no circumstances associated with the application that would make this facility different from other similar facilities.

The Department has determined that the construction does not comply with the applicable provisions of ORS Chapter 468 and the applicable rules or standards adopted pursuant thereto; therefore, the facility is not eligible for tax credit certification.

5. Director's Recommendation

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

R. L. Brown:c
SC1049
(503) 229-5157
June 30, 1983



Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

June 29, 1983

• Rob Freres, Vice President
Freres Lumber Co., Inc.
141 - 14th St.
Lyons, OR 97358

Re: SW -- 83-005
Preliminary Certification

Dear Mr. Freres:

This will confirm our telephone conversation of June 28, 1983. From the application form for preliminary certification, it appears that your tax credit is ineligible under present statutes.

Enclosed is a copy of the policy relating to solid waste tax credits. Note that page 2, #2, indicates that log yard paving is not considered a new or different solution to a solid waste problem.

This letter will officially inform you that if you do not request withdrawal of the application by July 6, 1983, the Department intends to recommend denial of your application at the July 8, 1983 Environmental Quality Commission meeting, to be held in Room 1400, 522 SW 5th, Portland, Oregon. The meeting will begin at 9:00 a.m.

If you have any questions, please contact me at 229-5913.

Sincerely,

Robert L. Brown, Supervisor
Solid Waste Operations
Solid Waste Division

RLB:c
SC1044

Enclosure

cc: Management Services Division, DEQ ✓
Willamette Valley Region, DEQ

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6692A
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STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

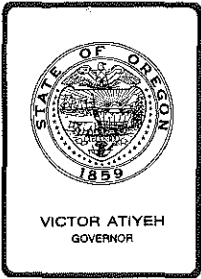
INTEROFFICE MEMO

TO: WYoung *WY* cc: MJDowns DATE: 7/6/83
RLBrown

FROM: CASplettstaszer

SUBJECT: Addendum to Agenda Item C

Bob Brown informed me that Freres Lumber Company has requested their request for preliminary certification be withdrawn for consideration by the Commission. The Company is working with Dale Wulffenstein and Bob Brown on submitting more information.



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, July 8, 1983, EQC Meeting

Request for Authorization to Hold a Public Hearing to Amend Standards of Performance for New Stationary Sources OAR 340-25-510 to 655 to Include New Federal Rules for Asphalt Processing and Asphalt Roofing and Five Volatile Organic Compound Sources; and to Amend the State Implementation Plan.

Background and Problem Statement

The U.S. Environmental Protection Agency (EPA) adopted New Stationary Source Performance Standards (NSPS) beginning 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 and 1982. EPA delegated NSPS to the Department in 1976 and in 1981.

Problem Statement

EPA is continuously bringing new source categories under NSPS. DEQ has committed to bring these rules up to date with EPA rules on a once-a-year basis.

Five new NSPS rules and one amendment published by EPA in the last year will necessitate new DEQ rule adoptions. These rules cover the following source categories:

<u>40 CFR Subpart</u>	<u>Title</u>	<u>Federal Register Date</u>
EE, 60.310 to 60.316	Metal Furniture Surface Coating	10/29/82
QQ, 60.430 to 60.435	Publication Rotogravure Printing	11/08/82 1/10/83
SS, 60.450 to 60.456	Large Appliance Surface Coating	10/27/82
TT, 60.460 to 60.466	Metal Coil Surface Coating	11/01/82 1/10/83
UU, 60.470 to 60.474	Asphalt Processing and Asphalt Roofing	8/06/82
Ka, 60.114	Storage Vessels	12/01/82

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 appended to Attachment 2 of this memorandum.

Alternatives and Evaluation

1. The Commission could take NO ACTION.

A no-action consequence would be that both the Department and EPA staffs would have to review certain emission sources in Oregon, because the DEQ's rules have not been kept up to date with EPA's.

2. The Commission could authorize the attached amendments for public hearing.

This would help EPA-Department cooperation to achieve single, state jurisdiction and review of certain new and modified sources.

Rule Development Process

The Department has assembled a complete list of amendments to NSPS, and the Federal Registers describing those rule changes, and has made appropriate changes in wording to fit these rules into the OAR format.

The proposed rules should be considered as changes in the Oregon State Implementation Plan (SIP) in order to allow EPA to delegate administration of applicable Federal Rules.

PROPOSED RULE CHANGES AND ADDITIONS

Metal Furniture Surface Coating, Subpart EE, was added by 47 FR 49278, October 29, 1982. This new standard for Volatile Organic Compounds (VOC) is proposed to be added as OAR 340-25-642. It limits VOC to 0.90 kg of VOC per liter of coating solids applied.

Publication Rotogravure Printing, Subpart QQ, was added by 47 FR 50644, November 8, 1982. The test procedure was amended by 48 FR 1056 on January 10, 1983. This new standard for VOC is proposed to be added as OAR 340-25-660. It limits VOC emissions to 16% of the mass of solvent and water used.

Large Appliance Surface Coating, Subpart SS, was added by 47 FR 47778, October 27, 1982. This new standard for VOC is proposed to be added as OAR 340-25-665. It limits VOC to 0.90 kg of VOC per liter of coating solids applied.

Metal Coil Surface Coating, Subpart TT, was added by 47 FR 49606, November 1, 1982. The test procedure was amended by 48 FR 1056, January 10, 1983. This new standard for VOC is proposed to be added as OAR 340-25-670. It limits VOC to 0.28 kg of VOC per liter of coating solids applied, or to more stringent emission limits where a control device is employed.

Asphalt Processing and Asphalt Roofing, Subpart UU, was added by 47 FR 34137, August 6, 1982. This new standard for particulate matter and opacity is proposed to be added as OAR 340-25-675. It sets limits for particulate matter and opacity from asphalt saturators, asphalt blowing stills, asphalt storage tanks, and mineral storage and handling facilities.

60.114 (Subpart Ka) was amended by 47 FR 54259, December 1, 1982. For new storage vessels, a Volume-Maximizing Seal was conditionally added to the approved list; EPA disapproved two other proposed seals. The above change is incorporated by changing the date of the federal rules, adopted by reference, from April 17, 1982 to June 2, 1983, in OAR 340-25-510(2), 340-25-530, and twice in 340-25-535.

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 November 1982.
2. To acquire delegation to administer NSPS in Oregon, the Commission adopted equivalent administrative rules in September 1975 and subsequently received delegation.
3. The Commission amended the NSPS rules in April 1981 and in October 1982 to bring them up to date with EPA rules.
4. The proposed rule changes (Attachment 1) would bring the state rules up to date with the federal EPA NSPS rules. The regulated sources affected are:
 - a. Metal Furniture Surface Coating
 - b. Publication Rotogravure Printing
 - c. Large Appliance Surface Coating
 - d. Metal Coil Surface Coating
 - e. Asphalt Processing and Asphalt Roofing
 - f. Large Storage Tanks

Director's Recommendation

It is recommended that the Commission authorize the Department to hold a hearing to consider the attached amendments to OAR 340-25-510 to 340-25-675, rules on Standards of Performance for New Stationary Sources, and to submit those rule changes to EPA as amendments to the State Implementation Plan.

Bill

William H. Young

- Attachments:
1. Proposed Rules 340-25-510 to 340-25-675
 2. Notice of Public Hearing with attached Statement of Need for Rulemaking

P.B. BOSSERMAN:a
(503) 229-6278
June 14, 1983
AA3430

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**, Standard 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 [April 17, 1982] June 2, 1983.

(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 standards; 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 [340-25-655] 340-25-675 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 [April 17, 1982] June 2, 1983, 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 modifications.

Performance Standards

Federal Regulations Adopted by Reference

340-25-535 Title 40, CFR, Parts 60.40 through 60.154, and 60.250 through [60.404] 60.474, as established as final rules prior to [April 17, 1982] June 2, 1983, is by this reference adopted and incorporated herein. As of [April 17, 1982] June 2, 1983, the Federal Regulations adopted by reference set the emission standards for the new stationary source categories set out in rules 340-25-550 through [340-25-655] 340-25-675 (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 Metal Furniture Surface Coating

340-25-642 The pertinent federal rules are 40 CFR 60.310 to 60.316, also known as Subpart EE. The following emission standard, summarizing the federal standard set forth in Subpart EE, applies to metal furniture surface coating operations in which organic coatings are applied which commenced construction, modification, or reconstruction after November 28, 1980.

Standard for Volatile Organic Compounds: no owner or operator shall cause to be discharged into the atmosphere Volatile Organic Compounds in excess of 0.90 kilograms per liter of coating solids applied.

. . .

Standards of Performances for Publication Rotogravure Printing

340-25-660 The pertinent federal rules are 40 CFR 60.430 to 60.435, also known as Subpart QQ. The following emission standard, summarizing the federal standard set forth in Subpart EE, applies to publication rotogravure printing presses, but not proof presses, which commenced construction, modification, or reconstruction after October 28, 1980.

Standard for Volatile Organic Compounds: no owner or operator shall cause to be discharged into the atmosphere Volatile Organic Compounds in excess of 16 per cent of the total mass of Volatile Organic Compounds solvent and water used at that facility during any one performance averaging period.

Standards of Performance for Large Appliance Surface Coating

340-25-665 The pertinent federal rules are 40 CFR 60.450 to 60.456, also known as Subpart SS. The following emission standard, summarizing the federal standard set forth in Subpart SS, applies to large appliance surface coating lines which commenced construction, modification, or reconstruction after December 24, 1980.

Standard for Volatile Organic Compounds: no owner or operator shall cause to be discharged into the atmosphere Volatile Organic Compounds in excess of 0.90 kilograms per liter of coating solids applied.

Standards of Performance for Metal Coil Surface Coating

340-25-670 The pertinent federal rules are 40 CFR 60.460 to 60.466, also known as Subpart TT. The following emission standard, summarizing the federal standard set forth in Subpart TT, applies to each prime coating operation, and/or to each finish coating operation, at a metal coil surface coating facility, which commenced construction, modification, or reconstruction after January 5, 1981.

Standards for Volatile Organic Compounds: no owner or operator shall cause to be discharged into the atmosphere more than:

(1) 0.28 kilogram VOC per liter (kg VOC/l) of coating solids applied for each calendar month for each affected facility that does not use an emission control device(s); or

(2) 0.14 kg VOC/l of coating solids applied for each calendar month for each affected facility that continuously uses an emission control device(s) operated at the most recently demonstrated overall efficiency; or

(3) 10 percent of the VOC's applied for each calendar month (90 percent emission reduction) for each affected facility that continuously uses an emission control device(s) operated at the most recently demonstrated overall efficiency; or

(4) a value between 0.14 (or a 90 percent emissions reduction) and 0.28 kg VOC/l of coating solids applied for each calendar month for each affected facility that intermittently uses an emission control device operated at the most recently demonstrated overall efficiency.

Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture

340-25-675 The pertinent federal rules are 40 CFR 60.470 to 60.474, also known as Subpart UU. The following emission standards, summarizing the federal standards set forth in Subpart UU, applies to each saturator and each mineral handling and storage facility at asphalt roofing plants; and each asphalt storage tank and each blowing still at asphalt processing plants, petroleum refineries, and asphalt roofing plants. The standards apply to facilities commenced after November 18, 1980.

Standards for Particulate Matter.

(1) No owner or operator shall cause to be discharged into the atmosphere from any saturator:

(a) Particulate matter in excess of (i) 0.04 kilograms of particulate per megagram of asphalt shingle or mineral-surfaced roll roofing produced, or (ii) 0.4 kilograms per megagram of saturated felt or smooth-surfaced roll roofing produced;

(b) Exhaust gases with opacity greater than 20 percent; and

(c) Any visible emissions from a saturator capture system for more than 20 percent of any period of consecutive valid observations totaling 60 minutes.

(2) No owner or operator shall cause to be discharged into the atmosphere from any blowing still:

(a) Particulate matter in excess of 0.67 kilograms of particulate per megagram of asphalt charged to the still when a catalyst is added to the still; and

(b) Particulate matter in excess of 0.71 kilograms of particulate per megagram of asphalt charged to the still when a catalyst is added to the still and when No. 6 fuel oil is fired in the afterburner; and

(c) Particulate matter in excess of 0.60 kilograms of particulate per megagram of asphalt charged to the still during blowing without a catalyst; and

(d) Particulate matter in excess of 0.64 kilograms of particulate per megagram of asphalt charged to the still during blowing without a catalyst and when No. 6 fuel oil is fired in the afterburner; and

(f) Exhaust gases with an opacity greater than 0 percent unless an opacity limit for the blowing still when fuel oil is used to fire the afterburner has been established by the Department.

(3) No owner or operator shall cause to be discharged into the atmosphere from any asphalt storage tank exhaust gases with opacity greater than 0 percent, except for one consecutive 15-minute period in any 24-hour period when the transfer lines are being blown for clearing. The control device shall not be bypassed during this 15-minute period.

(4) No owner or operator shall cause to be discharged into the atmosphere from any mineral handling and storage facility emissions with opacity greater than 1 percent.

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Additions to New Source Performance Standards

Date Prepared: June 14, 1983
 Hearing Date: August 15, 1983
 Comments Due: August 16, 1983

WHO IS AFFECTED: Industry which may build new, reconstruct, or modify the categories listed below.

WHAT IS PROPOSED: The Department of Environmental Quality is proposing to amend OAR 340-25-510 to 340-25-675 to add five New Source Performance Standards, made final by the federal Environmental Protection Agency in the last year:

1. Metal Furniture Surface Coating, .90 kg VOC/l solids
2. Publication Rotogravure Printing, 16% VOC loss
3. Large Appliance Surface Coating, .90 kg VOC/l solids
4. Metal Coil Surface Coating, .20 kg VOC/l solids, etc.
5. Asphalt Processing and Asphalt Roofing Manufacture, particulate and opacity limits

It is also proposed to add an alternative control option to the large storage tank rule.

WHAT ARE THE HIGHLIGHTS: The Department proposes to adopt these federal rules and to request EPA to delegate jurisdiction over these sources in Oregon to DEQ.

This has been done previously with 21 other sources, some of them more common, like asphalt batch plants. This is considered a routine rule making action, since the sources must abide by an identical federal rule, already in force.

HOW TO COMMENT: Copies of the complete proposed rule package may be obtained from the Air Quality Division in Portland (522 S.W. Fifth Avenue) or the regional office nearest you. For further information contact Peter Bosserman at (503) 229-6278.

A public hearing will be held before a hearings officer at:

3:00 p.m.
 Monday, August 15, 1983
 Room 4B, 4th Floor, Yeon Bldg.
 522 S.W. 5th, Portland, OR 97204



P.O. Box 1760
 Portland, OR 97207

8/10/82

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-7813, and ask for the Department of Environmental Quality.



Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ Air Quality Division, P.O. Box 1760, Portland, OR 97207, but must be received by no later than August 16, 1983.

**WHAT IS THE
NEXT STEP:**

After public hearing the Environmental Quality 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 rules will be submitted to the U. S. Environmental Protection Agency as part of the State Clean Air Act Implementation Plan. The Commission's deliberation should come on October 7, 1983 as part of the agenda of a regularly scheduled Commission meeting.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

RULEMAKING STATEMENTS

for
Standards of Performance for
New Stationary Sources

Pursuant to ORS 183.335, these statements provide information on the intended action to amend a rule.

STATEMENT OF NEED:

Legal Authority

This proposal amends Oregon Administrative Rules 340-25-510 to 340-25-675. It is proposed under authority of Oregon Revised Statutes 468.020(1) and 468.295(3) where the Environmental Quality Commission is authorized to establish different rules for different sources of air pollution.

Need for the Rule

The proposed changes bring the Oregon rules up-to-date with the latest changes and additions to the federal "Standards of Performance for New Stationary Source", 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.

Principal Documents Relied Upon

1. 40 CFR 60 Code of Federal Regulations, as amended in recent Federal Registers, concerning "Standards of Performance for New Stationary Sources":

<u>Subpart</u>	<u>Title</u>	<u>Federal Register Date</u>
EE, 40 CFR 60.310 to 60.316	Metal Furniture Surface Coating	10/29/82
QQ, 60.430 to 60.435	Publication Rotogravure Printing	11/08/82 1/10/83
SS, 60.450 to 60.456	Large Appliance Surface Coating	10/27/82
TT, 60.460 to 60.466	Metal Coil Surface Coating	11/01/82 1/10/83
UU, 60.470 to 60.474	Asphalt Processing and Asphalt Roofing	8/06/82
Ka, 60.114	Large Storage Tanks	12/01/82

FISCAL AND ECONOMIC IMPACT STATEMENT:

The NSPS rules are already promulgated by EPA. Adoption by and delegation to DEQ simplifies environmental administration generally at less cost.

Small businesses will have less trouble following several of these environmental rules if they are administered by only one agency, the DEQ.

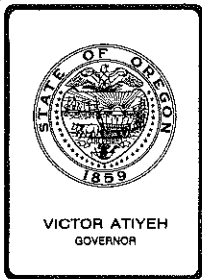
LAND USE CONSISTENCY STATEMENT:

The proposed rule does not affect land use as defined in the Department's coordination program approved by the Land Conservation and Development Commission.

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

Goal 11 (public facilities and services) is deemed unaffected by the rule. The rule does not appear to conflict with other goals.

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.



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, July 8, 1983, EQC Meeting

Request for a Variance from OAR 340-21-015(2)(b) and
OAR 340-21-030 and Mid-Oregon Crushing Company
Asphaltic Concrete Plant

Background and Problem Statement

Mid-Oregon Crushing Company operates an asphaltic concrete paving plant at Lower Bridge, seven miles northwest of Redmond, Oregon. The plant is a portable facility but has been located at Lower Bridge for six years. Particulate emission limits contained in OAR 340-21-015(2)(b), Visible Air Contaminant Limitations, and 340-21-030, Particulate Emission Limitations for Sources Other than Fuel Burning and Refuse Burning Equipment, apply. The company has requested a variance from these limits for the remainder of this year's paving season. Attachment 1 contains the variance request and additional information submitted by the company

The Department has been working with Mid-Oregon Crushing Company since 1978 to reduce emissions. The company requested and received a variance until October 1, 1982 at the July 17, 1981 commission meeting. Attachment 2 contains the Director's staff report prepared for that meeting.

The company met the January 1 and March 1, 1982 compliance dates of the variance by submitting a financial status report and a preliminary plan for meeting permit limits. During the summer of 1982, the company did not follow this plan but tried in-house modifications of the asphalt plant's pollution control system to reduce emissions. A source test conducted in October 1982 found that emissions were well above the standard. Opacities observed by Department staff during the test were also above the standard.

In December 1982, the Department sent the company a Notice of Intent to Assess Civil Penalties for operating the asphalt plant after the variance expiration date of October 1. The Department's legal notice is contained in Attachment 3. At the time of the preparation of this staff report, Central Regional staff is also sending a referral to the Department's Enforcement Section. Staff found the company's asphalt plant operating on one date in May 1983, although operation occurred on several other dates too. Refer to Attachment 4 which is the company's explanation of this operation.

The company has requested a variance through the 1983 paving season based on the progress towards compliance that has occurred in the last four months. Following recommendations of its consultant, the company rebuilt its venturi scrubber system. A May 1983 source test verified that emissions have been significantly cut. The test recorded emissions at 0.12 gr/SCF (the standard is 0.1) and staff read opacities during the test at 20% to 25% (the standard is 20%). Although the plant was built before 1970, it must meet the more stringent 0.1 gr/SCF standard because it entered the state after 1970 and thus is considered a new source.

The company's variance request contains general financial information that shows a poor but improving financial condition. The request emphasizes that the company relies on the income from the plant to carry its paving and concrete batching operations. Without any income from the plant, the company states that "we will probably have to shut down the business." Attachment 5 summarizes the company's financial information.

The Commission is authorized by ORS 468.345 to grant a variance from Department rules if it finds that "strict compliance is inappropriate because it would result in a substantial curtailment or closing down of a business, plant or operation."

Alternatives and Evaluation

Mid-Oregon Crushing Company has several alternatives when considering the excessive emissions from the asphalt plant. Note that these alternatives are similar to those that existed two years ago when the Commission granted a variance to the company.

1. Mid-Oregon Crushing could purchase a new pollution control system for the plant. Company representatives discussed this option with Central Regional staff before applying for a variance. The company states that it is not in a position to buy new pollution control equipment now but could be as early as next summer. At this time staff is very reluctant to support placing the company on another lengthy compliance schedule. Considering the company's failure to meet past compliance dates, staff believes the company was wise to not ask for a variance tied to the purchase and installation of pollution control equipment.
2. The company could upgrade its existing scrubber system to meet emission limits. Over the past four months, modifications and fine tuning have cut particulate emissions from the scrubber stack by 90%. Emissions remain just above the Department's opacity and grain loading limits. The company's consultant believes that an increase in the venturi scrubber inlet pressure may bring emissions into compliance. The company's existing fan or power system must be modified to provide this increase.

3. Selling the plant is another option the company has. The company states that the asphalt plant provides the income which at this time supports all of the company's operations. If the plant was sold another plant would be needed to provide income. It is unlikely that the company could better its position by selling the existing plant and buying another plant unless it had the financial resources to buy a plant capable of meeting pollution standards.
4. The company could close down the plant until it can afford to buy a new plant or make improvements to gain compliance at the existing plant. It is likely that the shutdown of the plant would hurt, not help, the company's economic situation. Also, operation of the plant will aid in determining what can be done to improve the efficiency of the pollution control system. The company states that the plant's operation for the remainder of the season will generate the funds needed to make improvements to the existing control system.

After reviewing these alternatives, the Department feels that a variance request is worthy of consideration.

Mid-Oregon Crushing's asphalt plant is located in an open rural area with only a couple of residences within three or four miles. The plant does not cause a nuisance condition and does not impact any urban air sheds. The plant operated 231 hours in 1981 and 349 hours in 1982. The projected operation for 1983 is also in this range.

The Department has two concerns about granting even a short-term variance to the company. The company has failed to meet compliance schedules in the past. Since first observing the plant in 1978, staff has never seen it in compliance with pollution standards. The Commission granted a 15-month variance to the company in July of 1981. Now, two years later, the company is again requesting more time to meet standards. Staff believes at some point we must say that this company has had sufficient time to reach compliance.

The Department's second concern involves the impact to the company's competition in Central Oregon. Three other companies produce asphalt within 30 miles of Mid-Oregon Crushing's Lower Bridge site and are at least in marginal compliance with permit limits. The three competitors each annually produce more asphalt than Mid-Oregon Crushing, but during this recessionary period competition has been especially keen. The Department plans to forward this staff report to the three other operators and provide any comments which we receive to the Commission at its meeting.

After evaluating the company's alternatives, staff agrees with the company that its best option is to upgrade and fine tune its existing pollution control equipment. Staff also agrees that operating the plant will aid in determining what improvements can be made to decrease emissions. Since existing emissions are quite close to compliance, minor modifications and fine tuning should result in the plant achieving compliance.

The statute allows the Commission to grant a variance if compliance would result in substantial curtailment or closing down of a business, plant or operation. From the evidence presented, it appears that strict compliance would force the closing of Mid-Oregon Crushing's asphaltic concrete plant and could result in the closing of Mid-Oregon Crushing's entire business. Therefore, the Department supports the variance request submitted by Mid-Oregon Crushing Company, subject to the company meeting the conditions contained in the Summation.

Summation

1. Mid-Oregon Crushing Company has requested a variance from OAR 340-21-015(b)(2) and OAR 340-21-030 for operation of its asphaltic concrete paving plant at the Lower Bridge site for the remainder of the 1983 paving season.
2. The Commission has the authority, under ORS 468.345 to grant a variance from a rule when strict compliance would result in substantial curtailment or closing down of a business, plant or operation.
3. Mid-Oregon Crushing Company has presented information which shows that strict compliance would end the plant's operation and severely impact the company's other operations.
4. The plant has operated at Lower Bridge for six years and has never been observed in compliance. The company received a 15-month variance for the plant's emissions by the Commission in July 1981.
5. The plant lies in a rural area and does not presently cause a nuisance condition or significantly impact an urban air shed.
6. Staff recommends approval of a variance from OAR 340-21-015(b)(2) and OAR 340-21-030 until November 1, 1983, subject to the following conditions:
 - a. Visible emissions from the plant shall not equal or exceed 30% opacity for more than three minutes in any one hour.
 - b. The company must provide a demonstration to Department personnel that fugitives are controlled to less than 30% opacity. This demonstration shall occur before asphaltic concrete is produced.
 - c. The company shall notify the Department's Bend office each day prior to producing asphalt unless another notification procedure is agreed to by the company and Bend office staff.
 - d. The variance applies only to the operation of the plant at the Lower Bridge site.

- e. If the emissions cause a nuisance condition to persons or property, as determined by the Department, this variance may be revoked.
 - f. The production of asphalt from the plant shall not exceed 20,000 tons during 1983.
7. The Commission should find that strict compliance would result in the substantial curtailment or closing down of the company's asphalt plant.

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 until November 1, 1983 for emissions from the asphaltic concrete plant owned by Mid-Oregon Crushing Company, subject to the company meeting the conditions contained in the Summation.

Bill

William H. Young

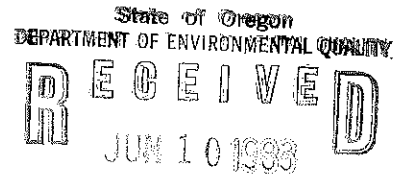
- Attachments
1. Mid-Oregon Crushing Company's submittals of June 9, June 13, and June 14, 1983.
 2. Director's Staff Report for the July 17, 1981 EQC Meeting.
 3. Notice of Intent to Assess Civil Penalty to company dated December 8, 1982.
 4. Company letter to Department of June 14, 1983.
 5. Staff memo summarizing company's financial information.

Robert Danko:b
388-6146
June 15, 1983
GB2308

MID-OREGON READY MIX

p.o. box 519 Redmond, Oregon 97756

June 9, 1983



BEND DISTRICT OFFICE

Mr. Robert Danko
DEPARTMENT OF ENVIRONMENTAL QUALITY
2150 N.E. Studio Road
Bend, Oregon 97701

Dear Bob,

We would like to apply, at the July 8, 1983 commission meeting, for a variance to operate our asphalt plant this year. Our request for a variance is based on the following facts.

Mid-Oregon Crushing Co., Inc. and it's wholly owned subsidiary Mid-Oregon Ready Mix incurred heavy operating losses from the mid 1970's through 1980. During the period of time from April 1980 to December 1981 the company went through a major reorganization. The reorganization involved a change in ownership from Phil Dahl to me. As owner, Phil did not participate in the day to day operations of the company and in fact was a severe hinderance to the decision making process within the company due to his alcoholism. I am now the sole owner, the President and general operating manager. The company made an operating profit in 1981 and 1982 and went from a non-liquid, near bankrupt state in 1979 and 1980 to a stable, profitable operation in 1983. The major portion of the company's debt has now been eliminated. We feel that after this year's operation we will be in a position to finance a baghouse if it is necessary. It appears, however, that a baghouse may not be required to bring the plant into compliance with your standards.

The Todd wet wash system that is now on the plant may bring the plant into compliance with some more changes and refinements. With the changes that we made in 1982 and the first part of 1983, we have reduced the particulate emissions from 87.2 pounds per hour to 8.02 pounds per hour. According to the last source test that O.M.N.I. Environmental performed, the grain loading was down to .118. The opacities averaged about 20 percent. At the beginning of 1982, before the latest changes were made to the system, we had grain loading in excess of 40%. We have made tremendous gains and are very close to being in compliance at the stack.

DEPARTMENT OF ENVIRONMENTAL QUALITY

June 9, 1983

Page 2

We realize that fugitives off the screen are still excessive. Paul Teigs, of D.M.N.I. suggests that we install a fan on the screen to draw dust from the screen into the Todd washer. Paul feels that this will dramatically reduce the fugitives coming off the screen without having any adverse effect on the emissions out of the stack. By following his advice last year and this year, we have made significant improvements, so we will follow his advice here too. A fan and the plumbing will be installed within the next two weeks. This should, according to Paul, bring the screen fugitives to under 30 percent.

We are requesting a variance for this year that would allow us to operate with an opacity of no greater than 25 percent at the stack and an opacity of 30 percent at the screen. Under these conditions, we can continue to operate the plant and work with Paul Teigs fine-tuning the plant to bring the opacity within compliance.

Paul believes that due to the diatomaceous earth in the pit that we are in, we are still having trouble bringing the opacity below 20 percent. Paul feels that with continued fine-tuning to bring the opacity under 20 percent, the grain loading should also come into compliance.

Bob, we do want this matter in front of the commission for the July 8, 1983 meeting. If there is any other information you need please let me know.

Very truly yours,
MID-OREGON READY MIX


Robert L. Johnnie
President

RLJ/jj

OMNI ENVIRONMENTAL SERVICES, INC.
(New Koll Business Center)
10260 SW Nimbus Ave., M-8
Portland, Ore. 97223

OMNI

Mr. Robert Johnny
Mid Oregon Crushing
P.O. Box 519
Redmond, Oregon 97756

RECEIVED
JUN 10 1983
MID-OREGON CRUSHING

June 7, 1983
diskette 14

Dear Mr. Johnny,

I have put together an historical summary of test results and work completed by OMNI on your asphalt hot batch plant on Lowerbridge Road near Redmond.

The plant is a Cedar Rapids batch processor generally operated at about 100 tons per hour when the plant is operating. Production schedules for the plant are set up on a per job basis and does not operate continuously.

A schematic diagram of the facility is presented in the attached figure. Particulate materials from the aggregate are suspended in the hot air stream in the rotary dryer and dried aggregate handling systems (elevators and hot screens). The hot air stream is drawn through the conveying ductworks system by the draft fan. The hot air stream with suspended particulate materials is drawn through a series of two primary cyclonic type dust collectors before passing through the draft fan to the wet scrubber (secondary dust collection equipment). The scrubber now installed consists of a venturi inlet section followed by a spray tower section and a dropout section. Water added by spray nozzles in each of these sections removes suspended dust particles from the air stream for exhaust to the atmosphere.

The venturi inlet design concept generally requires from 10-50 inches of pressure (H₂O) to obtain maximum dust removal efficiency particularly for small particles (less than 1 micron). On all tests performed prior to April 1983 the inlet pressure was at approximately 2.5 inches (H₂O). This was due to the inlet damper adjustment being opened (approximately 576 square inches) too far which reduced the inlet pressure and increased the total air stream flow through the system. During the April 1983 test, the damper was closed to approximately 200 square inches which increased the inlet pressure to 10 inches (H₂O) and decreased the air flow through the system from 18,900 scfm to 11,700 scfm. The increase in inlet pressure also decreased the grain loading of final exhaust gases from 0.54 gr/dscf (October 1982) to 0.17 gr/dscf

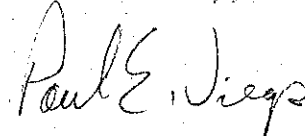
OMNI

(April 1983). These exhaust gas particulate concentrations were reduced further by addition of more spray nozzles in the venturi section of the scrubber system in May 1983. Concentrations during a one run test in May 1983 showed 0.12 gr/dscf at a total exhaust gas flow rate of 8266 scfm. This calculates to an emission rate of 8.02 lb per hour as compared to 87.2 lb per hour rate measured in October 1982.

The limitations for further improvement at this time appear to be the capacity of the draft fan for increasing the venturi inlet pressure further and/or the amount of power available (presently provided by generator) for running a fan at the required rates.

If you require additional assistance please call at your convenience.

Sincerely,



Paul E. Tiegs
Senior Principal

MID-OREGON READY MIX

p.o. box 519 Redmond, Oregon 97756

June 13, 1983

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

R E C E I V E D
JUN 15 1983

BEND DISTRICT OFFICE

Mr. Robert Danko
DEPARTMENT OF ENVIRONMENTAL QUALITY
2150 N.E. Studio Road
Bend, Oregon 97701

Dear Bob:

I am enclosing copies of our operating statements for the years ending 1981 and 1982. You can see that operation of the asphalt plant is essential to continued company operation. If you force us to comply 100% with DEQ regulations and do not give us a variance to operate this year, we will probably have to close down the business.

In 1981 we produced 10,866 tons of asphaltic concrete and operated the plant 231 hours. In 1982 we produced 16,129 tons of mix and operated the plant 349 hours. We expect to produce between 11,000 and 17,000 tons of mix in 1983.

The major profit in the company is generated through operating the asphalt plant. The plant furnishes mix for commercial jobs and keys the sale of grading work, concrete foundations, sidewalks and curbs, and base rock sales.

We believe that there are four options available to bring the plant into compliance. The least expensive, and it appears the only viable option, is the one we requested in the June 9, 1983 letter to you. That is to operate under a variance this year and continue to work with Paul Teigs fine-tuning the plant and ultimately bringing it into compliance.

A second option would be to install a larger draft fan to increase the venturi inlet pressure as suggested by Paul Teigs. This would require a larger drive motor that we do not now have the generator capacity to handle. It would cost about \$75,000 to go with this option.

A third option would be to purchase a bag house. This would cost in excess of \$100,000. Our banker says there is no way we can finance and pay for something as expensive as \$75,000 or more at this point in time.

A fourth option would be to get rid of the entire plant and buy a new plant that has been designed to be pollution free.

We think that two seasons from now the capacity of our existing plant will not be great enough to satisfy the demands of the area. We expect to be in good enough financial condition in two years to be able to finance a new plant, but again, we cannot do it now.

Mr. Robert Danko
June 13, 1983
Page 2

Only one of the other three asphalt producers in our area is required to meet as stringent requirements as we are. Our grain loading would be in compliance now if we only had to meet a .2 grain loading as do two of the other producers. Those two producers are even located in more densely populated and more highly visible areas than we are.

If you have any further questions, please call me.

Very truly yours,
MID-OREGON READY MIX


Robert L. Johnnie
President

RLJ/lh

MID-OREGON READY MIX

p.o. box 519 Redmond, Oregon 97756

June 14, 1983

Mr. Robert Danko
DEPARTMENT OF ENVIRONMENTAL QUALITY
2150 N.E. Studio Road
Bend, Oregon 97701

Dear Bob:

I would like to submit some information for you to consider with our application for a variance to operate the asphalt plant.

During the year ending December 31, 1982 we had a net income from operations of \$21,639.00. The two ready mix plants lost a total of \$57,209.00. The rock pits lost a total of \$16,435.00. The Precast Division lost \$1,934.00. We have a \$7,828.00 profit from equipment rental.

The major areas of both income and profit were from operating the asphalt plant. The asphalt plant itself generated \$240,302.00 of revenue and \$28,232.00 profit. Commercial jobs, which consist almost entirely of asphalt paving jobs that we have done, generated a total of \$475,096.00 in revenue and \$61,157.00 profit.

The reason we bought the asphalt plant in the first place was because none of the other asphalt producers in this area would sell us mix. Without the asphalt plant, we not only would have lost \$715,398.00 worth of sales, but also \$89,389.00 of profit.

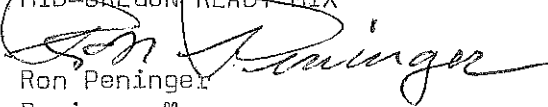
Commercial jobs and the asphalt plant also carried \$95,278.00 of overhead. Since our overhead is relatively fixed, most of this would have to be applied to other profit centers if we could not operate the asphalt plant.

This general financial picture of the impact of the asphalt plant on the company has existed for the last two to three years. The bottom line is that the operation of the asphalt plant is absolutely essential to the continued existence of the company.

We employ an average of twenty-one people, most of whom would have a tough time finding another job if we went out of business. If you have any questions, please call me.

Very truly yours,

MID-OREGON READY MIX


Ron Peninger

Business Manager



Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

DEC 8 1982

CERTIFIED MAIL NO. P 297 306 468

Mid-Oregon Crushing Co., Inc.
633 Sisters Avenue
P.O. Box 519
Redmond, OR 97756

Re: Notice of Violation and Intent to Assess Civil Penalty, AQ-CR-82-116,
Deschutes County

Since March of 1978, this Department has been looking forward to the date when your portable asphaltic concrete paving plant would comply with the Environmental Quality Commission's ("Commission") regulations. A number of enforcement actions have taken place during the past 5 years to encourage your compliance.

The last enforcement action, a Notice of Denial of Air Contaminant Discharge Permit Renewal Application, was issued on March 2, 1981. That action was contested. The Department later withdrew its denial following a variance hearing before the Commission on July 17, 1981, and you were issued a permit on October 1, 1981. The Commission's variance required you to achieve compliance with the Commission's regulations by October 1, 1982.

On March 2, 1982, you submitted a 3 phase schedule to bring your plant into compliance by October 1, 1982. Unfortunately, you failed to complete the schedule you proposed and your plant is still unable to comply with the Commission's standards as determined by the visual opacity readings Mr. Robert Danko made on your scrubber stack on October 20, 1982.

Your Air Contaminant Discharge Permit expired on January 1, 1982. Your variance expired on October 1, 1982. You no longer have any authorization to discharge air contaminants to the atmosphere. Any future operations of your plant without first applying for and receiving an Air Contaminant Discharge Permit from this Department will result in a civil penalty not to exceed \$10,000 for each day of operation.

We hope we do not have to continue this enforcement posture. If you wish to operate the plant in the future without continuous scrutiny and penalty from this Department, you must install the controls necessary to achieve compliance with our emission standards. Before starting up your plant, you will need to obtain permission from our Central Regional office to operate the plant solely for the purpose of performing a source test to demonstrate compliance with

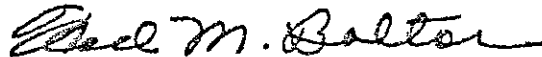
Mid-Oregon Crushing Co., Inc.

Page 2

emission limitations. This Department will not consider issuing you an Air Contaminant Discharge Permit until you first demonstrate, through a successful source test, that your plant can operate in compliance with the Commission's regulations.

If you have any questions, please contact Mr. Robert Danko of our Central Regional office at 388-6146.

Sincerely,



Fred M. Bolton
Administrator
Regional Operations

FMB:b

GB1609.L

Enclosure(s)

cc: Air Quality Division, DEQ
Central Region Office, DEQ
Department of Justice
Environmental Protection Agency



Environmental Quality Commission

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

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
JUL 7 1981

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item Q, July 17, 1981, EQC Meeting

BEHD DISTRICT OFFICE

Request for a Variance from OAR 340-21-015(2)(b) and
OAR 340-21-030 for the Mid-Oregon Crushing Company
Asphaltic Concrete Plant

Background and Problem Statement

Mid-Oregon Crushing Company operates an asphaltic concrete paving plant at Lower Bridge, seven miles northwest of Redmond, Oregon. The plant is portable, but has been at Lower Bridge for four years. The location is a special control area and particulate emission limits of OAR 340-21-015(2)(b) and 340-21-030 apply. The company has requested a variance from these limits until March 1, 1982. Attachment A contains the variance request.

The Department has been working with Mid-Oregon Crushing Company since 1978 to reduce emissions so that its plant could operate in continuous compliance. However, the plant has never been observed in compliance and has not passed an emissions test as required by its permit. There has been an extensive enforcement history since 1978, which is outlined in Attachment B.

On March 2, 1981, the Director issued a legal notice notifying the company that its permit application would not be renewed. The company appealed this notice. Action on the appeal by the Hearings Section has been postponed awaiting consideration of the variance request.

Since 1978, the company has regularly attempted to improve its pollution control system on the asphaltic concrete plant. These adjustments have cut emissions, although the emissions still remain significantly above the permit limits. The asphaltic concrete plant operated infrequently during both 1979 and 1980. From the plant's production data, Department staff estimates actual operating time of 220 hours in 1979 and 140 hours in 1980.

The company's variance request contains a financial statement which shows a poor financial condition. The request also contains statements by five local paving companies who rely on the asphaltic concrete plant for material. It

is claimed that Mid-Oregon Crushing Company is the only asphalt producer in Central Oregon who will sell material to these pavers. Finally, the variance request discusses the majority stockholder's medical condition and the subsequent problems of managing the company and making improvements. Based upon these circumstances, the company requested a variance from opacity limits and an emission test requirement until March 1, 1982.

The Commission is authorized by ORS 468.345 to grant variances from Department rules if it finds that strict compliance is inappropriate because, among other options, "strict compliance would result in a substantial curtailment or closing down of a business, plant or operation."

Alternatives and Evaluation

The following is a discussion of alternatives when considering the excessive emissions from the asphaltic concrete plant.

1. Mid-Oregon Crushing could purchase a new pollution control system for the plant. The company applied for construction approval and preliminary tax credit certification for installation of a baghouse in 1979. The installation never occurred. Because of the apparent poor economic condition of the company, purchase of pollution control equipment may not be feasible.
2. The company could upgrade its existing wet scrubber system to meet emission limits. This has been attempted over the past three years without success. It is the Department's opinion that a comprehensive analysis by a competent consultant might result in the plant's emissions meeting standards. However, it is doubtful if a consultant could be retained at this time because of the company's financial problems.
3. The company has the option of selling the plant. This might eliminate financial burdens caused by the plant not operating and might make the company's other operations profitable. However, potential buyers may not be interested in a plant that is not meeting emission standards. The present economy probably lessens the chance of selling the plant.
4. The company could choose to not operate the plant until the overall economy and the company's economic situation improve. This option was not explored in the variance request. It is likely that the shutdown of the plant would hurt--not help--the company's economic condition. The five paving companies which reportedly rely on the asphalt plant may have to curtail or end their operations under this alternative.

After reviewing these alternatives, the Department feels that a variance request is worthy of consideration.

Since 1978, the Department has worked with the company to obtain voluntary compliance with its permit. Toward this goal, the Department has allowed several extensions of compliance dates and has allowed emissions over permit limits during interim periods. It could be argued that the company has had more than enough time to meet the emission limits of its permit. Asphaltic concrete production is quite competitive in Central Oregon and consistent application of rules and regulations is important.

The Department has proposed to deny renewal of the company's permit. It took this action as a last resort; compliance schedules, extensions of compliance dates and enforcement actions have not resulted in compliance. The company continues to occasionally operate, although it realizes that such operation could result in maximum civil penalties.

Mid-Oregon Crushing's asphaltic concrete plant cannot meet two permit conditions. The company has not passed an emissions test showing compliance with the 0.1 gr/SCF standard. Also, the plant emissions have never met the 20% opacity limit. The plant is in an open rural area with only a couple residences within three or four miles. The emissions are easily visible from Highway 97 eight miles to the east. During the past three years, the staff has made several observations of emissions. The plant seems capable of operating at 25% to 35% opacity, although much higher emissions have been observed. The plant has never been observed causing a nuisance condition and does not impact any urban air sheds.

The Department's principal concern with supporting the variance request is the lack of evidence indicating the company can achieve compliance by March 1, 1982. The company believes that the problems associated with the medical condition of the majority shareholder will be resolved by then. However, that alone does not assure that Mid-Oregon Crushing will become financially sound. If a variance is allowed, it should contain a time schedule to adequately monitor progress toward compliance.

The statute allows the Commission to grant variances if compliance would result in substantial curtailment or closing down of a business, plant or operation. The Department suggests that, from the evidence presented, strict compliance at this time would force the closing down of Mid-Oregon Crushing's asphaltic concrete plant and possibly impact the businesses of five paving companies. Strict compliance could result in the closing down of Mid-Oregon Crushing's entire business.

Finally, the variance request contains a proposed compliance date of March 1, 1982. The Department does not believe that date is realistic. The Department believes October 1, 1982 would be a more realistic compliance date with the understanding that if compliance is not achieved, maximum civil penalties and denial of the permit will be pursued.

The Department proposes a variance from OAR-340-21-015(2) (b) and OAR 340-21-030 until October 1, 1982, with the following conditions:

1. Visible emissions from the plant shall not equal or exceed 40% opacity for more than three minutes in any one hour.
2. The variance applies only to operation of the plant at the present Lower Bridge site.
3. If the Department determines that emissions cause a nuisance condition to persons or property, this variance may be revoked.
4. The Company must meet the compliance schedule contained in the Director's Recommendation.

Summation

1. Mid-Oregon Crushing Company has requested a variance from OAR 340-21-015(2)(b) and OAR 340-21-030 for operation of its asphaltic concrete paving plant at Lower Bridge until March 1, 1982.
2. The Commission has the authority, under ORS 468.345, to grant a variance from a rule when strict compliance would result in substantial curtailment or closing down of a business plant or operation.
3. Mid-Oregon Crushing Company has presented a financial statement which shows a poor financial condition. Strict compliance would probably end the plant's operation. Other information presented in the variance request shows that five local companies may be impacted as a result of the closing down the asphaltic concrete plant's operation.
4. From the Department's evaluation, it is concluded that a variance to October 1, 1982, is necessary.
5. The plant lies in a rural area and does not presently cause a nuisance condition or significantly impact an urban air shed.

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 for the Mid-Oregon Crushing Company Asphaltic Concrete Plant (Permit No. 37-0174), subject to the following conditions:

1. Visible emissions from the plant shall not exceed 40% opacity for more than three minutes in any one hour.
2. The variance applies only to the operation of the plant at the present Lower Bridge site.
3. If the Department determines that the emissions from the plant are causing a nuisance condition, this variance may be revoked.

4. The variance granted to the plant is until October 1, 1982, and is contingent upon meeting the following compliance schedule. The variance may be revoked by the Director upon failure to comply with the increments of progress in the schedule.

Compliance Schedule

<u>Increment</u>	<u>Date</u>
Progress Report including detailed financial status of Company	January 1, 1982
Preliminary Plan for meeting Permit Limits	March 1, 1982
Submit Notice of Construction and Detailed Plans and Specifications	June 1, 1982
Order Equipment	July 1, 1982
Install Equipment, Conduct Source Test, and achieve compliance	October 1, 1982

Bill

WILLIAM H. YOUNG

Attachments: (2)
(A) Variance Request
(B) Enforcement History

RJN:dmc
388-6146
June 25, 1981

MID-OREGON READY MIX

p.o. box 519 Redmond, Oregon 97756

June 14, 1983

Mr. Robert Danko
DEPARTMENT OF ENVIRONMENTAL QUALITY
2150 N.E. Studio Road
Bend, Oregon 97701

Dear Bob:

As you know, we were supposed to run the asphalt plant only for the purpose of testing the plant. We did, however, run the plant on several days when we were not testing.

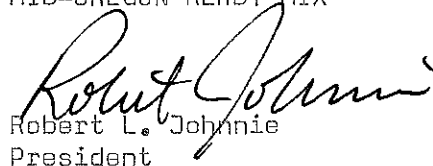
We had a contract to supply asphalt to a State of Oregon job that had to be done. We entered into a contract on this job at a time when we thought the asphalt plant would be in compliance or have a variance to operate before we would have to do the work.

Although we did come close to being in compliance on the grain loading and the opacity out of the stack, we still do not comply. We did think we would be on the commissioners agenda in April to request a variance. After talking to you and Paul Teigs, we decided to make some more changes to the plant that we thought would get it in compliance and would keep us from having to apply for a variance.

We were told that if we did not complete the paving job, we would have to pay for someone else to do the work. The plant has been shut down since we finished the job and it will be shut down until we have your permission to run it.

If you assess a penalty for running the plant when it was supposed to be down, it will impose a financial burden on us that we can not afford. Please consider the jobs of our employees when you are considering this.

Very truly yours,
MID-OREGON READY MIX


Robert L. Johnnie
President

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

TO: Bob Danko
Central Region - Bend

DATE: June 17, 1983

FROM: Judy Hatton
Business Office

SUBJECT: Mid-Oregon Crushing Company, Inc., and Subsidiary

At your request, I have reviewed the following financial documents which were submitted to the DEQ by Mr. Ron Peninger, the company's Business Manager:

Unaudited Schedules of Income (Loss) for each division showing net income or (loss) for the 12 months ended 12/31/82;

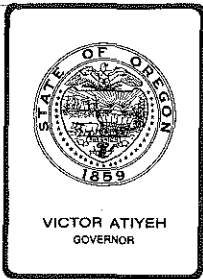
Unaudited Statements of Income and Expense for each division showing gross profit for the 11 months ended 12/31/81; and

Unaudited Schedule of General and Administrative Expenses for the 11 months ended 12/31/81.

These schedules, which were extracted from accountants' review reports, provide limited information. Balance Sheets, Statements of Changes in Financial Position, and accompanying notes were not submitted to the Department. As a result, a detailed analysis of the company's financial position is impossible.

However, based upon the information submitted, all divisions except for commercial jobs and the asphalt plant, ran at a loss or showed a relatively minor profit. It appears to be the revenue from commercial jobs and the asphalt plant which makes up the major portion of total gross profits for the time period indicated.

JLH:k
BK2019



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, July 8, 1983, EQC Meeting

Request for Approval of Variance From Lane Regional Air Pollution Authority Rules Section 33-065 Charcoal Producing Plants, Extension of Final Compliance Date From December 31, 1982 to October 31, 1983 Granted to the Kingsford Company, Springfield, Oregon, LRAPA Board Order No. 1983-1

Background

The Lane Regional Air Pollution Authority Board of Directors granted a variance to the Kingsford Company on May 2, 1983 for operation of their charcoal briquette plant in excess of the emission limit in the LRAPA charcoal producing plant rule until October 31, 1983. After Kingsford spent about \$2,880,000 on pollution control related plant improvements, emission reductions have not been adequate to comply with the rule. The additional time granted by the LRAPA Board will be used by the company to complete and evaluate further improvements. The variance and LRAPA staff report are attached (Attachments 1 and 2).

The Lane Regional Air Pollution Authority is required by ORS 468.345(3) to submit all variances to the Commission within fifteen (15) days for Commission approval, denial, or modification within sixty (60) days of receipt. LRAPA submitted the variance to the Department on May 11, 1983.

Alternatives and Evaluation

Since 1979, the Kingsford Company has reduced particulate emissions from about 200 to 15 lb/ton of char produced. LRAPA Rules, Section 33-065, limit such emissions to 10 lb/ton of char produced. The company will complete three projects during June and conduct emission testing thereafter.

The only alternative immediately available to achieving compliance was plant closure. LRAPA concluded that this was not viable. After analyzing ambient air impacts, LRAPA also concluded that the Kingsford Company

emissions would not cause exceedances of either primary or secondary ambient air standards.

After a finding by the LRAPA Board Directors that specific circumstances exist which render strict compliance unreasonable and burdensome, the variance was granted to allow operation of the plant in excess of the standard until October 31, 1983 while new emission data is being developed. If these efforts are insufficient, a new control strategy must also be submitted to LRAPA by this date.

The Department supports the granting of this variance. More time is needed to evaluate the results of process changes currently underway and to develop feasible control strategies if warranted. This is especially true in light of the emission reductions made to date, the high cost of additional control equipment such as electrostatic precipitators and the relatively small ambient air impact attributed to this facility by LRAPA.

Summation

1. On May 2, 1983, the Lane Regional Air Pollution Authority Board of Directors granted a variance to the Kingsford Company in Springfield which allows operation of their charcoal producing plant at levels exceeding LRAPA Rules, Section 33-065 until October 31, 1983.
2. The variance was granted to allow more time to evaluate process improvements currently in progress and develop additional control strategies if warranted after a finding by the LRAPA Board of Directors that special circumstances exist which render strict compliance unreasonable and burdensome.
3. Lane Regional Air Pollution Authority submitted this variance to the Commission within the required 15 day limit.
4. The Department supports the granting of this variance.
5. The Commission is authorized by ORS 468.345(3) to approve, deny, or modify variances submitted by the Regional Authority.

Director's Recommendation

Based on the findings in the Summation, it is recommended that the Commission approve the variance as granted to the Kingsford Company, Springfield, by the Lane Regional Air Pollution Authority Board of Directors (LRAPA Board Order No. 1983-1).

Bill

William H. Young

- Attachments: 1. Variance granted by LRAPA Board of Directors
2. LRAPA staff report

AA3458
F.A. SKIRVIN:a
229-6414
June 15, 1983

In the Matter of Request for
Variance, Extension of Compliance
Date for Charcoal Manufacturing,
The Kingsford Company

ATTACHMENT 1
VARIANCE GRANTED BY LRAPA
BOARD OF DIRECTORS

O R D E R 1983-1

1 On April 12, 1983, the Lane Regional Air Pollution Authority
2 Board of Directors considered a request from the Kingsford Company for
3 extension of compliance date for charcoal manufacturing, as specified
4 by LRAPA Rules and Regulations and in the compliance schedule nego-
5 tiated with Kingsford in August of 1981. Upon hearing presentation of
6 reasons for the request by D. R. Mittelstaedt of the Kingsford Company
7 and Donald Arkell of the Lane Regional Air Pollution Authority, the
8 Board finds that:

- 9 1. Kingsford has expended approximately \$2,880,000 to establish
10 emission control systems on the Springfield plant.
- 11 2. Kingsford has reduced its emission rate from approximately
12 200 lb/ton of char production to approximately 15 lb/ton of
13 production, currently, and this represents over 90% reduction
14 in the emission rate.
- 15 3. The required emission rate standard of 10 lb/ton has not yet
16 been demonstrated in accordance with the Board Order of
17 August 8, 1981.
- 18 4. Kingsford has otherwise complied in good faith with the rules
19 of the Authority and the conditions of the Air Contaminant
20 Discharge Permit.
- 21 5. Estimated costs for an electrostatic precipitator are
22 \$3,000,000, and this cost would create severe financial
23 hardship for Kingsford.
- 24 6. Kingsford has filed with the Authority a request for variance
25 for additional time to bring its emission rate into com-
26 pliance with the Rules of the Authority, without adding the

1 electrostatic precipitator.

2 7. Kingsford has presented a plan to perform additional modifi-
3 cations on the plant, designed to further reduce emission
4 rates at an estimated cost of \$100,000, and the planned
5 projects will be completed on or before October 31, 1983.

6 8. LRAPA staff has reviewed the information presented by
7 Kingsford, and concurs with the assertions made in
8 Kingsford's request, except for the "ashing" hypothesis in
9 Item II. 2. in the request, and that only the statutory
10 provisions B and C of the request are supported by staff.

11 9. LRAPA staff has performed air quality analyses and has con-
12 cluded that the air quality impact caused by approval of the
13 variance is minimal.

14 10. The Director has recommended that the variance be issued,
15 conditioned upon implementation of the projects contained in
16 the request.

17 NOW THEREFORE, the Board has determined, based on the above
18 findings, that:

19 1. The high costs associated with requiring the installation of
20 an electrostatic precipitator create special circumstances
21 which, at this time, render strict compliance with the Rule
22 unreasonable and burdensome. This determination is supported
23 further by the planned projects presented by Kingsford, which
24 are designed to reduce emissions at a much lower cost.

25 2. As Kingsford's manufacturing process is currently configured,
26 strict compliance is not feasible unless the process is

1 closed, and requiring strict compliance at this time would
2 result in such closure. This would result in approximately
3 185 persons being unemployed.

4 3. Based on accepted modeling techniques, an understanding of
5 the meteorology of the area, and the air quality effects of
6 the Kingsford plant, applicable ambient air quality standards
7 will not be exceeded as a result of approving this variance
8 request.

9 4. Based on current emission rates from all sources which affect
10 the same area, Reasonable Further Progress to reduce
11 emissions, as required by the Eugene/Springfield AQMA Plan
12 and Oregon's State Implementation Plan, is not interrupted as
13 a result of approving this request.

14 5. No evidence is presented that the additional temporary
15 emissions permitted by approving this variance request as
16 recommended would cause public nuisance or adverse effects
17 on public health.

18 NOW THEREFORE, based on the above findings and determinations,
19 the Board of Directors of the Lane Regional Air Pollution Authority
20 approves The Kingsford's Company's request for extension of the
21 compliance date for its charcoal manufacturing plant at Springfield,
22 Oregon. This variance will remain in effect until October 31, 1983,
23 conditioned upon successful completion of the following actions:

- | | |
|---------------------------------------|-----------------|
| 24 1. Complete proposed modifications | June 30, 1983 |
| 25 2. Performance testing | August 31, 1983 |

- 1 3. Contingency plans for supplemental
- 2 controls (if necessary) October 14, 1983
- 3 4. Report of test results October 31, 1983

4 Report of completion of each action shall be forwarded to the Director
 5 no later than ten (10) days following completion. Failure to complete
 6 any of the preceeding actions by the respective date indicated is
 7 cause to terminate this variance, unless prior approval to change any
 8 date is granted by the Director. Such a change in date granted by the
 9 Director can be for no more than thirty (30) days, and the date for
 10 final compliance shall remain October 31, 1983.

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SIGNED: *Sandra Rennie*
 Sandra Rennie, Chairman
 Board of Directors
 Lane Regional Air Pollution Authority

DATE: May 2, 1983

Agenda Item No. 5
LRAPA Board of Directors Meeting
April 12, 1983

TO: Board of Directors
FROM: Donald R. Arkell
SUBJ: The Kingsford Company, Request for Variance - Extension of Compliance
Date for Charcoal Manufacturing

Background

The Kingsford charcoal manufacturing facility in Springfield is operated by the Kingsford Company, which is a subsidiary of Clorox, Inc. The operation at the Kingsford plant produces charcoal briquettes sold mostly for home barbeque purposes.

The process for making charcoal utilizes a source of carbon. At Kingsford, wood waste and residues comprise the principal raw material. Hogged wood waste is dried in a rotary dryer, and then introduced into a furnace called a retort, in which much of the organic and volatile components of the raw material are driven off at high temperatures, leaving the carbon as char. The off-gases from the retort contain hydrocarbons, carbon monoxide and particulates. These gases are ducted to an after combustion chamber (ACC) wherein most of the organic gases and particulates are consumed at high temperatures, approximately 1800°F. The gases and remaining particulates not consumed in the ACC are released to the atmosphere. The char material from the retort is blended with other materials and molded into the familiar briquette shape. Briquettes are dried using a direct bleed-off of hot gas from the ACC. Then they are cooled and bagged for sale.

In May, 1979, the LRAPA Board adopted an emission standard for charcoal manufacturing facilities which establishes maximum emission rate of ten (10) pounds of particulate per ton of char material produced by the retort.

In July, 1979, a compliance schedule to meet the 10 lb/ton standard was negotiated between the Kingsford Company and the LRAPA Board, and a permit was issued by LRAPA which established the date of December 31, 1982, by which compliance would be demonstrated. This schedule was made a part of the Eugene/Springfield AQMA Plan and, in turn, a part of the State of Oregon State Implementation Plan (SIP). The SIP was submitted to the U. S. Environmental Protection Agency as required by the Clean Air Act and approved by EPA in April, 1982. The Company studied the feasibility of co-generation and decided not to pursue it as part of the control plan.

In June, 1981, Kingsford submitted a three-phase control plan which included: (I) modifications to the retort-ACC; (II) modifications to the raw material dryer; and, (III) the installation of an electrostatic precipitator (ESP), if necessary. Kingsford completed Phase I and Phase II of its control plan, and had determined that the ESP installation would cost approximately \$3 million. The company received approval to attempt to demonstrate compliance without the installation of the ESP on the ACC discharge. This approval was based on Kingsford's past performance on Phases I and II, the emission reductions achieved, and their ongoing commitment to keep precipitator controls open as an option, if needed, to meet the emission standard.

The test results filed by Kingsford in December, 1982, showed that after completion of Phases I and II, the emissions from the char production process do not yet comply with the required standard, although significant reductions of emissions on the order of 90% have been attained. Time has run out, and Kingsford now seeks a variance from the Board Order of August, 1981 for sufficient time to perform three additional projects which would reduce the emissions further and allow the Company to demonstrate compliance without installation of the ESP. The request would extend the compliance date by ten (10) months from the original time, or about six and a half (6½) months from now.

Discussion of Kingsford's Request for Variance

After a determination that Kingsford was unable to demonstrate compliance with the rules, the staff has met several times with Kingsford personnel to review the progress to date on the control plan, the results of the source tests, and certain additional projects proposed as part of this variance request. In addition to these proposals, we reviewed a number of others which may be feasible but, at the outset, have certain engineering design and safety disadvantages which make them less desirable.

Section I is Kingsford's statement of the background. There is general concurrence with Section I, except that the installation of the ESP (Phase III of the control plan) still appears technically feasible, and should not be discarded as an option at this time.

Section II contains the tested emission rate of slightly less than 15 lbs of particulate per ton of char production. This converts to an estimated 60 lbs/hr, or 200 tons/year, at the present rate of production. (For comparison, each of three major hogged fuel boiler installations within the AQMA emit in excess of 350 tons/year.) The difference between 15 and 10 lbs of particulate represents approximately 60 tons/year. We have some reservations about the effects of additional "ashing" of particulate discussed in this section, but we think this theory should be tested. Kingsford has agreed to do so.

Staff has reviewed the three proposed projects in Section II and agrees with Kingsford that they should provide some reduction in emission rate, though neither LRAPA staff nor Kingsford can, at this time, state with confidence precisely what the degree of reduction will be.

Section III contains the justification for the request and schedule for implementing the proposed projects and performing a re-test. Staff believes that the time for implementing these projects represents an expeditious schedule. We have noted that, if the performance tests conducted in August of '83 still do not show compliance, additional control steps may be necessary. Kingsford has included a time in this schedule to submit plans for additional projects, should that be necessary.

Analysis of Variance Request

In accordance with ORS 468.345(1) and (2), and Title 23 of LRAPA Rules, the Board may grant variances. A variance can be granted only if the Board finds that strict compliance with the rule or standard is inappropriate because:

- A. Conditions exist beyond the control of the applicant; or,
- B. Special circumstances which render strict compliance unreasonable, burdensome, or impracticable due to special reasons or causes; or,
- C. Substantial curtailment or closing would occur as a result of strict compliance; or,
- D. No alternative facility or method of handling is yet available.

Kingsford's variance petition cites all four of these conditions as bases for the request. There may be some case made for any of the four; however, staff believes that the situation faced by Kingsford may best fit B and C. Kingsford has determined that an ESP will cost approximately \$3 million. We have reviewed the information provided by Kingsford to support this claim, and have found it to be factual. The question relating to item B, is whether this cost is unreasonable or burdensome at this time, or if there is a special case here, requiring special treatment. If a variance is issued under B, above, an affirmative finding must be made on the question, based on a Board judgement regarding the circumstances presented by the applicant and an evaluation by the staff and public comment.

With regard to item C, we believe that Kingsford is operating at optimum with the temperatures, flow rates, and other operating parameters as they are: that is, the rate of particulate emissions, based on char production, is presently as low as can be expected with current design. If the rate of char production were reduced there is not likely to be a proportionate rate of emissions reduction. It is not likely now that strict compliance can be met while char is being produced, without additional physical process modifications. The only other option to attain strict compliance at this point would be closure. We think, on this basis alone, there is sufficient legal grounds to satisfy Item C, above, to issue a variance, irrespective of any judgement made regarding special circumstances for Item B.

In addition to statutory tests of ORS 468.345(1) as discussed above, the Board must also evaluate the equities involved, and the relative advantages and disadvantages of approving a variance, both to those persons who may be affected by such a variance and to the applicant.

ORS 468.345(4)

1. The first thing we considered in this analysis is, what is the difference in air pollution impact on the area?
 - A. The only quantitative analysis we performed involves Ambient Air Quality: Using accepted modeling techniques on the two major points of emissions, a "worst-case" analysis shows that the maximum ambient impact from Kingsford Company under present conditions occurs at

distances between 2 and 8 KM (see Attachment 1). Under meteorological conditions of inversion, with low wind speeds and little or no atmospheric mixing, a receptor which is constantly downwind, for 24 hours at a fixed distance, directly in the centerline of the plume path, will experience 24-hour concentration of particulate from Kingsford of between 8 and 9 ug/m³. If the variance is denied, and Kingsford ceases production of char, this worst-case impact would be zero. (These values would be a part of the total concentration experienced at this receptor.) If the emission standard is achieved through the projects proposed in the variance request, the worst-case impact would range between 6.5 and 9 ug/m³, a difference of approximately 2.5 ug/m³ on a 24-hour basis. The existing impact of 8 to 9 ug/m³ is approximately the share of the airshed allocated to the Kingsford plant, operating at full capacity, in compliance, with two retorts in operation.

Actual measured air quality data over the last year indicates a lower annual concentration from all sources within the impacted zone.

Although some recent 24-hour values have been recorded, these are not attributed to Kingsford. From this data and within the limits of modeling to predicted air quality impact through the variance period, coupled with some reasoned judgement about the small likelihood of worst-case occurring during the variance period, it appears that secondary air quality standards for particulates are not likely to be exceeded as a direct result of the variance. Particulate concentrations should remain well below present Primary Air Quality standards which are based on human health effects.

- B. Public Nuisance: Based on recent history, most of any nuisance impact of the Kingsford operation is apt to be associated with fugitive emissions from storage piles, and an occasional nuisance caused by adverse visual appearance of the plume. The fugitive sources at the plant site are largely controlled, and do not fall under the standard considered for variance, here. The visual appearance is less than 20% opacity, even at the present emission rates and, unless there is an upset, should not cause significant visual problem.
- C. External Effects: Kingsford uses large quantities of wood residue as a raw material. During periods of production at area mills, Kingsford's operation reduces pressure for other means of residue disposal, such as illicit burning and the resultant air pollution.
2. The second major factor in evaluating equities, advantages and disadvantages is the effect, other than air quality, that a variance would have on persons or companies other than the applicant. These qualitative evaluations again assume that, at this time, the only option without a variance is closing down the char production facility.
- A. The most apparent advantage for the variance is that persons employed by Kingsford would not lose their employment, and all the problems associated with that would not result. This industry's economic contribution to the local community through payroll and taxes would not be lost.

- B. Other facilities in similar circumstances. The latest information available to us indicates that the nearest other competitive facility, the Husky Plant in White City, is subject to the same standard as Kingsford. We understand that Husky has not yet demonstrated compliance and, in fact, has similar emission problems. Granting this variance request would not, in our opinion, represent any unfair economic advantages over other similar operations.
- C. Additional available airshed for other industries. If Kingsford ceased operation, there may eventually be advantages to new sources who would then have available for growth that portion of the airshed which is now allocated to Kingsford. As previously indicated, however, that space in the airshed could be quickly used as other industries encounter problems in disposing of wood waste, and turn to less efficient means of waste disposal.
- D. Finally, we considered advantages and disadvantages to Kingsford, the applicant. There are two obvious advantages for Kingsford if this variance is granted:
- 1) Kingsford will have some additional time in which to demonstrate compliance with the rule, without incurring a \$3 million cost for an electrostatic precipitator at this time. We believe, however, that the option of installing the ESP should not be discarded and should be reevaluated periodically.

- 2) Even if a precipitator were scheduled for installation, continued interim operation would require a variance for a period of time necessary to complete that project.

ALTERNATIVES. The alternatives to be considered appear to be:

- A) Issue the variance as requested until October 31, 1983 and incorporate the proposed schedule for completion of the three projects listed in the request as conditions of the variance. The variance would expire by October 31, and Kingsford would be in compliance with the rule or, if there is justification, Kingsford could request a renewal.
- B) Issue a variance with conditions other than those requested. Conditions may either be interim progress steps or the variance period, itself.
- C) Deny this variance request and require Kingsford to achieve expeditious strict compliance with the standard, by installation of an additional control system capable of assuring compliance with the rule.

SUMMARY

1. The LRAPA Board may issue variances under provision of statute and LRAPA rules.
2. The Kingsford Company has applied for variance for a period of six (6) months to perform these projects, to further reduce emissions to levels below the standard. Kingsford has supplied the Board and staff with pertinent information as justification for the request.
3. Staff believes that there is sufficient legal grounds for a variance, because at this time plant closure is the only other option available to achieve strict compliance. Staff believes that the projects outlined by Kingsford and the schedule presented as part of the variance request are expeditious, and that these projects are designed to reduce emissions below their present levels.
4. Staff analysis outlines effects on air quality, advantages and disadvantages to others and to Kingsford, as basis for the Board to weigh the equities.

The Kingsford Company
Request for Variance -
Extension of Compliance Date
for Charcoal Manufacturing

April 12, 1983
Page 12

DIRECTOR'S RECOMMENDATION:

The Director is recommending that the variance be granted for the time specified in the request, with the conditions specified by the project schedule, and that it terminate on October 31, 1983. This recommendation is based on the staff report and the information provided by Kingsford. Kingsford has made good-faith effort, to date, to comply with the rule. Although we have a good deal of concern about Kingsford's reluctance to move ahead with Phase III of its original control program, that reluctance is understandable in view of the cost involved, and the implications of the future viability of the Springfield operation if that cost is required to achieve compliance.

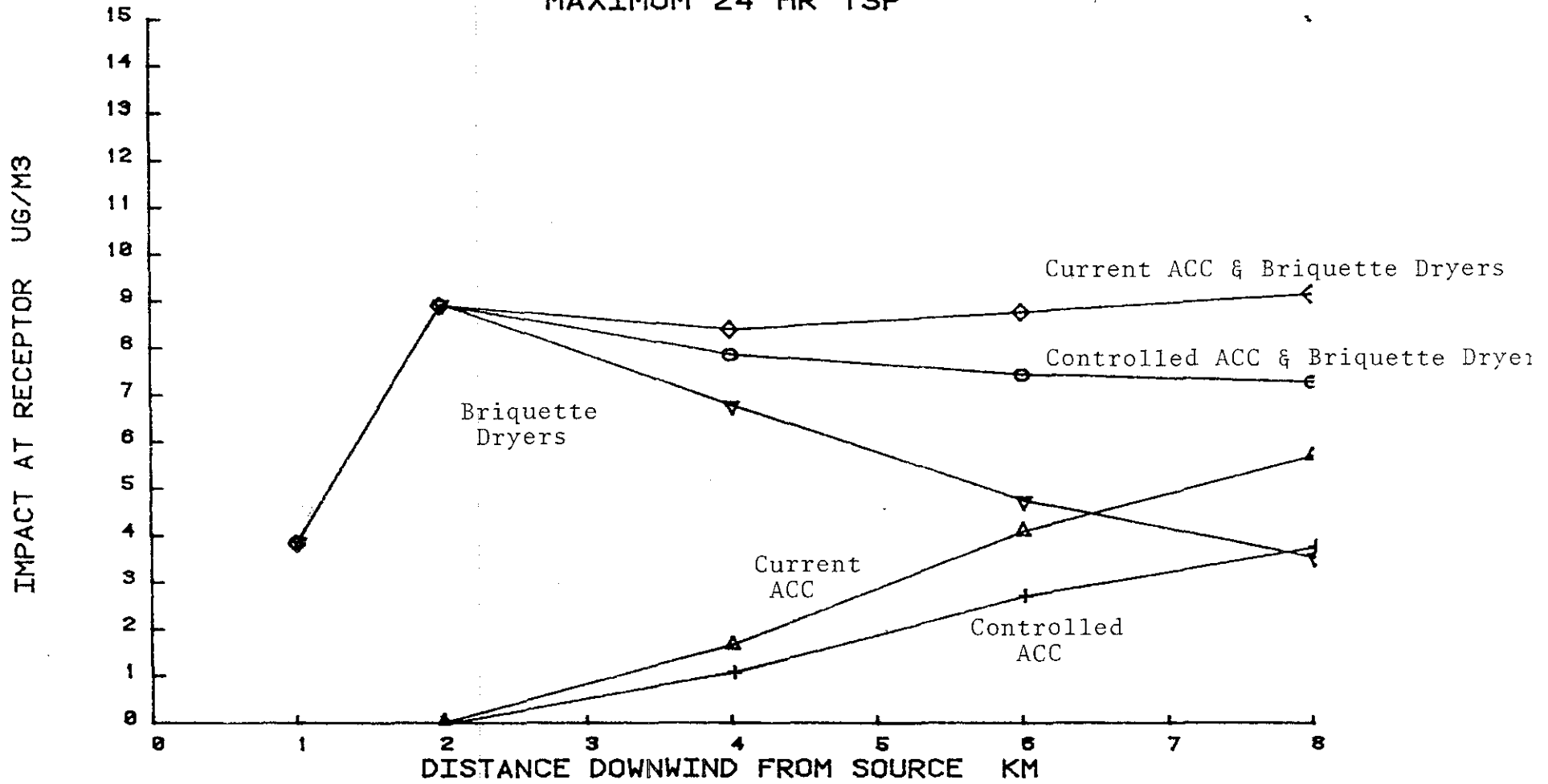
The Director has concluded that the disadvantages of requiring strict compliance at this time outweigh the advantages. We reserve the opportunity for reevaluation at the conclusion of this variance, and will continue to work with Kingsford to achieve final compliance at that time. We remain confident that it is within reach at a reasonable cost.

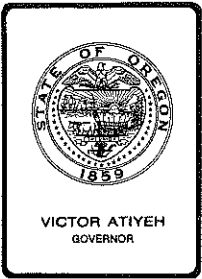
DRA/mjd

Attachment

ATTACHMENT I

KINGSFORD COMPANY
MODELED IMPACTS
MAXIMUM 24 HR TSP





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, July 8, 1983, EQC Meeting

Proposed Facilities and Time Schedule to Remove or Alleviate Condition Alleged Dangerous to Public Health at Ocean View Mobile Estates in Harbor, Curry County, Oregon; Certification of Approval to Health Division in Accordance with ORS 431.720

Background

Ocean View Mobile Estates is a 47 unit mobile home park in rural Curry County, south of the Harbor Sanitary District. The District operates a collection system and pumps raw sewage north via the U.S. Highway 101 Bridge over the Chetco River into the City of Brookings for treatment and disposal.

Existing sewage service for the Park is through a common septic tank, redwood bark filter and subsurface drainfield. The drainfield is failing by discharging onto the ground surface. Repairs have been unsuccessful. No further on-site repairs are possible.

The Curry County Board of Commissioners adopted a Resolution on May 9, 1983, in accordance with ORS 431.715. This resolution (Attachment "1") was presented to the Health Division along with a time schedule and preliminary plans and specifications (Attachment "2") for service facilities. These documents were forwarded to the Department on May 19, 1983.

To enter findings in an order directing service facilities to be provided, the Health Division must hold a public hearing to determine (a) if a danger to public health exists and (b) that such danger could be removed or alleviated by the service facilities proposed. The Environmental Quality Commission must review the adequacy of plans, specifications and time schedule and certify approval or disapproval where sewage facilities are proposed to the Health Division. In addition, the requesting body (Curry County) must be informed of your action.

Evaluation

The proposal is to annex the park to the Harbor Sanitary District.

The proposed sewerage system to remove the health hazard is a 100 gallon per minute raw sewage pump station at the Park and a 4500 foot 4-inch diameter force main along Ocean View Drive to an existing manhole of the Sanitary District.

Existing collection system within the park would be utilized. The integrity of this system is unknown but presumed adequate to continuously convey sewage to the pump station.

The average daily flow from the Park is expected to be no more than 14,000 gallons per day.

The existing transmission systems consisting of gravity interceptor sewers, pump stations, and force mains of the Harbor Sanitary District and the City of Brookings between the Park and the treatment plant have adequate capacity for the Park addition.

Treatment and an ocean outfall for disposal is provided by the City of Brookings. These facilities have adequate capacity for the Park addition.

Removal of the health hazard would be accomplished within five months, which is reasonable.

Thus, the staff concludes that installation of the proposed facilities will remove conditions alleged dangerous to public health.

Summation

1. On May 9, 1983, Curry County adopted a Resolution "requesting the Oregon State Health Division to initiate formation or an annexation to alleviate a health hazard."
2. Preliminary plans and specifications (contained in a preliminary engineering report by Marquess and Associates, Inc.) and a time schedule have been prepared to remove the alleged hazard.
3. County resolution and preliminary plans and specifications and time schedule have been submitted to the Commission through the Health Division.
4. ORS 431.720 requires the Commission to certify to the Health Division its approval if it considers the proposed facilities and time schedule adequate to remove or alleviate the health hazard. Also, the Commission must inform the County of its approval.

EQC Agenda Item No. G
July 8, 1983
Page 3

5. The Department staff has reviewed the preliminary plans and specifications and time schedule and consider it approvable. The sanitary sewers proposed will remove the alleged health hazard within the area to be annexed.

Director's Recommendation

Based upon our findings in the Summation, it is recommended that the Commission approve the proposal of Curry County, certify said approval to the Health Division, and inform Curry County of said approval.

Bill

William H. Young

Attachments: 2

- Attachment "1" Resolution from Curry County
- Attachment "2" Preliminary plans, specifications and time schedule

James L. Van Domelen:1
WL2559
229-5310
June 21, 1983

State of Oregon }
County of Curry } ss
I hereby certify that the within is a true copy
of the original record on file in my office and
custody.
Dated this 16th day of May, 1983
EUGENE P. SAUMANN, County Clerk and
Deputy
Eugene P. Saumann
Deputy

IN THE BOARD OF COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY

Filed 5-9-83

EUGENE P. SAUMANN
Curry County Clerk

Eugene P. Saumann
Deputy

In the Matter of)
Requesting the Oregon State)
Health Division to Initiate)
Formation or an Annexation to) R E S O L U T I O N
Alleviate a Health Hazard)
Pursuant to ORS 431.705 to 431.760)

WHEREAS, this Board acts as the Curry County Board of Health and has jurisdiction for matters of public health within the boundaries of Curry County, Oregon; and

WHEREAS, this Board after due public notice held a hearing on February 28, 1983 to determine if a danger to public health exists on the below described property; and

WHEREAS, at said hearing this Board heard testimony from Registered Sanitarian Ms. Barbara Cripe that she had personally observed on several occasions during 1982 and 1983 sewage on the ground at the below described property; and

WHEREAS, further testimony was heard from Mr. John Harrell detailing a failing septic system at the below described property in excess of five years and submitted numerous documents and correspondence outlining the sewage problem on the below described property; and

WHEREAS, the Board heard testimony from Mr. Reuben Kreschmar of the Department of Environmental Quality that sewage on the surface constitutes a health hazard under Administrative Rules adopted by the Department of Environmental Quality; and

WHEREAS, it was the opinion of this Board that the raw sewage from the failing septic system at the below described property presented a danger to public health as defined in ORS 431.705 (5); and

WHEREAS this Board heard testimony to the effect that all possible alternatives to alleviate the health hazard have been investigated within our financial capabilities and determined to be impractical for this particular piece of property, except for that alternative outlined in exhibit "B"; and

WHEREAS, the alternative solution recommended by this Board as exhibit "B" to this resolution is in conformance with the Curry County Comprehensive Plan; and

WHEREAS, this Board feels the concerns of the City of Brookings; as evidenced by the unanimous vote of the City Council against accepting the sewage of the affected territory, which supplies sanitary service facilities to the Harbor Sanitary District pursuant to a contract be addressed by the Health Division of the Department of Human Resources; and

NOW, THEREFORE, BE IT RESOLVED that pursuant to the provisions of ORS 431.715 the Curry County Board of Commissioners acting in their capacity as the Curry County Board of Health, based upon its belief that a danger to public health exists, as heretofore set out requests that the Health Division of the Department of Human Resources annex to a pre-existing sanitary district, or that the Division form a new district to alleviate the health hazard caused by surface sewage and a failing septic system on the below described property pursuant to the provisions of ORS 431.705 to 431.760; and

BE IT FURTHER RESOLVED that this Board requests that the Health Division of the Department of Human Resources ascertain

whether conditions dangerous to public health exist in the affected territory and whether such conditions could be removed or alleviated by the provisions of service facilities; and

BE IT FURTHER RESOLVED that this Board recommends that the Harbor Sanitary District, a special district governed by ORS 450.005 to 450.245 provide service facilities in the affected territory set out in exhibit "A", in accordance with the plans attached as exhibit "B" and the timetable attached as exhibit "C" at the cost of the owners of the affected area; and

BE IT FURTHER RESOLVED that this Resolution shall replace in its entirety that Resolution entitled In the Matter of Requesting the Oregon State Health Division to Initiate Formation or an Annexation to Alleviate a Health Hazard Pursuant to ORS 431.705 to 431.760, dated the 25th day of April 1983 and recorded in the Curry County Clerk's office on April 26, 1983.

DATED this 9th day of May, 1983.

BOARD OF COUNTY COMMISSIONERS

Kelly Ross
Kelly Ross, Chairman

Donald K. Buffington
Donald K. Buffington, Commissioner

John Glenn Mayea
John Glenn Mayea, Commissioner

Attachment to
In the Matter of Requesting the
Oregon State Health Division to
Initiate Formation of an
Annexation to Alleviate a Health
Hazard Pursuant to ORS 431.704 to 431.760

EXHIBIT "A"

Tax lot 1300, Northeast Quarter of Section 16, Township 41 South, Range 13 West, Willamette Meridian, located in Curry County, Oregon, more particularly described as follows:

Beginning at a point driven on the North boundary of said Lot 4 at a point 7.7 feet North and 1623.2 feet West of the Northeast corner of said Section 16;

Thence West 276.0 feet to an iron pipe;

Thence South $9^{\circ} 28'$ West 973.0 feet to an iron pipe;

Thence South $51^{\circ} 8'$ East 575.7 feet to an iron pipe;

Thence North $0^{\circ} 31''$ West 1322.9 feet to the point of beginning;

Located in the Northeast Quarter of Section 16, Township 41 South, Range 13 West, Willamette Meridian, Curry County, Oregon;

Excepting therefrom Tax Lot 1301 as described in Deed Volume 53 at page 105; Tax Lot 1302 as described in Deed Volume 77 at page 368; and County Road as described in Deed Volume 77 at page 415.

OCEAN VIEW MOBILE ESTATES

OCEAN VIEW DRIVE

HARBOR, OREGON

PRELIMINARY ENGINEERING REPORT

OF

SEWAGE DISPOSAL SYSTEM

PUMPING TO HARBOR SANITARY DISTRICT

APRIL 13, 1983



Prepared By

MARQUESS & ASSOCIATES, INC.

Consulting Engineers

1120 East Jackson Street

Medford, Oregon

OCEAN VIEW MOBILE ESTATES

Ocean View Drive
Harbor, Oregon

April 13, 1983

PRELIMINARY ENGINEERING REPORT

OF

SEWAGE DISPOSAL

Pumping to Harbor Sanitary District

I. INTRODUCTION

The firm of Marquess & Associates, Inc., has been involved with investigations and preliminary sewage disposal studies for Ocean View Mobile Estates and the surrounding area for nearly seven years. In June, 1980, our firm prepared a Preliminary Engineering Report for the Harbor Sanitary District, entitled Future Pump Station Locations Southerly of Existing District. These studies and investigations indicate that the most expeditious method of sewage disposal for Ocean View Mobile Estates is to pump the sewage into the Harbor Sanitary District sewer system.

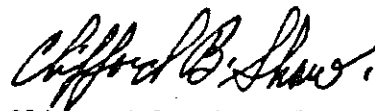
II. PROPOSED SEWAGE PUMP STATION AND PRESSURE LINE

The proposed sewage disposal system consists of a pump station located at Ocean View Mobile Estates and a 4-inch diameter pressure line extending approximately 4,500 feet along Ocean View Drive to the existing manhole at the intersection of Ocean View Drive and Olsen Lane, as shown on the attached plan. The pump station should have two 100-gallon per minute pumps which operate alternately.

The pressure line is sized to reduce the possibility of its becoming plugged, which would be more likely with a smaller diameter pipeline. Each pump

is sized to provide a flow velocity in the pressure line of not less than 2 feet per second. Velocities less than 2 feet per second could allow solids to settle out of the liquid while it is flowing, thus creating the possibility of plugging in the pipeline. The capacity of each pump must also be well in excess of the expected peak flow of 66 gallons per minute from Ocean View Mobile Home Estates. Two pumps should be used in order to provide standby in the event one pump becomes inoperative for any reason, such as maintenance.

It is recommended that the pump station and wet well be located and designed so that the existing 12,000 gallon underground storage tank (which is now part of the sewage system for Ocean View Mobile Estates) can be used for emergency overflow storage in the event of a power outage or other malfunction. If the existing 12,000 gallon tank is used for emergency overflow storage, Ocean View Mobile Estates should provide Curry County with a positive plan for pumping it out.



Clifford B. Shaw, P. E.

BENHAM LANE

U.S. HIGHWAY 101

EXIST. 12" SEWER GRAVITY LINE

OLSEN LN.

HARBOR SANITARY DISTRICT BOUNDARY

PROPOSED: BREAK INTO EXIST. SEWER MANHOLE

EXIST. SEWAGE PUMP STATION

HOLLY LN.

E. PEDRIDI DR.

PROPOSED 4" PRESSURE SAN. SEWER LINE (APPROX. 4500')

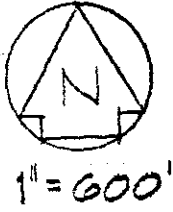
OCEAN VIEW MOBILE ESTATES

PACIFIC OCEAN

VIEW

DRIVE

PROPOSED PUMP STATION WET WELL TO SERVE OCEAN VIEW MOBILE ESTATES



1" = 600'

OCEAN VIEW MOBILE ESTATES HARBOR, OREGON

PUMPING RAW SEWAGE TO HARBOR SEWER SYSTEM

APRIL 13, 1983

MARQUSS & ASSOCIATES INC. CONSULTING ENGINEERS MEDFORD, OREGON

MORRISON LN.

SO. WIND LN.

CEDAR LN.

EXHIBIT "C"

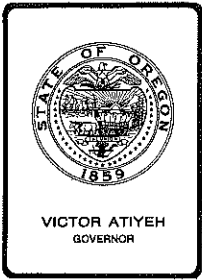
TIMETABLE

The following timetable for the proposed solution to the Health Hazard annexation existing at the Oceanview Mobile Home Estates park is submitted pursuant to ORS 431.715.

1. Day 1. Date of the order of the Oregon State Health Division issued pursuant to ORS 431.735.
2. Day 31. Final engineering and construction plans in conformance with Oregon State Law and Administrative Rules to be submitted to the Curry County Public Services Department.

Day 61. Contractor to secure all governmental permits for construction and installation of the service facilities required to comply with the division's order.
3. Day 76. Contractor to start construction in conformance with issued permits.
4. Day 136. Construction to be completed in conformance with Oregon Statutes and Administrative Rules.

Received.
May 19th



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, July 8, 1983, EQC Meeting

Surety Bonds for Sewerage Facilities --
Discussion of Alternatives

Background

Oregon Revised Statute (ORS) 454.425 requires a surety bond for construction and operation of a privately owned sewage collection, treatment, and/or disposal system. The statute limits the size of bond to a maximum of \$25,000. It authorizes the Environmental Quality Commission to adopt rules exempting certain facilities and to accept a substitution of security when appropriate. The surety bond must remain in effect as long as the facility is privately owned and in use.

The Commission has adopted rules in 1975 which exempt the following from the surety bond requirements: (OAR 340-15-015)

- (1) Any subsurface, alternative or other sewage disposal system which treats not more than 5,000 gallons per day.
- (2) Any subsurface, alternative, or other sewage disposal system, regardless of size, used to serve any food handling establishment, mobile home or recreation park, tourist and traveler's facilities, or other development operated by a public entity or under valid license or certificate of sanitation issued by the State Health Division or Department of Commerce.
- (3) Any sewage collection, treatment, or disposal facility owned and operated by a state or federal agency, city, county, county service district, sanitary authority, sanitary district or other public body, including, but not limited to, a school district or port district.

- (4) Any sewage collection, treatment, or disposal facilities of an industrial plant or commercial development having a valid NPDES Waste Discharge Permit or Water Pollution Control Facilities Permit issued by the Department pursuant to ORS 468.740, provided such facilities serve only employees or customers but no permanent residences.

The rules specify the type of security to be (1) a Perpetual Surety Bond issued by a Surety Company licensed by the Insurance Commissioner of Oregon; (2) an insured savings account assigned to the Department; or (3) other security as specifically approved by the Commission.

The rules also establish the amount of the surety bond or other approved equivalent security as \$1.00 per gallon per day of installed sewage treatment or disposal capacity, with a minimum sum not to be less than \$2,000, or shall be of some other sum specifically approved by the Commission, except that in no case shall the maximum sum exceed \$25,000.

There are currently about twenty-five private sewerage facilities with bonds or other approved security. There are about the same number of private facilities which have been exempted under the rules.

The Department has never caused a sewerage system surety bond or other security to be forfeited. The threat of forfeiture may be a deterrent but the amount of the bond today isn't enough to do much in the way of sewerage system improvement if such improvements become necessary. Historically, the requirement to obtain a perpetual bond (non-cancellable) has undoubtedly resulted in abandonment of development plans where the resources of the owner were not adequate to finance the bond and the development.

Problem

The Perpetual Bonds required by EQC rules are very difficult to get. Companies which provide the bonds are unwilling to commit themselves to a non-cancellable, perpetual bond unless an equivalent amount of cash is put up by the person wanting the bond. If the owner of the sewerage facility is able to put up a cash deposit, he is better off using the assigned savings account alternative to the bond, because the owner at least gets the benefit of the interest earnings on the account.

For new developments the bond requirement is considered to be a reasonable requirement because the Department needs to have some assurance that there is sufficient financial backing to complete and operate a new project. If the owner can't get a bond or put up the cash deposit, perhaps it's better the development does not take place.

Significant problems arise when someone tries to solve problems at an existing development by building a sewage treatment facility. The owner often cannot get a bond and all their available assets are tied up in construction costs.

Problems also occur when a facility changes ownership and the new owner is unable to get a bond.

Mobile home parks have also become a problem. They were once licensed annually under Health Division or Department of Commerce rules, and therefore were exempted from the bond requirement under EQC rules. The law has since been changed and licensing is no longer required. Therefore, technically, a bond is now required. Most of the ones the Department has been dealing with are unable to obtain a surety bond. The bonding companies want some form of a cancellation clause. See two letters in Exhibit 3.

In the past, when a person has been unable to acquire the amount of security required by the regulations, they have requested that the Commission reduce or remove the security requirement. This creates considerable inequity in the system and utilizes Commission time as well as staff time.

In one instance involving an existing development, after multiple appearances before the Commission, and investment of substantial legal fees, the title to some vacant lots was accepted as alternate security until such time as sufficient cash reserves were accumulated to meet the bond requirement.

The Department will have to expend substantial staff and legal resources to secure bonds for the 20 sources that recent file review indicates should have bonds under current rules.

Alternatives

Before the Department goes any further in requiring bonds from existing facilities, there are several alternatives which should be evaluated.

- (1) Maintain the Status Quo. The Department can continue pursuant to existing rules and require a perpetual Surety Bond, assigned savings account, or allow each person who cannot come up with the required surety bond or alternate security to appear before the Commission and plead their case for a reduced security.
- (2) Modify Department rules to accept a cancellable rather than a perpetual bond. The Department has some experience with cancellable bonds required for licensing of sewage disposal service businesses. In this case, the license is renewed annually. The applicant must certify bond coverage on his renewal application in order to have the license renewed. During the license period, the Department receives notice of cancellation of bonds for a significant number of licensees -- usually for failure to pay the bond premium. If bond coverage is not immediately restored, license revocation proceedings are initiated.

Acceptance of a cancellable bond in lieu of a perpetual bond would require establishment of a tracking system to insure maintenance of bond coverage.

- (3) Require a non-cancellable bond for the construction/start-up period of a facility and accept a cancellable bond thereafter for assurance of operation and maintenance. This alternative could capture the benefits of the perpetual bond in terms of assurance of adequate resources to satisfactorily complete construction of a project and the easier process for owners of existing systems to obtain bond coverage for ongoing operation and maintenance. The tracking system noted in (2) above would be required.
- (4) Allow a Combination of Cash Deposit and Cancellable Bonds. The largest number of surety bond problems are associated with existing facilities changing hands or new sewerage facilities at an existing development where the owner is unable to secure a bond and does not have the available cash for an adequate deposit. Another alternative might be to require a minimum cash deposit, say 25% of the total required security. The additional 75% could be in the form of a cancellable bond. The cash deposit would serve as an incentive to do what was necessary to keep the bond from being cancelled. This would require the Department to establish and maintain a tracking system to assure that bond premiums are paid and bond coverage maintained.
- (5) Allow the Owner to Build an Acceptable Cash Deposit Over Time. A variation of number (4) above would be to allow initial filing of a small cash deposit along with a larger cancellable bond. Over a period of time the owner would be required to increase the cash deposit on an annual basis until the cash deposit is sufficient to completely replace the bond. This would benefit the agency by eventually achieving a perpetual security of the appropriate amount. It benefits the owner by allowing him to build a fund over time from which he can collect the interest.
- (6) Liberal Interpretation of Exemptions. The largest group of facilities which need surety bonds but don't have them are mobile home parks which are no longer subjected to annual licensing and inspection by the Department of Commerce. Since it is possible to close a mobile home park if sewage problems are not corrected, the Department could still consider them exempt under the regulations. This could apply also to houseboat moorages where permanent residences are not connected. This may not be as practical as one might assume however, because of the difficulty in moving today's "mobile homes" and the lack of alternative sites for houseboats.

- (7) Repeal Surety Bond Statute. The Department has never caused surety bond forfeiture to correct deficiencies at sewerage facilities. In one instance recently, where the Department would have had reason to utilize the bond for repairs, there was no bond on file. Civil penalties or other enforcement mechanisms have been used instead. The amount of the bond (\$25,000 maximum) is adequate only for very small repairs. Perhaps the perpetual surety bond statute should be repealed.

Although alternatives (6) (repeal of statute) may have some merit, it would have to wait until next legislative session. Further evaluation and consideration of this alternative can be made over the next 18 months.

Alternative (3) and (4) are similar in that they rely in part on a cancellable bond. They would be somewhat easier to implement than the present rules because it would be financially possible for more people to comply. Some may find it difficult to provide a cash deposit of 25% of the total required security required by alternative (4). The cancellable bonds should be available at minimal cost. The cancellation clause could require a six-month notification prior to cancellation, which would give the Department time to require any improvements which might be necessary (see Exhibit 4).

Before going any further, the Department needs input from the Commission to assist in narrowing the alternatives that are further pursued.

Summation

1. ORS 454.425 requires a surety bond or equivalent security for construction, operation, and maintenance of private sewerage systems.
2. The Commission has adopted rules which allow cash deposits via an assigned savings account in lieu of a bond and exempted certain facilities from the bond requirement.
3. The Department may permit the substitution of other security for the bond upon approval by the Commission, the form of which shall be approved by the Attorney General.
4. Because of the required perpetual nature of the bond, they are very difficult to obtain.
5. Many existing facilities should be covered by a bond but are having difficulty financing acceptable coverage.
6. Some type of relief is necessary. Possible alternatives would be to:
 - a. Continue status quo (not really acceptable);

- b. Accept cancellable bond;
 - c. Require a non-cancellable bond through construction and start-up and accept a cancellable bond thereafter;
 - d. Allow a combination of a 25% cash deposit and 75% cancellable bond;
 - e. Allow the owner to start with a small cash deposit and cancellable bond with provisions for increasing the cash deposit annually until it meets the perpetual security requirements.
 - f. Liberally interpret the rules to exempt certain facilities such as mobile home parks and houseboat moorages where no permanently fixed residences are on the system; or
 - g. Repeal the statute.
7. The Department needs input from the Commission to aid in narrowing the alternatives for future development.

Director's Recommendation

It is recommended that the Commission discuss the alternatives and advise the Department on those that should be further developed.

Bill

William H. Young

Attachments (4)

- 1. ORS 454.425
- 2. OAR 340, Division 15
- 3. Two letters concerning bonds
- 4. Possible language for cancellable bond

Charles K. Ashbaker:g
WG2443
229-5256
June 8, 1983

454.355[1973 c.424 s.6; repealed by 1975 c.167 s.13]

CONSTRUCTION OF SEWAGE SYSTEMS

454.405 Definitions for ORS 454.405, 454.425 and 468.742. As used in ORS 454.405, 454.425 and 468.742, the term:

(1) "Construct" includes a major modification or addition.

(2) "Person" means any person as defined in ORS 174.100 but does not include, unless the context specifies otherwise, any public officer acting in his official capacity or any political subdivision, as defined in ORS 237.410.

[Formerly 449.390; 1975 c.248 s.1]

454.415[Formerly 449.395; 1975 c.248 s.2; renumbered 468.742]

454.425 Surety bond required; exception; action on bond. (1) Every person proposing to construct facilities for the collection, treatment or disposal of sewage shall file with the Department of Environmental Quality a surety bond of a sum required by the Environmental Quality Commission, not to exceed the sum of \$25,000. The bond shall be executed in favor of the State of Oregon and shall be approved as to form by the Attorney General.

(2) A subsurface sewage disposal system designed for and used in not to exceed a four-family dwelling shall be exempt from the provision of subsection (1) of this section. The commission may adopt rules exempting other facilities from the requirements of subsection (1) of this section.

(3) The department may permit the substitution of other security for the bond, in such form and amount as the commission considers satisfactory, the form of which shall be approved by the Attorney General.

(4) The bond or other security shall be forfeited in whole or in part to the State of Oregon by a failure to follow the plans and specifications approved by the department in the construction of the sewerage system or by a failure to have the system maintained and operated in accordance with the rules and orders of the commission. The bond or other security shall be forfeited only to the extent necessary to secure compliance with the approved plans and specifications or the rules and orders of the commission. The commission shall expend the amount forfeited to secure compliance with the approved plans and specifications or the rules and orders of the commission.

(5) When a failure as described in subsection (4) of this section occurs and part of the bond or other security remains unforfeited, any person, including a public person or body, who has suffered any loss or damage by reason of the failure shall have a right of action upon the bond or other security and may bring a suit or action in the name of the State of Oregon for his use and benefit. This remedy shall be in addition to any other remedies which the person who suffered loss or damage may have against the person who has failed to follow the approved plans and specifications or to comply with the rules and orders of the commission.

(6) When the ownership of the sewerage system is acquired or its operation and maintenance assumed by a city, county, sanitary district, or other public body, the bond or other security shall be considered terminated and void as security for the purposes of this section and shall be returned to the person who filed the security.

[Formerly 449.400; 1975 c.248 s.3]

DIVISION 15

SURETY BONDS OR OTHER APPROVED
EQUIVALENT
SECURITY FOR CONSTRUCTION, OPERA-
TION, AND
MAINTENANCE OF SEWAGE COLLECTION,
TREATMENT
OR DISPOSAL FACILITIES

Statement of Purpose

340-15-005 These rules, adopted pursuant to ORS 454.425, prescribe the requirements and procedures for the filing, maintenance, and termination of surety bonds or other approved equivalent security for the construction, operation, maintenance of sewage collection, treatment, or disposal facilities.

Stat. Auth.: ORS Ch.

Hist: DEQ 82, f. 1-30-75, ef. 2-25-75

Definitions

340-15-010 As used in these rules, unless the context requires otherwise:

(1) "Alternative sewage disposal system" has the same meaning as in ORS 454.605(2).

(2) "Commission" means the Environmental Quality Commission.

(3) "Construct" or "Construction" includes installation, repair, and major modification or addition.

(4) "Department" means the Department of Environmental Quality.

(5) "NPDES waste discharge permit" means a waste discharge permit issued in accordance with requirements and procedures of the National Pollutant Discharge Elimination System required by the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500) and of OAR 340-45-005 through 340-45-065.

(6) "Person" means any person as defined in ORS 174.100 but does not include, unless the context specifies otherwise, any public officer acting in his official capacity or any political subdivision, as defined in ORS 237.410.

(7) "Subsurface sewage disposal system" has the same meaning as in ORS 454.605(14).

Stat. Auth.: ORS Ch.

Hist: DEQ 82, f. 1-30-75, ef. 2-25-75; DEQ 99(Temp), f. & ef. 10-1-75; DEQ 102, f. & ef. 12-18-75

Surety Bond Required

340-15-015 (1) Every person proposing to construct facilities for the collection, treatment, or disposal of sewage shall file with the Department a surety bond, or other approved equivalent security, of a sum determined under rule 340-15-025 of these rules.

(2) The following shall be exempt from the provision of section (1) of this rule:

(a) Any subsurface, alternative, or other sewage disposal system or systems designed or used to treat or dispose of a sewage flow of not more than 5,000 gallons (18.925 cubic meters) per day;

(b) Any subsurface, alternative, or other sewage disposal system or systems, regardless of size, used to serve any food handling establishment, mobile home or recreation park, tourist and travelers facilities, or other development operated by a public entity or under a valid license or certificate of sanitation issued by the State Health Division or Department of Commerce;

(c) Any sewage collection, treatment, or disposal facility owned and operated by a state or federal agency, city, county, county service district, sanitary authority, sanitary district, or other public body, including, but not limited to, a school district or port district;

(d) Any sewage collection, treatment, or disposal facilities of an industrial plant or commercial development having a valid NPDES Waste Discharge Permit or Water Pollution Control Facilities Permit issued by the Department pursuant to ORS 468.740 provided such facilities serve only employees or customers but no permanent residences.

Stat. Auth.: ORS Ch.

Hist: DEQ 82, f. 1-30-75, ef. 2-25-75; DEQ 99(Temp) f. & ef. 10-1-75; DEQ 102, f. & ef. 12-18-75

Type of Security

340-15-020 The type of security to be furnished pursuant to ORS 454.425 may be:

(1) Perpetual surety bond executed in favor of the State of Oregon on a form approved by the Attorney General and provided by the Department, such bond to be issued by a Surety Company licensed by the Insurance Commissioner of Oregon;

(2) Insured savings account assigned to the Department with interest earned by such account made payable to the assignor; or

(3) Other security in such form and amount as specifically approved by the Commission.

Stat. Auth.: ORS Ch.

Hist: DEQ 82, f. 1-30-75, ef. 2-25-75

Amount of Bond or Other Security

340-15-025 The amount of the surety bond or other approved equivalent security filed with the Department shall be equal to \$1.00 per gallon per day of installed sewage treatment or disposal capacity with the minimum sum not to be less than \$2,000, or shall be of some other sum specifically approved by the Commission, except that in no case shall the maximum sum exceed \$25,000.

Stat. Auth.: ORS Ch.

Hist: DEQ 82, f. 1-30-75, ef. 2-25-75

Transfer of Facilities

340-15-030 The ownership of the sewage disposal facilities shall not be transferred without the prior written approval of the Department and the surety bond or other approved equivalent security filed pursuant to ORS 454.425 shall remain in full force and effect notwithstanding any subsequent ownership transfer without such prior written approval.

Stat. Auth.: ORS Ch.

Hist: DEQ 82, f. 1-30-75, ef. 2-25-75

Maintenance and Termination of Security

340-15-035 The surety bond or other approved equivalent security filed pursuant to ORS 454.425 shall remain in force and effect until such time as a state or federal agency, city, county, county service district, sanitary authority, sanitary district, or other public body acquires ownership or assumes full liability and responsibility for operation and maintenance of the sewage disposal facilities with the prior written approval of the Department pursuant to rule 340-15-030.

Stat. Auth.: ORS Ch.

Hist: DEQ 82, f. 1-30-75, ef. 2-25-75



Jardine Insurance Brokers Inc.

Century Park Center
 9911 West Pico Blvd., Suite 1150
 Los Angeles
 California 90035 Telephone: 213 552-0515

September 24, 1982

Mr. Charles K. Ashbaker, Supervisor
 Source Control Section
 Water Quality Division
 Department of Environmental Quality
 P.O. Box 1760
 Portland, Oregon 97207

RECEIVED
 SEP 29 1982

Water Quality Division
 Dept. of Environmental Quality

Re: Willow Associates
 21890 S. Highway 99 E.
 Canby, Oregon

Dear Mr. Ashbaker:

Per our discussion of yesterday, we are having difficulty securing the needed "Performan Bond for Maintenance of Domestic Sewerage Systems". This is due to the bond wording which makes the term indefinite and uncancellable.

Industrial Indemnity Insurance Company has suggested adding the following to your bond form. You indicated that you would have the wording reviewed and let us know if it were acceptable. If there are any parts which you feel must be changed, please let us know and we will go back to the insurance company.

Proposed Additional Wording

"This bond will terminate as of (date- two years hence) unless extended in writing by the surety. Any and all claims and demands against this bond must be filed with the surety within 90 days after (same date as above) unless the time for filing such claims and demands is extended in writing by the surety."

"The surety herein shall have the right to withdraw as surety from the bond, except as to any liability already incurred or accrued, and may do so upon giving the State of Oregon, Department of Environmental Quality, P.O. Box 1760, Portland Oregon, 60 days written notice to that effect, and at the end of such 60 day period of notice, the liability of the surety under this bond, except as to any liabilities or indebtedness already incurred or accrued, shall cease, and such bond shall in turn thereupon terminate and be of no more force or effect except as to any liabilities or indebtedness already incurred or accrued hereunder."



Charles K. Ashbaker
Page Two
September 24, 1982

Please let us know as soon as possible if this wording or what alternate wording would be acceptable, so we may comply with you request for the bond.

Sincerely,

Daniel Zahn, A.R.M.
Vice-President Marketing

Jardine Insurance Brokers Inc.

DZ:dm



valley river insurance

P.O. BOX 10888 · 1050 WILLAGILLESPIE ROAD · EUGENE, OREGON 97440 · TEL. (503) 485-0711

complete insurance service

November 24, 1982

Department of Environmental Quality
522 Southwest 5th Avenue
Portland, Oregon 97207

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
DEC 6 1982

Attention: Mr. Charles K. Ashbaker

Re: Neskowin Lodge Investors
Domestic Sewerage Systems Bond

WATER QUALITY CONTROL

Dear Mr. Ashbaker

As per our conversation please find an enclosed bond form for your review. You will note that the proposed bond form contains a cancellation provision. First of all 75% of the system is used to service the privately owned condominium complexes, the remaining 25% services approx. 20 domestic hookups coming under the bonding requisite, which I believe should be taken under consideration.

Secondly, as discussed I have done extensive marketing research to find a surety for this particular bond on it's original form and have been entirely unsuccessful. My office has 7 major bonding companies at our disposal, and I have checked with some of my competitors in the area which give the same response, regardless of financial condition the bond is not practical for the following reasons:

What if the financial information changes on the principal?

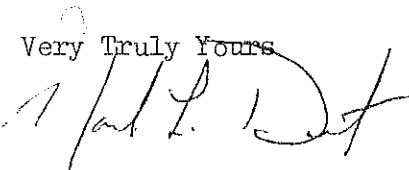
What if the principal fails to pay the premium?

What if the principal sells his interest in the system?

On the present bond form there is no provision to handle these real life possibilities. With the current attitudes of bonding companies we will need to have some provision for cancellation to induce a surety at this point

Please accept this bond form as a basis for negotiation and our interest in complying with DEQ requirements. Please call if you have further questions.

Very Truly Yours



Mark L. Dent

PERFORMANCE BOND FOR MAINTENANCE
OF
DOMESTIC SEWERAGE SYSTEMS

KNOW ALL MEN BY THESE PRESENTS: That _____

_____, as principal, and _____
_____, a corporation organized and existing under the

laws of the State of _____, and duly licensed by the Insurance
Commissioner of Oregon for the purpose of making, guaranteeing or becoming surety
upon bonds or undertakings required or authorized by the laws of the State of Or-
egon, as surety, are held firmly bound unto the State of Oregon in hte amount of
_____ Dollars, lawful money of the United States of America,
or any part thereof as provided in ORS449.400, the payment of which we jointly and
severally bind ourselves, our heirs, executors, administrators, successors and as-
signs, firmly by these presents.

NOW THEREFORE, the condition of this obligation is such that if the principal
herein shall promptly and faithfully follow the plans and specifications in the
construction of the said domestic sewerage system, located at _____
in Sec. _____, T. _____, R. _____, W.M. In _____ County, Oregon as
approved by the Department of Enviromental Quality, and shall maintain and operate
said sewerage system in accordance with the rules, regulations, permits, and orders
of the Department of Enviromental Quality until the ownership thereof is acquired,
or other public body, then this obligation shall be void, otherwise it shall remain
in full force and effect.

In condition to the aforsaid obligation the surety at its option may cancell
this bond and be relieved of further liability by giving 30 days written notice
to the principal and to the Department of Enviromental Quality of the State of
Oregon.

IN WITNESS WHEREOF, _____,
has (Have) Herunto set _____ hand _____ and seal _____ and said surety
has caused these presents to be exexecuted by its duly authorized legal represenative
and its corporate seal to be hereunto affixed this _____ day of _____, 19____.

Principal (Seal)

Surety (Seal)

By _____
Attorney in Fact

PERFORMANCE BOND FOR MAINTENANCE
OF
DOMESTIC SEWERAGE SYSTEMS

BOND NO.

KNOW ALL MEN BY THESE PRESENTS: That _____

_____, as principal, and _____

_____, a corporation organized and existing under the

laws of the State of _____ and duly licensed by the Insurance Commissioner of Oregon for the purpose of making, guaranteeing or becoming surety upon bonds or undertakings required or authorized by the laws of the State of Oregon, as surety, as held and firmly bound unto the State of Oregon in the amount of _____ Dollars, lawful money of the United States of America, or any part thereof as provided in ORS 454.425, the payment of which we jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns, firmly by these presents.

NOW THEREFORE, the condition of this obligation is such that if the principal herein shall promptly and faithfully follow the plans and specifications in the construction of the said domestic sewerage system, located at _____ in Sec. _____ . T. _____ . R. _____ . W.M. in _____ County, Oregon, as approved by the Department of Environmental Quality, and shall maintain and operate said sewerage system in accordance with the rules, regulations, permits, and orders of the Department until the ownership thereof is acquired, or its operation and maintenance is assumed by a city, county, sanitary district or other public body, then this obligation shall be void.

THE BOND is intended to be a perpetual security for as long as the principal is responsible for the sewerage system. It may be cancelled upon notification by the Department that it has been replaced by another bond or alternate security or is no longer required. In addition, following completion of the sewerage system and at least two full years of operation, it may be cancelled by the surety, when there is good and sufficient cause, by giving at least 180 days written notice to the principal and the Department of Environmental Quality. Any notice of cancellation shall state the reasons.

IN WITNESS WHEREOF, _____ has (have) hereunto set _____ hand and seal _____ and said surety has caused these presents to be executed by its duly authorized legal representative and its corporate seal to be hereunto affixed this _____ day of _____, 19 _____.

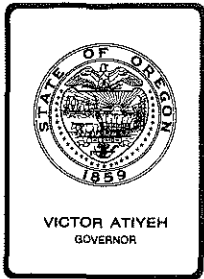
Principal (Seal)

Surety (Seal)

By _____
Attorney in Fact

Countersigned:

Registered Agent



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: Linda K. Zucker, ^{LKZ}Hearings Officer

Subject: Agenda Item No. I, July 8, 1983, EQC Meeting

DEQ v. VICTOR FRANK
Case No. 19-AQ-FB-81-05

Respondent has appealed the hearings officer's decision sustaining the \$1,000 civil penalty levied by the Department on account of field burning under prohibition conditions. Attached are:

1. The hearings officer's decision;
2. Respondent's Brief and Exceptions; and
3. Department's Answering Brief (including an excerpt from the hearing record referred to in Department's brief);
4. Respondent's Reply.

HK2027
Attachments

LKZucker:k
229-5383
June 24, 1983

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BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY)
OF THE STATE OF OREGON,)
)
) HEARING OFFICER'S
) FINDINGS OF FACT,
Department,) CONCLUSIONS OF LAW AND ORDER
v.) No. 19-AQ-FB-81-05
) Marion County
)
VICTOR FRANK,)
)
)
Respondent.)

BACKGROUND

This matter was initiated by Department's notice of assessment of civil penalty which alleged that on or about August 2, 1981, Respondent, while burning a perennial grass seed field, failed to conduct his burning operation in accordance with the announced burning schedule and failed to actively extinguish all flames and major smoke sources when prohibition conditions were imposed by the Department, all in violation of agency rule. Department levied a civil penalty of \$1,000, the scheduled penalty for the latter violation.

Respondent answered denying the allegations and affirmatively pleading that the fire was too well established to extinguish, and that Respondent made an effort to accelerate the burning. At hearing, Respondent argued that he should not be penalized for failing to obey a rule which would have been impossible for him to obey.

FINDINGS OF FACT

At 6:15 p.m. on August 2, 1981, Respondent obtained a permit to open burn a 50-acre perennial grass seed field located in the Willamette Valley, in Marion County, Oregon. At the time the permit was issued, Department's

1 field burning agent told Respondent that all fires would have to be out
2 by 7:00 p.m., the announced burning termination time. Respondent had
3 already burned several other fields that day and believed burning could
4 be concluded in the time allotted.

5 Respondent's crew proceeded to prepare the field for burning by
6 watering the surrounding vegetation and then applying a backfire torch
7 to the watered area. First, several strips were lighted on the east side
8 of the field to protect a grove of trees, and then the crew lighted the
9 perimeter of the field. This initial ignition of the field perimeter took
10 between fifteen and twenty minutes, which is normal and expectable for
11 a field that size.

12 Fields burned earlier that day had been similarly prepared. Although
13 there was little ambient wind, the perimeter fires produced sufficient
14 heat to create strong updrafts accelerating ignition of the fields and
15 allowing an entire field to be burned in about five minutes.

16 By 7 p.m. the subject field had not responded. The perimeter was
17 aflame and Respondent believed that if he could create enough heat to
18 produce a strong draft, the field could be burned in minutes.
19 Consequently, although it was after the burning cut-off time, Respondent,
20 believing there would be less smoke by burning than dousing, attempted
21 to create a draft by strip firing across the field in several places.

22 At approximately 7:25 or 7:30 p.m. Department's field inspector
23 arrived at the field. Approximately 3/4 of the field had been burned.
24 The remainder had an established perimeter fire. Field hands were present
25 but not actively tending the fire. No effort was being made to extinguish
26 the fire.

1 A tractor with a water tank was at the field. When the field
2 inspector directed Respondent to extinguish the fire a few field hands
3 were able to extinguish the fire with no more than normal difficulty.
4 The fire was out by 8:00 p.m. Only 1/4 of an acre remained unburned.

5 Respondent established that dousing fires always entails some danger.
6 Wind shifts occur suddenly, blowing smoke and impairing visibility.
7 Patches of doused ground can flair unexpectedly. However, precautions
8 including use of proper fire management techniques and adequate personnel
9 and equipment can reduce the danger.

10 When required to extinguish a fire a grower may do it with his own
11 crew and equipment, may call on the resources of neighboring growers, or
12 may call the local fire district for assistance. However, fire district
13 policy is to respond by sending equipment to the field, but not applying
14 water unless the fire is in danger of getting out of control. It would
15 have taken twenty to twenty-five minutes for a fire district crew to have
16 reached Respondent's field. Respondent did not seek any outside aid.

17 Respondent had previously been assessed and had paid a civil penalty
18 for late burning.

19 CONCLUSIONS OF LAW

20 1. The Commission has personal and subject jurisdiction.

21 2. Respondents failed to conduct field burning operations in
22 accordance with the announced schedule in violation of OAR 340-26-
23 010(4) (a), and failed to actively extinguish all flames and major smoke
24 sources when prohibition conditions were imposed by the Department, in
25 violation of OAR 340-26-010(5).

26 3. Respondent has not established any excuse for these failures

1 which, as a matter of law or fact, would warrant avoidance of a penalty.

2 4. Respondent is liable for a civil penalty of \$1,000 which is the
3 amount established by OAR 340-26-025(2) (b) (B) for failure to actively
4 extinguish flames and smoke under prohibition conditions.

5 OPINION

6 To be sure that Respondent's line of defense is adequately presented,
7 the following exchange from the hearing record is provided:

8 HEARINGS O.K. Before we go too much further I am going to point out
9 OFFICER to you that I have, during the process of the testimony, and
10 particularly through your examination, not placed any
11 restriction on the testimony that dealt with the obvious
12 difficulties and dangers that were inherent in putting out
13 a fire. I don't think we have; you cannot point to a rule
14 that ... excuses a grower from the obligation to obey the
15 regulation or statute which is imposed. So, perhaps, before
16 we go too much further, you'd like to explain to me the basis
17 of that apparent defense.

14 LARIMER I wouldn't think the DEQ, you, the Court of Appeals, or anyone
15 would require anyone to take their life in their hands in order
16 to comply with any rule that wasn't involving directly and
17 immediately public safety. I would doubt that they would
18 require you to take your life in your own hands even if public
19 safety were directly and immediately involved.

17 HEARINGS O.K. Well, I'm not sure we've established that people would
18 OFFICER be taking their lives in their hands. ... Could you explain
19 to me in legal terms what the nature of your approach is?

19 LARIMER Well, I'm simply going to prove that it was dangerous to go
20 out there in the field, to go, we've ... the wind was ...
21 shifting, and ... they're placed in a situation where they
22 have to make the decision I suppose that the argument could
23 be made that, well, we're going to find them at fault regard-
24 less of what the decision is, as long as its one we don't agree
25 with. But that's; that's simply a point that I disagree with.

23 HEARINGS I understand the information. But I'd like to understand it
24 OFFICER analyzed legally. I understand the facts you're developing.
25 Given a rule which you believe is an unwise rule, is your
26 defense that a citizen, a regulated party (a grower in this
instance) is not required to comply with rules he deems, and
indeed in fact may be, unwise at times?

1 LARIMER That's not my point at all.

2 HEARINGS Well, then I'd like to hear some...
3 OFFICER

4 LARIMER I think you have to take them as you find them. You have an
5 objective rule, presumably. ... But you have a subjective
6 situation. We have to apply the objective to the subjective.
I'm simply saying that I don't think anybody would ever dispute
7 were these gentlemen should go up and (one or two words lost).

8 HEARINGS Are you saying it is a legal defense to be in violation of
9 OFFICER a rule; that it would be...

10 LARIMER Oh, I think it; I think it is a factual defense. I think
11 its a factual defense. Its a defense of impossibility. We
12 don't order a forest fire put out. We know we can't do it.
13 It's an impossibility. So it would be absolutely futile to
14 pass rules about it; because it does what it wants to do.
15 We have the same thing here. We have a man faced with a
16 particular situation. He knows what the law is. He knows
17 what the rules are. He has limited opportunity and limited
18 means at his disposal to take care and meet the things that
19 he has to do under the rules.

20 HEARINGS O.K. I'm really not asking you to argue it at this juncture.
21 OFFICER I am not unsympathetic to the difficulty of a person being
22 required by law to do something which is objectively
23 impossible. I'd like you to define a little better for me...

24 LARIMER I can't do it. I can't legally define; I don't what the rules
25 are, at all. I'm saying...

26 HEARINGS O.K. Are you saying; let me see if I can follow then, that
OFFICER you are saying, given a factual situation which; in which it
is impossible... (is that your standard?) to comply with a rule
a person is excused from penalty for his failure?

LARIMER ... From the possible... Perhaps; put it this way, that he
would be excused--he certainly would be excused under the
'Act of God' defense where he can't do anything about it.
That I think is clear. I think that if you have a situation
where a person is faced with four or five alternatives of
doing, and then you're going to find fault with him because
he follows one instead of another;

HEARINGS Follows one instead of the one established by regulation...?
OFFICER

LARIMER By rule, or whatever; I don't think there's any rule or
regulation though that I'm aware of that says you call the

1 Volunteer Fire Department, or that you go to your neighbor
2 and ask him for help; or that type of thing. . . .

3 Respondent's defense is predicated on the existence of impossibility.
4 The existence of impossibility can be tested objectively. Witnesses agreed
5 that as a general proposition, extinguishing field fires entails a
6 potential for danger. That potential can be reduced by taking field
7 precautions. Such precautions were reasonably available to Respondent.
8 He did not avail himself of them. Instead, he ignored the burning cut-off
9 deadline, making no effort whatever to extinguish the fire until the
10 arrival of enforcement personnel. Then his crew was able to extinguish
11 the fire without incident. The conclusion is ineluctable that Respondent
12 chose to complete his burning not because extinguishment was impossible,
13 but because completion of the burning was his preference.

14 Invariably, rules devised for general application will not serve every
15 need in every circumstance. It may well be that it would have been more
16 efficient and more environmentally sound, even safer, for Respondent to
17 have completed the burning of this field rather than extinguishing it
18 precipitiously. However, were each grower allowed to make the decision
19 of his conscience, the potential for adverse environmental impact would
20 be great. It is a condition to open field burning that the regulations
21 of the Department be observed. Respondent failed to observe the
22 regulations and is appropriately asked to pay a penalty.

23 ///

24 ///

25 ///

26 ///

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION APR 20 1983
OF THE STATE OF OREGON

1	DEPARTMENT OF ENVIRONMENTAL QUALITY)	
2	OF THE STATE OF OREGON,)	
3		
4	Department,)	NO. 19-AQ-FB-81-05
5		MARION COUNTY
6	v.)	
7	VICTOR FRANK,)	RESPONDENT'S REQUEST FOR
8		COMMISSION REVIEW AND
9	Respondent.)	RESPONDENT'S ARGUMENT

Respondent requests the Commission's review of the matter based on the record and particularly on the basis of the Hearing Officer's Findings of Fact, Conclusions of Law and Order.

The Findings of Fact indicate:

1. The field was 50 acres.
2. There is no finding as to when the fire was started.
3. By 7:00, the subject field had not responded.
4. At 7:25 or 7:30 the Department's field inspector arrived.
5. The field was 3/4 burned (12.5 acres left, 37.5 burned) with a perimeter fire.
6. The inspector ordered the fire out with no finding as to the time this happened.
7. The fire was extinguished at 8:00 with only 1/4 of an acre remaining unburned.
8. The fire department wouldn't apply water unless the fire was out of control and would have taken 20 to 25 minutes to reach the field.
9. Dousing fires always entails some risks. (In fact, the

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STAYTON, OREGON 97383-0476

1 record was that it entails considerable risks.)

2 Respondent would point out that only 1/4 of an acre re-
3 mained unburned at 8:00. The fact that the fire remained
4 active after 7:00 was due to the unusual weather conditions
5 that day.

6 The Hearing Officer did not find some crucial facts. They
7 are:

8 1. No finding as to the time the fire was started.

9 2. No finding as to the time the inspector ordered it
10 extinguished.

11 It is just as logical to accept Respondent's view as that
12 of the Department adopted by the Hearing Officer.

13 To (1) reduce damage to the people on the fire scene, and
14 (2) that to continue burning with help of strip burning would
15 reduce smoke were the considerations of the grower. These are
16 as valid as the Department's position and the view adopted by
17 the Hearing Officer.

18 It is simply unfair to penalize Respondent on the present
19 record.

20 Further, Respondent would point out the following:

21 1. Query - where does authority come for changing hour
22 of fire out? (340 26-025-(2)(6)(B))


23 2. Where does authority come for notice of such facts?
24 Notice the announcement of fire out time on August 2 made at
25 1745 (5:45 p.m.) and prohibited 1915 (7:15 p.m.).

26 //

1 There was no proof at the hearing, or judicial notice
2 taken of any fact, statute or authority.

3 Respectfully submitted,

4 LARIMER & McGEHEE

5
6 By: 
7 Murley M. Larimer, OSB #51062
8 Of Attorneys for Respondent

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JUN 20 1983

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY)	
)	
Department,)	No. 19-AQ-FB-81-05
)	
v.)	(Marion County)
)	
VICTOR FRANK,)	ANSWERING BRIEF
)	
Respondent.)	

This case is before the Commission on Respondent Victor Frank's appeal of Hearing Officer Linda K. Zucker's March 25, 1983 decision in which she upheld a \$1,000.00 civil penalty against Respondent for field burning violations.

The Commission should uphold and adopt as its own, Hearing Officer Zucker's decision for the reasons that: (1) the decision is supported by the record and is manifestly correct; and (2) Respondent's appeal does not comply with the Commission's rules and raises no material issues.

I. RESPONDENT'S APPEAL SHOULD BE DISMISSED FOR FAILURE TO COMPLY WITH THE COMMISSION'S APPEAL PROCEDURES.

Respondent has brought this appeal before the Commission by filing a document entitled "Respondent's Request for Commission Review and Respondent's Argument" (hereinafter "Respondent's Request"). In that document Respondent outlines some of the findings which were and were not made by Hearing Officer Zucker; makes a very abbreviated argument for "Respondent's view"; questions the authority for a certain rule and notice; and baldly states that "there was no proof at the hearing, or

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1 judicial notice taken of any fact, statute or authority."

2 That is the extent of Respondent's appeal. Respondent has
3 not complied with your rule, OAR 340-11-132(4)(a) which sets forth
4 procedures for appeals of hearing officer's decisions. That rule
5 requires Respondent to:

6 "[F]ile with the Commission and serve upon each other
7 party written exceptions, brief and proof of service.
8 Such exceptions shall specify those findings and con-
9 clusions objected to and reasoning, and shall include
10 proposed alternative findings of fact, conclusions
11 of law, and order with specific references to those
12 portions to the record upon which the party relies.
13 Matters not raised before the Hearing Officer shall
14 not be considered except when necessary to prevent
15 manifest injustice."

16 Your rule is founded in sound appellate procedures. The
17 Hearing Officer's decision comes to you after the Hearing
18 Officer has heard and considered all the evidence and has prepared
19 a written decision. It carries with it a presumption of validity.
20 Therefore, in your rules you require a party who disagrees with
21 that decision to point out specifically what his disagreement is,
22 and why, and his proposed alternative decision. Under the circum-
23 stances it would be unreasonable and an intolerable burden upon
24 you to have to search the entire record every time any person who
25 disagrees with the result cries "error!" It is reasonable to
26 require that person to point out what parts of the decision are
in error and why. Such a narrowing of the issues eliminates
unnecessary review of extraneous material and thereby makes
your review tolerable and efficient.

Respondent's sketchy document can hardly be considered the

1 statement of "written exceptions" and "brief." Clearly
2 Respondent does not take exception with any finding of fact
3 which Hearing Officer Zucker made. Rather, Respondent claims
4 that Hearing Officer Zucker failed to make two findings which
5 Respondent concludes have some bearing on the case. Respondent
6 does not state his "reasoning" as to how those absent findings
7 would be "crucial." Neither does Respondent set forth any
8 proposed alternative findings of fact.

9 Respondent does not specify which, if any, of Hearing
10 Officer Zucker's conclusions of law Respondent objects to or his
11 reasoning as to how any of the conclusions of law are erroneous.
12 Respondent does not set forth any alternative conclusions of law
13 and order which Respondent proposes, as is required by the rule.

14 All Respondent tells us is that his "view," whatever that is,
15 is "logical" and that he thinks it is "unfair" to be penalized
16 for what he did. Respondent does not make any references to any
17 portions of the record which support his case. What we are left
18 with are some unsubstantiated claims that the Hearing Officer made
19 some errors without any cogent argument as to how those errors, if
20 errors they be, affected any of the Respondent's substantial rights.

21 In order to conduct a meaningful review of the hearing and
22 the Hearing Officer's decision in response to Respondent's request,
23 we are forced to dive into the entire record anew without any
24 meaningful guidance from Respondent. Basically, what Respondent
25 is telling us is: "It is unfair to penalize Respondent, but I
26 am not going to tell you why. You will have to search out the

1 reasons in the record for yourself."

2 You do not have to play that game! Your rules require
3 Respondent to do much more than Respondent has done in this case.
4 Respondent's appeal is grossly inadequate and should be dis-
5 missed for failure to comply with the minimum requirements of
6 your rules.

7 II. HEARING OFFICER ZUCKER'S DECISION IS CORRECT AND
8 SHOULD BE UPHeld AND ADOPTED AS YOUR DECISION.

9 Respondent was assessed a \$1,000.00 civil penalty for
10 violation of two rules. Those rules are OAR 340-26-010(4)(a)
11 and OAR 340-26-010(5). OAR 340-26-010(4) provides as follows:

12 "(4) In accordance with ORS 468.450, the
13 Department shall establish a schedule which
14 specifies the extent and type of burning to
15 be allowed each day. During the time of active
16 field burning, the Department shall broadcast
17 this schedule over the Oregon Seed Council radio
18 network operated for this purpose, on an as needed
19 basis, depending on atmospheric and air quality
20 conditions:

21 "(a) Any person open burning or preparing
22 to open burn under these rules shall conduct the
23 burning operation in accordance with the Department's
24 burning schedule.

25 "(b) Any person open burning or preparing to
26 open burn fields under these rules shall monitor
the Department's field burning schedule broadcasts
and shall conduct the burning operations in accord-
ance with the announced schedule."

OAR 340-26-010(5) provides as follows:

"(5) Any person open field burning under
these rules shall actively extinguish all flames
and major smoke sources when prohibition con-
ditions are imposed by the Department."

Briefly, the Hearing Officer found and Respondent does not

1 contest that Respondent's field burning continued for a full
2 hour after the 7:00 p.m. deadline for putting the fire out.
3 Hearing Officer's Findings of Fact, Conclusions of Law and Order,
4 1, 2 (hereinafter "Hearing Officer's Decision"). It is clear
5 that Respondent committed the act intentionally as he knew the
6 deadline but intentionally ignited even more of his field after
7 the deadline had passed. Hearing Officer's Decision 2.
8 Obviously, while he was igniting the field he was not actively
9 extinguishing the fire as required by OAR 340-26-010(5). Hearing
10 Officer's Decision 2. Respondent did not actively extinguish the
11 fire until some time after 7:25 or 7:30 p.m. when the DEQ field
12 inspector arrived. Hearing Officer's Decision 2. Respondent
13 then promptly extinguished the fire by 8:00 p.m. with his fire
14 fighting equipment which he had on hand at the site. Hearing
15 Officer's Decision 3.

16 Respondent claims that Hearing Officer Zucker failed to
17 make two "crucial" findings of fact regarding: (1) the time
18 the fire started, and (2) the time the inspector ordered it
19 extinguished. However, those findings were not necessary. The
20 crucial findings were made. The crucial findings were that
21 Respondent ignited his field after the 7:00 p.m. deadline and
22 did not commence actively extinguishing the fire until sometime
23 after 7:25 p.m. Hearing Officer's Decision 1-3.

24 Although Respondent argued at the hearing that it would have
25 been impossible to actively extinguish the fire, Hearing
26 Officer's Decision 4-6, Respondent has abandoned that argument--

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TELEPHONE 223-5725

1 clearly a wise choice because Respondent did "extinguish the
2 fire with no more than normal difficulty." Hearing Officer's
3 Decision 3.

4 Although Respondent no longer argues that it was impossible,
5 Respondent appears to have attempted to keep remnants of his argu-
6 ment alive by implicitly suggesting that if it were not impossible
7 to extinguish the fire it is at least "as logical" to allow a
8 field burner to continue burning after the deadline (1) because of
9 the dangers to the people who have to extinguish the fire and (2)
10 because additional burning would reduce smoke. In other words,
11 Respondent proposes that the field burner in the field should be
12 able to issue himself a variance to your rules based on the
13 field burner's conception of public policy. The logic escapes me.
14 Respondent proposes to regulate himself. Respondent proposes to
15 return to the field burning anarchy of pre 1969 which fostered
16 much of the legislation which we now have regulating field
17 burning.

18 In Respondent's Request, Respondent asks two questions.
19 Respondent asks first, what authority there is for changing a
20 field burning deadline, citing an unrelated rule. I do not under-
21 stand the purpose of the inquiry. The testimony was that the
22 deadline on that day had been moved back from 5:00 p.m. to 6:00
23 p.m. and then from 6:00 p.m. to 7:00 p.m. Testimony of O'Connell,
24 Tr 106. If the Department had no authority to extend the burn-
25 ing deadline then Respondent would have failed to extinguish his
26 fire for three hours past the deadline rather than one hour!

1 Respondent further asks "where does authority come from
2 for a notice of such facts." What facts Respondent is referring
3 to are not clear. Respondent then refers to a fires out announce-
4 ment. It is not clear what point Respondent is trying to make.
5 The announcement, presumably Department Exhibit No. 6, was
6 admitted without objection from Respondent's counsel. Transcript
7 105. The Hearing Officer did not take any official notice of
8 it. Furthermore, witness Sean O'Connell stated in sworn
9 testimony, without objection, that the final field burning deadline
10 was 7:00 p.m. on the date in question. Transcript 105. Respondent
11 misreads Department's Exhibit No. 6 when he states that field burn-
12 ing was "prohibited 19:15 (7:15 p.m.)." Clearly the information
13 broadcast at "17:45" (5:45 p.m.) was that the "Fires Out Time"
14 was "19:00" (7:00 p.m.). Dept. Ex. no. 6. In any event Respondent
15 was actively burning at 7:25 p.m. Hearing Officers Decision 2.

16 I have probably tried to create more of an argument for
17 Respondent in my above discussion than Respondent intended. How-
18 ever, that is the natural result of trying to respond to a sketchy
19 and clearly inadequate petition for review. I therefore again urge
20 you to dismiss this case for failure to comply with your appeal
21 procedure requirements contained in OAR 340-11-132(4)(a).

22 In dealing with the impossibility issue, which has since dis-
23 appeared, Hearing Officer Zucker fairly summarized the case:

24 "Witnesses agreed that as a general proposition, ex-
25 tinguishing field fires entails a potential for danger.
26 That potential can be reduced by taking field pre-
cautions. Such precautions were reasonably available
to respondent. He did not avail himself of them. In-

1 stead, he ignored the burning cut-off deadline, making
2 no effort whatsoever to extinguish the fire until the
3 arrival of enforcement personnel. Then his crew was
4 able to extinguish the fire without incident. The
5 conclusion is ineluctable that respondent chose to
6 complete his burning not because extinguishment was
7 impossible, but because completion of the burning
8 was his preference." Hearing Officer's Decision 6.

9
10
11 III. CONCLUSION

12 Based on the above arguments, the Commission should either
13
14 (1) dismiss Respondent's appeal for failure to comply with your
15 procedural rules, thereby reinstating the Hearing Officer's
16 decision, or (2) uphold the Hearing Officer's decision and adopt
17 it as your own.

18
19 Respectfully submitted,

20
21
22 

23 ROBERT L. HASKINS
24 Assistant Attorney General
25 Of Attorneys for
26 Department of Environmental Quality

LARIMER (Several words lost) ...We're...forced to introduce that document. I have no objection to it. I've seen it.

SCHURR Well, its been pretty well established since we didn't get a stipulation to it, I don't want to delve into it too far;

HEARINGS OFFICER This one?

LARIMER I have no objection.

SCHURR O.K. Do you have a copy?

LARIMER Yea.

SCHURR O.K.

LARIMER I don't think we need to spend a lot of time on it...I don't have any objections.

SCHURR ... No. ... It's Department's 6.

O'CONNELL Would you like me to answer the question? If you posed a question. I think you did.

SCHURR I asked you what time was ultimately fires out established for August 2nd in the area of Respondent's field.

O'CONNELL 7:00 p.m.

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON
3 DEPARTMENT OF ENVIRONMENTAL QUALITY,)
4 Department,) No. 19-AQ-FB-81-05
5 v.) (Marion County)
6 VICTOR FRANK,) VICTOR FRANK REPLY BRIEF
7 Respondent.)

8 There is an old saying in the law to argue the law if its
9 on your side, the facts if the law is against you, and the Bible
10 if neither the law or facts are on your side. The Attorney
11 General argues the Bible.

12 We will rest our case on the following example of the
13 Attorney General's. The department's Brief at line 20, page
14 5 states:

15 "The crucial findings were that Respondent ignited
16 his field after the 7:00 p.m. deadline..."

17 If that is true, we should lose. But it isn't.

18 The Findings of Fact at line 16, page 2, states:


19 "By 7 p.m. the subject field had not responded."

20 No where is there a finding "that respondent ignited his
21 field after the 7:00 p.m. deadline."

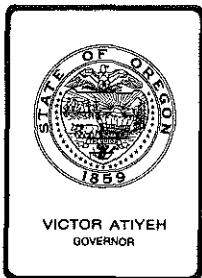
22 The facts can't be changed by the Attorney General's innuendo.

23 Respectfully submitted,

24 LARIMER & McGEHEE

25 By: 
26 Murley M. Larimer, OSB #51062
 Of Attorneys for Respondent

LARIMER & McGEHEE
Attorneys-At-Law
P.O. Box 476
STAYTON, OREGON 97383-0476



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, July 8, 1983, EQC Meeting

RELATIONSHIPS WITH OTHER AGENCIES

Background

At the April 8, 1983, Environmental Quality Commission meeting, the Commission denied a petition for a declaratory ruling filed by the Oregon Environmental Council. The Council was seeking a Commission ruling on the appropriateness of the Department's decision to exercise its permitting discretion in not issuing a water quality permit to oyster farmers in Tillamook Bay when applying a pesticide to eradicate mud and ghost shrimp. In denying the petition, the Commission instructed the staff to return with a detailed staff report which analyzed the Department's permit-type relationships with other state and federal agencies.

The attached tables outline the various activities where permits or approvals are required, and the Department works with other state agencies to ensure their actions, regulations and permits are adequate. The tables are organized by medium: Water Quality, Air Quality, Noise, Solid Waste, and Hazardous Waste. The third column of the table is a critique of the present system.

A report will follow which will characterize our relationships with each of these agencies in greater detail. The subsequent report will detail which relationships are required by Oregon law; where memoranda of agreement exist, the exact arrangement; and what types of more informal practices are adhered to. That report should be before the Commission at its August 19, 1983, meeting.

William H. Young
William H. Young

Attachments

FK1972
JAGillaspie:k
229-6271
June 22, 1983

T A B L E

List of Affected Agencies

01	Aeronautics Division, Department of Transportation
02	Department of Agriculture
03	Department of Commerce
04	Department of Energy -- Energy Facilities Siting Council
05	Department of Fish and Wildlife
06	Department of Forestry
07	Department of Geology & Mineral Industries
08	Health Division
09	Division of State Lands
10	Land Conservation & Development Commission
11	State Marine Board
12	Public Utility Commissioner's Office
13	Department of Transportation
14	Department of Water Resources
15	Executive Department
16	Army Corps of Engineers
17	U. S. Forest Service
18	Bureau of Land Management
19	U. S. Coast Guard
20	Federal Energy Regulatory Commission
21	Worker's Compensation Department, Accident Prevention Division
22	Department of Economic Development
23	State Fire Marshall, Local Fire Districts

Attachment 1

DEQ RELATIONSHIPS WITH OTHER AGENCIES

BY KIND OF ACTIVITY/AFFECTED DEQ DIVISION

W A T E R Q U A L I T Y

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
<u>09 DIVISION OF STATE LANDS (DSL)</u>		
Issue state permit for fill and removal in state waterways	DSL receives applications, routes to agencies for comment; DSL takes agency comments into account when permit is issued.	Procedure is specified by state law and has been in effect for 15 years. The process seems to work well.
	DEQ accepts DSL permit in lieu of issuing state waste discharge permit for the same activity.	
Acts as state clearinghouse for permits issued by U.S. Corps of Engineers and U.S. Coast Guard for construction (pile driving, dredging, fill, material removal) in navigable waters and adjacent wetlands.	Corps receives applications and prepares public notice, including DEQ Notice of Intent to Certify for Water Quality standards compliance.	Requirement of federal law.
	DSL circulates notice to agencies, receives comments, and forwards coordinated state response to Corps.	State/federal agreement on procedure.
	DEQ prepares certification of compliance with water quality standards for dredging, fill and removal and forwards with comments to DSL for transmittal to Corps.	Certification required by Sect. 401 of the Federal Clean Water Act. Submittal by state agency to DSL for forwarding to Corps is standard procedure.
Issue leases for use of state owned submerged and submersible lands.	DSL screens applications and refers those where the proposed activity may impact water quality to DEQ for comment.	Informal interagency procedure.

WATER QUALITY
(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
<u>06 STATE FORESTRY DEPARTMENT (DOF)</u>		
Regulation of activities and practices on state and private forest lands.	DOF adopts rules governing forest practices. The rules must assure that EQC water quality standards are met.	Required by state law. Intent is that DOF be the single state agency regulating activities on forest lands.
	DEQ advises and comments on DOF rules during adoption process.	Informal, per DOF invitation.
	DEQ reviews and approves overall program and designates DOF as the official management agency.	Pursuant to Federal Clean Water Act, and Memorandum of Agreement between DEQ and DOF.
	DEQ participates with other agencies in annual review of Forest Practices Act program.	Required by state law.
	DEQ assists DOF to evaluate program, and resolve conflicts.	Informal, at DOF request.
	DEQ can enforce if DOF actions are inadequate.	
<u>02 STATE DEPARTMENT OF AGRICULTURE (DOA)</u>		
Licenses pesticide applicators. Operates State Pesticide Clearing House.	Registers pesticides and herbicides for use in Oregon, based on EPA registering and labeling.	
	Trains and licenses applicators for restricted products.	

WATER QUALITY
(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
Plans for and seeks to implement soil and water conservation practices on private agricultural lands.	<p>Issues notice of proposed pesticide applications by public agencies.</p> <p>DEQ reviews and comments on notices and recommends restrictions, and monitoring as appropriate. Cleanup of equipment by applicators and spills are the main problem related to pesticide application. The Department reviews plans and issues permits for applicator cleanup and disposal facilities.</p> <p>DOA Soil and Water Conservation Division works with local districts to develop conservation plans with voluntary cooperation of landowners.</p> <p>DOA, with assistance from local districts, the Federal Soil Conservation Service, the OSU Extension Service, and the Agricultural Stabilization and Conservation Service develops and adopts agricultural best management practices.</p> <p>DEQ approves adopted Best Management Practices, designates DOA as the management agency pursuant to the Federal Clean Water Act. DEQ recertifies designation and Best Management Practices on an annual basis.</p>	<p>Chemicals are all approved for use by EPA. Application in compliance with the label is presumed to be environmentally acceptable.</p> <p>DEQ reviews and comments on notices and recommends restrictions, and monitoring as appropriate.</p> <p>Pursuant to state statute.</p> <p>Memorandum of Agreement between DEQ and DOA.</p> <p>Memorandum of Agreement between DEQ and DOA.</p>

WATER QUALITY
(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
	DOA submits annual evaluation report to DEQ. DEQ informally reviews progress in implementing BMP's.	Memorandum of Agreement between DEQ and DOA.
	If voluntary implementation of BMP's does not resolve water quality problems, DEQ initiates enforcement action.	DOA has very limited enforcement authority. Their efforts are aimed at education and voluntary compliance.
<u>14 WATER RESOURCES DEPARTMENT (WRD)</u>		
Sets state water use policy, prepares basin water plans, issues water rights.	WRD determines beneficial uses that water will serve in each basin; DEQ sets water quality standards to meet requirements of designated uses.	Statutory authority.
	WRD assesses natural water supplies, current water demands, future water supply needs; develops and implements Basin Water Resources Management Plans. DEQ provides water quality data for water resource planning and management programs.	"Pollution abatement" is a designated water use.
	WRD assesses need, location, function of water resource development projects. DEQ provides water quality assessment for projects. DEQ must certify water quality standards compliance for projects under federal funding.	Informal, through interagency coordination/cooperation.

WATER QUALITY

(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
	WRD and DEQ attempt to maintain coordinated balance between quality and quantity of water resources.	Informal, through interagency cooperation. Needs stronger coordination and implementation.
Issue well drilling permits and "rights" to appropriate groundwater.	Statute gives DEQ and WRD groundwater quality protection authority. Duplication is minimal, however, because WRD approaches issue by regulating well construction and withdrawal rates whereas DEQ regulates waste disposal.	Informal, through interagency coordination/cooperation.
Authorizes reinjection of hot water (less than 250° F) used heating and other geothermal activities.	Rather than issuing a disposal permit for reinjection of this hot water, the Department relies upon WRD to assess its impact on ground water and authorize the reinjection if it goes to the same aquifer or one of equivalent quality.	Informal agreement. Should be formulated in Memorandum of Agreement.
Administers Water Development Loan Fund.	WRD circulates notices of all Water Development Loan applications.	
Administers Water Rights Program.	WRD circulates notices of all water rights applications and related actions.	
Responsible for permitting ground water recharge operations.	The Department will review any ground water recharge proposals but does not plan to get into a duplicate permitting process. This activity is a very infrequent occurrence.	Informal at the present time. Should be formalized in Memorandum of Agreement.

WATER QUALITY

(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
Reviews plans for dams and impoundments over a certain minimum size.	When sewage treatment facility has an impoundment requiring WRD approval the Department does not duplicate the review but would review plans only as to size and maintainability.	Informal, through interagency cooperation. WRD has statutory responsibility for dam safety.
<u>05 FISH & WILDLIFE DEPARTMENT (ODFW)</u>		
Statutory authority for the state's fish and wildlife management programs.	The highest water quality standards set by DEQ are for fish propagation and maintenance. ODFW provides data to justify needs.	Per DEQ statutes.
	ODFW provides fishery information for inclusion in DEQ Water Quality Basin Management Plans.	Informal interagency coordination and cooperation programs.
	ODFW controls fish hatchery wastes consistent with DEQ permits.	Formal plan review and general permit process.
	DEQ and ODFW coordinate and cooperate on utilization of fish processing wastes for fishery enhancement.	Informal.
Fish & Wildlife Commission issues permits for use of chemicals in water which are intended to impact aquatic life.	DEQ accepts F&W permit in lieu of a DEQ WPCF permit.	Informal.

WATER QUALITY
(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
	ODFW regulates commercial and non-commercial shellfish harvest. DEQ monitors and regulates special water quality requirements in shellfish growing areas.	Per state and federal laws.
	DEQ and ODFW coordinate closely with WRD on matters of minimum flow and water quality relationships for fish.	Informal.
	DEQ reviews ODFW use of chemicals for "trash fish" eradication programs.	DEQ reviews proposals and provides input prior to permit issuance.
	ODFW issues permits for certain in-water uses of chemical compounds. DEQ observes such uses periodically for effectiveness and related water quality impacts.	DEQ provides input prior to permit issuance.
<u>07 DEPARTMENT OF GEOLOGY & MINERAL INDUSTRIES (DOGAMI)</u>		
Issues permits for deep well drilling for geothermal energy, oil and gas.	DOGAMI provides copies of proposed permits to DEQ for comment. DOGAMI incorporates DEQ proposed conditions in permits.	DOGAMI permits required by state law. DOGAMI has accepted DEQ comments.
	DEQ accepts DOGAMI permit in lieu of DEQ waste discharge permit for same activities.	Pursuant to Letter of Understanding. This process has worked quite well.

WATER QUALITY
(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
Issues surface mining permits and approves land reclamation plans.	DEQ accepts DOGAMI review of plans for drilling mud disposal facilities at the drilling site to minimize multiple agency involvement. DEQ reviews and approves plans for disposal of mud off the drilling site. DOGAMI forwards site evaluation reports to DEQ regional offices for comment. DOGAMI incorporates DEQ concerns in permits.	Pursuant to Letter of Understanding. There have been some problems in the early stages but these are being resolved by better review criteria. DOGAMI informs the driller of the necessity to get DEQ approval for off-site disposal. Per State Mined Lands Reclamation Act. Program has worked well. Joint inspections by DEQ and DOGAMI are scheduled where activities may impact water quality. If activity includes a continuing discharge of water, DEQ issues a waste discharge permit.
Cooperate with DEQ in regulation of underground injection of waste.	DEQ is pursuing delegation of federal underground injection control program. Activities relating to geothermal, oil and gas exploration and development will require DOGAMI cooperation. DEQ would prefer to have DOGAMI issue permits for underground injection activities related to oil and gas recovery.	Memorandum of Agreement is being developed between DEQ and DOGAMI.

WATER QUALITY
(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
<u>03 DEPARTMENT OF COMMERCE (DOC)</u>		
DOC or agent issues Plumbing Inspection Permits for "building sewers" (5 ft. outside foundation to sewage disposal system).	Sewage Disposal Service (Installers) licensed by DEQ may install building sewers but must obtain plumbing inspection permit from DOC.	Statutes presently require this dual jurisdiction.
Builders must post bond and register with Builder's Board.	If builder also installs subsurface sewage systems he must post an additional bond and be licensed by DEQ.	1983 Legislature is considering amendments to eliminate this duplication.
DOC licenses mobile home parks and other tourist related facilities.	Present DEQ rules recognize past DOC licensed inspection programs and seeks to eliminate duplication by relying on them.	DOC has recently terminated many routine inspection programs - necessitating DEQ reevaluation of programs.
Administers Subdivision Control Law.	Proposed subdivisions must disclose status of approval of sewage disposal. DEQ or its agents issue sewage disposal evaluation report to developer.	Program well established and appears to be functioning OK.
<u>22 DEPARTMENT OF ECONOMIC DEVELOPMENT (DED)</u>		
Promote, maintain, improve, and diversify the economic base of the state.	DED attracts new businesses to the state. DEQ provides environmental guidelines and other information to assist the businesses.	Informal.

WATER QUALITY
(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
	DED has a very active Ports Division that assists local ports in both maintenance programs and attracting new businesses.	Informal.
	DEQ provides assistance on waterway dredging management and background information for assisting new industry.	
	DED maintains a "one-stop" permit information center for business ventures. DEQ provides assistance and information to expedite the DEQ permitting process.	Informal.
<u>01</u> DEPARTMENT OF TRANSPORTATION (ODOT) AERONAUTICS DIVISION	ODOT oversees updating and maintenance of airports. DEQ provides necessary water quality certifications that must accompany applications for federal funding.	Clean Water Act.
<u>13</u> HIGHWAY DIVISION	All highway construction and/or maintenance activities that have real or significant potential for adverse impact on water quality are sent to DEQ for evaluation and sometimes certification.	Both informal and per Clean Water Act if projects use federal funds.

W A T E R Q U A L I T Y
(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
<u>13</u> <u>PARKS DIVISION</u>	DEQ provides water quality data for management of water related recreational areas and scenic waterways.	Informal.
	DOT and Parks Division must have DEQ permits for certain sewage disposal facilities. DEQ provides technical assistance and guidance.	Per Water Pollution Regulations.
<u>08</u> <u>HEALTH DIVISION</u>	DRINKING WATER SECTION, Health Division, regulates community and non-community water supply systems.	State law. DEQ standards assure treatable raw water supply.
	Health Division determines potability of raw water supply, reviews construction plans, evaluates treated water quality and reviews operation and maintenance programs.	
	DEQ reviews plans and writes permits for the discharge of waste water treatment and disposal facilities at the plant site.	State law.
	Health Division and DEQ share laboratory services. DEQ provides pertinent water quality information on surface streams that feed into water supply systems. Health Division provides bacteriological analysis for DEQ.	Interagency agreement.

WATER QUALITY
(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
RADIATION CONTROL SECTION, Health Division	Where radioisotopes are pollutants in a wastewater discharge and they are licensable quantities according to Health Division rules, DEQ does not set a discharge limit in waste discharge permits, but relies on the Health Division license to control these discharges.	Informal.
<u>15 INTERGOVERNMENTAL RELATIONS DIVISION (IRD)</u> <u>EXECUTIVE DEPARTMENT</u>		
Manages "small cities" Community Development Block Grant Program.	IRD establishes rating criteria, solicits proposals, ranks proposals for funding, awards grants, and provides grant management and oversight. DEQ reviews all sewerage related proposals to verify need, evaluate technical adequacy, and assure compatibility with DEQ plans.	Pursuant to federal law, U. S. Department of Housing and Urban Development has delegated program to IRD.
Acts as state clearing house for projects with federal funds attached (A-95 process).	IRD issues notices on any proposed project which uses federal funds, and requests comments. DEQ provides comments on environmental aspect of project.	Pursuant to federal law. Informal

WATER QUALITY
(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
<u>04 DEPARTMENT OF ENERGY</u>		
Issues site certificates for energy facilities over a minimum size including hydro and thermal.	ODOE has primary jurisdiction over energy associated facilities over a certain minimum size. ODOE carries out an intensive evaluation of proposed facility before issuing a site certificate, including site evaluation and assessment of environmental impacts.	State law.
	DEQ coordinates with ODOE on site evaluations and issues NPDES permits, if needed.	Memorandum of Agreement. See also section on Federal Energy Regulatory Commission (FERC).
<u>11 STATE MARINE BOARD</u>		
Controls vessel wastes through the installation of on-board marine sanitation devices and/or holding tanks, use of holding tank dumping and pump out facilities, and prohibition waste discharges.	Marine Board implements federal program for control of vessel wastes, reviews and approves new pump out facilities, and prohibits the use of motorized boats on certain inland waters.	Pursuant to Federal Clean Water Act.
	DEQ reviews overall program and reviews proposed pump out facilities in new marine developments.	Informal.
	Marine Board provides grants to construct dumping and pump out stations.	Fee supported state program.

WATER QUALITY
(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
<u>16 U.S. ARMY CORPS OF ENGINEERS (COE)</u>		
Issues permits for actions in and adjacent to navigable waterways pursuant to Section 404 of the Clean Water Act and the 1899 Rivers and Harbors Act.	DEQ receives applications via DSL for review and comment and issuance of standards compliance certification pursuant to Section 401 of the Clean Water Act. DSL forwards comments to COE for all agencies. DEQ relies on COE permits in lieu of duplicative DEQ permits	See comments under Division of State Lands. Applications come from 4 different COE districts, total 300-400 per year. DEQ coordinates extensively with other state and federal agencies on project evaluations.
<u>19 U. S. COAST GUARD (USCG)</u>		
Issues permits related to bridge construction in navigable waters.	USCG notifies DSL of applications and issues public notice of DEQ intent to issue 401 certification pursuant to the Clean Water Act. DEQ relies on USCG permits in lieu of duplicative DEQ permits.	Applications total 10-12 year. DSL acts as clearing house for state agency responses.
Responds to oil spills in navigable waters.	USCG receives spill reports, supervises cleanup, assesses penalties pursuant to federal law.	Activities are coordinated with DEQ. DEQ may take independent action, but relies on USCG.
<u>20 FEDERAL ENERGY REGULATORY COMMISSION</u>		
Issues licenses for energy facilities including hydro and thermal.	FERC issues public notice of applications. DEQ issues notice of intent to issue 401 Certification	Numerous applications received in last 2 years.

WATER QUALITY
(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
	or must waive the certification requirement.	Few result in actual facility construction.
	DEQ relies on FERC licenses in lieu of duplicative DEQ permits.	DEQ informally coordinates with ODFW, WRD, DOE on project
<u>17 U. S. FOREST SERVICE (USFS)</u>		
Regulate activities and practices on national forest lands and range lands under their jurisdiction.	USFS incorporates practices equivalent to State Forest Practices Act rules in its management plans and timber contracts. USFS coordinates with State Department of Forestry.	Pursuant to Federal Clean Water Act.
	USFS implements DEQ approved rangeland Best Management Practices.	Memorandum of Agreement between DEQ and USFS.
	DEQ reviews and accepts USFS program as part of the Statewide Water Quality Management Plan, and has certified approval to EPA pursuant to the Clean Water Act. DEQ carries out annual recertifications.	USFS submits annual evaluation report to DEQ. Joint reviews in the field are conducted periodically.
Requires approved plan of operation for surface mining operations on national forest lands.	USFS works with DEQ staff to address DEQ concerns in the plans.	Process seems to work well.

W A T E R Q U A L I T Y
(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
18 <u>BUREAU OF LAND MANAGEMENT</u> (BLM)		
Regulates activities and management practices on forest lands and range lands under their jurisdiction.	BLM incorporates best management practices equivalent to state forest practices act rules in their management plans and timber contracts. BLM coordinates with the State Department of Forestry.	Pursuant to Federal Clean Water Act.
	BLM implements DEQ approved rangeland Best Management Practices.	Memorandum of Agreement between DEQ and BLM.
	DEQ reviews and accepts USFS program as part of the Statewide Water Quality Management Plan, and has certified approval to EPA pursuant to the Clean Water Act. DEQ carries out annual recertifications.	BLM submits annual evaluation report to DEQ. Joint field reviews are periodically conducted.

A I R Q U A L I T Y

<u>AGENCY/ACTIVITY</u>	<u>PROCEDURE</u>	<u>EVALUATION/COMMENTS</u>
<p><u>04 OREGON DEPARTMENT OF ENERGY and ENERGY FACILITIES SITING COUNCIL</u></p> <p>New energy facilities: (Coal-fired plant or co-generation facility)</p>	<p>DEQ develops air quality related standards which are incorporated into site certificate.</p>	<p>Memorandum of Understanding; generally works well. Problems have developed when it was necessary to alter air permit conditions and the entire site certificate had to be reopened.</p>
<p><u>08 OREGON HEALTH DIVISION RADIATION CONTROL</u></p>	<p>Airborne emissions. DEQ is delegated hazardous air emissions program under NESHAP program and EPA is presently considering adding radionuclides to NESHAP listing.</p>	<p>Still speculative.</p>
<p><u>17 FEDERAL LAND MANAGERS INCLUDING: BUREAU OF LAND MANAGEMENT, U.S. FOREST SERVICE, and NATIONAL PARK SERVICE.</u></p> <p>Prevention of Significant Deterioration permit when new major source impacts class I wilderness areas or national parks.</p>	<p>DEQ contacts appropriate land manager for review of draft PSD</p>	<p>Never been tried.</p>

A I R Q U A L I T Y

(Cont.)

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
<u>23</u> <u>STATE FIRE MARSHALL and LOCAL FIRE DISTRICTS</u>		
Field burning	Growers register through local fire districts. Quotas released through fire district via radio.	System has been improved over the years, and is working well.
Backyard Burning	DEQ decision burn/no burn released to districts via fire marshal teletype.	Confusion occurs when districts do not allow burning for safety reasons.
<u>21</u> <u>WORKERS' COMPENSATION DEPARTMENT</u>		
Regulation of asbestos exposure.	Cooperative relationship where information is shared, and each agency's enforcement structure is used as necessary. Workers' Comp. can shut down activity, DEQ can levy civil penalties.	Recent coordination efforts should improve program.

A I R Q U A L I T Y

NOISE PROGRAM

<u>AGENCY/ACTIVITY</u>	<u>PROCEDURE</u>	<u>EVALUATION/COMMENTS</u>
<u>11 STATE MARINE BOARD</u>		
Motorboat racing	DEQ reviews permit applications and suggests modifications as necessary to meet noise rules.	Works well.
<u>01 OREGON DEPARTMENT OF TRANSPORTATION AERONAUTICS DIVISION</u>		
New Airports	DEQ permit must be issued first.	Works well.
<u>04 OREGON DEPARTMENT OF ENERGY and ENERGY FACILITIES SITING COUNCIL</u>		
Energy Facility	DEQ would suggest Noise conditions for inclusion in the site certificate.	Memorandum of Understanding; working well.

S O L I D W A S T E D I V I S I O N

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
<u>14 WATER RESOURCES</u>		
Siting new landfills	Water Resources acts in a consultant role in all matters relating to hydrogeology. Examples are placement of monitoring wells and general assessment of disposal sites. Consultation is in lieu of DEQ having staff capability in hydrogeology.	Works well.
<u>16 U.S. CORPS OF ENGINEERS</u> <u>09 DIVISION OF STATE LANDS</u>		
Fill permits.	Work with both agencies on requests to fill in wetlands where solid waste permit is involved. Prime example is St. Johns Landfill (City of Portland).	Corps 404 fill permit is extremely difficult to obtain for solid waste disposal.
<u>07 DEPARTMENT OF GEOLOGY</u> <u>AND MINERAL INDUSTRY</u>		
Mined Land Reclamation Act	Coordination is required when applicants for mining indicate reclamation will be accomplished by converting the pit to a solid waste disposal site.	Normal procedure is contact prior to land use hearings at the local level by DOGAMI.
<u>04 ENERGY FACILITIES SITING COUNCIL</u>		
Power plant siting.	Division comments on applicants' proposal for disposal of ash from coal-fired facilities.	Has worked well.

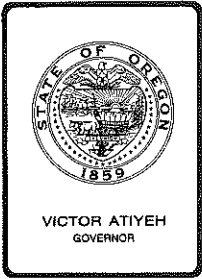
SOLID WASTE DIVISION

HAZARDOUS WASTE SECTION

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
<u>12 PUBLIC UTILITY COMMISSIONER'S OFFICE</u>		
Regulation of hazardous waste transportation	PUC has exclusive jurisdiction over most transportation-related activities. DEQ would regulate air and water transportation.	Memorandum of Understanding; works well.
<u>21 WORKERS' COMPENSATION DIVISION</u>		
Workers' safety from hazardous materials	Both the Accident Prevention Division and DEQ routinely conduct compliance inspections of regulated business. Violation information is often shared.	Cooperation makes system work well.

G E N E R A L

AGENCY/ACTIVITY	PROCEDURE	EVALUATION/COMMENTS
<p>10 <u>OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT (DLCD), and LAND CONSERVATION AND DEVELOPMENT COMMISSION (LCDC)</u></p>	<p>DLCD reviews comprehensive land use plans for compliance with statewide land use planning goals and accepts agency comments which are considered in preparing Director's reports on Acknowledgement recommendations. LCDC makes decisions on acknowledgement on compliance with goals. Goals require compliance with state air quality, water quality and solid waste standards.</p>	<p>Required by state law. Process works well.</p>



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, July 8, 1983, EQC Meeting

Status Report: Request For An Additional Extension of Variance From OAR 340-25-315(1)(b). Dryer Emission Limits, by Mt. Mazama Plywood Company. Supplementary Report to the April 8, 1983 EQC Meeting.

Background and Problem Statement

Mt. Mazama Plywood Company has been under variance from veneer dryer emission limit rule OAR 340-25-315(1)(b) since March 21, 1980. Since the initial variance in 1980, the Environmental Quality Commission has granted three additional variances -- on July 17, 1981, April 16, 1982, and April 8, 1983. Each of these variances included interim schedule dates for submitting compliance plans, purchasing control equipment, beginning and completing construction, and demonstration of compliance with the rule.

In each instance, the company has failed to meet the conditions of the variances, pleading economic hardships and inability to raise the funds to install the necessary control equipment.

Mt. Mazama Plywood Company is a subsidiary of Mt. Mazama Timber Products, Inc., a consolidated corporation made up of both wood product and non-wood product businesses. A previous review of financial statements submitted to the Department by Mt. Mazama revealed that the plywood company realized a profit of \$380,047 during the first seven months of the 1983 tax year; however, the financial condition of the consolidated corporation is such that borrowing funds to install emission control is apparently not possible. In fact, it has been brought to the Department's attention that Mt. Mazama Timber Products, Inc., voluntarily filed Chapter 11 reorganizational bankruptcy proceedings in May, 1983.

Director Bill Young; Air Quality Administrator E.J. Weathersbee; and Southwest Regional Manager Gary Grimes, met in Sutherlin on June 1, 1983, with Mt. Mazama Plywood Company Manager, Jim Kline, and Gerald Solomon, representing Mt. Mazama Timber Products, Inc. The Department's purpose in

arranging for the meeting was to ascertain the extent of Chapter 11 proceedings and the impact that would have upon Mt. Mazama Plywood Company's ability to meet the following compliance schedule as adopted by the Environmental Quality Commission at its April 8, 1983 meeting:

1. By July 1, 1983, issue purchase orders for all major emission control equipment components.
2. By December 1, 1983, begin construction and/or installation of the emission control equipment.
3. By May 1, 1984, complete installation of emission control equipment and demonstrate compliance with both mass emission and visible standard.

The fact that Mt. Mazama Plywood Company was not included in the Chapter 11 proceedings was discussed in general as it related to the continued operation of the company and its ability to generate and keep revenue to apply towards the eventual purchase of control equipment for the veneer dryers.

It was agreed that Mt. Mazama Plywood Company would have their attorney write the Department a letter discussing the Chapter 11 reorganization bankruptcy proceedings that concern capital expenditures for veneer dryer control equipment. A letter from John L. Svoboda, Attorney at Law, was received June 20, 1983; Attachment 1.

In essence, the letter asks for an extended variance period. The company requests that the date for issuing purchase orders be set back from July 1, 1983, to February of 1984 and that demonstrated compliance be delayed from May 1, 1984, to February of 1985. No information was included in Mr. Svoboda's letter concerning: 1) The legal separability of cash flow between Mazama Timber Co., Inc., and Mazama Plywood Company; 2) The date by which Chapter 11 reorganization is deemed successful or unsuccessful; 3) The ability of Mazama Plywood Company to build cash reserves (assuming profitability) and set them aside for purposes of procuring emission control equipment.

Alternatives and Evaluation

The EQC received a detailed overview of the variance history concerning Mt. Mazama Plywood Company prior to the April 8, 1983, meeting. Mt. Mazama Plywood Company has submitted detailed control strategy plans and has indicated it will not be in an economic position to issue purchase orders for construction by July 1, 1983 as outlined in the EQC granted variance of April 8, 1983.

Mt. Mazama Plywood Company is a subsidiary of Mt. Mazama Timber Products, Inc. The financial picture of the consolidated corporation is bleak. Mt. Mazama Timber Products, Inc., filed voluntary Chapter 11 reorganization bankruptcy proceedings in May of 1983, excluding the assets of Mt. Mazama Plywood Company.

The cash flow situation of Mt. Mazama Plywood Company is such that "money does not exist to purchase equipment", as expressed by Manager, Jim Kline. Mazama's attorney, John L. Svoboda, says regarding the two companies, "The two are financially interlocked and although when isolated clinically, may appear to have different financial positions, because of the debt structuring involved, it is as a practical matter impossible to separate the two."

Methods of reducing emissions from the Mt. Mazama Plywood Company dryers through process or production have been previously considered. These are not felt to be worthy alternatives due to the age of the mill and its equipment, the type of "random" veneers it processes, and existing boiler or heat supplying limitations.

Three variance alternatives are identified:

1. Grant a variance with increments of progress and a final compliance date of February 1985, as requested by the company. The company has no assurances that this is a realistic date.
2. Implement the schedule of Alternative 1 above and require the company to initiate process operation controls to reduce visible emissions to compliance with the rule until final controls are operational. The Department feels that this alternative is impractical and would further restrict profits and the eventual ability to purchase control equipment.
3. Grant an operating variance through November 20, 1983 for issuance of purchase orders to buy control equipment and affirm the remainder of the existing compliance schedule. It is the Department's understanding that, within a 120-day period following the filing of Chapter 11 proceedings, Mt. Mazama Timber Company, Inc., will know of its relative success or failure in this venture and Mt. Mazama Plywood Company will also be more aware of its economic stature. This 120-day time period should come due in September of 1983, providing time for the company to report back to the EQC at its November 18, 1983 meeting. At that time, the Commission could make any further schedule changes deemed appropriate in light of the Reorganization Plan.

Summation

1. Mt. Mazama Plywood Company has requested an extended variance to the compliance schedule to bring three veneer dryers into compliance with state air emissions standards.
2. The company has been under a succession of variances and extension from compliance with the emission standards.
3. The company is now subject to an interim variance which was granted on April 8, 1983 to allow for the issuance of purchase orders.

4. The Department has learned that Mt. Mazama Timber Products, Inc., the owner of Mt. Mazama Plywood Company, voluntarily filed Chapter 11 reorganization bankruptcy proceedings in May of 1983.
5. Mt. Mazama Plywood Company was excluded in the Chapter 11 filing but the company asserts as a practical matter that the financial positions cannot be separated.
6. The financial success or failure of Mt. Mazama Timber Company, Inc., should be more defined following the 120-day reorganization period along with that of Mt. Mazama Plywood Company.
7. It is believed that the imposition of mitigating variance conditions, such as limiting temperatures or production or restricting drying to only low-emission species such as white fir, will greatly complicate the company's ability to resolve the problem.
8. The Commission is authorized by ORS 468.345 to grant variances from Department rules if it finds that strict compliance would result in substantial curtailment or closing down of a business, plant, or operation.
9. The Commission should find that strict compliance would result in substantial curtailment or closing down of the Mt. Mazama Plywood plant at Sutherlin.

Director's Recommendation

Based on the Summation, it is recommended that the Commission grant an extension to the variance with final compliance and incremental progress steps for Mt. Mazama Plywood Company as follows:

1. By November 20, 1983, issue purchase orders for all major emission control equipment components.
2. By December 1, 1983, begin construction and/or installation of the emission control equipment.
3. By May 1, 1984, complete installation of emission control equipment and demonstrate compliance with both mass emission and visible standards.

Further, that Mt. Mazama Plywood Company continue to supply the Department with monthly financial data. In addition, the Department is to be informed by October 1, 1983, of the company's position relative to the outcome of Mt. Mazama Timber Products, Inc., Chapter 11 reorganization bankruptcy proceedings and the forecast of economic impacts upon continued operation.



William H. Young

Attachments: 1. Letter from John L. Svoboda, Attorney at Law, dated June 15, 1983

Gary Grimes:a
776-6010
June 22, 1983
AA3471

JOHN L. SVOBODA
ATTORNEY AT LAW
644 NORTH A STREET
SPRINGFIELD, OREGON 97477
(503) 747-3354

*Young
Weathersbee
Bolton
Grimes
Gillaspie*

June 15, 1983

James Peterson
ENVIRONMENTAL QUALITY COMMISSION
P.O. Box 1760
Portland OR 97207

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED

JUN 20 1983

RE: EQC VARIANCE/MT. MAZAMA PLYWOOD
Your No. 10-0022

OFFICE OF THE DIRECTOR

Dear Mr. Peterson:

This letter should first of all be considered as a request on behalf of Mt. Mazama Plywood for an extension of the variance previously granted and memorialized in your letter to Jim Kline dated December 7, 1982. This request is being made pursuant to ORS 468.345 requesting a variance from air contamination rules and standards and OAR 340-25-315(1)(b) veneer dryer emission limits.

FACTUAL BACKGROUND

Although I am sure you are familiar with the factual background in this matter I will very briefly summarize it for you. As you know, the plywood market, which is the product that Mt. Mazama Plywood deals in, has been severely depressed for a number of years. Mt. Mazama is a wholly owned subsidiary of Mazama Timber Products, Inc. Mazama Timber Products, Inc. has within the last 45 days filed an voluntary Chapter 11 bankruptcy proceeding asking for Court assistance in its debts. You have been provided over the years with the financial information of Mazama and Mt. Mazama with a consolidated financial statement. The two are financially interlocked and although when isolated clinically may appear to have different financial positions because of the debt structuring involved it is as a practical matter impossible to separate the two.

Mt. Mazama has made a good faith effort at all times to comply with and work with DEQ rules and regulations. In fact, in the past to move towards compliance Mt. Mazama put in new boilers and has added since then additional dust collection equipment. Mt. Mazama has also made extensive work in trying to eliminate fugitive emissions expending over \$42,000 in materials alone and over \$34,000 in labor.

The major problem at this time, of course, continues to be that from the direct fire unit. Only recently has Coe Manufacturing successfully completed and put into operation a unit that appears to be working under such circumstances in the Sweet Home plant.

James Peterson
ENVIRONMENTAL QUALITY COMMISSION
June 15, 1983
PAGE - 2

Mt. Mazama has, in dealing with the DEQ, been straight forward and totally cooperative in its efforts. Mt. Mazama intends to continue in that vein and it is on that basis that this current request for variance is made.

As has already been demonstrated, any particulate emission which exceeds current standards flowing out of the Mt. Mazama plant at Sutherlin, Oregon, presents no hazard to the air shed in, at and around the community in which the plant exists.

Likewise, the community of Sutherlin, Oregon, is dependent directly and indirectly almost totally upon Mt. Mazama Plywood Company for its economic survival. Mt. Mazama is the single largest employer in that community. A shut down of Mt. Mazama Plywood would insure economic destruction of Sutherlin, Oregon.

We recognize that there is a complaint by one plant in Lane County declaring inequity in the granting of Mt. Mazama's variance request. In that regard three points should be made. First it is not the legislative charge of the Department of Environmental Quality to become the economic watchdog or stopgap for any one operation. It is the duty and responsibility of the Department to protect the health and welfare of the community in general. It is for that reason that the legislature has seen fit to grant discretion to the Department in the variances. In this particular case any emissions in excess of current standards are not, in fact, in any way endangering the health and welfare of the community or surrounding populace. I in fact understand that there is now even some question as to whether there actually exists any detriment to "blue haze." The long and the short of that matter is that the best interest of the health and welfare of the community is going to best be served by allowing Mt. Mazama continued operation. The suggestion that Mt. Mazama has gained a superior economic position by not having to make the capital outlays necessary to install this quite expensive equipment is misplaced. In that regard, one of the problems Mt. Mazama has had is caused by the age of its equipment. As you are aware, the equipment in Mt. Mazama is several years old and certainly not state of the art by any means. Cost of production, therefore, utilizing that equipment, exceeds that which is otherwise available for some of the newer plants. Additionally, because Mt. Mazama is located in a small community it is required to pay a higher hourly rate for its personnel with that rate being dictated solely by a supply and demand of the labor force. On the other hand, those plants located in and about the Eugene and Springfield area have enjoyed a situation whereby their labor can be obtained at a lower rate based on the over abundance of employable personnel, thus making it an employer's market.

James Peterson
ENVIRONMENTAL QUALITY COMMISSION
June 15, 1983
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SUMMARY OF REQUEST FOR VARIANCE

(1) Mt. Mazama Plywood's continued operation presents no immediate or long term threat to the health and welfare of the community or the air shed.

(2) The shut down of Mt. Mazama Plywood would cause economic ruin to the town and surrounding populace of Sutherlin, Oregon.

(3) Mt. Mazama Plywood is not in a position of economic superiority over other producers of this product in and about the state of Oregon.

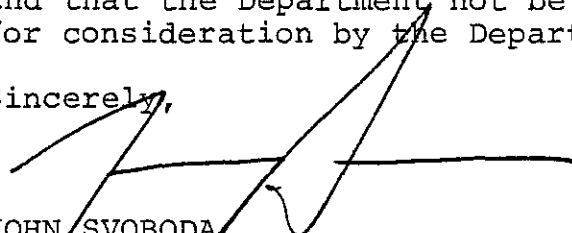
(4) Mt. Mazama Plywood has in the past been straight forward and worked to the best of its ability with the Department of Environmental Quality to up-date or modify its plant within its economic abilities. Until just recently there did not exist a cost effective piece of equipment to handle emissions from the direct fire dryer although we acknowledge that one now appears to be in and operating and certified at the Sweet Home plant.

CONCLUSION

Mt. Mazama Plywood, therefore, asks that any requirement that purchase orders be issued for equipment necessary to alleviate the emission problems on the direct fired dryer be extended by variance until no sooner than February of 1984 with the requirement that construction begin on the veneer dryer control equipment no sooner than August of 1984 and that equipment installation be completed and demonstrated compliance extended until no sooner than February of 1985.

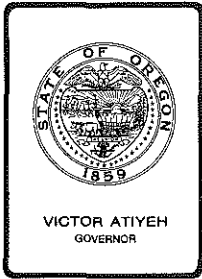
Mt. Mazama Plywood joins with Senator William Frye in urging that the commission review this matter keeping in mind the impact upon the community, the past efforts of Mt. Mazama Plywood for compliance and their straight forwardness in dealing with the Department as well as the actual and existing economic conditions and that the Department not be influenced by issues not relevant for consideration by the Department.

Sincerely,


JOHN SVOBODA

JS:dls

cc: Jim Kline
Mt. Mazama Plywood



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, July 8, 1983, EQC Meeting

Proposed Establishment of Woodstove Advisory Committee

Background

The woodstove certification bill (HB 2235) has passed the Oregon Senate (6/17/83) and House (6/21/83) and should be signed into law by the Governor shortly. This bill requires the EQC to establish emission standards for new woodstoves and criteria for testing for compliance by July 1, 1984. After July 1, 1986 new stoves are prohibited from sale in the State unless they have been certified by DEQ as meeting the applicable emissions standard. Voluntary labeling of emissions and efficiency performance will be allowed between July 1, 1984 and July 1, 1986. The bill gives the EQC authority to establish an advisory committee to aid the Commission in the adoption of emission performance standards and testing criteria. The advisory committee must include but not be limited to representatives from Oregon woodstove manufacturers.

Problem Statement

HB 2235 allows approximately one year for the development and adoption of woodstove emission standard and testing criteria rules. The process of developing and adopting appropriate woodstove rules is likely to be a time-consuming process considering:

- The formal rulemaking process with public notice and hearing requirements takes a minimum of about 4 months.
- The six-week EQC meeting schedule places certain time constraints on the rule development process.
- Considerable time will be needed to collect, disseminate and discuss pertinent technical information with the Woodstove Advisory Committee and other interested parties.

- Interest and involvement in the subject is likely going to be great due to the importance and impact of the rules on the woodstove industry and public.

In consideration of the above and the fact that many members of the woodstove industry have expressed a desire that the rulemaking process move along as promptly as possible so that the industry will know as soon as possible what requirements it will have to meet, it appears highly desirable to immediately begin the first step of establishing an advisory committee.

Evaluation/Alternatives

The composition of a Woodstove Advisory Committee was discussed by the House Environment & Energy (E&E) Committee. A subcommittee of the House E&E Committee discussed a range of options from giving the EQC flexibility to determine the composition of the Committee and appoint individual members to specifying in the bill that the committee should be composed of representatives of seven specific organizations or interest groups with appointments made by these groups (see Attachment 1). The E&E Subcommittee at one point unanimously favored the specific seven member committee but ultimately voted to give EQC flexibility in establishing the committee.

Alternatives the EQC could consider in establishing the Woodstove Advisory Committee include:

1. Using the composition and selection process which at one time was favored by the House E&E subcommittee (Attachment 1).
2. Selecting a committee composition with more or less or different members than originally favored by the House E&E Subcommittee.
3. Directly appointing individuals as committee members.

Alternative 1 would appear to be the most reasonable and supportable approach to selecting an advisory committee. It should certainly satisfy legislative intent. The committee composition recommended in this alternative would be representing all major interest groups and should contain the technical expertise to deal with the subject matter.

The committee structure favored by the E&E Subcommittee has been reviewed with the two organizations most involved with HB 2235 (Oregon Wood Energy Association (WEA) and Oregon Environmental Council (OEC)). The OEC concurred with the seven member committee. The WEA felt the committee would be better balanced between the woodstove industry and other interest groups if the Air Quality Specialist was deleted from the seven member committee.

In regards to WEA's views, the Air Quality Specialist position may be duplicate of the scientific community position. On the other hand, a six member committee might result in some tie votes on certain issues.

Since the committee is only advisory to the EQC, it would be expected that majority, minority, and tie positions of the committee would be considered by the EQC in their final deliberations on adoption of rules. Odd sized committees are generally felt to be preferable; therefore, the most justifiable committee composition would appear to be the 7 member committee originally favored by the House E&E subcommittee.

Once the EQC establishes the committee, the Department will proceed to organize the committee, brief it on its charge, and develop in conjunction with the committee a time schedule for activities. It would be anticipated that the committee chairperson would present this time schedule to the EQC at its August 19 meeting. Committee meetings and information would be made available to all interested parties so that input from others could be considered.

Summation

1. HB 2235 requires the EQC to adopt woodstove emission standards and criteria for testing by July 1, 1984.
2. HB 2235 allows the EQC to establish a Woodstove Advisory Committee to aid the Commission in establishing woodstove emission standards and testing criteria.
3. It is highly desirable for the EQC to take immediate action to establish a Woodstove Advisory Committee to allow as much time as possible for the woodstove rule development and adopting process.
4. The EQC could establish the Woodstove Advisory Committee as a 7 member committee as originally discussed by a House E&E Subcommittee (Attachment 1), increase or decrease the committee size from this original proposal or directly appoint specific members.
5. The Oregon Environmental Council favors the 7 member committee (Attachment 1) while the Oregon Wood Energy Association would prefer to have the Air Quality Specialist deleted from this committee in order to provide a better balance between the woodstove industry and other interest groups.
6. Upon selection of specific committee members, the Department will begin work with the Committee to develop appropriate rules in as prompt a manner as possible. A time schedule for committee activities should be available for presentation to the EQC at the August 19 meeting.

Director's Recommendation

It is recommended the EQC establish the 7 member Woodstove Advisory

EQC Agenda Item No. L
July 8, 1983
Page 4

Committee as specified in Attachment 1. The Department should also be directed to request organizations to appoint committee members who have a strong technical background and experience to address issues associated with wood combustion and testing methods.

Bill

William H. Young

Attachments: 1. Proposed Woodstove Advisory Committee
2. HB 2235 Passed by the Oregon Senate and House of Representatives

J.F. Kowalczyk:a
229-6459
June 22, 1983
AA3473

Woodstove Advisory Committee

<u>Composition</u>	<u>Appointing Authority</u>
Woodstove Manufacturer	Oregon Wood Energy Association
Woodstove Dealer	Oregon Retail Council
Woodstove Testing Lab	Oregon Department of Commerce
Scientific Community	OSU/PSU Deans of Engineering
Environmental Organization	Oregon Environmental Council
Local Government	League of Oregon Cities
* Air Quality Specialist	Air Pollution Control Association - Pacific Northwest International Section

* Oregon Wood Energy Association representatives favors deletion of this potential member.

B-Engrossed
House Bill 2235

Ordered by the Senate June 14

Including House Amendments dated April 26 and Senate Amendments dated June 14

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Department of Environmental Quality)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires Environmental Quality Commission to establish, by July 1, 1984, emission performance standards for new woodstoves and criteria for testing for compliance. Requires establishment of certification program. Allows woodstove manufacturer or dealer to request department evaluation of woodstove after July 1, 1984. Prohibits sale of new woodstove after July 1, 1986, unless stove has been tested for emission performance and heating efficiency [*Prohibits sale in specified areas of state after July 1, 1986, unless woodstove*] and has been certified by Department of Environmental Quality.

A BILL FOR AN ACT

1
2 Relating to air pollution; creating new provisions; and amending ORS 468.275 and 468.290.

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

4 **SECTION 1.** ORS 468.275 is amended to read:

5 468.275. As used in [*ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to*
6 *454.535, 454.605 to 454.745 and*] this chapter, unless the context requires otherwise:

7 (1) "Air-cleaning device" means any method, process or equipment which removes, reduces or renders
8 less noxious air contaminants prior to their discharge in the atmosphere.

9 (2) "Air contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or
10 particulate matter or any combination thereof.

11 (3) "Air contamination" means the presence in the outdoor atmosphere of one or more air contaminants
12 which contribute to a condition of air pollution.

13 (4) "Air contamination source" means any source at, from, or by reason of which there is emitted into the
14 atmosphere any air contaminant, regardless of who the person may be who owns or operates the building,
15 premises or other property in, at or on which such source is located, or the facility, equipment or other
16 property by which the emission is caused or from which the emission comes.

17 (5) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants, or any
18 combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to
19 be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere
20 unreasonably with enjoyment of life and property throughout such area of the state as shall be affected
21 thereby.

22 (6) "Area of the state" means any city or county or portion thereof or other geographical area of the state
23 as may be designated by the commission.

NOTE: Matter in bold face in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.

1 (7) "Woodstove" means a wood fired appliance with a closed fire chamber which maintains an air-to-fuel
2 ratio of less than 30 during the burning of 90 percent or more of the fuel mass consumed in the low firing cycle.
3 The low firing cycle means less than or equal to 25 percent of the maximum burn rate achieved with doors closed or
4 the minimum burn achievable.

5 SECTION 2. ORS 468.290 is amended to read:

6 468.290. Except as provided in this section and in ORS 468.450, 476.380 and 478.960, the air pollution laws
7 contained in this chapter do not apply to:

8 (1) Agricultural operations and the growing or harvesting of crops and the raising of fowls or animals,
9 except field burning which shall be subject to regulation pursuant to ORS 468.140, 468.150, 468.455 to 468.480
10 and this section;

11 (2) Use of equipment in agricultural operations in the growth of crops or the raising of fowls or animals,
12 except field burning which shall be subject to regulation pursuant to ORS 468.140, 468.150, 468.455 to 468.480
13 and this section;

14 (3) Barbecue equipment used in connection with any residence;

15 (4) Agricultural land clearing operations or land grading;

16 (5) Heating equipment in or used in connection with residences used exclusively as dwellings for not more
17 than four families, except woodstoves which shall be subject to regulation under sections 4 to 10 of this 1983 Act
18 and this section;

19 (6) Fires set or permitted by any public agency when such fire is set or permitted in the performance of its
20 official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, or instruction of
21 employes in the methods of fire fighting, which in the opinion of the agency is necessary; or

22 (7) Fires set pursuant to permit for the purpose of instruction of employes of private industrial concerns in
23 methods of fire fighting, or for civil defense instruction.

24 SECTION 3. Sections 4 to 10 of this Act are added to and made a part of ORS chapter 468.

25 SECTION 4. In the interest of the public health and welfare it is declared to be the public policy of the state
26 to control, reduce and prevent air pollution caused by woodstove emissions. The Legislative Assembly
27 declares it to be the public policy of the state to reduce woodstove emissions by encouraging the Department of
28 Environmental Quality to continue efforts to educate the public about the effects of woodstove emissions and
29 the desirability of achieving better woodstove emission performance and heating efficiency.

30 SECTION 5. Before July 1, 1984, the commission shall establish by rule:

31 (1) Emission performance standards for new woodstoves;

32 (2) Criteria and procedures for testing a new woodstove for compliance with the emission performance
33 standards;

34 (3) A program administered by the department to certify a new woodstove that complies with the emission
35 performance standards when tested by an independent testing laboratory, according to the criteria and
36 procedures established in subsection (2) of this section;

37 (4) A program, including testing criteria and procedures to rate the heating efficiency of a new woodstove;

38 (5) The form and content of the emission performance and heating efficiency label to be attached to a new
39 woodstove; and

1 (6) The application fee to be submitted to the department by a manufacturer, dealer or seller applying for
2 certification of a woodstove.

3 **SECTION 6.** To aid and advise the commission in the adoption of emission performance standards and
4 testing criteria, the commission may establish an advisory committee. The members of the advisory committee
5 shall include, but need not be limited to, representatives from Oregon woodstove manufacturers.

6 **SECTION 7.** (1) After July 1, 1984, a woodstove manufacturer or dealer may request the department to
7 evaluate the emission performance of a new woodstove.

8 (2) The commission shall establish by rule the amount of the fee that a manufacturer or dealer must submit
9 to the department with each request to evaluate a woodstove.

10 (3) A new woodstove may be certified at the conclusion of an evaluation and before July 1, 1986, if:

11 (a) The department finds that the emission levels of the woodstove comply with the emission standards
12 established by the commission; and

13 (b) The woodstove manufacturer or dealer submits the application for certification fee established by the
14 commission under section 5 of this 1983 Act.

15 (4) As used in this section, "evaluate" means to review a woodstove's emission levels as determined by an
16 independent testing laboratory, and compare the emission levels of the woodstove to the emission standards
17 established by the commission under section 5 of this 1983 Act.

18 **SECTION 8.** On and after July 1, 1986, a person may not advertise to sell, offer to sell or sell a new
19 woodstove in Oregon unless:

20 (1) The woodstove has been tested to determine its emission performance and heating efficiency;

21 (2) The woodstove is certified by the department under the program established under section 5 of this
22 1983 Act; and

23 (3) An emission performance and heating efficiency label is attached to the woodstove.

24 **SECTION 9.** (1) The provisions of this 1983 Act do not apply to a used woodstove.

25 (2) As used in this section, "used woodstove" means any woodstove that has been sold, bargained,
26 exchanged, given away or has had its ownership transferred from the person who first acquired the woodstove
27 from the manufacturer or the manufacturer's dealer or agency, and so used to have become what is commonly
28 known as "second hand" within the ordinary meaning of that term.

29 **SECTION 10.** The commission shall use a portion of the net emission reductions in an airshed achieved by
30 the woodstove certification program to provide room in the airshed for emissions associated with commercial
31 and industrial growth.

R. L. COATS, General Contractor

2975 N.W. SKYLINE RANCH ROAD • P.O. BOX 1008 • BEND, OREGON 97701 • 382-2166 or 382-5368

July 1, 1983

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY**R E C E I V E D**
JUL 1 1983**BEND DISTRICT OFFICE**Department of Environmental Quality
Central Oregon
2150 N. E. Studio Road
Bend, Oregon 97701

Re: Variance for Mid-Oregon Crushing A.C. Plant.

Dear Mr. Danko:

In response to your letter of June 27, 1983 I would like to make the following comments:

I do not think it is fair competition to other suppliers for your people to subsidize Mid-Oregon Crushing Co. by granting them a variance on their asphalt plant operations. They are the low bidders on 80% of the maintenance asphalt concrete in the Central Oregon area for the years 1983-1984. Not having to supply the same pollution equipment as other suppliers puts Mid-Oregon Crushing in a better position in the market. It gives them a \$3.00 a ton edge on the bidding.

I think I will sell my bag houses so I can be competitive in the bidding in the Central Oregon area. If I wrote up a bunch of bullshit about my operation maybe you would let me operate cheaper like Mid-Oregon Crushing.

The last several years have been hard times for all businesses. The same business conditions apply to all asphalt suppliers in the Central Oregon area. Lack of demand for products; higher operating costs; due to the high energy costs; keener competition for the small amount of work available.

My Company has lost money on its commercial operation for the past two years. Can I get some relief, maybe not run the bag houses, and save a \$600.00 a month electric bill?

In Mr. Johnnie's letter of June 13, 1983, he stated that he produced 10,866 tons of asphalt in 1981 and 16,129 tons in 1982. My plant produced 35,141 tons in 1981 and 13,890 tons in 1982. You can see Mid-Oregon Crushing is a major supplier in the area and misrepresents the facts of being a poor down trodden company in financial difficulty. He is out bidding Oregon State Highway construction jobs at the present time. They were just awarded a \$350,000.00 Oregon State Highway Department.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
R E C E I V E D
JUL 6 1983**OFFICE OF THE DIRECTOR**

If Mid-Oregon Crushing is allowed to operate in violation of the Air Emissions laws they will dominate the market in Central Oregon because of their lower operating costs.

I will ask for the same variance if it is allowed Mid-Oregon Crushing so I can operate on an equal basis.

Sincerely,



R. L. Coats

RLC/wm

WE DELIVER —
BRUSHED ROCK
CONCRETE
AGGREGATE
MASON SAND
FILL MATERIALS

BEND AGGREGATE & PAVING CO.

Bend, Oregon 97701

July 1, 1983

WE INSTALL —
ASPHALTIC
CONCRETE
PENETRATION
MACADAM
EMULSIFIED
WEARING
SURFACES

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

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JUL 5 1983

BEND DISTRICT OFFICE

Environmental Quality Commission

Gentlemen:

Regarding Mid-Oregon Crushing Co's. request for a variance from asphalt plant emission standards - as an asphaltic concrete producer, I appreciate the DEQ's efforts to work with our industry to solve our emission problems. However, it seems to me that MOC has been given ample time in which to meet the DEQ standards.

At some point it would seem that they should be required to play by the same rules as the rest of the players.

To gain a competitive advantage by good management is one thing, but playing by a more advantageous set of rules is another. The advantage could be as high as .15¢ to .25¢ a hot mix ton.

We welcome competition, but it should be fair competition.

Very truly yours,

BEND AGGREGATE & PAVING CO.

James M. Curl
James M. Curl

JMC:lo

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

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JUL 6 1983

OFFICE OF THE DIRECTOR

Item H

Why
Young
EQC
Lawyer
Ashbaker

SOMERS & LAWRENCE
ATTORNEYS AT LAW
106 EAST FOURTH STREET
THE DALLES, OREGON 97058

RONALD M. SOMERS
STEPHEN E. LAWRENCE

POST OFFICE BOX 618
TELEPHONE: 296-2181

July 5, 1983

Mr. Bill Young
P.O. Box 1760
Portland, Oregon 97207

Mr. Fred Burgess
Dean's Office Engineering
Oregon State University
Corvallis, Oregon 97331

Mr. James Petersen
Attorney at Law
835 NW Bond Street
Bend, Oregon 97701

Mr. Wally Brill
75 Lozier Lane
Medford, Oregon 97501

Ms. Mary Bishop
01520 S.W. Mary Failing Drive
Portland, Oregon 97219

RE: Item Agenda H on your
July 8, 1983 Agenda

I am sorry I can not make the meeting on July 8, 1983. You have Item Agenda H for discussion on alternatives. For a number of years, several people have come before the commission and poisoned the minds of the staff members into having them believe that there should be alternatives to posting a cash security deposit for on-site disposal systems not run by municipalities. It is kind of a brief little rule, you will find enclosed a copy of the same. I implore each one of you not to be romanced into allowing a cash bond or the equivalent thereof, a time certificate of deposit, to come to the commission.

In essence, the kinds of things that our Attorney General and our Director has approved, not Bill, Thank God, in the past and tried to have the commission swallow. It is in lieu of a cash security deposit having us take a mortgage on several lots in the subdivision, ergo we have a shoddy system, our security is worth nothing and somehow, we have got to make good to the rest of the people in the subdivision that when they flush their toilet, their sewage will go some place. Frankly, \$25,000 is a piddly amount to put up as a bond, but at least it would give us a start of a package plant price for the homeowners to come back on.

If Rob Haskin or Bill recommends taking anything other than cash, then my recommendation is that the commission pass a rule that the staff person and the attorney, as well as the director, will give us a mortgage on their residence, non-can-

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
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July 5, 1983

Page -2-

Members of the Dept. of Environmental Quality

cellable for a period of twenty years to indemnify the commission and the department in the event the system fails and our securities or our alternative securities become worthless. The reason, I am sure all of you understand, that we do not require bonds in the municipal setting is that, in a municipality has the authority to levy taxes on ad valorem nature against the property of the residence to cure the system. They also have the right, pursuant to statute, to set fees to operate the system, which could become a lien against the real property or its continued operation. This is not true with the package plan many of the developers put in, they put in a sub-standard plan or a plan that meets minimal rules design. The people move into the subdivision, the plant goes bad, and suddenly, instead of one person having a problem, we have five to ten to thirty people with a private systems failed who are already burdened with mortgages. And we have lending institutions whose security has become eroded.

Thank you for giving this matter your kind attention. I know you will all come to the right decision, please let me know what the result is.

Very truly yours,

SOMERS & LAWRENCE

Ronald M Somers

Ronald M. Somers

jas

RMS:jas

DIVISION 15

SURETY BONDS OR OTHER APPROVED
EQUIVALENT
SECURITY FOR CONSTRUCTION, OPERA-
TION, AND
MAINTENANCE OF SEWAGE COLLECTION,
TREATMENT
OR DISPOSAL FACILITIES

Statement of Purpose

340-15-005 These rules, adopted pursuant to ORS 454.425, prescribe the requirements and procedures for the filing, maintenance, and termination of surety bonds or other approved equivalent security for the construction, operation, maintenance of sewage collection, treatment, or disposal facilities.

Stat. Auth.: ORS Ch.

Hist: DEQ 82, f. 1-30-75, ef. 2-25-75

Definitions

340-15-010 As used in these rules, unless the context requires otherwise:

(1) "Alternative sewage disposal system" has the same meaning as in ORS 454.605(2).

(2) "Commission" means the Environmental Quality Commission.

(3) "Construct" or "Construction" includes installation, repair, and major modification or addition.

(4) "Department" means the Department of Environmental Quality.

(5) "NPDES waste discharge permit" means a waste discharge permit issued in accordance with requirements and procedures of the National Pollutant Discharge Elimination System required by the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500) and of OAR 340-45-005 through 340-45-065.

(6) "Person" means any person as defined in ORS 174.100 but does not include, unless the context specifies otherwise, any public officer acting in his official capacity or any political subdivision, as defined in ORS 237.410.

(7) "Subsurface sewage disposal system" has the same meaning as in ORS 454.605(14).

Stat. Auth.: ORS Ch.

Hist: DEQ 82, f. 1-30-75, ef. 2-25-75; DEQ 99(Temp), f. & ef. 10-1-75; DEQ 102, f. & ef. 12-18-75

Surety Bond Required

340-15-015 (1) Every person proposing to construct facilities for the collection, treatment, or disposal of sewage shall file with the Department a surety bond, or other approved equivalent security, of a sum determined under rule 340-15-025 of these rules.

(2) The following shall be exempt from the provision of section (1) of this rule:

(a) Any subsurface, alternative, or other sewage disposal system or systems designed or used to treat or dispose of a sewage flow of not more than 5,000 gallons (18.925 cubic meters) per day;

(b) Any subsurface, alternative, or other sewage disposal system or systems, regardless of size, used to serve any food handling establishment, mobile home or recreation park, tourist and travelers facilities, or other development operated by a public entity or under a valid license or certificate of sanitation issued by the State Health Division or Department of Commerce;

(c) Any sewage collection, treatment, or disposal facility owned and operated by a state or federal agency, city, county, county service district, sanitary authority, sanitary district, or other public body, including, but not limited to, a school district or port district;

(d) Any sewage collection, treatment, or disposal facilities of an industrial plant or commercial development having a valid NPDES Waste Discharge Permit or Water Pollution Control Facilities Permit issued by the Department pursuant to ORS 468.740 provided such facilities serve only employees or customers but no permanent residences.

Stat. Auth.: ORS Ch.

Hist: DEQ 82, f. 1-30-75, ef. 2-25-75; DEQ 99(Temp) f. & ef. 10-1-75; DEQ 102, f. & ef. 12-18-75

Type of Security

340-15-020 The type of security to be furnished pursuant to ORS 454.425 may be:

(1) Perpetual surety bond executed in favor of the State of Oregon on a form approved by the Attorney General and provided by the Department, such bond to be issued by a Surety Company licensed by the Insurance Commissioner of Oregon;

(2) Insured savings account assigned to the Department with interest earned by such account made payable to the assignor; or

(3) Other security in such form and amount as specifically approved by the Commission.

Stat. Auth.: ORS Ch.

Hist: DEQ 82, f. 1-30-75, ef. 2-25-75

Amount of Bond or Other Security

340-15-025 The amount of the surety bond or other approved equivalent security filed with the Department shall be equal to \$1.00 per gallon per day of installed sewage treatment or disposal capacity with the minimum sum not to be less than \$2,000, or shall be of some other sum specifically approved by the Commission, except that in no case shall the maximum sum exceed \$25,000.

Stat. Auth.: ORS Ch.

Hist: DEQ 82, f. 1-30-75, ef. 2-25-75

Transfer of Facilities

340-15-030 The ownership of the sewage disposal facilities shall not be transferred without the prior written approval of the Department and the surety bond or other approved equivalent security filed pursuant to ORS 454.425 shall remain in full force and effect notwithstanding any subsequent ownership transfer without such prior written approval.

Stat. Auth.: ORS Ch.

Hist: DEQ 82, f. 1-30-75, ef. 2-25-75

Maintenance and Termination of Security

340-15-035 The surety bond or other approved equivalent security filed pursuant to ORS 454.425 shall remain in force and effect until such time as a state or federal agency, city, county, county service district, sanitary authority, sanitary district, or other public body acquires ownership or assumes full liability and responsibility for operation and maintenance of the sewage disposal facilities with the prior written approval of the Department pursuant to rule 340-15-030.

Stat. Auth.: ORS Ch.

Hist: DEQ 82, f. 1-30-75, ef. 2-25-75

Item K

EQC
Young
Weathersbee
Bolton
Grimes
Gillaspie

JOHN L. SVOBODA
ATTORNEY AT LAW
644 NORTH A STREET
SPRINGFIELD, OREGON 97477
(503) 747-3354

June 15, 1983

James Peterson
ENVIRONMENTAL QUALITY COMMISSION
P.O. Box 1760
Portland OR 97207

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
JUN 20 1983

RE: EQC VARIANCE/MT. MAZAMA PLYWOOD
Your No. 10-0022

OFFICE OF THE DIRECTOR

Dear Mr. Peterson:

This letter should first of all be considered as a request on behalf of Mt. Mazama Plywood for an extension of the variance previously granted and memorialized in your letter to Jim Kline dated December 7, 1982. This request is being made pursuant to ORS 468.345 requesting a variance from air contamination rules and standards and OAR 340-25-315(1)(b) veneer dryer emission limits.

FACTUAL BACKGROUND

Although I am sure you are familiar with the factual background in this matter I will very briefly summarize it for you. As you know, the plywood market, which is the product that Mt. Mazama Plywood deals in, has been severely depressed for a number of years. Mt. Mazama is a wholly owned subsidiary of Mazama Timber Products, Inc. Mazama Timber Products, Inc. has within the last 45 days filed an voluntary Chapter 11 bankruptcy proceeding asking for Court assistance in its debts. You have been provided over the years with the financial information of Mazama and Mt. Mazama with a consolidated financial statement. The two are financially interlocked and although when isolated clinically may appear to have different financial positions because of the debt structuring involved it is as a practical matter impossible to separate the two.

Mt. Mazama has made a good faith effort at all times to comply with and work with DEQ rules and regulations. In fact, in the past to move towards compliance Mt. Mazama put in new boilers and has added since then additional dust collection equipment. Mt. Mazama has also made extensive work in trying to eliminate fugitive emissions expending over \$42,000 in materials alone and over \$34,000 in labor.

The major problem at this time, of course, continues to be that from the direct fire unit. Only recently has Coe Manufacturing successfully completed and put into operation a unit that appears to be working under such circumstances in the Sweet Home plant.

James Peterson
ENVIRONMENTAL QUALITY COMMISSION
June 15, 1983
PAGE - 2

Mt. Mazama has, in dealing with the DEQ, been straight forward and totally cooperative in its efforts. Mt. Mazama intends to continue in that vein and it is on that basis that this current request for variance is made.

As has already been demonstrated, any particulate emission which exceeds current standards flowing out of the Mt. Mazama plant at Sutherlin, Oregon, presents no hazard to the air shed in, at and around the community in which the plant exists.

Likewise, the community of Sutherlin, Oregon, is dependent directly and indirectly almost totally upon Mt. Mazama Plywood Company for its economic survival. Mt. Mazama is the single largest employer in that community. A shut down of Mt. Mazama Plywood would insure economic destruction of Sutherlin, Oregon.

We recognize that there is a complaint by one plant in Lane County declaring inequity in the granting of Mt. Mazama's variance request. In that regard three points should be made. First it is not the legislative charge of the Department of Environmental Quality to become the economic watchguard or stopgap for any one operation. It is the duty and responsibility of the Department to protect the health and welfare of the community in general. It is for that reason that the legislature has seen fit to grant discretion to the Department in the variances. In this particular case any emissions in excess of current standards are not, in fact, in any way endangering the health and welfare of the community or surrounding populace. I in fact understand that there is now even some question as to whether there actually exists any detriment to "blue haze." The long and the short of that matter is that the best interest of the health and welfare of the community is going to best be served by allowing Mt. Mazama continued operation. The suggestion that Mt. Mazama has gained a superior economic position by not having to make the capital outlays necessary to install this quite expensive equipment is misplaced. In that regard, one of the problems Mt. Mazama has had is caused by the age of its equipment. As you are aware, the equipment in Mt. Mazama is several years old and certainly not state of the art by any means. Cost of production, therefore, utilizing that equipment, exceeds that which is otherwise available for some of the newer plants. Additionally, because Mt. Mazama is located in a small community it is required to pay a higher hourly rate for its personnel with that rate being dictated solely by a supply and demand of the labor force. On the other hand, those plants located in and about the Eugene and Springfield area have enjoyed a situation whereby their labor can be obtained at a lower rate based on the over abundance of employable personnel, thus making it an employer's market.

SUMMARY OF REQUEST FOR VARIANCE

(1) Mt. Mazama Plywood's continued operation presents no immediate or long term threat to the health and welfare of the community or the air shed.

(2) The shut down of Mt. Mazama Plywood would cause economic ruin to the town and surrounding populace of Sutherlin, Oregon.

(3) Mt. Mazama Plywood is not in a position of economic superiority over other producers of this product in and about the state of Oregon.

(4) Mt. Mazama Plywood has in the past been straight forward and worked to the best of its ability with the Department of Environmental Quality to up-date or modify its plant within its economic abilities. Until just recently there did not exist a cost effective piece of equipment to handle emissions from the direct fire dryer although we acknowledge that one now appears to be in and operating and certified at the Sweet Home plant.

CONCLUSION

Mt. Mazama Plywood, therefore, asks that any requirement that purchase orders be issued for equipment necessary to alleviate the emission problems on the direct fired dryer be extended by variance until no sooner than February of 1984 with the requirement that construction begin on the veneer dryer control equipment no sooner than August of 1984 and that equipment installation be completed and demonstrated compliance extended until no sooner than February of 1985.

Mt. Mazama Plywood joins with Senator William Frye in urging that the commission review this matter keeping in mind the impact upon the community, the past efforts of Mt. Mazama Plywood for compliance and their straight forwardness in dealing with the Department as well as the actual and existing economic conditions and that the Department not be influenced by issues not relevant for consideration by the Department.

Sincerely,



JOHN SVOBODA

JS:dls

cc: Jim Kline
Mt. Mazama Plywood

**IRONS
in the FIRE**EQC
Young
Kowalczyk
Pombleton

YAMHILL MARKETPLACE • 110 SW YAMHILL • PORTLAND, OR 97204 •

July 5, 1983

Chairman
Environmental Quality Commission
P.O. Box 1760
Portland, OR 97204

RE: Agenda Item No.L, July 8, 1983 EQC Meeting
Proposed Establishment of Woodstove Advisory Committee

I would like to go on record of supporting the establishment of a Woodstove Advisory Committee for standards of emissions and efficiency as they relate to HB 2235. As noted by Director of the Department of Environmental Quality Bill Young, the committee members should have a technical background and experience to address issues associated with wood combustion and testing methods.

However, it is not clear to me that the proposed appointing authorities have the necessary background to appoint qualified committee members.

Since the impact of HB 2235 will have national implications, and federal EPA funds are being used for development of this standard, I feel very strongly that recognized National authorities in the wood heating industry should be included on the advisory committee.

I also feel that the committee member representing the woodstove dealers should be a retail owner whose primary interest is wood heating and wood heat safety.

Thank you for your consideration of these very important issues.

Lois R. Renwick
Lois R. Renwick

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
JUL 7 1983

OFFICE OF THE DIRECTOR

EQC
Young
Lombleson
Kowalczyk

**LARSON-THOMAS
& CO.**
503-485-6474



411 High Street
Eugene, OR
97401

OREGON DEPT OF ENVIRONMENTAL QUALITY
Environmental Quality Division
PO Box 1760
Portland, OR 97207

July 2, 1983

To the Environmental Quality Commission:

(Regarding Item L on your July 8, 1983 agenda)

A woodstove retailer since 1976, my interest in air quality has nonetheless remained paramount. I may very well have been the only retailer to attend the International Conference on Residential Solid Fuels held in Portland in 1981.

I write in support of the staff report regarding the formation of an EQC Woodstove Advisory Committee. The seven-member committee originally proposed by the House Environment & Energy Committee - appointed by the specified authorities - certainly seems the most equitable and preferable of the alternatives. Though the Oregon Wood Energy Association is justified in suggesting the deletion of the Air Quality Specialist, the resulting even number of committee members most certainly would provoke tie votes, diluting the committee's advisory authority.

Please submit this testimony in favor of alternative 1 as specified in the staff report.

Sincerely,

Tom Lichty

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

JUL 6 1983

LARSON · THOMAS · DUVAL

OFFICE OF THE DIRECTOR

**IRONS
in the FIRE***Young
EQC
Kowalcyk
Lamberson*

YAMHILL MARKETPLACE • 110 SW YAMHILL • PORTLAND, OR 97204 • 223-0121

July 7, 1983

Chairman
Environmental Quality Commission
P.O. Box 1760
Portland, OR 97204

RE: Agenda Item No.L, July 8, 1983 EQC Meeting
Proposed Establishment of Woodstove Advisory Committee

I would like to go on record as opposing the Oregon Retail Council as an appointing authority for the Oregon Woodstove Retailer. I have been informed that they would find it necessary to appoint a member of the Oregon Retail Council. Their members that they concluded would be impacted by this legislation would be Sears and J.C. Penny. I do not feel that these retailers are indicative of the Oregon woodstove dealer whose primary interest is wood heating and wood heat safety.

Thank you for your consideration.

Very truly yours,



Lois R. Renwick

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

R E C E I V E D

JUL 8 1983

OFFICE OF THE DIRECTOR



Item 2
"Knowing Today's Cause . . . Preventing Tomorrow's Loss"
Oregon Fire Marshals Association

EQC
Young
Kowalczyk
Lombleson

July 8, 1983

State Environmental Quality Commission
Department of Environmental Quality Headquarters
522 S W 5th Avenue
Portland, OR 97204

SUBJECT: WOODSTOVE ADVISORY COMMITTEE

I understand that at your July 8, 1983 regular meeting, you will be accepting public comment on the membership of a Woodstove Advisory Committee to set emission standards and establish a testing technique for woodstoves. Although I will be unable to attend that meeting, I would like to submit the following testimony:

SOLID FUEL BURNING/HEATING EQUIPMENT accounted for 49.5% of the total residential fires in the state of Oregon during 1982. Fires in single family dwellings increased from 4,072 in 1981 to 4,682 in 1982. The dominant cause of these increases was the ever growing number of heating equipment fires. Our Association is concerned about the possible detrimental effects of setting new pollution standards on the use of solid fuel burning/heating appliances. We are also concerned that any testing techniques that is utilized, specifically addresses the issue of fire and life safety. Many of the devices currently on the market or some of the designs that have been proposed in an effort to reduce pollution standards and testing criteria is essential to consider the potential effect on the requirements of stoves and venting systems as well as the actual construction installation of the components themselves. In an effort to maintain fire and life safety as a high priority, the establishment of standards the Oregon Fire Marshals' Association recommends that an identified fire service representative be appointed to the Woodstove Advisory Committee.

Recommendations on qualified individuals can be provided through both our Association and the State Fire Marshals' Office.

If you have any questions relative to this, please telephone me at 826-7100.

Submitted by,

Randy Iverson

Randy Iverson
President

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

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JUL 11 1983

bcm

OFFICE OF THE DIRECTOR

EQC
Young
Weathersbee

(503) 686-7618

1244 Walnut Street, Eugene, Oregon 97403

LANE REGIONAL



AIR POLLUTION AUTHORITY

Donald R. Arkell, Director

July 6, 1983

Mr. James E. Petersen
Environmental Quality Commission
Department of Environmental Quality
Air Quality Division
P. O. Box 1760
Portland, OR 97207

Re: Proposed Amendments to the
Rules for Air Pollution Emergencies

Dear Mr. Petersen:

We have reviewed the proposed amendments to OAR Chapter 340, Division 27, and have comments as follows:

- (1) 340-27-010(1) In the last sentence the term **air pollution** should be replaced by pre-episode.
- (2) 340-27-010(2)(a) The term "stagnant meteorological conditions" needs to be defined. (Also in (3)(a) and (4)(a))
- (3) 340-27-010(2)(b) It is recommended a section be reserved for PM₁₀ in anticipation of a new standard being promulgated.
- (4) 340-27-010(3)(b)(E) This should read 1 hour average.
- (5) 340-27-010(4)(b)(C) This should read 393 X 10³.
- (6) 340-27-010(5) In order to facilitate termination of an episode condition, this should read...criteria may be reduced to **the next** a lower condition...
- (7) 340-27-012(1) Primary standards for all criteria air pollutants are based upon health effects. The need is recognized to issue a special advisory for O₃ when the standard is exceeded. This service should also be extended to issue a special advisory for the other pollutants when their standards are exceeded.
- (8) 340-27-025(2) As stated in ORS 468.535(3), LRAPA is to have "exclusive jurisdiction" within Lane County. LRAPA should be able to declare episode conditions without the concurrence of the DEQ. This paragraph should be changed to read...by the appropriate authority. with the concurrence of the Department of Environmental Quality....by the regional authority, and conditions warrant a declaration, the Department...

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
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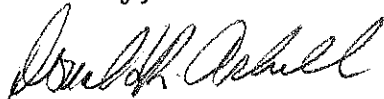
OFFICE OF THE DIRECTOR

Mr. James E. Petersen
July 6, 1983
Page 2

- (9) 340-27-035(2)(A) The term "major emission sources" needs to be defined. This would probably be those sources for which SERP's were required.
- (10) Table 2 Part B For CO episodes add a statement to the effect: the public is requested to refrain from using wood heating devices where other heating methods are available.
- (11) Table 3 - f How will this requirement be enforced?

We appreciate the opportunity to comment on these proposed amendments. If you have any questions regarding these comments, please contact Ralph Johnston of our staff at 686-7618.

Sincerely,



Donald R. Arkell
Director

DRA:ceh