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7/19/1985

OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS

DEQ

State of Oregon
Department of Environmental Quality

OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

July 19, 1985

Room 1400
522 SW Fifth Avenue
Portland, Oregon

A G E N D A

9:00 a.m. 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.

A. Minutes of June 7, 1985, EQC meeting.

B. Monthly Activity Report for May 1985.

C. Tax Credits.

9:10 a.m. 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

D. Request for authorization to hold a public hearing to amend the New Source Review Rule related to assessment of visibility impacts of major new or modified sources in Class I areas (OAR 340-20-275) as a revision to the State Air Quality Implementation Plan.

E. Request for authorization for public hearings to establish boundaries and implement a motor vehicle emission inspection/ maintenance program in the Medford-Ashland AQMA as a revision to the State Implementation Plan.

F. Request for authorization to conduct a public rulemaking hearing for modifying a special groundwater quality protection rule in the Deschutes Basin Water Quality Management Plan, OAR 340-41-580(1), for the LaPine shallow aquifer.

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.

G. Appeal of subsurface variance denial by David and Daniel Wriggle.

H. Approval of amendments to Lane Regional Air Pollution Authority Rules concerning air contaminant discharge permits, new source review, and definitions as a revision of the State Implementation Plan.

I. Proposed amendment to OAR 340-25-315 (Veneer and Plywood Manufacturing Operations) to include emission standards for veneer dryers located in special problem areas.

J. Proposed adoption of amendments to Water Quality Standards Regulations, OAR Chapter 340, Division 41.

* K. Request for approval of Construction Grants Management System and Priority List for fiscal year 1986.

L. Continuation of discussion of proposed rules for granting Water Quality Standards Compliance Certification pursuant to requirements of Section 401 of the federal Clean Water Act.

M. Proposed adoption of amendments to Hazardous Waste Management Rules, OAR Chapter 340, Divisions 100 to 108.

N. Variance request from EPA to operate helicopters in excess of noise emission standards of OAR 340-13-020 to obtain water samples from 32 wilderness area lakes.

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 have breakfast (7:30 am) at the Imperial Hotel, 400 SW Broadway in Portland. Agenda items may be discussed at breakfast. The Commission will have lunch at the DEQ Offices, 522 SW Fifth Avenue, Portland.

The next Commission meeting will be September 27, in Bend.

Copies of the staff reports on the agenda items are available by contacting the Director's Office of the Department of Environmental Quality, PO Box 1760, Portland, Oregon 97207, phone 229-5395, or toll-free 1-800-452-4011. Please specify the agenda item letter when requesting.

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THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED SIXTY-SIXTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

Should be 7/19/1985

July 17, 1985

On Friday, July 17, 1985, the one hundred sixty-sixth meeting of the Oregon Environmental Quality Commission convened in Room 1400 of the Yeon Building, 522 SW Fifth Avenue, Portland, Oregon. Present were Commission Chairman James Petersen, Vice Chairman Arno Denecke, and Commission members Mary Bishop and Wallace Brill. Commission member Sonia Buist was absent. Present on behalf of the Department were its Director Fred Hansen 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

All Commission members, except Sonia Buist, were present at the breakfast meeting.

Director Hansen reviewed for the Commission a recent staff planning retreat.

1. Schedule for East Multnomah County Threat to Drinking Water Hearings

   Chairman Petersen asked that the notice specify that testimony would be limited to only new issues that had come up since the Commission's last hearing, and that it also clearly state that there would be a specific time set aside for public officials to address the Commission, and just what that time would be.

   Director Hansen asked if the hearing should be conducted as a contested case. Michael Huston, Assistant Attorney General, replied that there were no requirements to treat this as a contested case, and it would be almost impossible to use contested case procedures for such a hearing. Chairman Petersen said he was inclined not to treat this as a contested case proceeding.

The Commission agreed the hearing should be conducted before them on Thursday, October 17 and run from early in the afternoon into the evening, as the last hearing had. The hearing will be conducted somewhere in the affected area.

2. Medford Public Opinion Poll on Vehicle Inspection/Maintenance Program

Carolyn Young, Public Information Officer, presented the results of a telephone survey of licensed drivers who reside in the Medford-Ashland Air Quality Maintenance Area. A total of 525 interviews were conducted June 12-14, 1985, by Moore Information. In summary, the survey showed that Rogue Valley residents are very aware of and concerned about air pollution in the Rogue Valley. Industrial smoke rather than auto emissions is perceived to be the major source of air pollution in the Valley. Rogue Valley residents are largely aware that a combination of geography and climate is the major reason that Medford is among the most air polluted cities in the country.

A copy of the complete survey was provided to the Commission.

3. Chem-Security Systems, Inc. Fined by the U.S. Environmental Protection Agency

Michael Downs, Administrator of the Department's Hazardous and Solid Waste Division, informed the Commission that the U.S. Environmental Protection Agency (EPA) had fined Chem-Security Systems, Inc. (CSSI) more than $700,000 in civil penalties for improper management of hazardous materials at the company's Arlington toxic waste dump. The penalties came as a result of an EPA inspection of the site in November, 1984. Mr. Downs emphasized that it appeared a majority of the complaints EPA had against the company were administrative in nature. In all, $378,000 was assessed for violations of the Resource Conservation and Recovery Act (RCRA), and $332,625 for violations of the Toxic Substances Control Act (TSCA).

FORMAL MEETING

AGENDA ITEM A: Minutes of the June 7, 1985, EQC Meeting.

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

AGENDA ITEM B: Monthly Activity Report for May, 1985.

It was MOVED by Commissioner Bishop, seconded by Commissioner Brill, and passed unanimously that the Monthly Activity Report for May 1985 be approved.

AGENDA ITEM C: Tax Credit Applications.

It was MOVED by Commissioner Bishop, seconded by Commissioner Denecke, and passed unanimously that the tax credit applications be approved.

AGENDA ITEM D: Request for authorization to hold a public hearing to amend the New Source Review Rule related to assessment of visibility impacts of major new or modified sources in Class I areas (OAR 340-20-275) as a revision to the State Air Quality Implementation Plan.

This item proposes to amend the State Implementation Plan New Source Review Rule to delete the visibility impact assessment exemption for major new or modified sources located more than 30 kilometers from Class I areas.

The proposed amendment is required to correct an apparent conflict between the visibility protection provision of the current New Source Review Rule adopted by the Department and Environmental Protection Agency (EPA) regulations. EPA has notified the Department that this rule revision must be completed before EPA can propose approval of the Oregon Visibility Protection Permitting Program adopted by the Department in September, 1984.

Director's Recommendation

Based on the Summation in the staff report, the Director recommends that the EQC authorize public hearings to consider public testimony on the proposed revision to the New Source Review Rule, OAR 340-20-276.

Chairman Petersen asked for an interpretation of equivalent or more stringent. Michael Huston, Assistant Attorney General, replied that that was an issue that the Attorney General's Office struggles with, however, there may be some precedent and he would research the matter and get back to the Chairman.

Chairman Petersen asked why an exemption was proposed in light of EPA's equivalency requirement. Tom Bispham of the Department's Air Quality Division, indicated the Department had, through various models, determined that the impact from plants of less than 250 tons outside of the 30 kilometer boundary drops off dramatically. He said the Department didn't believe the analysis was necessary based on the data it had gathered. In response to Chairman Petersen, Mr. Bispham said that the Department, based on its data, thought it was equivalent, in that it offered the same protection level.

Director Hansen said it appeared to depend on what program as to what EPA means by equivalency. For instance, with the hazardous waste rules it means identical language, in some other program areas it means the same level of protection, although it appears that is starting to change some. Chairman Petersen asked Director Hansen if he thought it was because there was a legal difference, or that

the EPA Hazardous Waste staff looks at equivalency differently than the EPA Air Quality staff. Director Hansen said it was his view it was the latter case.

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

AGENDA ITEM E: Request for authorization for public hearings to establish boundaries and implement a motor vehicle emission inspection/maintenance program in the Medford-Ashland AQMA as a revision to the State Implementation Plan.

The Department is requesting authorization for public hearings to receive testimony on the establishment of a vehicle inspection/maintenance (I/M) program for the Medford-Ashland Air Quality Maintenance Area (AQMA). HB 2845 requires that the Commission designate, by rule, boundaries if an area is identified in the State Implementation Plan (SIP) as requiring an I/M program to attain federal and state ambient air health standards.

The Notice of Public Hearing was published in the July 1, 1985 Secretary of State's Bulletin. The public hearings have been tentatively set for August 1, 2, 8, and 9, 1985.

Director's Recommendation

Based on the Summation in the staff report, the Director recommends that the Commission authorize a public hearing to consider the public testimony on:

1. Proposed boundaries of a motor vehicle inspection and maintenance program for the Medford-Ashland Air Quality Maintenance Area (OAR 340-24-301);

2. Proposed deletion of the tampering inspection portion of the test for 1970-1974 model year vehicles (OAR 340-24-320 and -325); and

3. Proposed addendum to the Medford Carbon Monoxide Attainment Plan (Section 4.9 of the State Implementation Plan, OAR 340-20-047).

No one wished to testify on this matter.

Commissioner Bishop asked why there had been a decrease in the traffic levels in the data base, and if the Department felt comfortable with the new figure. Director Hansen replied that as a result of the economic depression in the area, population has not increased at the same rate as in the past, and traffic has decreased accordingly. The Department believes that the 0.5% violation level figure as presented by the City of Medford, is optimistic from an air quality standpoint, however, pessimistic from an economic standpoint, but still within the range of what is possible. If, he continued, there

is an increase in traffic level population, the standard requires compliance must be attained with what actually happened, not what may have been projected.

Commissioner Denecke said he had heard Senator Lenn Hannon was starting some type of a movement to do something about the inspection/ maintenance program. Director Hansen replied that he understood from news stories that the Senator was creating an initiative to put HB2145 on the ballot. However, 60,000 signatures would be needed, therefore there was some talk of including the Portland program also. Director Hansen said that nothing had been filed with the Secretary of State so far.

Chairman Petersen asked if it was a problem to not include all of Jackson County. Director Hansen said the Department had heard every argument, but the numbers indicate it should not be a significant problem. In the problem areas, he continued, within the AQMA, 88% of the vehicles are included that contribute to nonattainment. By going county-wide only an additional 4% are picked up. Director Hansen said the Department believed that attainment could be reached by using the smaller AQMA. Director Hansen did expect that there would be testimony on both sides during the public hearings.

Chairman Petersen asked how the Department of Motor Vehicles would determine who was in the AQMA so that a notice would not go out to the wrong people. Ron Householder of the Department's Vehicle Inspection Section, replied that, unfortunately, zip code sorting does not fit the boundaries well. As is done in the Portland program, there would be people with zip codes within the county, but outside of the boundary, who would receive a notice. The insert that would go with license renewals would have a map so people could determine if they were in or out of the boundary area, and would also include an exemption form to be sent in with their car license renewal.

In addition, Mr. Householder said, the Department receives many phone calls from people wondering if they are in or outside the boundary. The Department has large, very detailed maps, so they can tell individuals specifically if the program would apply to them. The advantage in the Medford area, Mr. Householder continued, is that the proposed boundary lines are cleaner than in Portland.

Chairman Petersen said he understood the statistical evidence included in the staff report that older vehicles should be exempt, but he was concerned about the public perception of such an exemption. Mr. Householder replied that the proposal for model years 1970-1974 would not exempt those cars from the test, the proposal was only to delete a portion of the test dealing with pollution equipment check for those model years. Only cars 20 model years and older are statutorily exempt from the test. Admittedly, Mr. Householder said, there are more older cars registered in the Medford area than in the Portland area.

Commissioner Brill said the Director's Recommendation was substantially what it should be and MOVED it's adoption. The motion was seconded by Commissioner Bishop and passed unanimously.

PUBLIC FORUM:

Dorothy Gage, Portland, appeared representing the Multnomah Community Center and asked the Commission for further consideration of the ban on backyard burning in the Portland area. She said the 1985 Legislature had held a hasty hearing on HB2194, which would have again allowed backyard burning, and the bill died in committee. Ms. Gage reminded the Commission that the 1983 Legislature allowed a ban only if alternatives were provided, and she did not feel those alternatives were available. Ms. Gage said the dumps were filling, chipper rental at $116 per day and drop box rental at $25-$100 per day were prohibitive and also contributed to the dump problem. Ms. Gage said that Representative Tom Mason shared their concerns, and she asked that permits still be available for future burning seasons. Ms. Gage said some people who had received permit applications had expressed to her that they found the process cumbersome.

Ms. Gage asked the Commission to perhaps consider relaxing the time periods for burning seasons, as frequently in the fall it was too wet to burn. She also suggested more enforcement emphasis be placed on those persons who burn garbage instead of or along with their yard debris.

Ms. Gage suggested that restrictions on burning had political and economic overtones, and said it was her opinion that burning causes temporary pollution but does not cause life-threatening circumstances.

Chairman Petersen said he appreciated Ms. Gage's comments and added that it was the best summary he had heard against a ban. Chairman Petersen said that imposing the ban was a personally tough decision, but felt that alternatives would never be developed until a ban was in place. He suggested that Ms. Gage take her comments to the city and county who are the entities responsible for developing alternatives. Portland was the only major city on the West Coast which still allowed burning, and Chairman Petersen said it was difficult to believe that Portland was unique. He added that the Department was trying to make the permit process more flexible, and didn't want it to be awkward or burdensome.

Ms. Gage wanted the Commission to know that they do recycle metal and glass, and compost what yard debris they can. She said that personally smoke was not offensive to her and asked that permitted burning be allowed in October. Chairman Petersen assured Ms. Gage that it would.

No one else wished to appear at Public Forum.

AGENDA ITEM F: Request for authorization to conduct a public rulemaking hearing for modifying a special groundwater quality protection rule in the Deschutes Basin Water Quality Management Plan, OAR 340-41-580(1), for the LaPine shallow aquifer.

This item proposes to amend the special groundwater quality protection section in the Deschutes Basin Water Quality Management Plan. The proposed amendment would establish a specific boundary for sewer service in the LaPine core area. The current rule is somewhat vague and open to disagreement as to what properties should be connected to sewer when it becomes available.

The hearing date on the public notice sheet should be changed to August 20, 1985 from August 19, 1985. This is necessary to assure that the 20-day public notice period is met.

Director's Recommendations

Based on the Summation in the staff report, it is recommended that the Commission authorize the Department to conduct a public rulemaking hearing. The hearing will consider if the Special Policies and Guidelines (OAR 340-41-580) in the Deschutes Basin Water Quality Management Plan should be amended to include a specific boundary for the LaPine core area.

Commissioner Denecke asked if there was any question that the pollution was caused by on-site sewage disposal. Richard Nichols of the Department's Central Region Office, replied that a 208 water quality study conducted in the late 1970's and early 1980's concluded that high density development in the core area caused the nitrate problem.

Director Hansen added that to comply with notice requirements, the proposed hearing date needed to be changed from August 19 to August 20, 1985.

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

AGENDA ITEM G: Appeal of subsurface variance denial by David and Daniel Wriggle.

Mr. David Wriggle and Mr. Daniel Wriggle are appealing the decision of Mr. Sherman Olson, a Department Variance Officer, denying their request for variance from the On-Site Sewage Disposal Rules.

Director's Recommendation

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

Daniel Wriggle testified they were willing to use any reasonable solution. Other lots adjacent to their's were of equal size and already have their own septic systems. He said it was not an alternative to buy more property. They proposed a sand filter system hoping it would be acceptable. Mr. Wriggle went on to say he felt they had been bureaucratically ill-treated.

Chairman Petersen said he understood their frustration would be exacerbated by once having approval that was subsequently revoked as not being properly issued. He asked what investment the Wriggle's had in the property and if it would be an alternative to sell the lot to neighbors. Mr. Wriggle replied that they bought the lot in 1978 for approximately $15,000 and it was currently assessed at $23,000. Their preference was to have a vacation home on the property. But if no solution was available, they would consider selling. He asked what difference the size of a system would make if the aquifer was already polluted.

Sherman Olson of the Department's Water Quality Division, testified that sand filter systems reduce nitrogen by 50% and would allow a greater density of development. The original approval on the property was for a seepage pit, which was a nonstandard system not allowed by rule at the time of the approval. Mr. Wriggle countered that he understood the original approval was for a standard system.

Mr. Olson said the Wriggle's could meet the intent of the rules if additional property was obtained or a sewage collection/treatment system was used. He said this was an old subdivision, developed at urban density, and any on-site sewage system would cause degradation. However, no studies had been done in the area to see if the aquifer was polluted, but studies had been done on other areas on the Coast.

In response to Chairman Petersen, Mr. Olson said that an aquifer study in the Florence area took one to two years, and even longer for the study in the Clatsop Plains area.

Chairman Petersen asked if there was anything the Wriggle's could do, short of obtaining more property. Mr. Olson replied that without more property, the lot would be unbuildable unless the Commission granted a variance. Commissioner Denecke asked if any adjoining lots were big enough to possibly allow a variance. Mr. Wriggle replied that lots on two sides were the same size, a slightly larger lot was on another side, and a road was on the fourth side. Mr. Olson said the adjoining lot to the south was slightly larger, the two lots on the west were recently developed with approved on-site sewage systems, and the property across the road was a large tax lot. Mr. Wriggle said the lot across the road was owned by a number of heirs and he didn't know the status of it. In response to Commissioner Denecke, Mr. Wriggle said that unless neighboring property owners were willing to give up rights for their own systems, he didn't think an easement was possible. Mr. Olson said only the property across the road would be a possibility for an easement without giving up their own chances for a system. He continued that there was no prohibition against a system running under the road. A permit must be obtained from the County, but that should not be a problem.

Doug Marshall, Tillamook County Sanitarian, testified that he saw little problem with the system as proposed by the Wriggles. He said the purpose of the on-site sewage disposal rules were to preserve the quality of the water, and the proposal was the highest solution of treatment available. It would comply with Commission intent, and Mr. Marshall urged the Commission to grant the variance.

Commissioner Brill asked if systems on adjacent properties were next to the property line. Mr. Wriggle replied that they were close, but he was sure they used proper setbacks.

Commissioner Brill asked about the possibility of a community sewage treatment system. Mr. Marshall said it was a low priority as there were mainly vacation homes in the area with established systems, and the subdivision was too far from an established sewage treatment plant. Mr. Wriggle said the homeowners association had discussed a community treatment system but the majority have systems already installed and are not receptive to the costs associated with a community system.

Chairman Petersen expressed concern about the precedent of granting this variance and what the impact would be. Mr. Marshall replied that there were probably less than 10 property owners in the subdivision who were in the same situation. Mr. Olson said there were 158 lots in the subdivision, 47 of those lots were undeveloped. However, if a precedent were set, the Commission would probably be looking at variance requests from other sandspit areas on the Coast. Chairman Petersen asked if some of those lots were large enough for on-site sewage systems. Mr. Olson replied that the majority were too small. Some of the subdivisions were created in the 1920's and 1930's and even some in the 1800's.

Chairman Petersen said he was sensitive to the Wriggle's problem, but he was also concerned about the precedent. He asked that the Wriggle's explore the possibility of an easement, with assistance from DEQ. Chairman Petersen wanted to be sure the Wriggle's had pursued all avenues before the Commission considered granting a variance. He said the Wriggle's argument was persuasive, and asked the DEQ staff to cooperate with them to find an acceptable solution. Chairman Petersen told Mr. Wriggle he should feel free to come back to the Commission at a later date if there was still a problem. Chairman Petersen and the Commission agreed to continue this matter, and no formal action was necessary.

Director Hansen stressed the Department was very sympathetic to the Wriggle's and others who are in similar circumstances. Those who bought a piece of property they thought would be developable on the basis of a government statement.

AGENDA ITEM H: Approval of amendments to Lane Regional Air Pollution Authority Rules concerning air contaminant discharge permits, new source review, and definitions as a revision of the State Implementation Plan.

The Lane Regional Air Pollution Authority (LRAPA) has rewritten three sections of their rules in response to EPA's requirements and in an effort to improve readability.

In accordance with state statutes, regional authority rules must be no less stringent than state rules and must be approved by the Commission. Staff has reviewed the subject rules and concluded they are acceptable for Commission approval.

Director's Recommendation

It is recommended that the EQC approve LRAPA's rule revisions concerning Air Permits, New Source Reviews, and Definitions based on a finding that they are no less stringent than state rules, and further, that the EQC direct the Department to submit the revised rules to the U.S. Environmental Protection Agency as a State Implementation Plan (SIP) revision.

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

AGENDA ITEM I: Proposed amendment to OAR 340-25-315 (Veneer and Plywood Manufacturing Operations) to include emission standards for veneer dryers located in special problem areas.

The proposed amendment would extend specific emission standards for veneer dryers to include dryers located in special problem areas. An additional part of the amendment would delete an outdated reference to implementation of veneer dryer air emission compliance. It is also proposed to delete the section on Veneer Dryer Emission Limitations of the Medford-Ashland AQMA Rule.

Director's Recommendation

Based on the Summation in the staff report, it is recommended that the Environmental Quality Commission adopt the proposed modification to the veneer and plywood Manufacturing Operations Regulation and delete the Veneer Emission Limitations section from the Medford-Ashland Air Quality Maintenance Area (AQMA) Rule.

Chairman Petersen referred to the following statement from page 2 of the staff report:

"The Department believes that the provisions of the Veneer and Plywood Manufacturing Operations Rule are adequate to allow the application of more restrictive emission limits in the Medford in the future if necessary. The Department, therefore, agrees that the specific Medford rule (OAR 340-30-020) can be deleted..."

Chairman Petersen asked how the Department would accomplish necessary improvements if the deletion were approved.

Lloyd Kostow of the Department's Air Quality Division replied that if attainment is not reached as projected, the more stringent limits may need to be considered. This would be accomplished through discussions with the community, the air quality advisory committee in the area, and it would come back to the Commission as a rule revision.

Chairman Petersen asked if industry was satisfied with the revisions outlined in the following statement from page 3 of the staff report:

> "For this reason, the opacity rule was designated to accommodate occasional visual emissions above 10 percent, but which are less than the 20 percent maximum opacity limit. In recognition of these factors, the guidelines for application of the 10 percent average operating opacity standard have been revised."

Mr. Kostow replied that he didn't know if everyone in industry had seen the revisions yet, but they were distributed to everyone who testified at the hearing and no comments were received, so he believed their concerns were satisfied.

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

AGENDA ITEM J: Proposed adoption of amendments to Water Quality Standards Regulations, OAR Chapter 340, Division 41.

On February 24, 1984, the EQC authorized the Department to hold public hearings on proposed changes to existing water quality standards. The hearings were held in May, 1984.

The Department deferred staff efforts to evaluate testimony as a result of unscheduled work associated with the proposal to find a threat to drinking water in mid-Multnomah County.

The Department has now completed a summary of the hearing record, evaluated the testimony and prepared recommendations.

The Department recommended adoption of some corrections and revisions to beneficial use tables contained in the water quality regulations. It also proposed that issue papers be prepared for additional potential rule amendments and that public review be scheduled on these in the spring of 1986.

Director's Recommendation

Based upon the Summation in the staff report, it is recommended that the Commission adopt the revisions to Beneficial Use Tables 1, 2, 3, 4, 5, 7, 8, 9, 10, 12, 15, 16, and 17, as contained in OAR Chapter 340, Division 41, and direct the Department to prepare issue papers dealing with the additional potential rule amendments noted above for public review and comment during the spring of 1986.

John Charles, Oregon Environmental Council, testified about the five areas the Department had identified for issue papers that they would circulate and discuss at a future date, on page C-39 of the staff report. He suggested the issue of nonpoint source control, namely forest harvest activities also needed study. Mr. Charles said that in particular basins, the problems of nonpoint source run off are equal to or worse than all of the point sources combined. He asked that nonpoint sources be listed as a high priority on the list for issue papers to be developed.

In response to Chairman Petersen, Mr. Charles said that nonpoint sources would be urban street runoff, agricultural runoff, erosion caused by forest activities, as opposed to point sources which is generally something that comes out of a particular outfall such as a sewage discharge from an industrial source.

Commissioner Denecke said it was his understanding that agencies such as the Forest Service, the Bureau of Land Management, and the State Department of Forestry were primarily dealing with nonpoint sources now. Mr. Charles replied that it depended on the category of nonpoint source, such as forest harvest activity, as who had jurisdiction.

Cynthia Mackie, Northwest Environmental Defense Center and Oregon Shores Conservation Coalition, testified they were also concerned that a study should be made of nonpoint sources. However, rather than supporting more issue papers, they believed standards for nutrients should be set now and that no further study was needed. She said an unconscionable amount of time for review of DEQ's water quality standards had already been spent on this issue, and enough information was already available to set the standards. Ms. Mackie provided the Commission with pictures of Schooner Creek showing the nutrient problem.

The reason they want standards adopted now, she continued, was that they believed the public had a right to know what standards are being applied and how they are being applied. She recommended the Commission adopt EPA standards, or the standards previously recommended by her group.

In addition, Ms. Mackie proposed specific changes to the beneficial use tables. The first was the footnote designating "adequate pretreatment." They felt this was meaningless and suggested the Commission specify the type of pretreatment needed for each appropriate water segment. Secondly, they were concerned about the inclusion of three different irrigation titles in Tables 15 and 16. She said that if a stream is used for irrigation and there were these different types of irrigation, it makes other uses seem subservient to irrigation. Lastly, Ms. Mackie emphasized that NEDC and Oregon Shores believed that the best management practice should be applied before water quality standards are reduced for the Malheur and Owyhee Rivers.

In response to the suggestion that the Department has taken too long to establish standards, Harold Sawyer of the Department's Water Quality Division replied that the Department had tried to use the approach of assembling the necessary background information and the rationale for a particular standard to have some idea of what the implications of that standard would be in terms of implementation. He was uncomfortable with proposing nutrient standards especially at this time because the staff had not done any work or assembled the necessary information.

Mr. Sawyer suggested that the definition of pretreatment could be made less ambiguous by adding filtration/disinfection as the interpretation. Ms. Mackie agreed that would be helpful.

In regard to the irrigation labels on Tables 15 and 16, Mr. Sawyer said it would not be a problem deleting them.

Commissioner Denecke asked how the tables were used. Mr. Sawyer replied they were for the Department's use in gaining a perspective on the total regulatory program and the way water quality standards are viewed.

Gail Achterman, Lake Oswego Corporation, urged adoption of nutrient standards. The Lake Oswego Corporation owns all of the bed and banks of Oswego Lake and holds all of the water rights for Oswego Lake which receives its water from the Tualatin River through the Tualatin Canal. They supported the recommendation that the Commission adopt standards for nitrogen and phosphorous, but also urged the Commission to ask the Department to move more rapidly in proposing nutrient standards. The problem her clients have is that the Unified Sewerage Agency's (USA) Durham and Rock Creek Sewage Treatment Plants discharge into the Tualatin River. The National Pollutant Discharge Elimination System (NPDES) permits for those two plants were coming up for renewal soon, and they wished to have nutrient standards in place so they could be reflected in the permits. Because of the algal blooms currently in the Tualatin River and Oswego Lake, previous recreational uses have become nonexistent. Ms. Achterman stated it cost her clients $20,000 to $22,000 per year for algicides which need to be applied to the Lake every five days throughout the summer--and the problem is still not controlled.

Ms. Achterman said they would accept the EPA's nutrient standards as published in the Department's 1984 Water Quality Program Assessment and Program Plan for FY 1985.

Commissioner Denecke asked if the Commission were to adopt the nutrient standards as proposed by Ms. Achterman, were there presently economically feasible ways that USA could meet the standards. Ms. Achterman replied that USA was presently using land disposal techniques at some of their other plants, and could possibly do that at Durham and Rock Creek also. Also, they currently reduce their nutrient discharge in the summer months, they could begin reducing earlier in the spring when the water in the Lower Tualatin and Oswego

Lake might not have as high a nutrient level. She did understand, however, that ultimately a capital expenditure would be needed, though they wouldn't argue that USA would have to meet standards overnight.

Commissioner Denecke then asked why the EPA standards were not now being applied. There was some discussion between Ms. Achterman, Mr. Jack Smith, also representing Lake Oswego, and Mr. Sawyer as to whether the EPA information referred to were actually standards or guidelines. The Department believes them to be guidelines. Ms. Achterman and Mr. Smith believe them to be standards which the Commission could adopt.

Gary Krahmer, Unified Sewerage Agency, testified that they would be willing to cooperate with the Lake Oswego Corporation in any way they could, but they hadn't yet been approached with the problem. He did state there were other sources of nutrients other than the sewage treatment plant effluent, and asked the Commission to recognize that any solution would be very costly. In order to provide for land application of the 30 million gallons of effluent produced every day from the Durham and Rock Creek plants, in excess of 2,000 acres would be needed. Mr. Krahmer asked for time. He said they were in the process of updating their master plan for the next 20 years and wanted to know what the standards would be.

Director Hansen said that the implication was that if standards were in place to regulate the discharge that somehow water quality standards and designated uses could be achieved. He said it was important to keep in mind that it was the Water Policy Review Board's failure to curb appropriation of water out of the stream so that there was not enough water to be able to provide for both the quality and the appropriation for substantial agricultural uses, that has caused water quality degradation. This is a substantial and complex issue that needs to be looked at in total, he continued.

Chairman Petersen asked if it would be possible to accelerate adoption of permanent standards and/or adoption of interim standards using EPA guidelines. Mr. Sawyer said it was a matter of where staff resources should be placed. His intent with an issue paper was really to develop a background document and proposed standards for adoption that would head into the public participation process in the spring of 1986. He was not comfortable at this time with labeling the EPA guidelines as standards. Chairman Petersen suggested that possibly the people testifying did not know the workload impact on staff from such things as the threat to drinking water in East Multnomah County, but he asked that the staff return to the Commission at its next meeting with a report on whether it would be possible to develop interim nutrient standards for the state. Mr. Sawyer agreed to return with the best proposal staff could assemble.

Director Hansen expressed concern if interim standards would turn out to be less stringent than final standards, then we would lose the ability to impose the more stringent standards for those permits issued in the interim. He suggested it would be possible to have a permit condition indicating that the Department was developing

standards on nutrients and that when those standards became effective any permit would need to meet them, possibly according to a pre-established compliance schedule.

Commissioner Brill made the following motion: Approve the Director's Recommendation adding the definition of pretreatment as filtration and disinfection; remove the headings on tables 15 and 16 relating to the types of irrigation; request an interim status report from the staff on nonpoint sources program and its development; direct the staff to come back at the Commission's September meeting with a specific idea on how to accelerate the adoption of interim and/or permanent nutrient standards; and instruct staff to include cautionary language in any permits issued. The motion was seconded by Commissioner Bishop and passed unanimously.

AGENDA ITEM K: Request for approval of Construction Grants Management System and Priority List for fiscal year 1986.

This item is the request for approval of the Fiscal Year 1986 Construction Grants used to allocate EPA funds to construct sewage treatment facilities.

Although federal funds have not yet been authorized or appropriated by Congress, we are expecting that the funding level of approximately $27 million for Oregon will be continued for Fiscal Year 1986.

Director's Recommendation

Based on the Summation, the Director recommends that the Commission adopt the FY86 Construction Grants Priority List as presented in Attachment I.

At the request of Senator Houck, Commissioner Denecke asked about two Marion County projects; Keizer/North Keizer, and Brooks/Hopmere. He said Senator Houck was concerned about the priority of the project that included Clear Lake. B. J. Smith of the Department's Water Quality Division, responded that the Clear Lake project was associated with Keizer/North Keizer. That project, in and of itself, she continued, is listed at #73 on the priority list because according to their schedule they could be ready to go during fiscal year 1986, but there was insufficient funding available to see the project need reached until October of 1987.

Ms. Smith outlined how project priorities are determined. A letter evaluation ranging from A through D is applied. The letters mean:

A projects - one where there is a declaration of public health emergency through the State Health Division, and documented evidence is found that there are effects in either surface water or groundwater. This is the highest priority.

B projects - one where there is documented evidence of effects on surface or groundwater, but no declaration of public health emergency.

C projects - one where there are sufficient reasons to assess that the project would violate a permit, if issued, or is in technical violation of a permit. This is the level the Keizer/North Keizer project falls into.

Commissioner Denecke asked that Ms. Smith's testimony be transcribed and sent to Senator Houck.

Ms. Smith added that the Department had received a letter from the City of Gresham about a project noted on the priority list that has something to do with the resolution of the groundwater problems in East Multnomah County. That particular project has a footnote which indicates it would be given a high priority for construction of additional capacities at the Gresham sewage treatment plant if it was determined that capacity was needed in order to serve areas that are currently now on cesspool or whatever. The Department had indicated that it looked like capacity would be reached after service to about 3,000 individuals in East Multnomah County. The letter from the City of Gresham indicated they could fine-tune that number, which the Department feels is appropriate.

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

AGENDA ITEM L: Continuation of discussion of proposed rules for granting Water Quality Standards Compliance Certification pursuant to requirements of Section 401 of the federal Clean Water Act.

At the January 25, 1985 meeting, the Commission voted to defer action pending further discussion on proposed procedural rules regarding Water Quality Certification pursuant to Section 401 of the federal Clean Water Act.

Since then, the Commission has considered the appeal of the Department's denial of certification on the Lava Diversion Project, and the legislature has enacted some guidance for the 401 certification process as it relates to hydroelectric projects.

The Department has drafted some amendments to the rules considered in January. It is recommended that the Commission discuss the rules as proposed, make changes as appropriate, and authorize the Department to take the proposed rules, as modified, back out to public hearing.

Director's Recommendation

Based on the Summation it is recommended that the Commission discuss the rules as proposed, make changes as appropriate based on the discussion, and authorize the Department to take the draft contained in Attachment A, as modified, back out to public hearing.

John Charles, Oregon Environmental Council, presented the Commission with two documents written by the State of Maine Department of Environmental Protection. One was a letter to the Federal Energy Regulatory Commission (FERC), dated February 15, 1983, and the other was a staff presentation by the hydropower coordinator for the Maine Department of Environmental Protection dated February 9. He also provided the Commission with Section 303(c)(2) of the federal Clean Water Act.

They believe, he continued, that the following part of this section should be taken literally:

> "...Such standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this Act. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial and other purposes, and also taking into consideration their use and value for navigation."

Mr. Charles said they felt it was better for the state to simply interpret the Act literally and protect beneficial uses of the state's water as designated by the state's Water Policy Review Board, apart from the areas the Department frequently enforces such as bacteria, dissolved oxygen and turbidity.

The State of Maine has chosen to interpret the Act differently than the EQC, Mr. Charles said, and they believe Maine's interpretation is correct. He said a hydro project was proposed on a river in Maine which was one of only six rivers in the entire eastern United States with a significant self-sustaining Atlantic salmon run used intensively for sport fisheries. The project would have had significant adverse impacts on the fishery use, but probably would not have affected the water quality parameters like dissolved oxygen or turbidity. Maine denied the 401 certification on the grounds "... that an unreasonable impact on the designated uses of waters as outlined in the State's Water Classification Law constitutes a violation of water quality standards ..." The Maine commission also recommended letting FERC know that the 401 certification had been denied solely on the grounds that the project would have adverse impacts on the uses of the river. FERC subsequently terminated the project. Mr. Charles believed this was a much stronger stance for a state to take than the one the EQC had chosen in the Benham Falls case.

Commissioner Denecke said he had done some research on this subject, and found the Fifth Circuit Court of Appeals case (625 F2d 1269) not conclusive and made the following quote from it:

> "A water quality standard has two components. The first is the use for the water in the area; the second is the water quality criteria necessary to meet the designated use."

As Commissioner Denecke understood it, Mr. Charles was carrying the argument a step further and asking if there was sufficient water to fulfill the designated use. Mr. Charles replied that the water had to be protected both in terms of quality and in terms of ensuring the use of the water itself is not destroyed.

Commissioner Denecke asked if the Department's position, which is contrary to Mr. Charles' position, was long-standing. Michael Huston, Assistant Attorney General, replied that the Department's basic approach was a long standing one and includes the concurrence of the Environmental Protection Agency. That posture was taken before Mr. Huston became counsel for the Commission, and the approach is now under appeal in the Benham Falls case, so the Court of Appeals could pass on the question. In response to Commissioner Denecke, Mr. Huston said his office had done some preliminary research in preparation for the Benham Falls case, and had concluded that the Department's approach was probably defensible. Although, it was probably within the Department's or Commission's authority to take the broader view Mr. Charles presented, Mr. Huston continued.

Chairman Petersen said that from his reading of Section 303 it talks about taking into consideration uses when standards were adopted, and it was his understanding that the Commission did that. Chairman Petersen continued that he felt the whole argument was about Section 401, and he didn't read anything in 401(a) that the Commission could certify other than specific water quality standards. As he read the Act, Section 401(d) would only apply if the Commission had decided to grant certification, and quoted the following from that Section:

> "Any certification provided under this section shall set forth any effluent limitations and other limitations and monitoring requirements necessary to assure that any applicant for a federal license or permit will comply with any applicable effluent limitations and other limitations under sections 301 and 302 of this Act, standard of performance under 306 of this Act, or prohibition, effluent standard or pretreatment standard under 307 of the Act, and with any other appropriate requirement of state law set forth in such certification and shall become a condition on any federal license or permit subject to the provisions of this section."

He said he didn't read anything in that section that would be grounds for denial of certification, because subsection (d) would come into effect only if there had been a decision to approve.

Jack Smith of the Northwest Environmental Defense Council, agreed with Chairman Petersen, and said it was exactly why they were in the Court of Appeals, because they believed the grounds that were used for denial of the Benham Falls permit were not going to stand up.

Commissioner Denecke said it was a more difficult question than when the Commission denied the Benham Falls permit, but thought that it would be solved one way or another by the Court of Appeals.

Both Mr. Smith and Mr. Charles urged the Commission not to delay adoption of rules as they were especially needed to deal with current projects.

Chairman Petersen commented he was now a little better educated on the subject, but was not persuaded. It would be stretching Section 303 to require the Commission to also establish uses as part of the standard. However, he was inclined at this time to go along with the Director's recommendation and go back out to public hearing with the draft rules contained in the staff report.

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

AGENDA ITEM M: Proposed adoption of amendments to Hazardous Waste Management Rules, OAR Chapter 340, Divisions 100 to 108.

This agenda item proposes adoption of amendments to the State hazardous waste management rules. The proposed amendments establish management standards for certain hazardous wastes which are recycled, classify certain dioxin-containing wastes as hazardous, and make technical corrections and clarifying changes.

Adoption of the proposed rule amendments would allow the State hazardous waste program to maintain equivalency to the federal RCRA program.

Director's Recommendation

Based upon the Department's analysis of the testimony received following the June 10, 1985 notice of opportunity for public comment, it is recommended that the Commission adopt Attachment X: Proposed Rules and Rule Amendments to OAR Chapter 340, Divisions 100-108.

Al Goodman of the Department's Hazardous and Solid Waste Division, presented an additional amendment to the Director's Recommendation responding to concerns recently expressed by the Association of Oregon Industries.

Tom Donaca, Associated Oregon Industries, testified that the adoption of these particular rules were important, and they appreciated the extra time they had been allowed to submit comments. He said they agreed with the staff report amendment which responded to their concerns.

It was MOVED by Commissioner Denecke, seconded by Commissioner Bishop, and carried unanimously that the Director's Recommendation as amended be approved. Commissioner Brill was excused from the meeting before the vote on the motion.

AGENDA ITEM N: Variance request from EPA to operate helicopters in excess of noise emission standards of OAR 340-13-020 to obtain water samples from 32 wilderness area lakes.

EPA is conducting a national survey to evaluate and gain baseline data on the sensitivity of lakes to acid deposition (acid rain). In 1984, over 2,000 lakes were sampled in the eastern portion of the United States. The western survey, scheduled for this fall, would sample 888 lakes. In Oregon, 64 lakes would be sampled, 32 of which are in federally designated Wilderness Areas.

However, the U.S. Forest Service has denied EPA's request to access all Wilderness lakes by helicopter. Instead, they have agreed that three Oregon Wilderness lakes can be sampled by helicopter to conduct a study to compare the quality of data taken by ground versus air access methods. Other Wilderness lakes would be sampled by ground crews only.

The Department agrees with EPA that water quality baseline data from Oregon lakes, including those located in Wilderness Areas, is desirable. However, helicopter access to these lakes will exceed the noise standard by approximately 60 decibels or subjectively about 64 times louder than the standard. Although the level of noise is very high, the impacts are relatively short, as each survey will be completed in about 20 minutes and long term impacts are unlikely.

The Department supports granting this variance but is not anxious to see helicopter flights into more than the three lakes identified in the comparability study. If you have questions of staff, we have people here from the noise control and water quality programs and a representative from the laboratory that can address their respective areas.

Director's Recommendation

Based on the findings in the Summation, it is recommended that the Commission approve a variance for EPA's proposed National Surface Water Survey of Wilderness Area lakes in Oregon using helicopters in excess of the 50 dBA at 50 feet noise emission standard of OAR 340-13-020 during September and October 1985 under the following conditions:

1. The three lakes identified as part of the comparability study may be accessed by helicopter.

2. The Director of the Department may approve helicopter access to any lake in addition to the three identified in item 1 above, if the Forest Service has approved access to such lake.

3. EPA must receive prior Departmental approval for helicopter access and egress flight paths to each Wilderness Area lake that may be considered for helicopter access.

4. Each lake may be accessed no more than once with a helicopter.

5. The helicopter type shall be approved by the Department.

6. The helicopter shall operate at least 3,000 feet above ground level over Wilderness Areas except during landing and takeoff procedures, unless the pilot determines such procedures would cause unsafe flight conditions.

7. EPA shall coordinate with the Oregon Department of Fish and Wildlife to avoid, as much as possible, time and areas of hunting activities.

Chairman Petersen read testimony submitted by the Sierra Club which is made a part of the record on this matter.

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

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

During the Commission's lunch meeting Director Hansen briefed them on the status of legislation.

Respectfully submitted,

for

Carol A. Splettstaszer
EQC Assistant

CAS:d

Agenda Item J

Proposed adoption of amendment to water quality standards regulations, OAR 340, Division 41.

Hansen: Right. On February 24, 1984, you, the Environmental Quality Commission authorized the Department to hold public hearings on proposed changes to existing water quality standards. The hearings were held in May of 1984. The Department deferred staff efforts to evaluate testimony as a result of unscheduled work associated with the proposal to find a threat to drinking water in the mid-Multnomah county area. The Department has now completed a summary of the hearings, evaluated the testimony and prepared recommendations. A number of changes certainly exist from what we originally took out to hearing. We are recommending adoption of some corrections in revisions to the beneficial use tables contained in the Water Quality regulations. We also propose that issue papers be prepared for additional potential rule making and amendments and that public review be scheduled on these in the springs of 1986. Harold Sawyer is here to answer any questions you may have, and certainly there are a number of people who signed up to testify on this issue. Also, we have received written comments of Jack Churchill that are already in your folder. He was unable to be present at the Environmental Quality Commission meeting and asked those be entered in the record today.

Petersen: Okay...he asked that you read them into the record.....I'm wondering whether -- has everyone had a chance to read Mr. Churchill's letter? Have you read it? We do have several people who have signed up so perhaps before we start commenting, we ought to hear from everybody that wants to talk to us. I would like to ask each witness to identify -- help us narrow the issues. One of the problems we have is trying to focus in on just those areas of specific concern and so if you would help us do that in your testimony things would go a lot faster and you will find us more responsive. John Charles of the Oregon Environmental Council....

Charles: Thank you, Mr. Chairman. I'll be brief. My name is John Charles and I represent the Oregon Environmental Council. I only have one comment I'd like to make and that is what I have on C-39...

Denecke: C-39?

Charles: C-39...yes...under the conclusion and recommendations lists five areas that the Department has identified for issue papers that they would circulate and discuss at a future date. I would like to suggest another area...I don't know how you can prioritize it Vis-a-Vis the others...and that is the issue of nonpoint source control. We have recently spent quite a bit of time doing rather extensive survey of at least one major area of nonpoint source control namely those problems associated with forest harvest activities.

It is our conclusions that there are significant problems with the way the State, mainly DEQ and other agencies DEQ has delegated authority to....there are major problems in the way those programs are operating. And in many cases the problems of nonpoint source runoff are equal to or worse than all of the point sources combined in that particular basin. And so, it is my feeling that given the fact that unfortunately EPA has cut a lot of funding out for 208 work but that most of the major statutory and regulatory line which still exists therefore presents all stages of a particularly thorny problem of how to best implement those programs. I believe that its time for a pretty substantive discussion of exactly where the state's headed and what they're doing and what they're not doing and whether or not that's a higher priority than a through e listed here, I don't know that I can say but I would certainly like to see it listed as either as high or certainly next on the list for issue papers developed...

Petersen: Could you give an example of your understanding of the difference between point source and nonpoint source in this field of regulation?

Charles: The point source is generally something that comes out of a discreet pipe or outfall; sewerage discharge in industrial source. Nonpoint sources would be urban street runoff, agricultural runoff, erosion caused by forest harvest activities...sort of the equivalent to an air quality field things that we call area sources...you know, stoves and woodstoves and cars....things that are kind of tough to get a handle on. Nonetheless, there are specific requirements in the water quality act to address nonpoint sources. It always has been a difficult area but it's one that's got to be addressed.

Petersen: Questions for Mr. Charles?

Brill: Wouldn't that be covered Mr. Chairman or John Charles in expansion of the mixing zone criteria?

Charles: My understanding of the way that the Department's water quality technical staff would look at that has to do with - define a mixing zone--it's principally the area immediately around an outfall from a point source where effluent is being discharged into a river...you have a mixing zone where the effluent mixes with the ambient water and then you develop ratios of how much water is needed to dilute the effluent. There's a lot of technical work that goes on with that. I don't believe at least generally from my understanding of mixing zones are generally a virtue of nonpoint sources precisely because they don't come from discreet pipes. They enter form all kinds of areas and so I suppose if you consider mixing zone the entire length of the river affected by nonpoint sources, that would fall under it but my guess is that the way the staff would develop that issue paper they would not deal very much with nonpoint sources.

Petersen: Other questions? Thank you. Liz Frankel .....

Denecke: May I ask Mr. Charles -- I assume Mr. Charles that the Forest Service, the BUM, the State Department of Forestry are the people primarily dealing with these now? Am I incorrect in that?

Charles: Well, there are various categories of nonpoint sources. For instance, the agricultural runoff of forest harvest activities...generally forest harvest activities on state and private lands are regulated by the Oregon Forest Practices Act and there's a Memorandum of Agreement signed in about 1978 or 1979 between DEQ and Department of Forestry in which the principle jurisdiction for preventing nonpoint source runoff was delegated to the Board of Forestry to be controlled through the Forest Practices Act. And although that authority has been delegated, DEQ retains ultimate authority and is required by the Clean Water Act to review the Forest Practices Act annually to insure that it qualifies as best management practice, or BMP, under the Act, and then recommend to the Governor continued use of the FPA as a BMP or modification. The Governor in turn sends to the EPA and the EPA signs off of it. That is supposed to be happening every year. The way in fact that that happens procedurally and substantively is in large part one of our concerns that I've already addressed formally to Mr. Hansen in which we are working on at the staff level.

Petersen: Thank you, Mr. Charles.

Charles: Thank you.

Petersen: Liz Frankel, Sierra Club, Oregon Chapter....

Frankel: I'm sorry I signed up in error....I want item L.

Hansen: O. K....L? Sorry you just blew it...no more chances....

And a lot of laughter.....

Petersen: Cynthia Mackie, NEDC--Northwest Environmental Defense

Mackie: Thank you....my name is Cynthia Mackie and I represent the Northwest Environmental Defense Center and Oregon Shores Conservation Coalation. We have been in front EQC and DEQ on water quality issues for quite some time and I believe that the Commission is well aware of our position on water quality standards so I will be brief and try telling it some of the basic points. The first item that we are concerned with is again on Page C-39 that John was referring to. Rather than supporting the more issue papers, although we do support the nonpoint issue paper, we believe that the water quality standards, particularly the nutrient standards should be set now. We have done plenty of study on the issue and we don't believe that we need any more information on the issue and we feel that EQC should be able to make a decision on that. Our problem is that we believe that an unconscionable amount of time for review of DEQ's water quality standards have been spent on this issue. 303 requires review every 3 years...we reviewed these in 1979...we started review again in 1984...we're still reviewing these standards. We don't want to extend this proposal for another year and look at it...it's ridiculous and surely violates the requirements of 303. We, Oregon Shores, has submitted some proposed water quality standards to EQC before and we would like to resubmit these to you. We would also like to recommend and point out that EQC is already following EPA Region X standards and could adopt those and we would be happy with that. Here's what we submitted in May of 1984...and I've some pictures that we'd would like to show you that demonstrate the problem with algae in some of the Oregon wetland areas. Here's some pictures....

Hansen: One copy each....would you like to have it circulated now? Should we make copies and circulate them to everyone?

Petersen: Well, I don't think it's....there's no way we're-- five of us are going to review that and do anything about that today...

Mackie: You've had it before you in 1984 so presumably it has already been reviewed.

Petersen: Right...

Mackie: The reason we would is to have these adopted now is that we believe the public has a right to know what standards are being applied and how they are being applied. The lack of a standard only encourages water quality problems and the water quality problems it encourages are evidenced by those pictures. So we recommend that EQC go ahead and adopt EPA standards or our recommended standards. Now let's move forward and get going on water quality. If DEQ really wants to write issue papers and spend a lot of time analyzing the situations, we recommend that you analyze a nonpoint source problems that John Charles suggested. They're an important issue and they need to be analyzed. We also would like to have more information on maximum allowable loading and that would be a very beneficial issue paper. A few other points I would like to make on the specific proposed changes in the beneficial use tables. One is addressing the adequate pretreatment footnote and that is troublesome to both organizations because of its seemingly meaningless...it seems meaningless... What does adequate pretreatment mean? We suggest that DEQ or EQC specify the type of pretreatment needed for each appropriate water segment rather than just saying pretreatment. That doesn't mean anything to the public. We don't know what pretreatment is going to be applied to that water. We also are concerned about the inclusion of three different irrigation titles in Tables 15 and 16. These titles would specify intensive irrigation, modern irrigation and light irrigation, unduly emphasize irrigation as a beneficial use. It makes irrigation seem like a super use. If that stream is used for irrigation and there's all these different types of irrigation it makes other uses seem subservient to irrigation. While I'm addressing the Malheur and Owyhee River I would like to emphasize that NADC and Oregon Shores believe that the best management practice should be applied before we start reducing our water quality standards for those rivers. That's all I have to say...thank you very much.

Denecke: May I ask a question, Mr. Chairman....what on the photograph--I guess my eyes are going bad--what is the creek or whatever it is on the bridge there...I can't quite read it.....

Bishop: You've given us two pictures of Highway 101, but there's no way to read that.....

Denecke: I'm glad it's not my eyes....

Bishop: I've just asked Wally too....

Mackie: It's Schooner Creek....you see--I think those pictures were probably before you....and those were taken in 1979....and it looks similar if not worse now...

Peterson: Uh huh.... Other questions from Ms. Mackie? I would like to know - maybe is Hal the one we want to talk to? Hal, why don't you come on up. As I understand we're hearing a suggestion that we've taken too long and we shouldn't take any longer to establish the standards and yet I know the Department feels strongly about these issue papers. Would you like to comment on her testimony and why the additional time you feel may be necessary?

Sawyer: The approach that we have tried to use is basically to assemble the background information, the rationale for a particular standard and hopefully have some idea of what the implications of that standard are in terms of the implementation of that...what the standards are going to affect and how that relates to existing quality. We have never felt comfortable really in proposing a standard without some feel for that...and I suppose it gets down in the final analysis to how much background work should be assembled and presented both to the public and to you in that adoption process...how extensive or how simple that is. The nutrient standards in particular...that is not an area where we have as a staff done any work or assembled the information and at this point I don't believe the staff is particularly comfortable without doing some work in assembling some information in proposing any standards.

Peterson: What about her comment about definition of pretreatment? What that means I think is that she's claiming that it might be ambiguous...is there some way that we can make that less ambiguous?

Sawyer: Yes, there is a way to perhaps make it less ambiguous. Our proposal there was really to make the tables consistent with what we had before. I think the general interpretation that the Department has applied in terms of pretreatment for drinking water supply would be primarily disinfection in that we know of no surface water even in pristine areas that we could suggest should be used as a drinking water source without disinefection. And, secondly, probably filtration....conventional drinking water filtration for surface waters simply as a means of being able to assure that disinfection process is effective. We didn't propose that in that further elaboration...I would not be uncomfortable adding filtration/disinfection as the interpretation....

Petersen: Would that be helpful?

Mackie: That would be very helpful...

Petersen: All right. I don't know precisely where that goes but you can help us identify that when we adopt. How about the comment about emphasizing irrigation by using, you know, light/moderate/intensive irrigation?

Note: beginning of a new tape....

Sawyer: Emphasize irrigation as much as it was a means of categorizing the irrigation zones or in the steeper gradient streams versus the lowest bottom level and the reservoir areas. I'll have to look more closely at the tables in terms of potentially eliminating that label on it. I don't believe offhand it would impact....

Petersen: There's no doubt in anyone's mind what light irrigation, moderate irrigation and heavy irrigation is?

Sawyer: I would say there probably is doubt on what those mean... That was a product of having taken a recommendation that was advanced to us and forwarding that on and you know--in terms of looking at both Tables 15 and 16...if intensive irrigation, moderate irrigation and light irrigation were deleted from it, the particular stream reach that the use designations is applicable for is identified. I don't think it would at all be a problem to delete those labels.

Petersen: But you have made a distinction between intense and moderate in terms of allowable uses haven't you?

Sawyer: What I'm saying is if on Table 15 which is Page All...if you simply deleted the intensive irrigation and moderate irrigation and light irrigation labels...you're still talking about zone there...you're still talking about the Malheur River and that segment from Namorf to the mouth...

Petersen: I see...I follow you now....thank you.

Sawyer: As I say I think that's in looking at it when the issue was raised but that does convey something different than I think we would have meant.

Petersen: O. K. Other questions for Ms. Mackie or Mr. Sawyer?

Denecke: What use are made of these tables?

Sawyer: We fall back to these tables as just kind of a sense of perspective really in the total regulatory program in that we view the water quality standards that's kind of the next level down from these tables as something that is evolving over time and will continue to evolve...new information becomes available....and we expect fully to add standards for additional perameters over time...we have viewed the beneficial use tables as particularly helpful as something to fall back to for parameters or concerns that arise that we have not established a specific standard for. To a very great degree, the level of refinement on the standards as a product of our knowledge and the particular problems we are dealing with at the time....what things are most important, where the effort has been spent to develop the specific standard. We view this as kind of a continuing refinement process that will go on as long as any of us are around. We will always have new information available. We will probably be moving from the basin-wide standards down to more reach-specific standards as our information base approves as well. But, in particular, nutrient standards may be an appropriate example. We have not established to this point specific nutrient standards. Yet if we were facing a discharge proposal or some activity that in our judgment in looking back at the beneficial uses based on nutrients, you would conclude that that might impair use, we view that as giving us a basis of a little bit tougher...a little bit less direct than the numerical standard itself, but it does give us the basis for making a decision on that proposal.

Denecke These are primarily for Department's use?

Sawyer: Yes, sir....

Denecke: Thank you. Harold why don't you stay there and let both Gail Achterman and Jack Smith....want to come up together in which case I'll ask you to...

Achterman: I think we both want to come up together..

Petersen: You both signed up on one sheet and I will let you arm wrestle as to who goes first.

Achterman: Well, I think I'm going to do the presentation and Jack Smith will mainly answer questions...so....there's an original and ten copies of our written comments...

Petersen: You're with the Lake Oswego Corporation?

Achterman: Right...We're here today representing the Lake Oswego Corporation. For those of you who aren't familiar with what the Lake Oswego Corporation is....the Lake Oswego Corporation owns all of the bed and banks of Lake Oswego and holds all of the water rights for Oswego Lake. Oswego Lake is supplied.....receives all of its water from the Tualatin River through the Tualatin canal and so the water quality of the Tualatin River determines the water quality of Oswego Lake. I think you've heard a lot this morning about water quality standards in general without very much specific discussion of what an impact the lack of water quality standards, particularly the lack of water quality standards on nutrients, can have in a particular situation and we really would like to discuss a very particular situation which is costing my client a great deal of money because of the lack of a nutrient standard. I think also as an introductory matter, we need to emphasize that we support the Department staff's decision or recommendation that this Commission adopt water quality standards for nitrogen and phosphorus, but we would urge that the Commission act more rapidly than this departmental staff recommends because we are facing a very immediate problem. It's been around for a long time and it's costing us more money all the time. The problem is that the Unified Sewerage Agency of Washington County has sewage treatment plants--the Durham Plant and I believe the Rock Creek Plant, which discharge into the Tualatin River. The Tualatin River as some of you may know is one of only two streams in the state that has minimum stream flows designated for pollution abatement. The pollution problem in the Tualatin River has been around for a long time. The difficulty is that there are no water quality ..... because the Department has and the Commission has not adopted any water quality standards for nutrients there is no guidance really for the NPDES permits on those particular plants. Now they do control nutrients to some extent but they don't begin to control the problem that exists. They continue to cause problems. The problem is basically like discharging fertilizer -- vast quantities of fertilizer into the river which then causes algal blooms all along the lower Tualatin and in Lake Oswego. The Tualatin River historically--those lower reaches of the river did provide a tremendous recreational resource for the Portland metropolitan area and the Willamette Valley. There were swimming beaches that were used on summer days like today. There was boating and picnicking along the river, and basically none of that is happening anymore because you have a kind of gunky algae that you saw in the pictures of Schooner Creek in the lower reaches of the river and nobody finds it particularly attractive to go swimming and boating in that kind of muck. In terms of the financial impact on our client, the lake corporation spends $20,000 to $22,000 a

year, every year, year-in and year-out on algicides. The algicide has to be applied to the lake every five days throughout the summer. You know at that kind of quantity--that's a lot of algicide. We aren't even counting the labor costs but it's clearly in the last five years there have been well over $100,000 spent by the Lake Corporation in trying to control this algae problem which is directly attributable to the nutrient discharges by the sewage algal blooms still occur in the lake....I mean in certain parts of the lake you still have the algal blooms occurring all summer long. It impairs boating and swimming in the lake and there's just no question that a more comprehensive approach to this nutrient discharge problem is called for and frankly we think the approach and apparently the staff has also concluded that the approach this calls for is to adopt nutrient standards...water quality standards for the state and not just for the Tualatin River but for the state as a whole. So that when the Department was reviewing particular discharge permits they would have some standards to apply in each case. The thing that we're concerned about is the Lake Corporation and many others have been bringing this problem to the attention of the Commission for quite some time. In 1979 when the standards were reviewed the record indicates that this was discussed at some considerable length and nothing was done. In the 1984 hearings themselves a record was developed that demonstrated or suggested what kinds of standards for nutrient levels could be set. So you already have a record before you. In fact you have a 1979 and a 1984 record that talk about what needs to be done on setting nutrient standards. The place we disagree with the staff recommendation is we don't think it ought to take until next spring to figure out what to do about nutrient standards. We are pleased that the Department is recommending that something be done but we don't see any reason to wait nine months to do it. I think you really have two alternatives that can be followed and we would recommend following both of them. First, we think that the timeline for preparing these issue papers can be greatly accelerated. We don't think there is any reason that it should take nine months to do this job. I think that the suggestion that the staff doesn't have the necessary background information and rationale for adopting this kind of standards is just, you know, I frankly don't find it particularly persuasive. The Department itself published a water quality program assessment in which it applied the Environmental Protection Agency's nutrient standards which we would find completely acceptable. Those were applied by the Oregon Department of Environmental Quality in the Oregon 1984 Water Quality Program Assessment and Program Plan for FY1985 and we have attached as Exhibit A to our written testimony the particular the chart from that report which shows the inorganic nitrogen and

total phosphorus standards that the EPA Region X applies and that the Oregon Department has applied in evaluating the quality of Oregon's water resources. In addition, the Department and the Unified Sewerage Agency in cooperation have done a very comprehensive study of the Tualatin River in particular where one of the most serious problems in the state exists that evaluates this issue in considerable detail and there is testimony that I already mentioned in the 1979 and 1984 hearings. So, we don't think it should take nine months to prepare this issue paper. It should be able to be done on a considerably shorter time schedule and there are a lot of people in the state -- our Corporation and Jack Smith, our consultant, as well as others who are very happy to work with and assist the staff in accelerating the process in order to get the job done. The final recommendation that we have is that whether you accelerate the schedule or not, but particularly if you don't accelerate the schedule, I mean we'd like you to do both, but we think that interim nutrient standards could be adopted right away and this is particularly important to us because the Durham Plant NPDES permit is up for renewal right now. We have requested a hearing on that permit and we expect to be working with Department staff and the Unified Sewerage Agency to try and come to grips with this same problem in that context but it would greatly assist if we had the standards adopted by the Commission as we looked at the renewal of that NPDES permit. I also understand that the Rock Creek NPDES permit -- for the Rock Creek plant is due to come up at the end of this year. Well here you have two major plants that are major contributors to this particular problem where the NPDES permit renewals are going to be coming up before the staff would propose getting its paper done and I just think that's backwards. And so, if you aren't going to...if they aren't going to be able to accellerate the timeline for action, at a minimum, they could adopt the EPA standards as an interim measure subject to later review upon further consideration and deliberation. I think basically the problem that my client or our client faces is that we're being asked to bear the cost of cleaning up water quality problems that are created by all of the people served by the Unified Sewerage Agency of Washington County and you're basically shifting the cost of controlling this pollution problem on to a few people when it really ought to be borne by a much larger group of people. So I think that that's really our message...lack of nutrient standards causes very direct and immediate costs to at least one group in the state and we would suggest more than one. And, we think that these standards are needed and they are needed sooner rather than later. Jack is here to respond to any technical questions you might have. He will just field the questions as they come up should you have any.

Brill: I'd like to ask a question, Mr. Chairman. How could we distinguish between organic and inorganic nitrogen?

Achterman: Jack??

Petersen: One has an "in" before it. (Laughter)....

Smith: Is this question about analytical chemistry?

Brill: Yes.

Smith: The standard way of doing that is to analyze first for inorganic nitrogen. Then you combust the sample or digest it or convert the organic fraction into inorganic and analyze it again for inorganic nitrogen and the difference is organic.

Brill: Well that's a good answer for a good question.....

Achterman: I'm glad he answered it and not me.

Brill: I was thinking of the areas in Southern Oregon that have rivers way up towards Crater Lake but there is absolutely no chance for any inorganic nitrogen to get in there and yet we have algae growing everywhere. It would primarily be from natural causes...I'm thinking of mosquitoes and dead fish and that proliferate, and of course the growth of chlorophyll. We have lots of it.

Smith: Let me try a different way of answering the same question. The significant parameters really are the total amount of nitrogen and total amount of phosphorus that this as things grow -- plants, algae convert inorganic nitrogen and phosphorus to organic forms and as they die and decompose there's kind of a continual cycle from organic to inorganic nutrients and what you'd care about in a regulatory sense is minimizing the amplitude of those cycles and that means controlling the total nitrogen and the total phosphorus. They are typically standards written for organic and inorganic fractions because of analytical chemistry considerations but what you really care about is the total amount that there is at any one time.

Achterman: I think that one of the points is that on our chart--from the EPA chart that it's just for inorganic nitrogen. Is there a reason for that, Jack?

Smith: If there is, I don't know it. Because typically you are concerned with total phosphorus and you really ought to be similarly concerned with total nitrogen.

Achterman: But I guess our answer is that we'd be satisfied with these even though it is just focused on inorganic nitrogen.

Denecke: Exhibit A is the EPA standard?

Achterman: Yes.

Smith: This is the 1984....it's a report -- a response to Section 305B of the Clean Water Act. It requires a biennial assessment of water quality in the state. And the Department evidently because it has no nutrient standards of its own uses those provided by EPA and has been using these for at least a year now...

Achterman: This is the heading...the heading is EPA Region X Water Quality Index on Exhibit A on the first underlined line and that's exactly what it is.

Denecke: Oh yes, I didn't see that.

Achterman: It's not...we copied it out of the report and it doesn't highlight that very well...

Denecke: If the Commission adopts nutrient standards which would pretty much solve your client's problem, are there presently economically feasible ways that the sewage disposal plant can meet these?

Achterman: I'd like to take a crack at it and then Jack can perhaps elaborate. The Unified Sewerage Agency today is using land disposal techniques at some of their other plants--not at Durham and Rock Creek, but they are at some of their other plants. Thats certainly one available alternative for them to use. I think that our concern is that if - and Jack may want to elaborate or correct me - is that it is our understanding that economically feasible alternatives do exist---land disposal being just one of them and there are some other alternatives that are possible. For example, with these particular plants if they now in the summer months reduce their nutrient discharges, but that's only in the summer months and if the standards existed and we could reduce the nutrient discharges earlier in the spring then the water that's in the lower Tualatin and Lake Oswego might not have as high a nutrient level so you know...again they can -- timing of the nutrient reduction that they are already doing could also help the problem. Ultimately, I think that additional capital expenditures -- it's my understanding they are probably going to be necessary but if the standards are adopted then what could be done in the NPDES permits is that we could develop time schedules and commitments for a staged implementation of the action to achieve the standards instead of -- we wouldn't argue that

the Unified Sewerage Agency should have to do this overnight with a massive capitol expenditure campaign. We do think there are steps that can be taken to move toward these goals but if you never set the goals, then we can't even get started--it's much harder for us to get started and heading in that direction. Jack, was I correct or are there other alternatives?

Smith: You actually said as much of what I was going to say..

Achterman: O. K.

Denecke: One other question. This may show a lack of conception on my part of the Commission's role, but why aren't the EPA standards now applied?

Achterman: Jack's been more familiar with this historically....why don't you answer that one? Why isn't the Oregon Department of Environmental Quality now applying the Region X EPA standards?

Denecke: I thought you said they were, Gail...that's the reason I was...

Achterman: Well, they are in this one water quality report they did but they aren't in the other context such as the NPDES permit. But Jack is much more familiar with the history on that.

Smith: Well, the State Commission has its own standards that are ultimately approved by EPA. They don't happen to have any standards for nutrients so there typically isn't a lot of attention paid to nutrients in the developing of discharge permit conditions. They seem to limited fairly generally to only a couple of other parameters. However, in order to meet the requirements of the federal law for assessing the water quality in the state, they do...

Achterman: Well, that was the purpose of this 1984 report.....

Smith: They do recognize that there are major algae problems, major excessive nutrient problems in the state and in order to sort of quantify that they appear to be using the EPA recommended criteria for nutrients and excessive algae growth.

Achterman: Even though they use the EPA criteria in the sense of an assessment of statewide water quality which was one statutory obligation that they have, the Commission has never adopted those standards for Oregon and EPA has never objected to the lack of adoption of those standards. What we're urging the Commission to do and which the staff

apparently agrees should be done is that nutrient standards should be adopted and the only place that we differ with the staff is how quickly can and should that be done and should interim standards be adopted if it's going to take very much time? However, our real concern is getting them on the books as soon as we possibly can in hopes that we can have them adopted so that they can be utilized in reviewing the NPDES permits on the two plants that we're most concerned about. Obviously, that's a rather parochial interest--you have statewide responsibilities---I don't think there are any disagreements that these kinds of nutrient loading problems can exist in other areas as well.

Denecke: I want to see if I understand your answer, Gail. I understood you both to say that the Department says, look we got a problem because here's the EPA standards up here well - anything in here...and in certain areas we're down here. So, as I understood you to say they use the EPA standards to show that we've got a problem, but we don't have a standard now as far as enforcement is concerned.

Achterman: That's our understanding....

Petersen: Other questions for these witnesses? Thank you.

Achterman: Thank you very much.

Smith: Mr. Chairman, if I could just ask another--there's another exhibit attached to our testimony that I think you might find interesting in view of the previous testimony about what sorts of issues the Department might consider in this listing of topics. We're basically saying that the nutrient question is a question that ought to be answered pretty quickly-- in fact probably today, but the suggestion by the two people who testified previously about the magnitude of the nonpoint source program problems in the State of Oregon. This again is a copy of a page from this 1984 DEQ assessment and what it shows fairly clearly is that while the regulatory program is largely directed toward point sources, you can see in terms of municipal and industry in streams and rivers in the state that there's only 13% of identified problems that are associated with those point sources and 57% of the problems--the reasons why water quality standards are not met are the result of nonpoint sources. For estuaries and oceans that factions attributable to nonpoint sources is 64% so that particular problem ought to be meriting a fairly large amount of time and effort on the part of the Department if we're to maintain satisfactory water quality standards.

Achterman: On that issue the Lake Corporation's position is that you can take time to do issue papers...why don't you just adopt the nutrient standards...we can get that over with and then you can focus on the nonpoint point sources which are the other thing that's really contributing. While the Unified Sewerage Agency is certainly--the nutrient discharges there are part of the problem. There is another whole part of the problem that hasn't begun to be addressed and that's nonpoint discharges in the basin.

Petersen: Thank you.

Achterman: Thank You.

Petersen: I understand that Gary Kramer from the Unified Sewerage Agency is in the audience and would like to talk to us. A couple of issues have been raised and that perhaps...surprised him a little bit.....I don't know....

Hansen: Before we leave, it does seem to me its worthwhile to put out maybe just two quick things--one kind of I guess in jest.. The first one is that lots of discussion has been on the nonpoint source issue and again on Page 3 of the letter at the bottom of the page indicates - really is implying that again if the standards were in place--if the regulation on the discharge was there that somehow water quality standards and designated uses could be achieved. I think that it's important to be able to keep in mind that that really the failure of the Water Resource Policy Board to be able to--in terms of allocation of water rights, and soon is really one of the - and that's the first piece of this whole process and that is the amount of water that's being used and being allowed to be able to be used and then what's coming coming back in and certainly off of agricultural which is clearly a very real factor here...I don't think it's fair just to be able to come back in the end and look at the standard and I say that to keep that in perspective. The other one I just note on the letter--the low cost recreational alternative for the area....I take it that means that they are going to be proposing to open up Lake Oswego for a public access....

Petersen: That's what I thought it meant...I was planning my next family vacation on Lake Oswego... Fred, let me be sure that I understand. You're saying that before we can really do much with nonpoint, we've got to have the Water Policy Review Board allocate? Is that what you're saying?

Hansen: Well, no, what I'm really saying is that the Water Policy Review Board's allocation over the years of really over-appropriation out of many of the regions of the waters of the state have in fact insured that there is not both enough water there to be able to provide for the quality and also the appropriation for substantial agricultural uses has meant that the return flows to that have in fact caused water quality degradation and clearly one way to look at that is to say O. K., whatever is there, all you do is look at what's being returned to the waterways and operate standards and therefore the quality of that water. But what I'm really pointing out is that it's a substantial and complex issue and needs to be looked at in total.

Petersen: And that we're not the only agency or policy setting board that's involved in that process. Mr. Kramer...

Kramer: Mr. Chairman, this Stan Osuri, he's the assistant general manager of U.S.A. and you correctly came here today--as a matter of fact we got notice yesterday that we probably ought to be here today so we decided to show up for this meeting.

Petersen: Is that an anonymous notice...?

Kramer: O. K. we can leave it that way. We did not prepare any statements for your Commission today. Certainly the Unified Sewerage Agency has always been one to cooperate and work with the Department. Obviously, Lake Oswego Corporation--as a matter of fact we've done quite a bit of laboratory work for them over the years and certainly I'm willing to cooperate in addressing the nutrient issue for those folks. It is important for us as you have identified that there are other sources of nutrients other than the sewage treatment plant effluent. I would be happy to answer any questions. Obviously, when you get into providing mechanical facilities for nutrient removal we're talking big dollars. As long as we all recognize that that is going to be very costly...

Denecke: I didn't hear your last statement, Mr. Kramer. I heard the dollars but I didn't hear what else went with it...

Kramer: When you provide or try to address nutrient removal by a mechanical plant rather than land application or other means...it is very costly...very, very costly. It was mentioned that perhaps we should try to pursue land application of effluents from the Durham and Rock Creek facilities. We're talking about 30 million gallons of water a day from those two facilities. The need there would be somewhat in excess of 2,000 acres and it's not going to be possible for us to run out tomorrow and buy 2,000 acres...to address what may or may not be the solution.

We need some time...we're in the process of updating our master plan for the next 20 years hopefully. We certainly want to know what the standards are. I don't know how many of you were here in 1969 when we did our first master plan but there were changing goal posts at that time and significantly changed what we were required to build and obviously cost association with what we did build. So in this process we hope we know what the goal posts are so that we can plan to that.

Petersen: Let me ask you--do you and the Lake Oswego Corporation agree on the extent of contribution to the problem that is made by your agency or is there a big difference...you know, you say well we think we do this and they say no, we think you do that...

Kramer: I can factually tell you we have not sat down with the Corporation and discussed that issue. So I don't know whether we are in agreement or disagreement.

Petersen: Is that because---why haven't you discussed this?

Kramer: Because there hasn't been approach made to us by the Corporation, nor have we obviously talked with them. We'd be happy to do that of course. Perhaps DEQ can serve as moderator....

Petersen: Sure....we frequently serve in that role. Mr. Sawyer, some proposals have been made with regard to acceleration of adoption of permanent standards and adoption of interim standards being the EPA standards. What would be your comments about those proposals from the staff's point of view?

Sawyer: Maybe I can back up one notch and either clarify a little bit or muddy the water a little more...I hope not the latter. Reference was made in Gail's letter of the attachments and those indeed - the two pages of the Tables Exhibit A and Exhibit B are pages out of a report prepared by the Department. The first one Table 1, the EPA Region X Water Quality Index, I don't think it's correct to label those standards. Those are numbers that were picked that we used as an evaluation mechanism. It's really in a process of trying to sort out how adequate our standards are in terms of use protection and it indeed has helped us to identify stream segments or areas where we need to look forward to further studies, further data collection to resolve issues to potentially refine standards. At least to my knowledge and from where I would sit, I would not be comfortable in proposing those numbers as standards or regulatory numbers. They may turn out to be appropriate. I'm just not to my level of knowledge not comfortable with that but I don't believe it's quite correct to label those as EPA standards. In terms of interim standards or acceleration of the process, my initial reaction there is its simply a matter of acceleration of proposing nutrient standards. It's a matter of what priority we place on that vs. other things we've assigned staff to and how fast you move it. The thrust of our proposal to put together the background documents and sit there thinking perhaps we mislabeled it as issue paper. Our intent was it's really background document and proposed standards for adoption that would head into the public participation process in the spring. But that was really looking at putting together a package and going out into that public participation process with a package of things rather than a whole series of separate processes. And part of that was geared off of looking at the workloads that we have both through the summer -- the threat to drinking water proceeding, some commitments and strong priorities that we feel we have towards pursuing the development of groundwater quality standards which is another very significant issue facing the Department. That was our best assessment of very preliminarily of a way to kind of balance staff and move a series of issues forward. We could adjust those priorities and move a piece of it forward and accelerate it quicker. What I think we're looking at in general -- what we would be proposing to adopt initially would probably best be labeled interim standards. Broadly applicable but with some feel for what the implication of them is. And more specific stream or reach-specific standards would have to await--for instance in the Tualatin, it may well be appropriate and we also have approved in our budget but the funding is sort of

not arranged for yet...further studies in the Tualatin and the Willamette to refine the more specific aspects of that. I could forsee that two or more years down the road with some additional data collection supplement of what's available and analysis we could be proposing a more specific standard for that stream then. The other thing that struck me in listening to that as I would look at nutrients in the Tualatin Basin, the sources of nutrient in the Tualatin River a major category would probably be the natural contribution that which is the water simply dissolves from the soils and watershed...probably the agricultural contribution. A contribution from the agricultural lands, the urban runoff contribution and the point source discharges.

Petersen: In that order of priority?

Sawyer: Not listed in any order of priority, no. We have at least some data to suggest levels in the stream at points where analysis have been taken. We have certainly some data that suggests levels in the point source discharges but what we don't have is really the ability at this point from the data at least as I'm aware of it to sort out the relative contribution, the significance, and really, I think, a question that at some point we ought to be able to answer would removing the nutrient in the sewage discharges significantly alter the situation there. You spent the money and not really made progress on the problem. I just don't know what the answer to that one would be.

Petersen: I thought that might be what you'd say with regard to lack of human resources. And it's really difficult. The petitioners are -- not the petitioners, but Gail and her clients, Mr. Smith and people in that situation...they probably don't know the other demands that are made on your department, your staff as far as the time. The threat drinking water - the mid-Multnomah County problem is a very -- might be a very serious one and something we need to...it's gonna really probably take large amounts of staff time in the very near future at least through the fall through the end of the year and what I hear Hal saying is that we've just got so many people and so many projects and they tend to prioritize them the way they think are appropriate. We can't control that obviously. The legislature controls the level of staffing and funding that are available to the Department. Would it be possible for the Department to come up-to develop by the next Commission meeting some interim nutrient standards and I guess it would be for the state. It wouldn't be just for the Tualatin River...it would be presumably for the state...correct me if I'm wrong. That would be something that would be comfortable for the Department to live with

while it then went through the process of hearings, gathering the data to refine that down into a permanent standard. Is that something that could be done?

Sawyer: Mr. Chairman...

Petersen: You're not comfortable with the EPA index you have told me so...

Sawyer: My response would be that if indeed that is what you would like to have us do we would come forward by the next meeting with the best proposal we can assemble.

Hansen: The one thing though that does give us some concern about interim standards, is that if those interim standards are less stringent than what final standards would be, then presumably you could take some kinds of actions against new permits and so on, and at least have gained something on them. If, however, they are really different from that...if they're either more stringent or different in some other regard...I'm not sure if that's the message in an interim standard sort of sense that we would like to be able to give to the regulated community. Certainly one of the reasons why we always take proposed rules out that aren't interim--they're proposed rules out for hearing and then when we finally say, O.K., here it is, you've adopted them...those are the rules we go by until they're next modified. And I have some concerns just from a mechanical standpoint how that really works and whether it's very effective in dealing with regulated community...whether that be municipalities or industrial source.

Denecke: Could I ask a question on the timing here? How long are these....the testimony was that both Durham and the Rock Creek places are going to be up for a permit renewal. How long are those permits usually - the term of those permits.

Sawyer: The maximum duration of the permits is 5 years. We certainly would like to renew those permits. We've got a few things that we want to add into them to require U.S.A. to do and in part in terms of gathering additional information that we feel is desirable. At such time as the standard is adopted, the specifics are known, the fact that the permit has been issued would not, at least in my view, stop us at all from advising U.S.A. of some additional requirements that are coming and requiring them to begin whatever studies or analysis or proposals to develop a plan to meet it are and we could incorporate any kind of a compliance schedule at that point by permit modification. An alternative is to allow the source to basically continue on their prior permit pending some decisions before you would renew or issue a new one. We have those two choices.

Hansen: It seems to me there may be a third one which I think would probably work maybe even more smoothly and that is to have as a permit condition if we renewed the permit--the indication that we are in fact developing standards on nutrients and that we expect that when those standards are in place that such and such a schedule will go into play. The requirement that they must submit compliance deadlines for meeting that schedule or whatever. And that could even be a part of an existing permit that was issued. To be able to insure that we addressed anything in that interim from now until final adoption.

Denecke: Today, we've only heard about the Tualatin -- are there other areas in the state which would be substantially affected by nutrient standards?

Sawyer: I would have to assume that there certainly potentially are. I can't come name them off my tongue, but...

Denecke: Particularly, where there are some point sources which would be...

New Side of Tape....

Hansen: Don't have some concerns down in South Umpqua and on Bear Creek?

Sawyer: South Umpqua is probably a key one.

Denecke: What is the point source on Schooner Creek? I can't remember anything about this.

Achterman: It's Lincoln City's water treatment plant.

Denecke: One.

Petersen: Other questions? Those are all of the people who have asked to testify in this issue. What is the wish of the Commission?

Brill: Mr. Chairman, it would seem to me that if we adopted any standards for nitrogen and phosphorus in, for example, a sewage disposal plant, at this point in time the state of art is such that it would be impossible to ever ever separate phosphorus or nitrogen from effluent from the sewage treatment plant and I think the gentleman suggested 2,000 acres. I'd suggest that it might take 4,000 acres and then we'd still have the problem. I would recommend that we at this point in time that we adopt the Director's recommendations.

Petersen: There were some other issues raised too. Mr. Sawyer said that he would go along with some kind of a definitition of disinfection in the rule and also eliminating the table headings relating to irrigation. Would that be part of your...

Sawyer: Mr. Chairman, if I might suggest in that footnote that with adequate pretreatment at that point and certain kind of the parenthetical filtration and disinfection...I think there would be a way to do that....clarification.

Bishop: What page are you on?

Sawyer: It would be on each of the tables where that is listed. You look at A2 and that's the first table. The footnote at the bottom of the page where it says "with adequate pretreatment and natural quality to meet drinking water standards"...after the word "pretreatment" insert (filtration and disinfection).

Petersen: And eliminating table headings regarding irrigation.....

Sawyer: And eliminating table headings regarding irrigation.

Denecke: Mr. Chairman, we also have asked John Charles that...

Petersen: Added the non-point source issue paper? Right.

Denecke: And, I'm wondering how much of an additional burden that is on the Department?

Sawyer: That's an issue we're presently doing some work on. I view that as more of an implementation issue than a standards per se. That's my initial reaction, I haven't thought beyond. But it's something that we are committed to and are evaluating....

Petersen: So we could include it then as part of the program for the spring?

Hansen: Well, Mr. Chairman, I think that the distinction that Harold's making is that Items A through E are really specifically proposed rules - we would expect would result in proposed rules and standards, and that the non-point source is really going to be - It's going to be a series of directions, enforcement strategies, other things that aren't really going to be necessarily rules as such as much as a coordinated program. We have committed as one of the issues that I told you we met on last week was the development of a fairly extensive and aggressive nonpoint source program and the idea to flesh that out, and that's what Harold's referring to. But I think that's more of a program rather

a specific rule and so, therefore, I don't think it fits quite as comfortably under the A through E, but we would certainly be very happy to have specific direction from you to say, yes by certain dates we want interim status reports on where that...

Petersen: I think that's really what we're saying....is that we want to make sure that that issue which apparently is very significant from these graphs that Mr. Smith pointed out that that issue is definitely...it sounds like it's being considered, but officially if you would include that with the other information.... I guess I'm personally, I'm not comfortable just leaving this nutrient thing alone, but I don't know quite what to do, and I am tempted to kind of cop out by saying that I really like to have the staff come to us at our next meeting with some kind of a determination as to whether interim standards could be adopted that would not end up doing more harm than good, because I'm sensitive to the issue that you raised. We don't want to send a message to the regulated community the standards are going to be thus, and they make their plans and now the standard becomes less stringent, let's say, which means that they've kind of over-killed the problem from a planning point of view. And whether the whole nutrient thing could be handled on a quicker time scale. I haven't really heard you say that it can't. I've heard you express -- in fact you've said that hey, if you'll tell us to we'll devote our resources to it, but I'm not prepared to do that today either because I know that there are a lot of other things that you're concerned about so I just kind of probably--- caught us a little bit by surprise and I'd like the staff to think about it and come back to us with a specific recommendation on whether or not we should accelerate this area. I'm persuaded by the fact that the facts have been gathered in prior hearing testimony before this Commission and before the Department and I'm not so sure there are that many new facts that we need to get. I'm persuaded by the fact that we need to act quickly especially with the Tualatin River Basin and the Lake Oswego problem and I don't want to postpone it unnecessarily. So I don't know what else to say. Does anybody else feel that way or am I off?

Denecke: I feel that way too.

Bishop: I agree and I think that the need to know the goal posts and where they are and the like is an immediately problem. It can't be just put off...

Hansen: Mr. Chairman, one of the things that I'd ask if you would like to consider as an amendment to that or an addition to

that and that I think would make the Gail and Jack feel more comfortable is to be able to instruct the Department -- if I am to issue any permits during this period of time in which a new standard would in fact be potentially be included in to insure that there is provision in those permits to allow for the implementation of any new standards if and when that is adopted. And I think we'd be very happy to do that and that makes it very clear on that permit that that's something that's going to happen. I think that just gives it a little more level of comfort. I'd ask that if you're..

Achterman: Are you suggesting that as an addition to and not in lieu of...

Hansen: Right...addition to and not in lieu of. Between now and because our next meeting is not until September 27th, it is conceivable we could have permits that would come through during that period of time.

Denecke: I'm not quite sure yet. Are there EPA standards for nutrients or aren't there?

Achterman: Well I think we call them standards and Hal calls them indices. Hal, is that what you call them? I think we're maybe having a disagreement.

Sawyer: Well there is the semantic aspect of it -- EPA puts out documents that suggest ranges of criteria, impacted parameters and those become resource documents in the standards adoption process that you draw on those and natural conditions and a variety of things to actually formulate the standard and ..

Achterman: The argument is that they're far enough long that you can adopt them as a standard and Hal's a little uncomfortable.

Peterson: Yes, and I want to give them a little time to get more comfortable with it and come back to us. I think you've got the direction of what we want to do and I guess address it then at our meeting in Bend in September.

Denecke: One last question and I'll keep still. Are nutrients more than a recreational problem--recreational use? Are they a health problem?

Sawyer: Probably in excessive concentrations which you're looking far in excess of that of say a nitrate as a nutrient. The health concern level in drinking water is up at 10 ml per liter. In many of the things the aquatic life criteria is far more stringent than the drinking water criteria would be.

Petersen: If I might summarize the status of our motion right now would be that we would approve the Director's recommendation with the exception that we would add the suggested definition in the tables on pretreatment parenthetically, the removal of the headings regarding irrigation; that we would request a interim status reports from the staff on non-point source program and its development, and that we would direct the staff to come back to our next meeting with a specific idea on how we might accelerate the adoption of interim and/or permanent nutrient standards. Is that everybody's understanding?

Brill: I would include those conditions with my motion.

Hansen: ...and that any permits...

Petersen: And any permits between now and then would have the cautionary language in it. Is there a second?

Bishop: Second....

Petersen: Would you call the roll?

Hansen: Yes. Commissioners: Denecke...

Denecke: Aye.

Bishop: Aye.

Brill: Yes.

Chairman Petersen: Yes.

Petersen: Thank you.

Agenda Item K - EQC Meeting Held July 19, 1985

Petersen: Agenda Item K, request for the Commission to approve the fiscal year 1986 Construction Grants Management System and Priority List for Fiscal Year 1986. Mr. Hansen.

Hansen: Yes, although federal funds have not yet been authorized or appropriated by Congress, we are expecting that the funding level of approximately $27 million for Oregon will be continued for fiscal year 1986. This outlines the listing and the probable people who will receive money. B. J. Smith is here to be able to answer any questions and I think you probably have some people wanting to testify.

Petersen: We have no one that wants to testify.

Hansen: As always this is a difficult one because there are some people who are further down the list than they would like to be and if we had more money, we'd like to have everybody on the list.

Petersen: Right. Mr. Denecke...

Denecke: Mr. Chairman, as I have mentioned. I have one question...Senator Cub Houck asked me to investigate into this a little more. This is the north or the Marion County north area. The first question I have is one place I think it's referred to as Keizer - North Keizer and other places it's Brooks - Hopmere. Are they the same thing?

Smith: Mr. Chairman, Commissioners -- I'm B. J. Smith. Those are two distinct projects in Marion County.

Denecke: Now is there one that has Clear Lake...?

Smith: The Clear Lake Project is associated with the North Keizer - Keizer rating.

Denecke: Now, as I understand it the North Keizer one is 17 in priority...I'm looking at the table--well the list of planning and design schedule....or am I wrong....are those not priority numbers there?

Smith: The listing of planning design schedules is simply a listing of the projects that indicated to us early on this year that if funds were available they could actually complete the facility planning and design requirements of EPA. As a

result those were the only projects that were actually considered for funding allocation. That project in and of itself is listed at #73 on our priority list. We recognize that according to their schedule, they could be ready to go during fiscal year 1986. But there was insufficient funding available to see the project need reached until 10/87--sometime in the future...

Denecke: Now in the one project -- apparently it wasn't the Clear Lake Project, that there was insufficient information. That apparently was the Brooks - Hopmere project?

Smith: The level of information -- maybe I could recap a little bit on how project priorities are determined. We use a letter of evaluation that's very critical to determining priorities. The letters range from A, B, C and D. The A level project is one where we have a declaration of public health emergency through the State Health Division. And, in conjunction with that, we have found documented evidence of the fact that there are effects in either surface water or ground water. So that's the highest priority for funding. The B level project is one where you have documented evidence of adverse effects to surface water or ground water. It does not have the certified public health hazard finding. It has not gone through a formal order. The C level projects, and I believe at least Keizer is a C level project....I'll look at Brooks here in a moment...is a project where we feel that there are sufficient reasons to assess that the project would violate a permit, if issued, or is in technical violation of a permit. For instance, an effluent treatment standard is not met or a raw discharge from say a failing or inadequately treated discharge from a failing septic tank system occurs. But, we do not have any documented evidence that that failure adversely affects surface water or ground water quality. Now, most likely where you are going to find that is an area where you may have failing subsurface systems within a confined area that we do not have any demonstrated evidence that there is an effect ..an area-wide effect either on surface water or ground water quality. Small areas discharging to large streams may be in that situation or small areas discharging to large aquifers. You presume there's effect but there's a lack of documentation and evidence that standards protecting ground water or surface water was or is actually affected. And that is the distinction I think -- for instance in Keizer is that we do not have that level of evidence.

Hansen: Cub has called us, the Governor's office, and a few others too on that issue....

Denecke: Fred, I think it might be well if this testimony here can be transcribed and a copy of it sent to Cub.

Smith: I'd also just like to advise you that we've got a letter from the City of Gresham today. And there is a Gresham project noted on the priority list that does have something to do with the resolution of the groundwater problems in East Multnomah County. That particular project at Gresham is footnoted. It has a footnote that indicates that it has a high priority, or we would give a high priority to construction of additional capacities at Gresham plant if it were determined that that capacity was needed in order to serve areas out in East County that are currently now on cesspool or whatever. We had indicated based on the testimony that it looked like that milestone additional capacity would be reached after service to about 3,000 individuals occurs out in East County. A letter from Gresham today indicated that they felt that based on future facility planning, they would be able to refine that number. It may be 3,000...it may be 4,000...it may be 2,500. We would feel that that's an appropriate action--that that is the type of fine tuning that must occur on the priority list when facility plans are actually completed. And so that letter is consistent with the way we've interpreted the priority list. Many of these project do not have facility plans right now in effect.

Petersen: But the priority list is consistent with if we were to make a permanent finding of threat to drinking water and order the sewering of that area (which we will be considering this fall) the priority list is consistent with that decision.

Smith: Yes, it would be.

Petersen: Are there other questions?

Bishop: I move the Director's recommendation....

Brill: I'll second it...

Petersen: Call the roll?

Hansen: Yes, Commissioners Denecke.

Denecke Aye

Hansen: Bishop

Bishop Aye

Hansen: Brill

Brill Aye

Hansen: Chairman Petersen...

Petersen Yes. Thank you.

Hansen: Mr. Chairman, one thing, there's still an ongoing frustration. I know B. J., I and others feel is that in the construction grants program beyond the issue of who falls in where dollars are not flowing out nearly as quickly as they could and given how hard hit the Oregon economy is and the potential of $27.2 million being used for construction jobs...it's an ongoing frustration we have. We're trying to figure out ways to be able to get that speeded up...which is really to say, local governments further along. B. J. mentions they don't have facilities plans. That's the first real formal step in being able to get down the road. Anyway, I think there's a frustration and it's a sad statement for Oregon. It's too bad...

Petersen: It is. It really is. We will take no more than a five-minute recess before we get into Item Agenda L.

Petersen We'll take no more than a five minute recess before we get into Agenda Item L which is consideration of proposed rules for granting water quality standards compliance certification pursuant to requirements of Section 401 of the federal Clean Water Act. Mr. Hansen....

Hansen: Yes...at the January 25, 1985 meeting, the Commission voted to defer action pending further discussion on the proposed procedural rules regarding water quality certification pursuant to Section 401 of the federal Clean Water Act. But since then the Commission has considered the appeal of the Department's denial of certification on the Lava Diversion Project. And the legislature has enacted some guidance for the 401 certification process as it relates to hydroelectric projects. That's HB 2990 that is attached to the package. The Department has drafted some amendments to the rules considered in January. It is recommended that the Commission discuss the rules as proposed, make changes as you would feel appropriate, if any, and authorize the Department to take the proposed rules as modified back out to public hearing. We believe that the changes would be dramatic enough from what was originally proposed that additional public hearings would be appropriate.

Petersen: All right...Liz Frankel. Your time has arrived....and she's not here.....

Laughter.....

Petersen: Boy oh boy....John Charles, OEC....

Charles: Thank you, Mr. Chairman. My name is John Charles representing Oregon Environmental Council. I have one handout which would be relatively useful. The last time we discussed this no one in the room had a copy of the relative section of the statute so I thought it would be handy to at least pass out a section of the act which kind of drives the whole discussion as well. I gave to the assistant who I think passed to you earlier two other documents which probably seemed to you to be irrelevant at the time but they are relevant testimony....on the letterhead of the Department of Environmental Protection, State of Maine--two documents. I am going to discuss those at some depth....one is February 15, 1983 letter to the Federal Energy Regulatory Commission and the other is a staff presentation of the hydropower coordinator for the Maine Department of Environmental Protection dated February 9th.

Charles: With regard to Section 401 of the Clean Water Act, I guess it comes down to a matter of how the state wishes to interpret the language of the act. The Department, and so

far the Commission, in the Arnold District, has chosen to rely principally on the language dealing with other state laws-- mainly in this case the land use law and to pursue that. Well that is one avenue; another avenue that can be pursued in addition to that is to simply interpret the words of the act literally...when they talk about uses of the state's waters. The handout that I provided you with the section of the Clean Water Act--Section 303(c)(2)--a section that is marked with little brackets describes the specific language that we believe ought to be interpreted literally. And that is, substandards shall be established taking into consideration their use and value for public water supplies, propogation of fish and wildlife, recreational purposes and agricultural, industrial and other purposes. And also taking into consideration their use and value for navigation.

We believe it's far better for the state to simply interpret the act literally and protect the uses of the state's water, beneficial uses as designated by the state's Water Policy Review Board. Quite apart from the water quality parameters that this Department frequently enforces, namely things such as bacteria, dissolved oxygen,turbidity, those kinds of criteria. The problem with the way the HUE has and proposes to continue to interpret the section is that -- and it's summarized in Page 3 of the staff report...in the third paragraph last sentence. "The Department's view is compliance with the water quality standards is considered to be evidence of use protection." That simply is not going to always be the case. You may well...

Denecke Excuse me, Mr. Charles. Would you point this out? That's on Page 3....

Charles: Page 3 of the staff report on the 3rd paragraph down--the very last sentence summarizes I think succinctly the Department's position, namely that when it comes to 401 certification compliance with the water quality standards it is considered to be evidence of use protection. And that's a rather rigid and mechanistic approach--that means that the Department is going to go through a whole checklist on a potential project--you know, dissolved oxygen check, turbidity check, bacteria check, etc. All of those standard water quality parameters may be completely unaffected by a project namely, for instance, the hydroproject where most of the water is diverted, and the water that's left may be totally unaffected in terms of quality. It may be so good you could drink right out of it with no treatment, but the uses of the river for anything have been destroyed. If compliance with the standards is considered to be evidence of the use protection, in that case the Department would issue a 401 Certificate, and yet the uses of the river would not have been protected. At least one other jurisdiction namely the state of Maine has chosen to interpret the act differently, and what we believe to be correctly. And if you can turn your attention first to the staff presentation

of Dana Murk, Hydropower Coordinator, regarding a river, which I am not sure of the pronunciation--the east Mychias River for all I know it's pronounced incorrectly but that's the way I'll pronounce it...regarding a hydro project that was proposed and it was on a river that was one of only six rivers in the entire eastern United States that has significant self-sustaining Atlantic salmon run used intensively for sport fisheries. The project which would have retrofitted an existing dam for hydro purposes would have had significant adverse impacts on the fisheries. It probably would not have affected standard water quality parameters like dissolved oxygen or turbidity, but it would have very significant adverse affects on one of the designated uses of the river namely fishery. And on those grounds alone, interpreting the act--the federal act--literally to protect the uses, if you will look on Page 4 of this gentleman's staff report the second to last sentence he summarizes the State of Maine's position. "It is the staff's position that an unreasonable impact on the designated uses of waters as outlined in the State's Water Classification Law constitutes a violation of water quality standards and it is on this basis that the staff recommends denial of water quality certification." Their analagous board to the Commission here agreed and subsequently in the other letter that I submitted sending a letter to FERC recommending for letting FERC know that 401 certification had been denied solely on the grounds that the project would have adverse impacts on the uses of the river and FERC, in turn, this essentially terminated the project. The project did not go any further. We believe that that is a much stronger and more aggressive approach for a state to take and ensures that the intention of the Act, which is not just water quality but designated beneficial uses of the water, which may be separate from water quality parameters such as dissolved oxygen--both be protected. I believe that the interpretation that the Department has taken, and the Commission so far--at least with regard to the one test case proceeding you've done on appeal...while those grounds are probably good grounds, they are not the only grounds and that is another probably legally stronger grounds to be on. And I believe that the rules you adopted for Section 401 from hereon out should be promulgated to clearly state that the Commission will assert the state's interest to protect both water quality and the uses of the state's waters. That is really the substance of my argument. And, I'll be glad to answer any questions.

Denecke — Mr. Charles, I'm sure you were here...but your statements now are along the same lines that Mr. Smith's were sometime at an earlier meeting, are they not?

Charles: — That is correct.

Denecke: I got interested in the question when he made the presentation and in it, and I've done some research on it. I found the 5th Circuit Court of Appeals case - Mississippi whatever it was Environmental Quality Commission or something vs. Costel at 625 F2d 1269 not conclusive and I made this quote from it..."A water quality standard has two components. The first is the use for the water in an area; the second is the water quality criteria necessary to meet the designated use." Now, it wasn't comparable to the question that you are posing, I don't think because in that case as I recall the Mississippi River was to be used for one use and that was fishing. And the question was whether or not the dissolved oxygen standards set by the Mississippi Commission was adequate to make it useful for fishing. They held it was not....that is, the court held that it was not. But the idea that I got out of that case is that under 303 here you said "designated use fishing", is the water quality standard adequate to support fishing. It does not meet the qualification of statute. Your carrying it, I think, as I understand it, a step further and saying not as the water quality...is there sufficient water to fulfill the designated use? Do I accurately....I'm not very...do I accurately state your position?

Charles: I think that's correct. Well, in fact in the staff report. They've characterized that similarly to the way the case that you've cited characterizes that the standard is equal to a use and a criteria. The water has to be protected both in terms of quality, but also in terms of other parameters such that the use of the water itself is not destroyed.

Denecke Like if you took out so much water, for example, in the hydroelectric project that you couldn't use the river downstream for recreation for a ways....that would....

Charles: Right....it's not much solace to know that the water that's left is quite clean.

Petersen: Doesn't the 303 talk about the adoption of standards for water quality and 401 talk about the granting of a certification of compliance for those standards?

Charles: Correct...Section 401 references 303 in other sections and therefore you have to meet the requirements of 303, 302 and some others in order to meet the test of 401.

Denecke: Mike, it states here in the memo here some place that the Department's position is contrary to Mr. Charles' and Mr. Smith's position....was that position taken after you became counsel for the Commission? Or prior, did you concur in that?

Huston: I believe Mr. Sawyer, Mr. Hansen correct me...I believe the Department's basic approach is a long standing one and includes the concurrent long standing occurrence of the U. S. EPA that that basic posture was certainly taken well before I became Commission's counsel. And that basic approach as I believe the Commission knows is under appeal in the Benham Falls case now...and absent...

Petersen: But I think that something....

Denecke: Well, that's right because you filed or somebody filed.... Yeah, that's right... So that the Court of Appeals could pass on this question?

Huston: Uh hmm....

Denecke: Have you done enough research to know whether or not you concur in what's the long standing practice?

Huston: Our office has done some preliminary research of--both for purposes of the Benham Falls case as well as more recently in preparation for the Court of Appeals litigation. It's very preliminary but the preliminary conclusion would be that the Department's approach is probably defensible. The second part of the conclusion would be that it's probably also within your authority and the Department's authority to embrace the approach that is being suggested to you...take the broader view and that also would be defensible.

Petersen: Well, this is really...you take can tell with that precise legal advice that.....it sounds like me advising my clients. This is really a toughie and I guess I have to...I do approach it...I can't help because of my training and my profession, to approach it from the legal point of view, which I think perhaps is appropriate because we're talking about statutory interpretation and application. But I am really struggling. I'm trying to really get a handle on where your position is because it's been urged several times....Mr. Smith and in the 401 proceeding and now. When I look at 303, the section that you quoted, to me that says "whenever the state revises or adopts a new standard....such standard shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes". I think we do that now, don't we? Don't we take into consideration the waters use for all of these things? I mean, isn't that what we talked about earlier today in terms of considering the beneficial uses of the water? Don't we take them into consideration? O. K. So when we --- 303 talks about when we adopt a standard we must take into consideration the uses. It is my understanding we do do that. We do take into consideration the uses. We've complied with 303 by taking into consideration the various uses of the waters. I mean....if you disagree with me obviously you'll tell me.

Further, on the issue of use, it seems to me that the whole business of we're not the only agency that's involved in the use of the waterways. I mean we have to do it seems to me the statutes are clear we're responsible for quality of the water. LCDC is responsible for land use. The Water Policy Review Board has some input into the whole process of how our waters are utilized in the state. So, I guess I'm not persuaded that we are not in compliance with 303 when we adopt a water quality standard, we in fact take into consideration the uses. We may not establish...I'm not so sure we have the authority to establish the uses of those particular waterways. In fact, I think that we don't have the authority to do that....the Water Policy Review Board or Commission has that authority. We can't say that we're going to use the Tualatin River for whatever because we don't have that authority. So, but we must take what other agencies determine to be the beneficial uses into consideration when we establish the quality standards and I think we've done that. Now, this whole thing is about 401 as I see it. And when I go to 401, which the Commission does have a copy of, the Clean Water Act was provided to us and we do have a copy of that....it's on page 100 that 401 begins. That talks about permits and licenses and it talks about certification. And it says that we start out with (a) and it goes through the various things that we must do in connection with our certification. It's kind of a stamp of approval. We've got to review the project and make sure. And it seems to me that the only sections--the only things I read when I read that word for word and I've done it several times....all I read about are specific water quality standards. I don't read anything else in 401(a) that we're to certify other than specific water quality standards. And then when I get down to (d), and this is to me personally an overstrained use of subsection (d)--401(d)-and it's interesting that when people quote me 401(d) and the stuff they give me, they never quote the whole thing...they just kind of start out and then they go dot, dot, dot, dot and then they end up. I remember when I was writing briefs in law school I used to do that too but that didn't work. I mean that isn't necessarily an accurate description of what the law says. Because to me before you can even talk about subsection (d), it starts out..."any certification provided under this section...". That means you've already agreed that you can certify..."any certification provided under this section," before you can get into the rest of (d), you have to get to the point where you say, yes we can certify that it does comply. But it tells us that if we do certify, we then must consider any effluent limitations and other limitations and monitoring requirements necessary to assure...and I'll just take the time to read this through out loud, all right? "Any certification provided under this section shall set forth any effluent limitations and other limitations and monitoring requirements necessary to assure that any applicant for a federal license or permit will

comply with any applicable effluent limitations and other limitations under Section 301". So far we're still talking about water quality. "301 and 302 of this act" and then comma "standard of performance under 306 of this act, or prohibition, effluent standard or pretreatment standard under 307 of the act"...we're still talking water quality...and...and here's where the language picks up after the dot, dot, dots..."and with any other appropriate requirement of state law set forth in such certification and shall become a condition on any federal license or permit subject to the provisions of this section." Well, I don't read that "shall comply with any other appropriate requirement" as being grounds for denial of certification because we wouldn't even be into subsection (d) if we had decided to deny it. I just can't get there from here when I interpret that thing and I really...when I read this whole thing...when I read all of these sections all I read is water quality. I really am not to the point where I can say that we have the right to use -- you know -- to impose some use and say that if we take water out here and put it back in here then they won't be able to swim as much or fish as much or whatever....not that that's not a valid concern and shouldn't be addressed but I'm not sure that it's under 401.

Smith: Could I respond?

Petersen: Yeah, please do...

Smith: NEDC frankly agrees with your understanding -- that's exactly why we're in the Court of Appeals because we think the grounds that that were used for denial of the Benham Falls permit are not going to stand up. Our purpose is to bring that decision back to the Commission so that the decision will be remade and remade on appropriate defendable grounds. Now, let me speak to dot, dot, dot...if you will go back to Section 303 that you've read and read the previous sentence...

Petersen: All right....

Smith: ...which is as I recall says, "Such standards shall consist of the designated uses and criterion necessary to protect them." The staff report on page...

Petersen: Wait a minute, Jack, I want to make sure I'm with you. Was this 303(c)(2)?

Smith: Yes...probably the second sentence....

Petersen: "Such revised or water quality standards shall consist of the designated uses of the navigable waters involved and the water quality criterion for such waters based upon such uses." O. K., go ahead, I'm with you now....

Smith: In the staff report on Page 2, last paragraph, about the 5th line from the bottom, reiterates that statement mathematically. It says, "standard equals use plus criteria". That's what Section 303 says and that's what the Mississippi corporation or Mississippi vs. Costel decision said. That's what EPA....I have a copy of EPA's water quality standards regulations...I don't have a whole stack of them, but Part 131.10 is all about designation of uses, and each state must specify appropriate water uses to be achieved and protected. What the Commission did two agenda items ago was approve a bunch of designated uses...uses designated by the Department of Environmental Quality or by EQC.

Petersen: Oh, wait a minute....wait a minute. I'm not sure...I want to make sure that I either disagree or agree with you as we go along. I'm not so sure I agree with that. I think that the uses were stated in the standard but we didn't set the uses.

Smith: Yes, you did.

Petersen: We approved the standard that contained the uses but those came from the Water Policy Review Board and other agencies...

Smith: No, they did not.

Petersen: Wait a minute....really....wait a minute... Educate me.

Smith: Those uses were designated by EQC. They are consistent presumably with uses designated by the Policy Review Board. They are not the uses designated by the Policy Review Board. The Policy Review Board has no boating use, they have no salmonid fish spawning or rearing use. All those uses are coming from here. You change them, you create them, you change them, you modify them...you just did. You just eliminated some of those uses. They weren't uses designated by the Water Policy Review Board. There are at least two basins in the State of Oregon where the Policy Review Board has no designated uses. The only uses that the state has designated are those designated by this Commission. It is simply incorrect to say that this Commission is not concerned with the uses. It's the first and fundamental thing it does in establishing water quality standards. The thing that the state calls standards are equivalent to what the federal government calls criteria. What the state's federally approved water quality standards consist of are the uses designated by this Commission and the criteria that Oregon calls standards necessary to protect those uses. That's the point we're making about Section 303.

Petersen: If I understand you correctly then I've had....I've been laboring under a misconception that this Commission then could on its own say that there will be no -- absolutely no boating anywhere in any river in the State of Oregon.

Smith: You may....I would prefer different examples since may or may not be consistent with Section 101 of the Clean Water Act, but you could say there will be -- you could pick something else that wouldn't be consistent or inconsistent with the Clean Water Act.

Petersen: Regardless of what any other agency has that regulates the use of water says or whatever this Commission can dictate the use...regardless of what LCDC says or Water Policy, we can dictate the use of any waterway in the state?

Smith: You are required to do so under the Clean Water ACT...pardon me under your designation as the state agency to implement the Clean Water Act. The state has to designate uses...

Hansen: Harold, what's the reference on our requirement to be able to adopt standards that are consistent with the Water Policy Review Board designated?

Sawyer: 468... .

BEGINNING OF NEW TAPE

Petersen: It says it exactly...it says "the Commission by rule may establish standards of quality and purity for the waters of the state in accordance with the public policy. In establishing such standards the Commission shall consider the following factors: The extent to which floating solids may be permitted in the water; the extent if any to which suspended solids, settlable solids; coloids or a combination may be permitted; the extent to which organisms, the extent to which oxygen demand, minimum dissolved oxygen, chemical, physical biological properties, the extent to which any substance must be excluded, the value of stability and the public's right to rely upon standards as adopted for a reasonable period of time...". What does it say about use? Sub (2). "Standards established under this section shall be consistent with policies and programs for the use and control of water resources adopted by the Water Policy Review Board".

Smith: That is correct. What your designated uses need to under state law would be consistent with those designated by the Policy Review Board. Your uses, however, are different and you do designate them.

Petersen: O. K. You're saying....they do...they talk about irrigation, and what uses do they cover?

Smith: Irrigation, hydroelectric, fish, domestic public water supplies...many of the uses are the same. And others when they say fish, you designate quite a few categories of fish-rearing, spawning, cold water, warm water, and so forth. You do that.

Petersen: But the standards that we adopt are water quality standards and they must be consistent with... .

Hansen: Mr. Chairman, maybe one of the things that I think we will at least highlight the issue....the interpretation the Department has given to this is generally then that the language in 468.735 talks about standards. And that that is standard in not the federal terminology but the state terminology, i.e., criteria in the federal terminology. And if you read through the 468.735 down to subsection (2) and we're talking again standards...and that the interpretation that the Department's given and you read then subsection (2). What you have to do is read that those standards then are meant to protect the uses designated. I think that's where the issue is...I think Jack would really say, the standards would have to be interpreted to be more broad than at the beginning of 735...I guess that's the issue.

Smith: Well, there is clearly a confusion over terms. Standards in the state law and in your rules are equivalent to what the criteria half of the federal definition of water quality standards. As a result that's why you designate these beneficial uses and why all those tables some of which you just approved two agenda items ago...why it's the combination of your standards plus those tables of designated uses that EPA approves as the federally approved standards.

Denecke: I'll address this to both of you: I haven't thought this out but, except in the area where state and federal law come against one another....is it important that the Environmental Quality Commission have the authority to say what you propose to do doesn't affect the quality of the water, but it affects the use. If we don't clash with federal authorities, isn't there some other state agency like the Water Policy Resource Board--somebody else--who has the authority and will act on that problem.
I don't know whether I made myself clear or not...

Smith: I think the very last paragraph, I remember in the staff report, I think it presents that, if I understand.... the last paragraph on Page 4 says for example...I don't see the example as any relationship to anything else on the page but the posing of the situation is that assuming a stream flow is reduced by a diversion of water pursuant to a state water right and the reduced stream flow results in discharges downstream causing water quality standards to be exceeded or

I would interpret them to mean quality criteria being violated. Now, if that action were a federally licensed action, then you would deny that requirement of 401 certification--then you would deny certification because the use part of the standard would have been violated. However, if it were not a federally licensed and you have that authority and responsibility under Section 401. If however there is no federal activity involved but the policy review board issues say an irrigation diversion or something like that resulting in the same situation that water quality criteria and uses downstream, then what you have to do or the Department has to do is to provide more stringent treatment or correct the problem but you wouldn't in that instance have the authority to refuse somebody's -- refuse what the Policy Review Board is doing unless you wanted to sue them I guess under the Clean Water Act. I think that's probably a fair distinction. In sort of a simple way. The issue is maybe I think a little more complicated since I frankly question whether the Policy Review Board can in fact remove designated uses that are included in the Clean Water Act. I question whether the Policy Review Board is able to remove fishing or recreation in and on the waters even though they have the state authority. The question is how preemptive is the federal Clean Water Act and what even the Policy Review Board can do.

Denecke: Well, I don't want to prolong this but I don't think Mr. Smith this quite addresses the problem. The problem that I had is that when we don't have a federal permit involved, some other state agency would be concerned with all the other things that happen to the water other than the water quality. Do you think that's an accurate statement? I think that it's an accurate statement but I'm really asking...

Smith: Are you asking is the sole responsibility for water quality vested here rather than do other agencies have some water quality restrictions?

Denecke: No, not water quality, but again if no federal problem is involved, and there is some proposed use for the stream that doesn't affect the water quality, but affects the quantity or something else, wouldn't the use of that stream be protected by some other state agency? And the only reason I'm asking the question is that I wondered how important it is except when we have the federal and state clash as to whether or not your interpretation of the statute be adopted or not?

Petersen: Well, your question is if we take water out--let's say that somebody's established it that irrigation is an appropriate use of the waterway. And we take water out in such a way and use it in such a way -- that's not a good example because what we take out-- we usually put back what we take

out. So let's say boating and we lower the level of the water--it doesn't affect the quality or anything else, is there some other agency that people can go to and say hey, wait a minute, you said we could boat in this stretch of the river and now we're going to be taking water out and putting it back in and now I can't boat anymore, and get some relief. Is that what you're asking--assuming no FERC or anything like that.

Denecke: Yes. See, I'm trying to see how important this is to DEQ's having this authority when we don't have a problem with federal...

Petersen: Yeah, I see what you're saying.

Smith: I guess I hesitate to answer that. I think the question is a very good question. I think it's one that ought to be posed to the Attorney General's Office. I know there are within the laws pertaining to the Department of Water Resources where it says quite bluntly that the Water Policy Review Board shall be solely responsible for policies having to do with the uses of the state's waters. In the Department of Energy's laws, it says that any Energy Facility Siting Certificate issued by the Energy Siting Council shall be all state, local, agency shall readjust their lives to be consistent with what the Policy Review Board says about the use of waters for hydroelectric. I know an Attorney General's opinion in that case it says well that's all well and good but the federal Clean Water Act gives some very precise instructions and responsibilities to EQC and that the only--I guess he listed 2 or 3 ways that this could somehow be successfully resolved and one of them was that EFSC adjust its criteria so that it's actions are consistent with EQC's decisions and the 401 process. And that as a matter of fact what they are in the process of doing is changing their own water quality rules to be consistent with those that you've established. So I think there are a whole lot of sort of like a quagmire overlapping authorities within the state. What does seem clear is that the federal act, and there are attorney general's opinions to that effect, preempt all those things and those other agencies need to readjust to be consistent with what you do. What is important to us, however, in this particular instance is that regardless of why all of those other agencies may or may not do, this is the only place--this is the only Commission that's able to issue or deny a 401 certification.

Petersen: Yeah, that's why the responsibility is so important. I think we understand that question, Mr. Smith. We appreciate that responsibility.

Denecke: It's the only handle we have with the federal government really.

Petersen: Is it true that 468.735 is the enabling statute for the rules that we're talking about? Is another? That's it?

Sawyer: Yeah, that's it.

Petersen: Well, now Mr. Smith, how do you explain that it says the Commission by rule may establish standards of quality and purity for the waters of the state? And everything they talk about deal with quality and purity? To me quality is turbidity and stuff like that and purity is the bad stuff in it--floating solids.

Smith: That is the meaning of standards under the state law. It's not consistent however that...

Petersen: The statute is not consistent in your view...it's not broad enough. You'd like to see the statute track 303 is what you'd like to see.

Huston: Well, Mr. Chairman, you might also want to note that -- and it might be Mr. Smith's argument that 468.730 authorizes you to take any action that is necessary to implement the Clean Water Act. Mr. Smith's argument might be that if you wanted to accept his interpretation of the Clean Water Act? ?? adopt this as we proposed.

Petersen: Mr. Sawyer...

Hansen: I'll bet we were going to say the same thing.

Sawyer: The thing that I wanted to maybe point out here - you look at what we tried to hopefully tried to clarify at least what we mean in the staff report we did or didn't succeed, but - standard equals use plus the quality criteria to protect the use. Can you throw out the quality criteria to protect the use piece of it and simply look at it standard equals use, and thus base our decision solely on the use absent quality criteria. I don't interpret the federal law to allow us to do, that or to grant the Department any authority separate and apart from what we are basically turning back to the state law. The uses, the identification of those in our standards as being bad--it's an identification of the uses that the water quality program should be seeking to assure that the quality will protect them, and it's kind of a bridge to the criteria where the standard itself. We don't interpret it necessarily as adopting uses in the context of we're the ones that establish what they are or make that decision on behalf of the state. I don't know if that is an accurate interpretation either.

Denecke: Mr. Chairman, this I think is a more difficult question than the one we had on the hydroelectric project, but I think we're going to have it solved by the Court of Appeals one way or another. I was just thinking, Mr. Smith, I was

wondering through my mind if you and I are right that we dump the Commission on the issue--then they have to meet the 303 issue. So we should get an answer on that. I'm up in the air but I'll go along with the status quo on this knowing that court might overturn...

Petersen: Are they going to reach the 303 issue? It could be on by interpleader and...

Denecke: If we're right they'll have to...

Smith: I believe that we're right. I hope that the court will address that issue. Perhaps however they won't. In any event, it's not likely to be done within the next several weeks or perhaps months. There are a number of pending 401 certifications, at least one of which is pretty important to quite a few people. NEDC, for example, is representing providing legal counsel to Sierra Club about the Salt Caves project. On that specific project the Water Policy Review Board has no basin program--has no designated uses. The only uses in the state designated by the State of Oregon are those that have been designated by this Commission. I have talked with a large number of people--people responsible for water quality standards in the Environmental Protection Agency. I've talked to other states. The example from the State of Maine that OEC has provided you is the clearest example of the responsibilities of 401 certification of Section 303 in the federal Clean Water Act. I asked a number of questions of a guy named Albert Moore who is the water quality standards guy in Region X, EPA. I said, let me give you a specific example. I said, if an existing stream segment is designated by the state and approved by EPA for recreational boating, fishing, swimming and fish propagation uses and a project is proposed which would divert all of the water around that stream segment from upstream to the segment through some miles downstream reinserts the water back into the river bed without changing the dissolved oxygen or the turbidity, would such a project be considered to be in violation of the water quality standards of the state? And, his answer was "hell, yes". I said why is that? He said, you've destroyed the uses. How can you swim and boat if there isn't any water? I mean the concept of water quality means there ought to be some. But that's what we're....anyway, back to where I started from. There are a number of projects that will go through this 401 certification process without any rules.

Petersen: Well, I don't know if that's accurate. The Commission or at least with 3 out of 4 with me abstaining voted to require -- in this case the compliance with the county's land use rules and so I'm not sure I agree with John's initial argument. In any case I think that as these things come up, that's the majority of this Commission right now. And so even if I don't have the reason to abstain any more, even if I voted

with Mr. Denecke. It would still be 3 out of 5 so it seems like the Commission is willing to require at least that the local people get involved in terms of whether this project is or is not going to comply with the uses.

Smith: Our argument is not about local people. Our argument is not about 401(d). It's about 401(a) and about the responsibilities that the Commission and the Department to consider the impact on the designated uses. Not any uses in the local land use plan, but the uses that have been designated by this Commission.

Hansen: Mr. Chairman, Section 101(g) of the federal Clean Water Act which I take was a 1977 amendment....it basically says that "it is the policy of Congress and the authority of each state to allocate quantities of water within its jurisdiction and shall not be superseded, abrogated or otherwise impaired by this act". And so it seems to me that at least in part what the issue is that that the state itself as a whole has said that there is a certain group, i.e., Water Policy Review Board, that has the responsibility for allocation decisions. And we have quality decisions and one's trying to figure out how do those when they do interrelate, what is that jurisdiction?

Smith: I don't think we're arguing that point. We're simply arguing that the only agency in the system able to protect uses under 401 is this one.

Denecke: I think I agree with you.

Hansen: I was referring to the broader -- the 303 packet...

Petersen: Although, it wouldn't have to be....

Hansen: We are the designated agency for the sign-off in the 401 process.

Charles: Mr. Chairman, my fear is that if the Commission doesn't act soon on the rules, especially as we've suggested it, is that while Deschutes County had a very specific part of their land use plan devoted to hydropower, other counties may not, and if local land use plans are silent on the subject then the issues we've raised, it seems to me would simply not be considered by the Department as they review applications for 401 certification.

Denecke: When will the first of these applications get here? These other applications.

Charles: There are several....several are in now including the Salt Caves.

Petersen: Is Liz Frankel still in the audience?

Mackie: No, she's not.

Petersen: She's the only one that's signed up on this one.

Hansen: Mr. Chairman, I do want to stress there are different issues here. The Benham Falls issue really presented a diversion which when we evaluated we didn't find that during that period of diversion that there was in fact any degradation of water quality. Something like Salt Caves raises issues that you really are talking about a reservoir, and you were talking about a whole lot of other issues that changes some of those issues, that changes some of the potentials for water quality. I don't think that it's fair to be able to say that all you are going to do is find the same repeat of that same factual type of situation as presented and that the standards will not make any difference. I think there are very real issues there that are going to be very different in future situations as opposed to what Benham Falls was.

Petersen: Cynthia Mackie, you were going to speak for Miss Frankel? Did you have something that you wanted to add that we haven't already discussed.

Mackie: She basically supports the same things Jack was talking about, and some sort of interim rules to deal with the Salt Caves certification.

Smith: We had in January proposed some minor modifications to the the then Departmental proposed rules which simply added in this consideration of designated beneficial uses and that's included as an appendix or an exhibit in here to the staff report. We agree that the currently proposed rules that we will need to bring as ultimately in conformance with HB2990 ought to be sent out for public review and we'll have a fair amount of comments about those, but in the interim it would certainly make everybody's life much easier if there were some rules established for dealing with these projects that we're already faced with. We would ask, at least, we presented these recommendations in January...we would ask that they at least be adopted in the interim while we're holding hearings and deciding about the 2990 based rules which in any event will not apply the Salt Caves project. Salt Caves is specifically excluded from the provisions of 2990 by that legislation.

Denecke: We don't have to take it up now but there is at least one other issue involved in this and that is the right to appeal from the Department to the Commission. That's always a troublesome issue. I personally think I finally landed on the side of stay with our present practice. And I say that- it seems to me that the choice between expeditious handling

of the thing and the public's right to intervene in effect. And I think their right to intervene in the courts is probably adequate so I'm looking down on that side.

Petersen: That's where I am too. We've considered that before, that issue. Well, are there other comments or questions on this issue? What is the Commission's desire?

Denecke: May I ask one question: The issue that's at the bottom of Page 3 about the allowable pollutant loadings. I'm not quite sure that I know what's involved there. Mr. Charles and Mr. Smith, do you have any comment on that?

Charles: Let Jack comment on that.

Smith: Also within the Section 303 is a requirement that the state establish total maximum daily load of pollutants for each stream segment. Presumably you, to use the Tualatin River as an example, you would look at a section of the Tualatin and the rate of flow, and the kind of turbulence, and the general characteristics of that segment of the stream, and then you would calculate -- theoretically you would have a phosphorous standard for example, and you would calculate how much phosphorus would you put into that segment without violating your phosphorous criteria. And that would be say 100 lbs. per day when you calculate...that would be actually the 303(d) required total maximum loading phosphorus. You do the same thing for organic materials for nitrogen and for anything else that would be a relevant water quality parameter. And then later on you would presumably put that loading to some use. Like you would allocate it amongst the various discharges. It's a pretty useful regulatory tool. How it applies to the 401 process would be once you had calculated that 100 lbs. of phosphorus, that would have been based on say a relatively free flowing stream. The Tualatin River is, for example, getting a little stretch to this point. Then there is a project that proposes to put a dam and turn that segment into a reservoir so that there'll be a stagnant body of water. And you would recalculate that total loading and it would no longer be 100 pounds. It would now be 10 pounds simply because phosphorus -- the reason we care about phosphorus is offensive algae growth and you can have more phosphorus and less algae in a free flowing stream than you can in a stagnant stream the way it turns out, so that by filling that dam you would have affected the total maximum daily loading. You would have changed the amount of loading that you put into that stream. The example given in the staff report is that you would have diverted water out of or around the segment and also because there is less water, there would be less loading available. You would have a lower allowable loading which you would now be violating because you are still putting the same discharge wastes but you've got less dilution water. Presumably, if we had established those total loadings then

you would look in the 401 certification process to see if they were being exceeded. It's sort of the link between water quality criteria or as we call it in Oregon, the standards, and the discharge permitting process. That's the link between the two.

Petersen: Well, I'm a little better educated than I was before we started talking about the issue and I still have lots to learn on it. I'm not persuaded, personally, that to me it would be a straining or a stretching of the Section 303 to require this Commission to also establish uses as part of the standard. And, I'm inclined to go along with the staff recommendation myself. I'm very sympathetic to the fact...

Denecke: I'll so move. When we get to the Salt Creek project I might change my mind.

Petersen: Yeah....that's right. Well we might....that's right.

Bishop: By then we might have a ruling as well?

Denecke: I doubt if it if it's coming up in January.

Peterson: Is there a second?

Brill: I'll second.

Bishop: I'm a little...

Denecke: Denecke: Are any briefs in, Mike?

Huston: No Commissioner, I haven't reached the briefing stage. We're probably at least 6 months, if not a year from decision making on that one....Benham Falls...

Petersen: So we're going back out to public hearing with the draft that's contained in Exhibit A. That would be the result of this action if you approve the motion. Any further questions or discussion? Would you call the roll please?

Hansen: Yes, Commissioners Denecke.

Denecke Aye.

Bishop Aye.

Brill Yes.

Petersen: Yes.

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED SIXTY-FIFTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

June 7, 1985

On Friday, June 7, 1985, the one hundred sixty-fifth meeting of the Oregon Environmental Quality Commission convened in Room 602 of the Multnomah Courthouse, 1021 SW Fourth Avenue, Portland, Oregon. Present were Commission Chairman James Petersen, Vice Chairman Arno Denecke, and Commission members Mary Bishop, Wallace Brill, and Sonia Buist. Present on behalf of the Department were its Director Fred Hansen 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

All Commission members were present at the breakfast meeting.

Director Hansen introduced Lydia Taylor, the recently appointed Administrator for the Department's Management Services Division, and David Allen who is serving as a summer law clerk for Hearings Officer, Linda Zucker.

1. Preliminary request for public hearing authorization--Jackson County Air Quality Maintenance Area (AQMA) Inspection/Maintenance (I/M) proposal.

   Director Hansen explained that the formal request for hearing and staff report on this matter is scheduled for the Commission's July 19 meeting. However, to satisfy the 30-day public notice requirement, the Department proposes to publish a notice of public hearing in the July 15 Secretary of State Bulletin. This would allow for public hearings in Jackson County prior to Labor Day. This is necessary if the Department is to have an I/M program in operation prior to January 1, 1986.

Director's Recommendation

It is recommended that authorization be given for publishing a notice of public hearing in the July 15, 1985 Secretary of State's Bulletin with the understanding that final authorization to hold such hearings will be formally requested at the July 19, 1985 EQC meeting. If such authorization is not received from the Commission, any announced public hearings would be cancelled.

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

2. Atlas of Oregon Lakes.

Andy Schaedel of the Department's Laboratory Division presented the Commission with recently-published copies of the Atlas of Oregon Lakes. Mr. Schaedel explained that this was the culmination of a four-year combined effort of the DEQ and Portland State University (PSU) to inventory and classify 202 Oregon lakes. This Atlas was funded through the Environmental Protection Agency's Clean Lakes Program. As Oregon was the last state to receive funding for this project, it had the benefit of the work done in other states.

Mr. Schaedel introduced Dan Johnson of Portland State University who complimented Department staff, especially Mr. Schaedel and Neil Mullane of the Department's Water Quality Division, on their efforts in getting this document together. Mr. Johnson said the University was pleased because of the cooperative effort that went into compiling this Atlas. He said they were hoping for a wide distribution to raise public knowledge and awareness of lakes and their problems.

Commissioner Buist asked if the quality of Oregon lakes was fairly stable. Mr. Schaedel replied that for the most part the lakes didn't change much--therefore the data in the Atlas wouldn't change much. Commissioner Buist also asked about the pH levels in the lakes. Mr. Schaedel said that pH was mostly within acceptable limits, but that Oregon did have some sensitive lakes.

Chairman Petersen asked about the effect on lakes from field and slash burning. Mr. Schaedel said there was not enough detail on smoke effects at this time, although, the Department was looking into this problem in greater depth.

Director Hansen told the Commission that the Department had applied for a $70,000 grant from the Environmental Protection Agency to establish an atlas for all environmental problems in Oregon. Carolyn Young, the Department's Public Information Officer, is working on this effort.

Mr. Johnson said that the distribution of the lakes atlas would be handled through the Oregon State University Press. They are targeting bookstores. Copies can be obtained now through the Portland State University Geography Department. Cost is $17.95 for softback, and $30 for hardback editions.

4. Future EQC Meeting Dates.

Because of conflicts the Commission needed to change their September meeting date. They decided on the following dates and places for future Commission meetings.

July 19, 1985	Portland
September 27, 1985	Bend
November 15, 1985	Eugene

FORMAL MEETING

AGENDA ITEM A: Minutes of the March 22, 1985 special meeting, and April 19, 1985 regular meeting.

It was MOVED by Commissioner Buist, seconded by Commissioner Bishop, and passed unanimously that the Minutes be approved.

AGENDA ITEM B: Monthly Activity Report for March and April, 1985.

In reference to the hazardous waste disposal requests, Commissioner Denecke asked about wastes coming from Canada. Director Hansen replied this was a normal business activity across international boundaries; there is no formal agreement.

It was MOVED by Commissioner Bishop, seconded by Commissioner Buist, and passed unanimously that the Monthly Activity Report be approved.

AGENDA ITEM C: Tax Credit Applications.

It was MOVED by Commissioner Buist, seconded by Commissioner Bishop, and passed unanimously that the tax credit applications be approved.

AGENDA ITEM D: Request for authorization to conduct a public hearing on the modification and adoption of Hazardous Waste Management Rules, OAR Chapter 340, Divisions 100-110.

This item proposed to amend the State hazardous waste management rules. The proposed amendments establish management standards for certain hazardous wastes which are recycled, classify certain dioxin-containing wastes as hazardous, and make technical corrections and clarifying changes.

The proposed rules would allow the State program to maintain equivalency to the federal RCRA program.

Director's Recommendation

Based on the Summation in the staff report, it is recommended that the Commission authorize a public hearing to take testimony on the proposed modification of OAR Chapter 340, Divisions 100 to 106 and 108, and the proposed adoption of Division 107.

In response to Commissioner Denecke, Al Goodman of the Hazardous Waste Program explained that the modification proposes to close loopholes regarding the definitins of hazardous wastes where wastes are recycled. It would not change regulations on disposal, but only regulations on recycling.

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

PUBLIC FORUM:

Jeanne Orcutt, United Citizens in Action, appeared and asked when, and by whom was the Columbia Basin formed. She said it did not appear in the 208 plan. Ms. Orcutt submitted for the record the following documents:

March 11, 1985 letter from Jewell Lansing, Portland City Auditor, to Mayor Clark and City Commissioners

June 4, 1985 Gresham City Council agenda item no. III(1)

Chapter 8.75, Inverness Sewage Treatment Plant

At Ms. Orcutt's request copies of these documents were subsequently mailed to each Commission member.

Harold Sawyer of the Department's Water Quality Division, answered that Columbia Basin simply refers to those drainage basins that use the Columbia Boulevard Sewage Treatment Plant as the point of ultimate treatment; it is merely wording used to describe where sewage is treated.

AGENDA ITEM E: Request for authorization to hold a public hearing to amend and add to Standards of Performance for New Stationary Sources, Oregon Administrative Rules (OAR) 340-25-510 to 805 to include certain new Federal rules and consider requesting EPA to delegate authority to administer the rules in Oregon.

This is a request to hold a public hearing and take testimony on rule changes relating to the latest federal new source performance standards. Adoption of the new standards by the Commission allows the federal Environmental Protection Agency (EPA) to delegate jurisdiction for their rules to DEQ.

Since the rules affect only major new, modified, or reconstructed sources, only one existing Oregon source is covered by these proposed rules. That one Oregon source is a lime plant and it is in compliance. If certain other sources in Oregon make major modifications, they would be affected. Examples of plants in Oregon which might make major modifications in the future are:

a. Steel plants
b. Resin plants
c. Dry cleaners

After the staff report was written, the staff found it necessary to move the proposed hearing date from July 9 to July 16, and revise the deadline for comments to July 19. This had to be done in order to allow 30 days public notice for the hearing after the Commission's action. Therefore, the Director requested amendment of the Director's Recommendation to approve a July 16 hearing and a comment deadline of July 19.

Director's Recommendation

It is recommended that the Commission authorize the Department to hold a hearing to consider amendments to OAR 340-25-510 to 340-25-805, rules on Standards of Performance for New Stationary Sources, and to consider asking for authority to administer the equivalent federal rules in Oregon.

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

AGENDA ITEM F: Proposed approval of Noise Inspection and Compliance Agreement for Tri-Met diesel bus fleet.

Noise emission inspection rules for autos, light-duty trucks, and motorcycles were approved by the Commission on November 2, 1984. The Commission then directed the Department to develop, with Tri-Met, an agreement that would ensure that all of Tri-Met's buses are maintained to appropriate noise limits.

An agreement has been developed and accepted by Tri-Met that would annually inspect and certify compliance with noise standards on each of approximately 600 buses in Tri-Met's fleet. The Department finds this agreement acceptable and recommends the Commission's acceptance.

Director's Recommendations

Based on the summation in the staff report, it is recommended that the Commission accept the proposed noise inspection and compliance agreement for Tri-Met diesel bus fleet and execute the agreement.

Chairman Petersen asked why there was a difference in standards between subfleets. John Hector of the Department's Noise Section replied that it was because each subfleet contained different makes, and years of buses. Chairman Petersen then asked why there was a 3 to 4 decibel allowance in the standard. Mr. Hector said this was done so no buses in good working order would fail.

Chairman Petersen asked if, under the agreement as proposed, it would be possible for Tri-Met to certify a bus on December 30, 1985 and recertify it for the next year on January 1, 1986, thus having two year's certification within two days. Mr. Hector responded that that was possible, but the Department would hope it would not occur. Tri-Met does not intend to test all its buses at the same time at the end of the year but instead to scatter the testing throughout the year. Mr. Hector said DEQ would audit, and if they found this practice going on, would ask Tri-Met to modify its testing procedure. Ron Householder of the Department's Vehicle Inspection Program, said that noise testing would be done in the same way that exhaust inspections are done now--that is, the buses in the fleet are examined at different times throughout the year and because of the nature of Tri-Met's maintenance program the circumstance described by Chairman Petersen was unlikely to occur. However, there was nothing in the agreement to prevent it.

In response to Chairman Petersen, Mr. Hector and Mr. Householder told the Commission that training of inspectors would be done by DEQ, but that there would be no formal certification of inspectors. As with the exhaust emission training, DEQ would conduct periodic training sessions for noise inspectors. Also, repairs would be done during the normal maintenance schedule within the year certification was needed, but there was nothing in the agreement requiring Tri-Met to pull noncomplying buses off the street until they were repaired.

Chairman Petersen expressed concern with the way the agreement was drawn. He said it was not as tight as it could have been to make sure there was little chance for problems. He was concerned how the Department would know the buses were in good working order. Chairman Petersen said that because of problems with the agreement, he would be voting against it.

Mr. Hector said originally Tri-Met wanted an informal, voluntary agreement, but the public felt that monitoring the fleet inspection was essential. Mr. Hector said the Department felt the agreement would protect the public, and the Department could rely on Tri-Met's good faith to abide by the agreement.

Commissioner Buist said she was sympathetic to Chairman Petersen's concerns, but that the agreement seemed to her to be a reasonable approach. She was reassured that new buses would be quieter. Commissioner Buist said the agreement was not perfect, but it was a reasonable plan to deal with the problem and she would be voting yes.

Commissioner Buist also noted that the acceptable decibel (db) standard for occupational health was 90 db, which results in no hearing impairment.

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

AGENDA ITEM H: Request for extension of a variance for the miscellaneous products and metal parts industry from OAR 340-22-170(4)(j) which limits solvent content of coatings.

On November 18, 1983, the Commission granted a class variance to the Miscellaneous Products and Metal Parts Industry from the Volatile Organic Compounds (VOC) rule which limits the solvent content of subsurface coatings. The variance expires on July 1, 1985. The industry was to be considered in the revised ozone State Implementation Plan (SIP) for the Portland area. Since the revised SIP will not be completed in time to support rule changes by July 1, 1985, an extension of the variance until December 31, 1985 is requested.

The change to low solvent coatings has proven to be "technology forcing" rather than reasonably available control technology (RACT).

Director's Recommendation

Based upon the findings in the summation in the staff report, it is recommended that the Commission grant an extension of variance for the Miscellaneous Products and Metal Parts Industry with the following conditions:

1. The requirements of OAR 340-22-170(4)(j) be waived for all affected sources until January 31, 1986.

2. The Department include the Miscellaneous Products and Metal Parts Industry in its alternative control strategy analysis for the Portland ozone SIP and rule revision, due to be completed by October of 1985 and presented to the Commission for final adoption no later than January 31, 1986.

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

AGENDA ITEM G AND AGENDA ITEM I:

Chairman Petersen noted for the record that these items had been removed from the Commission's agenda.

AGENDA ITEM J: Request from John Noce III for reduced amount of security for operation of private sewerage facility.

In 1982, the Commission approved a reduced level of surety bond for a large septic tank and drainfield serving a houseboat moorage. The new owner, Mr. John Noce, III, has requested approval of the same reduced level of security.

Director's Recommendation

Based upon the summation in the staff report, it is recommended that the Commission approve the amount of $5,000 as the required security for the sewerage system serving the Paradise Moorage.

Mr. Noce was not present.

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

AGENDA ITEM K: Request for approval of preliminary plan, specifications and schedule for sanitary sewers to serve the health hazard annexation area know as North Vernonia Road area, contiguous to City of St. Helens, Columbia County.

An unincorporated area--North Vernonia road area--contiguous to the City of St. Helens, has been found by the State Health Division to pose a danger to public health due to failing septic tank and drainfield systems.

The City of St. Helens has been required to prepare preliminary plans and specifications together with a time schedule for removing or alleviating the problem and are submitting these to the Commission for review.

The statutes (ORS 222.898) require the Commission to determine the adequacy of the time schedule and plans for correcting this health hazard. If approved the Commission must certify same to the City.

The staff has reviewed the plans, specifications and timetable and consider them satisfactory.

Director's Recommendation

Based upon the findings in the summation in the staff report, it is recommended that the Commission approve the proposal of the City of St. Helens and certify approval to the City.

Relating to this matter, Commissioner Denecke asked if it was worthwhile to consider asking the Legislature to change this authority from the Commission to the Director. Chairman Petersen replied that he felt the Commission was the proper forum in case of possible disagreement with the Department.

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

AGENDA ITEM L: Request of East County Sanitary Sewer Consortium for extension of deadline for submittal of additional information regarding Mid-Multnomah County sewerage plans, cost estimates and financing options from July 1, 1985 to September 1, 1985.

This item requests the Commission to extend the deadline for required information to September 1, 1985. The East County Sanitary Sewer Consortium made the request because it took considerable time to assemble a strong project team. The Department believes it is important to have the best possible information available to the Commission and public.

The Department supports this request.

Director's Recommendation

It is recommended that the Commission grant an extension of the deadline for submittal of the required additional information from July 1, 1985 to September 1, 1985.

Some discussion followed as to when the Department expected hearings to be held on this matter. Chairman Petersen said he would like to see hearings held at a special meeting in October so a decision could be made quickly. Director Hansen agreed to move as quickly as possible and still turn out quality work.

Commissioner Denecke commented that if all Commission members were present at the hearing, the hearing summary would not have to be as detailed as it was for the last hearings when he was the only member present for the continuation of the hearing.

The Commission tentatively agreed to keep October 17 and 18 open as possible hearing dates.

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

AGENDA ITEM M: Informational Report: Update on field burning and analysis of smoke-caused traffic accidents.

This is an informational report which includes a discussion of plans for the upcoming field burning season and an evaluation and recommendations for addressing the problem of traffic accidents resulting from burning near highways and roads.

Director's Recommendation

It is recommended that the Commission concur in the courses of action proposed by the Department in sections I and II of the staff report.

Commissioner Buist asked who determined if an accident was smoke-related. Sean O'Connell of the Department's Field Burning Office replied that the determination was made by the Highway Patrol or police officer who responds to the accident. In response to Commissioner Buist, Mr. O'Connell said that he believed accidents outlined in the report were directly smoke-related, and that there may be more than what appear in the data the Department gets from the Highway Division.

Commissioner Bishop asked if the rate of accidents would increase, and if the ban on Sunday burning plan would help. Mr. O'Connell replied he did not feel the Sunday burning ban would have much effect, but that the coordination with fire districts, growers and transportation people would help. The biggest problem area was along the Cascade Highway and the two fire districts involved in that area were very interested in helping. Mr. O'Connell continued that work was being done to develop signs that were large enough to be effective, but despite everyone's best efforts, there will be some people who will go through anyway.

The Commission concurred with the Director's Recommendation and thanked Mr. O'Connell for his report.

AGENDA ITEM N: Informational Report: Report to 63rd Oregon Legislative Assembly on status of the Oregon Recycling Opportunity Act and waste reduction programs.

ORS 459.055(4) requires the Department to report to the Legislature on siting of landfills in farm use zones and the level of compliance with waste reduction programs. ORS 459.168(3) requires the Commission to report to the Legislature on compliance with the provisions of the Oregon Recycling Opportunity Act. We have combined the Department's and the Commission's report into a single document. The Department is seeking Commission concurrence in the submission of the report to the Legislature.

Director's Recommendation

It is recommended that the Commission concur in the submission of the report to the Legislature.

Director Hansen commented that it was encouraging to know that there was no legislation introduced this session to amend SB 405, the Opportunity to Recycle Act.

Chairman Petersen asked if the Department had received inquiries from other states about the Opportunity to Recycle Act. Director Hansen replied that both he and Bill Bree of the Department's Hazardous and Solid Waste Division, had been out of state speaking to various groups about the Recycling Act, and the Department frequently receives written inquiries about the Act.

Commissioner Bishop suggested some kind of commendation be made to communities such as West Linn, Baker and Bend who are making it easier for other areas to come up with plans of their own.

The Commission concurred with the Director's Recommendation and thanked Mr. Bree for his report.

AGENDA ITEM O: Emergency repeal of motorcycle noise testing requirements for the Vehicle Inspection Program, OAR 340-24-311 and 24-337(2).

On November 2, 1984, the Commission adopted rules incorporating noise testing of motorcycles into the inspection program with an effective date of July 1, 1985. As directed by the Commission, the Department sought supplemental budget authority to carry out the motorcycle inspection task. Budget approval was not granted by the Legislature and thus, the Department is not now in a position to test and inspect motorcycles.

ORS 481.190 directs the Motor Vehicles Division not to renew the vehicle registration of a vehicle which does not have a Certificate of Compliance attesting to conformance with the noise control and emission standards adopted under ORS 468.370. Thus, after July 1, 1985, motorcycle owners who live in the Portland Metropolitan area would be severely prejudiced by not being able to renew their motorcycle registrations.

The Commission is being asked to:

1. Enter a finding that failure to act promptly will result in serious prejudice to the public interest because motorcycle owners within the Portland area would not be able to re-register their motorcycles;

2. Issue an emergency repeal or suspension of OAR 340-24-311 and 24-337(2); and

3. Authorize the Department to hold public hearings on this matter.

Since the signing of this report, the Director was asked to reconsider his recommendation to repeal this rule. In light of the public support for motorcycle noise inspection, the Director was persuaded

to recommend an emergency rule amendment that would suspend rather than repeal this rule. This proposed rule amendment reads as follows:

Proposed Amendment to Rule 340-24-311
Motorcycle Noise Emission Control
Test Method

(6) This rule and subsection (2) of rule 340-24-337 shall become effective upon the approval of necessary budget limitations and staff by the Oregon Legislative Assembly.

This amendment will allow the motorcycle standards, that have been approved after considerable public testimony, to remain in the rules and become effective after budget issues are resolved.

Chairman Petersen noted that the Commission had received additional written testimony on this matter from John Broome, Tualatin; Chad Metzger, Lake Oswego; Jane Cease, District 10 Senator; and Else Coleman, Commissioner Mike Lindberg's office.

Carolyn Johnson, Citizen's Association of Portland, testified that her group's purpose was to protect and enhance the livability of Portland neighborhoods. They felt it was imperative to reduce noise pollution from all sources, including motorcycles, heavy trucks and buses. They were opposed to the omission of any category of vehicle from the noise inspection program.

Jim Owens, President of Oregon Environmental Council (OEC), said that the compromise rule amendment proposed by the Director was acceptable. The OEC did not want to see motorcycle noise testing deleted and asked that the Commission do whatever was necessary to implement motorcycle noise inspection along with all other vehicles. Mr. Owens continued that OEC would support the Department asking for Emergency Board approval for funding to conduct motorcycle noise testing. He asked if it was possible to implement the program with existing resources.

Commissioner Denecke asked if the legislative Ways and Means Committee had taken any position on this matter. Director Hansen replied that the Ways and Means Subcommittee had not approved the supplemental budget request the Department submitted which contained funding for motorcycle noise testing. He felt the subcommittee clearly thought the program was a bigger regulatory burden than they were willing to approve.

It was Mr. Hansen's belief that by the full Legislature approving the Department's budget, they also approved the actions of the Ways and Means Subcommittee, and the Legislature would not expect the program to go ahead as presented in the Department's supplemental budget request. If the Department were to ask for Emergency Board approval, it would have to be in a different form.

Director Hansen said the options were to ask for Emergency Board approval, or wait until the next Legislative session and present the matter again.

Chairman Petersen commented that he thought the Commission had the statutory authority to regulate motorcycle noise.

Commissioner Denecke asked about revenue from fees. Director Hansen replied that the Department could collect fees, but had to have authority from the Legislature to spend those fees and hire the personnel necessary to conduct the testing. He said the Commission could direct the Department to go ahead with the testing, understanding with no additional personnel the testing time per vehicle would be slower. However it was his feeling that going ahead in any fashion at this time would not be appropriate in view of the Legislature's action.

Chairman Petersen said he was not sure the Legislature had sent a clear message not to conduct the program; only that they would not fund it.

Linore Allison, Livable Streets Coalition, testified that her group did not want to see a repeal of motorcycle testing as it was really important to the public. She said something needed to be done soon; people could not wait forever. Ms. Allison was not convinced the full legislative assembly felt the same way the Ways and Means Subcommittee did, as all the legislators she spoke with were supportive of the program. She expressed willingness to work with the Department to implement the program and to lobby the Legislature. In response to Commissioner Denecke, Ms. Allison said it was probably too late in the session to get Ways and Means to reverse its decision on this matter. She said Senator Jane Cease had recommended keeping the rule as it stands and asking for Emergency Board approval to implement the program.

Molly O'Riley suggested that if testing was started, the different circumstances would be created which could be taken to the E-Board.

The Commission discussed the ramifications and it was decided that to maintain good relations with the legislature, patience should be exercised.

It was MOVED by Commissioner Denecke, seconded by Commissioner Bishop and passed unanimously that the effective date of July 1, 1985 be suspended to some later date when the Commission shall take action.

Michael Huston, Assistant Attorney General, reminded the Commission this was a temporary rule which would be in effect for 180 days.

AGENDA ITEM P: Request by the City of Klamath Falls for modification of the approved time schedule for alleviating the health hazard in the Pelican City area.

In May 1983, the Commission approved plans and time schedule submitted by the City of Klamath Falls for alleviating the health hazard in Pelican City. The City has attempted to obtain grant funding to finance the project, but was unsuccessful until early this year when they received design money from the Department of Housing and Urban Development (HUD). Design work should be completed by December of this year, after which the City will apply to HUD for the construction grant.

Since the City cannot meet the previously approved schedule, it has requested an alternative schedule for alleviating the health hazard.

Director's Recommendation

Based upon the findings in the summation in the staff report, it is recommended that the Commission approve the revised time schedule of the City of Klamath Falls for extending sewers to the Pelican City area.

Chairman Petersen asked when funds were expected to be available for this project. Richard Nichols of the Department's Central Region Office, replied that Department of Housing and Urban Development (HUD) funds become available annually, and hopefully funding from that source would come next year. There was also some possibility of funding through the Department's construction grants program.

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

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

The Commission had lunch at the DEQ offices, where Director Hansen updated them on legislative activities.

Respectfully submitted,

Carol A. Splettstaszer
EQC Assistant

CAS:d

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207
522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. B, July 19, 1985, EQC Meeting

May 1985 Program Activity Report

Discussion

Attached is the May 1985 Program Activity Report.

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

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

The purposes of this report are:

1. To provide information to the Commission regarding the status of reported activities and an historical record of project plan and permit actions;

2. To obtain confirming approval from the Commission on actions taken by the Department relative to air contaminant source plans and specifications; and

3. To provide logs of civil penalties assessed and status of DEQ/EQC contested cases.

Recommendation

It is the Director's recommendation that the Commission take notice of the reported program activities and contested cases, giving confirming approval to the air contaminant source plans and specifications.

Fred Hansen

SChew:y
MD26
229-6484
Attachment

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

May, 1985

Table of Contents

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality, Water Quality, Hazardous and Solid Waste Divisions
(Reporting Units)

May 1985
(Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans
	Month	FY	Month	FY	Month	FY	Pending
Air							
Direct Sources	6	75	10	81	0	0	21*
Small Gasoline Storage Tanks Vapor Controls	-	-	-	-	-	-	-
Total	6	75	10	81	0	0	21
Water							
Municipal	11	142	30	145	0	4	17
Industrial	3	59	2	57	0	0	14
Total	14	201	32	202	0	4	31
Solid Waste							
Gen. Refuse	3	39	1	27	-	-	22
Demolition	-	1	-	1	-	-	1
Industrial	2	28	1	21	-	-	13
Sludge	-	1	-	2	-	-	-
Total	5	69	2	51	-	-	36
Hazardous Wastes	1	9	1	9	-	-	-
GRAND TOTAL	26	354	45	343	0	4	88

*One Notice of Intent to Construct was withdrawn by the company this month.

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

MONTHLY ACTIVITY REPORT
DIRECT SOURCES
PLAN ACTIONS COMPLETED

COUNTY	NUMBER	SOURCE	PROCESS DESCRIPTION	DATE OF ACTION	ACTION
MULTNOMAH	063	ASH GROVE CEMENT CO	MULTIPLE DUST COLLECT SYS	04/25/85	APPROVED
MULTNOMAH	066	SUPREME PERLITE COMPANY	INSTALL BAGHOUSE	04/25/85	APPROVED
LANE	067	CONE LUMBER COMPANY	AIR-TO-AIR HEAT EXCHANGER	05/20/85	APPROVED
UNION	071	PEACOCK LUMBER CO.	NEW SAWMILL EQUIP	05/06/85	APPROVED
LINN	072	SOUTHWEST FOREST INDUSTR.	CARTER DAY BAGHOUSE	05/10/85	APPROVED
UNION	073	BOISE CASCADE CORP	BAGHOUSE INSTALLATION	05/02/85	APPROVED
LINN	074	TELEDYNE WAH CHANG	CRUCIBLE DUMP STATION	05/15/85	APPROVED
DOUGLAS	075	INTERNATIONAL PAPER	RECOVERY FURNACE-TRS CON	05/06/85	APPROVED
KLAMATH	078	PAC GAS TRANSMISSION	REPLACE COMPRESSOR/TURBINE	05/08/85	APPROVED
MULTNOMAH	079	COLUMBIA STEEL CASTING CO	NEW MODULE SYSTEM	05/15/85	APPROVED

TOTAL NUMBER QUICK LOOK REPORT LINES 10

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — May 1985 (Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received Month	Permit Actions Received FY	Permit Actions Completed Month	Permit Actions Completed FY	Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
Direct Sources							
New	2	34	2	29	16		
Existing	1	27	1	32	14		
Renewals	18	166	13	157	123		
Modifications	3	28	7	62	13		
Total	24	255	23	280	166	1107	1137
Indirect Sources							
New	0	7	1	5	3		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	0	2	0	1	1		
Total	0	9	1	6	4	229	232
GRAND TOTALS	24	264	24	286	170	1336	1369

Number of Pending Permits	Comments
31	To be reviewed by Northwest Region
14	To be reviewed by Willamette Valley Region
19	To be reviewed by Southwest Region
9	To be reviewed by Central Region
6	To be reviewed by Eastern Region
21	To be reviewed by Program Operations Section
33	Awaiting Public Notice
33	Awaiting end of 30-day Public Notice Period
166	

AP61/MAR.5
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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	MARTIN & WRIGHT PAVING	36 5376	04/25/85	PERMIT ISSUED	04/25/85	RNW	
COOS	ROSEBURG LUMBER CO	06 0010	04/29/85	PERMIT ISSUED	04/29/85	RNW	
CLATSOP	CROWN ZELLERBACH COMPANY	04 0004	05/08/85	PERMIT ISSUED	05/08/85	MOD	
CLATSOP	WARRENTON LUMBER COMPANY	04 0041	05/08/85	PERMIT ISSUED	05/09/85	RNW	
CLATSOP	SIX-PACK CONSTRUCT CO INC	04 0054	05/08/85	PERMIT ISSUED	05/08/85	EXT	
COLUMBIA	BOISE CASCADE CORP	05 2565	05/08/85	PERMIT ISSUED	05/08/85	MOD	
JACKSON	REICHHOLD CHEMICALS	15 0041	05/08/85	PERMIT ISSUED	05/08/85	MOD	
KLAMATH	JELD WEN INC.	18 0006	05/08/85	PERMIT ISSUED	05/08/85	RNW	
LAKE	FREMONT SAWMILL	19 0003	05/08/85	PERMIT ISSUED	05/08/85	RNW	
LAKE	LAKEVIEW LUMBER	19 0006	05/08/85	PERMIT ISSUED	05/08/85	RNW	
LAKE	OSTRANDER CONSTRUCTION CO	19 0011	05/08/85	PERMIT ISSUED	05/08/85	MOD	
MULTNOMAH	ACME TRADING AND SUPPLY	26 2070	05/08/85	PERMIT ISSUED	05/08/85	RNW	
TILLAMOOK	TILLAMOOK CO CREAMERY	29 0004	05/08/85	PERMIT ISSUED	05/08/85	RNW	
TILLAMOOK	ABC HARDWOOD INC	29 0074	05/08/85	PERMIT ISSUED	05/08/85	NEW	
PORT.SOURCE	WASHINGTON COUNTY PBLC WK	37 0092	05/08/85	PERMIT ISSUED	05/08/85	RNW	
PORT.SOURCE	M A SEGALE INC	37 0330	05/08/85	PERMIT ISSUED	05/08/85	NEW	
UNION	BOISE CASCADE CORPORATION	31 0006	05/09/85	PERMIT ISSUED	05/09/85	MOD	
COLUMBIA	REICHHOLD CHEMICALS INC	05 2042	05/16/85	PERMIT ISSUED	05/16/85	MOD	
MARION	STUCKART LUMBER COMPANY	24 1752	05/16/85	PERMIT ISSUED	05/16/85	RNW	
MARION	SILTEC CORPORATION	24 4437	05/16/85	PERMIT ISSUED	05/16/85	RNW	
MULTNOMAH	ROSS ISLAND SAND & GRAVEL	26 3006	05/16/85	PERMIT ISSUED	05/16/85	MOD	
WASHINGTON	VAN DYKE SEED CO, INC	34 2511	05/16/85	PERMIT ISSUED	05/16/85	RNW	
PORT.SOURCE	J C COMPTON	37 0065	05/16/85	PERMIT ISSUED	05/16/85	RNW	

TOTAL NUMBER QUICK LOOK REPORT LINES 23

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — May 1985 (Month and Year)

PERMIT ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Indirect Sources			
Washington	NEC America, INc. Oregon Plant, 3,000 Spaces, File No. 34-8501	05/28/85	Final Permit Issued

MAR.6 (5/79)
AP58

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — May 1985 (Month and Year)

PLAN ACTIONS COMPLETED (32)

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
MUNICIPAL WASTE SOURCES 30			
Deschutes	Eagle Crest Development Collection System-Master Plan	5-15-85	Comments to Engineer
Yamhill	Cove Orchard Collection, Treatment and Disposal	5-30-85	Comments to Engineer
Clatsop	Windjammer Motel & Restaurant Treatment Facilities	5-16-85	Comments to Engineer
Lincoln	Newport Expansion of STP	5-14-85	Provisional Approval
Deschutes	Sunriver Screening Facility	5-31-85	Provisional Approval
Klamath	South Suburban San.Dist. Extension within Washburn Park (Tract 1239/1080)	5-31-85	Provisional Approval
Clackamas	Lake Oswego Ridge Pointe	5-31-85	Provisional Approval
Clackamas	Lake Oswego Westlake Meadows, Single Family Development	5-31-85	Provisional Approval
Clackamas	Lake Oswego Westlake Meadows, Multi-Family Development	5-31-85	Provisional Approval
Union	North Powder Water & Sewer Improvement Project, Phase II	5-24-85	Provisional Approval

Water Quality Division (Reporting Unit) — May 1985 (Month and Year)

PLAN ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
MUNICIPAL WASTE SOURCES (Continued)			
Josephine	Fleming Middle School North Valley Industrial Park	5-24-85	Provisional Approval
Deschutes	Sunriver Fairway Point Village III	5-24-85	Provisional Approval
Deschutes	Sunriver Dear Park IV, Phase I	5-24-85	Provisional Approval
Josephine	Redwood Service District Darneille Estates (Lois Lane off of Darneille Ln.)	5-24-85	Provisional Approval
Clackamas	West Linn Hidden Springs Ranch #8 Phase II	5-23-85	Provisional Approval
Clackamas	Lake Oswego Palisades Lake Estates	5-23-85	Provisional Approval
Clackamas	Oak Lodge Sanitary District Teddy Lane Sewer	5-23-85	Provisional Approval
Josephine	Grants Pass Laurel Drive Extension	5-23-85	Provisional Approval
Polk	Dallas Angor Mobile Home Subdivision	5-23-85	Provisional Approval
Curry	Brookings South Coast Plaza	5-23-85	Provisional Approval
Jackson	Medford Rogue Valley Medical Center	5-23-85	Provisional Approval
Lincoln	Newport Newport Beach Estates	5-23-85	Provisional Approval

Water Quality Division (Reporting Unit) — May 1985 (Month and Year)

PLAN ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
MUNICIPAL WASTE SOURCES (Continued)			
Polk	Dallas Fir Villa Road Project	5-21-85	Provisional Approval
Jackson	Phoenix Pacific Highway Annexation Area	5-21-85	Provisional Approval
Jackson	BCVSA Gilman-Lawnsdale- Tablerock (Proj.#83-4)	5-21-85	Provisional Approval
Jackson	BCVSA Sunset Court (Proj.84-7)	5-21-85	Provisional Approval
Jackson	Ashland Park Estates (Phases 1 & 2)	5-21-85	Provisional Approval
Clatsop	Arch Cape Service District D. D. Ellis property	5-21-85	Provisional Approval
Tillamook	NTCSA Sixth Addition to Manzanita Beach	5-21-85	Provisional Approval
Tillamook	NTCSA Extend Lateral A-12 (C. C. Henley)	5-21-85	Provisional Approval

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — May 1985 (Month and Year)

PLAN ACTIONS COMPLETED - 32

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
INDUSTRIAL WASTE SOURCES - 2			
Clackamas	Portland General Electric Oil Spill Containment Facilities, Sullivan Plant	5-3-85	Approved
Jefferson	Portland General Electric Oil Spill Containment Facilities, Round Butte	5-28-85	Approved

MAR.3 (5/79) WM293

SUMMRY-F

SUMMARY OF ACTIONS TAKEN
ON WATER PERMIT APPLICATIONS IN MAY 85

3 JUN 85

SOURCE CATEGORY &PERMIT SUBTYPE	NUMBER OF APPLICATIONS FILED — MONTH			NUMBER OF APPLICATIONS FILED — FISCAL YEAR			NUMBER OF PERMITS ISSUED — MONTH			NUMBER OF PERMITS ISSUED — FISCAL YEAR			APPLICATIONS PENDING PERMIT ISSUANCE (1)			CURRENT TOTAL OF ACTIVE PERMITS		
	NPDES	WPCF	GEN	NPDES	WPCF	GEN	NPDES	WPCF	GEN	NPDES	WPCF	GEN	NPDES	WPCF	GEN	NPDES	WPCF	GEN
DOMESTIC																		
NEW	1	2	1	3	11	3	0	0	0	3	7	5	3	8	0			
RW	1	0	0	1	0	0	0	0	0	0	0	0	1	0	0			
RWO	0	1	0	25	17	0	4	0	0	38	19	0	24	9	0			
MW	0	0	0	2	1	0	0	0	0	1	0	0	2	1	0			
MWO	0	1	0	14	6	0	0	1	0	6	5	0	7	1	0			
TOTAL	2	4	1	45	35	3	4	1	0	48	31	5	37	19	0	241	145	70
INDUSTRIAL																		
NEW	0	3	5	4	14	28	0	5	8	2	9	38	4	8	4			
RW	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0			
RWO	1	0	0	34	21	0	1	1	0	29	15	0	29	12	0			
MW	0	0	0	1	0	0	0	0	0	0	0	0	1	0	0			
MWO	1	0	0	20	7	0	1	1	0	13	9	0	4	0	0			
TOTAL	2	3	5	59	42	28	2	7	8	45	33	38	38	20	4	171	147	277
AGRICULTURAL																		
NEW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
RW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
RWO	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
MW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
MWO	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	11	60
GRAND TOTAL	4	7	6	104	77	31	6	8	8	93	64	43	75	39	4	414	303	407

1) DOES NOT INCLUDE APPLICATIONS WITHDRAWN BY THE APPLICANT, APPLICATIONS WHERE IT WAS DETERMINED A PERMIT WAS NOT NEEDED, AND APPLICATIONS WHERE THE PERMIT WAS DENIED BY DEQ.

IT DOES INCLUDE APPLICATIONS PENDING FROM PREVIOUS MONTHS AND THOSE FILED AFTER 31-MAY-85.

NEW - NEW APPLICATION
RW - RENEWAL WITH EFFLUENT LIMIT CHANGES
RWO - RENEWAL WITHOUT EFFLUENT LIMIT CHANGES
MW - MODIFICATION WITH INCREASE IN EFFLUENT LIMITS
MWO - MODIFICATION WITHOUT INCREASE IN EFFLUENT LIMITS

CAT	PERMIT NUMBER	TYPE	SUB-TYPE	SOURCE ID	LEGAL NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
					GENERAL: COOLING WATER				
IND	100	GEN01	NEW	100061	OCEAN PROTEINS, INC.	CHARLESTON	COOS /SWR	03-MAY-85	31-DEC-85
					GENERAL: FISH HATCHERIES				
IND	300	GEN03	NEW	100071	OREGON-PACIFIC SALMON RANCH, INC.	PISTOL RIVER	CURRY /SWR	24-MAY-85	31-DEC-85
					GENERAL: PLACER MINING				
IND	600	GEN06	NEW	100062	HARDT, EDWIN L.		GRANT /ER	03-MAY-85	31-JUL-86
IND	600	GEN06	NEW	100064	RIZOR, GUY G.		BAKER /ER	08-MAY-85	31-JUL-86
IND	600	GEN06	NEW	11240	BROKEN PICK MINING COMPANY		BAKER /ER	24-MAY-85	31-JUL-86
IND	600	GEN06	NEW	100030	GO-4-IT MINING SERVICE, INC.		BAKER /ER	24-MAY-85	31-JUL-86
					GENERAL: SUCTION DREDGES				
IND	700	GEN07	NEW	100060	RISHER, GARY		JACKSON /SWR	03-MAY-85	31-JUL-86
IND	700	GEN07	NEW	100065	DYER, LARRY A.		JACKSON /SWR	08-MAY-85	31-JUL-86

CAT	PERMIT NUMBER	TYPE	SUB-TYPE	SOURCE ID	LEGAL NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
NPDES									
IND	3484	NPDES	MWO	74470	CPEX-PACIFIC, INC.	ST HELENS	COLUMBIA /NWR	15-MAY-85	31-MAR-87
DOM	100077	NPDES	RWO	61787	NORTH TILLAMOOK COUNTY SANITARY AUTHORITY	NEHALEM	TILLAMOOK /NWR	15-MAY-85	30-APR-89
DOM	100080	NPDES	RWO	59315	CENTRAL COUNTY SERVICE DISTRICT	PORTLAND	MULTNOMAH /NWR	15-MAY-85	31-MAY-85
DOM	100081	NPDES	RWO	49764	LEBANON, CITY OF	LEBANON	LINN /WVR	15-MAY-85	28-FEB-90
DOM	100083	NPDES	RWO	1098	ALBANY, CITY OF	ALBANY	LINN /WVR	28-MAY-85	31-MAR-90
IND	100087	NPDES	RWO	90939	U. S. DEPARTMENT OF AGRICULTURE	CENTRAL POINT	JACKSON /SWR	29-MAY-85	30-APR-90
WPCF									
IND	3559	WPCF	MWO	74474	ROGUE VALLEY POLYMERS, INC.	WHITE CITY	JACKSON /SWR	15-MAY-85	31-AUG-87
DOM	3575	WPCF	MWO	7898	NOCE, JOHN III	SCAPPOOSE	COLUMBIA /NWR	15-MAY-85	30-SEP-87
IND	100078	WPCF	NEW	100039	SVANEHOLM, INC.		DOUGLAS /SWR	15-MAY-85	31-MAY-90
IND	100079	WPCF	RWO	63637	ONTARIO ANIMAL PRODUCTS	ONTARIO	MALHEUR /ER	15-MAY-85	31-MAY-90
IND	100082	WPCF	NEW	66661	PACIFIC ROCK PRODUCTS, INC.	CLACKAMAS	CLACKAMAS /NWR	20-MAY-85	28-FEB-90
IND	100084	WPCF	NEW	100044	KLAMATH FALLS, CITY OF	KLAMATH FALLS	KLAMATH /CR	29-MAY-85	31-MAR-90
IND	100085	WPCF	NEW	100049	WASHINGTON ASPHALT CO., INC.	PORTLAND	MULTNOMAH /NWR	29-MAY-85	30-APR-90
IND	100086	WPCF	NEW	100059	PRAIRIE WOOD PRODUCTS, INC.	PRAIRIE CITY	GRANT /ER	29-MAY-85	30-APR-90

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division (Reporting Unit) — May 1985 (Month and Year)

SUMMARY OF SOLID AND HAZARDOUS WASTE PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions	Sites Under	Sites Reqr'g
	Month	FY	Month	FY	Pending	Permits	Permits
General Refuse							
New	1	8	-	11	3		
Closures	-	4	3	12	5		
Renewals	4	34	3	15	33		
Modifications	-	3	-	4	1		
Total	5	49	6	45	42	178	178
Demolition							
New	-	-	-	-	-		
Closures	-	2	-	2	3		
Renewals	1	1	-	-	1		
Modifications	-	1	-	1	-		
Total	1	4	-	3	4	12	12
Industrial							
New	-	5	1	6	3		
Closures	-	5	-	8	7		
Renewals	1	12	1	9	14		
Modifications	1	4	-	2	2		
Total	2	26	2	25	26	103	103
Sludge Disposal							
New	-	-	-	1	-		
Closures	-	-	-	2	-		
Renewals	-	-	-	4	-		
Modifications	-	-	-	-	-		
Total	-	-	-	7	-	15	15
Hazardous Waste							
New	-	5	1	4	7		
Authorizations	50	1313	50	1313	-		
Renewals	-	-	-	-	1		
Modifications	-	-	-	-	-		
Total	50	1318	51	1317	8	14	18
GRAND TOTALS	58	1397	59	1397	80	322	326

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division (Reporting Unit) — May 1985 (Month and Year)

PERMIT ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Douglas	Camas Valley Transfer Sta. Existing facility	5/6/85	Permit renewed
Lane	Marcola Transfer Station Existing facility	5/6/85	Permit renewed
Douglas	Champion Int'l, Roseburg Rifle Range Rd. Site Existing landfill	5/15/85	Permit renewed
Lake	Lakeview Landfill Existing facility	5/15/85	Permit renewed
Lane	Cottage Grove Landfill Existing facility	5/15/85	Closure permit issued
Lane	Creswell Landfill Existing facility	5/15/85	Closure permit issued
Linn	Lebanon Landfill Closed facility	5/15/85	Closure permit issued
Multnomah	Sol-Pro, Inc. Closed hazardous waste storage/treatment facility	5/15/85	License terminated at company's request
Clackamas	Avison Lumber Co. New woodwaste landfill	5/20/85	Permit issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division (Reporting Unit) — May 1985 (Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-SECURITY SYSTEMS, INC., GILLIAM CO.

WASTE DESCRIPTION

Date	Type	Source	Quantity Present	Quantity Future
TOTAL REQUESTS GRANTED - 50				
OREGON - 14				
5/6	PCB-contaminated solids	Spill	50 tons	0
5/6	Tetrachlorophenol dip tank bottoms	Lumber treatmt.	0	100 drums
5/6	Iron oxide sludge	Metal finishing	0	1000 gal.
5/13	Toxaphene, malathion, kerosene, inerts	Store	1 qt.	0
5/14	Transformer oil containing PCB	Aluminum co.	1 drum	0
5/14	Soil, rock, nitric acid with Pb	Electronic co.	7 drums	0
5/14	Soil, rock, heavy metal bearing sludge	" "	4 drums	0
5/14	Rock, pea gravel, Mg, sand, Zr, Hf, Ti, barium, lead	Mg. recovery pile process	0	400 cu.yd.
5/14	Barium, magnesium oxide, Zr metal, iron, ammonia	Metal reduction	0	300 drums
5/14	Mg, $MgCl_2$, Zr, Hf, barium	" "	800 drums	0
5/14	PCB-contaminated soil	Spill	260 cu.yd.	0

Date	Type	Source	Quantity Present	Quantity Future
5/15	Strychnine	General public	1 contnr.	0
5/15	550-gal. tank (cut in half), pentachlorophenol, diesel oil, wood debris, empty drums	Post treating	500 gal. 10 drums 550-gal tank	0
5/30	Water waste treatment sludge with lead	Electronic co.	20,000 gal.	0
WASHINGTON - 26				
5/6	Magnesium oxychloride, asbestos	Engineering constr. co.	160 cu.ft.	0
5/6	Lab pack unused Carboline paint	" "	1500 gal.	0
5/6	Unused wallboard mastic	" "	1 drum	0
5/6	Hydroxyl benzene, chlorinated hydrocarbons	Mfg. of sporting equip.	0	2400 gal.
5/6	Waste isocyanate	" "	0	2400 gal.
5/6	Carylic ester monomers, acrylic oligomers, 2-ethylhexyl acrylate, silicon dioxide, synthetic amorphous silica	" "	0	2400 gal.
5/6	Polyphenoxy tars, benzoic acid, diphenyl/diphenyl oxide, copper salts, magnesium salts, cobalt salts, phenol, misc. organic compounds	Chemical co.	0	290 drums
5/13	Methylene chloride, aromatic hydrocarbon, perchloroethylene, aliphatic hydrocarbon	Mfg. of fiberglass parts	0	25 drums
5/13	Chlorinated-phenol-contaminated wood residues	Anti-stain treatment	10 drums	0

Date	Type	Source	Quantity	
			Present	Future
5/13	Aluminum sulfate, sodium bicarbonate, water, impurities, acid insoluble matter	Chemical co.	3500 containers	0
5/13	Paint thinners (MEK), inert fillers with chrome	Mfg. of architectural products	0	3000 gal.
5/13	Copper, metallic oxides, cryolite, aluminum	Aluminum co.	0	70 tons
5/13	Copper, metallic oxides, cryolite, aluminum, carbon	Aluminum co.	20 tons	0
5/13	Heat exchanger bundle cleaning sludge	Oil co.	0	5 drums
5/13	MgO, Mg, Mg_3N_2, $MgCl_2$, KCl, NaCl, $CaCl_3$, CaO, acid insoluble, LOI - also contains Ba, Cr, Pb	Magnesium refinery	0	14,000 tons
5/13	Plywood, fiberglass, insulation, ducting, light metal structure vessels not cut up	Chemical co.	20,000 cu.ft.	0
5/14	Soil, rocks, asphalt, debris, pentachloro-phenol	" "	5000 tons	0
5/14	Equipment, vessels, pipes, structural steel, roofing material	" "	7000 tons	0
5/15	Lab pack-Poison	Wood prod. co.	2 drums	0
5/15	Aliphatic alcohols, toluene, xylene, phosphoric acid, zinc chromate	" "	0	10 drums
5/15	Lab packs-Oxidizer	City gov't.	25 drums	0
5/15	Lab packs-Corrosive base	" "	25 drums	0
5/15	Lab packs-Poison	" "	25 drums	0

Date	Type	Source	Quantity	
			Present	Future
5/15	Lab packs-Corrosives	City gov't.	25 drums	0
5/15	Lab packs-Flammable	" "	25 drums	0
5/15	Phenol, pentachloro-phenol, dirt, mud, inerts	Chemical co.	5000 tons	
OTHER STATES - 10				
5/6	Paint sludge & solids	Research lab (ID)	1 drum	0
5/6	Lab pack	Hospital (B.C.)	1 drum	0
5/6	Lab pack	" "	1 drum	0
5/13	Pentachlorophenol sludge	Wood pole treat. (ID)	57 drums	20 drums
5/13	Paint filter waste	Electronic co. (ID)	0	12 drums
5/13	Lab pack-Flammable liquids and solids	Research lab (ID)	0	14 drums
5/13	Lab pack-Oxidizers	" "	0	8 drums
5/13	Lab pack-Poison B	" "	0	10 drums
5/13	Lab pack-Corrosive	" "	0	26 drums
5/13	Empty drums, contained DDT, xylene	Gov't. agency (B.C.)	6 drums	0

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit) — May, 1985 (Month and Year)

SUMMARY OF NOISE CONTROL ACTIONS

Source Category	New Actions Initiated		Final Actions Completed		Actions Pending	
	Mo	FY	Mo	FY	Mo	Last Mo
Industrial/ Commercial	8	114	8	63	172	172
Airports				11	1	1

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit) — May, 1985 (Month and Year)

FINAL NOISE CONTROL ACTIONS COMPLETED

County	Name of Source and Location	Date	Action
Clackamas	Oatfield Road Pump Station Gladstone	5/85	In Compliance
Multnomah	Coast Sweeping Service Portland	5/85	In Compliance
Washington	Oregon Rock Products Tonquin Road Sherwood	5/85	In Compliance
Washington	Pacific Plastic Pipe Company West Union	5/85	In Compliance
Benton	Evans Products, Fiberglass Shingle Plant Corvallis	5/85	In Compliance
Benton	Pacific Rug Cleaning Corvallis	5/85	In Compliance
Benton	Starker Forest Quarry Alsea	5/85	Source Closed
Wasco	Blake Road Construction Company Pine Grove	5/85	In Compliance

CIVIL PENALTY ASSESSMENTS

DEPARTMENT OF ENVIRONMENTAL QUALITY
1985

CIVIL PENALTIES ASSESSED DURING MONTH OF MAY, 1985:

Name and Location of Violation	Case No. & Type of Violation	Date Issued	Amount	Status
Joseph Forest Products, Inc. Joseph, Oregon	HW-ER-85-29 Unauthorized disposal of hazardous waste.	5/2/85	$2,500	Hearing request and answer filed 5/16/85.
James Fujii Troutdale, Oregon	AQOB-NWR-85-42 Open burned tires.	5/6/85	$750	Paid 5/13/85.
Main Rock Products, Inc Coos County	WQ-SWR-85-31 Discharged highly turbid waters to Kentuck Creek.	5/7/85	$3,500	Hearing request filed 5/28/85.
Dant & Russell, Inc. North Plains, Oregon	HW-NWR-85-60 Unauthorized disposal of hazardous waste.	5/13/85	$2,500	Hearing request and answer filed 5/31/85.
Roseburg Lumber Co. Coquille, Oregon	Spilled waste hydraulic oil into Coquille River.	5/15/85	$1,000	Paid 6/17/85.
Dan Class dba/Class Moorage Portland, Oregon	AQOB-NWR-85-57 Open burned demolition waste.	5/22/85	$50	Defaulted.
Frank Dorn dba/D&S Cycle Supply Washington County	NP-NWR-85-71 Advertised for sale uncertified motor-cycles without providing proper notice.	5/28/85	$25	Paid 6/3/85.
Lang & Gangnes Corp dba/Medply White City, Oregon	AQ-SWR-85-33 Excessive emissions from boiler; 5 days of violation.	5/28/85	$5,000	Awaiting response to notice.

GB4757

May 1985
DEQ/EQC Contested Case Log

ACTIONS	LAST MONTH	PRESENT
1 Preliminary Issues	3	6
2 Discovery	0	0
3 Settlement Action	7	7
4 Hearing to be scheduled	2	0
5 Hearing scheduled	9	10
6 HO's Decision Due	6	6
7 Briefing	0	0
8 Inactive	8	8
SUBTOTAL of cases before hearings officer.	35	37
9 HO's Decision Out/Option for EQC Appeal	1	2
10 Appealed to EQC	1	1
11 EQC Appeal Complete/Option for Court Review	0	0
12 Court Review Option Pending or Taken	1	1
13 Case Closed	0	1
TOTAL Cases	38	42

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
AG1	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
Hrng Rfrl	Date when Enforcement Section requests Hearing Section schedule a hearing
Hrngs	Hearings 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
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
WQ	Water Quality Division
WVR	Willamette Valley Region

May 1985

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
WAH CHANG	04/78	04/78		Prtys	16-P-WQ-WVR-78-2849-J NPDES Permit Modification	Current permit in force. Hearing deferred.
WAH CHANG	04/78	04/78		Prtys	03-P-WQ-WVR-78-2012-J NPDES Permit Modification	Current permit in force. Hearing deferred.
SPERLING, Wendell dba/Sperling Farms	11/25/81	11/25/81	03/17/83	Dept	23-AQ-FB-81-15 FB Civil Penalty of $3,000	Department to draft proposed order reflecting EQC decision mitigating penalty to $200.
OLINGER, Bill Inc.	09/10/82	09/13/82	10/20-21/83 11/2-4/83 11/14-15/83 5/24/84	Hrngs	33-WQ-NWR-82-73 WQ Civil Penalty of $1,500	Decision due.
HAYWORTH FARMS, INC., and HAYWORTH, John W.	01/14/83	02/28/83	04/04/84	Hrngs	50-AQ-FB-82-09 FB Civil Penalty of $1,000	Decision due.
McINNIS ENT.	06/17/83	06/21/83		Prtys	52-SS/SW-NWR-83-47 SS/SW Civil Penalty of $500	Hearing deferred pending conclusion of court action.
McINNIS ENTERPRISES, LTD., et al.	09/20/83	09/22/83		Prtys	56-WQ-NWR-83-79 WQ Civil Penalty of $14,500	Hearing deferred pending conclusion of court action.
McINNIS ENTERPRISES, LTD., et al.	10/25/83	10/26/83		Prtys	59-SS-NWR-83-33290P-5 SS license revocation	Hearing deferred pending conclusion of court action.

May 1985

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
WARRENTON, City of	8/18/83	10/05/83		Prtys	57-SW-NWR-PMT-120 SW Permit Appeal	Warrenton Commision has approved a closure plan to be evaluated by Department.
CLEARWATER IND., Inc.	10/11/83	10/17/83		Prtys	58-SS-NWR-83-82 SS Civil Penalty of $1000	Hearing deferred pending conclusion of related court action.
CLEARWATER IND., Inc.	01/13/84	01/18/84		Prtys	02-SS-NWR-83-103 SS Civil Penalty of $500	Hearing deferred pending conclusion of related court action.
MALPASS, David C.	03/26/84	03/28/84		Prtys	05-AQ-FB-83-14 FB Civil Penalty of $500	Scheduled hearing deferred to allow approval of negotiated settlement.
SIMMONS, Wayne	03/27/84	04/05/84	03/14/85	Hrngs	07-AQ-FB-83-20 FB Civil Penalty of $300	Decision due.
COON, Mike	03/29/84	04/05/84	04/09/85	Prtys	08-AQ-FB-83-19 FB Civil Penalty of $750	Hearing postponed. Negotiated order to be submitted to EQC 6/7/85.
BIELENBERG, David	03/28/84	04/05/84	12/11/84	Hrngs	09-AQ-FB-83-04 FB Civil Penalty of $300	Decision issued 5/30/85.
BRONSON, Robert W.	03/28/84	04/05/84	05/21/85	Hrngs	10-AQ-FB-83-16 FB Civil Penalty of $500	Decision due.

May 1985

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
KAYNER, Kurt	04/03/84	04/05/84	01/08/85	Hrngs	12-AQ-FB-83-12 FB Civil Penalty of $500	Decision due.
GORACKE, Jeffrey dba/Goracke Bros.	04/10/84	04/12/84	04/30/85	Hrngs	15-AQ-FB-83-22 FB Civil Penalty of $500	Decision due.
TRANSCO Industries, Inc.	06/05/84	06/12/84	02/27/85	Prtys	17-HW-NWR-84-45 HW Civil Penalty of $2,500	Partys requested hearing postponement to allow conclusion of negotiations.
TRANSCO Industries, Inc.	06/05/84		02/27/85	Prtys	18-HW-NWR-84-46 HW Compliance Order	Partys requested hearing postponement to allow conclusion of negotiations.
INTERNATIONAL PAPER CO.	06/12/84	06/12/84		Prtys	19-WQ-SWR-84-29 WQ Civil Penalty of $7,450	Stipulated settlement to be submitted to EQC for approval.
VANDERVELDE, Roy	06/12/84	06/12/84	08/13/85	Prtys	20-WQ-WVR-84-01 WQ Civil Penalty of $2,500	Hearing scheduled.
WESTERN PACIFIC LEASING CORP., dba/Killingsworth Fast Disposal	06/01/84	07/23/84	10/14/85	Prtys	22-SW-NWR-84 Solid Waste Permit Modification	Hearing scheduled.
NORTHWEST BASIC INDUSTRIES, dba/Bristol Silica and Limestone Co.	08/21/84	08/28/84		Prtys	23-AQ-SWR-84-82 Violation of Air Contaminant permit Civil Penalty of $1,000	Stipulated settlement to be submitted to EQC for approval.

May 1985

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
CLEARWATER INDUSTRIES, INC.	10/11/84	10/11/84		Prtys	24-SS-NWR-84-P Sewage Disposal Service License Denial	Hearing deferred pending conclusion of court actions.
LAVA DIVERSION PROJECT	12/14/84	12/27/84			25-WQ-CR-FERC-5205 Hydroelectric plant certification	EQC certification denial appealed to Court of Appeals.
~~JAY MILLER BUILDER, INC.~~	~~02/05/85~~			~~Resp~~	~~01-AQOB-NWR-84-154~~	No appeal. Case closed.
UNITED CHROME PRODUCTS, INC.		02/19/85		Prtys	02-HW-WQ-WVR-84-158 $6,000 civil penalty	Interim order on default issued 4/15/85.
NOFZIGER, Mark	03/11/85	03/11/85	06/11/85	Prtys	03-AQ-FB-84-144 Civil Penalty of $500	Hearing scheduled.
CATHCART, Channing and Douglas	03/11/85	03/11/85	06/14/85	Prtys	04-AQ-FB-84-137 Civil Penalty of $750	Hearing scheduled.
FUNRUE, Amos	03/15/85	03/19/85	06/20/85	Prtys	05-AQ-FB-84-141 Civil Penalty of $500	Hearing scheduled.
BLADES, Wallace	03/18/85	03/19/85	06/21/85	Prtys	06-AQ-FB-84-139 Civil Penalty of $750	Hearing scheduled.
DOMES, William	03/20/85	03/21/85	06/18/85	Prtys	07-AQ-FB-84-151 Civil Penalty of $300	Hearing scheduled.
SMITH, Jack		03/19/85	06/25/85	Prtys	08-AQ-FB-84-136 Civil Penalty of $1,000	Hearing scheduled.

May 1985

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
LANG & GANGES CORP., dba/Medply	03/20/85	03/21/85		Resp	09-AQ-SWR-85-15 Permit violation Civil Penalty of $3,050	Respondent's answer due by 5/6/85.
WARRENTON LANDFILL	02/28/85	04/04/85		Prtys	10-57-SW-NWR-83-PMT-120 Approval of the proposed landfill closure plan	Preliminary issues.
COOK, Robert	04/10/85	04/16/85	07/16/85	Prtys	11-AQ-FB-84-138 Civil Penalty of $500	Hearing scheduled.
KANGAS, M. R.	05/02/85	05/03/85	10/01/85	Prtys	12-AQ-FB-84-145 Civil Penalty of $500	Hearing scheduled.
JOSEPH FOREST PRODUCTS		05/23/85		Prtys	13-HW-ER-85-29 Disposed of hazardous waste without license Civil Penalty of $2,500	Preliminary issues.
MAIN ROCK PRODUCTS, INC.		05/31/85		Prtys	14-WQ-SWR-85-31 Violation of NPDES permit conditions Civil Penalty of $3,500	Preliminary issues.
DANT & RUSSELL, INC.		05/31/85		Prtys	15-HW-NWR-85-60 Disposal of hazardous waste without license Civil Penalty of $2,500	Preliminary issues.

VICTOR ATIYEH
GOVERNOR

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 19, 1985 EQC Meeting

Tax Credit Applications

Director's Recommendations

It is recommended that the Commission take the following action:

1. Issue tax credit for a facility subject to the old tax credit law:

Appl. No.	Applicant	Facility
T-1726	Stadelman Fruit, Inc.	Biological Treatment system and sewer line

2. Revoke Pollution Control Facility Certificate No. 1601 issued to International Paper Company. The system has been removed from service. (letter attached)

Fred Hansen

SChew
229-6484
6/25/85

Proposed July 19, 1985 Totals:

Air Quality	$ -0-
Water Quality	354,367.13
Hazardous/Solid Waste	-0-
Noise	-0-
	354,367.13

1985 Calendar Year Totals:

Air Quality	$153,165.08
Water Quality	375,048.90
Hazardous/Solid Waste	295,798.00
Noise	-0-
	824,011.98

Application No. T-1726

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Stadelman Fruit, Inc.
P. O. Box 143
The Dalles, Oregon 97058

The applicant owns and operates a sweet cherry processing plant at The Dalles, Oregon.

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

2. Description of Claimed Facility

The facilities described in this application are improvements to an existing biological treatment system, and a sewer line to collect and convey contaminated storm runoff to the treatment system. These facilities consist of:

a. Air blowers, air distribution lines, a 15' x 30' blower building, and associated electrical support equipment,
b. Brine reuse pumps, piping, valves, and filters,
c. Travelling bridge clarifier, drive motors, piping, valves, and associated electrical support equipment,
d. Hypalon pond curtain dividers,
e. Wallace and Tiernan pH controller, caustic metering pump, caustic tank, recorder, and pH sensor pump,
f. Hydrasieve, solids hoppers, hammer mill, augers, drive motors, tanks, pumps, and associated electrical equipment,
g. Yard drainage catch basins, PVC drainage pipe, and sand backfill.

Request for Preliminary Certification for Tax Credit was made November 18, 1981, and approved December 2, 1981.

Facility is subject to the 1981 tax credit law. Construction was initiated on the claimed facility January 1982, completed August 1983, and the facility was placed into operation September 1983.

Facility Cost: $354,367.13 (Accountant's certification was provided.)

3. Evaluation of Application

Waste waters from the applicant's cherry processing facility are treated in a biological treatment system prior to discharge to the Columbia River. Prior to installation of the claimed facilities, the BOD, TSS, and pH limits of the NPDES permit were often exceeded. An engineering report showed the treatment system did not have sufficient mixing which resulted in an accumulation of solids on the floor of the treatment system, and aeration was not sufficient for proper biological treatment. The Department had also expressed concern that contaminated yard drainage from the plant process area was entering the Columbia River.

The claimed facilities provides primary screening for solids removal. The solids are sent through a hammer mill and are spread on orchard land. The new aeration system consists of numerous bubbler devices which are fixed to the bottom of the treatment ponds. The system not only provides improved aeration over the old floating aerators, but provides much more mixing of the pond contents. This allows for the biological solids to stay suspended in the rather deep treatment ponds (portions of the ponds are over 20' deep). All four of the existing floating aerators were relocated in the ponds, but kept in service.

To separate the biological solids prior to effluent discharge, hypalon curtains were placed across the effluent end of the ponds to create a quiescent area for settling. The new travelling bridge clarifier collects the solids from the quiescent area and either returns them to the influent end of the biological ponds, or diverts them to a tank for wasting. Waste solids are spread on orchard land.

After solids removal, the pH of the water is monitored prior to discharge. If the pH is low (which is characteristic of the brining waste water) caustic soda is automatically metered into the effluent chamber. The pH of the neutralized effluent is continuously recorded on a chart.

Waste cherry brine is the major source of BOD to the treatment system. The new brine recycle system returns about 50 percent of the used brine through a filtering system for use back in the brining process. This has greatly reduced the organic load to the biological treatment system. The savings in recycling the brine is offset by the cost of running the pumps.

In addition, the new yard drainage system picks up surface runoff from the plant process areas and conveys it to the treatment system. Prior to installation of this system, spills of process solutions could flow directly to the Columbia River.

These systems have resulted in a much more reliable treatment system. Since completion of construction, the record of compliance with the NPDES permit has significantly improved. 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 $354,367.13 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1726.

LDP:m
WM313 (WTRR.1)
(503) 229-5374
July 2, 1985

State of Oregon
Department of Environmental Quality

REVOCATION OF POLLUTION CONTROL FACILITY CERTIFICATE

1. Certificate issued to:

   International Paper Company
   Wood Products/Resources Group
   PO Box 43
   Gardiner, OR 97441

   The certificate was issued for a water pollution control facility.

2. Summation

   The Environmental Quality Commission issued a certificate to International Paper Company February 25, 1983. (A copy of the certificate is attached.) The Department has been notified by the company that their facility has been taken out of service and is no longer in use.

3. It is recommended that Pollution Control Facility Certificate No. 1601 be revoked.

INTERNATIONAL PAPER COMPANY

WOOD PRODUCTS & RESOURCES GROUP

June 5, 1985

WESTERN OPERATIONS

BOX 43, GARDINER, OREGON 97441

PHONE 503 271-2151

Department of Environmental Quality
522 S.W. 5th
Box 1760
Portland, Oregon 97207

Attention: Tax Credit Program Coordinator

Reference: Application #T-1597, Certificate #1601

Gentlemen:

The Bark Removal System which was granted tax relief under Application Number T-1597, Certificate Number 1601 has been removed from service and is no longer being used.

N. F. Wondra

Norb F. Wondra
CONTROLLER

NFW:sn

cc: J. Morgero
G. Moorehead

Certificate No. 1601

Date of Issue 2/25/83

Application No. T-1597

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: International Paper Co. Wood Products / Resources Group P.O. Box 43 Gardiner, OR 97441	Location of Pollution Control Facility: Gardiner, OR
As: ☐ Lessee ☒ Owner	
Description of Pollution Control Facility: Oil and bark removal system	
Type of Pollution Control Facility: ☐ Air ☐ Noise ☒ Water ☐ Solid Waste ☐ Hazardous Waste ☐ Used Oil	
Date Pollution Control Facility was completed: Dec. 1981 Placed into operation: Sept. 1982	
Actual Cost of Pollution Control Facility: $ 134,702.08	
Percent of actual cost properly allocable to pollution control: 80% or more	

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

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

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

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

Signed Joe B. Richards

Title Joe B. Richards, Chairman

Approved by the Environmental Quality Commission on the 25th day of February, 1983.

VICTOR ATIYEH
GOVERNOR

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 19, 1985, EQC Meeting

Request for Authorization to Hold a Public Hearing to Amend the New Source Review Rule Related to Assessment of Visibility Impacts of Major New or Modified Sources in Class I Areas (OAR 340-20-276) as a Revision to the State Air Quality Implementation Plan.

Background and Problem Statement

In 1980, the Environmental Protection Agency (EPA) adopted visibility protection rules for Federal Class I areas (40 CFR 51.300-307). Oregon's 12 Class I areas include 11 Wilderness areas and Crater Lake National Park. The rule requires states to develop programs to assure that reasonable progress is being made toward meeting the national goal of preventing any future and remedying any existing visibility impairment resulting from man-made air pollution. A key provision of the rule is related to the assessment of visibility impacts on Class I areas by major new or modified stationary sources.

On September 14, 1984, the Environmental Quality Commission (EQC) adopted revisions to the State Air Quality Implementation Plan to address Class I visibility monitoring (OAR 340-20-047) and amended the New Source Review Rules (OAR 340-20-220 through 270) to add Class I visibility impact assessment requirements for major new or modified stationary sources. These changes to the State Implementation Plan (SIP) were proposed by the Department under the requirements of the Environmental Protection Agency Class I Area Visibility Protection Rules (40 CFR 51.300-307) and the Federal Court of Appeals decision of April 1984 which set deadlines for EPA to get state visibility plans adopted.

Subsequent to EQC adoption of the SIP amendments, Environmental Protection Agency review of the Visibility Impact Assessment section (OAR 340-20-276(1)(a)) identified inconsistencies with EPA New Source Review regulations (40 CFR 51.307). The EPA rules do not allow for major new or

modified stationary source exemptions based on the distance of the source from Class I areas. The EPA rules also require that many 100 to 250 ton/year sources listed under OAR 340-20-245(3) be reviewed for Class I area visibility impact.

The intent of the Department in exempting certain sources from review was to reduce the burden on permit applicants by omitting those sources which would be likely to have insignificant impacts on Class I area visibility.

Problem Statement

Provisions of the current Visibility Impact Assessment requirements of the Prevention of Significant Deterioration (PSD) New Source Review Rules (OAR 340-20-276(1)(a)) exempt major new or modified sources from Class I area visibility impact review if they emit less than 250 tons/year of TSP, SO_2 or NO_x and are located more than 30 Km from a Class I area. This section of the rule is less stringent than EPA visibility impact review regulations. The rule adopted by the Department cannot be approved by EPA without revision to the source exemption provision.

If the Department does not adopt an amendment to the New Source Review Rule, EPA cannot propose approval of Oregon's permitting program related to visibility impact. EPA will then be required, under the conditions of the Court of Appeals order, to promulgate a federal permitting program.

Authority of the Commission to Act

ORS 468.020 gives the Commission authority to adopt necessary rules and standards; ORS 468.305 authorizes the Commission to prepare and to develop comprehensive plans. Attachment 1 contains the Statement of Need, Fiscal and Economic Impact and Land Use Consistency Statements.

Alternatives and Evaluation

Visibility impact assessment provisions have been added to the New Source Review Rule to fulfill basic visibility protection requirements of the Clean Air Act as currently administered by the U.S. Environmental Protection Agency. Section 276(1)(a) of the rule is less stringent than EPA regulations and cannot be proposed for approval by EPA until modified. An acceptable modification would be to adopt EPA's source exemption provision.

An alternative to the proposed rule amendment is to delay or fail to remove the source exemption clause. EPA would then be forced to adopt a New Source Review program that may not be compatible with Department rules and programs.

Summation

1. In December 1980, the Environmental Protection Agency (EPA) promulgated a rule requiring states to incorporate visibility protection for Class I areas into their SIPs. A key element of EPA's rule requires visibility impact assessment of major new or modified stationary sources as part of the State's New Source Review program.

2. In September 1984, the Department adopted revisions to the State Air Quality Implementation Plan to address Class I visibility monitoring and include New Source Review Rule provisions to assess visibility impacts of major new or modified sources on Class I areas. These rule revisions were made in response to EPA and Clean Air Act requirements.

3. EPA review of the visibility impact assessment section of the New Source Review Rule (OAR 340-20-276(1)(a)) has disclosed a source exemption provision which is less stringent than EPA requirements. This inconsistency must be corrected before EPA can propose approval of the Department's rule.

4. A revision to the current New Source Review Rule is proposed to correct the rule inconsistency, insuring that EPA's approval of the Department's visibility protection rules can proceed thereby avoiding promulgation of an EPA New Source Review Program for Oregon.

5. The proposed revision to the New Source Review Rule revises OAR 340-20-276(1)(a) to make source exemption criteria identical to EPA exemption criteria.

Director's Recommendation

Based on the summation, the Director recommends that the EQC authorize public hearings to consider public testimony on the proposed revision to the New Source Review Rule, OAR 340-20-276.

Fred Hansen

Attachments 1. Draft Public Notice and Statements of Need, Fiscal and Economic Impact, and Land Use Consistency
2. Oregon New Source Review Rules, with Proposed Revision to OAR 340-20-276

John E. Core:p
229-5380
July 3, 1985
AP173

Attachment 1
Agenda Item D
July 19, 1985
EQC Meeting

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

PROPOSED REVISION OF NEW SOURCE REVIEW RULES FOR VISIBILITY IMPACT ASSESSMENT
NOTICE OF PUBLIC HEARING

Date Prepared: June 19, 1985
Hearing Date: August 19, 1985
Comments Due: August 20, 1985

WHO IS AFFECTED: Residents, industries, and Federal Land Managers within the State of Oregon.

WHAT IS PROPOSED: The Department of Environmental Quality is proposing to amend OAR 340-20-276 by revising the source exemption criteria to be consistent with EPA requirements. A hearing on this matter will be held in Portland on August 19, 1985.

WHAT ARE THE HIGHLIGHTS: The rule revision would require certain major new or modified sources with a potential to emit between 100 and 250 tons per year to complete a visibility impact assessment.

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 John E. Core at 229-5380.

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

10:00 a.m.
August 19, 1985
DEQ Conference Room
Room 1400
522 S.W. Fifth Avenue
Portland, Oregon

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 20, 1985.

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. 1-800-452-4011

RULEMAKING STATEMENTS
for
ADOPTION OF STATE IMPLEMENTATION PLAN REVISIONS
for
VISIBILITY ASSESSMENT NEW SOURCE REVIEW

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

STATEMENT OF NEED

Legal Authority

This project amends OAR 340-20-276 of the State Implementation Plan. It is proposed under the authority of ORS Chapter 468, Section 305 which authorizes the Commission to adopt a general comprehensive plan for air pollution control.

Need for the Rule Change

The Clean Air Act Amendments require that the State of Oregon adopt a New Source Review program which includes visibility impact assessment of major new and modified stationary sources on Class I areas. In September 1984, the Department modified the New Source Review Rule which incorporated Visibility Impact Assessment provisions (OAR 340-20-276). Subsection (1)(a) of the rule exempted sources emitting less than 250 tons per year of TSP, SO_2 or NO_x, and located more than 30 Km from a Class I area, from the visibility impact requirements of the rule. EPA review of subsection 276(1)(a) disclosed this criteria to be less stringent than federal regulations. Revision of subsection 276 is therefore required before EPA approval can be granted.

Principal Documents Relied Upon

(1) Clean Air Act as amended, Section 169(a)(1) (PL 95-95).
(2) Visibility Protection for Federal Class I Areas (40CFR51) December 2, 1980.
(3) Correspondence of February 19, 1985 Addressed to T. Bispham, Administrator, Air Quality Division, Department of Environmental Quality, from R. Smith, Chief, Air Programs Branch, U.S. Environmental Protection Agency Region X.

FISCAL AND ECONOMIC IMPACT STATEMENT

The proposed rule may impose additional fiscal impacts on major new industrial sources and major modifications to industrial sources emitting 100-250 tons per year. These economic impacts are related to three provisions of the New Source Review rules:

1. Provisions requiring an initial analysis of the visibility impact of the source. Maximum costs are approximately $20,000 per occurrence for large sources. Typical costs would be $1,000 to $2,000.

2. If the Department and Federal Land Manager concur that the source would contribute to significant impairment, emission control systems would be required prior to permit issuance at annualized costs ranging from approximately $4,000 to $40,000 per ton of the particulate emission reduction.

3. Sources that significantly impair visibility in Class I areas may also be required to operate a preconstruction monitoring program at an approximate cost of $50,000 per year.

Within the past four years, seven sources have been subject to the visibility impairment analysis provisions of the EPA rule. None of these sources would have been excluded from review based on the exemption plan included in subsection 276(1)(a) and none of these sources have been required to incur costs beyond that of the impact analysis. Small businesses would not be adversely impacted by the proposed rule since it only applies to major industrial sources.

The negative economic impact of the rule are offset by the benefits of preserving the scenic resources of Oregon's Class I areas. Wilderness areas in Oregon are used at a rate of 600,000 visitor days per year. Approximately 500,000 people visit Crater Lake National Park annually with an average visit of 8 hours, adding another 160,000 visitor days. To enjoy the scenic value of these areas, visitors incur recreational equipment costs, travel costs, and area use fees that approach $25 per visitor day, adding $19 million to the State's economy each year. Other studies by EPA to assess the economic benefit of preserving visibility in the National Parks indicate that the public is willing to spend, on the average, about $3/visitation day to preserve regional visibility. Based on this estimate and considering an annual total of 760,000 visitor days within Oregon's Class I areas, the value associated with preserving the State's Class I scenic values is about $2 million per year.

LAND USE CONSISTENCY STATEMENT

The proposed rule appears to affect land use and is consistent with Statewide Planning Goals.

With regard to Goal 6 (air, water and land resource quality), the rule is designed to enhance and preserve air quality in the affected areas and is therefore, consistent with the goal.

WHAT IS THE NEXT STEP:

After public hearing, the Environmental Quality Commission may adopt the rule amendments identical to the proposed amendment, adopt a modified rule 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 at its September, 1985 meeting 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.

AP175

Attachment 2
Agenda Item No. D
July 19, 1985
EQC Meeting

[New Source Review]

Reader Guidance

Changes are proposed to the existing New Source Review Rules, OAR 340-20-276(a)(1) to revise the exemption for major new and modified sources to be consistent with Federal requirements. Deletions from the existing rule are enclosed in brackets [ ].

New Source Review

340-20-220 - Applicability

(1) No owner or operator shall begin construction of a major source or a major modification of an air contaminant source without having received an Air Contaminant Discharge Permit from the Department of Environmental Quality and having satisfied OAR 340-20-230 through 280 of these Rules.

(2) Owners or operators of proposed non-major sources or non-major modifications are not subject to these New Source Review rules. Such owners or operators are subject to other Department rules including Highest and Best Practicable Treatment and Control Required (OAR 340-20-001), Notice of Construction and Approval of Plans (OAR 340-20-020 to 032), Air Contaminant Discharge Permits (OAR 340-20-140 to 185), Emission Standards for Hazardous Air Contaminants (OAR 340-25-450 to 480), and Standards of Performance for New Stationary Sources (OAR 340-25-505 to 705).

340-20-225 - Definitions

(1) "Actual emissions" means the mass rate of emissions of a pollutant from an emissions source.

(a) In general, actual emissions as of the baseline period shall equal the average rate at which the source actually emitted the pollutant during the baseline period and which is representative of normal source operation. Actual emissions shall be calculated using the source's actual operating hours, production rates and types of materials processed, stored, or combusted during the selected time period.

(b) The Department may presume that existing source-specific permitted mass emissions for the source are equivalent to the actual emissions of the source if they are within 10% of the calculated actual emissions.

(c) For any newly permitted emission source which had not yet begun normal operation in the baseline period, actual emissions shall equal the potential to emit of the source.

(2) "Baseline Concentration" means that ambient concentration level for a particular pollutant which existed in an area during the calendar year 1978. If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for 1978.

The following emission increases or decreases will be included in the baseline concentration:

(a) Actual emission increases or decreases occurring before January 1, 1978, and

(b) Actual emission increases from any major source or major modification on which construction commenced before January 6, 1975.

(3) "Baseline Period" means either calendar years 1977 or 1978. The Department shall allow the use of a prior time period upon a determination that it is more representative of normal source operation.

(4) "Best Available Control Technology (BACT)" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction of each air contaminant subject to regulation under the Clean Air Act which would be emitted from any proposed major source or major modification which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air contaminant. In no event, shall the application of BACT result in emissions of any air contaminant which would exceed the emissions allowed by any applicable new source performance standard or any standard for hazardous air pollutants. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard shall, to the degree possible, set forth the emission reduction achievable and shall provide for compliance by prescribing appropriate permit conditions.

(5) "Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as Class I area. Class I areas are identified in OAR 340-31-120.

(6) "Commence" means that the owner or operator has obtained all necessary preconstruction approvals required by the Clean Air Act and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed in a reasonable time, or

(b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time.

(7) "Construction" means any physical change (including fabrication, erection, installation, demolition, or modification of an emissions unit) or change in the method of operation of a source which would result in a change in actual emissions.

(8) "Emission Reduction Credit Banking" means to presently reserve, subject to requirements of these provisions, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.

(9) "Emissions Unit" means any part of a stationary source (including specific process equipment) which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act.

(10) "Federal Land Manager" means with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.

(11) "Fugitive emissions" means emissions of any air contaminant which escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.

(12) "Growth Increment" means an allocation of some part of an airshed's capacity to accomodate future new major sources and major modifications of sources.

(13) "Lowest Achievable Emission Rate (LAER)" means that rate of emissions which reflects a) the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or b) the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. In no event, shall the application of this term permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable new source performance standards or standards for hazardous air pollutants.

(14) "Major modification" means any physical change or change of operation of a source that would result in a net significant emission rate increase (as defined in definition (22) for any pollutant subject to regulation under the Clean Air Act. This criteria also applies to any

pollutants not previously emitted by the source. Calculations of net emission increases must take into account all accumulated increases and decreases in actual emissions occurring at the source since January 1, 1978, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations for that pollutant, whichever time is more recent. If accumulation of emission increases results in a net significant emission rate increase, the modifications causing such increases become subject to the New Source Review requirements including the retrofit of required controls.

(15) "Major source" means a stationary source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate (as defined in definition (22)).

(16) "Nonattainment Area" means a geographical area of the State which exceeds any State or Federal primary or secondary ambient air quality standard as designated by the Environmental Quality Commission and approved by the Environmental Protection Agency.

(17) "Offset" means an equivalent or greater emission reduction which is required prior to allowing an emission increase from a new major source or major modification of a source.

(18) "Plant Site Emission Limit" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source.

(19) "Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

(20) "Resource Recovery Facility" means any facility at which municipal solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing municipal solid waste for reuse. Energy conversion facilities must utilize municipal solid waste to provide 50% or more of the heat input to be considered a resource recovery facility.

(21) "Secondary Emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a source or modification, but do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from ships and trains coming to or from a facility,

(b) Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a source or modification.

(22) "Significant emission rate" means emission rates equal to or greater than the following for air pollutants regulated under the Clean Air Act.

Table 1: Significant Emission Rates for Pollutants Regulated under the Clean Air Act

Pollutant	Significant Emission Rate
Carbon Monoxide	100 tons/year
Nitrogen Oxides	40 tons/year
Particulate Matter*	25 tons/year
Sulfur Dioxide	40 tons/year
Volatile Organic Compounds*	40 tons/year
Lead	0.6 ton/year
Mercury	0.1 ton/year
Beryllium	0.0004 ton/year
Asbestos	0.007 ton/year
Vinyl Chloride	1 ton/year
Fluorides	3 tons/year
Sulfuric Acid Mist	7 tons/year
Hydrogen Sulfide	10 tons/year
Total reduced sulfur (including hydrogen sulfide)	10 tons/year
Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year

* For the nonattainment portions of the Medford-Ashland Air Quality Maintenance Area, the Significant Emission Rates for particulate matter and volatile organic compounds are defined in Table 2.

For pollutants not listed above, the Department shall determine the rate that constitutes a significant emission rate.

Any emissions increase less than these rates associated with a new source or modification which would construct within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 ug/m^3 (24 hour average) shall be deemed to be emitting at a significant emission rate.

Table 2: Significant Emission rates for the Nonattainment Portions of the Medford-Ashland Air Quality Maintenance Area.

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

(23) "Significant Air Quality Impact" means an ambient air quality impact which is equal to or greater than:

Table 3

	Pollutant Averaging Time				
Pollutant	Annual	24-hour	8-hour	3-hour	1-hour
SO_2	1.0 ug/m^3	5 ug/m^3		25 ug/m^3	
TSP	0.2 ug/m^3	1.0 ug/m^3			
NO_2	1.0 ug/m^3				
CO			0.5 mg/m^3		2 mg/m^3

For sources of volatile organic compounds (VOC), a major source or major modification will be deemed to have a significant impact if it is located within 30 kilometers of an ozone nonattainment area and is capable of impacting the nonattainment area.

(24) "Significant impairment" occurs when visibility impairment in the judgment of the Department interferes with the management, protection, preservation, or enjoyment of the visual experience of visitors within a Class I area. The determination must be made on a case-by-case basis considering the recommendations of the Federal Land Manager; the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered with respect to visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility.

(25) "Source" means any building, structure, facility, installation or combination thereof which emits or is capable of emitting air contaminants to the atmosphere and is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control.

(26) "Visibility impairment" means any humanly perceptible change in visual range, contrast or coloration from that which would have existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.

340-20-230 - Procedural Requirements

(1) Information Required

The owner or operator of a proposed major source or major modification shall submit all information necessary to perform any analysis or make any determination required under these Rules. Such information shall include, but not be limited to:

(a) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

(b) An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, seasonal, and yearly rates, showing the calculation procedure;

(c) A detailed schedule for construction of the source or modification;

(d) A detailed description of the system of continuous emission reduction which is planned for the source or modification, and any other information necessary to determine that best available control technology or lowest achievable emission rate technology, whichever is applicable, would be applied;

(e) To the extent required by these rules, an analysis of the air quality and/or visibility impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and

(f) To the extent required by these rules, an analysis of the air quality and/or visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth which has occurred since January 1, 1978, in the area the source or modification would affect.

(2) Other Obligations

Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to these Rules or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this section who commences construction after the effective date of these regulations without applying for and receiving an Air Contaminant Discharge Permit, shall be subject to appropriate enforcement action.

Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within 18 months of the scheduled time. The Department may extend the 18-month period upon satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, State, or Federal law.

(3) Public Participation

(a) Within 30 days after receipt of an application to construct, or any addition to such application, the Department shall advise the applicant of any deficiency in the application or in the information submitted. The date of the receipt of a complete application shall be, for the purpose of this section, the date on which the Department received all required information.

(b) Notwithstanding the requirements of OAR 340-14-020, but as expeditiously as possible and at least within six months after receipt of a complete application, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner.

(A) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

(B) Make available for a 30 day period in at least one location a copy of the permit application, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

(C) Notify the public, by advertisement in a newspaper of general circulation in the area in which the proposed source or modification would be constructed, of the application, the preliminary determination, the extent of increment consumption that is expected from the source or modification, and the opportunity for a public hearing and for written public comment.

(D) Send a copy of the notice of opportunity for public comment to the applicant and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: The chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency, any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification, and the Environmental Protection Agency.

(E) Upon determination that significant interest exists, provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations. For energy facilities, the hearing may be consolidated with the hearing requirements for site certification contained in OAR 345, Division 15.

(F) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 working days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed source or modification.

(G) Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section.

(H) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments relating to the source or modification.

340-20-235 - Review of New Sources and Modifications for Compliance With Regulations

The owner or operator of a proposed major source or major modification must demonstrate the ability of the proposed source or modification to comply with all applicable requirements of the Department of Environmental Quality, including New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants, and shall obtain an Air Contaminant Discharge Permit.

340-20-240 - Requirements for Sources in Nonattainment Areas

New major sources and major modifications which are located in designated nonattainment areas shall meet the requirements listed below.

(1) Lowest Achievable Emission Rate

The owner or operator of the proposed major source or major modification must demonstrate that the source or modification will comply with the lowest achievable emission rate (LAER) for each

nonattainment pollutant. In the case of a major modification, the requirement for LAER shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of LAER shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.

(2) Source Compliance

The owner or operator of the proposed major source or major modification must demonstrate that all major sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in the State are in compliance or on a schedule for compliance, with all applicable emission limitations and standards under the Clean Air Act.

(3) Growth Increment or Offsets

The owner or operator of the proposed major source or major modification must demonstrate that the source or modification will comply with any established emissions growth increment for the particular area in which the source is located or must provide emission reductions ("offsets") as specified by these rules. A combination of growth increment allocation and emission reductions may be used to demonstrate compliance with this section. Those emission increases for which offsets can be found through the best efforts of the applicant shall not be eligible for a growth increment allocation.

(4) Net Air Quality Benefit

For cases in which emission reductions or offsets are required, the applicant must demonstrate that a net air quality benefit will be achieved in the affected area as described in OAR 340-20-260 (Requirements for Net Air Quality Benefit) and that the reductions are consistent with reasonable further progress toward attainment of the air quality standards.

(5) Alternative Analysis

An alternative analysis must be conducted for new major sources or major modifications of sources emitting volatile organic compounds or carbon monoxide locating in nonattainment areas.

This analysis must include an evaluation of alternative sites, sizes, production processes, and environmental control techniques for such proposed source or modification which demonstrates that benefits of the proposed source or modification significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

(6) Special Exemption for the Salem Ozone Nonattainment Area

Proposed major sources and major modifications of sources of volatile organic compounds which are located in the Salem Ozone nonattainment area shall comply with the requirements of Sections 1 and 2 of OAR 340-20-240 but are exempt from all other sections of this rule.

340-20-241 - Growth Increments

The ozone control strategies for the Medford-Ashland and Portland ozone nonattainment areas establish growth margins for new major sources or major modifications which will emit volatile organic compounds. The growth margin shall be allocated on a first-come-first-served basis depending on the date of submittal of a complete permit application. No single source shall receive an allocation of more than 50% of any remaining growth margin. The allocation of emission increases from the growth margins shall be calculated based on the ozone season (April 1 to October 31 of each year). The amount of each growth margin that is available is defined in the State Implementation Plan for each area and is on file with the Department.

340-20-245 - Requirements for Sources in Attainment or Unclassified Areas (Prevention of Significant Deterioration)

New Major Sources or Major Modifications locating in areas designated attainment or unclassifiable shall meet the following requirements:

(1) Best Available Control Technology The owner or operator of the proposed major source or major modification shall apply best available control technology (BACT) for each pollutant which is emitted at a significant emission rate (OAR 340-20-225 definition (22)). In the case of a major modification, the requirement for BACT shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of BACT shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.

(2) Air Quality Analysis

(a) The owner or operator of the proposed major source or major modification shall demonstrate that the potential to emit any pollutant at a significant emission rate (OAR 340-20-225 definition (22)) in conjunction with all other applicable emissions increases and decreases, (including secondary emissions), would not cause or contribute to air quality levels in excess of:

(A) Any State or National ambient air quality standard, or

(B) Any applicable increment established by the Prevention of Significant Deterioration requirements (OAR 340-31-110), or

(C) An impact on a designated nonattainment area greater than the significant air quality impact levels (OAR 340-20-225 definition (23)). New sources or modifications of sources which would emit volatile organic compounds which may impact the Salem ozone nonattainment area are exempt from this requirement.

(b) Sources or modifications with the potential to emit at rates greater than the significant emission rate but less than 100 tons/year, and are greater than 50 kilometers from a nonattainment area are not required to assess their impact on the nonattainment area.

(c) If the owner or operator of a proposed major source or major modification wishes to provide emission offsets such that a net air quality benefit as defined in OAR 340-20-260 is provided, the Department may consider the requirements of section (2) of this rule to have been met.

(3) Exemption for Sources Not Significantly Impacting Designated Nonattainment Areas.

(a) A proposed major source or major modification is exempt from OAR 340-20-220 to 340-20-276 if:

(A) The proposed source or major modification does not have a significant air quality impacts on a designated nonattainment area, and

(B) The potential emissions of the source are less than 100 tons/year for sources in the following categories or less than 250 tons/year for sources not in the following source categories:

I Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input

II Coal cleaning plants (with thermal dryers)

III Kraft pulp mills

IV Portland cement plants

V Primary Zinc Smelters

VI Iron and Steel Mill Plants

VII Primary aluminum ore reduction plants

VIII Primary copper smelters

IX Municipal Incinerators capable of charging more than 250 tons of refuse per day

X Hydrofluoric acid plants

XI	Sulfuric acid plants
XII	Nitric acid plants
XIII	Petroleum Refineries
XIV	Lime plants
XV	Phosphate rock processing plants
XVI	Coke oven batteries
XVII	Sulfur recovery plants
XVIII	Carbon black plants (furnace process)
XIX	Primary lead smelters
XX	Fuel conversion plants
XXI	Sintering plants
XXII	Secondary metal production plants
XXIII	Chemical process plants
XXIV	Fossil fuel fired boilers (or combinations thereof) totaling more than 250 million BTU per hour heat input
XXV	Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels
XXVI	Taconite ore processing plants
XXVII	Glass fiber processing plants
XXVIII	Charcoal production plants

(b) Major modifications are not exempted under this section unless the source including the modifications meets the requirements of paragraphs (a)(A), and (B) above. Owners or operators of proposed sources which are exempted by this provision should refer to OAR 340-20-020 to 340-20-032 and OAR 340-20-140 to 340-20-185 for possible applicable requirements.

(4) Air Quality Models

All estimates of ambient concentrations required under these Rules shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models" (OAQPS 1.2-080, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711,

April 1978). Where an air quality impact model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model substituted. Such a change must be subject to notice and opportunity for public comment and must receive approval of the Department and the Environmental Protection Agency. Methods like those outlined in the "Workbook for the Comparison of Air Quality Models" (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, May, 1978) should be used to determine the comparability of air quality models.

(5) Air Quality Monitoring

(a) The owner or operator of a proposed major source or major modification shall submit with the application, subject to approval of the Department, an analysis of ambient air quality in the area impacted by the proposed project. This analysis shall be conducted for each pollutant potentially emitted at a significant emission rate by the proposed source or modification. As necessary to establish ambient air quality, the analysis shall include continuous air quality monitoring data for any pollutant potentially emitted by the source or modification except for nonmethane hydrocarbons. Such data shall relate to, and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that such data gathered over a portion or portions of that year or another representative year would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard or any applicable pollutant increment. Pursuant to the requirements of these rules, the owner or operator of the source shall submit for the approval of the Department, a preconstruction air quality monitoring plan.

(b) Air quality monitoring which is conducted pursuant to this requirement, shall be conducted in accordance with 40 CFR 58 Appendix B, "Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring" and with other methods on file with the Department.

(c) The Department may exempt a proposed major source or major modification from monitoring for a specific pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would be less than the amounts listed below or that the concentrations of the pollutant in the area that the source or modification would impact are less than these amounts.

(i) Carbon monoxide - 575 ug/m^3, 8 hour average

(ii) Nitrogen dioxide - 14 ug/m^3, annual average

(iii) Total suspended particulate - 10 ug/m^3, 24 hour average

(iv) Sulfur dioxide - 13 ug/m^3, 24 hour average

(v) Ozone - Any net increase of 100 tons/year or more of volatile organic compounds from a source or modification subject to PSD is required to perform an ambient impact analysis, including the gathering of ambient air quality data.

(vi) Lead - 0.1 ug/m^3, 24 hour average

(vii) Mercury - 0.25 ug/m^3, 24 hour average

(viii) Beryllium - 0.0005 ug/m^3, 24 hour average

(ix) Fluorides - 0.25 ug/m^3, 24 hour average

(x) Vinyl chloride - 15 ug/m^3, 24 hour average

(xi) Total reduced sulfur - 10 ug/m^3, 1 hour average

(xii) Hydrogen sulfide - 0.04 ug/m^3, 1 hour average

(xiii) Reduced sulfur compounds - 10 ug/m^3, 1 hour average

(b) The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such ambient air quality monitoring as the Department may require as a permit condition to establish the effect which emissions of a pollutant (other than nonmethane hydrocarbons) may have, or is having, on air quality in any area which such emissions would affect.

(6) Additional Impact Analysis

(a) The owner or operator of a proposed major source or major modification shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator may be exempted from providing an analysis of the impact on vegetation having no significant commercial or recreational value.

(b) The owner or operator shall provide an analysis of the air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth associated with the major source or modification.

(7) Sources Impacting Class I Areas

(a) Where a proposed major source or major modification impacts or may impact a Class I area, the Department shall provide written notice to the Environmental Protection Agency and to the appropriate Federal Land Manager within 30 days of the receipt of such permit application, at least 30 days prior to Department Public Hearings and subsequently, of any preliminary and final actions taken with regard to such application.

(b) The Federal Land Manager shall be provided an opportunity in accordance with OAR 340-20-230 Section 3 to present a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality related values (including visibility) of any Federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Department concurs with such demonstration the permit shall not be issued.

340-20-250 - Exemptions

(1) Resource recovery facilities burning municipal refuse and sources subject to federally mandated fuel switches may be exempted by the Department from requirements OAR 340-20-240 Sections 3 and 4 provided that:

(a) No growth increment is available for allocation to such source or modification, and

(b) The owner or operator of such source or modification demonstrates that every effort was made to obtain sufficient offsets and that every available offset was secured.

(Such an exemption may result in a need to revise the State Implementation Plan to require additional control of existing sources.)

(2) Temporary emission sources, which would be in operation at a site for less than two years, such as pilot plants and portable facilities, and emissions resulting from the construction phase of a new source or modification must comply with OAR 340-20-240(1) and (2) or OAR 340-20-245(1), whichever is applicable, but are exempt from the remaining requirements of OAR 340-20-240 and OAR 340-20-245 provided that the source or modification would impact no Class I area or no area where an applicable increment is known to be violated.

(3) Proposed increases in hours of operation or production rates which would cause emission increases above the levels allowed in an Air Contaminant Discharge Permit and would not involve a physical change in the source may be exempted from the requirement of OAR 340-20-245(1) (Best Available Control Technology) provided that the increases

cause no exceedances of an increment or standard and that the net impact on a nonattainment area is less than the significant air quality impact levels. This exemption shall not be allowed for new sources or modifications that received permits to construct after January 1, 1978.

(4) Also refer to OAR 340-20-245(3) for exemptions pertaining to sources smaller than the Federal Size-cutoff Criteria.

340-20-255 - Baseline for Determining Credit for Offsets

The baseline for determining credit for emission offsets shall be the Plant Site Emission Limit established pursuant to OAR 340-20-300 to 320 or, in the absence of a Plant Site Emission Limit, the actual emission rate for the source providing the offsets. Sources in violation of air quality emission limitations may not supply offsets from those emissions which are or were in excess of permitted emission rates. Offsets, including offsets from mobile and area source categories, must be quantifiable and enforceable before the Air Contaminant Discharge Permit is issued and must be demonstrated to remain in effect throughout the life of the proposed source or modification.

340-20-260 - Requirements for Net Air Quality Benefit

Demonstrations of net air quality benefit must include the following.

(1) A demonstration must be provided showing that the proposed offsets will improve air quality in the same geographical area affected by the new source or modification. This demonstration may require that air quality modeling be conducted according to the procedures specified in the "Guideline on Air Quality Models". Offsets for volatile organic compounds or nitrogen oxides shall be within the same general air basin as the proposed source. Offsets for total suspended particulate, sulfur dioxide, carbon monoxide and other pollutants shall be within the area of significant air quality impact.

(2) For new sources or modifications locating within a designated nonattainment area, the emission offsets must provide reductions which are equivalent or greater than the proposed increases. The offsets must be appropriate in terms of short term, seasonal, and yearly time periods to mitigate the impacts of the proposed emissions. For new sources or modifications locating outside of a designated nonattainment area which have a significant air quality impact (OAR 340-20-225 definition (231) on the non-attainment area, the emission offsets must be sufficient to reduce impacts to levels below the significant air quality impact level within the nonattainment area. Proposed major sources or major modifications which emit volatile organic compounds and are located within 30 kilometers of an ozone nonattainment area shall provide reductions which are equivalent or greater than the proposed emission increases unless the applicant demonstrates that the proposed emissions will not impact the nonattainment area.

(3) The emission reductions must be of the same type of pollutant as the emissions from the new source or modification. Sources of respirable particulate (less than three microns) must be offset with particulate in the same size range. In areas where atmospheric reactions contribute to pollutant levels, offsets may be provided from precursor pollutants if a net air quality benefit can be shown.

(4) The emission reductions must be contemporaneous, that is, the reductions must take effect prior to the time of startup but not more than one year prior to the submittal of a complete permit application for the new source or modification. This time limitation may be extended as provided for in OAR 340-20-265 (Emission Reduction Credit Banking). In the case of replacement facilities, the Department may allow simultaneous operation of the old and new facilities during the startup period of the new facility provided that net emissions are not increased during that time period.

340-20-265 - Emission Reduction Credit Banking

The owner or operator of a source of air pollution who wishes to reduce emissions by implementing more stringent controls than required by a permit or by an applicable regulation may bank such emission reductions. Cities, counties or other local jurisdictions may participate in the emissions bank in the same manner as a private firm. Emission reduction credit banking shall be subject to the following conditions:

(1) To be eligible for banking, emission reduction credits must be in terms of actual emission decreases resulting from permanent continuous control of existing sources. The baseline for determining emission reduction credits shall be the actual emissions of the source or the Plant Site Emission Limit established pursuant to OAR 340-20-300 to 340-20-320.

(2) Emission reductions may be banked for a specified period not to exceed ten years unless extended by the Commission, after which time such reductions will revert to the Department for use in attainment and maintenance of air quality standards or to be allocated as a growth margin.

(3) Emission reductions which are required pursuant to an adopted rule shall not be banked.

(4) Permanent source shutdowns or curtailments other than those used within one year for contemporaneous offsets as provided in OAR 340-20-260(4) are not eligible for banking by the owner or operator but will be banked by the Department for use in attaining and maintaining standards. The Department may allocate these emission reductions as a growth increment. The one year limitation for contemporaneous offsets shall not be applicable to those shutdowns or curtailments which are to be used as internal offsets within a plant as part of a specific plan. Such a plan for use of internal offsets shall be submitted to the Department and receive written approval within one year of the

permanent shutdown or curtailment. A permanent source shutdown or curtailment shall be considered to have occurred when a permit is modified, revoked or expires without renewal pursuant to the criteria established in OAR 340-14-005 through 050.

(5) The amount of banked emission reduction credits shall be discounted without compensation to the holder for a particular source category when new regulations requiring emission reductions are adopted by the Commission. The amount of discounting of banked emission reduction credits shall be calculated on the same basis as the reductions required for existing sources which are subject to the new regulation. Banked emission reduction credits shall be subject to the same rules, procedures, and limitations as permitted emissions.

(6) Emission reductions must be in the amount of ten tons per year or more to be creditable for banking except as follows: a) In the Medford-Ashland AQMA emission reductions must be at least in the amount specified in Table 2 of OAR 340-20-225(22)); b) In Lane County, the Lane Regional Air Pollution Authority may adopt lower levels.

(7) Requests for emission reduction credit banking must be submitted to the Department and must contain the following documentation:

(a) A detailed description of the processes controlled,

(b) Emission calculations showing the types and amounts of actual emissions reduced,

(c) The date or dates of such reductions,

(d) Identification of the probable uses to which the banked reductions are to be applied,

(e) Procedure by which such emission reductions can be rendered permanent and enforceable.

(8) Requests for emission reduction credit banking shall be submitted to the Department prior to or within the year following the actual emissions reduction. The Department shall approve or deny requests for emission reduction credit banking and, in the case of approvals, shall issue a letter to the owner or operator defining the terms of such banking. The Department shall take steps to insure the permanence and enforceability of the banked emission reductions by including appropriate conditions in Air Contaminant Discharge Permits and by appropriate revision of the State Implementation Plan.

(9) The Department shall provide for the allocation of the banked emission reduction credits in accordance with the uses specified by the holder of the emission reduction credits. When emission reduction credits are transfered, the Department must be notified in writing. Any use of emission reduction credits must be compatible with local comprehsive plans, Statewide planning goals, and State laws and rules.

340-20-270 - Fugitive and Secondary Emissions

Fugitive emissions shall be included in the calculation of emission rates of all air contaminants. Fugitive emissions are subject to the same control requirements and analyses required for emissions from identifiable stacks or vents. Secondary emissions shall not be included in calculations of potential emissions which are made to determine if a proposed source or modification is major. Once a source or modification is identified as being major, secondary emissions must be added to the primary emissions and become subject to these rules.

340-20-276 - Visibility Impact Assessment:

New major sources or major modifications located in Attainment, Unclassified or Nonattainment Areas shall meet the following visibility impact assessment requirements:

(1) Visibility Impact Analysis.

(a) The owner or operator of a proposed major source or major modification shall demonstrate that the potential to emit any pollutant at a significant emission rate (OAR 340-20-225, definition (22)) in conjunction with all other applicable emission increases or decreases (including secondary emissions) permitted since January 1, 1984, shall not cause or contribute to significant impairment of visibility within any Class I area. [Proposed sources which emit less than 250 tons/year of TSP, SO_2 or NO_x and are located more than 30 Km from a Class I area are exempt from the requirements of this rule.]

<u>Proposed sources which are exempted under OAR 340-20-245(3)(a)(B) and 245(3)(b) are also exempted from the visibility impact assessment requirements of this rule.</u>

(b) The owner or operator of a proposed major source or major modification shall submit all information necessary to perform any analysis or demonstration required by these rules pursuant to OAR 340-20-230(1).

(2) Air Quality Models

All estimates of visibility impacts required under this rule shall be based on the models on file with the Department. Equivalent models may be substituted if approved by the Department. The Department will perform visibility modeling of all sources with potential emissions less than 100 tons/year of any individual pollutant and locating closer than 30 Km to a Class I area, if requested.

(3) Determination of Significant Impairment

The results of the modeling must be sent to the affected land managers and the Department. The land managers may, within 30 days following receipt of the source's visibility impact analysis, determine whether or not impairment of visibility in a Class I area would result. The

Department will consider the comments of the Federal Land Manager in its consideration of whether significant impairment will result. Should the Department determine that impairment would result, a permit for the proposed source will not be issued.

(4) Visibility Monitoring

(a) The owner or operator of a proposed major source or major modification which emit more than 250 tons per year of TSP, SO or NO shall submit with the application, subject to approval of the Department, an analysis of visibility in or immediately adjacent to the Class I area impacted by the proposed project. As necessary to establish visibility conditions within the Class I area, the analysis shall include a collection of continuous visibility monitoring data for all pollutants emitted by the source that could potentially impact Class I area visibility. Such data shall relate to and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that data gathered over a shorter portion of the year for another representative year, would be adequate to determine that the source of major modification would not cause or contribute to significant impairment. Where applicable, the owner or operator may demonstrate that existing visibility monitoring data may be suitable. Pursuant to the requirements of these rules, the owner or operator of the source shall submit, for the approval of the Department, a preconstruction visibility monitoring plan.

(b) The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such visibility monitoring as the Department may require as a permit condition to establish the effect which emissions of pollutant may have, or is having, on visibility conditions with the Class I area being impacted.

(5) Additional Impact Analysis

The owner or operator of a proposed major source or major modification subject to OAR 340-20-245(6)(a) shall provide an analysis of the impact to visibility that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or major modification.

(6) Notification of Permit Application

(a) Where a proposed major source or major modification impacts or may impact visibility within a Class I area, the Department shall provide written notice to the Environmental Protection Agency and to the appropriate Federal Land Manager within 30 days of the receipt of such permit application. Such notification shall include a copy of all information relevant to the permit application, including analysis of anticipated impacts on Class I area visibility. Notification will also be sent at least 30 days

prior to Department Public Hearings and subsequently of any preliminary and final actions taken with regard to such application.

(b) Where the Department receives advance notification of a permit application of a source that may affect Class I area visibility, the Department will notify all affected Federal Land Managers within 30 days of such advance notice.

(c) The Department will, during its review of source impacts on Class I area visibility pursuant to this rule, consider any analysis performed by the Federal Land Manager that is provided within 30 days of notification required by subsection (a) of this section. If the Department disagrees with the Federal Land Manager's demonstration, the Departament will include a discussion of the disagreement in the Notice of Public Hearing.

(d) The Federal Land Manager shall be provided an opportunity in accordance with OAR 340-20-230(3) to present a demonstration that the emissions from the proposed source of modification would have an adverse impact on visibility of any Federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source of modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Department concurs with such demonstration, the permit shall not be issued.

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

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MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. E, July 19, 1985, EQC Meeting

Request for Authorization for Public Hearings to Establish Boundaries and Implement a Motor Vehicle Emission Inspection/Maintenance Program in the Medford-Ashland AQMA as a Revision to the State Implementation Plan.

BACKGROUND AND PROBLEM STATEMENT

Jackson County, Oregon has a severe carbon monoxide (CO) air pollution problem. In 1983, the national and state CO health standard was exceeded in downtown Medford on 34 days. Only nine cities in the nation had more exceedances of the 8-hour CO standard than Medford that year.

A key reason for the Medford carbon monoxide problem is the extremely poor ventilation of the area. Medford is located in a bowl-like mountain valley, with low average wind speeds and frequent temperature inversions which essentially keep a "lid" on the valley. This allows pollutant concentrations to increase to unhealthful levels. A national study several years ago identified the Medford area as one of two areas having the highest air pollution potential in the country based on its poor ventilation.

CO is a colorless, odorless gas that reduces the amount of oxygen in the blood. In extremely high concentrations, it is deadly. At lower concentrations, CO can cause dizziness, loss of appetite, nausea, blurred vision and headaches. The people most sensitive to high levels of CO are infants and small children, elderly people, those with respiratory and heart problems, and active people such as joggers.

The Federal Clean Air Act requires that control measures be implemented to bring those areas exceeding the national air pollution health standards into compliance by no later than December 31, 1987. Following an exhaustive analysis of alternative control measures, a CO attainment

strategy for Jackson County was adopted by the Environmental Quality Commission (EQC) in 1982. A major control element of this strategy was a commitment to implement a motor vehicle inspection and maintenance (I/M) program. No other additional control measure or combination of measures could be projected to match I/M for effectiveness in reducing the emissions necessary to meet the CO standard by the 1987 federal deadline.

Failure to implement I/M, as envisioned in the State Implementation Plan, led to the plan's disapproval by the Environmental Protection Agency (EPA) and the imposition of economic growth sanctions. To provide the Medford area with healthful air quality and to allow for removal of federal sanctions, the Department proposed legislation on I/M to the 1985 session of the Oregon Legislature.

The 1985 Oregon Legislature passed House Bill (HB) 2845, which directs the Environmental Quality Commission to designate areas in which motor vehicles will be subject to emission control inspections. The Commission is directed to designate by rule the boundaries of areas needing a motor vehicle inspection program as identified in the State Implementation Plan (SIP). HB 2845 was signed by the Governor on June 11, 1985 and is now law.

The Portland metropolitan area and the Jackson County area are the only two areas identified in the SIP as needing motor vehicle I/M programs. The Portland area (Metropolitan Service District) is specified in ORS 481.190 as an area requiring an I/M program and has had a program in operation since July 1975. Jackson County is the only area in the State currently affected by HB 2845.

At this time, an important ambient air health issue in Jackson County is compliance with the carbon monoxide ambient air health standard. The SIP discusses the causes and potential control strategies for the CO problem in the Jackson County area. The Commission has been presented, over the past years, with various plans aimed at meeting the federal and state ambient air health standards. The largest source of carbon monoxide in the area is motor vehicles. The strategies presented to achieve attainment with the federal air pollution health requirements have all had to rely upon an inspection and maintenance program.

Motor vehicles are the major cause of elevated CO levels in Medford and other parts of the country. For example, on the worst CO day in Medford during 1983, most of the CO concentration was attributed to motor vehicles (89%). Residential spaceheating (from woodstoves, etc.) contributed about 6% and all other sources (industry, natural background, etc.) contributed about 5%. Biomass One, a controversial industrial facility under construction in White City, would have contributed only about 0.3% to worst-day Medford CO levels if it had operated during 1983. This is presented graphically in Attachment D.

Over 30 states and the District of Columbia have implemented I/M programs as air quality control measures. They range in size from relatively small programs, such as in Boise, Idaho, to very large programs such as those in

the seven major air quality areas of California. Every region from Alaska to Arizona and from New York to North Carolina has addressed its air pollution problems and has in operation or is implementing the needed I/M program to protect the health of its citizens. The U.S. General Accounting Office issued a recent report critical of some I/M programs. Nevertheless, they concluded that well run I/M programs were effective air pollution control measures. In particular, the report cited many Oregon I/M program features as a model for other states.

The program that the Department is proposing for the Medford area is aimed at meeting the federal and state ambient air health standards. The philosophy in the development of the program was to build upon the experience and knowledge gained through the operation of Oregon's I/M program in the Portland area. The major goal of Oregon's I/M program is to improve air quality by promoting proper automotive maintenance. The program identifies high polluting vehicles in need of maintenance. Proper maintenance and repair of these vehicles reduces their air pollution contribution. This system has been proven to be an effective air pollution control tool.

Chronology

In December 1976, the Department began CO monitoring in Central Medford at the request of the City of Medford. It was quickly apparent that Medford had a significant CO problem. CO violations were recorded on 176 days in 1977. Continuous CO data has been recorded at the central Medford site from December 1976 to present.

The numerous recorded violations of the CO health standard resulted in a 1978 EPA designation of the Medford-Ashland Air Quality Maintenance Area (AQMA) as nonattainment for CO. A comprehensive planning effort with extensive public involvement took place over a 3-year period to identify a combination of pollution control measures that would enable the AQMA to reach CO attainment by the end of 1987.

The Jackson County Board of Commissioners adopted the CO attainment plan for the Medford-Ashland AQMA in August 1982. This attainment plan identified the need for an I/M program and included a commitment to seek authorization from the Oregon Legislature to implement a biennial county-wide I/M program beginning January 1984. The Environmental Quality Commission adopted the attainment plan as a part of the SIP in October 1982.

In February 1983, EPA proposed to approve the Medford CO plan upon county or state adoption of a specific I/M program. The 1983 Oregon Legislature authorized Jackson County to implement a local I/M program. The Jackson County Board of Commissioners adopted an I/M ordinance in January 1984 subject to voter ratification. In March 1984, the voters of Jackson County did not ratify the establishment of an I/M program.

In March 1984, EPA proposed to disapprove the Medford CO plan and initiate a construction moratorium on major stationary sources of CO because the

plan did not contain an enforceable commitment to I/M. In September 1984, EPA finalized the disapproval of the plan, specifically for the lack of an I/M program and attainment demonstration in the plan. This action finalized the construction moratorium.

In September 1984, EPA also proposed sanctions on federal funding for transportation and sewage treatment projects in Jackson County. The federal funding sanctions took effect in May 1985.

In June 1985, the Oregon Legislature passed HB 2845. EPA rescinded its sanctions on June 18, 1985 because of passage of that legislation.

Included in this report, as Attachment A, is the Notice of Public Hearing and Statements of Need and Fiscal Impact. Attachment B is the proposed boundary designation (OAR 340-24-301) and a proposed rule revision deleting the anti-tampering testing procedures for 1974 and older vehicles (OAR 340-24-320 and 325). Attachment C is the proposed addendum to Section 4.9 of the State Implementation Plan, OAR 340-20-047.

The Notice of Public Hearing was published in the July 1, 1985 Secretary of State's Bulletin as authorized by the Commission. The public hearings have been tentatively scheduled for August 1, 2, 8, and 9. All of the hearings are to be held in Jackson County.

ALTERNATIVES AND EVALUATION

A rule adoption is required to implement an I/M program in the Medford-Jackson County area and attain the CO health standard by the December 31, 1987 federal deadline. The staff is proposing, in addition to the boundary designation rule, rule amendments affecting the test procedure and the SIP. These rule changes can be categorized as follows:

1. A description of the Medford-Jackson County I/M program boundaries - OAR 340-24-301.

2. A deletion of the tampering inspection requirement for 1974 and older vehicles (OAR 340-24-320 and 325). This would apply to the Oregon I/M program in both the Jackson County area and the greater Portland area.

3. An addendum to the Medford CO Attainment Plan in Section 4.9 of the Oregon SIP which would update air quality information, outline the proposed I/M program, and demonstrate the adequacy of the proposed I/M program to meet the CO standard by December 31, 1987.

Program Boundaries

Two potential boundaries for an I/M program have been considered: Jackson County and the Medford-Ashland AQMA. Previous transportation studies indicate that Jackson County-registered vehicles account for about 92% of the vehicle-miles-traveled in the CO problem area in Medford. Vehicles registered in the Medford-Ashland AQMA account for about 88% of the vehicle-miles-traveled.

Using the most recent traffic projections provided by the City of Medford and the Oregon Department of Transportation, it appears that an I/M program for either Jackson County or the Medford-Ashland AQMA would be adequate to meet the CO standard by the deadline. The major advantage of an AQMA-wide I/M program is that it would involve less regulatory burden on Jackson County residents than would a county-wide program.

In addition to minimizing the regulatory burden, an AQMA-wide program would be less costly. A county-wide I/M program would be considerably more expensive to operate since it would require a mobile testing van in addition to a central testing station if reasonable service is to be provided throughout the county. A central testing station, without a mobile testing van, would be adequate for an I/M program with Medford-Ashland AQMA boundaries.

The Medford CO plan adopted by Jackson County and the Environmental Quality Commission in 1982 proposed a county-wide I/M program. The Jackson County I/M ordinance adopted in January 1984 (but rejected by the voters) proposed Medford-Ashland AQMA boundaries.

HB 2845 specifies that when the need for a motor vehicle inspection program is identified for an area in the SIP, then the Commission shall designate by rule the inspection program boundaries. The Department has proposed the Medford-Ashland AQMA as the I/M program boundaries in the proposed OAR 340-24-301 (Attachment B) based on the following:

1. The Medford-Ashland AQMA is the designated air quality maintenance area in the SIP.

2. The 1982 SIP identified the need for a county-wide I/M program. The proposed SIP addendum is based on an AQMA-wide I/M program that, with the other measures, projects attainment with the CO standard by the deadline.

3. Jackson County officials estimate that only 15% of the total county population is outside of the AQMA area. Previous traffic studies indicate that this 15% of the population contributes only about 4% of the vehicle-miles-traveled in the Medford CO problem area.

4. The Medford-Ashland AQMA boundary minimizes the number of vehicles subject to the I/M program, while achieving the necessary emission reductions to achieve compliance by the deadline date of December 31, 1987, by eliminating the more remote areas of Jackson County.

Program Operating Rules

ORS 481.190 provides that motor vehicles registered within designated boundaries shall comply with emission standards adopted by the Environmental Quality Commission pursuant to ORS 468.370; ORS 481.190 further directs the Motor Vehicles Division of the Department of Transportation not to issue a registration or renewal of registration for a

motor vehicle subject to those requirements unless the Division receives a completed Certificate of Compliance. The fee to issue a Certificate of Compliance is $7. A vehicle must comply with inspection standards, as specified in the operating rules, in order to receive a Certificate. A vehicle which does not initially pass the test will need to be repaired, retested, and passed before a Certificate is issued and the fee collected.

The inspection test and operating rules used in Oregon's I/M program are aimed at promoting proper maintenance, thus reducing the automotive contribution to air pollution levels. The regulated gaseous emissions from cars and trucks are carbon monoxide, hydrocarbons, and nitrogen oxides. Oregon's I/M program, operating in the Portland area, is currently credited with fleetwide mass emission reductions of 30% for carbon monoxide and 10.5% for hydrocarbons. The inspection test itself is composed of two parts: 1) the underhood inspection for pollution control equipment and 2) the gaseous emission measurements from the tailpipe. Because the gaseous emissions are measured when the vehicle is at idle in a test station, rather than "on-the-road", the inspection for the pollution control equipment helps insure that emissions from the tested vehicle are acceptable at all operating modes, not just engine idle.

The standards used in the program were selected on the basis of identifying high emitting vehicles which are operating outside of their design limits. The standards and associated enforcement tolerances take into account a limited amount of engine wear and tear, but are not so lenient that "gross emitting" vehicles would pass an emissions test.

To insure the integrity of the test, two other measurements are made. One is for the engine speed and the other is for carbon dioxide content in the vehicle's exhaust. The engine speed measurement allows the placement of an upper limit on engine idle speed so that cars and trucks cannot circumvent the inspection test by utilizing very high idle speeds. The carbon dioxide check measures both vehicle exhaust system integrity as well as the State's exhaust gas analyzer sample handling system. This prevents those cars and trucks with a diluted exhaust, that might be caused by large holes in the tailpipe or muffler, from passing the test. The experience in the Oregon I/M program has been that only about 2% of the vehicles tested are rejected for these causes.

It is proposed that Oregon's I/M test and associated procedures be used in the Jackson County/Medford-Ashland AQMA area. The test procedure and associated standards would then be uniform throughout the state. When Oregon's I/M program was implemented in Portland, some of the test standards were phased-in to allow for a period of adjustment. This has been a common action in I/M programs throughout the country. However, the severity of the Medford CO problem and the short time remaining to meet the Clean Air Act deadline do not allow a phased implementation program.

It is proposed to eliminate the underhood inspection requirement for 1974 and older model year vehicles. This action would apply to the Oregon I/M program in both the Medford and Portland inspection areas. It would remove

the requirement to check for the presence and proper operation of the positive crankcase ventilation, evaporative emission control, and air pump systems on these older vehicles. This action will result in a small pollution impact, but is being proposed because of the overall age of these vehicles and the reduced mileage impacts. Because of this proposed change to OAR 340-24-320(3)(a) and 325(3)(a), consistency requires a similar rewording of paragraphs 5 and 6 of these sections. No other changes in the Oregon I/M program test standards or procedures are proposed. The proposed changes to the program will result in a slight increase in vehicle pass rate in the Portland area. In the Jackson County area, this action will ease the concern felt by many owners of older cars and pickup trucks regarding overall test severity.

The inspection for tampered emission equipment on 1975 and newer vehicles is an important element of the I/M program. Checking for the equipment tampering that may not affect idle emission rates, makes the inspection test a better predictor of overall emissions. Additional factors support the continuation of this part of the inspection, especially in relationship to catalyst tampering and fuel switching. These factors include: (1) current federal law prohibits using leaded fuel in unleaded vehicle applications, and State law prohibits both self-service gasoline dispensing, and tampering with or removing pollution control equipment, (2) the catalyst technology used on many newer vehicles has been an effective air pollution control tool, and (3) there is good parts availability for automotive emission control equipment and inexpensive catalyst replacements are available.

There are less than 4000 heavy duty trucks registered in Jackson County. Heavy duty gasoline trucks, subject to the inspection, are primarily used for pickup and delivery. ORS 481.190 provides that these vehicles will receive an annual inspection.

Cost of Repairs Limit While the Jackson County I/M ordinance had a cost limit, there is no provision in State law for a cost of repair limit, and the Commission does not have legislative direction to consider a cost of repair limit. Repair cost limits tend to be ineffective and often result in an overall increase in repair costs. Some facilities may charge a price at the cost limit and not do the repair. Another method that is often used is to provide a repair estimate above the cost limit, again insuring that the car passes, without doing the repairs. Not placing a limit maximizes the free market forces, by promoting competition, quality of workmanship, and competitive pricing. It should also be noted that in the Jackson County ordinance, the cost of repair limit did not apply to tampered emission control equipment.

Addendum to CO Plan

The Department has prepared an addendum to the Medford-Ashland AQMA carbon monoxide attainment plan (Section 4.9 of the SIP--Attachment C). The addendum updates traffic and air quality information, outlines the proposed

I/M program, and demonstrates the adequacy of the proposed I/M program to meet the CO standard by December 31, 1987.

The most significant changes in the database since the preparation of the 1982 CO plan have been the observed and projected traffic growth rates. The 1982 plan projected a traffic growth rate of 1.3% per year. (A traffic growth rate of 2% per year is typical for the larger urban areas of Oregon). The City of Medford currently projects a traffic growth rate of 0.5% per year from 1982 to 1987 based on an actual decrease in traffic volumes from 1978 to present.

The projected traffic growth rate has a significant effect on CO concentrations expected in 1987. For example, the 1982 CO plan projected that CO concentrations in 1987 would be 29% above the standard if an I/M program were not implemented. The 1982 plan indicated that an I/M program would have to start in 1984 in order meet the standard by the 1987 deadline. The most recent analysis (based on 0.5% instead of 1.3% traffic growth) projects that CO concentrations would be 14% above the CO standard in 1987 if an I/M program were not implemented. The recent analysis indicates that an I/M program starting in January 1986 would be adequate to meet the CO standard in Medford by December 31, 1987. Operation of the program past 1987 will be a key factor in maintaining compliance with the CO standard beyond 1987, even with expected traffic growth. The current traffic and air quality analyses are included in the proposed addendum to Section 4.9 of the SIP.

SUMMATION

1. The 1985 Oregon Legislature passed House Bill 2845 which directs the Environmental Quality Commission to designate the boundaries of areas needing motor vehicle inspection and maintenance (I/M) programs if such a program has been identified in the State's Implementation Plan.

2. The need for an I/M program in the Medford-Jackson County area is identified in the State Implementation Plan.

3. The Department has evaluated various I/M program boundaries for the Medford-Jackson County area. An I/M program in the Medford-Ashland Air Quality Maintenance Area would be less burdensome on the residents of Jackson County and would be more cost-effective than a county-wide I/M program. An AQMA-wide program appears to be adequate to meet the CO standard by the December 31, 1987 federal deadline.

4. The Department proposes that the Oregon I/M program will be operated in the Medford-Ashland AQMA. The program is currently in operation in the Portland area. The Department also proposes the elimination of the tampering inspection for 1974 and older vehicles throughout Oregon's I/M program.

5. The Department has prepared an addendum to the Medford carbon monoxide attainment plan in Section 4.9 of the State Implementation Plan. The addendum updates air quality information, outlines the proposed I/M program, and demonstrates the adequacy of the proposed I/M program to meet the CO standard by December 31, 1987.

DIRECTOR'S RECOMMENDATION

Based on the Summation, the Director recommends that the Commission authorize a public hearing to consider public testimony on:

1. Proposed boundaries of a motor vehicle inspection and maintenance program for the Medford-Ashland Air Quality Maintenance Area (OAR 340-24-301);

2. Proposed deletion of the tampering inspection portion of the test for 1970-1974 model year vehicle vehicles (OAR 340-24-320 and 325);

3. Proposed addendum to the Medford Carbon Monoxide Attainment Plan (Section 4.9 of the State Implementation Plan, OAR 340-20-047).

Fred Hansen

Attachments:
A. Notice of Public Hearing and Statement of Need
B. Proposed revisions to OAR 340-24-301, OAR 340-24-320 and OAR 340-24-325
C. Proposed addendum to Section 4.9 of the State Implementation Plan, OAR 340-20-047
D. Figure of Medford CO Emissions and Impacts

MH:p
AP155
W.P. Jasper
(229-5081)
M.L. Hough
(229-6446)
H.W. Harris
(229-6086)
July 3, 1985

Attachment A
Agenda Item No. E
July 19, 1985, EQC Meeting

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

BOUNDARIES, INSPECTION PROGRAM OPERATING RULES, AND CARBON MONOXIDE STATE IMPLEMENTATION PLAN REVISION FOR THE MEDFORD-JACKSON COUNTY AREA

NOTICE OF PUBLIC HEARING

Date Prepared: June 18, 1985
Hearing Dates: August 1,2,8,9, 1985
Comments Due: August 12, 1985

WHO IS AFFECTED: Residents, motor vehicle owners, people engaged in the business of selling or repairing vehicles, and motor vehicle fleet operations in the Jackson County/Medford-Ashland Air Quality Maintenance Area (AQMA) area will be affected by this proposal.

WHAT IS PROPOSED: The Department of Environmental Quality is proposing to:

1. Adopt a new rule, OAR 340-24-301, which designates the boundary for a vehicle inspection and maintenance (I/M) program as required by HB 2845, 1985 Oregon Legislature.

2. Adopt rules for the operation of an I/M program in the Jackson County/ Medford-Ashland AQMA. (OAR 340-24-300 through 24-395)

3. Amend OAR 340-20-047, the Oregon State Clean Air Act Implementation Plan, to add an Addendum to the Medford-Ashland AQMA Carbon Monoxide Attainment Plan.

WHAT ARE THE HIGHLIGHTS: The Department of Environmental Quality is proposing the designation of boundaries, I/M operating rules and an addendum to the Oregon Clean Air Act State Implementation Plan. Some highlights are:

1. The proposed boundaries for the inspection/maintenance program are the Medford-Ashland AQMA, which include the cities of Medford, Ashland, Central Point, Eagle Point, White City, Jacksonville, Phoenix and Talent.

2. The proposed operating rules for the Medford area.

3. The addendum to the Oregon State Clean Air Act Implementation Plan updates air quality information, outlines the proposed I/M program, and demonstrates the adequacy of the control strategies including the proposed I/M program to meet the national ambient carbon monoxide (CO) health standard by December 31, 1987.

P.O. Box 1760
Portland, OR 97207

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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. 1-800-452-4011

HOW TO COMMENT: Copies of the complete proposed rule package and SIP addendum may be obtained from the Department of Environmental Quality at either:

Vehicle Inspection Program
522 S.W. 5th
Portland, Oregon

(or)

Southwest Region Office
201 W. Main Street, Suite 2-D
Medford, Oregon 97501

For further information contact William Jasper at 229-6235 (1-800-452-4011) or Gary Grimes at 776-6010.

Public hearings will be held before a hearings officer at:

1. 2:00 P.M.
August 1, 1985
Jackson County Courthouse Auditorium
10 South Oakdale
Medford, Oregon

2. 7:00 P.M.
August 1, 1985
Jackson County Courthouse Auditorium
10 South Oakdale
Medford, Oregon

3. 10:00 A.M.
August 2, 1985
Eagle Point City Council Chambers
City Hall
136 Main St. W
Eagle Point, Oregon

4. 2:00 P.M.
August 8, 1985
Medford City Council Chambers
411 W. Eighth Street
Medford, Oregon

5. 7:00 P.M.
August 8, 1985
Central Point City Council Chambers
City Hall
155 South Second Street
Central Point, Oregon

6. 10:00 A.M.
August 9, 1985
Ashland Civic Center
Council Chambers
1175 E. Main
Ashland, Oregon

Oral and written comments will be accepted at the public hearings. Written comments may be sent to either:

Department of Environmental Quality
Vehicle Inspection Program
P.O. Box 1760
Portland, OR 97207

(or)

Southwest Region Office
201 W. Main Street, Suite 2-D
Medford, Oregon 97501

and must be received by no later than the close of the business day 5:00 P.M., August 12, 1985.

WHAT IS THE NEXT STEP: After the public hearings 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 and the addendum 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 September 27, 1985 as part of the agenda of a regularly scheduled Commission meeting to be held in Bend.

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

AP158

BOUNDARIES, INSPECTION PROGRAM OPERATING RULES, AND CARBON MONOXIDE STATE IMPLEMENTATION PLAN REVISION FOR THE MEDFORD-JACKSON COUNTY AREA RULEMAKING STATEMENTS

Pursuant to ORS 183.335, these statements provide information on the intended action to amend and adopt rules.

STATEMENT OF NEED:

Legal Authority

This proposal amends OAR 340-24-300 through 24-395, and Section 4.9 of the State of Oregon Clean Air Act Implementation Plan, OAR 340-20-047. It is proposed under the authority of ORS 468.370 and HB 2845, 1985 Oregon Legislative Session.

Need For The Rule

The proposed amendments and additions are needed to establish and designate boundaries where an inspection/maintenance program will be required to operate as required by ORS 481.190 and HB 2845 1985 Oregon Legislative Session. Rules are proposed to provide for operation of the inspection program in the designated test area. The amendment to the State Implementation Plan updates the air quality information, outlines the proposed I/M program and demonstrates the adequacy of the proposed I/M program to meet the national ambient carbon monoxide (CO) health standard by December 31, 1987. The implementation of an inspection/maintenance program will allow the lifting of all federally imposed economic sanctions.

Principal Documents Relied Upon

1. Clean Air Act Amendments of 1977 (P.L. 95-95)

2. Oregon State Clean Air Act Implementation Plan (OAR 340-20-047), Medford Carbon Monoxide Attainment Plan (Section 4.9), October 15, 1982.

3. Environmental Protection Agency (EPA) rulemaking actions on the Medford Carbon Monoxide Attainment Plan: 45 FR 42278 (June 24, 1980), 48 FR 5131 (February 3, 1983), 49 FR 9582 (March 14, 1984), 49 FR 35662 and 49 FR 35631 (September 11, 1984), and 50 FR 8614 (March 4, 1985).

4. EPA MOBILE 3 computer program emission projections

5. House Bill 2845, 1985 Oregon Legislature

6. Jackson County Inspection/Maintenance Ordinance #84-3, January 18, 1984

7. Report on the Vehicle Inspection Program, 1983-1984

FISCAL AND ECONOMIC IMPACT STATEMENT:

If the Jackson County/Medford-Ashland AQMA is designated as an inspection area, the community as a whole would economically benefit from the lifting of federal economic sanctions. This proposal provides the framework to allow for increased economic expansion and provides opportunity for additional jobs by providing decreases in carbon monoxide necessary to achieve Federal standards and allow for further economic growth and expansion. Vehicle owners will pay a fee of $7, generally every two years, to cover program operational expenses. The Department estimates that about 35% of the vehicles tested will be identified as requiring remedial maintenance or as having disconnected or tampered emission control equipment in violation of State law. Experience from operating the inspection program in the Portland area indicates that the average costs of repair for failing only the emissions standard is moderate. More than half of the vehicle owners surveyed reported repairs under $20. Prices to repair disconnected or tampered emission control equipment are generally higher. Overall some individual motorists will experience savings (from increased gas mileage resulting from better maintained vehicles) while other motorists will experience increased operational costs. There should be no significant adverse impact on small businesses. Some small businesses will economically benefit from the Department's operation of the inspection program.

LAND USE CONSISTENCY STATEMENT:

The Department has concluded that the proposal appears to affect land use and appears to be consistent with the Statewide Planning Goals and Guidelines.

Goal 6 (Air, Water and Land Resources Quality): This proposal is designed to improve and maintain air quality in the affected area and is consistent with the goal.

Goal 9 (Economy of the State): This proposal would allow further economic growth and development in the affected area by allowing the lifting of federal economic sanctions and is consistent with the goal.

Goal 11 (Public Facilities and Services): This proposal does not impact this goal.

The proposed 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 OF PUBLIC HEARING.

It is requested that local, state, and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning Goals within their expertise and jurisdiction. The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflict brought to our attention by local, state or federal authorities.

PROPOSED RULES FOR IMPLEMENTATION OF I/M PROGRAM FOR JACKSON COUNTY AREA

BOUNDARY DESIGNATIONS

340-24-301

(1) In addition to the area specified in ORS 481.190, pursuant to HB 2845, 1985 Legislative session, the following geographical area, referred to as the Medford-Ashland AQMA, is designated as an area, within which motor vehicles are subject to the requirement under ORS 481.190 to have a Certificate of Compliance issued pursuant to ORS 468.390 to be registered or have the registration of the vehicle renewed.

(2) As used in this paragraph, "Medford-Ashland Air Quality Maintenance Area" means the area of the state beginning at a point approximately one mile northeast of the town of Eagle Point, Jackson County, Oregon, at the northeast corner of section 36, T35S, R1W: thence south along the Willamette Meridian to the southeast corner of section 25, T37S, R1W: thence southeast along a line to the southeast corner of section 9, T39S, R2E: thence south-southeast to the corner of section 22, T39S, R2E: thence south to the southeast corner of section 27, T39S, R2E: thence southwest to the southeast corner of section 33, T39S, R2E: thence west to the southwest corner of section 31, T39S, R2E: thence northwest to the northwest corner of section 36, T39S, R1E: thence west to the southwest corner of section 26, T29S, R1E: thence northwest along a line to the southeast corner of section 7, T39S, R1E: thence west to the southwest corner of section 12, T39S, R1W: thence northwest along a line to the southwest corner of section 20, T39S, R1W: thence west to the southwest corner of section 24, T38S, R2W: thence northwest along a line to the southwest corner of section 4, T38S, R2W: thence west to the southwest corner of section 5, T38S, R2W: thence northwest along a line to the southwest corner of section 31, T37S, R2W: thence north along a line to the Rogue River, thence north and east along the Rogue River to the north boundary of section 32, T35S, R1W: thence east along a line to the point of beginning.

(3) The above area is shown in Exhibit 1 of this section.

Light Duty Motor Vehicle Emission Control Test Criteria

340-24-320

(1) No vehicle emission control test shall be considered valid if the vehicle exhaust system leaks in such a manner as to dilute the exhaust gas being sampled by the gas analytical system. For the purpose of emission control tests conducted at state facilities, except for diesel vehicles, tests will not be considered valid if the exhaust gas is diluted to such an extent that the sum of the carbon monoxide and carbon dioxide concentrations recorded for the idle speed reading from an exhaust outlet is 8 percent or less, and on 1975 and newer vehicles with air injection systems, 7 percent or less.

(2) No vehicle emission control test shall be considered valid if the engine idle speed either exceeds the manufacturer's idle speed specifications by over 200 RPM on 1968 and newer model vehicles, or exceeds 1,250 RPM for any pre-1968 model vehicle.

(3)

(a) [No vehicle emission control test for a 1970 through 1974 model year vehicle shall be considered valid if any of the following elements of the original factory installed pollution control systems have been disconnected, plugged, or otherwise made inoperative in violation of ORS 483.825(1), except as noted in section (5) or as provided by 40 CFR 85, 1701-1709.

(A) Positive crankcase ventilation (PVC) system.

(B) Air injector reactor (AIR) system.

(C) Evaporative control system.]

[(b)] No vehicle emission control test for a 1975 or newer model vehicle shall be considered valid if any element of the following factory-installed motor vehicle pollution control systems have been disconnected, plugged, or otherwise made inoperative in violation of ORS 483.825(1), except as noted in section (5) or as provided for by 40 CFR 85.1701-1709. Motor vehicle pollution control systems include, but are not necessarily limited to:

(A) Positive crankcase ventilation system;

(B) Exhaust modifier system;

(i) Air injection reactor system;

(ii) Thermal reactor system;

(iii) Catalytic converter system;

(C) Exhaust gas recirculation (EGR) systems;

(D) Evaporative control system;

(E) Spark timing system;

(i) Vacuum advance system;

(ii) Vacuum retard system;

(F) Special emission control devices. Examples:

(i) Orifice spark advance control (OSAC);

(ii) Speed control switch (SCS);

(iii) Thermostatic air cleaner (TAC);

(iv) Transmission controlled spark (PCS);

(v) Throttle solenoid control (TSC);

(vi) Fuel filler inlet restrictors;

(vii) Oxygen Sensor;

(ix) Emission Control Computer.

(b) [(c)] The Department may provide alternative criteria for (a) and (b) of this section when it can be determined that the component or an acceptable alternative is unavailable. Relief may be granted on the basis of the nonavailability of the original part, replacement part, or comparable alternative solution.

(4) No vehicle emission control test for a 1975 or newer model vehicle shall be considered valid if any element of the factory-installed motor vehicle pollution control system has been modified or altered in such a manner so as to decrease its efficiency or effectiveness in the control f air pollution in violation of ORS 483.825(2), except as noted in section (5). For the purposes of this section, the following apply:

(a) The use of a non-original equipment aftermarket part (including a rebuilt part) as a replacement part is not considered to be a violation of ORS 483.825(2), if a reasonable basis exists for knowing that such use will not adversely effect emission control efficiency. The Department will maintain a listing of those parts which have been determined to adversely affect emission control efficiency.

(b) The use of a non-original equipment aftermarket part or system as an add-on, auxiliary, augmenting, ;or secondary part or system, is not considered to be a violation of ORS 483.825(2), if such a part or system is listed on the exemption list of "Modifications to Motor Vehicle Emission Control System Permitted Under California Vehicle Code Section 27156 granted by the Air Resources Board," or is on the list maintained by the U.S. Environmental Protection Agency of "Certified to EPA Standards," or has been determined after review of testing data by the Department that there is no decrease in the efficiency or effectiveness in the control of air pollution.

(c) Adjustments or alterations of a particular part or system parameter, if done for purposes of maintenance or repair according to the vehicle or engine manufacturer's instructions, are not considered violations of ORS 483.825(2).

(5) A 197[0] 5 and newer model motor vehicle which has been converted to operate on gaseous fuels shall not be considered in violation of ORS 483.825(1) or (2) when elements of the factory-installed motor vehicle air pollution system are disconnected for the purpose of conversion to gaseous fuel as authorized by ORS 483.825(3).

(6) The following applies:

(a) to 197[0] 5 through 1979 motor vehicles. When a motor vehicle is equipped with other than the original engine and the factory installed vehicle pollution control systems, it shall be classified by the model year and manufacture make of the non-original engine and its factory-installed motor vehicle pollution control systems, except that when the non-original engine is older than the motor vehicle any requirement for evaporative control system and fuel filler inlet restrictor and catalytic converter shall be based on the model year of the vehicle chassis. Diesel (compression ignition) engine powered vehicles changed to gasoline (spark ignition) engine power shall be required to maintain that model year's equivalent or better factory pollution control system, including, but not limited to, catalytic converters, unleaded fuel requirements, and computer controls.

(b) to 1980 and newer motor vehicles. These motor vehicles shall be classified by the model year and make of the vehicle as designated by the original chassis, engine, and its factory-installed motor vehicle pollution control systems, or equivalent. This in no way prohibits the vehicle owner from upgrading the engine and emission control system to a more recent model year providing the equivalent factory-installed pollution control system is maintained.

Light Duty Motor Vehicle Emission Control Test Criteria

340-24-325

(1) No vehicle emission control test shall be considered valid if the vehicle exhaust system leaks in such a manner as to dilute the exhaust gas being sampled by the gas analytical system. For the purpose of emission control tests conducted at state facilities, except for diesel vehicles, tests will not be considered valid if the exhaust gas is diluted to such an extent that the sum of the carbon monoxide and carbon dioxide concentrations recorded for the idle speed reading from an exhaust outlet is 8 percent or less.

(2) No vehicle emission control test shall be considered valid if the engine idle speed either exceeds the manufacturer's idle speed specifications by over 200 RPM on 1970 and newer model vehicles, or exceeds 1,000 RPM for any age model vehicle.

(3)

(a) [No vehicle emission control test for a 1970 or newer model year vehicle shall be considered valid if any elements of the original factory installed pollution control systems have been disconnected, plugged, or otherwise made inoperative in violation of ORS 483.825(1), except as noted in section (5):

(A) Positive Crankcase

(B) Evaporative Emission System

(C) Air Injection System]

[(b)] No vehicle emission control test for a 1975 or newer model vehicle shall be considered valid if any element of the following factory-installed motor vehicle pollution control systems have been disconnected, plugged, or otherwise made inoperative in violation of ORS 483.825(1), except as noted in section (5):

(A) Positive crankcase ventilation;

(B) Exhaust modifier system. Examples:

(i) Air injection system;

(ii) Thermal reactor system;

(iii) Catalytic converter system;

(C) Exhaust gas recirculation (EGR) systems;

(D) Evaporative control system;

(E) Spark timing system; Examples:

(i) Vacuum advance system;

(ii) Vacuum retard system;

(F) Special emission control devices. Examples:

(i) Orifice spark advance control (OSAC);

(ii) Speed control switch (SCS);

(iii) Thermostatic air cleaner (TAC);

(iv) Transmission controlled spark (PCS);

(v) Throttle solenoid control (TSC);

(vi) Fuel filler inlet restrictor;

(b) [(c)] The Department may provide alternative criteria for (a) and (b) of this section when it can be determined that the component or an acceptable alternative is unavailable. Relief may be granted on the basis of the nonavailability of the original part, replacement part, or comparable alternative solution.

(4) No vehicle emission control test for a 1970 or newer model vehicle shall be considered valid if any element of the factory-installed motor vehicle pollution control system has been modified or altered in such a manner so as to decrease its efficiency or effectiveness in the control of air pollution in violation of ORS 483.825(2), except as noted in section (3). For the purposes of this section, the following apply:

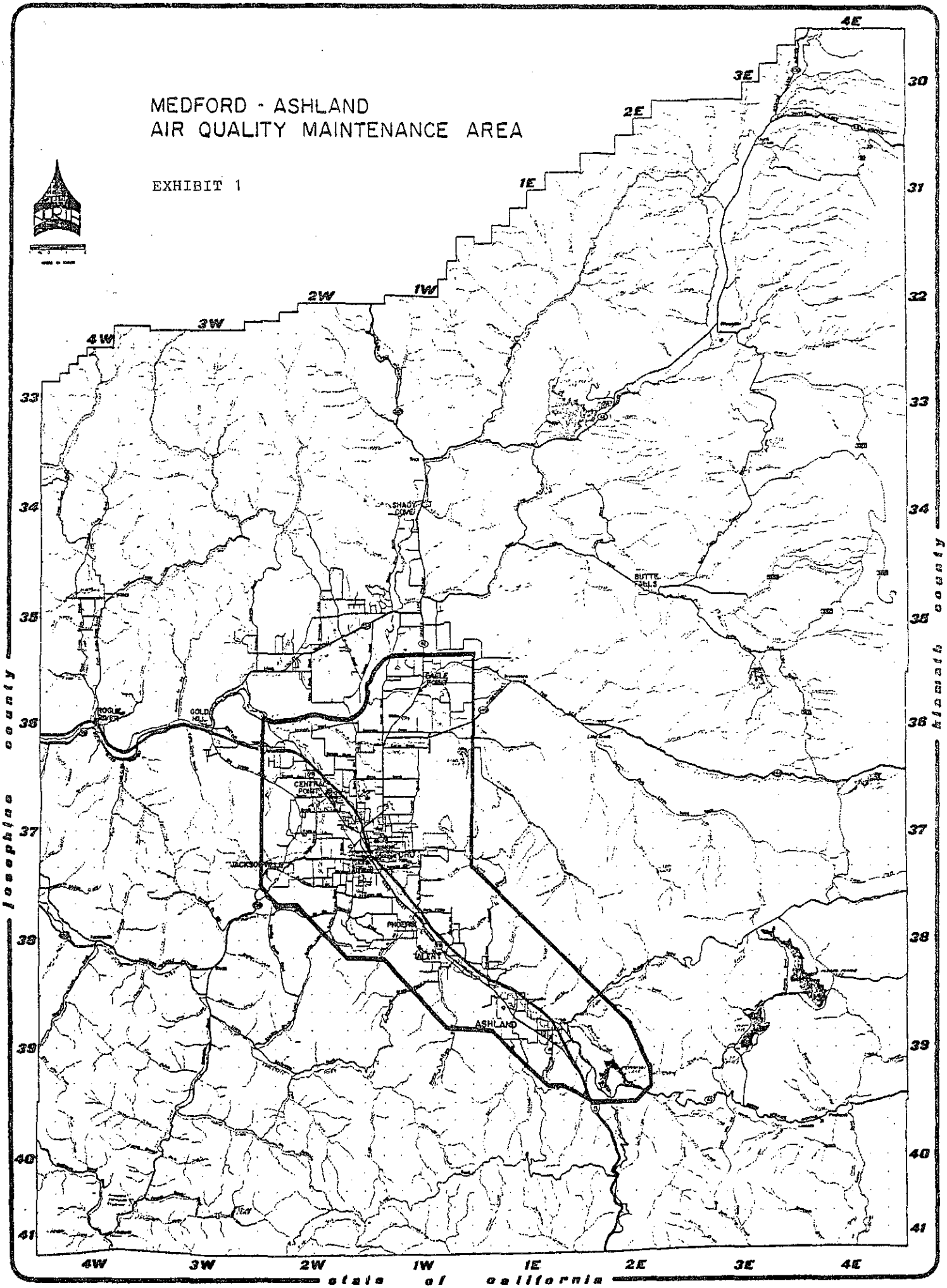
(a) The use of a non-original equipment aftermarket part (including a rebuilt part) as a replacement part is not considered to be a violation of ORS 483.825(2), if a reasonable basis exists for knowing that such use will not adversely effect emission control efficiency. The Department will maintain a listing of those parts which have been determined to adversely affect emission control efficiency.

(b) The use of a non-original equipment aftermarket part or system as an add-on, auxiliary, augmenting, ;or secondary part or system, is not considered to be a violation of ORS 483.825(2), if such a part or system is listed on the exemption list maintained by the Department. air pollution.

(c) Adjustments or alterations of a particular part or system parameter, if done for purposes of maintenance or repair according to the vehicle or engine manufacturer's instructions, are not considered violations of ORS 483.825(2).

(5) A 197[0] 5 and newer model motor vehicle which has been converted to operate on gaseous fuels shall not be considered in violation of ORS 483.825(1) or (2) when elements of the factory-installed motor vehicle air pollution system are disconnected for the purpose of conversion to gaseous fuel as authorized by ORS 483.825(3).

(6) For the purposes of these rules, a 1975 or newer motor vehicle with an exchange engine shall be classified by the model year and manufacturer make of the exchange engine, except that any requirement for evaporative control systems shall be based upon the model year of the vehicle chassis.


MEDFORD - ASHLAND
AIR QUALITY MAINTENANCE AREA
EXHIBIT 1
4E
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SHADY COVE
BUTTE FALLS
EAGLE POINT
ROGUE RIVER
GOLD HILL
CENTRAL POINT
JACKSONVILLE
PHOENIX
TALENT
ASHLAND
josephine county
klamath county
state of california

Attachment C
Agenda Item No. E
July 19, 1985, EQC Meeting

ADDENDUM TO SECTION 4.9

STATE OF OREGON CLEAN AIR ACT IMPLEMENTATION PLAN

MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA

CARBON MONOXIDE ATTAINMENT PLAN

Addendum Purposes:

- Update of Traffic and Air Quality Analyses
- Description of Motor Vehicle I/M Program
- Demonstration of Attainment

June 1985

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

AP147

TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

APPENDICES

Section	Description
4.9-13	1982 CO Design Value Calculation
4.9-14	1984 Projection of Population and Employment Growth
4.9-15	Traffic Analysis
4.9-16	CO Emissions and Concentrations
4.9-17	1985 Public Involvement/Comments

MEDFORD CARBON MONOXIDE PLAN ADDENDUM

4.9.9 - PURPOSES OF ADDENDUM

4.9.9.1 - Overview of Addendum Content

This addendum includes updated traffic and air quality information, a description of the motor vehicle inspection-maintenance (I/M) program, and a demonstration that the plan is adequate to attain the ambient carbon monoxide standard in the Medford-Ashland Air Quality Maintenance Area (AQMA) by the December 31, 1987 deadline.

Population and traffic growth rates have been lower than projected in the 1982 plan. There have been some changes in the rate and pattern of commercial development. These changes have been incorporated into the traffic and air quality analyses that are part of this addendum.

The 1982 plan used a 1979 baseline year to describe existing traffic and air quality conditions. This addendum uses a 1982 baseline year. Traffic speeds and volumes, motor vehicle age distribution, and ambient air quality are identified in this addendum for the 1982 baseline year.

The emission inventories in the 1982 plan were based on the EPA Mobile 2.5 emission factor program. The baseline and future year emission inventories in this addendum are based on the EPA Mobile 3.0 program released in July 1984.

The 1982 plan anticipated that a biennial county-wide inspection-maintenance program would be implemented beginning in January 1984. This addendum describes the biennial AQMA-wide program that will begin in November 1985.

4.9.9.2 - Chronology Since Preparation of 1982 Plan

The Jackson County Board of Commissioners adopted the carbon monoxide (CO) attainment plan for the Medford-Ashland Air Quality Maintenance Area (AQMA) in August 1982. This attainment plan identified the need for an I/M program and included a commitment to seek authorization from the Oregon Legislature to implement a biennial county-wide I/M program beginning January 1984. The Environmental Quality Commission adopted the attainment plan as a part of the SIP in October 1982.

In February 1983, the Environmental Protection Agency (EPA) proposed to approve the Medford CO plan upon county or state adoption of a specific I/M program. The 1983 Oregon Legislature authorized Jackson County to implement a local I/M program. The Jackson County Board of Commissioners adopted an I/M ordinance in January 1984 subject to voter approval. In March 1984, the residents of Jackson County voted against the establishment of an I/M program.

In March 1984, EPA proposed to disapprove the Medford CO plan and initiate a construction moratorium on major stationary sources of CO because the plan did not contain an enforceable commitment to I/M. In September 1984, EPA finalized the disapproval of the plan, specifically the I/M program and attainment demonstration portions of the plan, and finalized the construction moratorium.

In September 1984, EPA also proposed sanctions on federal funding for transportation projects, sewage treatment, and air programs in Jackson County. The federal funding sanctions took effect in May 1985.

The 1985 Oregon Legislature authorized and directed the Environmental Quality Commission to designate the boundaries of areas needing a motor vehicle inspection program as identified in the SIP.

4.9.10 - AMBIENT AIR QUALITY UPDATE

4.9.10.1 - Monitoring Data

Ambient carbon monoxide levels in central Medford from 1977 to 1984 are summarized in Table 4.9.10-1. A second continuous monitor was installed in North Medford in July 1984. Carbon monoxide concentrations and the frequency of standard violations at the North Medford monitor were similar to those recorded at the Central Medford monitor from July 1984 to June 1985. The central monitor is located near the intersection of Central and Main Streets; the north monitor is located near the intersection of Riverside Avenue and McAndrews Road.

Table 4.9.10-1. Summary of Ambient CO Levels (8-Hour Average) in Medford from 1977 to 1984 at Central Monitor.

Year	Carbon Monoxide Levels (mg/m^3) Maximum	Second Highest	Number of Days Over Standard
1977	21.8	19.8	176
1978	22.1	20.9	184
1979	17.0	15.8	121
1980	22.1	18.0	68
1981	17.2	16.6	53
1982	16.4	15.2	33
1983	18.2	14.5	34
1984	14.1	13.3	23

4.9.10.2 - Design Concentration For 1982 Base Year

The design value for the previously used 1979 base year was 19.1 mg/m^3. The methodology for the calculation is outlined in Appendix 4.9-2. The same methodology was used to calculate a design value of 15.8 mg/m^3 for the 1982 base year. The 1982 design value calculation is outlined in Appendix 4.9-13.

4.9.11 - HIGHWAY EMISSION INVENTORY UPDATE

4.9.11.1 - Traffic and Population Growth Rate

There has been an overall decrease in traffic volumes in the Medford from 1978 to 1985 due to the economic recession. Traffic data recorded by the Oregon Department of Transportation on East Main Street in Medford are outlined in Table 4.9.11-1. Traffic volumes increased by 4-6% per year from 1975-77, decreased by 1-3% from 1979-82, and increased by 2.5% in 1983. Areawide traffic counts by the City of Medford indicate a similar trend.

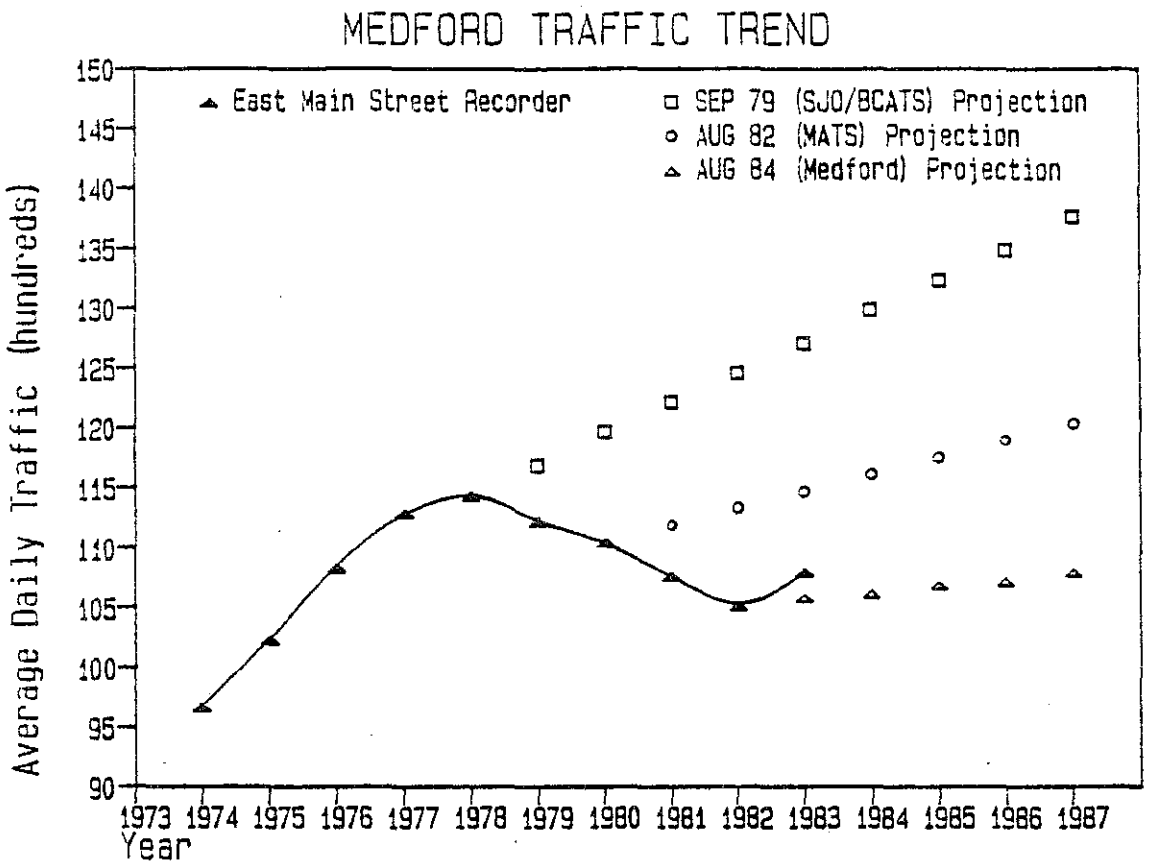
Table 4.9.11-1. Traffic Data Summary from East Main Street Recorder Operated by Oregon Department of Transportation in Medford.

Year	Average Daily Traffic (ADT)	Annual Change in Traffic Volume
1974	9,669	----
1975	10,237	+5.9%
1976	10,848	+6.0%
1977	11,280	+4.0%
1978	11,436	+1.4%
1979	11,223	-1.9%
1980	11,031	-1.7%
1981	10,756	-2.5%
1982	10,531	-2.1%
1983	10,797	+2.5%
1984	10,600*	

* Preliminary (Source: Oregon State Highway Division, Traffic Engineering Section)

The Bear Creek Area Transportation Study (BCATS) was completed in December 1967 and projected that traffic growth in the Medford-Ashland area would average 2.2% per year over a 20-year period. The Medford Area Transportation Study (MATS) completed in March 1981 projected that traffic growth in Medford would average 1.3% per year. In May 1984, the City of Medford projected a traffic growth rate of 0.5% per year from 1982-87 and a year 2000 population of 52,000 (compared to 60,420 in the City of Medford Comprehensive Land Use Plan). The actual and projected traffic volumes are illustrated in Figure 4.9.11-1. The downturn in population and employment growth is detailed in Appendix 4.9-14.

FIGURE 4.9.11-1



The City of Medford currently projects a 1982-87 underlying traffic growth rate (without major developments) of 0.5% per year on arterials and collectors. The Oregon Department of Transportation projects an underlying traffic growth rate of 3.0% per year on freeways. The Oregon Department of Transportation analyzed the effects of the proposed Rogue Valley Mall and Medford Shopping Center Expansion. The overall projected traffic growth rate for the entire Medford roadway network (arterials, collectors, and freeways) ranged from 1.2% per year (without major developments) to 2.0% per year (with both major developments).

The traffic analysis projects that speeds on roadway links will generally be maintained or improved from 1982 to 1987 as a result of the proposed Medford Parking and Traffic Circulation Plan. The results of the traffic analysis are included in Appendix 4.9-15.

4.9.11.2 - Highway Emission Inventory

Carbon monoxide emission inventories for highway vehicles are summarized in Table 4.9.11-2. These emission inventories are based on the EPA Mobile 3.0 program.

Table 4.9.11-2 Carbon Monoxide Emission Inventories for Highway Motor Vehicles in the Medford CO Nonattainment Area.

Source Category	Carbon Monoxide Emissions (Kg/Day) 1982	1983	1984
Highway Motor Vehicles	11,728	11,688	11,675

4.9.12 - CARBON MONOXIDE MODELING

4.9.12.1 - Emissions Modeling

The EPA Mobile 3.0 emission factor program was used to calculate carbon monoxide emissions in 1982 and 1987. The 1982 and 1987 traffic volumes and speeds were taken from the traffic analysis performed by the Oregon Department of Transportation. The results of the emissions modeling are included in Appendix 4.9-16.

Carbon monoxide emissions were projected for four 1987 development scenarios as outlined in Table 4.9.12-1. The most likely development scenario is 1987D, as both the Rogue Valley Mall and the Medford Shopping Center Expansion started construction in 1984. Site-specific roadway improvement projects are required as part of the Rogue Valley Mall (RVM) and the Medford Shopping Center Expansion (MSCE). These roadway improvement projects would largely offset the carbon monoxide impact caused by increased traffic to these proposed facilities.

Table 4.9.12-1. Projected Carbon Monoxide Emissions in the Medford Nonattainment Area under Various Development Scenarios.

Scenario	Description	Carbon Monoxide Emissions (Kg/day)
1982	Base Year	11,728
1987A	No Major Developments	7,434
1987B	RVM Only	7,522
1987C	MSCE Only	7,459
1987D	Both RVM and MSCE	7,552

4.9.12.2 - Concentration Modeling

The Department used the carbon monoxide emission modeling results to project carbon monoxide concentrations at various Medford locations. The analytical methodology consisted of applying emission ratios to the 1982 design concentration of 15.8 mg/m3, 8-hour average. The methodology was similar to the methodology documented in Appendix 4.9-9. The projected carbon monoxide concentrations at five critical intersections are outlined in Table 4.9.12-2. The concentration results are graphically displayed in Appendix 4.9-16.

Table 4.9.12-2. Projected 1987 Carbon Monoxide (CO) Concentrations at Various Medford Locations.

Location	Projected CO Concentration (mg/m^3) 8-hour 1987A	1987B	1987C	1987D
McAndrews/Riverside	11.4	11.2	11.6	11.4
Biddle/McAndrews	10.4	11.2	10.5	11.3
Biddle/Jackson	9.5	9.5	10.0	9.9
Riverside/Fourth	9.7	9.8	9.9	9.9
Central/Main	9.5	9.1	9.3	8.9

4.9.12.3 - Further Reduction Needed

The Department compared the projected carbon monoxide concentrations to the ambient air quality standard of 10 milligrams per cubic meter (mg/m^3), 8-hour average and calculated the emission reduction required to attain the standard. The emission reduction calculation methodology is shown in Appendix 4.9-2. The required emission reductions are outlined in Table 4.9.12-3.

Table 4.9.12-3. Required Reductions in Carbon Monoxide (CO) Emissions to Attain CO Standard at Various Medford Locations by 1987.

Location	Projected CO Reduction Required (%) 1987A	1987B	1987C	1987D
McAndrews/Riverside	15	13	17	15
Biddle/McAndrews	5	13	6	14
Biddle/Jackson	0	0	0	0
Riverside/Fourth	0	0	0	0
Central/Main	0	0	0	0

Under the 1987D most likely development scenario, a 15% reduction in motor vehicle carbon monoxide emissions would be required to meet the ambient carbon monoxide standard. A reduction range of 13-17% is required if all four of the scenarios are considered.

(The 1982 plan projected a peak carbon monoxide concentration of 12.9 mg/m^3(8-hour average). This projected concentration was 29% above the ambient standard and would have required about a 27% reduction in motor vehicle emissions in order to meet the ambient standard by 1987. The higher traffic growth rate anticipated in the 1982 plan has not materialized).

Two major categories of additional carbon monoxide control measures have been evaluated in previous studies in Medford: first, traffic improvements either to increase traffic speeds or to reduce traffic volumes on the problem roadways; and second, area-wide measures such as anti-tampering or inspection-maintenance programs to reduce emissions from individual automobiles. The City of Medford, its consultants, Jackson County, and the Department of Environmental Quality have been unable to identify reasonable additional traffic improvements, other than those incorporated into the Medford Parking and Traffic Circulation Plan, that would significantly reduce carbon monoxide concentrations in the problem area. Therefore, the Department evaluated various types of anti-tampering and inspection-maintenance programs in considerable detail.

Anti-tampering programs could reduce carbon monoxide emissions by 1-10% from 1985 to 1987, depending on the type of program implemented. An anti-tampering program would be a useful interim measure to further reduce carbon monoxide emissions, but it alone would not provide attainment with the ambient carbon monoxide standard in North Medford. Inspection-maintenance programs could reduce carbon monoxide emissions by about 10-30% from 1985 to 1987, depending on the type of program and the start-up date. An inspection-maintenance program, with anti-tampering and mechanic training provisions, was selected to provide at least an additional 15% reduction in motor vehicle carbon monoxide emissions.

4.9.13 - MOTOR VEHICLE INSPECTION-MAINTENANCE PROGRAM

4.9.13.1 - Program Authorization

The 1985 Oregon Legislature adopted House Bill 2845 which authorized the Oregon Environmental Quality Commission to adopt an inspection-maintenance program for the Medford-Jackson County area. House Bill 2845 provides that if the need for an inspection-maintenance program is identified in the State Implementation Plan, then the Environmental Quality Commission shall designate by rule the boundaries where such a program will be required. The need for an inspection-maintenance program in the Medford-Jackson County area was identified in the 1982 plan and is confirmed in this 1985 addendum.

4.9.13.2 - Program Boundaries

Motor vehicles registered within the Medford-Ashland AQMA will be subject to the inspection-maintenance program. Approximately 85% of the motor vehicles in Jackson County are registered within the Medford-Ashland AQMA. The AQMA-registered vehicles account for about 88% of the vehicle-miles-traveled (VMT) in the Medford Carbon Monoxide Nonattainment area. (County-registered vehicles account for about 92% of the VMT in the nonattainment area.) The inspection-maintenance program boundaries are described in OAR 340-24-301.

4.9.13.3 - Program Operation

The Medford-Jackson County inspection-maintenance program will be a biennial program operated very similarly to the Portland program. The most recent 21 model years of motor vehicles will be inspected. A two-speed test will be conducted. Motor vehicles (1975 and newer) with removed or inoperative pollution control equipment will be failed. The emission standards are equivalent to at least 35% stringency.

A series of mechanic training programs will be provided during the first year of the inspection-maintenance program.

The operating rules for the Oregon inspection-maintenance program are described in OAR 340-24-300 to 350.

4.9.14 - DEMONSTRATION OF ATTAINMENT

The Medford-Jackson County inspection-maintenance program is expected to reduce carbon monoxide emissions from motor vehicles by a net 24% by December 31, 1987. The 24% net emissions reduction accounts for an estimated 12% of the VMT that is from vehicles outside the AQMA (refer to 4.9.13.2). The inspection-maintenance credit is based on EPA Mobile 3.0. The emission factor printouts and a summary of the net emissions reduction achieved by the inspection-maintenance program are included in Appendix 4.9-16.

The expected emission reduction (24%) due to an inspection-maintenance program is greater than the additional reduction needed to attain the ambient carbon monoxide standard by December 31, 1987 (15% reduction needed).

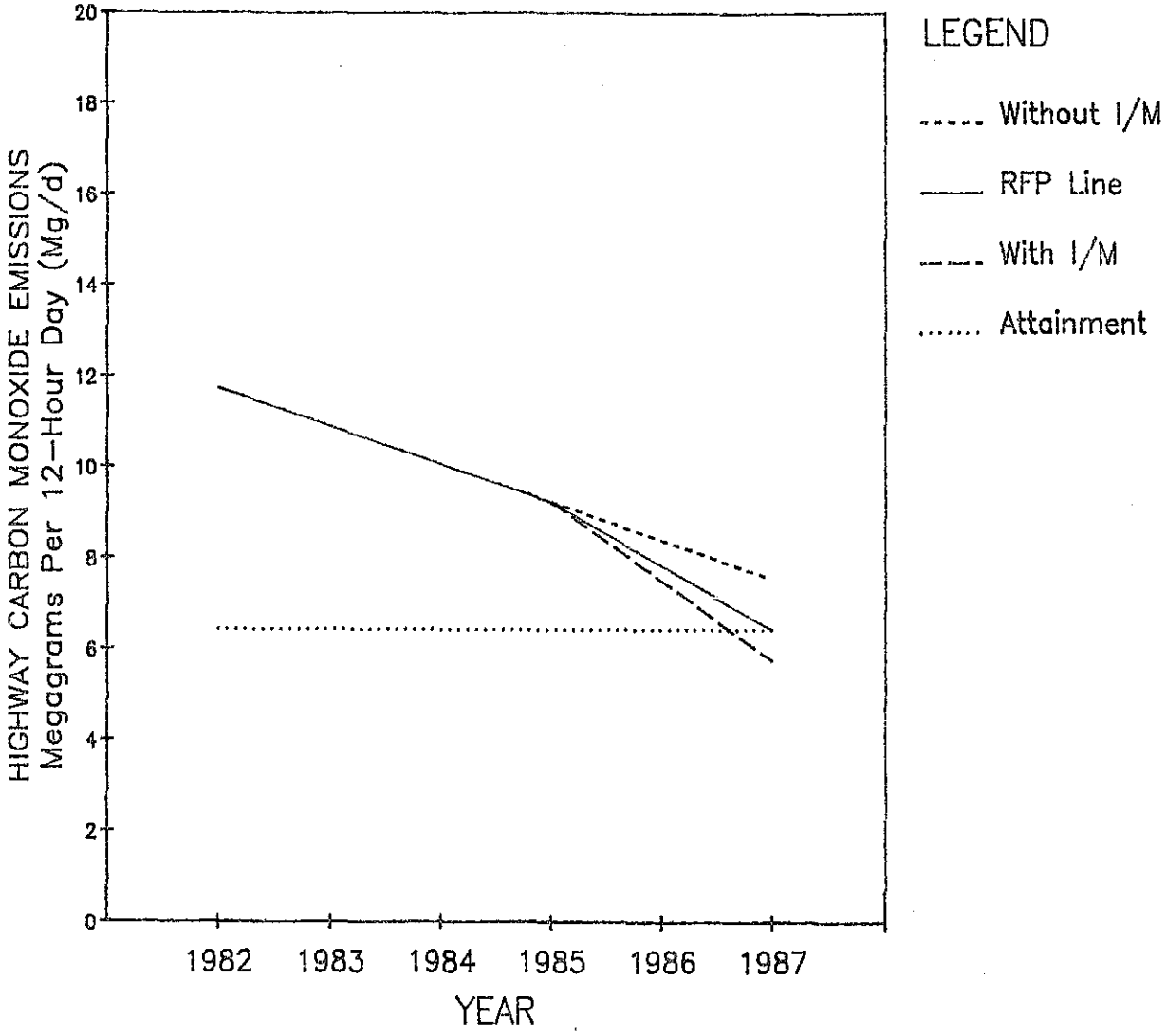
4.9.15 - DETERMINATION OF REASONABLE FURTHER PROGRESS

An evaluation of carbon monoxide reductions in the Medford area will be included in the Department's annual report to EPA on reasonable further progress (RFP). A revised RFP graph is included as Figure 4.9.15-1. Carbon monoxide emissions from highway vehicles must be reduced from 11,728 kilograms per day (kg/day) in 1982 down to 6,420 kg/day in 1987 in order to attain the ambient carbon monoxide standard by December 31, 1987.

4.9.16 - PUBLIC NOTICE AND HEARINGS ON ADDENDUM

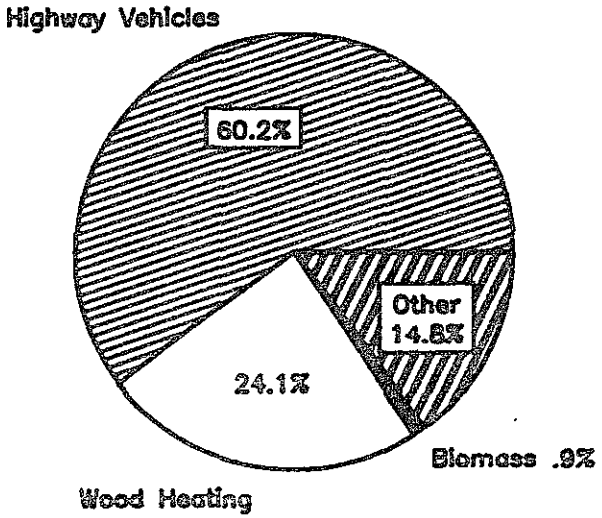
A series of public hearings on this addendum to the Medford Carbon Monoxide Attainment Plan was held in the Medford-Ashland area during August 1985. The public hearing notice was issued at least 30 days prior to the hearings. The plan was distributed for local and state agency review by the A-95 State Clearinghouse at least 45 days prior to adoption of this addendum by the Environmental Quality Commission. A summary of testimony received is included in Appendix 4.9-17.

Figure 4.9.15–1
REASONABLE FURTHER PROGRESS
Medford CO Nonattainment Area

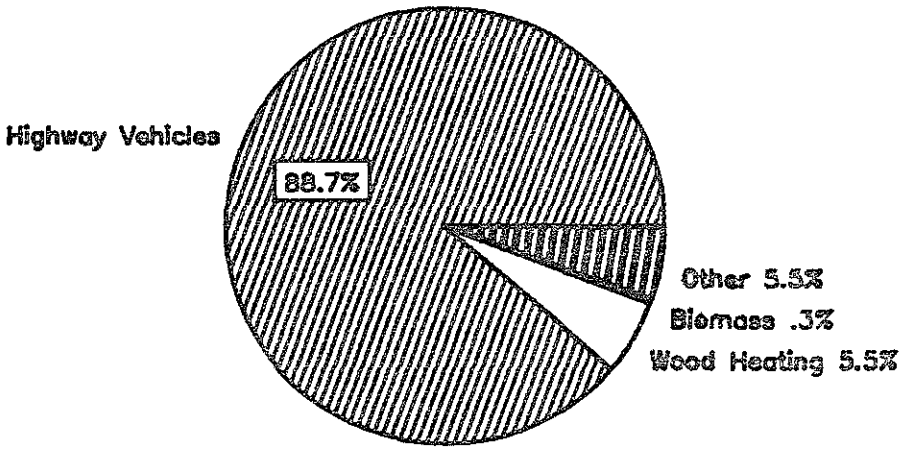


NOTE: YEAR TICK MARK IS FOR DECEMBER 31ST

MEDFORD CARBON MONOXIDE EMISSIONS AND IMPACTS



EMISSION INVENTORY FOR 1983



WORST DAY IMPACTS IN 1983

Note: If Biomass had operated in 1983

Attachment D
Agenda Item No. E
July 19, 1985, EQC Meeting

VICTOR ATIYEH
GOVERNOR

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 19, 1985, EQC Meeting

Request for Authorization to Conduct a Public Rulemaking Hearing for Modifying a Special Groundwater Quality Protection Rule in the Deschutes Basin Water Quality Management Plan, OAR 340-41-580 for the LaPine Shallow Aquifer

Background

In the early 1980s, Deschutes County conducted a comprehensive groundwater study in the LaPine area. The study found nitrite levels in the shallow groundwater in the LaPine core area exceeding federal drinking water standards. This shallow groundwater is the primary source of domestic water supply for the core area.

Concurrently and independently, the Department also developed a statewide groundwater quality protection policy in the early 1980s. This policy was adopted in rule form (OAR 340-41-029) by the Environmental Quality Commission in September 1981, and directs the Department, among other things, to identify and resolve groundwater quality problems. Consistent with this protection policy, on May 20, 1983, the Commission adopted a special groundwater quality protection policy for the LaPine shallow aquifer. This policy was placed in a section of the Deschutes Basin Water Quality Management Plan called "Special Policies and Guidelines" (OAR 340-41-580). Among other things, the special policies state that all wastewater generated within the core area of the community of LaPine shall be collected, treated and disposed of in a manner which prevents future pollution of the groundwater after January 1, 1987. The rule states that the core area shall be that described within the LaPine Aquifer Management Plan. (The LaPine Aquifer Management Plan documents groundwater contamination in the LaPine shallow aquifer and was the basis for the existing special groundwater protection policy.)

Unfortunately, the LaPine Aquifer Management Plan only refers to the core area in very general terms. The management plan did not attempt to establish a precise boundary. Consequently, the specific area to be sewered is not established in the rule. The LaPine Facilities Plan, completed in June 1985, does contain a boundary for the core area and

documents the rationale for establishing areas for initial sewer service and for future service.

The LaPine Special Sewer District is a legally formed sanitary district located in the LaPine core area. Its boundaries only encompass those properties which owners volunteered to participate in the District's formation. In the Department's judgment and based upon information in the LaPine Facilities Plan, there are areas outside the sanitary district that should be served by sewers. The district, however, has no authority to force property outside its boundaries to connect to sewer. Without an amended rule that clearly defines the core area boundary, the Department probably cannot force connection either.

Apparently, the sanitary district will attempt to annex those areas shown in the facilities plan that need initial sewer service. If this process goes as hoped, this would resolve the problem. However, it seems likely that at least some of those outside the sanitary district will resist annexation. Without annexation, the district cannot require connection.

Department staff believes a precise definition of the LaPine core area should be established for the following reasons:

1. People need to know whether or not they will be expected to connect their properties to the LaPine sewerage system when it becomes available. With the boundary established by rule, there should be no question.

2. By establishing the boundary specifically in the rules at this time, more of the project may be grant-eligible and would reduce the local share of construction costs. (The LaPine core area is currently positioned on the FY85 Federal Sewerage Works Construction Priority List such that funding is available this year. The proposed FY86 priority list also shows LaPine in a fundable position.) Obviously, other considerations are important when determining grant eligibility, but a precise boundary could help for those areas currently outside the sanitary district boundaries.

3. A precise legally established boundary is essential if, once the sewerage facility is operational, the Department needs to force properties to connect to sewer.

The staff believes that a specific boundary, legally established in an administrative rule, creates a legal obligation to connect to sewer. Nevertheless, in addition to a specific boundary, the Department would also propose specific language that would require connection to sewer when it becomes available. ORS 454.675 states that on-site sewage disposal systems constructed before January 1, 1974, shall not be required to conform to rules adopted subsequent to their initial construction unless the systems are creating a public health hazard or are causing water pollution. Obviously, the existing on-site sewage disposal systems in the core area are causing water pollution. This is the basis for requiring a sewerage

facility. Nevertheless, the Department would also propose to add a finding to the rule that states that water pollution is being caused by the existing on-site sewage systems in the core area.

Alternatives

The Department believes the Commission has three alternatives:

1. Deny authorization to hold a public rulemaking hearing.

   With this approach, only those areas within the sanitary district would be forced to connect to sewer. Sewer could be extended to areas outside the district, but it would be difficult, if not impossible, to force connection. Further, extension of sewers would probably not be grant-eligible and would require 100 percent local financing. This would increase the financial burden of those within the district.

2. Grant authorization to hold a public rulemaking hearing.

   It only seems logical, after adopting a rule that requires sewers, that rules be considered that establish a specific boundary. This approach also puts the issue before the local citizens. The boundary established in the facilities plan appears to be reasonable. Nevertheless, a public hearing could provide information that would justify some changes in the proposed boundary. Finally, this approach is consistent with the statewide groundwater quality protection policy (OAR 340-41-029(3)(c)(B)) which requires the area needing corrective action to be defined.

3. Delay authorization until a later date.

   The staff see no advantage to this alternative. A delay would extend the confusion over the actual core area boundary. It could also jeopardize grant-eligibility for those areas outside the sanitary district should the Commission later determine sewers are needed.

Based upon the above discussion of alternatives, the Department concludes that the second alternative is most desirable.

The Commission has statutory authority to act on rules under the provisions of ORS 468.020 and 468.735. These statutes authorize the Commission to enact such rules as are necessary to perform the functions vested by law to them.

Summation

1. In May 1983, the Commission adopted, by administrative rule, a special groundwater quality protection policy (OAR 340-41-580) that requires a sewerage facility for the LaPine core area by January 1, 1987.

2. The special groundwater protection policy defined the core area as that described in the LaPine Aquifer Management Plan.

2. The special groundwater protection policy defined the core area as that described in the LaPine Aquifer Management Plan.

3. The LaPine Management Plan only refers to the core area in very general terms.

4. The sewerage facilities plan report for the LaPine core area has been completed. This report contains a precise boundary of those areas that should be sewered initially and the rationale for establishing the boundary.

5. The Department believes a specific boundary for the core area should be adopted as a rule under the Special Policies and Guidelines section of the Deschutes Basin Water Quality Management Plan. A boundary established by rule would apprise people of future sewage requirements for their property, assist the determination of grant eligibility and provide a legal basis for the Department to force connection to sewer if property owners resist.

6. Definition of the area requiring sewers is required by the statewide groundwater quality protection policy (OAR 340-41-029).

Director's Recommendation

Based upon the Summation, it is recommended that the Commission authorize the Department to conduct a public rulemaking hearing. The hearing will consider if the Special Policies and Guidelines (OAR 340-41-580) in the Deschutes Basin Water Quality Management Plan should be amended to include a specific boundary for the LaPine core area.

Fred Hansen

Attachments
A. Proposed Rule OAR 340-41-580
B. Draft Statements of Need, Land Use Consistency, and Fiscal and Economic Impact
C. Draft Hearing Notice - Proposed Water Quality Management Plan Rule OAR 340-41-580

Richard J. Nichols:c
388-6146 (Bend)
June 24, 1985
GC2299

Attachment A
Agenda Item No. F
7/19/85 EQC Meeting

PROPOSED RULE MODIFICATION

Change a section of OAR Chapter 340, Division 41, as follows:

SPECIAL POLICIES AND GUIDELINES

340-41-580 (1) In order to protect the shallow aquifer located in the vicinity of the community of LaPine in Deschutes County for present and future use as a drinking water source, it is the policy of the Environmental Quality Commission to support the implementation of the LaPine Aquifer Management Plan adopted by the Deschutes County Board of Commissioners on September 28, 1982, by requiring the following:

(a) The Environmental Quality Commission finds that existing on-site sewage disposal systems inside the core area or the community of LaPine are causing water pollution. The wastewater generated within [the] this core area [of the community of LaPine as described within the management plan] shall be collected, treated and disposed of in a manner which prevents future pollution of the groundwater by not later than January 1, 1987. The core area of the community of LaPine shall be that area defined as "Proposed Sewer Service Area," Figure 4.3 "LaPine Facilities Plan for the LaPine Special Sewer District, LaPine, Oregon, June 1985." All dwellings and buildings that contain plumbing fixtures inside this boundary shall connect to sewers and abandon existing sewage disposal systems within 90 days following written notification by the LaPine Special Sewer District that sewer service is available.

(b) The waste water generated outside the core area of the community of LaPine but within the study area described in the LaPine Aquifer

Underlined portion is NEW
[Bracketed] portion is DELETED

Management Plan, will be subjected to regulation under the Department's on-site waste disposal rules (OAR Chapter 340, Division 71).

(c) Waste disposal systems for new developments within the LaPine Aquifer Management Plan Boundary where development density exceeds two single family equivalent dwelling units per acre or which have an aggregate waste flow in excess of 5,000 gallons per day shall only be approved if a study is conducted by the applicant which convinces the department that the aquifer will not be unreasonably degraded.

(2) In addition to the requirements set forth in section (1) of this rule, the following actions are encouraged:

(a) Since the aquifer is presently degraded to the point where it does not meet Federal Drinking Water Standards, and the installation of sewer facilities will not immediately restore the quality to safe levels, Deschutes County should notify the citizens of the LaPine core area of the need to develop a safe drinking water supply for the community as soon as possible.

(b) Residents of the LaPine area are encouraged to test their drinking water frequently.

(c) Owners of underground liquid storage tanks are encouraged to periodically test the storage tanks to assure prompt detection and repair of leaks.

(d) Data on the quality of the shallow aquifer in and around LaPine should be obtained on a periodic basis to assess the effect of the above waste water management decisions on the quality of the groundwater.

Underlined portion is NEW
[Bracketed] portion is DELETED

Attachment B
Agenda Item No. F
7/19/85 EQC Meeting

STATEMENT OF NEED FOR RULEMAKING

1. Citation of Statutory Authority: ORS 468.020 and 468.735, which authorize the Environmental Quality Commission to adopt rules as necessary to perform the functions vested by law to the Commission.

2. In May 1983, the Environmental Quality Commission adopted rules amending the Deschutes Basin Water Quality Management Plan. The amended rules required the LaPine core area to be sewered by January 1, 1987. These rules refer to the core area boundary as that specified in the LaPine Aquifer Management Plan. Actually, the aquifer management plan has no precise boundary. In June 1985, a sewerage facilities plan report for the LaPine core area was completed. This report contains a precisely defined boundary for the LaPine core area. The Department proposes to modify the basin management plan to define the core area as that specified in the facilities plan report. A specifically defined boundary will accurately show people if they will be required to connect to sewer when it becomes available. Also, by establishing the core area boundary rule, the Department will have the legal ability to force people to connect to sewer.

3. Documents relied upon in proposal of this rule:

   a. LaPine Facilities Plan for the LaPine Special Sewer District, LaPine, Oregon, June 1985.

   b. LaPine Aquifer Management Plan, August 1982.

   c. Deschutes County Planning Commission Recommendation.

   d. Deschutes County Board of Commissioners Action, September 28, 1982.

   e. Statewide Groundwater Protection Policy, OAR 340-41-029, July 1984.

STATEMENT OF LAND USE CONSISTENCY

The Department has concluded that the proposal conforms to the Statewide Planning Goals and Guidelines.

Goal 6 (Air, Water and Land Resources Quality): This proposal is designed to improve and maintain groundwater quality in the LaPine core area by eliminating the discharge of nitrate-bearing sewage wastes into the ground. The LaPine Aquifer Management Plan documented nitrate contamination in the groundwater in the core area. The proposed sewerage facility will eliminate the source of nitrate contamination. Goal 6 requires protection of groundwater quality and, consequently, this proposal is consistent with that goal.

Goal 11 (Public Facilities and Services): This proposal is designed to assure the timely provisions of sewage disposal facilities and is consistent with Goal 11. This is because the proposed rule will precisely define those areas in the core area needing sewers now. The core area definition is based on documentation provided in the LaPine Sewerage Facilities Plan report (June 1985) which delineates current sewerage needs and future needs.

The rules do not appear to conflict with other Goals.

Public comment on any land use issue involved is welcome and may be submitted in the same manner as indicated for testimony in this notice. It is requested that local, state and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with statewide planning goals within their expertise and jurisdiction.

The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any appropriate conflicts brought to our attention by local, state or federal agencies.

STATEMENT OF FISCAL AND ECONOMIC IMPACT

Implementation of this proposed amended rule should result in both positive and negative impacts.

Positive Impacts

1. Establishing sewerage facilities and careful implementation of on-site waste disposal rules will protect and improve the groundwater. This removes uncertainty regarding quality of the water and should allow for full residential development. In turn, this will allow for continued development and extension of commercial facilities, particularly small businesses prevalent in the LaPine area.

2. There will be a substantial increase in the protection of public health. This will also enhance the ability of the existing commercial facilities to fully serve the public.

3. The rule does not conflict with established zoning and land use policies; in fact, it complements them.

4. The rule protects the water for the prime beneficial use of drinking water. Adequate and reasonable drinking water supplies are essential to future economic development of the LaPine area.

5. A precisely defined boundary will end the current level of uncertainty as to the area to be served by sewers. This uncertainty may have inhibited development because of the unknown costs and obligations.

6. The proposed core area boundary is larger than the existing sanitary district. This will allow the cost of the sewerage facility to be spread over more people and property and should reduce individual costs. It also should allow more of the project to be grant-eligible which will reduce the local share and again reduce individual costs.

Negative Impacts

The cost of sewering the LaPine core area will be borne by the benefitted property owners, both residential and small business. The fiscal impact on small businesses would be based on daily water usage and relates to an equivalency per unit charge. Under a recent study, this is proposed at $17 per month costs for a single family dwelling (approximately 160 gallons per day). (EXAMPLE: Daily water use = 1600 gallons -- Costs: $170/month).

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

The Boundaries for the LaPine Sewer System

Date Prepared: July 3, 1985
Hearing Date: August 19, 1985
Comments Due: August 23, 1985

WHO IS AFFECTED:

People who reside, own property or businesses, or operate businesses in the unincorporated core area of LaPine.

WHAT IS PROPOSED:

The Department proposes an administrative rule (OAR 340-41-580(1)(a)) to more specifically define the LaPine core area boundary that will be sewered by January 1, 1987. A map of the proposed boundary and a copy of the proposed rule change are attached. The Department also hopes to post copies of the proposed rule and map at the LaPine Post Office, library, and other public buildings.

WHAT ARE THE HIGHLIGHTS:

If the proposed rule is adopted, a specific boundary in the core area of LaPine will be established. Inside this boundary, the LaPine Special Sewer District shall construct a sewage collection system by January 1, 1987. All buildings and dwellings with plumbing fixtures inside this boundary would be required to connect to sewer within 90 days of written notification from the LaPine Special Sewer District.

HOW TO COMMENT:

Public Hearing

August 19, 1985 - 7:00 p.m.
LaPine Fire Hall

Written comments should be sent to Dick Nichols, Department of Environmental Quality, 2150 NE Studio Rd., Bend, OR 97701 by August 23, 1985.

WHAT IS THE NEXT STEP:

All comments will be considered and the proposed rule may or may not be changed. The Environmental Quality Commission will consider adoption of the rule at a regularly scheduled meeting in Bend on September 27, 1985.

GC2299.C

P.O. Box 1760
Portland, OR 97207

8/16/84

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 1-800-452-4011.

VICTOR ATIYEH
GOVERNOR

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: Fred Hansen, Director

SUBJECT: Agenda Item No. G, July 19, 1985, EQC Meeting

Appeal of Subsurface Variance Denial by David and Daniel Wriggle

Background

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

Daniel and David Wriggle own a lot in Tierra Del Mar, identified as Tax Lot 2701, in Section 6 BC, Township 4 South, Range 10 West, containing approximately 9,320 square feet of area. The lot was evaluated for on-site sewage disposal by Mr. James L. Seabrandt, the Supervising Sanitarian for Tillamook County, on November 17, 1978. Mr. Seabrandt issued a Certificate of Favorable Site Evaluation approving the use of a one hundred eighty (180) square foot seepage bed, with like replacement system, for the property. At that time, seepage beds were not authorized by Commission rule.

In the summer of 1979, during an audit of Tillamook County, the Department found a number of sites approved for on-site sewage disposal methods that were in violation of Commission rules. Continued observation of the program led the Department to conclude that massive program irregularities probably existed. An investigation team was dispatched to Tillamook County in early March of 1980, and instructed to re-evaluate certain sites that had been initially evaluated and approved during 1978 and 1979. Of the approximately one hundred (100) approved sites that were re-evaluated by the team, about seventy-five (75) were found not to comply with Commission rules. Of these, approximately thirty-five (35) were found to not have any reasonable method of sewage disposal available. With this information, the Department requested the Commission adopt a temporary rule that voided all Certificates of Favorable Site Evaluation issued in Tillamook County from January 1, 1974 through December 31, 1979. The temporary rule, adopted by the Commission on March 21, 1980, allowed each affected property owner the opportunity to request a re-evaluation without fee.

With respect to this property, a request for re-evaluation was made to the Department's North Coast Branch Office in the latter part of 1980. Department staff examined the property on two separate occasions. A test hole near the center of the property had a fluctuating permanent water table at thirty (30) inches from the surface, with gray mottled sand present below thirty-three (33) inches. A fifteen (15) foot wide drainage ditch, located thirty-five (35) feet west of the east property line, contained water at twenty-six (26) inches from the surface. To comply with the rules, a system would need to be located at least fifty (50) feet back from the ditch and the water table could be no closer than sixty-six (66) inches from the surface. Because of the small lot size (80 feet by approximately 116 feet), shallow depth to a permanent groundwater table, and setback limitations, the lot did not comply with the Department's minimum standards for installation of either a standard or alternative sewage disposal system. The Wriggles were notified of the re-evaluation denial by letter dated October 16, 1980.

On December 11, 1984, an application for variance from the on-site sewage disposal rules was received by the Department, and was assigned to Mr. Sherman Olson, Variance Officer. On January 17, 1985, Mr. Olson examined the site and held a public information gathering hearing. He found that the property was located on the deflation plain of a dunal landform, that it was relatively level, and that the drainage ditch had been filled in. The test hole exhibited a soil texture of sand (which has a very rapid permeability), with gray mottled sand at approximately thirty-three (33) inches from the surface. The sand was wet below thirty (30) inches, but the water table was not encountered to the bottom of the five (5) foot deep hole. The Wriggles proposed to construct a conventional sand filter system in the western portion of the property. The sand filter would not have a liner, therefore treated effluent from the sand filter would pass from the sand filter into the sand below, and ultimately be discharged into underlaying groundwater.

OAR 340-71-290(3)(c) allows this type of sand filter system to be installed when a loading rate ratio of four hundred fifty (450) gallons per half acre per day is not exceeded. A system that exceeds this ratio will cause a measureable and significant pollution load that can affect the beneficial uses of the underlying groundwater. The proposed system would serve a two (2) bedroom vacation home, having a projected sewage flow of three-hundred gallons per day. To meet the loading rate ratio, the effective area of the property would need to be at least 14,520 square feet. By including half the area in the public road bordering the north property line, the lot has an effective area of approximately 11,620 square feet. Therefore, a variance from the requirements of OAR 340-71-290(3)(c) would need to be granted in order to install this system.

Information provided with the application indicates there are one hundred fifty-eight (158) plotted parcels in the community of Tierra Del Mar, with dwellings constructed on one hundred eleven (111) lots. The developed lots range in size from 0.07 acres to 0.56 acres, including half of the area in the bordering street. The total area of the community is twenty-four and

seven tenths (24.7) acres, thus the density of the development is greater than six lots per acre. The Tillamook County Zoning Administrator stated to Mr. Olson that Tierra Del Mar is developed at an urban density.

Water service for the area is provided by the Guyer Water Company. Water is drawn from Beltz Creek. Records with the Oregon State Health Division, updated in 1982, show there are two hundred (200) water connections, all metered, with about forty (40) homes occupied year-round. A 1972 watershed study, performed by Mr. Henry Chinn and on file with the Oregon Department of Water Resources, indicates Beltz Creek serves a population of one hundred twenty (120) people, and that it meets the water demands but is marginal in quantity. Additional surface water sources appear to be allocated to other water districts. An increased water demand may cause the company to look to the groundwater aquifer along this portion of the coast.

The Environmental Quality Commission adopted a general groundwater quality protection policy (OAR 340-41-029) which provided Mr. Olson with additional guidance in determining whether or not to grant a variance. The policy states that the highest and best practical treatment and control of sewage shall be required so as to minimize potential pollutant loading to groundwater. In areas where urban density development is planned or is occuring, and where rapidly draining soils overlay local groundwater flow systems and their associated water table aquifers, the collection, treatment, and disposal of sewage is deemed highest and best practical treatment and control.

After evaluating the variance record, Mr. Olson was unable to find that strict compliance with OAR 340-71-290(3)(c) is inappropriate, or that special physical conditions render strict compliance unreasonable, burdensome, or impractical. In his opinion, pollution of public waters would occur if a sand filter constructed on the property was placed into service. Daniel and David Wriggle were notified of the variance denial by letter dated May 3, 1985 (Attachment "B").

On May 17, 1985, the Department received a letter appealing the variance officer's decision (Attachment "C"). The Wriggles listed five (5) reasons why they believe the denial is unreasonable, burdensome, and impractical:

1. Their lot is approximately equal in size to neighboring lots on which standard systems have been allowed within the last six years, and their lot is larger than many, if not most of the lots within the Tierra Del Mar community which have standard systems.

2. Two (2) neighboring lots, larger than theirs, have been allowed standard systems within the last three years. They question whether effluent from those systems will cause less pollution than the sand filter system they proposed to install.

3. The variance denial burdens them with an unbuildable lot. They purchased the lot when it had a favorable site evaluation report. When the report was voided in 1980, they were unable to build or install a system. They feel most of the lots' value, and the tax money they have payed, will be lost to them. Despite their objections, Tillamook County has continued to increase the taxes as if the lot were buildable.

4. They feel it is completely impractical to believe that the community of Tierra Del Mar will, at any time in the foreseeable future, build a sewage collection and treatment system, nor will denials of such cases as theirs encourage the community to do so. Tierra Del Mar is composed mainly of weekend vacation homes with standard systems installed. There is no incentive for current owners to pay the great amount of money a sewage treatment system would cost when they all have operating systems now. They doubt the Department will install a system for the community free of charge.

5. The Department has not complied with its own regulations in handling their variance request. The Department's response has not been within legally defined limits, and this has caused them further annoyance and delay (Attachments "D", "E", "F", and "G").

Alternatives and Evaluation

Daniel and David Wriggle desire to build a two (2) bedroom vacation house at Tierra Del Mar. This may be accomplished only if a method of sewage disposal acceptable to the Department is available to serve the house. The most preferred method would involve connection to a public sewerage facility. Unfortunately, there are no public facilities in the area. An optional method would utilize an on-site sewage disposal system that complies with the rules of the Commission. Department staff have evaluated this alternative and found that the property is too small in area to install a sand filter system without causing degradation of the groundwater underlaying the property. However, if adjacent land (at least 2,380 square feet) were acquired either by purchase or easement, a permit could be issued allowing construction of a sand filter system. The last acceptable method would be to authorize issuance of an on-site permit through the variance provisions established by statute and administrative rule, after it has been determined that use of the system would not constitute a greater risk to the public health and welfare than a system that complies fully with the Commission's rules. The variance officer found that because of the small lot size and very rapid soil permeability, installation and use of a sand filter system would pose an unacceptable threat to groundwater quality. The general groundwater quality protection policy guided and supported this finding.

In response to the five (5) statements in the appeal letter reasoning why a variance should be granted, not one (1) addresses the reason for denial.

Contact with Mr. Douglas Marshall, the Tillamook County Sanitarian, confirms that most of the developed properties use standard septic tank-drainfield systems. However, only an estimated twenty (20) systems have been installed in the last six years. The two (2) neighboring lots are located on higher ground on the foredune, and are indeed larger than the subject property. These two lots were developed by using an alternative sewage disposal system utilizing pressurized distribution seepage beds. Mr. Marshall has assured Department staff that all permits issued in Tierra Del Mar since he replaced Mr. Seabrandt in 1980 are in compliance with the Commission's rules.

The Wriggle property will remain unbuildable until an acceptable method of sewage disposal becomes available, either because of acquisition of adjacent property, construction of a public sewerage facility, or development of new and innovative technology that addresses limitations of lots like theirs.

With respect to ever rising property taxes, the Department has little influence over the land values established by the county assessor. However, most county assessors take into account the buildability of property when determining values. Mr. Marshall can provide the county assessor with information concerning properties found unsuitable for on-site sewage disposal.

Construction of public sewerage facilities in this community is unlikely unless either the land owners initiate the formation of a sanitary district, or the Commission orders the construction of facilities to abate a serious pollution problem. The public perceives a malfunctioning system to be one that discharges wastewater onto the land surface, and as long as sewage remains out of sight (below ground) they assume the system is functioning properly. In very rapidly permeable soils overlaying shallow groundwater aquifers, the assumption is false. Tierra Del Mar is already developed at approximately four (4) times the density the Department feels is reasonable to prevent significant pollution of the underlaying groundwater aquifer.

The time limits in processing this variance request were not met. None the less, failure to meet time restraints does not automatically grant an approval. The outcome of a variance is not determined until the decision is written, based upon findings developed in the review process.

Pursuant to ORS 454.660, decisions of the variance officer may be appealed to the Environmental Quality Commission. Such an appeal was made. The Commission must determine whether strict compliance with the rules or standards regulating the installation of on-site sewage disposal systems is inappropriate for cause, or that special physical conditions under strict compliance to be unreasonable, burdensome, or impractical. Staff recommends the decision of the variance officer be upheld.

Summation

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

2. On November 17, 1978, Mr. James Seabrandt evaluated the property to determine if an on-site sewage disposal system could be installed. Mr. Seabrandt issued a Certificate of Favorable Site Evaluation approving use of a seepage bed.

3. The Environmental Quality Commission adopted a temporary rule on March 21, 1980, that voided all Certificates of Favorable Site Evaluation issued in Tillamook County from January 1, 1974 through December 31, 1979.

4. The property was re-evaluated by Department staff on two (2) occasions. It was determined the property did not meet the Department's minimum standards to install an on-site system.

5. A variance application was submitted to the Department. It was assigned to Mr. Olson.

6. Mr. Olson examined the property and conducted an information gathering hearing. After closing the hearing Mr. Olson reviewed and evaluated the variance record. He found the testimony provided did not support a favorable decision, and that the treatment and disposal of sewage through on-site means would be contrary to the general groundwater quality protection policy adopted by the Commission. He denied the variance request.

7. David Wriggle and Daniel Wriggle filed for appeal of the variance denial.

Directors Recommendation

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

Fred Hansen

Attachments: "A". Pertinent Legal Authorities
"B". Variance Denial Letter
"C". Letter of Appeal
"D". Letter to Harold Sawyer
"E". Harold Sawyer's Response
"F". Letter to Governor Atiyeh
"G". Response from Governor's Office

Sherman O. Olson:h
WH159
229-6443
June 26, 1985

ATTACHMENT "A"

1. Administrative rules governing subsurface sewage disposal are provided for by Statute: ORS 454.625.

2. The Environmental Quality Commission has been given statutory authority to grant variances from the particular requirements of any rule or standard pertaining to subsurface sewage disposal systems if after hearing, it finds that strict compliance with the rule or standard is inappropriate for cause or special physical conditions render strict compliance unreasonable, burdensome or impractical: ORS 454.657.

3. The Commission has been given statutory authority to delegate the power to grant variance to special variance officers appointed by the Director of the Department of Environmental Quality: ORS 454.660.

4. Mr. Olson was appointed as a variance officer pursuant to the Oregon Administrative Rules: OAR 340-71-415.

5. Decisions of the variance officers to grant variances may be appealed to the Commission: ORS 454.660.

ATTACHMENT "B"

VICTOR ATIYEH
Governor

Department of Environmental Quality

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

May 3, 1985

CERTIFIED MAIL

David and Dan Wriggle
Rt. 1, Box 246-A
Cornelius, Oregon 97113

Re: WQ-SSS-Variance Denial
T.L. 2701; Sec. 6BC;
T. 4 S.; R. 10 W., W.M.;
Tillamook County

In response to your variance application, I visited your property on January 17, 1984, and held an information gathering hearing. The hearing record indicates the site was originally evaluated for on-site sewage disposal by Mr. James L. Seabrant on November 17, 1978, and approved for installation of a 180 square foot seepage bed. A Certificate of Favorable Site Evaluation was issued that same day. Action by the Environmental Quality Commission in March of 1980 caused this certificate and others within Tillamook County to be voided. Subsequently, the property was reevaluated by DEQ staff and was found unsuitable for installation of either a standard system or a more complex alternative system. The major limitations cited in the October 16, 1980 letter from Mr. John Smits concerned the shallow depth to a permanent water table (observed at 30 inches from the surface on March 12, 1980), and insufficient area to install a complete system (including future replacement) while maintaining required setbacks. Because of a drainage ditch in the eastern portion of the property, the dimensions of the area within which to install a complete system were approximately 15 feet by 60 feet. The soil profile showed 3 inches of loam over sand. The sand was gleyed beginning at 33 inches. This is indicative of the presence of a fluctuating permanent groundwater table that remains at that depth for a period of time each year. Sand is considered to be a soil with very rapid permeability.

With the assistance of Mr. Joe Petrovich, you have proposed the installation of a conventional bottomless sand filter system (for a two bedroom cabin) to be located 10 feet from both the south and west property lines. The drainage ditch has been filled, therefore a setback from it is no longer necessary. The proposed sand filter would be constructed in compliance with all portions of OAR 340, Division 71, except OAR 340-71-290(3)(c), which prohibits the installation of sand filter systems into soils with rapid or very rapid permeability, if the discharge rate exceeds the equivalent of 450 gallons of effluent per 1/2 acre per day. The projected peak sewage flow from a two bedroom home is 300 gallons

per day, thus the minimum effective area necessary to allow a sand filter installation is 14,520 square feet. Your property contains approximately 9,320 square feet, and with the additional area factor to the center of the fronting road, the effective area is approximately 11,620 square feet.

The Environmental Quality Commission (EQC) has adopted a general groundwater quality protection policy that provides guidance in the efforts to protect the quality of groundwater. The policy directs the Department of Environmental Quality (DEQ) to concentrate its control strategy development and implementation efforts in areas where waste disposal

practices and activities regulated by the DEQ have the greatest potential for degrading groundwater quality. These areas are delineated on a map outlining the boundaries of major water table aquifers. Your property is situated on the deflation plane of a dunal landform, and within an area specifically identified on the map. The policy states that, consistent with general policies for protection of surface water, highest and best practical treatment and control of sewage shall be required so as to minimize potential pollutant loading into groundwater. For areas where urban density development is planned or is occurring, and where rapidly draining soils overlay local groundwater flow systems and their associated water table aquifers, the collection, treatment and disposal of sewage will be deemed highest and best practical treatment and control. According to Mr. Petrovich, your property is one of approximately 158 lots within the community of Tierra Del Mar. The community encompasses approximately 24.7 acres, and has dwellings constructed on 111 lots. Tierra Del Mar is considered to have an urban density because the overall average density of development is greater than 6 lots per acre.

Variance from particular requirements of the rules or standards pertaining to on-site sewage disposal systems may be granted if a finding can be made that strict compliance with the rule or standard is inappropriate for cause, or that special physical conditions render strict compliance unreasonable, burdensome, or impractical. Although it is physically possible to construct a conventional sand filter system on your lot, it is my opinion that by placing the system into service, pollution of public waters would occur. Further, application of the groundwater quality protection plan precludes development until a sewerage collection, treatment and disposal system becomes available. Based upon my review and analysis, a favorable finding cannot be made. Your variance request is regretfully denied.

Pursuant to OAR 340-71-440, my decision to deny your variance request may be appealed to the Environmental Quality Commission. Requests for appeal must be made by letter, stating the grounds for appeal, and addressed to the Environmental Quality Commission, in care of Mr. Fred Hansen, Director,

Department of Environmental Quality, Box 1760, Portland, Oregon, 97207, within twenty (20) days of the date of the certified mailing of this letter.

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

Sincerely,

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

SOO:m
WM135

cc: Joe Petrovich
Tillamook County, DEQ
Northwest Region, DEQ

ATTACHMENT "C"

David E. Wriggle
Daniel J. Wriggle
Rt. 1, Box 246-A
Cornelius, Oregon 97113

May 17, 1985

Mr. Fred Hansen, Director
Department of Environmental Quality
Box 1760
Portland, Oregon 97207

Re: WQ-SSS-Variance
T.L. 2701; Sec. 6BC
T. 4 S.; R. 10 W., W.M.;
Tillamook County

Dear Mr. Hansen,

Pursuant to Mr. Sherman Olson's letter of May 3rd, we are appealing to you his decision to deny our variance request.

Our appeal is based on our belief that Mr. Olson's denial is indeed unreasonable, burdensome, and impractical:

1. Our lot, although smaller in area than that now required for a sand filter system, is in fact of approximately equal size to neighboring lots on which D.E.Q. has allowed standard drain field systems within the last six years, and our lot is larger than many, if not most of the lots within the Tierra Del Mar community which have standard drain fields.

2. D.E.Q. has allowed two neighboring lots, larger than ours, standard drain fields within the last three years. Is their effluent less polluting than ours, with a sand filter system, would be?

3. Mr. Olson's denial will burden us with an unbuildable lot, which when we bought it was entirely acceptable to the D.E.Q. When the D.E.Q. reversed Mr. Seabrandt's approvals in 1980, we did not have enough money to build or install a system on the lot, and now most of the lot's value, and the tax money we have been paying on it, will be lost to us. Despite our objections, Tillamook County has continued to increase the taxes as a buildable lot over the years.

4. It is completely impractical to believe that the community of Tierra Del Mar will at any time in the foreseeable future build a sewage collection and treatment system, nor will your denials of such cases as ours encourage the community to do so. Tierra Del Mar is composed mainly of weekend vacation homes with standard septic tank systems installed. There is no incentive for current owners to pay the great amount of money a sewage treatment system would cost when they all have operating systems now; and we doubt that you intend D.E.Q. to install a system for the community free of charge.

5. D.E.Q. has not complied with its own regulations in handling our variance request. D.E.Q.'s response has not been within legally defined limits, and this has caused further annoyance and delay.

We hope these arguments make it clear that we are unnecessarily financially and emotionally burdened by Mr. Olson's denial, and we feel we are unfairly singled out for denial because of our financial condition; that our proposal to use a sand filter system is not only practical, but far better than the rest of the community's disposal systems; and that there is no other practical solution than that which we have proposed. Please reverse Mr. Olson's denial and grant our variance.

Sincerely,

David E. Wriggle

David E. Wriggle

Daniel J. Wriggle

ATTACHMENT "D"

David & Daniel Wriggle
Rt.1, Box 246-A
Cornelius, Oregon 97113
April 15, 1985

Harold Sawyer
Administrator
Water Quality Division
Department of Environmental Quality
522 S.W. 5th Avenue
Box 1760
Portland, Oregon 97207

Re: Variance application - Tax lot #2701, Sec. 6 BC,T4S, R10W, W.M., Tillamook County, Oregon.

Dear Mr. Sawyer:

In 1979 we purchased a beach lot in Tillamook County. At that time we were told the lot had county approval for sceptic tank use. As you know, when Mr. James Seabrandt, the man in charge of sceptic tank approvals for Tillamook County, retired, all suitability statements were declared null and void. How could we have possibly anticipated this? If we had had the money for a sceptic tank when we purchased the property, it would have been approved and installed before Mr. Seabrandt retired and we would not be having the problems we are experiencing at the present. We had hoped to pay the lot off this year and finally build our beach cabin, something we've been hoping to do for years. It seems unfair that we are being penalized for being without enough funds to install a sceptic tank in 1979. We have had to pay taxes on the property all along at the rates for a buildable lot. Houses all around our property have sceptic tanks. There is no sewer system available, our hard-to-come-by money has been heavily invested in this dream and there is no way we could sell an un-buildable lot. We are in a financial bind, and this is of course compounded by the emotional burden of not being able to fulfill our plans to build a vacation home for ourselves and our children. We are willing to do all that is humanly possible to comply with environmental quality standards, but to bar us from building on our property seems totally inappropriate when we bought a "buildable lot." To date we have not been provided with any data to show any harmful effects of sceptic tanks surrounding our property.

On December 7, 1984, our consultant, Joe Petrovich of Fairbanks-Petrovich Consulting, delivered a completed application for variance to your office in Portland. No response was received from Sherman Olson Jr., Variance Officer, until Mr. Petrovich contacted him by phone on January 8, 1985. He then immediately set a hearing date for January 17.

The information gathering hearing was held as scheduled. In attendance were Mr. Olson, Mr. Petrovich, and Mrs. Barbara Wriggle.

At the close of the hearing, Mr. Olson stated "I will evaluate this testimony and respond pronto." After 85 days we would question the state's definition of "pronto." As of this date, we have not received a written determination from your department as required in your administrative rules.

In studying the administrative rules governing variances, our attention is drawn to OAR 340-71-430(3) & (4). They state:

> (3) Each variance shall be heard within THIRTY (30) days after receipt of a completed application.

Forty-two (42) days elapsed between the date of application and the hearing.

> (4) A decision to grant or deny the variance shall be made within THIRTY (30) days after the completion of the hearing.

To date eighty-five (85) days have elapsed since the hearing was held on January 17, 1985.

We are assuming that although not specifically addressed in your rules, that since neither the deadline for the response to an application or the deadline for written determination for approval or denial were met in accordance with your administrative rules, the variance is approved.

Your prompt response confirming this fact will be appreciated.

Sincerely,

David Wriggle

Daniel Wriggle

cc: Joe Petrovich, Fairbanks-Petrovich Consulting
440 Oregon Street, McMinnville, Oregon
Fred Hansen, Director, Department of Environmental Quality

ATTACHMENT "E"

VICTOR ATIYEH
Governor

Department of Environmental Quality

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

May 1, 1985

David and Daniel Wriggle
Rt. 1, Box 246-A
Cornelius, OR 97113

Re: WQ-OSS-Variance
Tillamook County

Thank you for advising me that the time intervals specified for processing your variance request have not been followed. I have reviewed the workload I have assigned to Mr. Olson and made adjustments to better take variance deadlines into account. Mr. Olson has now advised me the variance decision will be completed, signed and mailed on May 6, 1985.

With respect to your request about the outcome of a variance when time mandates are not met, variance requests are not automatically approved or denied. The outcome of a variance is not determined until the decision is put down in writing, based on findings developed in the review process.

Please accept our apology for any inconvenience this delay may have caused.

Sincerely,

Harold L. Sawyer
Administrator
Water Quality Division

HLS:m
WM134

cc: Northwest Region, DEQ
Joe Petrovich, Fairbanks-Petrovich Consulting, McMinnville

ATTACHMENT "F"

May 3, 1985

Governor Victor Atiyeh
Executive Department
Salem, OR 97301

Dear Governor:

We are extremely upset with the lack of courtesy with which we have been treated by the Department of Environmental Quality. This lack of courtesy is evidenced by their refusal to communicate with us despite our having followed their established procedures.

After submitting a complete variance application in a form designated by the DEQ and submission of the required $225 application fee on December 7, 1984, we have received no written response from that agency. Following is a chronology of events that have led to our current frustration with the state government:

December 7, 1984	Variance application and $225 fee submitted to DEQ for our property at Tierra Del Mar.
January 8, 1985	Our consultant, Joe Petrovich called Sherman Olson of DEQ to ascertain the status of the application.
January 17, 1985	Information gathering hearing was held at the property. In attendance were Sherman Olson, Joe Petrovich and Barbara Wriggle.
April 15, 1985	Our letter mailed to Harold Sawyer of DEQ with copy to Director, Fred Hansen. (copy enclosed)
To Date	No written response.

As taxpayers and residents of this state, we are very angry that a state agency is allowed to operate in such an inconsiderate

manner. As private businessmen, we would soon be out of business, if we operated our business in this manner.

We request a written response from you as to how you can allow a state agency to operate in this manner, what is being done to resolve this matter and what are the results of an agency totally disregarding the provisions of ORS 464.660(4) which require a hearing be held within 30 days of a completed application and a written decision be rendered within 45 days of the hearing.

We await your early reply.

Sincerely

David Wriggle

David Wriggle
Rt 1, Box 246-A
Cornelius, OR 97113

Daniel Wriggle

CC Joe Petrovich, FAIRBANKS-PETROVICH, 440 Oregon St., McMinnville, OR 97128

ATTACHMENT "G"

VICTOR ATIYEH
GOVERNOR

OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM, OREGON 97310

May 20, 1985

David and Daniel Wriggle
Rt. 1, Box 246-A
Cornelius, OR 97113

Dear David and Daniel Wriggle:

This is in reply to your letter of May 3, 1985, in which you explain your difficulties in getting a sub-surface sewage disposal variance application processed in a timely manner by the Department of Environmental Quality.

In reviewing the problem with that Department's administrators, I learned that your application came at a time when there was a surge in the workload. The small number of qualified on-site sewage disposal employees were unable to process it within normal time limits. They fully recognize their deficiency, and have adjusted workloads in a manner that will improve their ability to respond properly.

The Department advises me that they responded to your variance application by certified letter on May 3, 1985.

I apologize for any inconvenicne this situation may have caused for you, and give my assurance that appropriate steps have been taken to reduce the likelihood of similar incidents happening again.

Sincerely,

Jeffrey R. Lewis
Assistant to the Governor
Citizens' Representative

JRL/sm

bcc: Department of Environmental Quality ✓

VICTOR ATIYEH
GOVERNOR

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 19, 1985, EQC Meeting

Approval of Amendments to Lane Regional Air Pollution Authority Rules Concerning Air Contaminant Discharge Permits, New Source Review, and Definitions as a Revision of the State Implementation Plan.

Background

The Lane Regional Air Pollution Authority (LRAPA) revised three sections of its rules at its May 1985 meeting.

LRAPA rescinded Title 21, "Registration, Reports and Test Procedures" and Title 22, "Permits" and replaced them with new Title 34, "Air Contaminant Discharge Permits" and new Title 38, "New Source Review."

LRAPA also rescinded Section 015 of the existing Title 11 and adopted a new Title 14, "Definitions," in its place.

Problem Statement

Statute requires that LRAPA rules must not be less strict than any state rules. The Environmental Quality Commission (EQC) must approve this action by LRAPA as it represents a revision of the State Implementation Plan (SIP) and must be forwarded to the Environmental Protection Agency for final approval.

Evaluation

In comments appearing in the Federal Register, Volume 49 #184, 09/20/84, the United States Environmental Protection Agency (EPA) indicated that several changes needed to be made in LRAPA's New Source Review (NSR) rules in order to be fully approved. In addition, a reorganization of Titles 21 and 22 was needed to make them more readable and easier to understand.

To bring LRAPA's New Source Review rules into conformance with EPA comments referenced above, the following provisions were incorporated into the rules:

1. Provides for EPA approval of modified or alternate models used to estimate ambient concentrations used in review of new or modified sources.

2. Requires addition of fugitive emissions in determining whether a new or modified source is major; and to use secondary emission to determine control technology requirements.

3. Clarifies certain exemptions for new volatile organic compound (VOC) sources to indicate that they only apply to new VOC sources outside of ozone non-attainment areas.

Except for two obsolete sections, all of the existing sections of Titles 21 and 22 have been incorporated into the proposed new Titles 34 and 38. A few subsections were edited to improve readability. Also, LRAPA deleted subsection 22-420-4 which exempts certain major sources from the New Source Review Rules. DEQ staff recommended that this exemption from review should not be part of the rule because it would allow some large new sources to be installed without full review and installation of best available controls, and because it relied too much upon modeled air quality impact in non-attainment areas.

The Federal Register, Volume 49 #184, 09/20/84, also indicated a need for several changes in the definitions contained in LRAPA's rules in order to be fully approved. In making the needed changes, LRAPA consolidated general definitions scattered among several existing rules into a single title.

In the process of compiling this title, a few definitions were found to be obsolete and were eliminated: General Combustion Operation (not used); New Source (new definitions); Normal Source Operation (not used); Primary Air Monitoring Station (not used); Primary Ground Level Monitoring Station (not used); Salvage Operation (not used); Special Station (not used); Suspended Particulate Matter (now Particulate Matter--new definition).

To provide consistency with EPA regulations, LRAPA changed the definitions for "dispersion technique," "good engineering practice stack height," and "non-attainment area". In addition, the definition for "growth increment" was modified to indicate that in non-attainment areas it will be used to accommodate minor sources and area source growth in the demonstration of Reasonable Further Progress for those pollutants which are in non-attainment.

The new Title 14 contains almost all of the definitions needed for the entire set of rules. There are, however, a few rules which will still require short title-specific definition sections.
LRAPA has satisfied public notice requirements to make the subject rule change a SIP revision.

The Department has reviewed the revised LRAPA rules and finds them to be no less stringent than statewide rules.

Summation

1. LRAPA has revised its rules concerning Air Permits, New Source Review and Definitions.

2. Statute requires that LRAPA rules must not be less strict than any state rules. The Environmental Quality Commission (EQC) must approve this action by LRAPA as it represents a revision of the State Implementation Plan (SIP) and must be forwarded to the Environmental Protection Agency for final approval.

3. The Department has reviewed LRAPA's rule revision and finds that they are no less stringent than state rules.

Director's Recommendation

It is recommended that the EQC approve LRAPA's rule revisions concerning Air Permits, New Source Reviews, and Definitions (Attachment 1) based on a finding that they are or no less stringent than state rules, and further, that the EQC direct the Department to submit the revised rules to EPA as a SIP revision.

Fred Hansen

Attachments 1. LRAPA's revised rules, Title 34, 38, and 14

P. B. Bosserman:p
(503) 229-6278
July 3, 1985
AS1297

LANE REGIONAL AIR POLLUTION AUTHORITY

TITLE 14

Definitions

Section 14-001 Definitions of Words and Terms Used in LRAPA Rules and Regulations

To aid in the understanding of these rules, the following general definitions are provided. Additional title-specific definitions can be found in each title as necessary.

.0005 "Agricultural open burning" means the open burning of "agricultural wastes," which are materials actually generated by an agricultural operation but excluding those materials described in Section 47-015-1.E.

.0010 "Agricultural operation" means an activity on land currently used or intended to be used primarily for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the raising and sale of livestock or poultry, which activity is necessary to serve that purpose; it does not include the construction and use of dwellings customarily provided in conjunction with the agricultural operation.

.0015 "Air Contaminant" means solid, liquid or gaseous materials suspended in the ambient air. This does not include water vapor.

.0020 "Air Contaminant Discharge Permit" means a written permit issued by the Authority in accordance with duly adopted procedures, which by its conditions authorizes the permittee to construct, install, modify or operate specified facilities, conduct specified activities, or emit, discharge or dispose of air contaminants in accordance with specified practices, limitations, or prohibitions.

.0025 "Air Conveying System" means an air moving device such as a fan or blower, and associated ductwork, and a cyclone or other collection device, the purpose of which is to move material from one point to another by entrainment in a moving airstream. It does not include particle dryers.

.0030 "Air Pollution" means the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are, or are likely to be, injurious to the public welfare, to the health of human, plant or animal life or to property , or which unreasonably interfere with enjoyment of life and property.

.0035 "Air Pollution Control Equipment" means any equipment which has as its essential purpose a reduction in the emissions of air contaminants, or a reduction in the effect of such emissions.

.0040 "Air Quality Maintenance Area (AQMA)" means any area that has been identified by the Authority or the Department, and approved by the Board or the Commission, as having the potential for exceeding any federal, state or local ambient air quality standard.

.0045 "Air Quality Maintenance Area (AQMA) Analysis" means an analysis of the impact on air quality in an AQMA of emissions from existing air contaminant sources and emissions associated with projected growth and development.

.0050 "Aircraft Operation" means any aircraft landing or takeoff.

.0055 "Airport" means any area of land or water which is used or intended for use for the landing and takeoff of aircraft, or any appurtenant areas, facilities, or rights-of-way, such as terminal facilities, parking lots, roadways, and aircraft maintenance and repair facilities.

.0060 "Ambient Air" means the air that surrounds the earth, excluding the volume of gases contained within any building or structure.

.0065 "Asbestos" means actinolite, amosite, anthophyllite, crysotile, crocidolite, or tremolite.

.0070 "Associated Parking" means a discrete parking facility or facilities owned, operated and/or used in conjunction with an indirect source.

.0075 "ASTM" means the American Society for Testing Materials.

.0080 "Authority" means the Lane Regional Air Pollution Authority.

.0085 "Auxiliary Combustion Equipment" includes, but is not limited to, fans or air curtain incinerators.

.0090 "Average Daily Traffic" means the total traffic volume during a given time period in whole days greater than one day and less than one year, divided by the number of days in that time period, commonly abbreviated as ADT.

.0095 "Beryllium" means the element beryllium. Where weight or concentrations are specified in these Rules, such weights or concentrations apply to beryllium only, excluding any associated elements.

.0100 "Beryllium Alloy" means any metal to which beryllium has been added in order to increase its beryllium content, and which contains more than one-tenth of one percent (0.1 %) beryllium by weight.

.0105 "Board" means the Board of Directors of the Lane Regional Air Pollution Authority.

.0110 "Charcoal Producing Plant" means an industrial operation which uses the destructive distillation of wood to obtain the fixed carbon in the wood.

.0115 "Combustion Promoting Materials" include, but are not limited to, propane, diesel oil, or jellied diesel.

.0120 "Commence Construction" means to begin to engage in a continuous program of on-site construction or on-site modification, including site clearing, grading, dredging, or landfilling in preparation for the fabrication, erection, installation or modification of a source.

.0125 "Commercial Area" means land which is zoned or used for commercial operations including retail sales and services.

.0130 "Commercial Open Burning" means the open burning of "commercial wastes," which are materials actually generated or used by a commercial operation.

.0135 "Commission" means the Environmental Quality Commission.

.0140 "Construction" means any physical change including fabrication, erection, installation, or modification of a facility, building or emission unit.

.0145 "Construction Open Burning" means the open burning of "construction wastes," which are materials actually resulting from or produced by a building or construction project.

.0150 "Contested Case" means a proceeding before the Board or a Hearings Officer:

A. In which the individual legal rights, duties or privileges of specific parties are required by statute or Constitution to be determined only after an agency hearing at which such specific parties are entitled to appear and be heard; or

B. Where the Authority has discretion to suspend or revoke a right or privilege of a person; or

C. For the suspension, revocation or refusal to renew or issue a permit where the licensee or applicant for a license demands such hearing; or

D. Where Authority rule or order provides for hearing substantially of the character required by ORS 183.415, 183.425 and 183.450 to 183.470.

.0155 "Continual Monitoring" means sampling and analysis, in a continuous or timed sequence, using techniques which will adequately reflect actual emission rates or concentrations on a continuous basis.

.0160 "Debris Clearing" means the removal of wood, trees, brush or grass in preparation for a land improvement or construction project.

.0165 "Demolition Open Burning" means the open burning of "Demolition Wastes," which are materials actually resulting from or produced by the complete or partial destruction or tearing down of a man-made structure or the clearing of any site to abate a nuisance, or land clearing for site preparation for development.

.0170 "Department" means the Oregon Department of Environmental Quality.

.0175 "Director" means the Director of the Lane Regional Air Pollution Authority and authorized deputies or officers.

.0180 "Dispersion Technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by any of the following:

A. Using that portion of a stack which exceeds good engineering practice stack height;

B. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant;

C. Adding a fan or reheater to obtain a less stringent emission limitation.

This definition does not include the following:

D. The reheating of a gas stream following use of a pollution control system for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

E. The use of smoke management in agricultural or silvicultural programs;

F. Combining the exhaust gases from several stacks into one stack.

.0185 "Distillate Fuel Oil" means any oil meeting the specifications of ASTM Grade 1 or Grade 2 fuel oils.

.0190 "Dry Material" includes, but is not limited to, dried wood, feed, seed, or other materials.

.0195 "Emission" means a release into the ambient air of air contaminants.

.0200 "Emission Point" means the location, place in horizontal plane and vertical elevation at which an emission enters the outdoor atmosphere.

.0205 "Emission Reduction Credit Banking" means to reserve emission reductions for future use by the reserver or assignee.

.0210 "Emission Unit" means any part of a stationary source (including specific process equipment) which emits or would have the potential to emit any air contaminant subject to regulation under the Clean Air Act, State of Oregon laws, or these regulations.

.0215 "Eugene/Springfield Air Quality Maintenance Area" means that area described in Section 4.6.2.1 and Figure 4.6.2.1--1 of the State of Oregon State Implementation Plan Revision, Eugene/Springfield AQMA, as approved by the Board on November 6, 1980.

.0220 "Existing Source" means any air contaminant source in existence prior to the date of adoption of rules affecting that source.

.0225 "Expressway" means a divided arterial highway for through traffic with full or partial control of access and generally with grade separations at major intersections.

.0230 "Fire Hazard" means the presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare, or to adjacent lands.

.0235 "Fire Permit Issuing Agency" means any governmental fire permit issuing agency, such as city fire department, rural fire protection district, water district, forest protection district or county court or board of county commissioners or their designated representative, as applicable.

.0240 "Freeway" means an expressway with full control of access.

.0245 "Fugitive Emissions" means emissions of any air contaminant which escapes to the ambient air from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.

.0250 "Garbage" means putrescible animal and vegetable wastes.

.0255 "Gasoline" means any petroleum distillate having a Reid vapor pressure of four (4) pounds per square inch or greater.

.0260 "Good Engineering Practice Stack Height" means the greater of:

A. Sixty-Five (65) meters;

B. $Hq = H + 1.5 L$ where:

(1) Hq = good engineering practice stack height (in meters) measured from the ground level elevation at the base of the stack;
(2) H = height of nearby structure or structures (in meters) measured from ground level elevation at the base of the stack;
(3) L = lesser dimension (height or width) of the nearby structure or structures (in meters).

C. The height (in meters) demonstrated by a fluid model or a field study approved by the Authority which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutants as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, structures, or terrain obstacles.

.0265 "Growth Increment" means an allocation of some part of an airshed's capacity to accommodate future new minor sources, modifications of minor sources, and area source growth.

.0270 "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

.0275 "Hazardous Air Contaminant" means any air contaminant considered by the Authority to cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness and for which no ambient air standard exists.

.0280 "Highway Section" means a highway of substantial length between logical termini (major crossroads, population centers, major traffic generators, or similar major highway control elements) as normally included in a single location study or multi-year highway improvement program.

.0285 "Incineration Operation" means any operation in which combustion is carried on in an incinerator, for the principal purpose or with the principal result, of oxidizing wastes to reduce their bulk and/or facilitate disposal.

.0290 "Incinerator" means a combustion device specifically for destruction, by high temperature burning, of solid, semi-solid, liquid, or gaseous combustible wastes. This does not include devices such as open or screened barrels, drums, or process boilers.

.0295 "Indirect Source" means a facility, building, structure, installation, or any portion or combination thereof, which indirectly causes or may cause mobile source activity that results in emissions of an air contaminant for which there is a federal, state or local standard. Such Indirect Sources shall include, but shall not be limited to:

A. Highways and roads;

B. Parking facilities;

C. Retail, commercial and industrial facilities;

D. Recreation, amusement, sports and entertainment facilities;

E. Airports;

F. Office and government buildings;

G. Apartment and mobile home parks;

H. Educational facilities;

I. Hospital facilities; and

J. Religious facilities.

.0300 "Indirect Source Construction Permit" means a written permit in letter form issued by the Authority, bearing the signature of the Director, which authorizes the permittee to commence construction of an indirect source, under construction and operation conditions and schedules as specified in the permit.

.0305 "Indirect Source Emission Control Program (ISECP)" means a program which reduces mobile source emissions resulting from the use of the Indirect Source.

.0310 "Industrial Area" means land which is zoned or used for industrial operations, including manufacturing.

.0315 "Industrial Open Burning" means the open burning of "industrial wastes," which are materials produced as a direct result of any manufacturing or industrial process.

.0320 "Land Clearing" means the removal of trees, brush, logs, stumps, debris or man-made structures for the purpose of site clean-up or site preparation for construction.

.0325 "Major Source" means a stationary source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate (as defined in Title 38).

.0330 "Mercury" means the element mercury, excluding any associated elements and includes mercury in particulates, vapors, aerosols, and compounds.

.0335 "Mercury Ore" means any mineral mined specifically for its mercury content.

.0340 "Mercury Ore Processing Facility" means a facility processing mercury ore to obtain mercury.

.0345 "Mercury Chlor-Alkali Cell" means a device which is basically composed of an electrolyzer section and denuder (decomposer) section, and which utilizes mercury to produce chlorine gas, hydrogen gas, and alkali metal hydroxide.

.0350 "Mobile Source" means self-propelled vehicles, powered by internal combustion engines, including but not limited to automobiles, trucks, motorcycles and aircraft.

.0355 "Motor Vehicle" means any self-propelled vehicle designed for transporting persons or property on a public street or highway.

.0358 "New Source" means any air contaminant source not in existence prior to adoption of rules affecting that source.

.0360 "Nonattainment Area" means a geographical area within the jurisdiction of the Authority which exceeds any federal, state or local primary or secondary ambient air quality standard as designated by the Board and the Environmental Quality Commission and approved by the Environmental Protection Agency.

.0365 "Nuisance to the Public" means an interference with a right or privilege common to members of the public, as determined through a formal process by the Board.

.0370 "Odor" means the property of a substance which allows its detection by the sense of smell.

.0375 "Off-Street Area or Space" means any area or space not located on a public road dedicated for public use.

.0380 "Offset" means an equivalent or greater emission reduction which is required prior to allowing an emission increase from a new major source or major modification of a source.

.0385 "Opacity" means the degree to which an emission reduces transmission of light or obscures the view of an object in the background.

.0390 "Opacity Readings" are the individual readings which comprise a visual opacity determination.

.0395 "Open Outdoor Burning" includes burning in open outdoor fires, burn barrels, and incinerators which do not meet emission limitations specified in Section 33-020 of these Rules, and any other outdoor burning which occurs in such a manner that combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.

.0400 "Parking and Traffic Circulation Plan" means a plan developed by a city, county or regional government or regional planning agency, the implementation of which assures the attainment and maintenance of the state and local ambient air quality standards.

.0405 "Parking Facility" means any building, structure, lot or portion thereof, designed and used primarily for the temporary storage of motor vehicles in designated parking spaces.

.0410 "Parking Space" means any off-street area of space below, above or at ground level, open or enclosed, that is used for parking one motor vehicle at a time.

.0415 "Particle Fallout Rate" means the weight of particulate matter which settles out of the air in a given length of time over a given area.

.0420 "Particleboard" means mat-formed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.

.0425 "Particulate Matter" means any matter except uncombined water which exists as a liquid or solid at standard conditions.

.0430 "Person" means any individual, public or private corporation, political subdivision, agency, board, department, or bureau of the state, municipality, partnership, association, firm, trust, estate, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

.0435 "Plant Site Emission Limit" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source.

.0440 "Plywood" means a flat panel built of a number of thin sheets of veneer of wood.

.0445 "Population" means that population estimate most recently published by the Center for Population Research and Census, Portland State University, or any other population estimate approved by the Authority.

.0450 "Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

.0455 "p.p.m. (parts per million)" means parts of air contaminant per million parts of air on a volume basis.

.0460 "Process Unit" includes all equipment and appurtenances for the processing of bulk material which are united physically by conveyor or chute or pipe or hose for the movement of product material provided that no portion or item of the group will operate separately with product material not common to the group operation. Such a grouping is considered encompassing all the equipment used from the point of initial charging or feed to the point or points of discharge of material where such discharge will:

A. Be stored,

B. Proceed to a separate process, or

C. Be physically separated from the equipment comprising the group.

.0465 "Process Weight" means total weight of the materials, including solid fuels but not including liquid and gaseous fuels and combustion air introduced into any process unit which may cause any emission into the atmosphere.

.0470 "Propellant" means a fuel and oxidizer physically or chemically combined containing beryllium or beryllium compounds, which undergoes combustion to provide rocket propulsion.

.0475 "Public nuisance" see "Nuisance to the Public."

.0480 "Reasonable Receptor and Exposure Sites" means locations where people might reasonably be expected to be exposed to air contaminants.

.0485 "Refuse" means unwanted matter.

.0490 "Refuse Burning Equipment" means a device designed to reduce the volume of refuse by combustion.

.0495 "Regional Planning Agency" means any planning agency which has been recognized as a substate-clearinghouse for the purposes of conducting project review under the United States Office of Management and Budget Circular Number A-95, or other governmental agency having planning authority.

.0500 "Residential Area" means land which is zoned or used for single or multiple family or suburban residential purposes.

.0505 "Residential Open Burning" means the open burning of clean wood, paper products, and yard debris which are actually generated in or around a dwelling for four (4) or fewer family living units. Once this material is removed from the property of origin it becomes commercial waste. Such materials actually generated in or around a dwelling of more than four (4) family living units are commercial wastes.

.0510 "Residual Fuel Oil" means any oil meeting the specifications of ASTM Grade 4, Grade 5 or Grade 6 fuel oils.

.0515 "Resource Recovery Facility" means any facility at which municipal solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing municipal solid waste for reuse. Energy conversion facilities must utilize municipal solid waste to provide fifty (50) percent or more of the heat input to be considered a resource recovery facility.

.0520 "Ringelmann Chart" means the Ringelmann Smoke Chart with instructions for use as published in May, 1967, by the United Stated Bureau of Mines.

.0525 "Rule" means any agency directive, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirement of any agency. The term includes the amendment or repeal of a prior rule, but does not include:

A. Internal management directives, regulations or statements between agencies, or their officers or their employees, or within an agency, between its officers or between employees, unless hearing is required by statute, or action by agencies directed to other agencies or other units of government.

B. Declaratory rulings issued pursuant to ORS 183.410 or 305.105.

.0530 "Secondary Emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a source or modification, but do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:

A. Emissions from ships and trains coming to or from a facility;

B. Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a source or modification.

.0535 "Slash" means forest debris of woody vegetation to be burned under the Oregon Smoke Management Plan administered by the Oregon Department of Forestry pursuant to ORS. 477.515. The burning of such slash is related to the management of forest land and does not include the burning of any other material created by land clearing.

.0540 "Smoke" means small gas-borne particles resulting from incomplete combustion, consisting predominantly of carbon, ash and other combustible materials present in sufficient quantity to be observable.

.0545 "Source" means any building, structure, facility, installation or combination thereof which emits or is capable of emitting air contaminants to the atmosphere and is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control.

.0550 "Special Problem Area" means the formally designated Eugene/Springfield AQMA and other specifically defined areas that the Board and the Environmental Quality Commission may formally designate in the future.

.0555 "Standard Conditions" means a gas temperature of sixty-eight (68) degrees Fahrenheit and a gas pressure of 29.92 inches of mercury.

.0560 "Standard Cubic Foot (SCF)" means that amount of gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor at standard conditions.

.0565 "Startup" means commencement of operation of a new or modified source resulting in release of contaminants to the ambient air.

.0570 "Tempering Oven" means any facility used to bake hardboard following an oil treatment process.

.0575 "Threshold Level of Olfactory Detection" means the odor perception threshold for fifty percent (50%) of the odor panel as determined by the ASTM procedure DI 391-57 Standard Method of Measurement of Odor in Atmospheres (Dilution method), or an equivalent method.

.0580 "Uncombined Water" means water which is not chemically bound to a substance.

.0585 "Vehicle Trip" means a single movement by a motor vehicle which originates or terminates at or uses an Indirect Source.

.0590 "Veneer" means a single flat panel of wood not exceeding one-quarter (¼) inch in thickness, formed by slicing or peeling from a log.

.0595 "Visual Opacity Determination" consists of a minimum of twenty-four (24) opacity readings recorded every fifteen (15) seconds and taken by a trained observer.

.0600 "Wigwam Waste Burner" means a burner which consists of a single combustion chamber, which has the general features of a truncated cone and is used for incineration of refuse.

.0605 "Yard Debris" means wood, needle, or leaf materials from trees, shrubs, or plants from the property around a dwelling unit.

LANE REGIONAL AIR POLLUTION AUTHORITY

TITLE 34

Air Contaminant Discharge Permits

Section 34-001 General Policy and Discussion

In order to restore and maintain Lane County air quality in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the County, it is the policy of the Lane Regional Air Pollution Authority to require a permit to discharge air contaminants from certain sources. As a result, no person shall construct, install, establish, modify, enlarge, develop, or operate an air contaminant source listed in Section 34-025 (Table A), without first obtaining a permit from the Authority to discharge air contaminants. In addition, for those sources not listed in Section 34-025 (Table A) which have emissions of air contaminants, the Director may require registration with the Authority.

Section 34-005 Definitions

All relevant definitions for this title can be found with the general definitions listed in Title 14.

Section 34-010 General Procedures for Obtaining Permits

1. Any person intending to construct, install, or establish a new source, renew an expired permit, modify an existing source with substantial changes to the process or emission control equipment, or increase the emissions of air contaminants beyond allowable rates established by regulation or permit shall submit a completed application on forms provided by the Authority and containing the following information:

   A. Name, address, and nature of business;

   B. A description of the production processes and a related flow chart;

   C. A plot plan showing location of all air contaminant sources, all discharge points, and the surrounding residential and commercial property;

   D. Type and quantity of fuels used;

   E. Amount, nature, and duration of all emissions of air contaminants;

   F. Estimated efficiency of air pollution control equipment;

   G. Other pertinent information required by the Authority.

2. Within fifteen (15) days after receiving the permit application, the Authority will review the application to determine the adequacy of the information submitted:

A. If the Authority determines that additional information is needed, it will promptly request the needed information from the applicant. The application will not be considered complete for processing until the requested information is received. The application will be considered to be withdrawn if the applicant fails to submit the requested information within ninety (90) days of the request.

B. If, in the opinion of the Director, additional measures are necessary to gather facts regarding the application, the Director will notify the applicant of his intent to institute said measures and the timetable and procedures to be followed. The application will not be considered complete for processing until the necessary additional fact-finding measures are completed.

C. When the information in the application is deemed adequate, the applicant will be notified that the application is complete for processing.

D. If, upon review of an application, the Authority determines that a permit is not required, the Authority shall notify the applicant in writing of this determination. Such notification shall constitute final action by the Authority on the application.

E. Following determination that it is complete for processing, each application will be reviewed on its own merits, in accordance with the provisions of all applicable statutes, rules and regulations of the State of Oregon and the Lane Regional Air Pollution Authority.

3. In the event the Authority is unable to complete action on an application within forty-five (45) days after notification that the application is complete for processing, the applicant shall be deemed to have received a temporary or conditional permit. Caution should be exercised by the applicant under a temporary or conditional permit since it will expire upon final action by the Authority to grant or deny the original application, and since such temporary or conditional permit does not authorize any construction, activity, operation, or discharge which will violate any of the laws, rules, or regulations of the State of Oregon or the Lane Regional Air Pollution Authority.

4. If the Authority proposes to issue a permit, proposed provisions prepared by the Authority will be forwarded to the applicant for comment. The Authority shall issue public notice of its intent to issue an air contaminant discharge permit. The public notice shall allow thirty (30) days for written comment from the applicant, the public, and interested local, state, and federal agencies prior to issuance of the permit.

5. After thirty (30) days have elapsed since the date of mailing of the proposed provisions and the issuance of public notice, the Authority may take final action on the application for a permit. The Authority may adopt or modify the proposed provisions or recommend denial of a permit. In taking such action, the Authority shall consider the comments received regarding the proposed provisions and any other information obtained which may be pertinent to the application being considered.

6. The Authority shall promptly notify the applicant in writing of the final action taken on his application. If the conditions of the permit issued are different from the proposed provisions forwarded to the applicant for review, the notification shall include the reasons for the changes made. A copy of the permit issued shall be attached to the notification.

7. If the applicant is dissatisfied with the conditions or limitations of any permit issued by the Authority, he may request a hearing before the Board of Directors or its authorized representative. Such a request for hearing shall be made in writing to the Director within twenty (20) days of the date of mailing of the notification of issuance of the permit. Any hearing held shall be conducted pursuant to the rules of the Authority.

8. If the Authority proposes to deny issuance of a permit, it shall notify the applicant by registered or certified mail of the intent to deny and the reasons for denial. The denial shall become effective twenty (20) days from the date of mailing of such notice unless, within that time, the applicant requests a hearing. Such a request for a hearing shall be made in writing and shall state the grounds for the request. Any hearing held shall be conducted pursuant to the Rules of the Authority.

9. Permits issued by the Authority will specify those activities, operations, emissions and discharges which are permitted, as well as requirements, limitations and conditions which must be met.

10. No permit will be issued to an air contaminant source which is not in compliance with applicable rules, unless a compliance schedule is made a condition of the permit.

11. Each permit proposed to be issued or revised by the Authority shall be submitted to the Department of Environmental Quality at least thirty (30) days prior to the proposed issuance date.

12. A copy of each permit issued, modified, or revoked by the Authority pursuant to this section shall be promptly submitted to the Department.

13. A flow chart which summarizes the general procedures for air contaminant discharge permit issuance is contained in Figure 1 of this title.

14. The Authority may waive the procedures prescribed in these rules and issue special permits of duration not to exceed sixty (60) days from the date of issuance for unexpected or emergency activities, operations, emissions or discharges. Said permits shall be properly conditioned to insure adequate protection of property and preservation of public health, welfare and resources, and shall include provisions for compliance with applicable emissions standards of the Authority. Application for such permits shall be in writing and may be in the form of a letter which fully describes the emergency and the proposed activities, operations, emissions or discharges, as described in Section 34-010-1.

15. The Authority may institute modification of a permit due to changing conditions or standards, receipt of additional information, or other reason, by notifying the permittee by registered or certified mail of its intention to modify the permit. Such notification shall include the proposed modification and the reasons for modification. The modifications shall become effective twenty (20) days from the date of mailing of such notice unless, within that time, the permittee requests a hearing. Such a request for hearing shall be made in writing, and the hearing shall be conducted pursuant to the rules of the Authority. A copy of the modified permit shall be forwarded to the permittee as soon as the modification becomes effective. The existing permit shall remain in effect until the modified permit is issued.

34-015 Special Permit Categories

1. Minimal Source Permits

   A. The Lane Regional Air Pollution Authority may designate any source as a "minimal source" based upon the following criteria:

      (1) Quantity and quality of emissions;

      (2) Type of operation;

      (3) Compliance with Authority regulations;

      (4) Minimal impact on the air quality of the surrounding region.

   B. If a source is designated as a minimal source, the compliance determination fee, provided by Section 34-025, will be collected in conjunction with plant site compliance inspections which will occur every five (5) years.

2. Multiple Source Permits

   A. When a single site includes more than one air contaminant source, a single permit may be issued including all sources located at the site. Such applications shall separately identify by subsection each air contaminant source.

   B. When an individual air contaminant source, which is included in a multiple-source permit, is subject to permit modification, revocation, suspension, or denial, such action by the Authority shall only affect that individual source without thereby affecting any other source subject to that permit.

3. Letter Permits

   A. Any source listed in Section 34-025 with no, or insignificant, air contaminant discharges may apply to the Authority for a letter permit.

   B. The determination of applicability of this letter permit shall be made solely by the Authority.

   C. If issued a letter permit, the application processing fee and/or annual compliance determination fee, provided by Section 34-025 may be waived by the Authority.

34-020 Permit Duration

1. The duration of permits may vary, but shall not exceed ten (10) years. The expiration date will be recorded on each permit issued.

2. Air Contaminant Discharge Permits issued by the Authority shall be automatically terminated:

   A. Within sixty (60) days after sale or exchange of the activity or facility which requires a permit;

B. Upon change in the nature of activities, operations, emissions or discharges from those of record in the last application;

C. Upon issuance of a new, renewal or modified permit for the same operation; or

D. Upon written request of the permittee.

3. In the event that it becomes necessary to suspend or terminate a permit due to non-compliance with the terms of the permit, unapproved changes in operation, false information submitted in the application, or any other cause, the Authority shall notify the permittee by registered or certified mail of its intent to suspend or revoke the permit. Such notification shall include the reasons for the suspension or revocation. The suspension or revocation shall become effective twenty (20) days from the date of mailing of such notice unless, within that time, the permittee requests a hearing. Such a request for hearing shall be made in writing and shall state the grounds for the request.

4. If the Authority finds that there is a serious danger to the public health or safety or that irreparable damage to a resource will occur, it may suspend or terminate a permit, effective immediately. Notice of such suspension or termination must state the reasons for action and advise the permittee that he may request a hearing. Such a request for hearing shall be made in writing within ninety (90) days of the date of suspension and shall state the grounds for the request.

5. Any hearing requested under this Section shall be conducted pursuant to the Rules of the Authority.

Section 34-025 Fees

1. All persons applying for a permit shall at the time of application pay the following fees:

   A. A filing fee of $75;

   B. An application processing fee; and

   C. An annual compliance determination fee.

   The compliance determination fee may be waived when applying for an existing permit modification. The application processing fee may be waived on permit renewals. Both of these fees may be waived when applying for letter permits.

2. The fee schedule contained in the listing of air contaminant sources in this section shall be applied to determine the permit fees on a standard industrial classification (SIC) basis.

3. Applications for multiple-source permits received pursuant to Section 34-015 shall be subject to a single $75 filing fee. The application processing fee and annual compliance determination fee for multiple-source permits shall be equal to the total amounts required by the individual source involved, as listed in this section.

4. Modifications of existing, unexpired permits which are instituted by the Authority due to changing conditions or standards, receipt of additional information, or any other reason pursuant to applicable statutes, and which do not require refiling or review of an application or plans and specifications shall not require submission of the filing fee or the application processing fee.

5. The annual compliance determination fee shall be paid at least thirty (30) days prior to the start of each subsequent permit year. Failure to remit the annual compliance determination fee on time shall be considered grounds for not issuing a permit or for terminating an existing permit.

6. If a permit is issued for a period of less than one year, the applicable annual compliance determination fee shall be equal to the full annual fee. If a permit is issued for a period greater than twelve (12) months, the applicable annual compliance determination fee shall be prorated by multiplying the annual compliance fee by the number of months covered by the permit and dividing by twelve (12).

7. If a temporary or conditional permit is issued in accordance with adopted procedures, fees submitted with the application shall be applied to the regular permit when it is granted or denied.

8. All fees shall be made payable to the Authority.

9. Table A in this Section lists all air contaminant sources required to have a permit and the associated fee schedule.

Section 34-030 Source Emission Tests

1. Upon request of the Director, the person responsible for a suspected source of air contaminants shall make or have made a source test and shall submit a written report to the Director which describes the nature and quantity of air contaminants emitted, the specific operating conditions when the test was made, and other pertinent data which the Director may require. The source shall be evaluated at maximum operating capacities.

2. All sampling and testing shall be conducted in accordance with the methods approved by the Authority.

3. The Director may conduct tests of emissions of air contaminants from any source, and may require any person in control of an air contamination source to provide necessary holes in stacks or ducts and proper sampling and testing facilities, as may be necessary and reasonable for the accurate determination of the nature and quantity of air contaminants which are emitted as a result of operation of the source. Upon request, the Director shall supply a copy of the test results to the person responsible for the source of air contaminant emissions.

Section 34-035 Upset Conditions

1. Emissions exceeding any of the limits established in these rules may not be deemed to be in violation of these rules, if they were caused as a direct result of upset conditions in or breakdown of any operating equipment which was unavoidable and which was not caused or contributed to through careless or unsafe operation, or as a direct result of the shutdown of such equipment for scheduled maintenance, if the requirements of this section are met.

2. If the Director determines that the excessive emissions are harmful to the public health or welfare, they will be deemed to be in violation of these rules.

3. Each such occurence shall be reported to the Director as soon as reasonably possible but at least within four (4) hours of the occurence of the breakdown or upset condition.

4. The person responsible for the source of excessive emissions shall, with all practicable speed, initiate and complete appropriate actions to correct the conditions causing the excessive emissions. Upon request of the Director, that person shall submit a full written report to the Director of the occurence, the known causes, and the actions taken to mitigate the emissions and meet the requirements of this section.

5. No later than forty-eight (48) hours after the start of an upset condition or breakdown, the person responsible for the source of excessive emissions shall discontinue operation of the equipment or facility causing the excess emissions. The Director may, for demonstrated good cause which includes but is not limited to equipment availability, difficulty of repairs, and nature and quantity of emissions, authorize an extension of operation beyond the 48-hour period.

6. For scheduled maintenance which will produce excessive emissions, a report shall be submitted at least twenty-four (24) hours prior to shutdown and contain the following information:

   A. Identification of the specific facilities to be taken out of service;

   B. Statement of the nature and quantity of emissions of air contaminants likely to occur during the shutdown period;

   C. Identification of the measures that will be taken to minimize the length of the shutdown period and minimize air contaminant emissions. If mitigating measures are impractical, reasons acceptable to the Director must be given.

7. Scheduled maintenance which will produce excessive emissions is subject to subsection 2 of this section and shall occur, to the extent practicable, during periods of good atmospheric ventilation.

Section 34-040 Records

The Director may from time to time require owners or operators of air contaminant emission sources to maintain records of, and periodically report to the Authority, information on the nature and quantity of emissions and other such information deemed by the Director to be necessary to determine whether or not such sources are in compliance with the rules of the Authority.

Section 34-045 Registration

For those air contaminant sources not listed in Table A of Section 34-025, the Director may require registration by the owner or operator of the source on forms provided by the Authority.

Section 34-050 Compliance Schedules for Existing Sources Affected by New Rules

1. No existing source of air contaminant emissions will be allowed to operate out of compliance with the provisions of new rules unless the owner or operator of that source first obtains a Board-approved compliance schedule which lists the steps being taken to achieve compliance and the final date when compliance will be achieved. Approval of a reasonable time to achieve compliance shall be at the discretion of the Board.

2. The owner or operator of any existing air contaminant source found by the Director to be in non-compliance with the provisions of new rules shall submit to the Board for approval a proposed schedule of compliance to meet those provisions. This schedule shall be in accordance with time tables contained in the new rules or in accordance with an administrative order by the Director. This schedule shall contain, as necessary, reasonable time milestones for engineering, procurement, fabrication, equipment installation and process refinement. This request shall also contain documentation of the need for the time extension to achieve compliance and the justification for each of the milestones indicated in the schedule.

3. Within one hundred and twenty (120) days of the submittal date of the request, the Board shall act to either approve or disapprove the request. A schedule for compliance becomes effective upon the date of the written order of the Board.

4. Compliance schedules of longer than eighteen (18) months' duration shall contain requirements for periodic reporting of progress toward compliance.

5. An owner or operator of an air contaminant source operating in non-compliance with these rules but under an approved compliance schedule, who fails to meet that schedule or make reasonable progress toward completion of that schedule, may be subject to enforcement procedures in accordance with these rules.

TABLE A

AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE

NOTE: Persons who operate boilers shall include fees as indicated in Items 58 or 59, or 60 in addition to fees for any other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fees to be Submitted with Application to Modify Permit
1. Seed cleaning located in special control areas, commercial operations only (not elsewhere included)	0723	75	100	190	365	265	175
2. Smoke houses with 5 or more employes	2013	75	100	135	310	210	175
3. Flour and other grain mill productrs in special control areas	2041						
a) 10,000 or more t/y		75	325	375	775	450	400
b) Less than 10,000 t/y		75	250	160	485	235	325
4. Cereal preparations in special control areas	2043	75	325	270	670	345	400
5. Blended and prepared flour in special control areas	2045						
a) 10,000 or more t/y		75	325	270	670	345	400
b) Less thn 10,000 t/y		75	250	135	460	210	325
6. Prepared feeds for animals and fowl in special control areas	2048						
a) 10,000 or more t/y		75	325	375	775	450	400
b) Less than 10,000 t/y		75	200	295	570	370	275
7. Beet sugar manufacturing	2063	75	425	1860	2360	1935	500

TABLE A ntinued)

AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE

NOTE: Persons who operate boilers shall include fees as indicated in Items 58 or 59, or 60 in addition to fees for any other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fees to be Submitted with Application to Modify Permit
8. Rendering plant	2077						
a) 10,000 or more t/y		75	250	460	785	535	325
b) Less than 10,000 t/y		75	250	270	595	345	325
9. Coffee roasting	2095	75	200	245	520	320	275
10. Sawmill and/or planing	2421						
a) 25,000 or more bd.ft./shift		75	200	375	650	450	275
b) Less than 25,000 bd.ft./shift		75	75	270	420	345	150
11. Hardwood mills	2426	75	75	245	395	320	150
12. Shake and shingle mills	2429	75	75	295	445	370	150
13. Mill work with 10 employees or more	2431	75	150	295	520	370	225
14. Plywood manufacturing	2435 & 2436						
a) Greater than 25,000 sq.ft./hr., 3/8" basis		75	625	755	1455	830	700
b) Less than 25,000 sq.ft./hr., 3/8" basis		75	450	520	1035	585	525
15. Veneer manufacturing only (not elsewhere included	2435 & 2436	75	100	270	445	345	175
16. Wood preserving	2491	75	150	270	495	345	225
17. Particleboard manufacturing	2492	75	625	890	1590	965	700

TABLE A (Continued)

AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE

NOTE: Persons who operate boilers shall include fees as indicated in Items 58 or 59, or 60 in addition to fees for any other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fees to be Submitted with Application to Modify Permit
18. Hardboard manufacturing	2499	75	625	730	1430	805	700
19. Battery separator mfg.	2499	75	100	540	715	615	175
20. Furniture and fixtures	2511						
a) 100 or more employees		75	200	375	650	450	275
b) 10 employees or more but less than 100 employees		75	125	245	445	320	200
21. Pulp mills, paper mills, and paperboard mills	2611 2621 2631	75	1250	3235	4560	3310	1325
22. Building paper and buildingboard mills	2661	75	200	245	515	320	275
23. Alkalies and chlorine mfg.	2812	75	350	645	1070	720	425
24. Calcium carbide manufacturing	2819	75	375	645	1095	720	450
25. Nitric acid manufacturing	2819	75	250	325	650	400	325
26. Ammonia manufacturing	2819	75	250	375	700	450	325
27. Industrial inorganic and organic chemicals manufacturing (not elsewhere included)	2819	75	325	460	860	535	400
28. Synthetic resin manufacturing	2819	75	250	375	700	450	325
29. Charcoal manufacturing	2861	75	350	780	1205	855	425
30. Herbicide manufacturing	2879	75	625	3235	3935	3310	700

TABLE A (Continued)

AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE

NOTE: Persons who operate boilers shall include fees as indicated in Items 58 or 59, or 60 in addition to fees for any other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fees to be Submitted with Application to Modify Permit
31. Petroleum refining	2911	75	1250	3235	4560	3310	1325
32. Asphalt production by distillation	2951	75	250	375	700	450	325
33. Asphalt blowing plants	2951	75	250	485	810	560	325
34. Asphaltic concrete paving plants	2951						
a) Stationary		75	250	295	620	370	325
b) Portable		75	250	375	700	450	325
35. Asphalt felts and coating	2952	75	250	565	890	640	325
36. Blending, compounding, or refining of lubricating oils and greases	2992	75	225	350	650	425	300
37. Glass container manufacturing	3221	75	250	460	785	535	325
38. Cement manufacturing	3251	75	800	2370	3245	2445	875
39. Redimix concrete	3273	75	100	160	335	235	175
40. Lime manufacturing	3274	75	375	245	695	310	450
41. Gypsum products	3275	75	200	270	545	345	275
42. Rock crusher	3295						
a) Stationary		75	225	295	595	370	300
b) Portable		75	225	375	675	450	300

TABLE A (Continued)

AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE

NOTE: Persons who operate boilers shall include fees as indicated in Items 58 or 59, or 60 in addition to fees for any other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fees to be Submitted with Application to Modify Permit
43. Steel works, rolling and finishing mills, electro-metallurgical products	3312 & 3313	75	625	645	1345	720	700
44. Incinerators							
a) 1000 lbs/hr and greater capacity		75	375	245	695	320	450
b) 40 lbs/hr to 1000 lbs/hr capacity		75	125	190	390	265	200
45. Gray iron and steel foundries	3321						
Malleable iron foundries	3322						
Steel investment foundries	3324						
Steel foundries (not elsewhere classified)	3325						
a) 3,500 or more t/y production		75	625	565	1265	640	700
b) Less than 3,500 t/y production		75	150	295	520	370	225
46. Primary aluminum production	3334	75	1250	3235	4560	3310	1325
47. Primary smelting of zirconium or hafnium	3339	75	6250	3235	9560	3310	6325
48. Primary smelting and refining of ferrous and nonferrous metals (not elsewhere classified)	3339						
a) 2,000 or more t/y production		75	625	1400	2100	1475	700
b) Less than 2,000 t/y production		75	125	540	740	615	200
49. Secondary smelting and refining of nonferrous metals	3341	75	300	375	750	450	375

TABLE A (Continued)

AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE

NOTE: Persons who operate boilers shall include fees as indicated in Items 58 or 59, or 60 in addition to fees for any other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fees to be Submitted with Application to Modify Permit
50. Nonferrous metals foundries	3361 & 3362	75	150	325	550	400	225
51. Electroplating, polishing, and anodizing with 5 or more employees	3471	75	125	245	445	320	200
52. Galvanizing and pipe coating--exclude all other activities	3479	75	125	245	445	320	200
53. Battery manufacturing	3691	75	150	325	550	400	225
54. Grain elevators--intermediate storage only, located in special control areas	4221						
a) 20,000 or more t/y		75	225	510	810	585	300
b) Less than 20,000 t/y		75	125	245	445	320	200
55. Electric power generation	4911*						
a) Wood or coal fired--Greater than 25MW		75	5000	3275	8350	3350	5075
b) Wood or coal fired--Less than 25MW		75	3000	1615	4690	1690	3075
c) Oil fired		75	450	780	1305	855	525
56. Gas production and/or mfg.	4925	75	475	375	925	450	550
57. Grain elevators--terminal elevators primarily engaged in buying and/or marketing grain--in special control areas	5153						
a) 20,000 or more t/y		75	625	645	1345	720	700
b) Less than 20,000 t/y		75	175	245	495	320	250

TABLE A (continued)

AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE

NOTE: Persons who operate boilers shall include fees as indicated in Items 58 or 59, or 60 in addition to fees for any other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fees to be Submitted with Application to Modify Permit
58. Fuel burning equipment within the boundaries of Eugene-Springfield Air Quality Maintenance Area***	4961**	(Fees will be based on the total aggregate heat input of all boilers at the site.)					
a) Residual or distillate oil fired, 250 million or more btu/hr (heat input)		75	200	245	520	320	275
b) Residual or distillate oil fired, 5 or more but less than 250 million btu/hr (heat input)		75	125	135	335	210	200
c) Residual oil fired, less than 5 million btu/hr (heat input)		75	50	100	200	150	100
59. Fuel burning equipment within the boundaries of Eugene-Springfield Air Quality Maintenance Area***	4961**						

*Excluding hydroelectric and nuclear generating projects, and limited to utilities.
**Including fuel burning equipment generating steam for process or for sale but excluding power generation (SIC# 4911).
***Maps of these areas are attached. Legal descriptions are on file in the Authority.

TABLE A (Continued)

AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE

NOTE: Persons who operate boilers shall include fees as indicated in Items 58 or 59, or 60 in addition to fees for any other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fees to be Submitted with Application to Modify Permit
a) Wood or coal fired, 35 million or more btu/hr (heat input)		75	200	245	520	320	275
b) Wood or coal fired, less than 35 million btu/hr (heat input)		75	50	135	260	185	125
60. Fuel burning equipment outside the boundaries of Eugene-Springfield Air Quality Maintenance Area	4961**			(Fees will be based on the total aggregate heat input of all boilers at the site.)			
All wood, coal, and oil fired greater than 30 X 60^6 btu/hr (heat input)		75	125	135	335	210	200
61. New sources not listed herein which would emit 10 or more tons per year of any air contaminants including but not limited to particulates, SO_x, or NO_x, or hydrocarbons, if the source were to operate uncontrolled.							
a) High cost		75	****	2000	****	2075	****
b) Medium Cost		75	****	350	****	425	****
c) Low cost		75	****	150	****	225	****

TABLE A (Continued)

AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE

NOTE: Persons who operate boilers shall include fees as indicated in Items 58 or 59, or 60 in addition to fees for any other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fees to be Submitted with Application to Modify Permit
62. New sources not listed herein which would emit significant malodorous emissions, as determined by Authority review of sources which are known to produce similar air contaminant emissions.							
a) High cost		75	****	2000	****	2075	****
b) Medium cost		75	****	350	****	425	****
c) Low cost		75	****	150	****	225	****
63. Existing sources not listed herein for which an air quality problem is identified by the Authority							
a) High cost		75	****	2000	****	2075	****
b) Medium cost		75	****	350	****	425	****
c) Low cost		75	****	150	****	225	****
64. Bulk gasoline plants	5100	75	55	160	290	235	130
65. Bulk gasoline terminals	5171	75	1000	540	1615	615	1075
66. Liquid storage tanks, 39,000 gallons or more capacity (not elsewhere included)	4200	75	50/tank	110/tank			

TABLE A (Continued)

AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE

NOTE: Persons who operate boilers shall include fees as indicated in Items 58 or 59, or 60 in addition to fees for any other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fees to be Submitted with Application to Modify Permit
67. Can coating	3411	75	1500	970	2545	1045	1575
68. Paper coating	2641 or 3861	75	500	325	900	400	575
69. Coating flat wood	2400	75	500	325	900	400	575
70. Surface coating, manufacturing	2500,3300						
a) 1-20 tons VOC/yr	3400,3500	75	25	90	190	165	100
b) 20-100 tons VOC/yr	3600,3700	75	100	215	390	290	175
c) Over 100 tons VOC/yr	3800,3900	75	500	430	1005	505	575
71. Flexographic or rotograveure printing over 60 tons VOC/yr per plant	2751,1754	75	50/press	160/press			
72. New sources of VOC not listed herein which have the capacity or are allowed to emit 10 or more tons per year VOC							
a) High cost		75	****	2000	****	2075	****
b) Medium cost		75	****	350	****	425	****
c) Low cost		75	****	150	****	225	****

TABLE A (Continued)

AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE

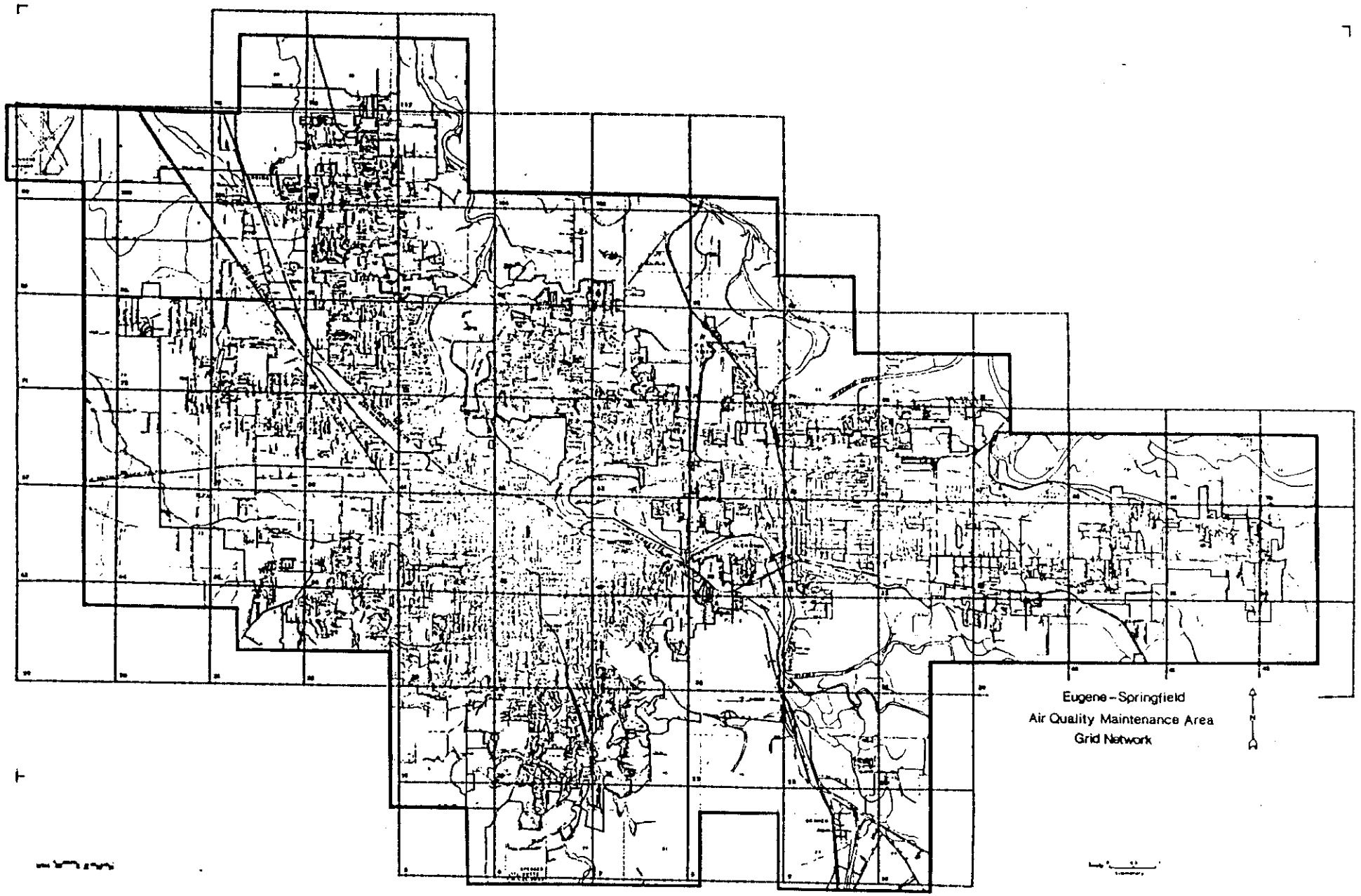
NOTE: Persons who operate boilers shall include fees as indicated in Items 58 or 59, or 60 in addition to fees for any other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fees to be Submitted with Application to Modify Permit

****Sources required to obtain a permit under items 61, 62, 63, and 72 will be subject to the following fee schedule to be applied by the Authority based upon the anticipated cost of processing.

Estimated Permit Cost	Application Processing Fee
Low Cost	$ 100.00 - $ 250.00
Medium Cost	$ 250.00 - $1500.00
High Cost	$1500.00 - $3000.00

As nearly as possible, applicable fees shall be consistent with sources of similar complexity as listed in Table A.



May 14, 1985

LRAPA TITLE 34, Table A

LANE REGIONAL AIR POLLUTION AUTHORITY

TITLE 38

New Source Review

Section 38-001 General Applicability

Any proposed construction of an air contaminant source (as defined in 38-005) or a modification of an air contaminant source must meet the requirements of this title. In addition, the owner or operator of a proposed source or modification must demonstrate that the proposed source or modification can comply with all additional requirements of the Authority, the Department of Environmental Quality and the U. S. EPA. The additional requirements may include, but are not limited to, new source performance standards, emission standards for hazardous air contaminants, and the obtaining of an Air Contaminant Discharge Permit.

Section 38-005 Definitions

The following definitions are relevant to this title. Additional general definitions can be found in Title 14.

1. "Air Contaminant Source" means, for the purposes of this title, any building, structure, or facility, or combination thereof, which emits or is capable of emitting air contaminants to the atmosphere. This definition does not include fuel-burning equipment used to heat one- or two-family dwellings or internal combustion engines used in motor vehicles, aircraft, and marine vessels.

2. "Baseline concentration" means that ambient concentration level for a particular regulated pollutant which existed in an area during the calendar year 1978. If no ambient air quality data is available in an area, the baseline concentration for any pollutant may be estimated using modeling based on actual emissions for the calendar year 1978. The following emissions increases or decreases will be included in the baseline concentration.

   A. Actual emission increases or decreases occurring before January 1, 1978, and

   B. Actual emission increases from any major source or major modification on which construction commenced before January 6, 1975.

3. "Baseline Period" means either calendar years 1977 or 1978. The Authority shall allow the use of a prior time period upon a determination that it is more representative of normal source operation.

4. "Best Available Control Technology (BACT)" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction of each air contaminant subject to regulation under the Clean Air Act which would be emitted from any proposed major source or major modification which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or

innovative fuel combustion techniques for control of such air contaminant. In no event shall the application of BACT result in emissions of any air contaminant which would exceed the emissions allowed by any applicable new source performance standard or any standard for hazardous air pollutants. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard shall, to the degree possible, set forth the emission reduction achievable and shall provide for compliance by prescribing appropriate permit conditions.

5. "Excessive Concentrations" for the purpose of determining good engineering practice stack height in a fluid model or field study means a maximum concentration due to downwash, wakes, or eddy effects produced by structures or terrain features which is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wake, or eddy effects.

6. "Lowest Achievable Emission Rate (LAER)" means that rate of emissions which reflects:

   A. The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or

   B. The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

   In no event shall the application of this term permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable new source performance standards or standards for hazardous air pollutants.

7. "Major Modification" means any physical change or change of operation of a source that would result in a net significant emission rate increase (as defined in this section) for any pollutant subject to regulation under the Clean Air Act. This criteria also applies to any pollutants not previously emitted by the source. Calculations of net emission increases must take into account all accumulated increases and decreases in actual emissions occurring at the source since January 1, 1978, or since the time of the last construction approval issued for the source pursuant to the rules for that pollutant, whichever time is more recent. If accumulation of emission increases results in a net significant emission rate increase, the modifications causing such increases become subject to the major modification requirements of this title, including the retrofit of required controls. For the purposes of this title, fugitive emissions shall be included in the calculation of emission rates of all air contaminants. Fugitive emissions are subject to the same control requirements and analyses required for emissions from identifiable stacks or vents. Secondary emissions shall not be included in calculations of potential emissions which are made to determine if a proposed source or modification is major. Once a source or modification is identified as being major, secondary emissions must be added to the primary emissions and become subject to these rules.

8. "Major Source" means a stationary source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate (as defined in this section). For the purposes of this title,

fugitive emissions shall be included in the calculation of emission rates of all air contaminants. Fugitive emissions are subject to the same control requirements and analyses required for emissions from identifiable stacks or vents. Secondary emissions shall not be included in calculations of potential emissions which are made to determine if a proposed source or modification is major. Once a source or modification is identified as being major, secondary emissions must be added to the primary emissions and become subject to these rules.

9. "Modification of an Air Contaminant Source" means any physical change or change in operation of a source which would result in a non-permitted increase in the air contaminant emissions from that source.

10. "Nearby Structures" means those structures that are within a distance of five (5) times the lesser of the height or width dimension of the structure but not greater than 0.8 Km (one-half mile). The height of the structure is measured from the ground level elevation at the base of the stack.

11. "Significant Air Quality Impact" means an ambient air quality impact which is equal to or greater than:

		Pollutant Averaging Time			
Pollutant	Annual	24-hour	8-hour	3-hour	1-hour
SO_2	1.0 ug/m^3	5 ug/m^3		25 ug/m^3	
TSP	0.2 ug/m^3	1.0 ug/m^3			
NO_2	1.0 ug/m^3				
CO			0.5 mg/m^3		2 mg/m^3

For sources of volatile organic compounds (VOC), a major source or major modification will be deemed to have a significant impact if it is located within thirty (30) kilometers of an ozone nonattainment area and is capable of impacting the nonattainment area.

12. "Significant Emission Rate" means emission rates equal to or greater than the following for air pollutants regulated under the Clean Air Act:

Pollutant	Significant Emission Rate	
Carbon Monoxide	100	tons/year
Nitrogen Oxides	40	tons/year
Particulate Matter	25	tons/year
Sulfur Dioxide	40	tons/year
Volatile Organic Compounds	40	tons/year
Lead	0.6	ton/year
Mercury	0.1	ton/year
Beryllium	0.0004	ton/year
Asbestos	0.007	ton/year
Vinyl Chloride	1	ton/year

Section 38-010 General Requirements for Major Sources and Major Modifications

1. Prior to construction of new major sources or major modifications, the owner or operator must obtain from the Director authority to construct or modify the source, and a permit to discharge air contaminants. These are issued only after review and approval of the application according to the requirements of this title.

2. The owner or operator of a proposed new major source or major modification shall submit an application on forms provided by the Authority, together with all information necessary to perform any analysis or make any determination required under these rules. Such information shall include, but not be limited to:

   A. A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

   B. An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, seasonal, and yearly rates, showing the calculation procedure;

   C. A detailed schedule for construction of the source or modification;

   D. A detailed description of the system of continuous emission reduction which is planned for the source or modification, and any other information necessary to determine that best available control technology or lowest achievable emission rate technology, whichever is applicable, would be applied;

   E. To the extent required by these rules, an analysis of the air quality impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and

   F. To the extent required by these rules, an analysis of the air quality impacts, and the nature and extent of all commercial, residential, industrial, and other growth which has occurred since January 1, 1978, in the area the source or modification would affect.

3. Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to these Rules or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this section who commences construction after the effective date of these regulations without applying for and receiving an air contaminant discharge permit, shall be subject to appropriate enforcement action.

4. Approval to construct shall become invalid if construction is not commenced within eighteen (18) months after receipt of such approval, if construction is discontinued for a period of eighteen (18) months or more, or if construction is not completed within eighteen (18) months of the scheduled time. The Authority may extend the eighteen (18) month period upon satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen (18) months of its respective projected and approved commencement date.

5. Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, state, or federal law.

6. Within thirty (30) days after receipt of an application to construct, or any addition to such application, the Authority shall advise the applicant of any deficiency in the application or in the information submitted. The date of the receipt of a complete application shall be, for the purpose of this section, the date on which the Authority received all required information.

7. Notwithstanding the requirements of Title 34 of these rules, but as expeditiously as possible and at least within six (6) months after receipt of a complete application, the Authority shall make a final determination on the application. This involves performing the following actions in a timely manner:

   A. Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

   B. Make available for a thirty (30) day period in at least one location a copy of the permit application, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

   C. Notify the public, by advertisement in a newspaper of general circulation in the area in which the proposed source or modification would be constructed, of the application, the preliminary determination, the extent of growth increment consumption that is expected from the source or modification, and the opportunity for a public hearing and for written public comment.

   D. Send a copy of the notice of opportunity for public comment to the applicant and to officials and agencies having jurisdiction over the location where the proposed construction would occur as follows: The chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency, any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the source or modification, the Oregon Department of Environmental Quality, and the U. S. Environmental Protection Agency.

   E. Upon determination that significant interest exists, provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations. For energy facilities, the hearing may be consolidated with the hearing requirements for site certification contained in OAR 345, Division 15.

   F. Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than ten (10) working days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Authority shall consider the

applicant's response in making a final decision. The Authority shall make all comments available for public inspection in the same location where the Authority made available preconstruction information relating to the proposed source or modification.

G. Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section.

H. Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Authority made available preconstruction information and public comments relating to the source or modification.

Section 38-015 Additional Requirements for Major Sources or Major Modifications Located in Nonattainment Areas

1. New major sources and major modifications which are located in designated nonattainment areas shall meet the following requirements:

   A. The owner or operator of the proposed major source or major modification must demonstrate that the source or modification will comply with the lowest achievable emission rate (LAER) for each nonattainment pollutant. In the case of a major modification, the requirement for LAER shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of LAER shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.

   B. The owner or operator of the proposed major source or major modification must demonstrate that all major sources owned or operated by such person (or by an entity controlling, controlled by, or under common control of such person) in the state are in compliance or on a schedule for compliance, with all applicable emission limitations and standards under the Clean Air Act.

   C. The owner or operator of the proposed major source or major modification must demonstrate that the source or modification will provide emission reductions ("offsets") as specified by these Rules.

   D. For cases in which emission reductions or offsets are required, the applicant must demonstrate that a net air quality benefit will be achieved in the affected area as described in Section 38-035 (Requirements for Net Air Quality Benefit) and that the reductions are consistent with reasonable further progress toward attainment of the air quality standards.

   E. An alternative analysis must be conducted for new major sources or major modifications of sources emitting volatile organic compounds or carbon monoxide locating in carbon monoxide or ozone nonattainment areas. The analysis must include an evaluation of alternative sites, sizes, production processes, and environmental control techniques for such proposed source or modification which demonstrates that benefits of the proposed source or modification significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

Section 38-020 Additional Requirements for Major Sources or Major Modifications in Attainment or Unclassified Areas (Prevention of Significant Deterioration)

1. New major sources or major modifications locating in areas designated attainment or unclassifiable shall meet the following requirements:

   A. The owner or operator of the proposed major source or major modification shall apply best available control technology (BACT) for each pollutant which is emitted at a significant emission rate (see Section 38-005). In the case of a major modification, the requirement for BACT shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of BACT shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.

   B. The owner or operator of the proposed major source or major modification shall demonstrate that the potential to emit any pollutant at a significant emission rate, in conjunction with all other applicable emissions increases and decreases (including secondary emissions), would not cause or contribute to air quality levels in excess of:

      (1) Any state or national ambient air quality standards, or

      (2) Any applicable increment established by the prevention of significant deterioration requirements (OAR 340-31-110 through 340-31-130), or

      (3) An impact on a designated nonattainment area greater than the significant air quality impact levels (see Section 38-005).

2. Sources or modifications with the potential to emit at rates greater than the significant emission rate but less than one hundred (100) tons/year, and which are greater than fifty (50) kilometers from a nonattainment area are not required to assess their impact on the nonattainment area.

3. If the owner or operator of a proposed major source or major modification wishes to provide emission offsets such that a net air quality benefit as defined in Section 38-035 is provided, the Authority may consider the requirements of Section 38-020-1.B. to have been met.

4. All estimates of ambient concentrations required under these Rules shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline of Air Quality Models" (OAQPS 1.2-080, U. S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N. C. 27711, April 1978). Where an air quality impact model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model substituted. Such a change must be subject to notice and opportunity for public comment and must receive approval of the Authority and the Environmental Protection Agency. Methods like those outlined in the "Workbook for the Comparison of Air Quality Models" (U. S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N. C. 27711, May 1978) should be used to determine the comparability of air quality models.

5. The owner or operator of a proposed major source or major modification shall submit with the application, subject to approval of the Authority, an analysis of ambient air quality in the area of the proposed project. This

analysis shall be conducted for each pollutant potentially emitted at a significant emission rate by the proposed source or modification. As necessary to establish ambient air quality levels, the analysis shall include continuous air quality monitoring data for any pollutant potentially emitted by the source or modification except for non-methane hydrocarbons. Such data shall relate to, and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that such data gathered over a portion or portions of that year or another representative year would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard or any applicable increment. A possible exemption to the monitoring requirement is outlined in paragraph "B," below.

A. Air quality monitoring which is conducted pursuant to this requirement shall be conducted in accordance with 40 CFR 58 Appendix B., "Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring" and with other methods on file with the Authority.

B. The Authority may exempt a proposed major source or major modification from monitoring for a specific pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would be less than the amounts listed below or that the concentrations of the pollutant in the area that the source or modification would impact are less than these amounts:

(1) Carbon monoxide--575 ug/m^3, 8-hour average;

(2) Nitrogen dioxide--14 ug/m^3, annual average;

(3) Total suspended particulate--10 ug/m^3, 24-hour average;

(4) Sulfur dioxide--13 ug/m^3, 24-hour average;

(5) Ozone--any net increase of 100 tons/year or more of volatile organic compounds from a source of modification subject to PSD is required to perform an ambient impact analysis, including the gathering of ambient air quality data;

(6) Lead--0.1 ug/m^3, 24-hour average;

(7) Mercury--0.25 ug/m_3, 24-hour average;

(8) Beryllium--0.0005 ug/m_3, 24-hour average;

(9) Fluorides--0.25 ug/m_3, 24-hour average;

(10) Vinyl Chloride--15 ug/m_3, 24-hour average;

(11) Total reduced sulfur--10 ug/m_3, 1-hour average;

(12) Hydrogen Sulfide--0.04 ug/m_3, 1-hour average;

(13) Reduced sulfur compounds--10 ug/m_3, 1-hour average;

C. The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such ambient air quality monitoring as the Authority may require as a permit condition to establish the effect which emissions of a pollutant (other than non-methane hydrocarbons) may have, or is having, on air quality in any area which such emissions would affect.

6. The owner or operator of a proposed major source or major modification shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator may be exempted from providing an analysis of the impact on vegetation having no significant commercial or recreational value.

7. The owner or operator shall provide an analysis of the air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth asociated with the major source or modification.

8. Where a proposed major source or major modification impacts or may impact a Class I area, the Authority shall provide notice to the Environmental Protection Agency and to the appropriate Federal Land Manager of the receipt of such permit application and of any preliminary and final actions taken with regard to such application. The Federal Land Manager shall be provided an opportunity in accordance with Section 38-010 to present a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air-quality-related values (including visiblity) of any federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Authority concurs with such demonstration, the permit shall not be issued.

Section 38-025 Exemptions for Major Sources and Major Modifications

1. Resource recovery facilities burning municipal refuse and sources subject to federally-mandated fuel switches may be exempted by the Authority from requirements of Section 38-015-1.C and 1.D, provided that:

   A. No growth increment is available for allocation to such source or modification, and

   B. The owner or operator of such source or modification demonstrates that every effort was made to obtain sufficient offsets and that every available offset was secured.

   (Such an exemption may result in a need to revise the State Implementation Plan to require additional control of existing sources.)

2. Temporary emission sources, which would be in operation at a site for less than two years, such as pilot plants and portable facilities, and emissions resulting from the construction phase of a new source or modification, must comply with Section 38-015-1.A and 1.B, or Section 38-020-1.A, whichever is applicable, but are exempt from the remaining requirements of Section 38-015 and Section 38-020, provided that the source or modification would impact no Class I area or no area where an applicable increment is known to be violated.

3. Proposed increases in hours of operation or production rates, which would cause emission increases above the levels allowed in an air contaminant discharge permit and would not involve a physical change in the source, may be exempted from the requirement of Section 38-020-1.A (Best Available Control Technology) provided that the increases cause no exceedances of an increment or standard and that the net impact on a nonattainment area is less than the significant air quality impact levels. This exemption shall not be allowed for new sources or modifications that received permits to construct after January 1, 1978.

Section 38-030 Baseline for Determining Credit for Offsets

The baseline for determining credit for emission offsets shall be the Plant Site Emission Limit as established in these Rules or, in the absence of a Plant Site Emission Limit, the actual emission rate for the source providing the offsets. Sources in violation of air quality emission limitations may not supply offsets from those emissions which are or were in excess of permitted emission rates. Offsets, including offsets from mobile and area source categories, must be quantifiable and enforceable before the Air Contaminant Discharge Permit is issued and must be demonstrated to remain in effect throughout the life of the proposed source or modification.

Section 38-035 Requirements for Net Air Quality Benefit for Major Sources and Major Modifications

1. A demonstration must be provided showing that the proposed offsets will improve air quality in the same geographical area affected by the new source or modification. This demonstration may require that air quality modeling be conducted according to the procedures specified in the "Guideline on Air Quality Models." Offsets for volatile organic compounds or nitrogen oxides shall be within the same general air basin as the proposed source. Offsets for total suspended particulate, sulfur dioxide, carbon monoxide and other pollutants shall be within the area of significant air quality impact.

2. For new sources or modifications having a significant air quality impact within a designated nonattainment area, the emission offsets must provide reductions which are equivalent or greater than the proposed increases. The offsets must be appropriate in terms of short-term, seasonal, and yearly time periods to mitigate the impacts of the proposed emissions. For new sources or modifications locating outside of a designated nonattainment area, which have a significant air quality impact on the nonattainment areas, the emissions offsets must be sufficient to reduce impacts to levels below the significant air quality impact level within the nonattainment area. Proposed major sources or major modifications which emit volatile organic compounds and are located in or within thirty (30) kilometers of an ozone nonattainment area shall provide reductions which are equivalent or greater than the proposed emission increases. An exemption will be granted for those sources located outside the AQMA if the applicant demonstrates that the proposed emissions will not impact the nonattainment area.

3. The emission reductions must be of the same type of pollutant as the emissions from the new source or modification. Sources of respirable particulate (less than three microns) must be offset with particulate in the same size range. In areas where atmospheric reactions contribute to pollutant levels, offsets may be provided from precursor pollutants if a net air quality benefit can be shown.

4. The emission reductions must be contemporaneous; that is, the reductions must take effect prior to the time of startup but not more than one year prior to the submittal of a complete permit application for the new source or modification. This time limitation may be extended as provided for in Section 38-040 (Emission Reduction Credit Banking). In the case of replacement facilities, the Authority may allow simultaneous operation of the old and new facilities during the startup period of the new facility, provided that net emissions are not increased during that time period.

Section 38-040 Emission Reduction Credit Banking

1. The owner or operator of a source of air pollution who wishes to reduce emissions by implementing more stringent controls than required by a permit, or by an applicable regulation, may bank such emission reductions (except any such emission reduction attributable to facilities for which tax credit has been received on or after January 1, 1981, may be banked or used for contemporaneous offsets but may not be sold without reimbursement of the tax credits). Cities, counties or other local jurisdictions may participate in the emissions bank in the same manner as a private firm.

2. Emission reduction credit banking shall be subject to the following conditions:

   A. To be eligible for banking, emission reduction credits must be in terms of actual emission decreases resulting from permanent continuous control of existing sources. The baseline for determining emission reduction credits shall be the actual emissions of the source at the Plant Site Emission Limit established pursuant to these Rules.

   B. Emission reductions may be banked for a specified period not to exceed ten (10) years unless extended by the Authority, after which time such reductions will revert to the Authority for use in attainment and maintenance of air quality standards or to be allocated as a growth margin.

   C. Emission reductions which are required pursuant to an adopted rule shall not be banked.

   D. Permanent source shutdowns or curtailments other than those used within one year for contemporaneous offsets, as provided in Section 38-035-4, are not eligible for banking by the owner or operator but will be banked by the Authority for use in attaining and maintaining standards. The Authority may allocate these emission reductions as a growth increment. The one (1) year limitation for contemporaneous offsets shall not be applicable to those shutdowns or curtailments which are to be used as internal offsets within a plant as part of a specific plan. Such a plan for use of internal offsets shall be submitted to the Authority and receive written approval within one (1) year of the permanent shutdown or curtailment. A permanent source shutdown or curtailment shall be considered to have occurred when a permit is modified, revoked or expires without renewal, pursuant to the criteria established in Title 34.

   E. The amount of banked emission reduction credits shall be discounted without compensation to the holder for a particular source category when new regulations requiring emission reductions are adopted by the Authority. The amount of discounting of banked emission reduction credits shall be calculated on the same basis as the reductions required

for existing sources which are subject to the new regulation. Banked emission reduction credits shall be subject to the same rules, procedures, and limitations as permitted emissions.

3. Emission reductions must be in the amount of five (5) tons/year or more to be creditable for banking.

4. Requests for emission reduction credit banking must be submitted in writing to the Authority and must contain the following documentation:

   A. A detailed description of the processes controlled,

   B. Emission calculations showing the types and amounts of actual emissions reduced,

   C. The date or dates of such reductions,

   D. Identification of the probable uses to which the banked reductions are to be applied,

   E. Procedure by which such emission reductions can be rendered permanent and enforceable.

5. Requests for emission reduction credit banking shall be submitted to the Authority prior to or within the year following the actual emissions reduction. The Authority shall approve or deny requests for emission reduction credit banking and, in the case of approvals, shall issue a letter to the owner or operator defining the terms of such banking. The Authority shall take steps to insure the permanence and enforceability of the banked emission reductions by including appropriate conditions in air contaminant discharge permits and by appropriate revision of the State Implementation Plan.

6. The Authority shall provide for the allocation of the banked emission reduction credits, in accordance with the uses specified by the holder of the emission reduction credits. When emission reduction credits are transferred, the Authority must be notified in writing. Any use of emission reduction credits must be compatible with local comprehensive plans, statewide planning goals, state laws and these Rules.

7. Operators of existing sources requesting emission reduction credit for banking shall at the time of application pay the following fees:

   A. Request for credit for any air contaminant of five (5) tons/year, but less than the rate equal to the significant emissions rate as defined in Section 38-005:

      (1) A filing fee of $75,

      (2) An application processing fee of $250,

      (3) An annual recordkeeping fee of $100.

   B. Request for credit for any air contaminant of a rate equal to or greater than a significant emission rate as defined in Section 38-005:

(1) A filing fee of $75,

(2) An application processing fee of $500,

(3) An annual recordkeeping fee of $100.

Section 38-045 Requirements for Non-Major Sources and Non-Major Modifications

1. The owner or operator of a proposed non-major source or non-major modification shall submit to the Director all information necessary to perform any analysis or make any determination required by these rules. Such information shall include the following:

   A. Plans and specifications for any proposed new equipment or proposed modifications to existing equipment drawn in accordance with acceptable engineering practices;

   B. A description of the process and a related flow chart;

   C. An estimation of the amount and type of air contaminants to be emitted by the proposed new source or modification;

   D. Any additional information which may be required by the Authority.

2. Within sixty (60) days of receipt of all required information, the Authority shall make a determination as to whether the proposed new source of modification is in accordance with the provisions of these rules.

   A. If the proposed construction is found to be in accordance with the provisions of these rules, the Authority shall issue a "Notice to Proceed" with construction. This issuance shall not relieve the owner or operator of the obligation of complying with all other titles of these rules.

   B. If the proposed construction is found not to be in accordance with the provisions of these rules, the Director may issue an order prohibiting construction. Failure to issue the order within the sixty (60) day period shall be considered a determination that the construction may proceed in accordance with the information provided in the application.

   C. Any person against whom an order prohibiting construction is issued may, within twenty (20) days from the date of mailing of the order, demand a hearing. The demand shall be in writing, shall state the grounds for a hearing, and shall be submitted to the Director. The hearing shall be conducted in accordance with these rules.

   D. Deviation from approved plans or specifications, without the written permission of the Director, shall constitute a violation of these rules.

   E. The Authority may require any order or other notice to be displayed on the premises designated. No person shall mutilate, alter, or remove such order or notice unless authorized to do so by the Authority.

3. Notice shall be provided in writing to the Authority of the completion of construction and the date when operation will commence. The Authority, following receipt of the notice of completion, shall inspect the premises.

TRB

SPECIFIC GUIDANCE FOR APPLYING VISIBLE EMISSION RULES FOR VENEER DRYERS

1. Observe and record a set of one-quarter minute increment opacity readings for a period of at least six minutes. When observed emissions are marginal, a longer reading period is warranted.

2. If the opacity exceeds 20 percent, a violation should be recorded and appropriate action taken to obtain compliance.

3. If the average of a set of readings is greater than 10 percent but less than 20 percent opacity, the reason or cause of the visible emissions should be investigated.

   a. If the excessive emissions are the direct result of equipment malfunctions, improper operation of process or control equipment, unauthorized operations, etc., appropriate corrective action (which may include a Notice of Violation) must be initiated.

   b. If all operations are determined to be normal, additional sets of opacity reading must be taken at later times to establish the ability of the facility to consistently perform with opacities of less than 10 percent.

4. Should the subsequent sets of observations indicate consistent opacity levels between 10 and 20 percent, an evaluation and review of the history of the emissions problem should be conducted. If this review indicates a history of opacity exceedances, appropriate corrective action must be required through negotiations with the source for a compliance schedule. A Notice of Violation or other enforcement action should be considered.

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

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MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. I , July 19, 1985, EQC Meeting

Proposed Amendment to OAR 340-25-315 (Veneer and Plywood Manufacturing Operations) to Include Emission Standards for Veneer Dryers Located in Special Problem Areas.

Background

Current standards governing veneer dryer emissions as specified in the Veneer and Plywood Manufacturing Operations Rule (OAR 340-25-315(1)) do not apply uniformly in all areas of the state. At the time the rule was adopted, it appeared that more stringent requirements would be set for Special Problem Areas. Based on subsequent evaluations, the Department now believes that a uniform veneer dryer emission standard should apply statewide. Therefore, an amendment to the Veneer and Plywood Manufacturing Operations Rule is proposed to provide the same specific emission limits and control measures for veneer dryers both inside and outside of special problem areas. Another part of the proposed rule modification would delete a section dealing with implementation of compliance dates which have passed.

Pursuant to the Commission's authorization (April 19, 1985) to hold a public hearing on the proposed rule changes, a hearing was held before a hearing officer on June 4, 1985 to receive testimony on the proposed rule changes.

Evaluation

Veneer dryers located in special problem areas are now excluded from the Veneer and Plywood Manufacturing Operations Rule. The proposed amendment is a modification of the rule such that the emission limits will apply uniformly to veneer dryers statewide. In addition, as a housekeeping action, a section of the rule requiring the operator of an emission source to submit a program and time schedule for installing emission control systems on veneer dryers would be deleted. The implementation dates of this requirement have expired. The proposed amendments are presented in Attachment A.

Additional details regarding the proposed rule modifications are included in the Request for Authorization to Hold a Public Hearing (Attachment B).

Written and oral comments on the proposed rule changes were received from four individuals. One of the commentors, representing the American Plywood Association, presented the consensus from a meeting in which six plywood plant operating companies were represented. The Hearing Officer's report and copies of the written testimony may be found in Attachment C.

Comments from the industry were in support of the rule change as proposed, indicating it would constitute simplification and consolidation of the existing rules and would be both acceptable and desirable.

Representatives of industry further suggested that the Veneer Dryer Emission Limits (OAR 340-30-020), which are a part of the specific Medford-Ashland AQMA Rule, would become redundant if the proposed Veneer and Plywood Manufacturing Operations Rule amendment is adopted. The visible emission standards in the Medford-Ashland AQMA Rule and the Veneer and Plywood Manufacturing Operations Rule (OAR 340-25-315) are identical. However, the Medford rule has a unique section which requires that control equipment be designed such that particulate collection efficiency can be practicably upgraded. The Department believes that the provisions of the Veneer and Plywood Manufacturing Operations Rule are adequate to allow the application of more restrictive emission limits in the Medford area in the future if necessary. The Department, therefore, agrees that the specific Medford rule (OAR 34030-020) can be deleted (Attachment D).

One written statement received during the public review process requested that serious consideration be given to changing the 10 percent average opacity rule governing wood-fired veneer dryers to 20 percent average. The commentor felt that this change was warranted because of the similar emissions generating characteristics of wood-fired boilers which are allowed 20 percent maximum opacity. The Department does not support a relaxation of the visual standards for direct wood-fired veneer dryers. This conclusion is based on the fact that there are veneer dryer emission systems which, over the years, have demonstrated the ability to operate within the 10 percent average operating opacity limit. Also, there are some fundamental differences in the functional operations of wood-fired boilers and heat sources for direct wood-fired veneer dryers which make it more practicable for dryers to be controlled to the lower visible emission standard.

Additional comments were made during the course of the public hearing which do not directly address the proposed rule modification, but rather were related to the Department's guideline for implementation of the "10 percent average operating opacity" standard for veneer dryers. This guideline may be found in the "Study of Veneer Dryer Visible Emissions" (Attachment B) of the Request for Public Hearing Authorization. The American Plywood

Association believes that the guideline is a change in the Department's initial interpretation of the 10 percent opacity standard and is "highly inappropriate". A representative of a major wood products company felt that implementation of the guideline could result in enforcement which is more strict than intended by the rule as adopted. The Department has reviewed the basis for the standards as outlined in the rule development background. Veneer dryers do not consistently operate at a given opacity range due to a combination of factors such as weather conditions, variations in the veneer being dryed, exactness of process control, etc. For this reason, the opacity rule was designed to accommodate occasional visual emissions above 10 percent, but which are less than the 20 percent maximum opacity limit. In recognition of these factors, the guidelines for application of the 10 percent average operating opacity standard have been revised.

Summation

1. Representatives of the wood products industry testified in support of the adoption of the proposed amendment of the Veneer and Plywood Manufacturing Operations Rule which would provide for uniform opacity and particulate emission standards statewide, thus eliminating the need for other specific veneer dryer emission rules within special problem areas.

2. No comments were received on the proposed housekeeping amendments which would delete the outdated requirement for submittal of a program and time schedule for installing emission control systems on veneer dryers.

3. The Veneer Dryer Emission Limitations (OAR 340-30-020) of the Specific Air Pollution Control Rules for the Medford-Ashland AQMA should be deleted to eliminate redundancy in the Air Quality Control Regulations. This deletion was suggested and unanimously supported by testimony from representatives of the wood products industry.

4. Public hearing testimony was received which requested that consideration be given to relaxing the wood-fired veneer dryer average opacity from 10 percent to 20 percent. The Department does not believe a relaxation of the opacity standard is necessary nor appropriate.

Director's Recommendation

Based on the Summation, it is recommended that the Environmental Quality Commission adopt the proposed modification to the Veneer and Plywood Manufacturing Operations Regulation and delete the Veneer Dryer Emission Limitations section from the Medford-Ashland AQMA Rule.

Fred Hansen

Attachments:
A. Amendments to OAR 340-25-315 (Veneer and Plywood Manufacturing Operations)
B. Request for Authorization to Hold a Public Hearing.
C. Hearing Officer's Report
D. Amendments to OAR 340-30-020 (Medford-Ashland AQMA Rules)

D. Neff:p
AP164
229-6480
July 3, 1985

PROPOSED RULE AMENDMENTS

Veneer and Plywood Manufacturing Operations

340-25-315 (1) Veneer Dryers

(a) Consistent with sections 340-25-310(1) through(4), it is the objective of this section to control air contaminant emissions, including but not limited to, condensible hydrocarbons such that visible emissions from each veneer dryer [located outside special problem areas] are limited to a level which does not cause a characteristic "blue haze" to be observable;

(b) No person shall operate any veneer dryer [outside a special problem area] such that visible air contaminants emitted from any dryer stack or emission point exceed:

(A) A design opacity of 10%;

(B) An average operating opacity of 10%; and

Amendment Notations:
[ ] = Delete
_____ = Add

(C) A maximum opacity of 20%.

Where the presence of uncombined water is the only reason for the failure to meet the above requirements, said requirements shall not apply.

(c) Particulate emissions from wood fired veneer dryers [located outside a special problem area] shall not exceed:

(A) 0.75 pounds per 1000 square feet of veneer dryed (3/8" basis) for units using fuel which has a moisture content by weight of 20% or less;

(B) 1.50 pounds per 1000 square feet of veneer dryed (3/8" basis) for units using fuel which as a moisture content by weight of greater than 20%;

(C) In addition to paragraphs 9(c)(A) and (B) of this section, 0.40 pounds per 1000 pounds of steam generated. The heat source of wood fired veneer dryers is exempted from rule 340-21-030.

[(d) After May 1, 1979, no person shall operate a veneer dryer in existence prior to May 1, 1979, located outside a special problem area unless:]

[(A) The owner or operator has submitted a program and time schedule for installing an emission control system which has been approved in writing by the Department as being capable of complying with subsection (1)(b) and (c) of this rule;]

(C) A maximum opacity of 20%.

Where the presence of uncombined water is the only reason for the failure to meet the above requirements, said requirements shall not apply.

(c) Particulate emissions from wood fired veneer dryers [located outside a special problem area] shall not exceed:

(A) 0.75 pounds per 1000 square feet of veneer dryed (3/8" basis) for units using fuel which has a moisture content by weight of 20% or less;

(B) 1.50 pounds per 1000 square feet of veneer dryed (3/8" basis) for units using fuel which as a moisture content by weight of greater than 20%;

(C) In addition to paragraphs 9(c)(A) and (B) of this section, 0.40 pounds per 1000 pounds of steam generated. The heat source of wood fired veneer dryers is exempted from rule 340-21-030.

[(d) After May 1, 1979, no person shall operate a veneer dryer in existence prior to May 1, 1979, located outside a special problem area unless:]

[(A) The owner or operator has submitted a program and time schedule for installing an emission control system which has been approved in writing by the Department as being capable of complying with subsection (1)(b) and (c) of this rule;]

[(B) The veneer dryer is equipped with an emission control system which has been approved in writing by the Department and is capable of complying with subsection (1)(b), and (c) of this rule; or]

[(C) The owner or operator has demonstrated and the Department has agreed in writing that the dryer is capable of being operated and operated in continuous compliance with subsections (1)(b) and (c) of this rule. The schedule for wood fired veneer dryers shall result in compliance as soon as practicable, but by no later than January 1, 1981.]

[(e) The time schedule required in paragraph (d)(A) of this section for wood fired veneer dryers in existence prior to May 1, 1979 shall be completed as soon as practicable, but by no later than January 1, 1981. Wood fired veneer dryers constructed on or after May 1, 1979 shall comply with subsection (1)(b) and (c) of this rule upon startup. The Department may grant exceptions to this requirement if control equipment delivery and installation will significantly delay the startup of a wood fired veneer dryer and that operation of such dryer will not interfere with the maintenance of ambient air quality standards. In no case shall such exception be granted beyond January 1, 1981;]

(d) [(f)] Each veneer dryer shall be maintained and operated at all times such that air contaminant generating processes and all contaminant control equipment shall be at full efficiency and effectiveness so that the emission of air contaminants are kept at the lowest practicable levels;

(e) [(g)] No person shall willfully cause or permit the installation or use of any means, such as dilution, which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission which would otherwise violate this rule:

(f) [(h)] Where effective measures are not taken to minimize fugitive emissions, the Department may require that the equipment or structures in which processing, handling, and storage are done, be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air;

(g) [(i)] The Department may require more restrictive emission limits than provided in subsection (1)(b) and (c) of this rule for an individual plant upon a finding by the Commission that the individual plant is located or is proposed to be located in a special problem area. The more restrictive emission limits for special problem areas may be established on the basis of allowable emissions expressed in opacity, pounds per hour, or total maximum daily emissions to the atmosphere, or a combination thereof.

(2) Other Emission Sources:

(a) No person shall cause to be emitted particulate matter from veneer and plywood mill sources, including, but no limited to, sanding machines, saws, presses, barkers, hogs, chippers, and other material size reduction equipment, process or space ventilation systems, and truck

(e) [(g)] No person shall willfully cause or permit the installation or use of any means, such as dilution, which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission which would otherwise violate this rule:

(f) [(h)] Where effective measures are not taken to minimize fugitive emissions, the Department may require that the equipment or structures in which processing, handling, and storage are done, be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air;

(g) [(i)] The Department may require more restrictive emission limits than provided in subsection (1)(b) and (c) of this rule for an individual plant upon a finding by the Commission that the individual plant is located or is proposed to be located in a special problem area. The more restrictive emission limits for special problem areas may be established on the basis of allowable emissions expressed in opacity, pounds per hour, or total maximum daily emissions to the atmosphere, or a combination thereof.

(2) Other Emission Sources:

(a) No person shall cause to be emitted particulate matter from veneer and plywood mill sources, including, but no limited to, sanding machines, saws, presses, barkers, hogs, chippers, and other material size reduction equipment, process or space ventilation systems, and truck

loading and unloading facilities in excess of a total from all sources within the plant site of one (1.0) pounds per 1000 square feet of plywood or veneer production on a 3/8 inch basis of finished product equivalent;

(b) Excepted from subsection (2)(a) of this rule, are veneer dryers, fuel burning equipment, and refuse burning equipment.

(3) Monitoring and Reporting: The Department may require any veneer dryer facility to establish an effective program for monitoring the visible air contaminant emissions from each veneer dryer emission point. The program shall be subject to review and approval by the Department and shall consist of the following:

(a) A specified minimum frequency for performing visual opacity determinations on each veneer dryer emission point;

(b) All data obtained shall be recorded on copies of a "Veneer Dryer Visual Emissions Monitoring Form" which shall be provided by the Department of Environmental Quality or on an alternative form which is approved by the Department; and

(c) A specified period during which all records shall be maintained at the mill site for inspection by authorized representatives of the Department.

AS1275.A

VICTOR ATIYEH
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Environmental Quality Commission

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MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. E, April 19, 1985, EQC Meeting

Request for Authorization to Hold a Public Hearing to Amend OAR 340-25-315 (Veneer and Plywood Manufacturing Operations) to Include Emission Standards for Veneer Dryers Located in Special Problem Areas.

Background

The Veneer and Plywood Manufacturing Operations regulations for visible and particulate emissions from veneer dryers (OAR 340-25-315) excludes veneer dryers located in "special problem areas."

The Environmental Quality Commission adopted the existing visible emission limits for veneer dryers on April 7, 1977. On March 30, 1979, standards for particulate mass emissions for wood-fired veneer dryers were adopted. These rules do not apply to veneer dryers located within special problem areas. The special problem areas are designated as the Portland, Eugene-Springfield, and Medford Air Quality Maintenance Areas (AQMAs). It was expected that more stringent emission standards would be considered for sources in those areas.

During the period since adoption of the current standards, veneer dryers within special problem areas have been subject to the same emission limits as dryers elsewhere in the state. These limits were implemented by application of the "highest and best practicable treatment and control" criterion and by placing emission limits in the permits for those facilities.

Since 1979 the Department and Lane Regional Air Pollution Control Authority have evaluated the need for more stringent controls on veneer dryers in special problem areas. This evaluation has considered the needs of the airsheds, the availability of more effective controls, and the performance of controls that have been installed.

In 1983 and 1984 the Department conducted a comprehensive study of veneer dryer visible emissions (Attachment B). This survey evaluated the performance and effectiveness of emission controls on 121 of the state's 230 veneer dryers. Based on these evaluations, the Department feels that more stringent emission standards for special control areas are not needed at this time. The proposed rule change would provide for uniform emission standards statewide, including within special problem areas.

Alternatives and Evaluation

The implementation of emission control standards for veneer dryers would reasonably require that appropriate limits be set for all dryers in the state. The adoption of specific emission limits in geographical areas outside special problem areas was one phase of this effort. Specific visible emission limits for veneer dryers in some of the special problem areas have also been established. The Specific Air Pollution Control Rules for the Medford AQMA designates visible emission limitations the same as for those dryers outside the special problem areas. Lane Regional Air Pollution Authority Rules require similar air emission controls for veneer dryers in the Eugene-Springfield area. At the present time, no visible emission limits apply to veneer dryers in the Portland area. No standard has been set for particulate mass emissions from wood-fired veneer dryers located in any of the special problem areas. Thus, consistency for emission standards for veneer dryers remains incomplete.

The adoption of the rule amendment as proposed would provide for uniform veneer dryer emission limitations statewide. A total of 21 veneer dryers (Attachment C) would be affected by this proposed rule change (including two wood-fired operations under the jurisdiction of LRAPA). All of these veneer dryers have demonstrated compliance with the current visible emission standards in OAR 340-25-315. This degree of emission control has been achieved by applying the requirement for "highest and best practicable treatment and control" (OAR 340-25-310) and by placing limits in permits.

Eleven of the 18 affected wood-fired dryers have already been source tested to verify compliance with the mass particulate standard. Based on an extrapolation of visible emission performance of the tested systems, it is expected that the remaining untested dryers would have similar mass emission compliance results. Thus, the impact of the proposed rule modification on the mill operations and the airshed are expected to be minor.

An alternative would be to set either the same standards or more stringent standards independently for each designated special problem area. At the April 8, 1983 meeting, the Commission considered standards for veneer dryers located in the Medford AQMA which would have been tighter than those for dryers outside of special problem areas. The Commission decided not to adopt more stringent veneer dryer limits for the Medford area at that time, based on recommendations of the Jackson County Air Quality Advisory Committee. At the present time, the Department has not identified a need for more stringent veneer dryer emission standards inside special problem areas. The proposed rule amendment would delete the wording "located outside special problem areas" where reference is made to standards for emissions from veneer dryers (OAR 340-25-315(1)(a)(b) and (c)).

An additional proposed housekeeping amendment would delete a rule on compliance schedules for veneer dryers for which the dates are now past. The rule required the installation of emission control systems or the submittal of a program and time schedule for installation by May 1, 1979 for non-wood-fired veneer dryers and by January 1, 1981 for wood-fired veneer dryers. (OAR 340-25-315 subsection (1)(d) and (e)). The deletion of this section of the rule would have no present or future effect on implementation or maintenance of veneer dryer emission controls since the dates have past.

Alternatives and Evaluation

The implementation of emission control standards for veneer dryers would reasonably require that appropriate limits be set for all dryers in the state. The adoption of specific emission limits in geographical areas outside special problem areas was one phase of this effort. Specific visible emission limits for veneer dryers in some of the special problem areas have also been established. The Specific Air Pollution Control Rules for the Medford AQMA designates visible emission limitations the same as for those dryers outside the special problem areas. Lane Regional Air Pollution Authority Rules require similar air emission controls for veneer dryers in the Eugene-Springfield area. At the present time, no visible emission limits apply to veneer dryers in the Portland area. No standard has been set for particulate mass emissions from wood-fired veneer dryers located in any of the special problem areas. Thus, consistency for emission standards for veneer dryers remains incomplete.

The adoption of the rule amendment as proposed would provide for uniform veneer dryer emission limitations statewide. A total of 21 veneer dryers (Attachment C) would be affected by this proposed rule change (including two wood-fired operations under the jurisdiction of LRAPA). All of these veneer dryers have demonstrated compliance with the current visible emission standards in OAR 340-25-315. This degree of emission control has been achieved by applying the requirement for "highest and best practicable treatment and control" (OAR 340-25-310) and by placing limits in permits.

Eleven of the 18 affected wood-fired dryers have already been source tested to verify compliance with the mass particulate standard. Based on an extrapolation of visible emission performance of the tested systems, it is expected that the remaining untested dryers would have similar mass emission compliance results. Thus, the impact of the proposed rule modification on the mill operations and the airshed are expected to be minor.

An alternative would be to set either the same standards or more stringent standards independently for each designated special problem area. At the April 8, 1983 meeting, the Commission considered standards for veneer dryers located in the Medford AQMA which would have been tighter than those for dryers outside of special problem areas. The Commission decided not to adopt more stringent veneer dryer limits for the Medford area at that time, based on recommendations of the Jackson County Air Quality Advisory Committee. At the present time, the Department has not identified a need for more stringent veneer dryer emission standards inside special problem areas. The proposed rule amendment would delete the wording "located outside special problem areas" where reference is made to standards for emissions from veneer dryers (OAR 340-25-315(1)(a)(b) and (c)).

An additional proposed housekeeping amendment would delete a rule on compliance schedules for veneer dryers for which the dates are now past. The rule required the installation of emission control systems or the submittal of a program and time schedule for installation by May 1, 1979 for non-wood-fired veneer dryers and by January 1, 1981 for wood-fired veneer dryers. (OAR 340-25-315 subsection (1)(d) and (e)). The deletion of this section of the rule would have no present or future effect on implementation or maintenance of veneer dryer emission controls since the dates have past.

Summation

1. The Veneer and Plywood Operations Regulation for visible and particulate emissions from veneer dryers excludes veneer dryers located in "special problem areas."

2. The establishment of specific emission limits for veneer dryers which are located in special problem areas is incomplete.

3. Application of the "highest and best practicable treatment and control" for veneer dryers within special problem areas has resulted in emission control equivalent to dryers elsewhere in the state.

4. A recent Department study of veneer dryer emission control performance has concluded that the proposed rule changes would be appropriate.

5. Adoption of the proposed amendment would bring 21 veneer dryers under the current emission standard. The Department does not expect that the airsheds or mills would be significantly impacted by adoption of the amendment.

6. A housekeeping amendment is proposed which would delete the requirement for submittal of a program and time schedule for installing emission control systems on veneer dryers. The requirement is no longer of consequence since the implementation dates have past.

Director's Recommendation

Based on the summation, the Director recommends that the EQC authorize a hearing to consider modifying the Veneer and Plywood Manufacturing Operations Regulation to include veneer dryers located within special problem areas and to delete the dated requirement for submittal of a program and time schedule for emission control equipment installations (see Attachment A).

Fred Hansen

Attachments
A. Amendments to OAR 340-25-315
B. Special Study of Veneer Dryer Air Contaminant Visible Emissions
C. List of Affected Facilities
D. Notice of Public Hearing and Rulemaking Statements.

D. Neff:s
229-6480
April 5, 1985

AS1275

[Staff Report Notation: Only this title sheet and page 17 - Guidelines for Implementation of the Visible Emission Standards - is included for reference in the Attachment B of July 19, 1985 EQC Agenda Report.]

SPECIAL STUDY
OF
VENEER DRYER VISIBLE
AIR CONTAMINANT EMISSIONS

PREPARED BY

DON NEFF

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

APRIL, 1985

These are only some of the things that will assist the inspector to insure that consistent environmental protection measures are in force and are being maintain regularly.

GUIDELINES FOR IMPLEMENTATION OF THE VISIBLE EMISSION STANDARDS

The visible air contaminant emission limits for veneer dryers are set forth in Oregon Administrative Rules:

Veneer and Plywood Manufacturing Operations

340-25-315(1) Veneer Dryers:

(a) Consistent with sections 340-25-310(1) through (4), it is the objective of this section to control air contaminant emissions, including, but not limited to, condensible hydrocarbons such that visible emissions from each veneer dryer located outside special problem areas are limited to a level which does not cause a characteristic "blue haze" to be observable:

(b) No person shall operate any veneer dryer outside a special problem area such that visible air contaminants emitted from any dryer stack or emission point exceed:

(A) A design opacity of 10%;
(B) An average operating opacity of 10%; and
(C) A maximum opacity of 20%. Where the presence of uncombined water is the only reason for failure to meet the above requirements, said requirements shall not apply.

(Appendix B is the entire veneer and plywood Manufacturing Operations Rule)

Taking opacity readings to assure absolute compliance with the average operating opacity of the 10 percent limit can be a problem because of difficulty in assigning an accurate opacity number to this low level. Such factors as plume background, sun position or obscurity, and the skill and experience of the observer are most critical in this case.

Different interpretations of "an average operating opacity of 10%" (OAR 340-25-315(1)(b)(B)) have been applied by various agency staff members when conducting compliance observations. We researched the historical development of the rule and have drafted a guideline for implementation which appears to be in conformance with the original intent. "Flexibility" was a term used in the development documents. The following guidelines serves to provide guidance by adopting a more specific application for rule administration. The guideline is in agreement with the original intent of the rule, which was supported by industry (American Plywood Association). Appendix "C" is a summary of the rule development material.

The 20 percent opacity maximum limit is readily interpreted as an opacity of visible air contaminants that is not to be exceeded.

Specific Guidance for Applying Visible Emission Rule for Veneer Dryers.

1. Observe and record a set of one-quarter minute increment opacity readings for a period of at least six minutes.* When observed emissions are marginal, a longer reading is warranted.

2. If the opacity exceeds 20 percent, a violation should be recorded.

3. If the average of this set of readings is greater than 10 percent but less than 20 percent opacity, a second set of readings need to be taken on another day, within a relatively short time to verify compliance or non-compliance.

4. Two sets of opacity readings which average more than 10 percent opacity would normally constitute a violation of the 10 percent average opacity standard. (Violation notification or enforcement for an alleged violation may require a third set of readings where the 10 percent average opacity is exceed by only small margins.)

*Refer to Appendix D, Source Sampling Method 9, Section 2.5

Specific Guidance for Applying Visible Emission Rule for Veneer Dryers.

1. Observe and record a set of one-quarter minute increment opacity readings for a period of at least six minutes.* When observed emissions are marginal, a longer reading is warranted.

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4. Two sets of opacity readings which average more than 10 percent opacity would normally constitute a violation of the 10 percent average opacity standard. (Violation notification or enforcement for an alleged violation may require a third set of readings where the 10 percent average opacity is exceed by only small margins.)

*Refer to Appendix D, Source Sampling Method 9, Section 2.5

ATTACHMENT C

STATE OF OREGON

INTEROFFICE MEMO

TO: Environmental Quality Commission

DATE: June 12, 1985

FROM: Don Neff, Hearing Officer, Air Quality Division

SUBJECT: Report of Public Comments on Proposed Rule Change to Extend Emission Standards to Include Veneer Dryers Located in Special Problem Areas - Hearing June 4, 1985

Background

A public hearing was held in Portland on June 4, 1985 to take testimony on the proposed amendment to the Veneer and Plywood Manufacturing Operations Rule (340-25-315(1)). The EQC authorized the hearing on April 19, 1985. The proposed amendment would extend the existing specific emission standards for veneer dryers to apply to veneer dryers located within special problem areas.

Approximately eight persons attended the hearing. Two individuals gave oral testimony and also presented their comments in writing. Two additional written statements were received by the comment deadline date of June 7, 1985.

Summary of Testimony

Three commentors were directly supportive of the rule revision as proposed. There were no specific objections to the proposed rule amendment which would make veneer dryer emission standards apply uniformly both inside and outside special problem areas.

The three persons who supported the rule change recommended that upon adoption of the rule modification, the Veneer Dryer Emission Limitation Rule (340-30-020) of the Specific Air Pollution Control Rules for the Medford-Ashland Air Quality Maintenance Area (AQMA) should be deleted to eliminate redundancy.

One written statement did not address the rule revision as proposed but requested that consideration be given to allowing wood-fired veneer dryers a 20% average opacity limit.

In addition, comments were made by those who gave other testimony on the Department's recent guidelines for administering the "10 percent average operating opacity" standard.

ahe
Attachments

DKN

Timber and Wood Products Group

Boise Cascade

Environmental and Energy Services
P.O. Box 8328
Boise, Idaho 83707
208/384-6458

May 31, 1985

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

RE: PUBLIC HEARING COMMENTS
OAR 340-25-315

Boise Cascade Corporation operates 10 veneer dryers in the state of Oregon - 3 of which are direct-fired from wood combustion and located in the Medford-Ashland Air Quality Maintenance Area. Consequently, Boise Cascade has a direct interest in proposed modifications to Oregon's veneer dryer rules.

Our comments focus on three areas: 1.) Proposed rule change; 2.) Average opacity definition; and 3.) Further rule modifications.

1.) PROPOSED RULE CHANGE: Opacity control requirements for veneer dryers are identical both inside and outside of special problem areas. Particulate emission control on direct-fired dryers inside special problem areas is consistent with the rules for similar dryers outside special problem areas. For these reasons, Boise Cascade believes it is appropriate to simplify the rules by removing the exemption for dryers in special problem areas.

2.) AVERAGE OPACITY DEFINITION: In 1975-76, rules were proposed which limited visual emissions from veneer dryers to a maximum of 20 percent and an average of 10 percent opacity. As stated in the DEQ staff report submitted to the Environmental Quality Commission on August 27, 1976:

> ". . . the average opacity shall be based upon a sufficient number of visual opacity determinations, accumulated over a period of time which are representative of normal veneer dryer operations and which take into account possible seasonal and temporal variations."

In addressing the many factors which contribute to visible emission fluctuations including: weather; type, age and condition of dryers; species of veneer dried and dryer temperature; the staff report said:

> "The Department agrees with the plywood industry that the above factors justify a rule revision to accomodate the situation when veneer dryer visible emissions may not be able to assure control below the 10% maximum opacity limit. These excursions above 10% opacity are proposed to be accomodated by a 10% average opacity limit qualified by a 20% maximum opacity. Furthermore, the average opacity of 10% is proposed to be based upon a sufficient number of visual opacity determinations accumulated over a period of time which are representative of normal veneer dryer operations and which take into account possible seasonal and temporal variations."

Boise Cascade Corporation feels that, for enforcement purposes the Average Opacity Definition should continue to recognize the variability expressed in the 1976 DEQ staff report. Any attempt to make the regulation more restrictive by adopting a narrower definition (i.e. a short term average) would be inappropriate.

3.) FURTHER RULE MODIFICATION: With the adoption of the proposed rule modifications, and the elimination of the exemption for veneer dryers in special problem areas, it appears appropriate to also eliminate rules that refer to veneer dryer control in special problem areas. Specifically, OAR 340-30-020 could be rescinded.

We appreciate the opportunity to express our views on this issue which is of concern to Boise Cascade Corporation.

Sincerely,

J. Garrett Andrew P.E.
Manager, Environmental and Energy Services

/js

TIMBER PRODUCTS CO.
Executive Office

POST OFFICE BOX 269
SPRINGFIELD, OREGON 97477-0055
PHONE 503/747-3321

June 3, 1985

Oregon Department of Environmental Quality
Post Offfice Box 1760
Portland, OR 97207

Gentlemen:

We have reviewed the proposed revisions to the veneer dryer rules in OAR 340-25-315.

In our opinion, the proposed revisions are a simplification and consolidation of existing rules which we find both desirable and acceptable.

However, there is no provision in the proposal to delete existing rules for veneer dryer emissions in problem areas. I refer specifically to OAR 340-30-020 which applies to the Medford/Ashland Air Quality Maintenance Area. We recommend that deletion of veneer dryer rules in problem areas be made a part of the proposed revisions to OAR 340-25-315.

Very truly yours,

Henry E. Rust
Director of Environmental Quality

HR/DN

properties and which is owned or operated by the same person, or by persons under common control.

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

(21) "Department" means Department of Environmental Quality.

(22) "Emission" means a release into the outdoor atmosphere of air contaminants.

(23) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.

(24) "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

(25) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background.

(26) "Fugitive emissions" means dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof not easily given to measurement, collection and treatment by conventional pollution control methods.

(27) "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

(28) "Particleboard" means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binders.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 4-1978, f. & ef. 4-7-78; DEQ 9-1979, f. & ef. 5-3-79; DEQ 3-1980, f. & ef. 1-28-80; DEQ 14-1981, f. & ef. 5-6-81

Wood Waste Boilers

340-30-015 (1) No person shall cause or permit the emission of particulate matter from any wood waste boiler with a heat input greater than 35 million BTU/hr in excess of 0.050 grain per dry standard cubic foot (1.14 grams per cubic meter) of exhaust gas, corrected to 12 percent carbon dioxide, as an annual average.

(2) No person owning or controlling any wood waste boiler with a heat input greater than 35 million BTU/hour shall cause or permit the emission of any air contaminant into the atmosphere for a period or periods aggregating more than 3 minutes in any one hour equal to or greater than 20 percent opacity.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 4-1978, f. & ef. 4-7-78; DEQ 29-1980, f. & ef. 10-29-80

Veneer Dryer Emission Limitations

340-30-020 (1) No person shall operate any veneer dryer such that visible air contaminants emitted from any dryer stack or emission point exceed:

(a) A design opacity of 10%,

(b) An average operating opacity of 10%, and

(c) A maximum opacity of 20%.

Where the presence of uncombined water is the only reason for the failure to meet the above requirements, said requirements shall not apply.

(2) No person shall operate a veneer dryer unless:

(a) The owner or operator has submitted a program and time schedule for installing an emission control system which has been approved in writing by the Department as being capable of complying with subsections (1)(a), (b) and (c),

(b) The veneer dryer is equipped with an emission control system which has been approved in writing by the Department and is capable of complying with subsections (1)(b) and (c), or

(c) The owner or operator has demonstrated and the Department has agreed in writing that the dryer is capable of being operated and is operated in continuous compliance with subsections (1)(b) and (c).

(3) Each veneer dryer shall be maintained and operated at all times such that air contaminant generating processes and all contaminant control equipment shall be at full efficiency and effectiveness so that the emission of air contaminants is kept at the lowest practicable levels.

(4) No person shall willfully cause or permit the installation or use of any means, such as dilution, which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission which would otherwise violate this rule.

(5) Where effective measures are not taken to minimize fugitive emissions, the Department may require that the equipment or structures in which processing, handling and storage are done, be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air.

(6) Air pollution control equipment installed to meet the opacity requirements of section (1) of this rule shall be designed such that the particulate collection efficiency can be practicably upgraded.

(7) Compliance with the emission limits in section (1) of this rule shall be determined in accordance with the Department's Method 9 on file with the Department as of November 16, 1979.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 4-1978, f. & ef. 4-7-78; DEQ 3-1980, f. & ef. 1-28-80

Air Conveying Systems

340-30-025 All air conveying systems emitting greater than 10 tons per year of particulate matter to the atmosphere at the time of adoption of these rules shall, with the prior written approval of the Department, be equipped with a control system with collection efficiency of at least 98.5 percent.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 4-1978, f. & ef. 4-7-78

Wood Particle Dryers at Particleboard Plants

340-30-030 No person shall cause or permit the total emission of particulate matter from all wood particle dryers at a particleboard plant site to exceed 0.40 pounds per 1,000 square feet of board produced by the plant on a 3/4" basis of finished product equivalent as an annual average.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 4-1978, f. & ef. 4-7-78; DEQ 14-1981, f. & ef. 5-6-81

Hardboard Manufacturing Plants

340-30-031 No person shall cause or permit the total emissions of particulate matter from all facilities at a hardboard plant to exceed 0.25 pounds per 1,000 square feet of hardboard produced on a 1/8" basis of finished product equivalent as an annual average.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 14-1981, f. & ef. 5-6-81

TESTIMONY OF J. A. EMERY, PROJECT MANAGER
FOR ENVIRONMENTAL AFFAIRS, AMERICAN PLYWOOD ASSOCIATION
TACOMA, WASHINGTON

Regarding proposed revisions to

OREGON RULES FOR VENEER AND PLYWOOD MANUFACTURING OPERATIONS
OAR 340-25-315

June 4, 1985

My name is John Emery. I am Project Manager of Environmental Affairs for the American Plywood Association (APA), which is a national trade association that represents 61 member companies who collectively operate 147 manufacturing facilities in the United States. Thirty-nine of the manufacturing facilities are located in Oregon.

On behalf of those member companies who operate manufacturing facilities in Oregon, the APA would like to offer comments on the proposed ammendments to the regulations covering visible and particulate emissions for veneer dryers (OAR 340-25-315).

First, I would like to say that the APA supports the proposed changes in the regulations. Besides simplifying and clarifying the requirements of the rule, the proposed changes would make the regulations consistent for all manufacturers in the state. We believe that such changes are desirable.

Although the APA agrees with the proposed changes in the rule, we note that the changes would not eliminate the specific visible emission limits for veneer dryers in some of the "special problem areas", such as Medford. Since the proposed revisions would impose the same requirements on these problem areas as on the rest of the state, there does not appear to be any reason to retain the localized rules. Thus, we would recommend that these rules be eliminated. Such action would be consistent with the Department's "housekeeping" efforts in connection with the veneer dryer regulations.

We would also like to take this opportunity to comment on an issue that is closely related to the proposed changes in the rule, although it does not involve them directly. This issue concerns the Department of Environmental Quality's interpretation of the 10% average opacity requirement in the rule. We noticed in the background information provided in support of the proposed rule changes that the Department is considering new guidelines for determining compliance with this requirement. Under these new guidelines, an average opacity determination could be made on the basis of only two sets of observations, both of which could be taken within a short time of each other. The APA believes that the Department should continue to follow the guidelines that were established back in 1975 and 1976 when the rule was initially promulgated. The record clearly indicates that average opacity would be based upon a sufficient number of visual opacity determinations accumulated over a period of time which are representative of normal veneer dryer operations and which take into account possible seasonal and temporal variations. The APA believes that a change in the interpretation of the 10% opacity requirement at this time would be highly inappropriate.

The APA appreciates this opportunity to comment on the proposed revision to the rule and would be glad to provide any additional information that might be helpful in clarifying these comments.

Thank you for your attention.

JOHN A. EMERY, Ph.D.
June 4, 1985

Veneers • Plywood Panels • Sheathing

Linnton Plywood ASSOCIATION

Phone 286-3672

10504 N.W. ST. HELENS ROAD
PORTLAND, OREGON 97231

June 3, 1985

D.E.Q. Air Quality Division
P.O. Box 1760
Portland, Oregon 97207

Linnton Plywood is asking that the D.E.Q. give serious consideration to changing the 10% average rule governing wood fired veneer dryers to 20% average, same as wood fired boilers.

The rules were written governing wood fired dryers before there were very many wood fired dryers in use. We were encouraged to put in wood fired dryers by the D.E.Q. and they went so far as to offer tax credits to the mills as an insentive. We don't feel that there is that much difference between wood fired dryers and wood fired boilers.

Sincerely,

LINNTON PLYWOOD ASSOCIATION

Ronald Elsner

Ronald Elsner
Purchasing Agent

RE/lw

AMERICAN PLYWOOD ASSOCIATION

AK
DKN
Hearing record

June 10, 1985

Mr. Lloyd Kostow
Oregon Department of Environmental Quality
P.O. Box 1760
Portland, OR 97207

Dear Lloyd:

Per your request, I have enclosed a list of the industry representatives who met to discuss APA's response to the proposed revisions of the Oregon Veneer and Plywood Manufacturing Operations Regulation (OAR 340-25-315). The testimony that I provided at the public hearing on June 4 reflected the consensus of this group.

Sincerely,

J. A. EMERY, Ph.D.
Project Manager
Environmental Affairs

JAE/nl

Encl.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
JUN 13 1985
AIR QUALITY CONTROL

7011 So. 19th St. / P.O. Box 11700 / Tacoma, Washington 98411 / 206 565-6600
TLX 32 7430

LIST OF ATTENDEES
APA MEETING ON OREGON VENEER DRYER REGULATIONS
West Coast Regional Center, NCASI
Corvallis, Oregon
May 23, 1985

NAME	COMPANY	PHONE
Garrett Andrew (Chairman)	Boise Cascade Corp.	208-384-6459
Peter M. Fetter	Georgia-Pacific Co.	503-689-1221 Ext. 424
Gary Weems	Lane Plywood Co.	503-342-5561
Ronald Elsner	Linnton Plywood Assoc.	503-286-3672
Judy Ott	Timber Products Co.	503-747-4577
Henry Rust	Timber Products Co.	503-747-4577
Richard L. Barrett	Willamette Industries, Inc.	503-926-7771
Andy Caron	NCASI	503-754-2015
John Emery	APA	206-565-6600

ATTACHMENT D

Proposed Rule Amendment - Specific Air Pollution Control Rules for the Medford-Ashland Air Quality Maintenance Area

[Veneer Dryer Emission Limitations

340-30-020 (1) No person shall operate any veneer dryer such that visible air contaminants emitted from any dryer stack or emission point exceed:

(a) A design opacity of 10%,

(b) An average operating opacity of 10%, and

(c) A maximum opacity of 20%.

Where the presence of uncombined water is the only reason for the failure to meet the above requirements, said requirements shall not apply.

(2) No person shall operate a veneer dryer unless:

(a) The owner or operator has submitted a program and time schedule for installing an emission control system which has been approved in writing by the Department as being capable of complying with subsections (1)(a), (b) and (c),

(b) The veneer dryer is equipped with an emission control system which has been approved in writing by the Department and is capable of complying with subsections (1)(b) and (c), or

(c) The owner or operator has demonstrated and the Department has agreed in writing that the dryer is capable of being operated and is operated in continuous compliance with subsections (1)(b) and (c).

(3) Each veneer dryer shall be maintained and operated at all times such that air contaminant generating processes and all contaminant control equipment shall be at full efficiency and effectiveness so that the emission of air contaminants is kept at the lowest practicable levels.

Amendment Notation:

[ ] = Delete

(4) No person shall willfully cause or permit the installation or use of any means, such as dilution, which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission which would otherwise violate this rule.

(5) Where effective measures are not taken to minimize fugitive emissions, the Department may require that the equipment or structures in which processing, handling and storage is done, be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air.

(6) Air pollution control equipment installed to meet the opacity requirements of section (1) of this rule shall be designed such that the particulate collection efficiency can be practicably upgraded.

(7) Compliance with the emission limits in section (1) of this rule shall be determined in accordance with the Department's Method 9 on file with the Department as of November 16, 1979.]

VICTOR ATIYEH
GOVERNOR

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: Fred Hansen, Director

Subject: Agenda Item No. J, July 19, 1985, EQC Meeting

Proposed Adoption of Amendment to Water Quality Standards Regulations, OAR Chapter 340, Division 41

Background

ORS 468.735 provides that the Commission by rule may establish standards of quality and purity for waters of the state. Present Water Quality Standards (contained in Division 41 of OAR Chapter 340) were adopted by the Commission in December 1976. The Commission adopted revisions to these standards in September 1979.

The Clean Water Act (Public Law 92-500), as amended) requires the states to hold public hearings, at least once each three years, to review applicable water quality standards. To comply with provisions of the Act, the Department proposed to conduct a statewide hearing to accomplish several objectives:

1. To invite comments on specific proposals to: (a) add language to Tables on Beneficial Uses for 11 basins which emphasizes by footnote that public and private domestic water supplies are beneficial uses with adequate pretreatment and where natural quality meets Drinking Water Standards, and (b) add a column heading that reads "Beneficial Uses" to Table 1 for the North Coast-Lower Columbia Basin. These proposals were editorial in nature.

2. To invite comments on specific proposals to refine the Beneficial Uses Tables for the Malheur River and Owyhee River Basins.

   Proposals were in response to a planning study completed by Malheur County with funding assistance from DEQ under Section 208 of the Federal Clean Water Act.

   The purpose of the study was to assess the nonpoint source water quality problems in the county. Of the six objectives of the study,

one was to provide sufficient information to re-evaluate the established beneficial uses and water quality standards for the Malheur River and Owyhee Basins. Also, the Oregon Department of Fish and Wildlife (Bowers, Hosford, and Moore) completed a study in 1979, entitled "Stream Surveys of the Lower Owyhee and Malheur Rivers, A Report to the Malheur County Water Resources Committee." The purposes of the fish population surveys were to update the Department's records and to provide information for re-evaluation of the beneficial uses in the lower Owyhee and Malheur Rivers.

3. To solicit comments and suggestions for proposing future amendments to present standards.

On February 24, 1984, the Commission authorized the Department to hold public hearings (1) to accept testimony on specific proposed modifications to Water Quality Standards (OAR Chapter 340, Division 41) and (2) to solicit public comments on the adequacy of rules contained in OAR Chapter 340, Division 41. (See Attachment D, February 24, 1984 Agenda Item.)

Public notice of hearings (Attachment E) was published in the Secretary of States' Bulletin on April 15, 1984. Copies of the public notice and related public information documents were mailed to the department's administration rules mailing list and appropriate water quality program mailing lists. About 1500 copies of the notice and documents were distributed.

Three public hearings were held in Portland on May 15, 1984; Roseburg on May 16, 1984; and Ontario on May 17, 1984.

Participants were notified that the hearing record would remain open until 5:00 p.m. on May 25, 1984. However, all written testimony, including those letters received after the closing date were accepted.

The Department deferred staff efforts to evaluate testimony as a result of unscheduled work associated with the proposal of find threat to drinking water in mid-Multnomah County.

The Department has now completed a summary of the hearing record (Attachment B) and evaluated the testimony (Attachment C).

Department Evaluation and Conclusions

The Department's evaluation of the record, as shown in Attachment C focuses on 9 questions or issues that the Commission should consider and address. The questions and the Department's conclusions based on analysis of the record, are as follows:

1. SHOULD THE BENEFICIAL USE TABLE FOR THE NORTH COAST-LOWER COLUMBIA BASIN (OAR 340-41-202, TABLE 1) BE CORRECTED?

   The Department proposed to add the column heading "Beneficial uses" to the beneficial use table for the North Coast-Lower Columbia basin (Table 1)

This editorial change would clarify the uses listed in the table and would make this table consistent with other tables. The hearing record shows that one respondent supported and no one opposed the department proposal. The Department concluded that this change should be adopted.

2. SHOULD A FOOTNOTE BE ADDED TO THE BENEFICIAL USE TABLES FOR 11 BASINS (TABLES 1, 2, 3, 4, 5, 7, 8, 9, 10 12, 17) TO BE CONSISTENT WITH TABLES FOR THE OTHER 8 BASINS?

The Department proposed to add the cautionary footnote, "With adequate pretreatment and natural quality to meet Drinking Water Standards," to the Public Domestic Water Supply and Private Domestic Water Supply uses in the beneficial use tables for 11 basins. This footnote already existed in the table for 8 other basins and would make all of the tables consistent. The hearing record shows that 3 respondents supported and 2 opposed the department's proposal.

Drinking Water Standards relate to treated surface or other waters for potable use. Without the footnote, persons could assume it is safe to drink raw surface waters without risk of contracting disease. Natural Streams, even in remote or pristine areas, will not meet drinking water standards for bacteria.

With the footnote, however, the warning to community water supplies would be consistent with the intent and provisions of the Safe Drinking Water Act of 1974, as amended. For individuals enjoying the Wilderness and other open spaces, the footnote warns that surface waters should not be consumed without pretreatment.

The Department concluded that the footnote should be added to Tables, 1, 2, 3, 4, 5, 7, 8, 9, 10, 12, and 17 to be consistent with the tables for the remaining 8 basins.

3. SHOULD THE MALHEUR RIVER AND OWYHEE BASINS EACH BE DIVIDED INTO 4 SEGMENTS OR ZONES FOR BENEFICIAL USE DESIGNATION RATHER THAN THE PRESENT SINGLE ZONE BASIN-WIDE APPROACH?

Present beneficial use tables for the Malheur River and Owyhee basins identify recognized uses for the Snake River separately, and lump all other basin waters into a single basin wide designation. The department proposed to divide each basin into 4 zones to better reflect present and future uses.

The hearing record shows that the Water Policy Review Board's water resources program for the Malheur-Owyhee Basins identifies all the beneficial uses for all waters of the basins except that selected uses are excluded from natural lakes and the Owyhee system's designated scenic waterway. The water resources program notes that the primary water use is

irrigation of agricultural lands; all other uses are considered to be minor. Malheur County proposed to divide these two basins into zones, based on primary water use areas. No testimony was presented in opposition to the proposal. Testimony recommended specific recognition of the Owyhee River Scenic Waterway.

The Department concluded that the Malheur River basin should be divided into 4 zones as originally proposed and the Owyhee basin should be divided into 5 zones -- 4 as originally proposed and the addition of the Owyhee River Scenic Waterway.

The Department further concluded that uses designated for the scenic waterway should be consistent with those specified in the statute creating the scenic waterway.

4. SHOULD WATER SUPPLY BE DELETED AS RECOGNIZED BENEFICIAL USE FOR THE LOWER REACHES OF THE MALHEUR RIVER SYSTEM AND THE LOWER MAIN STEM OWYHEE RIVER?

The department proposed to delete water supply as a recognized beneficial use for the lower reaches of the Malheur River system and the lower mainstem Owyhee River. The Hearing Record shows that testimony both supported and opposed the recommended change. However, the Water Policy Review Board's water resources program establishes domestic, municipal, and industrial water supplies as beneficial uses of surface waters in Malheur River and Owyhee Basins. State law, ORS 468.735(2), requires that water quality standards be consistent with policies and programs for the use and control of water resources in the state adopted by the Water Policy Review Board.

The department concluded that water supply uses should continue to be listed as beneficial uses in Malheur River and Owyhee Basins.

5. SHOULD SALMONID SPAWNING AND REARING BE DELETED AS A RECOGNIZED BENEFICIAL USE IN THE SNAKE RIVER, THE LOWER REACHES OF THE MALHEUR RIVER SYSTEM, THE LOWER MAINSTEM OF OWYHEE RIVER, AND OWYHEE RESERVOIR?

The department proposed to delete salmonid (trout) rearing and spawning as a recognized beneficial use in the Snake River, the lower reaches of the Malheur River System, the lower mainstem of Owyhee River, and the Owyhee Reservoir because the physical conditions in the area do not support such uses. Testimony received both supported and opposed the recommended change. The Department of Fish and Wildlife recommended that seasonal trout rearing be retained for the Snake River and Owyhee Reservoir. One respondent suggested that warmwater biota should replace the salmonid (trout) use for those reaches where it is proposed for deletion.

The Department concluded that the designation of the lower reaches of the Malheur River system and the lower mainstem of Owyhee River be changed to a warmwater fishery and the salmonid spawning and rearing use be deleted as recommended by the Department of Fish and Wildlife and Malheur County. Uses for the Snake River should remain unchanged. The Department further concluded that salmonid spawning in Owyhee Reservoir be deleted, salmonid rearing be retained, and warmwater fishery be designated based on testimony of the Department of Fish and Wildlife.

6. SHOULD SALMONID SPAWNING BE DELETED AS A RECOGNIZED BENEFICIAL USE IN RESERVOIRS IN THE MALHEUR RIVER BASIN?

The department proposed to delete trout spawning in reservoirs as a beneficial use in Malheur River Basin. Testimony received both opposed and supported this change. The Record shows that the Water Policy Review Board's water resources program for the Malheur-Owyhee Basins list fish and wildlife as beneficial uses. Continued designation of resident fish and aquatic life would be consistent with the Board's designation. The Department of Fish and Wildlife stock some of the reservoirs in the Malheur River basin with trout. Although water quality is adequate to support the fish, the physical habitat does not induce the trout to spawn in these types of waterbodies. Therefore, the Department of Fish and Wildlife supported the Malheur County proposal for the deletion of salmonid spawning as a use in reservoirs.

The Department concluded that salmonid (trout) spawning in reservoirs should be omitted from the Beneficial Use Table for Malheur River Basin.

7. SHOULD BOATING BE DELETED AS A RECOGNIZED BENEFICIAL USE IN THE LOWER REACHES OF THE MALHEUR RIVER SYSTEM, AND THE LOWER MAINSTEM OF THE OWYHEE RIVER?

The department proposed to delete boating as a beneficial use in the lower reaches of the Malheur River system and the lower mainstem Owyhee River. Testimony received both opposed and supported this recommendation. Two persons recommended that boating be retained in the moderate irrigation reaches of the Malheur River System because boating is a use that occurs in that area. They indicated that the county's initial proposal to eliminate the use was an oversight. The record further shows that the Water Policy Review Board's water resources program for the Malheur-Owyhee Basin includes recreation as a designated beneficial use of the basins' waters. Boating is a recreational use. State law, ORS 468.735(2) requires that standards be consistent with policies and programs for the use and control of water resources of the state adopted by the Water Policy Review Board.

The Department concluded that boating should continue to be included as a use in the Malheur River and Owyhee Basins.

8. SHOULD CONTACT RECREATION BE DELETED AS A RECOGNIZED BENEFICIAL USE IN THE LOWER REACHES OF THE MALHEUR RIVER SYSTEM, AND THE LOWER MAINSTEM OWYHEE RIVER?

The department proposed to delete body contact recreation as a use in the lower reaches of the Malheur River System and in the lower mainstem Owyhee River. Testimony received both opposed and supported the recommendation. One person, who agreed with the deletion of water contact recreation in the intensive irrigation areas in the Malheur River and Owyhee Basins, recommended that this use be added to the stream reaches of moderate irrigation in the Malheur River Basin because that use currently exists.

The Record also shows that the Water Policy Review Board's water resources program includes recreation as one of the beneficial uses for the waters in

Malheur-Owyhee Basins. State law, ORS 468.735(2), requires that water quality standards be consistent with policies and programs for the use and control of water resources in the state adopted by the Water Policy Review Board.

The Department concluded that water contact recreation should continue to be listed a beneficial use in all waters of Malheur River and Owyhee Basins.

9. WHAT FUTURE ACTION SHOULD BE TAKEN WITH REGARD TO SUGGESTIONS FOR ADDITIONAL WATER QUALITY STANDARDS REVISIONS?

The Hearing Record shows that a number of amendments to the Statewide Water Quality Management Plan were proposed to the Department. Some proposals will require minimal staff time to prepare issue papers to inform the public of the changes proposed, while others will require extensive time for literature review and preparation of issue papers.

The Department concluded that issue papers should be prepared and circulated for public review for the following:

a) Anti-degradation policy amendments to include reference to scenic waterways, and more specific protection of existing uses.

b) Updating heavy metal standards including consideration of addition of a hardness factor and incorporation of most recent EPA guidance.

c) Updating pesticide and other toxic substance standards to reflect latest scientific and technical information.

d) Expansion of criteria for defining mixing zones for point source discharges.

e) Addition of nutrient standards for surface waters to limit nuisance aquatic weed and algae growths.

Other issues would be pursued later.

Based on the above conclusions, proposed amendments to Beneficial Use Tables 1, 2, 3, 4, 5, 7, 8, 9, 10, 12, 15, 16, and 17 have been proposed and are included as Attachment A.

Summation

1. The commission authorized a hearing on potential changes to water quality standards on February 24, 1984.

2. Notice of public hearings was published in the Secretary of State's Bulletin on April 15, 1984, and mailed to department mailing lists.

3. Hearings were held in Portland on May 15, 1984; Roseburg on May 16, 1984; and Ontario on May 17, 1984. All written testimony received following the hearing was accepted.

4. Testimony has been summarized and evaluated and adjustments have been made to initial proposals.

5. Revised proposed modifications to Beneficial Use Tables contained in Water Quality rules are contained in Attachment A.

Director's Recommendation

Based on the summation, it is recommended that the Commission adopt the revisions to Beneficial Use Tables 1, 2, 3, 4, 5, 7, 8, 9, 10, 12, 15, 16, and 17, as contained in OAR Chapter 340, Division 41 (Attachment A), and direct the department to prepare issue papers dealing with the additional potential rule amendments noted above for public review and comment during the spring of 1986.

Fred Hansen

Attachments:
A. Proposed Rule Modifications Recommended for EQC Adoption
B. Summary of Hearing Testimony
C. Analysis of Hearing Testimony
D. February 24, 1984, EQC Agenda Item No. G
E. Public Notice

Edison L. Quan:h
WH174
229-6978
July 3, 1985

ATTACHMENT A

Proposed Rule Modifications

Recommended for EQC Adoption

Deleted material is enclosed in brackets [ ]

New material is underlined _____

TABLE 1
(340-41-202)

Beneficial Uses	Estuary and Adjacent Marine Waters	Columbia River Mouth to RM 86	All Other Streams and Tributaries Thereto
Public Domestic Water Supply [1]		X	X
Private Domestic Water Supply [1]		X	X
Industrial Water Supply	X	X	X
Irrigation		X	X
Livestock Watering		X	X
Anadromous Fish Passage	X	X	X
Salmonid Fish Rearing	X	X	X
Salmonid Fish Spawning	X	X	X
Resident Fish & Aquatic Life	X	X	X
Wildlife & Hunting	X	X	X
Fishing	X	X	X
Boating	X	X	X
Water Contact Recreation	X	X	X
Aesthetic Quality	X	X	X
Hydro Power			
Commercial Navigation & Transportation	X	X	

1 With adequate pretreatment and natural quality to meet drinking water standards.

HLS:h
WH155

TABLE 2
(340-41-242)

Beneficial Uses	Estuaries & Adjacent Marine Waters	Fresh Waters
Public Domestic Water Supply [1]		X
Private Domestic Water Supply [1]		X
Industrial Water Supply	X	X
Irrigation		X
Livestock Watering		X
Anadromous Fish Passage	X	X
Salmonid Fish Rearing	X	X
Salmonid Fish Spawning	X	X
Resident Fish & Aquatic Life	X	X
Wildlife & Hunting	X	X
Fishing	X	X
Boating	X	X
Water Contact Recreation	X	X
Aesthetic Quality	X	X
Hydro Power		X
Commercial Navigation & Transportation	X	

1 With adequate pretreatment and natural quality to meet drinking water standards.

HLS:h
WH155.1

TABLE 3
(340-41-282)

Beneficial Uses	Umpqua R. Estuary to Head of Tidewater and Adjacent Marine Waters	Umpqua R. Main Stem from Head of Tidewater to Confluence of N. & S. Umpqua Rivers	N. Umpqua R. Main Stem	S. Umpqua R. Main Stem	All Other Tributaries to Umpqua, North & South Rivers
Public Domestic Water Supply [1]		X	X	X	X
Private Domestic Water Supply [1]		X	X	X	X
Industrial Water Supply	X	X	X	X	X
Irrigation		X	X	X	X
Livestock Watering		X	X	X	X
Anadromous Fish Passage	X	X	X	X	X
Salmonid Fish Rearing	X	X	X	X	X
Salmonid Fish Spawning		X	X	X	X
Resident Fish & Aquatic Life	X	X	X	X	X
Wildlife & Hunting	X	X	X	X	X
Fishing	X	X	X	X	X
Boating	X	X	X	X	X
Water Contact Recreation	X	X	X	X	X
Aesthetic Quality	X	X	X	X	X
Hydro Power			X	X	X
Commercial Navigation & Transportation	X				

1 With adequate pretreatment and natural quality to meet drinking water standards.

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WH155.9

TABLE 4
(340-41-322)

Beneficial Uses	Estuary and Adjacent Marine Waters	All Streams and Tributaries Thereto
Public Domestic Water Supply [1]		X
Private Domestic Water Supply [1]		X
Industrial Water Supply	X	X
Irrigation		X
Livestock Watering		X
Anadromous Fish Passage	X	X
Salmonid Fish Rearing	X	X
Salmonid Fish Spawning	X	X
Resident Fish & Aquatic Life	X	X
Wildlife & Hunting	X	X
Fishing	X	X
Boating	X	X
Water Contact Recreation	X	X
Aesthetic Quality	X	X
Hydro Power		X
Commercial Navigation & Transportation	X	

1 With adequate pretreatment and natural quality to meet drinking water standards.

HLS:h
WH155.2

TABLE 5
(340-41-362)

Beneficial Uses	Rogue River Estuary and Adjacent Marine Waters	Rogue River Main Stem from Estuary to Lost Creek Dam	Rogue River Main Stem about Lost Tributaries	Bear Creek Main Stem	All Other Tributaries to Rogue River & Bear Creek
Public Domestic Water Supply [1]		X	X	*	X
Private Domestic Water Supply [1]		X	X		X
Industrial Water Supply	X	X	X	X	X
Irrigation		X	X	X	X
Livestock Watering		X	X	X	X
Anadromous Fish Passage	X	X	X	X	X
Salmonid Fish Rearing	X	X	X	X	X
Salmonid Fish Spawning		X	X	X	X
Resident Fish & Aquatic Life	X	X	X	X	X
Wildlife & Hunting	X	X	X	X	X
Fishing	X	X	X	X	X
Boating	X	X	X	X	X
Water Contact Recreation	X	X	X	X	X
Aesthetic Quality	X	X	X	X	X
Hydro Power			X		X
Commercial Navigation & Transportation	X	X			

* Designation for this use is presently under study.

1 With adequate pretreatment and natural quality to meet drinking water standards.

HLS:h
WH155.8

TABLE 7
(340-41-482)

Beneficial Uses	Streams Forming Waterfalls Near Columbia River Highway	Sandy River	Bull Run River and All Tributaries	All Others Tributaries to Sandy River	Columbia River RM 120 to 147
Public Domestic Water Supply [1]		X	X	X	X
Private Domestic Water Supply [1]		X		X	X
Industrial Water Supply		X		X	X
Irrigation		X		X	X
Livestock Watering		X		X	X
Anadromous Fish Passage		X	X	X	X
Salmonid Fish Rearing	X	X	X	X	X
Salmonid Fish Spawning	X	X	X		
Resident Fish & Aquatic Life	X	X	X	X	X
Wildlife & Hunting	X	X		X	X
Fishing	X	X		X	X
Boating		X		X	X
Water Contact Recreation	X	X		X	X
Aesthetic Quality	X	X	X	X	X
Hydro Power		X	X	X	X
Commercial Navigation & Transportation					X

1 With adequate pretreatment and natural quality to meet drinking water standards.

HLS:h
WH155.10

TABLE 8
(340-41-522)

Beneficial Uses	Columbia River RM 147 to 203	Other Hood River Basin Streams
Public Domestic Water Supply [1]	X	X
Private Domestic Water Supply [1]	X	X
Industrial Water Supply	X	X
Irrigation	X	X
Livestock Watering	X	X
Anadromous Fish Passage	X	X
Anadromous Fish (Shad & Sturgeon) Spawning & Rearing	X	
Salmonid Fish Rearing	X	X
Salmonid Fish Spawning		X
Resident Fish & Aquatic Life	X	X
Wildlife & Hunting	X	X
Fishing	X	X
Boating	X	X
Water Contact Recreation	X	X
Aesthetic Quality	X	X
Hydro Power	X	X
Commercial Navigation & Transportation	X	

1 With adequate pretreatment and natural quality to meet drinking water standards.

HLS:h
WH155.6

TABLE 9
(340-41-562)

Beneficial Uses	Columbia River RM 203 to 218	Deschutes River Main Stem from Mouth to Pelton Regulating Dam	Deschutes River Main Stem from Pelton Regulating Dam to Bend Diversion Dam and for the Crooked River Main Stem	Deschutes River Main Stem above Bend Diversion Dam & for the Metolius River Main Stem	All Other Basin Streams
Public Domestic Water Supply [1]	X	X	X	X	X
Private Domestic Water Supply [1]	X	X	X	X	X
Industrial Water Supply	X	X	X	X	X
Irrigation	X	X	X	X	X
Livestock Watering	X	X	X	X	X
Anadromous Fish Passage	X	X	X	X	X
Salmonid Fish Rearing	X	X	X	X	X
Salmonid Fish Spawning		X	X	X	X
Resident Fish & Aquatic Life	X	X	X	X	X
Wildlife & Hunting	X	X	X	X	X
Fishing	X	X	X	X	X
Boating	X	X	X	X	X
Water Contact Recreation	X	X	X	X	X
Aesthetic Quality	X	X	X	X	X
Hydro Power	X		X		
Commercial Navigation & Transportation	X				

1 With adequate pretreatment and natural quality to meet drinking water standards.

HLS:h
WH155.7

TABLE 10
(340-41-602)

Beneficial Uses	Columbia River RM 218 to 247	John Day River and All Tributaries
Public Domestic Water Supply [1]	X	X
Private Domestic Water Supply [1]	X	X
Industrial Water Supply	X	X
Irrigation	X	X
Livestock Watering	X	X
Anadromous Fish Passage	X	X
Salmonid Fish Rearing	X	X
Salmonid Fish Spawning	X	X
Resident Fish & Aquatic Life	X	X
Wildlife & Hunting	X	X
Fishing	X	X
Boating	X	X
Water Contact Recreation	X	X
Aesthetic Quality	X	X
Hydro Power	X	
Commercial Navigation & Transportation	X	

1 With adequate pretreatment and natural quality to meet drinking water standards.

HLS:h
WH155.3

TABLE 12
(340-41-682)

Beneficial Uses	Walla Walla River Main Stem from Confluence of North and South Forks to State Line	All Other Basin Streams
Public Domestic Water Supply [1]	X	X
Private Domestic Water Supply [1]	X	X
Industrial Water Supply	X	
Irrigation	X	X
Livestock Watering	X	X
Anadromous Fish Passage	X	X
Salmonid Fish Rearing	X	X
Salmonid Fish Spawning	X	X
Resident Fish & Aquatic Life	X	X
Wildlife & Hunting	X	X
Fishing	X	X
Boating	X	X
Water Contact Recreation	X	X
Aesthetic Quality	X	X
Hydro Power		X

1. With adequate pretreatment and natural quality to meet drinking water standards.

HLS:h
WH155.5

TABLE 15
(340-41-802)

Beneficial Uses	Snake R. Main Stem (RM 335 to 395)	[Malheur R. & Tributaries to Malheur & Snake Rivers]	Intensive Irrigation Malheur R. (Namorf to Mouth) Willow Cr. (Brogan to Mouth) Bully Cr. (Reservoir to Mouth)	Moderate Irrigation Willow Cr. (Mahheur Reservoir to Brogan) Malheur R. (Beulah Dam and Warm Springs Dam to Namorf)	Reservoirs Malheur Bully Creek Beulah Warm Springs	Light Irrigation Malheur River and Tributaries Upstream From Reservoirs
Public Domestic Water Supply [1]	X	[X]	X	X	X	X
Private Domestic Water Supply [1]	X	[X]	X	X	X	X
Industrial Water Supply	X	[X]	X	X	X	X
Irrigation	X	[X]	X	X	X	X
Livestock Watering	X	[X]	X	X	X	X
Salmonid Fish (Trout) Rearing	X	[X]		X	X	X
Salmonid Fish (Trout) Spawning	X	[X]		X		X
Resident Fish (Warm Water) & Aquatic Life	X	[X]	X	X	X	X
Wildlife & Hunting	X	[X]	X	X	X	X
Fishing	X	[X]	X	X	X	X
Boating	X	[X]	X	X	X	X
Water Contact Recreation	X	[X]	X	X	X	X
Aesthetic Quality	X	[X]	X	X	X	X

1 With adequate pretreatment and natural quality to meet drinking water standards.

HLS:h
WH155.11

TABLE 16
(340-41-842)

Beneficial Uses	Snake R. RM 295-409	[Owyhee Basin Streams]	Intense Irrigation: Owyhee R. (RM 0-18)	Moderate Irrigation: Owyhee R. (RM 18-Dam)	Reservoirs: Antelope Cow Creek Owyhee	Light Irrigation: Owyhee River and Tributaries Upstream from Owyhee Reservoir	Designated Scenic Waterway [2]
Public Domestic Water Supply [1]	X	[X]	X	X	X	X	X
Private Domestic Water Supply [1]	X	[X]	X	X	X	X	X
Industrial Water Supply	X	[X]	X	X	X	X	
Irrigation	X	[X]	X	X	X	X	
Livestock Watering	X	[X]	X	X	X	X	X
Salmonid Fish (Trout) Rearing	X	[X]		X	X	X	X
Salmonid Fish (Trout) Spawning	X	[X]		X		X	X
Resident Fish (Warm Water) & Aquatic Life	X	[X]	X	X	X	X	X
Wildlife & Hunting	X	[X]	X	X	X	X	X
Fishing	X	[X]	X	X	X	X	X
Boating	X	[X]	X	X	X	X	X
Water Contact Recreation	X	[X]	X	X	X	X	X
Aesthetic Quality	X	[X]	X	X	X	X	X

1 With adequate pretreatment and natural quality to meet drinking water standards.

2 The mainstem of the South Fork of the Owyhee River from the Oregon - Idaho River border to Three Forks (the confluence of the North, Middle and South Forks Owyhee River) and the mainstem Owyhee River form Crooked Creek (river mile 22) to the mouth of Birch Creek (river mile 76) is designated by statute as a Scenic Waterway.

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WH155.12

TABLE 17
(340-41-882)

Beneficial Uses	Natural Lakes	All Rivers and Tributaries
Public Domestic Water Supply [1]		X
Private Domestic Water Supply [1]		X
Industrial Water Supply		X
Irrigation	X	X
Livestock Watering	X	X
Salmonid Fish (Trout) Rearing		X
Resident Fish (Trout) Spawning		X
Resident Fish & Aquatic Life	X	X
Wildlife & Hunting	X	X
Fishing	X	X
Boating	X	X
Water Contact Recreation	X	X
Aesthetic Quality	X	X

1 With adequate pretreatment and natural quality to meet drinking water standards.

HLS:h
WH155.4

ATTACHMENT B

SUMMARY OF HEARING TESTIMONY

On February 24, 1984, the EQC authorized the Department to hold public hearings (1) to accept testimony on specific proposed modifications to Water Quality Standards (OAR Chapter 340, Division 41), and (2) to solicit public comments on the adequacy of rules contained in OAR Chapter 340, Division 41.

Public notice of the hearings was given by publication in the Secretary of States Bulletin on April 15, 1984 and by mailing to the department's Administrative Rules and water quality mailing lists.

Three public hearings were scheduled and held as follows:

City	Date	Time	Location
Portland	May 15, 1984	1:30 p.m.	Meeting Room C, Second Floor Portland Bldg. 1120 SW Fifth Ave.
Roseburg	May 16, 1984	1 p.m.	Room 216, Douglas County Courthouse 1036 SE Douglas
Ontario	May 17, 1984	7 p.m.	OSU Extension Building 710 SW Fifth Ave.

Water Quality staff members Tom Lucas and Mary Halliburtonfserved as hearings officers at the hearings.

The format for each hearing was as follows:

** Introductory remarks by hearings officer; persons wishing to testify were asked to sign witness registration forms.

** Informal discussion of proposed standards changes followed by question and answer session.

** Receipt of formal testimony (tape recorded). Participants advised that record would remain open for receipt of written testimony until 5 p.m. on May 25, 1984.

The summary of testimony is organized as follows:

A. Summary of oral testimony presented at May 15, 1984 hearing in Portland, Oregon before Hearings Officer Tom Lucas.

B. Summary of oral testimony presented at May 16, 1984 hearing in Roseburg, Oregon before Hearings Officer Mary Halliburton.

C. Summary of oral testimony presented at May 17, 1984 hearing in Ontario, Oregon before Hearings Officer Mary Halliburton.

D. Annotated Index of Written testimony submitted for the record.

A. Summary of oral testimony presented at Portland, Oregon, on May 15, 1984, held before Hearing Officer: Thomas Lucas.

Oral Testimony

1. Vince Smith, Water Resources Chairman of the Northwest Steelheaders, expressed that their organization is interested in each of the eleven basins the Department had proposed to add a footnote cautioning that both public and private domestic water supplies are uses "with adequate pretreatment and natural quality to meet Drinking Water Standards". He noted that the steelheaders are beneficiaries of each of those basins and did not want the habitat ruined in any of them. He did not want water quality dropped in any of the eleven basins because if it is dropped in one basin, it would be dropped in others. He mentioned that the Wilson and Trask Rivers in the North Coast-Lower Columbia River Basin experienced some animal waste problems, but they were corrected by the Soil and Water Conservation District in Tillamook. He stated that they did not wish any further deterioration of water quality.

   Mr. Smith also noted that the Northwest Power Planning Council had a provision for fish habitat. He noted that the Council's representatives were unable to testify at this hearing because they were meeting in Montana over the next two days. Prior to the formal hearing, Mr. Smith asked why this meeting on Water Quality Standards Review was given such short notice and was scheduled to coincide with the meeting of the Northwest Power Planning Council in Montana. He felt that the conflict in meeting time prevented members of the council from testifying on the proposed amendments to the Water Quality Standards.

2. Ellen Lowe represented the League of Women Voters of Oregon. Ms. Lowe noted that the Department had reviewed the proposed changes in Water Quality Standards against the State Wide Planning Goal 6. The League welcomed the Department's request for land use conformance review by all the federal, state, and local agencies in the integration and coordination of water and land use programs because it is important to Oregon. The League also believes similar consistency review is necessary against the water use programs adopted by the Water Policy Review Board, and its predecessor, the Water Resources Board. Ms. Lowe stated that the changes or refinements to the Beneficial Use Tables for the Malheur River and Owyhee River Basins will most likely impact the attainment of the highest and best use of the adopted beneficial uses of the waters of these rivers and their tributaries. The League senses a possible conflict between the Department's proposals and the adopted water use programs. The League believes a process needs to be developed to resolve that conflict and needs to be a part of the standards review.

The League noted that river basins do not coincide neatly with political boundaries, as complicated though it might be to coordinate with several county courts. The League believes it is impractical to look at river water quality as if it were contained between county lines. Ms. Lowe noted that Oregon did not improve water quality on the Willamette River by accepting the conditions that prevailed. Goals were established, standards were set, and efforts to attain those standards were and continue to be shared by all sectors.

Ms. Lowe noted that in listening to Mr. Peterson, who read Darrell Standage's written testimony, and to Judge Seuell that the farmers in the Malheur River and Owyhee Basins had done considerable work--based on what is required in the Clean Water Act, and certainly, in developing best management practices. It appears to the League that in looking at the proposed refinements to the Beneficial Use Tables for the Malheur River Basin, that we are giving up on the Malheur River without noting the current progress and the short time that the farmers have been working on these best management practices (the cost-sharing programs were started in 1983).

Ms. Lowe believes that if the Malheur County report of 1981 is updated, we would find that water quality has already improved. She noted that the County's work certainly documented the conditions for 1980 and 1981, but the League does not believe it offers conclusive evidence that the existing (beneficial Use) tables are really unattainable within those basins. Ms. Lowe concluded by reiterating the League's interest in having the Department coordinate and integrate water quality management planning with all the natural resource agencies involved with water, particularly the Water Resources Department and the Water Policy Review Board, as their policies and standards are represented in the water use program.

3. Harry Leland Phillips, Portland, is on the Board of Directors of the Sandy River Chapter of the Association of Northwest Steelheaders. Mr. Phillips expressed concern that the proposed refinements to the Beneficial Use Tables for the Malheur River and Owyhee Basins would lead to degradation of salmonid habitat. He noted that the testimony presented earlier said conditions in those basins were getting better. He raised the question: "If conditions are getting better, why are the river bottoms continuing to silt up?" Mr. Phillips believes that the present uses should be maintained. If they are not maintained, we may realize 10 to 15 years from now that a problem exists when the habitat and fish are gone. Then it would cost a lot more money to reclaim the habitat than the cost would be now to save it.

4. Jack Douglas Smith, Ph.D., Portland, represented the Oregon Shores Conservation Coalition. Subsequent to the hearing, Dr. Smith submitted detailed written comments to his oral testimony below:

Dr. Smith noted their concerns first is the lack in present Water Quality Standards for such things as nutrients and the control of excessive algal growths. They are concerned about management policies, specifically the lack of established maximum daily pollutant loadings; the allocation of those loadings to pollutant discharges and

NPDES (National Pollutant Discharge Elimination System) Permits; and best management practices enforcement actions that are not based on maximum daily loadings of pollutants.

Dr. Smith noted that they would examine whether the proposed relaxation of some present uses, particularly boating and body contact recreation in the Malheur River and Owyhee Basins, in fact, documents the failure of present water quality management policies of DEQ, and whether present nonpoint source pollution in those basins and others are in violation of Oregon Revised Statutes (ORS) 468, Sections 715 and 720. He noted that these kinds of activities are condoned by current EPA regulations, specifically 40 CFR (Code of Federal Regulations) 131.

Dr. Smith stated that they would make a number of recommendations as follows:

a. A better definition of water quality, probably something like transparency of a secchi disc at 1-meter depth or visibility of the stream bottom;

b. A better definition of algal growth impact, possibly like chlorophyll-a at less than 50 micrograms per liter;

c. Either the total maximum daily pollutant loadings or the maximum available pollutant loadings should be computed for each stream segment in each basin in Oregon, and;

d. NPDES Permit conditions in nonpoint source control program for strategy should be based on those maximum daily pollutant limits. (Oregon Shores Conservation Coalition recognizes that this item is perhaps arguous and a time-consuming chore, so they will suggest an interim approach that establishes the measure of pollutant concentration to dilution ratios for nutrients, toxics, and perhaps suspended solids. These pollutant content to stream dilution ratios would be analogous to the present BOD concentration to dilution ratio that appears in Chapter 340 of Oregon Administrative Rules, and these pollutants would apply to nonpoint sources as well as to point sources of waste.)

Dr. Smith noted that Oregon Shores Conservation Coalition adopted a resolution on June 19, 1982, calling on the Department to establish ecologically defensible maximum allowable daily loadings for all relevant pollutants on all Oregon coastal waters. The resolution generally calls for the form of his testimony above and would be included in their written testimony.

5. Charles D. Liles, Administrator of the Division of Soil and Water Conservation, State Department of Agriculture.

Mr. Liles stated that he did not prepare written testimony. He felt, in relation to the previous discussion, that the Division of Soil and Water Conservation should be on public record. Mr. Liles noted that they have provided the Department of Environmental Quality with both

written reports and information relating to their operation and the progress they are making through the Malheur Soil and Water Conservation District. He indicated that Mr. Peterson had presented some details on their operations and the progress made, and that more details would be forthcoming from the hearing scheduled for Ontario. He stated that the Division of Soil and Water Conservation supports the Department's recommended action (on the proposed refinements to Beneficial Use Tables for Malheur River and Owyhee Basins).

Written Testimony

The following persons read their written testimony into the hearing record and a copy of their comments is appended in Section D as a part of the hearing record:

-----Judge Ernest Seuell, Vale.

-----Farrell Peterson read written testimony prepared by Darrell Standage, chairman of the Malheur County Soil and Conservation District.

After Mr. Peterson finished reading Mr. Standage's prepared testimony, Mr. Tom Lucas, Hearings Officer for the Department, asked Mr. Peterson the following:

"Of those demonstration projects (to reduce suspended soil particles from irrigation tail waters), can you give me some indication of the percentage of farms or of total irrigation that is being covered by the projects and whether you have some sort of idea of future continuing funding."

Mr. Peterson responded that he did not have too close of an estimate as to the total percentage of farms involved. He noted that Mr. Standage's statement was based on those farms involved last year (1983), which was the first year of those practices. He thought some of the most influential farmers in the county are practicing or participating in the demonstration projects. He further stated that their farmland in the county are worth a lot of money, and they do not want to wash it down the river.

Judge Seuell offered the following in response to the Hearings Officer's question: "I think it would be a small percentage of the total number of farms. I think the selection (of farms) has been excellent in the demonstration project."

-----Mary Hanson, Oregon Environmental Council.

-----Irving Jones, Oregon Department of Fish and Wildlife.

B. Summary of oral testimony presented at Roseburg, Oregon, on May 16, 1984, held before Hearing Officer: Mary Halliburton.

Oral Testimony

1. John Ratliff, Roseburg, supports the proposal to add the footnote ("with adequate pretreatment and natural quality to meet Drinking Water Standards") to the Beneficial Uses Tables that currently do not have this cautionary language. He believes it is a good idea because the caution at least notifies people that there are disease-causing organisms in water, even in water that looks clear. As a safety and health consultant with the State Accident Insurance Fund, he believes this caution is also important for the recreationist.

   He was not familiar with the conditions in eastern Oregon to comment specifically on the proposed refinements to the Beneficial Use Tables for Malheur River and Owyhee Basins. But, based on his background in biology, he expressed two concerns: (1) if high levels of organic phosphates and other substances are allowed to enter the upper reaches of streams, these materials will wash into the lower reach where there may be some valuable salmon spawning runs; and (2) the salmon runs should not be damaged any further than they already are.

   Mr. Ratliff offered an additional comment on the Water Quality Standards. He believes it would be a good idea to study, and possibly implement, the use of different tests for determining water quality other than coliform bacteria. He related that once while he worked as a researcher for the Oregon Department of Fish and Wildlife on subtidal clam bed surveys in Tillamook Bay, he came down with an intestinal ailment by the end of summer, and it wasn't fun. Thus, he believes some of these things need to be addressed.

2. Geoffrey Garcia, representing the Galice Miners Association, stated that there are many potential areas for placer mining along the Rogue Drainage, but regulations pertaining to turbidity discharge from placer operations essentially preclude mining in most of those areas unless extensive surface damage (sic settling ponds) is carried out. He believes the Department of Environmental Quality should relax the turbidity requirements on mining operations and should recognize the Rogue Coordination Board's rules that allow mine tailings discharge as a legitimate use of the Rogue River during winter months.

3. Randy Hinke, Grants Pass, read his written testimony and presented the following additional comments:

   Some of the members in the placer mining industry believe that the decline of the salmon runs has been largely due to governmental policy. For example, the Chetco River District at Brookings got involved in the Hatch Start Program, which is involved in

rehabilitating salmon habitat and in maintaining hatch boxes to increase the production of salmon. The Oregon Department of Fish and Wildlife (ODFW) could not supply the salmon eggs to the district, so they caught their own fish, held the fish in rearing ponds until they were ripe for spawning, and acquired 270,000 eggs. Then the ODFW destroyed all of them (eyed eggs?) because they had an inherited genetic flaw. Actions like that are doing a lot of damage to the people of this nation. The mining industry in southern Oregon is more than willing to get involved in the Hatch Box Program, which could undo any damage that ODFW did and give the commercial fishermen on the coast something to catch. Those fishermen on the coast are having a difficult enough time making a living when all they are doing is getting regulated out of business. And the ODFW has cut-off the hatch box production from the Illinois River in the Rogue Basin, and the Illinois River needs the fishing.

Interagency cooperation could put fish back in the rivers, put the commercial fishermen out there catching fish, and put the miners back at producing the basic product that this nation needs to survive. So we of southern Oregon must get together with the people involved and give up our egos and everything else, and put people back to work before we all go down together.

4. John Ratliff, Roseburg, responded to Mr. Hinke's concerns as follows:

Mr. Ratliff wanted to address both the aesthetic qualities and the fisheries problem. One of his hobbies is scuba diving and underwater photography. He stated the underwater photography in the Umpqua River Basin would be precluded if turbidity increased. The hobby is one of those aesthetic quality things that one can't pursue if the visibility drops below that available now, which is very little. Most underwater photographers say 20 to 30 feet of visibility is needed to take photographs, and he has been doing it in 6 to 8 feet of visibility. He stated it does work if one can get close enough to the subjects underwater.

Mr. Ratliff noted that other people use the river in different ways aesthetically. He knows of several artists who try to make a living by painting various aspects of the river. The aesthetic quality would be degraded if the artists had to go through a barrage of toilet tissue hanging from the trees due to floodwaters or go through stream reaches containing large amounts of wastes to make a painting or to take photographs. He has seen areas like that and is sure these problems exist.

In regards to re-establishing salmon runs in the rivers, Mr. Ratliff noted that it is a problem because well-intentioned people, who try to do good, inadvertently introduce problems to the river system. An example of this type of problem is some of the fish diseases in the Deschutes River. If someone wanted to raise fish in another river system but got their stock from the Deschutes, they could inadvertently introduce one of the diseases to that other system. And that, perhaps, is the reason ODFW destroyed that stock of fish in the

Chetco River District. So there are some legitimate reasons for destroying the fish. The ODFW at times have had to destroy whole hatchery loads of fish in the Deschutes Basin because of the fish disease problems there.

Written Testimony

The following persons submitted written testimony at the hearing, and a copy of their comments is appended in Section D as a part of the hearing record:

-----Randy R. Hinke, Grants Pass

-----John L. Holstrom, National Field Representative for the Gold Prospectors Association of America, and Lost Dutchmans Mining Association, Roseburg

-----Jerry Common, Wolf Creek

-----Mr. & Mrs. Keith Corwin, Redmond

-----Leon Chaboude, Winston

C. Summary of oral testimony presented at Ontario, Oregon, on May 17, 1984, held before Hearing Officer: Mary Halliburton.

Oral Testimony

1. Stephen Donnell, La Grande, represented the Oregon Wildlife Federation and is their Director-at-Large for Eastern Oregon.

Mr. Donnell stated that the Oregon Wildlife Federation finds no fault with the proposed plan refinement to the Beneficial Use Tables for Malheur River and Owyhee River in basic sense. They are concerned, however, that a large amount of sedimentation would be allowed under the proposed permitted (beneficial) uses or lack of permitted uses, which means that water (quality) would be further degraded. He recommends that the Department and the Soil Conservation Service enter into a joint study to determine how the amount of siltation in the river basin can be reduced. He noted, in general, that other areas have been successful in this type of effort and that there are some experiments going on now, particularly in the heavily irrigated intensive agricultural areas. He recommended that that research effort be pursued, expanded upon, and augmented, if at all possible.

The Federation is concerned that the basic water quality is based on the fecal bacteria that is present in water. They would like to see an additional standard be placed in those basin areas where the water will not be used outright for swimming, water contact sports, and such activities.

Mr. Donnell noted that in Oregon Administrative Rules (OAR) Chapter 340, Division 41, the standards for pesticides and other toxic substances are based on the 1976 edition of the Environmental Protection Agency's (EPA) Quality Criteria for Water. He recommended that this section of the rules be upgraded to conform with the latest standards recommended by EPA. He also recommended that the Department add standards to take care of the problem of pesticides and herbicides being transmitted to the Snake River. These chemicals go a long way in the water and have a definite effect on the food chain, with the fish and other aquatic life concentrating high levels of these substances in their tissues. He would like to see the Department attempt some basic research as to how these substances, which are basically water transported, can be reduced in the irrigation return waters. He suggested the Department review the report written by the U.S. Army District Engineers in Buffalo, New York, entitled The Concentration and Transport of Pesticides in Northwestern Ohio River in 1981, because it contains much documentation that would be applicable to the problems in this area with the water transport of these materials. The federation agrees wholeheartedly in the reduction of, or the non-outright use of (surface) waters for drinking water because studies in Ohio have shown that the pesticides and herbicides content in the river is nearly identical to that in the tap

water from which the people drew from the river. He believes the Department should adopt the necessary regulations if necessary (water) treatment is not required to remove these chemicals from the water source for domestic supply.

Mr. Donnell's final comment was to quote R. E. Baker, Ph.D., Director of Water Quality Laboratory at Hiedelburg College, "Certainly, the nation is going to have to cope with increasing conflict between agriculture and water quality." Mr. Donnell interpreted that quotation to mean that as we bring up agriculture to the use of modern materials, which are non-biodegradable under natural conditions, then more resources and studies are needed to find ways to reduce their impact on the environment.

2. Floyd Hawkins, Vale, represented himself, the Warm Springs Irrigation District, and the Malheur County Water Resources Committee, which he chaired.

He noted that they (the organizations' members) are in agreement with the proposed changes to the Beneficial Use Tables for the Malheur River and Owyhee Basins. He stated that in their two-year comprehensive and intensive study, they took water samples from all the streams and rivers in Malheur County and feel that their recommended refinements to the beneficial uses, which the Department proposed for review, are very necessary at this time. He explained why these changes are needed, particularly on the Malheur River.

He provided some background information stating that the farmers irrigate out of the Malheur System, which includes Warm Springs Dam, Beulah Dam, and Bully Creek Reservoir. These reservoirs were built for irrigation purposes. Water flows to the Malheur River from these reservoirs and the river is used as a canal or channel to bring the water to the irrigated areas. He explained that what they have requested is that the water from these reservoirs to Namorf Diversion be designated as natural water. He defined natural water as water whose content reflects the natural being of traveling over the soils on the watersheds, whether it be on government land or private land. But from Namorf to the mouth of Snake River (sic Malheur River?) this water is used and reused many times. And it is necessary that it be this way because in a normal year (not taking into account the last two-or three-years when they had an abundance of water and flooding), in normal years if they did not reuse this water many times, there would not be enough water to irrigate the agricultural lands that have been designated for irrigation and that have water rights from the State Water Resources Department. He stated that if others study the water as they have, knowing that the water is used several times, the criteria that would be set by state or federal law is an impossible thing to really meet.

He further explained that in writing the plan ("Final Report, Two-Year Sampling Program, Malheur County Water Quality management Plan"), they recognized that something needed to be done, that they don't continue to go from year to year as they have over the past many, many years since irrigation projects were developed. He noted that in the plan

they have prescribed some best management practices for agriculture and have made some very strenuous recommendations: what can be done on farms to cut back on soil erosion and sedimentation of the water.

He further stated that they wrote the recommendations in a manner that the farmers can implement them on their own. The farmers feel that if these recommendations are ever put into effect and regulations demanding that they be done, the economics of the projects would be prohibitive unless state or federal matching funds go along with the requirements. In reference to Mr. Donnell's testimony on pesticides and herbicides, Mr. Hawkins stated that there are some filtering experiments being carried out on some fields.

He emphasized that on his own farm, he receives no live water during irrigation season. He defined live water as water coming directly from the reservoir to his farm. The water he uses has passed over other farms or other pieces of land several times before it reaches him. He believes that those farmers who depend on return flows can prove that the water most of the time leaves their farms cleaner than when they received it. He used as an example the Nevada Diversion near Vale, which consists of only return flows. He stated that they irrigate crops with that water and are glad to get it. If they didn't get that water, they wouldn't be in business. He stated that as many times as the water goes through the different crops, the water is cleaned up.

He expressed that they (organizations' members) do not feel the stretch from Namorf to the mouth of the Snake River (sic Malheur River) could be maintained as a fishery or made swimmable or drinkable. He noted that they are in accord with the proposed refinements to the Beneficial Use Tables for the Malheur River and Owyhee Basins and believe this is a move in the right direction. He pointed out that one thing has to be in everyone's mind--the economics of this (proposals?) and agricultural uses and water rights to this water. He further stated that agriculture is not the "bad boy," but they work constantly through the Soil Conservation Service and others to develop methods of doing a better job on these farms, so they do not pollute the rivers any more than absolutely necessary.

3. Judge Ernest Seuell, Vale, testified in Portland on May 15, 1984. He digressed from his written testimony and discussed in more detail the problem of reduced flow capacity in the lower 18 miles of the Owyhee River and from Namorf on downstream in the Malheur River, which he touched on lightly in Portland. He is a little more familiar with the Owyhee River than with the Malheur River. In the early 1950s Malheur (sic Owyhee) River apparently would carry 12,000 to 14,000 second feet of flow without too much flooding. He believes that present flows over 5,000 second feet may cause flooding. Not long ago they had 18,000 second feet of flow in Owyhee River. This flow caused extensive damage to irrigation systems, eroded the fields, and flooded homes along the river and in the Owyhee junction area.

Judge Seuell believes the flow restrictions in the rivers have been the result of 8 to 10 dry years in the 1970s. He also believes there

were 7 or 8 years on the Owyhee River when the Owyhee Reservoir did not spill any water. Consequently, the channel has grown up with willows and other vegetation, and has filled in to be a problem now. Judge Seuell does not believe the flooding problem is as severe on the Malheur River as on the Owyhee River. However, they have had 3 years of flooding on the Malheur River, which has washed away most of the streambank protection. The river is spreading into the banks and onto the fields, and now it is at a point where even moderate flows cause extensive bank erosion.

He believes and hopes the proposed modifications to the beneficial uses in the lower stretches of Malheur River and Owyhee River will help in letting the Corps of Engineers do some channel work.

4. Joe Hobson now lives in Ontario but has lived for quite a few years close to the Owyhee River and in the upper region of intensive irrigation. He served on the committee that developed the Malheur County Water Quality Plan.

He urged adoption of the proposed changes to the Beneficial Use Tables for the Malheur River and Owyhee Basins. He stated that basically, it's reality, it's the way things are, and it's the way things have been, and it would be an almost impossibility to make any major changes.

He would not support swimming as a beneficial use in the lower reaches of Owyhee River. He is aware of only one spot in the river where swimming can be done, but he doesn't believe anyone should be swimming there.

He also recommended that boating not be listed as a beneficial use on the Owyhee River from River Mile 18 on downstream. One of the main reasons is that during much of the year there is insufficient flow to a boat from one pool to the next, especially if a motor is mounted on the boat. He believes it is impossible to even raft the river because of the low flows. He is also concerned that if boating is listed as a beneficial use, it may some day set a precedent which would require the irrigation system operated by the North Board of Control to release an adequate volume of water in the river to accommodate boating. Thus, he recommended very strongly against boating as a listed beneficial use. He believes that if boating is not listed as a use, it would not preclude anyone from launching a boat on the river and try to go downstream, but it would not establish boating as a beneficial use, and thereby require additional water to make the use possible.

5. Raleigh McKenley, Nyssa, has lived along the Owyhee River since 1945, and worked with wildlife at that time--pheasants and quail. He stated that in those earlier years the streambanks were barren of vegetation, so shrubs and other vegetation were planted to provide cover for upland game birds. His concern now is that flooding in areas of the lower Owyhee River spoils the nests of geese and killdeer. He would like to see the river channel cleaned out to carry the high flows so the habitats for birds and wildlife are not disrupted by floods.

6. Duane Town, Malheur County Emergency Services, Vale, supported the testimony of previous speakers on the problem of streambank erosion. He believes the problem is that the river channels are unable to contain the high releases of water from the reservoirs. He also believes the farmers have done an excellent job in controlling erosion from the irrigation of their fields.

Written Testimony

The following persons submitted written testimony at the hearing and a copy of their comments is appended to Section D as a part of the hearing record.

-----Bill Hosford, Oregon Department of Fish and Wildlife, Southwest Regional Office, Hines

After Mr. Hosford read his written comments, Mary Halliburton, Hearings Officer, asked him if he could specify the seasons, the months to the following recommendation: add Snake River and Owyhee Reservoir Seasonal trout rearing use. Mr. Hosford noted that trout rear in both bodies of water from June until November.

-----Darrell Standage, Chairman, Malheur County Soil and Water Conservation District, Ontario

After Mr. Standage read his prepared statement, he presented the following comments:

He felt that as one of the people responsible for implementing the Water Quality Plan, that it is a good plan, and the committee that worked on the plan was very dedicated; it was all volunteer work. He noted that some of the committee members drove 70 miles to attend the meetings, and he felt they had to be quite dedicated and be interested in water quality to drop their businesses, drive 70 miles to a meeting, and do it for two years. He thought the farmers should support the plan and he believed the Soil Water Conservation District also could support it. He felt that one of the strong features of the plan was that it was drawn-up and written by local people for the local needs. And he felt that that's the way many more of our rules and regulations should be written.

-----James Langley, President, Malheur County Farm Bureau, Ontario

D. Annotated Index of Written Testimony Submitted for the record.

1. April 18, 1984 — JoAnn McCauley, Information Coordinator, Lane Council of Governments, Eugene, reviewed the proposed changes to Water Quality Standards and determined that no clearinghouse comments needed to be made.

2. April 30, 1984 — James Boydston, Manager of Drinking Water Program, Health Division, Department of Human Resources, Portland, concurred with the proposed changes in Water Quality Standards, especially the inclusion of the footnote to the tables on beneficial uses (for eleven basins) that pretreatment of surface waters is necessary before use as a domestic water supply. He also noted that domestic use of Malheur and Owyhee Rivers should not be considered without extensive treatment because of their quality.

3. May 3, 1984 — Eric Ditmar, Water Quality Coordinator, Rogue Valley Council of Governments (RVCOG), and 30 members of the RVCOG Water Quality Advisory Committee, addressed only the issue of having the Fecal Coliform Standard apply during the water contact recreational season rather than year-round. The committee took no position for or against the concept, but they raised six issues for consideration if such a standards change is proposed in the future.

4. May 3, 1984 — L. M. Carter, Ph.D., Aquatic Ecologist, Hillsboro, suggested the DEQ consider the following changes to Water Quality Standards in the future:

   1. Reassess the use of fecal coliforms as a primary indicator of pollution.

   2. Include a statistical variability for each Numerical Standard that is consistent with the limitations of the analytical procedures.

   3. Follow EPA guidelines in setting standards for heavy metals such as copper, chromium, zinc, and lead, which consider water hardness or total dissolved solids, or both.

5.	May 10, 1984	Mr. & Mrs. Keith Corwin, Redmond, expressed concern over pollution of Malheur River from agricultural activities. They stated that effort to eliminate pollution should be increased, not relaxed.
6.	May 14, 1984	Ernest Seuell, Malheur County Judge, Office of the County Court, the County of Malheur, expressed support to the proposed changes in beneficial uses for the Malheur River and Owyhee Basins.
7.	May 14, 1984	Darrell Standage, Chairman, Malheur County Soil and Water Conservation District (read into the record in Portland by Farrell Peterson). The testimony summarized the Malheur County's Soil and Water Conservation District's accomplishments on nonpoint sources waste management.
8.	May 15, 1984	Mary Hanson, Oregon Environmental Council, Portland, is opposed to the proposed deletion of sensitive uses, such as water contact recreation in certain stream segments in Malheur River and Owyhee Basins.
9.	May 15, 1984	Stanton LeSieur, Assistant General manager, Unified Sewerage Agency of Washington County, Hillsboro, expressed support for the concept of having the Fecal Coliform Standard apply only during the water contact recreation season. The Agency would like to see adjustments in several Water Quality Standards for the Tualatin Subbasin.
10.	May 15, 1984	Vaughn Stringer, Nyssa, agreed with the proposed changes to the lower Owyhee River because he would like to have the river dredged (of sediment resulting from the spring 1984 flood).
11.	May 16, 1984	James Langley, President, Malheur County Farm Bureau, Ontario, expressed support for the proposed changes in beneficial uses, particularly in the Malheur River from Namorf to the mouth and in the Owyhee River from the tunnel to the mouth.
12.	May 16, 1984	Randy R. Hinke, Grants Pass, submitted a proposal to allow the discharge of suspended sediments from settling ponds at placer mining operations between November 1 and April 30, under several criteria including flow, dissolved oxygen content, and an increase in river suspended solids content to 35 mg/l or higher. He also included assessments on the environment, wildlife and their habitat, and the economics of gold mining.

13. May 16, 1874 — Leon Chaboude, Winston, expressed a desire to have the Umpqua Basin turbidity (standard) relaxed during winter to accommodate placer mining.

14. May 16, 1984 — John Holstrom, National Field Representative for the Gold Prospectors Association of America and Lost Dutchman's Mining Association, Roseburg, requested that the Turbidity Standards be relaxed in the Umpqua and upper Willamette Basins because the standards cause a hardship on small mining operations.

15. May 16, 1984 — Jerry Common, Wolf Creek, asked that the turbidity level (in rivers) be allowed to increase during winter (placer) mining operations.

16. May 16, 1984 — LCDR Eder, M.D., Box 50, Novcommsta Holt, FPO, San Francisco, California, expressed concern about the proposed changes in beneficial uses for the Malheur River and Owyhee Basins, as interpreted by an Oregonian newspaper reporter. He suggested that the farmers and ranchers should accept the burden of cleaning up the waterways, not the kids who inherit the pollution.

17. May 17, 1984 — Darrell Standage, Chairman, Malheur County Soil and Water Conservation District, summarized the study objectives of the County's two-year Water Quality Management Plan and the efforts at implementing best management practices. He also recommended that boating and water contact recreation be added to the Malheur River Basin beneficial use table under the column heading Moderate Irrigation.

18. May 17, 1984 — Bill Hosford, Department of Fish and Wildlife (ODFW), Southeast Region. (Irv Jones, ODFW in Portland presented same written testimony on May 15, but without clarifications.)

The ODFW expressed support for the proposed changes to beneficial uses in Malheur River and Owyhee Basins with the following recommendations: (1) continue to recognize the importance of stream corridor for wildlife habitat; (2) add boating as uses to the Moderate Irrigation Section on Malheur River and to Owyhee River from River Mile 18 to the dam; (3) add seasonal trout rearing use (June to November) to Snake River and Owyhee Reservoir; and (4) place Antelope Reservoir and Cow Creek Lakes in Owyhee Basin.

19.	May 17, 1984	Melody Inchumuk, Cave Junction, noted that many miners in the Illinois Valley would like to have the Turbidity Standard relaxed to cut the costs of mining. She wondered if it is possible, with many streams being polluted today, that the standard would be lowered so miners or any other industry would be allowed to pollute the waters more.
20.	May 18, 1984	Willis and Eris Bertram, Nyssa, supported the proposed changes in beneficial uses for the lower Owyhee River so that they may work towards clearing the channel of sediment deposited during the spring 1984 flood.
21.	May 19, 1984	Vern and Darlene McCain, Nyssa, expressed support for the proposed change to the beneficial uses for the Malheur River and Owyhee Basins.
22.	May 20, 1984	Jerry Gordon, Nyssa, expressed support for the proposed changes in the beneficial uses for the lower Owyhee River so that the channel can be cleared of debris and sediment resulting from the spring 1984 flood.
23.	May 21, 1984	Bill and Marilyn Richesin, Nyssa, expressed support for the proposed changes in the beneficial uses for the lower Owyhee River.
24.	May 21, 1984	John Bishop, Vale, expressed support for the Fecal Coliform Standard to apply only during the recreational season. He also supported the proposed changes to the beneficial uses tables for both the lower 69 miles of Malheur River and the lower 18 miles of Owyhee River.
25.	May 21, 1984	Peggy and Gary Niehen, Nyssa, expressed support for the proposed changes to the beneficial uses in the (lower) Owyhee River.
26.	May 21, 1984	David Ballantyne, Nyssa, expressed support for the proposed changes to the beneficial uses in the lower Owyhee River.
27.	May 21, 1984	Dee and Jeannetta Garner, Nyssa, expressed support for the proposed changes to the beneficial uses in the lower Owyhee River. They believe that if the uses are changed, then the river channel can be dredged to accommodate the annual spring freshet flows.

28. May 21, 1984 — J. Douglas Smith, Ph.D., Vice President, State-at-Large, Oregon Shores Conservation Coalition, Portland, is opposed to changes in beneficial use proposed for Malheur River and Owyhee Basins. He also recommended changes to Water Quality Standards in three areas: (1) policies and guidelines applicable to all basins; (2) Water Quality Standards not to be exceeded; and (3) minimum design criteria for treatment and control of wastes.

29. May 22, 1984 — Glen Love, Vice President, McKenzie Flyfishers, is opposed to the proposed changes in beneficial uses in the Malheur River and Owyhee Basins. He stated that the technology and procedures are available to clean up or at least lessen the animal wastes, silt, agricultural chemicals, and other pollutants in these waters.

30. May 22, 1984 — Raymond Edsill, Portland, expressed that the Department has substandard rules for certain areas by allowing high concentrations of fecal coliforms, pesticides, and animal wastes to be dumped into streams and rivers when these problems can be solved with settling ponds where feasible. He wondered if the Cow Lakes (in Owyhee Basin) had been omitted from the beneficial uses table.

31. May 22, 1984 — John E. Lilly, Assistant Administrator, Parks and Recreation Division, Department of Transportation, Salem, requested that 70 miles of Owyhee River designated as a Scenic Waterway be added to the beneficial use table for Owyhee Basin. He stated the highest and best use (under the law) for such designated waterways is for fish, wildlife, recreation, and for human consumption and livestock watering.

He also recommended that the Department in the future amend the Antidegradation Policy to include "designated State Scenic Waterways".

32. May 23, 1984 — G. W. Stringer, Roy Sodamoen, Don Eingstrom, Cyrus Bock, Willmar Hipp, H. Anderson, Donald Simpson -- Nyssa, expressed that they are in favor of having the Owyhee River dredged.

33. May 23, 1984 — James and Bettey Phifer, Nyssa, agreed with the proposed changes to the beneficial uses table for the lower Owyhee River, which take the restrictions off (of dredging).

34.	May 23, 1984	Calvin Martin, Nyssa, felt that the changes proposed for the lower Owyhee River were well thought out and probably as good as can be hoped for at present. He noted that at some future time, the waters could be improved for boating and warm water fishing.
35.	May 23, 1984	Ruth Bowers, Nyssa, agreed with the proposed changes to the beneficial uses for the lower Owyhee River, which take the restrictions off (of dredging the channel).
36.	May 23, 1984	Leighton Ho, Eugene, is opposed to the proposed changes to the beneficial uses tables for Malheur River and Owyhee Basins.
37.	May 24, 1984	Vince Smith, Director, Sandy River Chapter, Association of Northwest Steelheaders, requested that no Water Quality Standards be lowered for the benefit of few individuals. He also wondered why this hearing was held on such short notice while the Northwest Power Planning Council was also meeting at the same time in Montana. He also wondered why the Department was holding a meeting on animal waste (?) in Roseburg.
38.	May 24, 1984	Liz Frenkel, Conservation Chair, Oregon Chapter Sierra Club, Corvallis, is opposed to the proposed changes in beneficial uses for the Malheur River and Owyhee Basins. She also wondered which agency is responsible for overall coordination of water policy in the state--the Water Policy Review Board or the Environmental Quality Commission.
39.	May 24, 1984	Carla Levinski, Senior, Water Quality Analyst, State of Idaho, Department of Health and Welfare, Boise, Idaho, indicated that Idaho currently has the Snake River from Boise River to the mouth of Salmon River designated as salmonid spawning waters and does not plan to change that designation in the foreseeable future.
40.	May 24, 1984	Craig Trueblood, Law Clerk, Northwest Environmental Defense Center, Portland, objected to the addition in eleven basins of the cautionary language warning that public and private domestic water supplies should be pretreated to meet Drinking Water Standards. He is also opposed to the proposed changes in beneficial uses for the Malheur River and Owyhee Basins.

The following respondents submitted comments after the hearing record closed at 5 p.m. on May 24, 1984:

41.	May 29, 1984	Richard Rounds, Cave Junction, asked that the allowable turbidity from placer mining operations be increased during winter in Chetco Basin.
42.	May 29, 1984	William H. Young, Director, Water Resources Department, Salem, suggested that the proposed changes to beneficial uses tables for the Malheur River and Owyhee Basins may be premature until options in water use regulation, best management practices, and compatible Water Quality Standards can be analyzed.
43.	May 29, 1984	Jesse F. Johnson, President of prospectors of Umpqua Basin, Myrtle Creek, asked on behalf of club membership to allow discharge of suspended sediment from placer mining settling ponds between November 1 and April 30, when streamflows exceed 2.5 times the summer base flow and the dissolved oxygen content is 10 mg/l or greater.
44.	June 4, 1984	Mark Stringer, Nyssa, wrote on behalf of farmers on the lower Owyhee River supporting the proposed changes to the beneficial uses for the lower Owyhee River.
45.	October 17, 1984	Robert S. Burd, Director, Water Division, U.S. Environmental Protection Agency, Region X, Seattle, Washington, agreed with all the proposed changes except those regarding the Malheur River and Owyhee Basins. For the Malheur County waters, the EPA believes that the warm water biota use should replace the salmonid (trout) uses. EPA objected to the proposed deletion of water supply, water contact recreation, and boating uses in the two basins. EPA also recommended updating the standards in three areas: (1) the Antidegradation Policy; (2) the Mixing Zone Policy; and (3) the criteria for toxic substances.

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ANALYSIS OF HEARING TESTIMONY

Background for Analysis of Testimony

Testimony presented at hearings on May 15 - 17 and thereafter in writing was in response to public notice which (1) solicited comments on specific proposed changes in water quality standards regulations and (2) solicited comments and suggestions for potential future amendments to present standards.

The department proposed some changes to existing beneficial use tables in the standards which were editorial or housekeeping in nature. More substantive changes to beneficial use tables were proposed as a result of recommendations advanced by Malheur County.

In 1977 the Malheur County Court pursued and secured a grant from EPA to develop a county-wide non-point source study and a management plan. The objectives of the program were to: (1) gather information on the present water quality of the surface waters, (2) identify water quality problems, (3) develop Best Management Practices, (4) develop an implementation program, (5) provide sufficient information to re-evaluate the established beneficial uses and water quality standards, and (6) involve the public in all phases of the program.

To accomplish the objectives, the Malheur County Court organized a Water Resource Committee whose members represented a cross-section of public interest and geographical areas. Representatives of local, state and federal agencies having responsibilities in natural resource management within the county were formed into a technical advisory group which, together with BLM's Grazing Advisory Committee, assisted and supported the Water Resources Committee.

The Water Resources Committee also established six area subcommittees involving a total of 43 citizens. Each subcommittee was charged to investigate (1) the type of water quality problem, (2) cause of problem, (3) special concerns for water quality, (4) beneficial use(s) impaired, (5) solution(s) available to address the problem.

In 1981, the Water Resources Committee completed a report entitled, "Malheur County Nonpoint Source Water Quality Management Planning Program". Malheur County Court and the Malheur County Soil and Water Conservation District in March 1981 jointly adopted the Malheur County Nonpoint Source Water Quality Management Plan. One of the recommendations of the plan was to amend the present beneficial use designations which apply each use basin-wide. The county believed it would be more practical to divide each basin (Malheur River and Owyhee) into several areas based on differing major water uses. Their suggested uses are: (1) headwater areas upstream from the reservoirs; (2) reservoirs; (3) downstream from the reservoirs and upstream from the intensively irrigated agriculture; (4) intensely irrigated areas; and (5) Snake River. The department evaluated the report and concluded that this recommendation to divide each basin into zones and the uses that could reasonably be supported in the zones should be forwarded through the department's water quality standards review process.

The public was also requested to review existing water quality rules and standards and comment or recommend modifications or additions for future consideration. Comments were specifically requested on the advisability of modification of the season of applicability of bacterial standards. It was expected that issues raised would be reviewed and screened and that those warranting further consideration would be scheduled for more detailed staff analysis and development of specific proposed language for consideration at subsequent hearings.

The discussion of testimony which follows is organized to focus on 9 separate issues:

1. Should the Beneficial Use Table for the North Coast-Lower Columbia Basin (OAR 340-41-202, Table 1) be corrected?

2. Should a footnote be added to the beneficial use tables for 11 basins (Tables 1, 2, 3, 4, 5, 7, 8, 9, 10, 12, 17) to be consistent with tables for the other 8 basins?

3. Should the Malheur River and Owyhee Basins each be divided into 4 segments or zones for beneficial use designation rather than the present single zone basin-wide approach?

4. Should water supply be deleted as recognized beneficial use for the lower reaches of the Malheur River system and the lower main stem Owyhee River?

5. Should salmonid spawning and rearing be deleted as a recognized beneficial use in the Snake River, the lower reaches of the Malheur River system, the lower main stem Owyhee River, and Owyhee Reservoir?

6. Should salmonid spawning be deleted as a recognized beneficial use in reservoirs in the Malheur River Basin?

7. Should boating be deleted as a recognized beneficial use in the lower reaches of the Malheur River system and the lower main stem of the Owyhee River?

8. Should contact recreation be deleted as a recognized beneficial use in the lower reaches of the Malheur River system and the lower main stem Owyhee River?

9. What future action should be taken with regard to suggestions for additional water quality standards revisions?

Issues 1 and 2 relate to housekeeping amendments to beneficial use tables proposed by the department.

Issues 3 through 8 relate to proposals advanced in the Malheur County Management Plan.

Issue 9 deals with suggestions for future standards revisions.

For each issue, the discussion is organized as follows:

a. Department's Initial Proposal.

b. Rationale for Department's Initial Proposal.

c. Summary of Testimony with references to Attachment B noted (e.g. C3 refers to testimony submitted by the third person to testify at the third hearing).

d. Evaluation of Testimony.

e. Conclusions and Recommendations.

ISSUE NO. 1 -- SHOULD THE BENEFICIAL USE TABLE FOR THE NORTH COAST-LOWER COLUMBIA BASIN (OAR 340-41-202, TABLE 1) BE CORRECTED?

Department's Initial Proposal

Table 1, which lists the beneficial uses for the North Coast-Lower Columbia Basin, should have a column heading added that reads "Beneficial Uses".

Rationale for Department's Initial Proposal

The proposed column heading would identify and clarify the significance of the listing. All other tables have such a heading.

Summary of Testimony

One respondent agreed with the Department's proposed editorial change to correct the previous omission (D-45).

No one specifically opposed the Department's proposal to make the editorial change.

Evaluation of Alternatives

The proposed alternative is to add the column heading "Beneficial Uses" so that readers can immediately grasp the significance of the uses listed.

Another alternative would be to leave the beneficial uses column heading unidentified and let the reader puzzle over the significance of the uses listed.

Conclusion and Recommendations

Addition of the column heading "Beneficial Uses" to the North Coast-Lower Columbia Beneficial Uses Table (Table 1) would clarify the uses listed, and this editorial change should be adopted.

ISSUE NO. 2 -- SHOULD A FOOTNOTE BE ADDED TO THE BENEFICIAL USE TABLES FOR 11 BASINS (TABLES, 1, 2, 3, 4, 5, 7, 8, 9, 10, 12, 17) TO BE CONSISTENT WITH TABLES FOR THE OTHER 8 BASINS?

Department's Initial Proposal

Public Domestic Water Supply and Private Domestic Water Supply are uses listed in the Beneficial Uses Table for each of the 19 basin plans. Eight basin tables now have these two uses footnoted, with the footnote reading "With adequate pretreatment and natural quality to meet Drinking Water Standards."

The Department proposed to add this cautionary footnote to the beneficial use table in the 11 basins listed below:

Table	Basin
1	North Coast-Lower Columbia
2	Mid Coast
3	Umpqua
4	South Coast
5	Rogue
7	Sandy
8	Hood
9	Deschutes
10	John Day
12	Walla Walla
17	Malheur Lake

Rationale for Department's Initial Proposal

The cautionary footnote language is needed because of the general rise in gastrointestinal problems in recent years among residents served by community water systems and among individuals drinking inadequately treated water or raw surface waters. Surface waters, even in pristine or remote areas, do not meet established drinking water standards for bacteria. Therefore, as a minimum, treatment by disinfection should be practiced.

Summary of Testimony

Three respondents agreed that the proposed footnote should be added to Tables on Beneficial Use for the 11 basins mentioned above (D-2, B-1, D-45). One respondent noted that without the footnote, persons could assume that (surface) water is fit to drink without treatment (D-2). Another respondent believes the caution at least notifies people that there are disease-causing organisms in water, even in water that looks clear. He also added that as a safety and health consultant, he believes the caution is important to the recreationist (B-1). The other respondent agreed on the basis that: (a) health problems result

from the use of untreated water supplies, and (b) water quality standards are less stringent than drinking water standards for some common drinking water contaminants (D-45).

One respondent interpreted the addition of the footnote to the 11 basins' Beneficial Use Table as allowing present water quality to be lowered. Based on that assumption, he further stated that if water quality is dropped in one basin, it will be dropped in others (A-1).

One respondent stated that when cautionary language is combined with the existing uses, the effect is to create two completely new and different kinds of uses: Public and Private Domestic Water Supply Subject to Treatment (D-40).

Evaluation of Testimony

One alternative is to not add the footnote to the beneficial use tables for the 11 basins. This alternative would leave the impression that drinking water standards, especially for total coliform bacteria and turbidity in surface waters, can be met on a daily basis, which is an erroneous supposition.

Take, for example, the maximum contaminant level (MCL) established for total coliform. For a community water system serving between 25 and 1,000 persons, the regulation requires at least one sample per month of the treated water be analyzed for total coliform. The MCL for that one sample or the arithmetic mean of all samples (if two or more samples are taken) for the month must not exceed more than 1 organism per 100 milliliters, if the sample is tested by the membrane filter technique. Can any untreated surface waters naturally meet this stringent MCL each day throughout a year? The Department does not believe so.

The total coliform group of bacteria includes a wide collection of bacterial species, some of which are naturally present in the intestinal tract of all warm-blooded animals and some which are not associated with animals. Some of the nonfecal bacterial species that give a positive result to the total coliform test are naturally present on vegetation and in the soil. The National Interim Primary Drinking Water Regulations (EPA-570/9-76-003) state that "the presence of any coliform bacteria, fecal or nonfecal, in treated (drinking) water should not be tolerated."

Fecal coliform, the present bacterial indicator in water quality standards, was set for recreational waters. The standard is based on a log mean of 200 fecal coliform per 100 milliliters of of samples for at least five samples in a 30-day period, with no more than 10 percent of the samples in the 30-day period exceeding 400 per 100 ml.

The National Interim Primary Drinking Water Regulations apply to treated waters and allow a maximum of one turbidity unit, as determined by a monthly average or a maximum of five turbidity units based on an average for two consecutive days. Surface waters cannot

meet these stringent levels of turbidity on a daily basis, especially during intense rainfall or rapid snowmelt, as soil particles washed into waterways cause turbidity to rise.

Another alternative is to add the footnote to the Beneficial Use Tables for the 11 basins. For community water supplies, the addition of the cautionary footnote would be consistent with the intent and provisions of the Safe Drinking Water Act of 1974, as amended.

Disinfection of drinking water and other treatment methods have been in use for over 60 years to deliver a safe, potable water to the public. It has become standard practice for communities to at least disinfect their surface supply sources and to provide additional treatment processes as necessary. The Department believes that individuals should also, at a minimum, disinfect surface waters either by boiling or by adding prepared disinfectants to their drinking water, especially when they are out camping or hiking in the wilderness.

Conclusions and Recommendations

Based on the testimony received and the evaluation of alternatives, the following conclusions are drawn:

1) Without the cautionary footnote:

   (a) Persons could assume it is safe to drink raw surface waters without risk of contracting disease.

   (b) Persons could erroneously assume that present water quality standards, especially for fecal coliform bacteria and turbidity, are as stringent as a drinking water standards.

2) Drinking water standards relate to the treated surface or other waters for potable use.

3) With the addition of the cautionary footnote:

   (a) For community water supplies, the warning would be consistent with the intent and provisions of the Safe Drinking Water Act of 1974, as amended.

   (b) For individuals enjoying the wilderness and other open areas, it provides a warning that surface waters should not be consumed without pretreatment.

Based on the testimony and evaluation of alternatives, it is recommended that cautionary language be footnoted to Public Domestic Water Supply uses and Private Domestic Water Supply in the Beneficial Uses Tables for 11 basins. (Tables 1, 2, 3, 4, 5, 7, 8, 9, 10, 12, 17). The footnote should read "With adequate pretreatment and natural quality to meet Drinking Water Standards."

ISSUE NO. 3 -- SHOULD THE MALHEUR RIVER AND OWYHEE BASINS EACH BE DIVIDED INTO 4 SEGMENTS OR ZONES FOR BENEFICIAL USE DESIGNATION RATHER THAN THE PRESENT SINGLE ZONE BASIN-WIDE APPROACH?

Department's Initial Proposal

The current rules for the Owyhee and Malheur River Basins identify the Snake River adjacent to the basin separately and lump all other waters into a single basin designation. For the Malheur River and Owyhee Basins, the Department advanced Malheur County's recommendation to divide each basin into 4 zones in addition to the Snake River as follows:

Malheur River Basin Zones:

1) Snake River Mainstem (RM 335-395)

2) Intensive Irrigation:

   (a) Malheur River (Namorf to Mouth)

   (b) Willow Creek (Brogan to Mouth)

   (c) Bully Creek (Reservoir to Mouth)

3) Moderate Irrigation:

   (a) Willow Creek (Malheur Reservoir to Brogan)

   (b) Malheur River (Beulah Dam and Warm Springs Dam to Namorf)

4) Reservoirs:

   Antelope (should be in Owyhee Basin)
   Malheur
   Bully Creek
   Beulah
   Cow Creek (should be in Owyhee Basin)
   Warm Springs

5) Light Irrigation

   Malheur River and Tributaries upstream from Reservoirs

Owyhee Basin

1) Snake River (RM 395-409)

2) Intense Irrigation

Owyhee River (RM 0-18)

3) Moderate Irrigation

Owyhee River (RM 18-Dam)

4) Reservoirs

Owyhee Reservoir

5) Light Irrigation

Owyhee River and Tributaries upstream from Owyhee Reservoir

Rationale for Department's Initial Proposal

The division of Malheur River and Owyhee Basins into zones was first proposed by Malheur County to better reflect the present and future primary uses of the basins' river systems. The department concurred with the county's recommendation.

Summary of Testimony

No one presented testimony opposing the division of the Malheur River Basin into four zones for beneficial use designation. Two respondents, however, noted that the Department erroneously placed Cow Creek Lakes (D-18; D-30) and Antelope Lake (D-18) in Malheur River Basin rather than in Owyhee Basin.

One respondent (D-31) requests that two segments of the Owyhee River upstream from the Owyhee Reservoir, which were designated as State Scenic Waterways in 1969, be added to the Owyhee Basin Beneficial Use Table. These two segments total 70-river miles and include: (1) South Fork Owyhee River from the Oregon-Idaho border downstream approximately 25 miles to Three Forks, where the main stem of the Owyhee River is formed, and (2) the main stem of Owyhee River from Crooked Creek (six miles downstream from Rome), downstream a distance of approximately 45 miles to the mouth of Birch Creek.

By law, ORS 390.835(1), has declared that the highest and best uses of the waters within the Scenic Waterways are recreation, fish and Wildlife uses. The law permits water use for human consumption and livestock watering.

The respondent, also pointed out that any new (after designation of Owyhee River Scenic Waterway in 1969) water rights issued for industrial water supplies or irrigation on tributaries entering the Owyhee within the Scenic Waterway area would not be consistent with state law.

Evaluation of Testimony

Background on Scenic Waterways

The water resources program for the Malheur-Owyhee Basins, as adopted in 1970 and modified in 1981 and 1985 by the Water Policy Review Board, list the following beneficial uses for the designated Owyhee River System's Scenic Waterways (South Fork Owyhee River and main stem Owyhee River segments): domestic, livestock, municipal, irrigation, industrial, mining, recreation, wildlife, and fish life.

The following portions of the statutes relate to designated scenic waterways:

> ORS 390.835 -- (1) It is declared that the highest and best uses of the waters within scenic waterways are recreation, fish and wildlife uses. The free-flowing character of these waters shall be maintained in quantities necessary for recreation, fish and wildlife uses. No dam, or reservoir, or other water impoundment facility shall be constructed or placer mining permitted on waters within scenic waterways. No water diversion facility shall be constructed or used except by right previously established or as permitted by the Water Resources Director, upon a finding that such diversion is necessary to uses designated in subsection (12) of ORS 536.310, and in a manner consistent with the policies set forth under ORS 390.805 to 390.925. The Water Resources Director shall administer and enforce the provisions of this subsection.
>
> ORS 536.310 (12) -- When proposed uses of water are in mutually exclusive conflict or when available supplies of water are insufficient for all who desire to use them, preference shall be given to human consumption purposes over all other uses and for livestock consumption, over any other use, and thereafter other beneficial purposes in such order as may be in the public interest consistent with the principles of chapter 707, Oregon Laws 1955, under the existing circumstances.
>
> In May 1983, the Oregon Justice Department issued an opinion regarding the diversion of waters from scenic waterways for purposes other than for recreation, fish and wildlife. This opinion, among others, related to Oregon's Scenic Waterways System, was in response to questions raised by the Director of Transportation. Copies of these opinions were also sent to the directors of Division of State Lands and Water Resources Department; chairman of the Water Policy Review Board; and administrator of Parks and Recreation Division. The Justice Department's opinion is as follows:
>
> ORS 390.835(1) declares that recreation, fish and wildlife are the highest and best uses of waters within scenic waterways. The free flowing character of those waters is to be <u>maintained in</u>

quantities necessary (emphasis added) for the declared highest and best uses. This obligation, addressed to the Water Resources Director, comes before the authorization to him to permit diversions of the waters for other purposes. So long as the quantity of water within scenic waterways is sufficient to provide for the highest and best uses, then any additional beneficial use of the waters will not defeat the purpose of intent of the Scenic Waterways System.

The amount of water necessary to maintain the waters for recreation, fish and wildlife can be ascertained and quantified by the Water Policy Review Board through its power to establish minimum perennial stream flows. ORS 536.325. Once those benchmarks are established, the Water Resources Director can permit water diversions for other uses within the priorities listed in ORS 536.310(12) (i.e., (1) human consumption; (2) livestock comsumption; and (3) other beneficial uses).

This interpretation promotes the purposes and design of the Scenic Waterways System without unduly or artificially restricting other uses of waters. This also accords with the legislatively declared general water policy of the state to promote maximum beneficial use of the state's water resources." ORS 536.220.

Malheur River Basin Alternatives

One alternative is to keep the single, basin-wide designation of beneficial uses, rather than to divide the basin into four zones as proposed. This alternative would be consistent with the beneficial uses designation outlined in the water resources program for the Malheur River Basin. This alternative conveys the impression that water quantity is available and water quality is suitable for all uses at all locations year-round. In reality, the emphasis on water use is for agriculture and all other uses are considered to be minor.

A second alternative is to divide the basin into zones as proposed. This alternative, using column headings to identify the intensity of agriculture into zones, ties the primary water use with land use. At some future date, the Water Policy Review Board may wish to address the issues of available water supply, needs, and uses based on the concept of zones.

Owyhee Basin Alternatives

One alternative is to keep the single, basin-wide designation of beneficial uses for the Owyhee Basin. This alternative would be consistent with the water resources program except for the Owyhee River system's Scenic Waterway which omits power development as a beneficial use. With this alternative, the beneficial uses excluded could be footnoted or otherwise identified.

A second alternative is to add another column heading -- Owyhee River Scenic Waterway -- because some beneficial uses for this area are excluded by law. This alternative would more accurately reflect the primary uses of water that now occur and the intended uses of water for the future.

In regards to the beneficial uses within the designated scenic waterways of the Owyhee River System, several alternatives need to be examined as follows:

One alternative to listing the beneficial uses for the Owyhee River Systems Scenic Waterways is to acknowledge those adopted by the Water Policy Review Board since 1970.

A second alternative is to list only those uses the Department of Transportation believes are consistent with state law, i.e., recreation, fish and wildlife, and human and livestock consumption.

A third alternative is to list the statutes' declared highest and best uses of scenic waterways (recreation, fish and wildlife) and request that the Departments of Transportation, Fish and Wildlife, and Water Resources first determine the flows necessary to maintain these three uses before identifying the other uses.

In terms of water quality, if the quality is adequate to meet the needs of the most sensitive uses, such as body contact recreation and trout rearing and spawning, then the quality should be adequate for all other uses whether or not they are identified. To acknowledge in the Owyhee Beneficial Use Table the highest and best uses of water within the scenic waterway areas to be recreation, fish and wildlife, and human and livestock consumption would be consistent with state law but would be not be clearly consistent with the water resources program adopted by the Water Policy Review Board.

Conclusions and Recommendations

The Water Policy Review Board's present water resources program for the Malheur-Owyhee Basins identifies all the beneficial uses for the basins except that selected uses are excluded from the Owyhee system's designated scenic waterway. The primary water use in the valley reaches of the Malheur-Owyhee River systems is irrigation of agricultural lands; all other uses are considered to be minor. Thus, to divide these two basins into zones, based on primary use of water, would more accurately reflect the beneficial uses that are designated and that should be reviewed in the future for compatibility with the primary use.

Based on the above, the Department recommends the following actions:

(a) Divide the Malheur River Basin (exclusive of the Snake River adjacent to the basin) into four zones as proposed for beneficial use designation and transfer Antelope Lake and Cow Creek Lakes to the Owyhee Basin Beneficial Use Table.

(b) Divide the Owyhee River Basin (exclusive of the Snake River adjacent to the basin) into five zones -- the four initially proposed together with another column heading - Scenic

Waterway Areas -- for beneficial use designations.

(c) For the Owyhee Basin Beneficial Use Table:

1) Under reservoirs, add Antelope and Cow Creek.

2) Under Scenic Waterway Areas, acknowledge these uses: recreation, fish and wildlife, domestic, municipal, and livestock water supplies.

(d) The Oregon Departments of Transportation, Fish and Wildlife, and Water Resources should cooperatively determine the flows necessary in the segments of the Owyhee Scenic Waterway to accommodate recreation, fish and wildlife.

ISSUE NO. 4 -- SHOULD WATER SUPPLY BE DELETED AS A RECOGNIZED BENEFICIAL USE FOR THE LOWER REACHES OF THE MALHEUR RIVER SYSTEM AND LOWER MAIN STEM OWYHEE RIVER?

Department's Initial Proposal

For the Malheur River Basin and the Owyhee River Basin, the Department had proposed to delete Public Domestic Water Supply, Private Domestic Water Supply, and Industrial Water Supply as beneficial uses from the following stream reaches:

1) Malheur River Basin

a) Intensive Irrigation Areas

Malheur River (Namorf to mouth)

Willow Creek (Brogan to mouth)

Bully Creek (Reservoir to mouth)

b) Moderate Irrigation Areas

Willow Creek (Malheur Reservoir to Brogan)

Malheur River (Beulah Dam and Warm Springs Dam to Namorf)

2) Owyhee River Basin

Owyhee River (river mile 18 to mouth)

Rationale for Department's Initial Recommendation

Malheur County proposed to delete the water supply uses in the areas noted above. The intensive and moderate irrigation reaches of the Malheur River system and the lower main stem Owyhee River are not now used for public or private domestic water supplies, or for industrial supply. The department reviewed the county's proposal. Since these river reaches carry a high suspended silt content and associated undetermined contaminants during and after the irrigation season, these uses should be discouraged unless no other suitable source is available.

Summary of Testimony

The following respondents oppose the proposal to delete Public and Private Domestic Water Supplies from the Malheur River Basin (A-2, D-5, D-16, D-28, D-29, D-36, D-37, D-38, D-40, D-42, D-45) and from the Owyhee Basin (A-2, D-16, D-28, D-29, D-36, D-37, D-38, D-40, D-42, D-45).

Reasons cited for opposition include the following:

a) The proposal is premature until further analysis of water management in the basin can be evaluated.

b) The removal of this use is inconsistent with federal regulations which prohibit deletion of a potentially attainable use.

c) Deletion of this use will lead to a lowering of water quality.

d) Existing quality should be improved to support the use even though the use does not currently exist.

The following respondents support the proposal to delete Public and Private Domestic Water Supplies from the Malheur River Basin (A-5, C-1, C-2, C-4, D-6, D-19, D-11, D-17, D-18, D-21, D-24) and the Owyhee River Basin (A-5, C-1, C-2, C-4, D-6, D-10, D-11, D-17, D-18, D-20, D-21, D-22, D-23, D-24, D-25, D-26, D-27, D-33, D-35, D-44).

Reasons cited for supporting the proposal include:

a) Approval for dredging the lower Owyhee would be easier to obtain.

b) The use does not exist.

One respondent suggests that the use of Malheur and Owyhee Rivers as sources for domestic water supplies should not be considered without extensive treatment because of their quality (D-2).

Evaluation of Testimony

The Water Policy Review Board's water resources program for the Malheur-Owyhee Basins included domestic and muncipal water supplies, and industrial water supply as beneficial uses in all surface waters except that municipal and industrial uses of water are excluded from natural lakes in these basins. Reservoirs constructed in these basins to store water for irrigation and other uses are not considered to be natural lakes.

One alternative would be to maintain Private and Public Domestic Water Supplies and Industrial water supply as uses of all surface waters in Malheur River and Owyhee Basins. This alternative would be consistent with the water resources program for these two basins outlined by the Water Policy Review Board.

A second alternative would be to delete Private and Public Domestic Water Supplies and Industrial Water Supply from the middle and lower reaches of the Malheur River system and from the lower stretch of Owyhee River, as initially proposed. Such an action would be inconsistent with the Board's program and would not likely be approved by EPA.

Conclusion and Recommendations

The present Water Policy Review Board program statement establishes domestic water supply as one of the beneficial uses for surface waters in Malheur River and Owyhee Basins. State law, ORS 468.735(2), requires that water quality standards be consistent with policies and programs for the use and control of water resources in the state adopted by the Water Policy Review Board.

The Department now recommends that Private and Public Domestic Water Supplies and Industrial Water Supply continue to be listed as beneficial uses in the Malheur River and Owyhee Basins.

ISSUE NO. 5 -- SHOULD SALMONID SPAWNING AND REARING BE DELETED AS A RECOGNIZED BENEFICIAL USE IN THE SNAKE RIVER, THE LOWER REACHES OF THE MALHEUR RIVER SYSTEM, THE LOWER MAIN STEM OWYHEE RIVER, AND OWYHEE RESERVOIR?

Department's Initial Proposal

For the Malheur River Basin, the Department proposed to delete Salmonid (Trout) spawning and rearing from the following areas:

(a) Snake River main stem (RM 335-395).

(b) Intensive Irrigation areas :

1. Malheur River (Namorf to mouth)

2. Willow Creek (Brogan to mouth)

3. Bully Creek (reservoir to mouth)

For the Owyhee Basin, the Department proposed to delete salmonid (trout) spawning and rearing from the following areas:

(a) Snake River (RM 395-409)

(b) Owyhee River (RM 0-18)

(c) Owyhee Reservoir

Rationale for Department's Initial Proposal

Malheur County proposed deletion of salmonid spawning and rearing as uses in these areas. The lower Malheur River system, the lower 18 river miles of the Owyhee River main stem, Owyhee Reservoir and the Snake River are managed as a warm water fishery by the Oregon Department of Fish and Wildlife. Physical constraints (reservoir regulated flows, structures which block migration of fish, high summer temperatures, irrigation diversions, and irrigation return flows) render conditions unsuitable for salmonid rearing and spawning in these waters. The county's recommendations are based on studies by the Department of Fish & Wildlife.

Summary of Testimony

Ten respondents oppose the proposed changes to delete salmonid (trout) spawning and rearing in the Snake River mainstem, the lower reaches of the Malheur River mainstem, the lower reaches of the Malheur River system, the lower reach of Owyhee River and the Owyhee Reservoir (A-3, D-28, D-29, D-30, D-36, D-37, D-38, D-39, D-40, D-42). Respondents generally believe that conditions should be improved to support salmonid spawning and rearing rather than eliminate the use designation.

Eight respondents generally support the proposal to delete salmonid (trout) spawning and rearing in the lower sections of Malheur River and Owyhee Basins and in the Snake River (A-5, C-1, C-2, C-4, D-6, D-7, D-11, D-24).

Seventeen respondents, who signed eleven pieces of correspondence, support the proposal to delete salmonid (trout) rearing and spawning in the lower 18-river miles of Owyhee River (D-10, D-20, D-21, D-22, D-23, D-24, D-25, D-26, D-27, D-33, D-35, D-44). Of these, nine respondents believe the deletion of sensitive uses, including trout rearing and spawning, would make it easier to clean the river channel of flood damage (sedimentation) and debris.

One respondent recommends that seasonal trout rearing (June - November be added to the Snake River and Owyhee Reservoir (D-18). One respondent suggests warm water biota use should replace the salmonid (trout) use for those reaches where it is proposed for deletion (D-45).

Evaluation of Testimony

Dredging

A number of respondents believe that if some beneficial uses, such as recreation and fish and wildlife, are either removed or changed, it would be easier for the Corps of Engineers or others to dredge the lower Owyhee River.

It is not necessary to modify or delete beneficial uses to accommodate essential dredging of waterways. Individuals and governmental entities may apply for the appropriate permits to remove sediments from stream channels. Permits for removal of sediment exceeding 50 cubic yards may be obtained by filing a joint application to the U. S. Army Corps of Engineers and to the Division of State Lands in Salem.

The permit application requires a detailed description of the proposed project, including a site map and a project plan showing the proposed alterations. Specific information required includes: the nature and amount of material to be removed; the waters and specific location from which it is to be removed; the method of removal; the times during which removal is to be conducted; and other information that the two agencies may request.

Both the Corps of Engineers and Division of State Lands independently review the application to determine if one or both agencies have jurisdiction over the proposed project. Copies of the application are then distributed to local governments, state resource agencies, and other interested parties for review and comments. The permit may then be issued and may include additional recommendations and changes based on comments of the reviewers. The above describes the general process for obtaining a permit to dredge accumulated sediment from a waterway. Persons interested in more details should contact the Division of State Lands.

Salmonid (Trout) Rearing and Spawning

The Idaho Division of Environment noted that Idaho's Water Quality Standards for the Snake River extending from the Payette River downstream to the Salmon River are designated as salmonid spawning and rearing areas. That agency had not proposed to change these uses, nor do they expect to do so in the foreseeable future.

The Oregon Department of Fish and Wildlife proposed to add salmonid rearing use to the Snake River bordering Malheur River and Owyhee Basins and to Owyhee Reservoir. They suggested the rearing period extend from June to November.

It appears to the Department that the information based on trout rearing and spawning in the Snake River is too limited at this time to make any changes to these uses for the reasons below:

1. About 2 weeks prior to the hearing in Ontario, a long-time resident across the river from Payette indicated to DEQ staff that he fished the Snake River for trout each spring. Although he was present at the hearing, he did not present any testimony.

2. The Oregon Department of Fish and Wildlife has limited or virtually no field data on the status of trout in the Snake River except that they are not found in creel census. The Idaho Department of Fish and Wildlife may not have a better information base.

3. The Idaho Division of Environment and this agency have taken a conservative approach in designating the salmonid uses (rearing and spawning) in the Snake River. It is unlikely that either of the state's fish and wildlife agencies will conduct field evaluations to ascertain whether rearing occurs, and if so, the season(s), or that spawning occurs at all in the main stem river.

In view of Idaho's position on maintaining the salmonid rearing and spawning uses in the Snake River, and the questionable status of information that Oregon Department of Fish & Wildlife has on these uses, we should retain these uses in the beneficial uses tables for the Snake River. Present water quality would support spawning of trout if that use occurs. Summer water temperatures may be high for other than native redband trout, if they are present.

Salmonid (trout) rearing and spawning in the lower reaches of the Malheur River system and lower 18 miles of Owyhee River should be redesignated as a warm water fishery. The Department of Fish and Wildlife believes that these two lower reaches were used primarily as migration routes by adult and juvenile salmon prior to construction of dams. Planted rainbow trout do not make use of these waters at this time because of high temperatures and possibly because of the flat gradient and other conditions.

The Department of Fish and Wildlife is trying to re-establish the redband trout which is a strain uniquely adapted by evolution to harsh

desert stream conditions. The redband was originally found throughout the arid reaches of northern Nevada, western Idaho, and eastern Oregon.

It can survive water temperatures of 80°F or higher, as well as 30 to 35°F daily fluctuations. It also is adapted to pH of 10 to 10.5. They are reported to be able to reproduce in spite of silted spawning gravel and are effective competitors for food and space against rough fish species that also tend to thrive in warm desert waters. The Department of Fish and Wildlife plans to stock Malheur Reservoir with the redband fingerling this year, according to the Oregon Wildlife, Vol. 39, No. 5, May-June 1984.

The Department of Fish and Wildlife does not plan to stock these fish in streams at this time for a number of reasons:

1. Fingerling redband planted in reservoirs would grow faster by feeding on rough fish species.

2. The Department had earlier experience in planting redbands in a newly constructed reservoir near Jordan Valley. The high water in some years washed most of the fish over the spillway and out onto the desert where they perished.

One may then raise the question: If the redband trout at one time thrived in eastern Oregon, why didn't the Department of Fish and Wildlife try to enhance this native species over the past decades instead of planting rainbow trout?

a. It is difficult to artificially culture wild fish and it was only in recent years that the Department was successful in this effort with the redband.

b. The artificial culturing techniques for rainbow trout were developed decades ago. To meet the demands of a growing trout fishery, it was a management decision to stock the rainbow trout wherever it could be supported.

At this time, the Department of Fish and Wildlife cannot predict the success of rebuilding populations of the redband in eastern Oregon. The many years of planting rainbows may have diluted the genetic integrity of the wild redband trout. Also, the continued artificial production of redband may yield a genetic type less able to cope with the natural environment than wild redband.

Conclusions and Recommendations

Based on the above, it is recommended that the designation of the lower reaches of the Malheur River system and the lower mainstem Owyhee River be changed to a warm water fishery and the salmonid spawning and rearing use be deleted as recommended by the Department of Fish & Wildlife and Malheur County. The natural environment, high temperatures (greater than 20°C) and uncertainty of water quantity would not support non-native trout. It is further recommended that salmonid spawning in Owyhee Reservoir be deleted, salmonid rearing be retained, and warm water fishing be designated based on testimony of the Department of Fish and Wildlife.

ISSUE NO. 6 -- SHOULD SALMONID SPAWNING BE DELETED AS A RECOGNIZED BENEFICIAL USE IN RESERVOIRS IN THE MALHEUR RIVER BASIN?

Department's Initial Proposal

For the Malheur River Basin, the Department proposed to delete, as a beneficial use, salmonid (trout) spawning in the reservoirs as follows:

Malheur River Basin Reservoirs

Antelope (should be in Owyhee Basin)
Malheur
Bully Creek
Cow Creek (should be in Owyhee Basin)
Warm Springs

Rationale for Department's Initial Proposal

Malheur County proposed to delete the salmonid use designation based on the January, 1979, Malheur-Owyhee Survey report of the Department of Fish and Wildlife which indicates that salmonids (trout), both introduced and resident species, do not spawn in reservoirs.

Summary of Testimony

Thirteen respondents (two in oral testimony -- A-2, A-3; and 11 who signed ten pieces of correspondence -- D-5, D-16, D-28, D-29, D-30, D-36, D-37, D-38, D-40, D-42) oppose the proposal to delete salmonid (trout) spawning in the Malheur-Owyhee Basins. None of the 13 respondents presented testimony that trout can spawn in the lakes and reservoirs. Instead, they objected to the proposal in general.

Nine respondents (four in oral testimony -- A-5, C-1, C-2, C-4; and five in written correspondence) support the proposal to delete the salmonid (trout) spawning as a use in reservoirs. Of the nine respondents, one (D-17) explained that during the county's 2-year nonpoint source study, the Department of Fish and Wildlife informed them that it is physically impossible for trout to spawn in the lakes and reservoirs. The Department of Fish and Wildlife (D-18) generally supported the proposal based on their fish habitat study conducted to assist Malheur County.

Evaluation of Testimony

The Water Policy Review Board's Water Resources Program for the Malheur-Owyhee Basins designates fish and wildlife as beneficial uses of surface waters. However, this designation is not specific as to species of fish.

When DEQ first proposed standards for the Malheur and Owyhee basins, the fish life use for the entirety of both basins was subdivided into 3 categories -- salmonid fish (trout) rearing, salmonid fish (trout) spawning, and resident fish and aquatic life.

For most of the miles of streams in these basins, physical habitat will support both spawning and rearing for salmonids and this use designation continues to be appropriate.

Continued designation of resident fish and aquatic life as a use to be protected will meet the apparent intent of the Water Policy Review Board designation of fish life as a beneficial use. The Department of Fish and Wildlife supported the initial proposal to delete salmonid spawning as a designated beneficial use in reservoirs.

The Oregon Department of Fish and Wildlife (ODFW) stock rainbow trout in some of the reservoirs in Malheur-Owyhee Basins as needed to maintain a sports fishery. The ODFW also plans to stock the redband trout in Malheur Reservoir in 1985. Both species of trout spawn during spring in streams rather than in impoundments.

One alternative is to designate reservoirs as trout spawning areas, even though the physical habitat does not support such a use. Water quality (dissolved oxygen) should be adequate for incubating eggs, except that trout do not spawn in these water bodies.

A second alternative is to delete spawning in reservoirs from the beneficial use tables. This alternative would be consistent with the reality that trout do not spawn in reservoirs.

Conclusions and Recommendations

The Water Policy Review Board's Water Resources Program for the Malheur-Owyhee Basins lists fish and wildlife as beneficial uses. Continued designation of resident fish and aquatic life would be consistent with the Board's designation. The Department of Fish and Wildlife stock some of the reservoirs with trout in Malheur Basin. Although water quality is adequate to support the fish, the physical habitat does not induce the trout to spawn in these types of waterbodies.

Based on the above, the Department recommends that salmonid (trout) spawning in reservoirs be omitted from the Beneficial Use Table for Malheur River Basin.

ISSUE NO. 7 -- SHOULD BOATING BE DELETED AS A RECOGNIZED BENEFICIAL USE IN THE LOWER REACHES OF THE MALHEUR RIVER SYSTEM AND THE LOWER MAIN STEM OF THE OWYHEE RIVER?

Department's Initial Proposal

For the Malheur-Owyhee Basins, the Department proposed to delete boating as a use from the following river reaches:

Malheur River Basin

(a) Intensive Irrigation Areas:

1. Malheur River (Namorf to Mouth)
2. Willow Creek (Brogan to Mouth)
3. Bully Creek (Reservoir to Mouth)

(b) Moderate Irrigation Areas:

1. Willow Creek (Malheur Reservoir to Brogan)
2. Malheur River (Beulah Dam and Warm Springs Dam to Namorf)

Owyhee Basin

(a) Intensive Irrigation Areas:

Owyhee River (River Mile 0-18)

(b) Moderate Irrigation Areas

Owyhee River (River Mile 18-Dam)

Rationale for Department's Initial Proposal

Malheur County recommended deletion of boating as a use in these stream reaches. Reservoirs regulate the flows in the intensive and moderate irrigation reaches of the lower Malheur River system, and Owyhee River mainstem. Winter flows are not always sufficient for boating. Large volumes of water are diverted during summer for irrigation use, leaving insufficient water in many reaches of stream channels for boating.

Summary of Testimony

Eleven respondents object to the proposed deletion of boating as a recreational use in the Malheur River Basin (A-2, D-5, D-16, D-28, D-29, D-36, D-37, D-38, D-40, D-42, D-45) and nine in the Owyhee River Basin (A-2, D-16, D-28, D-36, D-37, D-38, D-40, D-42, D-45) for this range of reasons:

a. Proposed deletion may be in conflict with the present water use program (A-2)

b. Insufficient flow is no reason to delete this use; the public will boat these waters when flows are adequate (D-45)

c. It is premature to revise this use until options in water use regulation, best management practices, and water quality can be analyzed (D-38, D-42)

Nine respondents support the proposed deletion of boating as a recreational use in the Malheur River Basin (A-5, C-1, C-2, C-3, D-6, D-18, D-21, D-24 (five respondents signed four pieces of correspondence) and 25 respondents in the Owyhee River Basin (A-5, C-1, C-2, C-3, C-4, D-6, D-10, D-11, D-18, D-20, D-21, D-22, D-23, D-24, D-25, D-26, D-27, D-33, D-34, D-35 (20 respondents signed 15 pieces of correspondence) for these reasons:

1) Insufficient flows exist in the Owyhee River from river mile 18 to the mouth to boat from one pool to the next, especially if a motor is mounted on a boat, or to even raft the river (C-4).

2) If boating is listed as a beneficial use, it may some day set a precedent that would require the North Board of Control to release an adequate volume of stored water to the Owyhee River to accommodate boating (C-4).

3) At some future time the waterways could be brought into shape i.e. (reduce the sediment loading and other impediments for boating and other recreational activities (D-34).

4) High sediment load and other impediments in the river limit boating (D-24).

Malheur County Soil and Water Conservation District (D-17) and the Department of Fish and Wildlife (D-18) recommended that boating be retained as a use in the moderate irrigation reaches of the Malheur River system because boating use presently occurs in that area. They indicated that the proposal to eliminate the use was an oversight.

Evaluation of Testimony

The Water Policy Review Board's program for use and control of the water resources of the Malheur-Owyhee Basins designated recreation as one of the beneficial uses for waters in both basins. Boating is a form of recreation on surface waters, but is not specifically recognized or precluded by the Board.

One option is to delete boating from the lower reaches of the Malheur River System and the lower main stem of the Owyhee River because some reaches contain insufficient flows for boating.

A second alternative would be to continue to include boating as a use for the lower reaches of the Malheur River System or the lower main stem Owyhee. This alternative would perhaps be more consistent with the beneficial use designated in the water resources program for the Malheur-Owyhee Basins.

Conclusions and Recommendations

The water resources program for the Malheur-Owyhee Basins includes recreation as a designated use of the basins' waters. Boating is a recreational use. State law, ORS 468.735(2) requires that standards be consistent with policies and programs for the use and control of water resources of the state adopted by the Water Policy Review Board.

Based on the above, Boating should continue to be included as a use in the Malheur River and Owyhee Basins in these areas:

(a) Malheur River Basin:

1. Intensive irrigation areas

2. Moderate irrigation areas

(b) Owyhee Basin:

1. Intensive irrigation area

2. Moderate irrigation area

ISSUE NO. 8 -- SHOULD CONTACT RECREATION BE DELETED AS A RECOGNIZED BENEFICIAL USE IN THE LOWER REACHES OF THE MALHEUR RIVER SYSTEM AND THE LOWER MAIN STEM OWYHEE RIVER?

Department's Initial Proposal

For the Malheur River Basin and the Owyhee River Basin, the Department had proposed to delete water contact recreation from the following stream reaches:

Malheur River Basin

(a) Intensive Irrigation areas:

Malheur River (Namorf to mouth)
Willow Creek (Brogan to mouth)
Bully Creek (Reservoir to mouth)

(b) Moderate Irrigation areas:

Willow Creek (Malheur Reservoir to Brogan)
Malheur River (Beulah Dam and Warm Springs Dam to Namorf)

Owyhee River Basin

Owyhee River (river mile 18 to mouth)

Rationale for Department's Initial Proposal

Malheur County proposed that body contact recreation be deleted in the above reaches. Body contact recreation is not suitable in the intensive and moderate irrigation reaches of the Malheur River system and the intense irrigation reach of mainstem Owyhee River because of summer low flows, high fecal coliform densities, and muddy stream bottoms.

Summary of Testimony

The following respondents oppose the deletion of water contact recreation in the Malheur Basin (A-2, D-5, D-8, D-16, D-28, D-29, D-36,D-37, D-38, D-40, D-42, D-45) and in the Owyhee Basin (A-2, C-4, D-5, D-8, D-16, D-28, D-29, D-36, D-37, D-38, D-40, D-42, D-45). Many perceive that deletion of the use will eliminate any efforts to improve water quality.

The following respondents agree with the proposed deletion of water contact recreation in the Malheur Basin (A-5, C-2, C-4, D-6, D-11, D-18, D-21, D-24) and in the Owyhee Basin (A-5, C-2, C-4, D-6, D-10, D-11, D-18, D-20, D-21, D-22, D-23, D-24, D-25, D-26, D-27, D-33, D-34, D-35, D-44) because the use does not occur.

One respondent, who agrees with the deletion of water contact recreation in the intensive irrigation areas in Malheur River and Owyhee Basins, recommended that this use be added to the stream reaches of Moderate Irrigation in the Malheur River Basin (D-17).

Evaluation of Testimony

The Water Policy Review Board's water resources program for the Malheur-Owyhee Basins includes recreation as one of the beneficial uses for both basins. DEQ considers water contact recreation as one form of recreation.

One alternative would be to continue water contact recreation as a use in all waters of Malheur River and Owyhee Basins. This alternative would be consistent with the goals of Public Law 92-500, as amended.

Another alternative would be to delete water contact recreation as a beneficial use for the middle and lower reaches of the Malheur River System and the lower Owyhee River, (and continue the use in all other basin waters) as originally proposed. Such an action may not be fully consistent with the Water Policy Review Board "recreation" designation and would not likely be approved by EPA.

Conclusion and Recommendations

The Water Policy Review Board's water resources program includes recreation as one of the beneficial uses for the waters in Malheur and Owyhee Basins. State law, ORS 468.735(2), requires that water quality standards be consistent with policies and programs for the use and control of water resources in the state adopted by the Water Policy Review Board.

The Department recommends that water contact recreation continue to be listed as a beneficial use in all waters of Malheur River and Owyhee Basins.

ISSUE NO. 9 -- WHAT FUTURE ACTION SHOULD BE TAKEN WITH REGARD TO SUGGESTIONS FOR ADDITIONAL WATER QUALITY STANDARDS REVISIONS?

Department's Initial Proposal

Water Quality Standards for Oregon appear in Division 41 of Oregon Administrative rules (OAR) Chapter 340. This division embodies the Statewide Water Quality Management Plan and includes the following topics: Preface; Definitions; Policies and guidelines generally applicable to all basins. For each basin, the plan includes: Beneficial Uses to be protected; Water Quality Standards not to be exceeded; and Minimum Design Criteria for treatment and control of wastes.

The Department invited comments and suggestions for amending any elements of the topics mentioned above. The Department specifically invited comments on the issue of having the fecal coliform standard apply during the water contact recreation season rather than year-round.

Rationale for Department's Initial Proposal

Water quality standards need public review and update based on the review process once each three years. This process allows the public to comment and propose amendments to present rules.

Summary of Testimony

Seven respondents submitted comments proposing specific changes to present Water Quality Standards or suggesting that the Department modify certain basin standards generally.

For purpose of discussion, the comments are organized according to the topics mentioned above.

1) Policies and Guidelines Applicable to All Basins

(a) One respondent (D-28) objects to the phrase which is underlined in the Anti-Degradation Policy, OAR 340-41-026(1)(a), quoted below:

"340-410-26(1)(a) Existing high quality waters which exceed those levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water shall be maintained and protected unless the Environmental Quality Commission chooses, after full satisfaction of the intergovernmental coordination and public participation provisions of the continuing

planning process, to lower water quality for necessary and justifiable economic or social development. The Director or his designee may allow lower water quality on a short-term basis in order to respond to emergencies or to otherwise protect public health and welfare. In no event, however, may degradation of water quality interfere with or become injurious to the beneficial uses of water within surface waters of the following areas: (A) National Parks; (B) National Wild and Scenic Rivers; (C) National Wildlife Refuges; (D) State Parks."

The same individual suggests that OAR 340-41-026(2) which reads as follows:

"(2) In order to maintain the quality of waters in the State of Oregon, it is the policy of the EQC to require that growth and development be accommodated by increased efficiency and effectiveness of waste treatment and control such that measureable future discharged waste loads from existing sources do not exceed presently allowed discharged loads unless otherwise specifically approved by the EQC."

be replaced with the following:

1. Maximum allowable loadings for all relevant pollutants shall be established for each stream segment for all waters of the State of Oregon, such allowable loadings to be determined on the basis of water quality requirements as described by the Water Quality Standards not to be exceeded; and

2. NPDES discharge permit conditions and nonpoint source pollution management programs shall be developed and enforced on the basis that the total of the point source and nonpoint source pollutant loadings to any stream segment shall not exceed the maximum allowable pollutant loadings established for that segment.

(b) One respondent (D-31) suggests that the Department amend the Anti-degradation Policy by adding State Scenic Waterways to the present listing of outstanding water resources.

(c) One respondent (D-45) recommends that the Department amend the Anti-degradation Policy in three areas as follows to the reflect the 1983 revisions of the federal water quality standards regulations:

1. Amend the third sentence of OAR 340-41-026 (1)(a) to read, "In no event, however, may degradation of water quality interfere with or become injurious to the beneficial uses of water within surface waters of the State."

2. Add a new paragraph as follows which requires the protection of existing uses and the water quality necessary to ensure the preservation of those uses for all waterways:

"Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."

3. Modify the first sentence of OAR 340-41-026 (1)(a) as follows:

"Existing high quality waters which exceed those levels necessary to support propagation of fish, shellfish, and recreation in and on the water shall be maintained and protected unless the Environmental Quality Commission chooses, after full satisfaction of the intergovernmental coordination and public participation provisions of the continuing planning process, to lower water quality *where it is necessary to accommodate important economic or social development in the areas in which the waters are located."*

2) Water Quality Standards Not to Be Exceeded.

(a) One respondent (D-4) suggests that present water quality standards, which use a single numerical value for for each parameter, would be better served if each standard value included a statistical variability consistent with the method or instruments used to measure a parameter.

The respondent also asked the Department to consider the following:

1. Adopting EPA guidelines for standards for heavy metals such as copper, chromium, cadmium, zinc or lead.

2. Establishing standards for heavy metals in estuarine and marine waters.

3. Reassess the use of fecal coliform as the primary indicator of pollution because recent studies show that other organisms may correlate better with human gastroenteritis.

(b) One respondent (D-9) indicated that they would like to see adjustments in the following water quality standards for the Tualatin River: total dissolved solids, dissolved oxygen, phosphorus, and fecal coliforms.

(c) One respondent (B-1) suggests the Department should study and possibly implement the use of different tests for determining water quality other than coliform bacteria.

(d) One respondent (D-28) suggests that the present basin standards be amended by (1) replacing the turbidity standard and (2) adding a nutrient standard with the following:

1. Color and Turbidity. A Secchi disc shall be visible at a minimum depth of 4 feet or on the bottom if the water is less than 4 feet deep.

2. Nutrients (Nitrogen and Phosphorus). Shall not be present in concentrations greater than that which would result in an algal biomass corresponding to a chlorophyll-a concentration of 25 micrograms/liter.

(e) One respondent (C-1) expressed concern that the basic water quality is based on fecal bacteria in water and would prefer an additional standard in those basins where the water will not be used outright for swimming and other water contact sports.

The respondent also recommends upgrading the rules on toxic substances to conform with the most recent standards recommended by EPA. He also recommends that standards for pesticides and herbicides be added to those basins draining to Snake River.

(f) One respondent (D-45) recommends the following changes in each basin plan regarding dissolved chemical substances, pesticides, and other toxic substances:

1. Under Guide Concentrations, reference the 1976 publication "Quality Criteria for Water," the 1980 publications for 64 toxic priority pollutants, and subsequent revisions.

2. To support the guide concentrations, add a narrative criterion based on biomonitoring techniques, which would apply to substances that lack specified criteria. The guidance for biomonitoring should include:

-- definition of acute and chronic toxicity,

-- acceptable bio-assay techniques,

-- number and type of indicator organisms, and

-- application factors (e.g., 0.01 x 96 hr. LC50).

3. Under "Pesticides and other Organic Toxic Substances" the individual basin plans should include the following sentence:

"These criteria shall apply unless supporting data show conclusively that beneficial uses will not be adversely affected by exceeding a criterion by a specific amount or that a more stringent criterion is warranted to protect beneficial uses."

Such site specific criteria would have to be approved by EPA as a water quality standards revision. Furthermore, they would have to be submitted to EPA with the water quality standards revision. This would not be necessary if the state published their methods in the standards or guidance as described in number (2) above.

(g) Below is a summary of comments submitted by respondents on the issue of having the present Fecal Coliform Standard apply during the water contact recreation season rather than on a year-round basis.

One respondent stated that the Fecal Coliform Standard should be applied year-round because waterborne diseases are not transmitted solely through "water contact recreation." He noted that fishermen, particularly winter steelheaders, have intimate contact with river water year-round. He also noted that fly fishermen commonly hold a wet line in their mouth, and that he sometimes drank from the river he fished. He further added that streams having high fecal coliform counts can contaminate estuarine shellfish areas as is currently occurring in Yaquina Bay (D-36).

A respondent noted that economic considerations and the reduced probability for adverse effects on public health in winter are implied in the relaxation from year-round sampling to summer-only sampling for fecal coliform. She noted that the economic prudence may be environmentally costly if the relaxed standard becomes a license to decrease waste water treatment in cooler months because no monitoring occurs. She also noted that winter aquatic sports, such as fishing, requires human contact with water. She suggested that DEQ may want to reassess the use of the fecal coliform as a primary indicator of pollution because recent studies show that other organisms correlate better with human gastroenteritis (D-4).

Based on those recent studies, she raised two questions: (a) "Are fecal coliforms the appropriate test group of

organisms?" (b) "Does the fecal coliform testing method include other organisms that influence the test results?" (D-4)

One respondent pointed out that the present Fecal Coliform Standards are statistically ambiguous and should be clarified. Presumably a set of bacteriological samples would (or should) be collected at a given time and location. The median of such a sample set would be the more generally indicative measure of bacteriological quality. The arithmetic mean of several medians of sample sets collected over time probably represents the total exposure to organisms better than a log mean of single samples. He further noted that a log mean is unable to cope statistically with either zero or TMC (too many to count) valves. Thus, he suggested that a less ambiguous standard would be: (D-28)

"Fecal Coliform Organisms. Based on a minimum of 5 sample sets collected over a 30-day period, the arithmetic mean of the medians of the sample sets shall not exceed 200 fecal coliforms per 100 milliliters nor shall more than 10 percent of of the samples in the 30-day period exceed 400 fecal coliforms per 100 milliliters."

The Rogue Valley Council of Governments (RVCOG) (D-3) stated that the proposed changes in the application of the Fecal Coliform Standard from year-round to just the expected water contact season raises some interesting questions. The RVCOG Water Quality Advisory Committee (WQAC), composed of 30 members, discussed the proposal at length and raised the following comments:

1. "The water contact season would have to vary from one area to another - even in Southern Oregon, activities along Bear Creek (indirect contact only) involve a much shorter season (May to October) than the Rogue River with its extensive fishing virtually year-round.

2. Does the proposed change indicate an EPA or DEQ policy change decreasing the importance of fecal coliform? (If so, could this result in any future decrease in future funding allocations?)

3. RVCOG has been able to document two fecal coliform peaks, one at the onset of irrigation (flushing of canals?) and the first major winter storm (natural flushing?) - should we ignore the expected annual winter peak?

4. Should the standard consider voluntary vs. involuntary contact? For example, people in a flood plain have no desire for, but may be subject to, unwanted winter flooding (with associated high fecal counts), while people engaged in summer water contact activities assume some voluntary risk for their health. Should there be two standards (summer/winter; voluntary/involuntary)?

5. There has been some information relating to possible increased potential for disease associated with human fecal coliform versus animal (livestock) sources. If this is true, should a refinement of the Fecal Coliform Standard consider this aspect?

6. The log mean process of evaluating several coliform tests at a given location should be simplified, if possible. Our resources preclude taking more than two samples in a month, and which 30-day period does one use when samples are taken every two weeks? How about an annual or a summer average with a minimum number of samples?"

"The above summarizes the discussion of the WQAC meeting. We took no position for or against, but thought these issues would help your decision process. We would be glad to work with you on helping to adopt logical changes to the standard."

Two respondents supported the concept of amending the Fecal Coliform Standards for freshwater to apply only during the water contact recreation season (D-9, D-24). One of the respondents noted that the Unified Sewerage Agency's data from the Tualatin River showed the following: (D-9)

1. There can be a 20-fold increase in fecal coliform densities during rainfall events; and

2. Data collected in 1983 at River Mile 38.5 showed the densities averaged 142 organisms per 100 ml from June to October, while the densities averaged 1190 organisms per 100 ml for the remaining seven months, an 8-fold increase."

One respondent believes that the Fecal Coliform Standard should be applied year-round rather than only during the recreational season (D-30).

The EPA noted that Oregon must provide criteria that will protect public health. If there is great potential for contact recreation throughout the year, seasonal Fecal

Coliform Standards would not be appropriate. However, seasonal standards would be appropriate where seasonal climatic extremes preclude the use of water bodies for contact recreational purposes (D-45).

(h) Seven respondents indicated that the turbidity standard was too strict to allow for gold placer mining, especially during winter and early spring. One asked that the turbidity standard be relaxed (D-15). One respondent asked that the standard be relaxed in the Rogue Basin (D-12). One indicated that the stringent turbidity standard essentially precluded mining in most areas of the Rogue Basin unless extensive areas are devoted to settling ponds. He believes the DEQ should relax the turbidity standard on mining operations and should recognize the Rogue River Coordination Board's rules that allow mine tailings discharge as a legitimate use of the Rogue River during winter months (B-2).

Three respondents requested the standard be relaxed in the Umpqua Basin (D-13, D-14, D-43), and one of the three also added the upper Willamette Basin to his request (D-14). One asked that the standard be relaxed in the Chetco Subbasin of the South Coast Basin (D-41).

Two of the respondents--one from the Rogue Basin (D-12) and the other from the Umpqua Basin (D-43)--proposed the conditions below for placer mining operations.

> Proposal: To Allow Discharge of Water From Settling Ponds Containing Suspended Sediment From November 1 to April 30 Under The Following Conditions: (Dates Were Obtained From Central Valley Water Pollution Control Board of California)
>
> 1. Flow of stream or river exceeds by 2-1/2 times the established summer level.
>
> 2. Discharge shall not cause turbidity levels to exceed 35 ppm after a complete mix with stream or river, <u>unless</u> stream or river level exceeds 3 times established summer level.
>
> 3. Oxygen content level of receiving water shall not fall below 10 ppm.
>
> 4. Settling ponds for solids to be no less than (see below) for a given discharge rate.

Gallons Discharge, Per Minute	Settling Pond Dimensions, Feet			Minimum Detention Time, Hours[a/]
	Length	Width	Depth	
0-1,000	100	25	3	1
1,000-2,000	150	35	5	1.6
2,000-3,000	200	35	7	2
3,000-5,000	250	50	10	3

a/ Calculated by DEQ--Approximate Detention Times

5. Discharge pipe or sluice way will not exceed 4" under the surface of the pond.

They (D-12, D-43) presented assessments of the proposal on the environment, wildlife and their habitat, current and long-term economics of mining, and social effects. They summarized the effects of their proposal as follows:

Discharge of water with suspended sediments from settling ponds into the Rogue River Basin during the fall, winter, and spring months would reduce the costs of operating and would make more investment capital available for adding jobs and equipment to the mining industry. With the low turbidity levels there should be no bed loading of silt in the streams or rivers, and with the high oxygen levels there will be no needless destruction of the food chain or fish eggs in the gravel beds of streams or rivers.

One respondent expressed that many miners in the Illinois Valley (Rogue Basin) would like to change the turbidity standards to cut the cost of mining. She asked if it is possible in this day and age, when much of our water is polluted, that the standard would be lowered to allow miners or any other industry to pollute our waters more (D-19).

3) Minimum Design Criteria for Treatment and Control of Wastes

(a) One respondent (D-28) recommends that interim pollutant loading design factors be applied to industrial and nonpoint waste sources as well as to sewage wastes. Based on the water quality standard for nutrients suggested above, an interim pollutant loading design factor for phosphorus might be:

"Effluent total phosphorus concentrations in mg/1, divided by the dilution factor (ratio of receiving

stream flow to effluent flow) shall not exceed 0.025 unless otherwise approved by the EQC."

Similar interim loading design factors could be straightforwardly promulgated for dissolved chemical substances and for pesticides and other organic toxic substances, where the ratios of allowable concentration to dilution factor would be numerically equal to the concentrations specified by the present Water Quality Standards (or some probably arbitrary fraction of those concentrations).

(b) One respondent (D-45) suggests that the present water quality standards should include more detail on the development of mixing zones for the discharge of point sources of wastes.

Evaluation of Testimony

Bacterial Standards

The Department of Environmental Quality (DEQ) invited comments on the issue of having the Fecal Coliform Standard apply during the water contact recreational season rather than year-round. We solicited the comments to help us in formulating specific proposals in the future. Between the time the standards review package was sent out in early April and the public hearings held in mid-May, the Department received from the U.S. Environmental Protection Agency (EPA) a draft microbiological criteria document entitled "Water Quality Health Effects Criteria for Marine and Fresh Recreational Waters." This draft document shows the results of two fresh water and several marine bathing beaches that were studied over a three-year period for swimming-associated gastrointestinal illness. The studies found that the bacterial densities of two indicators--enterococci and *E. Coli* -- were equally efficient measures of human fecal contamination and gastrointestinal illness among swimmers in fresh waters. Enterococci, however, appeared to be the better indicator for marine waters. Fecal coliforms showed no relationship with gastrointestinal illness among swimmers in either marine or fresh waters.

Department staff discussed these recent findings at each of the public hearings held in Portland, Roseburg, and Ontario. Staff also pointed out at the hearings that as a result of the recent information, we would postpone the consideration of specific proposals to amend the application of the Fecal Coliform Standard. Instead, we would include measurements of either *E. Coli* or enterococci or both in our statewide ambient monitoring program for a year or two to assess the quality of our waters for contact recreation before proposing any changes to the bacterial standard.

Turbidity

The Department's past experience with placer gold mining operations and with that of the Rogue River Coordination Board's attempt to balance turbidity resulting from mining operations and other beneficial uses, especially winter sports fishing, created irreconcilable problems.

The proposals submitted by two of the miners to establish an instream standard of 35 ppm suspended solids content is impractical for the reasons below:

1. The proposed sizing of sedimentation ponds would not likely remove much sediment, especially the clays in the overburden.

2. It would be unmanageable at best and labor intensive to track down the miners should such a standard be exceeded.

3. As a group, the placer miners have not been too attentive in controlling the waste waters resulting from their activities.

4. Based on the Department's experience, this type of discharge, like any other industrial waste, is best controlled at the source.

   Item 3 in the respondents proposal calls for a dissolved oxygen content of at least 10 mg/l. The Department is not overly concerned with DO in such discharges because overburden is not laden with either short or long-term oxygen demanding substances. Of greater concern is the minimum control over sediment-laden waste waters entering the waterways and potentially blanketing spawning gravels. If this condition is allowed, then the transfer of oxygenated waters to the incubating eggs may be blocked or impeded.

Other Proposals

The Department received a number of specific and general proposals to amend various other sections of the statewide Water Quality Management Plan. One alternative in addressing all proposals would be to develop issue papers for each proposal, send to the public for broad review and hold hearings.

A second alternative is to develop issue papers immediately on specific proposals which would not require extensive staff time to prepare for public review. Among these proposals would include: amending language to the Anti-degradation Policy; adding a hardness factor to heavy metals guide concentrations in fresh waters; updating the pesticides and toxic substances section; expansion of mixing zone criteria, and development of nutrient standards. Issue papers on

other issues would be developed over a longer period as resources are available.

Staff work is required in all cases to prepare materials for public review.

Conclusion and Recommendations

A number of amendments to the Statewide Water Quality Management Plan were proposed to the Department. Some proposals will require minimal staff time to prepare issue papers to inform the public of proposed changes, while others will require extensive time for literature review and preparation of issue papers. Thus, the Department recommends that issue papers be prepared and circulated for public review for the following:

a) Anti-degradation policy amendments
b) Updating heavy metal standards including consideration of addition of a hardness factor
c) Updating pesticide and other toxic substance sections
d) Expansion of mixing zone criteria
e) Development of nutrient standards

Issue papers for other topics would be developed as a lower priority as resources permit.

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

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MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. G, February 24, 1984, EQC Meeting

Request for Authorization to Hold Public Hearings (1) to Accept Testimony on Specific Proposed Modifications to Water Quality Standards (OAR Chapter 340, Division 41) and (2) to Solicit Public Comments on the Adequacy of Rules Contained in OAR Chapter 340, Division 41.

Background and Problem Statement

ORS 468.735 provides that the Commission by rule may establish standards of quality and purity for waters of the state. Present Water Quality Standards (contained in Division 41 of OAR Chapter 340) were adopted by the Commission in December 1976. The Commission adopted revisions to these standards in September 1979.

The Clean Water Act (Public Law 92-500, as amended) requires the states to hold public hearings, at least once each three years, to review applicable water quality standards. To comply with provisions of the Act, the Department proposes to conduct a statewide hearing on Water Quality Standards to accomplish several objectives:

1. To invite comments on specific proposals to: (a) add language to Tables on Beneficial Uses for 11 basins which emphasizes by footnote that public and private domestic water supplies are beneficial uses with adequate pretreatment and where natural quality meets Drinking Water Standards, and (b) add a column heading that reads "Beneficial Uses" to Table 1 for the North Coast-Lower Columbia Basin.

2. To invite comments on specific proposals to refine the Beneficial Uses Tables for the Malheur River and Owyhee River Basins.

3. To solicit comments and suggestions for proposing future amendments to present standards.

Discussion and Evaluation

The following is a summary of the issues in Attachment 1.

SPECIFIC PROPOSALS FOR MODIFYING WATER QUALITY STANDARDS

1. Tables on Beneficial Uses (Objective 1)

The Department proposes to amend the Beneficial Uses Tables as discussed below:

a. Table 1, which lists the beneficial uses for the North Coast-Lower Columbia Basin, should have a column heading that reads "Beneficial Uses."

b. Public Domestic Water Supply and Private Domestic Water Supply are uses listed in the Beneficial Uses Table for each of the nineteen basin plans. Eight basin tables now have these two uses footnoted, with the footnote reading "With adequate pretreatment and natural quality to meet Drinking Water Standards."

The Department strongly believes that these two uses need this caution in the table for the other eleven basins because of the general rise in gastrointestinal problems in recent years among residents served by community systems and among individuals (campers, back-packers, etc.) drinking raw surface waters. Unless such problems are caused by other sources, they are usually traced to the inadequate pretreatment of the drinking water supplies. The Beneficial Use Table in the eleven basins listed below should include the footnote mentioned above.

Table	Basin
1	North Coast-Lower Columbia
2	Mid Coast
3	Umpqua
4	South Coast
5	Rogue
6	Sandy
7	Hood
8	Deschutes
9	John Day
12	Walla Walla
17	Malheur Lake

2. Refinement of Beneficial Uses Tables for Malheur River and Owyhee River Basins (Objective 2).

The Water Policy Review Board has established beneficial uses in broad categories for managing water quantity. The Department has expanded on these uses for managing water quality. For example, Fish Life, which is a designated use, has been expanded by DEQ in some basins

into the following subcategories: anadromous fish passage, salmonid fish rearing, salmonid fish spawning, and resident fish and aquatic life. An important element of Oregon's Water Quality Standards are these beneficial uses.

Over the past 37 years, water quality standards have evolved from the general to the specific, as presented in Attachment 2. Studies, data, and experience have led to four major successive reviews resulting in refinement to the original water quality standards adopted in 1947.

In 1981, the Malheur County Planning Office completed a two-year water quality study in Malheur County related to nonpoint sources of waste. The Department of Fish and Wildlife provided this study with information on fish species and their distribution in the lower Malheur and lower Owyhee Rivers.

The studies concluded:

a. The present listings of beneficial uses for the Malheur River and Owyhee Basin streams are too general. They assume that all uses apply to all basin waters.

b. Cold water fish species such as trout do not occur in the Snake River, the lower 69 miles of the Malheur River, the Owyhee Reservoir, and the lower 18 miles of Owyhee River.

c. Water contact recreation in the lower Malheur River and the lower Owyhee River is unsuitable because of summer low flows, high fecal coliform densities, and muddy river bottoms.

Attachments 3 and 4 show the present Beneficial Uses Tables for the Malheur River and Owyhee River Basins, respectively. These studies provided sufficient information to propose refining the Beneficial Use Tables for the Malheur River and Owyhee River Basins, as shown in Attachments 5 and 6. These refinements would reflect the present and highest future uses of waters in the basins. Adoption of these tables would not alter land uses, would not further jeopardize existing aquatic life, would not require changes in the numerical water quality standards, and would not result in any degradation in water quality.

The Department proposes to solicit testimony on these proposals.

Request for Comments and Suggestions on the Review of Rules in OAR Chapter 340, Division 41 (Objective 3)

The Clean Water Act requires the review of Water Quality Standards every three years. The Department wishes to provide the public an opportunity to comment and suggest proposals for future amendments to the present Water Quality Standards. The Department further invites comments on the issue of having the fecal coliform standard apply during the water contact recreational season rather than year-round. Public response to this invitation will be helpful in formulating specific proposals in the future.

Summation

1. ORS 468.735 provides that the Commission by rule may establish standards of quality and purity for waters of the state in accordance with the public policy set forth in ORS 468.710.

2. Oregon has adopted water quality standards, with the last adoption occurring in September 1979. Such standards are contained in OAR Chapter 340, Division 4, Subdivision 1.

3. Specific proposals have been drafted and are ready for circulation, comment, and public hearing. (See Attachment 1).

4. Provisions of the Clean Water Act require review of Water Quality Standards every three years. As part of this package, the Department is inviting comments and suggestions for proposing future amendments to present standards.

Director's Recommendation

Based upon the summation, it is recommended that the Commission authorize the Department to give notice and proceed to public hearing to: (1) take testimony on specific proposed modifications to the Water Quality Standards in Division 41, and (2) invite public comments on the rules contained in OAR Chapter 340, Division 41.

Fred Hansen

Attachments:
1. Review of Water Quality Standards with Local Governments and Interested Citizens - 1984
2. Historical Development of Oregon's Water Quality Standards.
3. Existing Beneficial Uses for Malheur River Basin.
4. Existing Beneficial Uses for Owyhee River Basin.
5. Beneficial Uses Proposed for Malheur River Basin to Replace Existing Table.
6. Beneficial Uses Proposed for Owyhee Basin to Replace Existing Table.
7. Public Notice and Statement of Need

Edison L. Quan:g
TG3155
229-6978
February 10, 1984

ATTACHMENT 1

REVIEW OF WATER QUALITY STANDARDS
WITH LOCAL GOVERNMENTS AND INTERESTED CITIZENS
1984

Why am I receiving these materials?

Water quality standards are an integral component of the Department's Statewide Water Quality Management Plan. Public Law 92-500 requires a review of these standards at least once every three years. The intent of this information package is to solicit testimony from Oregon's citizens on specific proposals to amend Beneficial Uses Tables for selected river basins. The Department of Environmental Quality (DEQ) also wishes to invite comments and suggestions: (1) for amending the present Water Quality Standards, and (2) for amending the application of the Fecal Coliform Standard to coincide with the summer recreational season, as recommended by the Environmental Protection Agency (EPA).

The Department last reviewed and revised Oregon's Water Quality Standards in September 1979, and the Environmental Protection Agency (EPA) approved those revisions in May 1980. Briefly, EPA had requested changes in some standards to permit their full approval of Oregon's Water Quality Standards as follows:

1. The Antidegradation Policy was expanded to clarify its intent;

2. For the Temperature and Turbidity Standards, the variance provisions were expanded to clarify the procedures for granting variances;

3. A Fecal Coliform Standard replaced the Total Coliform Standard;

4. The Total Dissolved Gas Standard was expanded by adding another gas standard. The stricter original standard now applies to receiving waters at fish hatcheries and to streams less than 2 feet deep. The added standard applies to rivers greater than 2 feet deep; and

5. The standards on Pesticides and other toxic substances were added by reference to those contained in the 1976 Edition of the EPA publication "Quality Criteria for Water." This publication sets the criteria for 2 organic compounds and 15 pesticides.

For this round of review the Department wishes to accomplish the following objectives:

1. To solicit comments on specific proposals to: (a) add language to Tables on Beneficial Uses for 11 basins, which emphasizes by footnote that public and private domestic water supplies are beneficial uses with adequate pretreatment and where natural quality meets Drinking Water

Standards and (b) add a column heading that reads "Beneficial Uses" to Table 1 for the North Coast-Lower Columbia Basin.

2. To solicit comments on specific proposals to refine the Beneficial Uses Tables for the Malheur River and Owyhee River Basins.

3. To invite comments and suggestions for proposing future amendments to present standards.

Formal presentation of the specific proposals will be made at public hearings for the respective basins.

What is contained in this Package?

This package contains two sections. The first section discusses the specific modifications proposed for the Tables on Beneficial Uses for eleven basins, and the refinement of Beneficial Uses Tables for the Malheur and Owyhee Basins. The second section invites public comments and suggestions for amending the present Water Quality Standards, and for amending the Fecal Coliform Standard to apply during the water contact recreational season.

SPECIFIC PROPOSALS FOR MODIFYING WATER QUALITY STANDARDS

A. Tables on Beneficial Uses

The Department proposes to add new language to some Beneficial Uses Tables for clarification as follows: (Proposed new language is underlined).

1. The Department proposes to add a column heading that reads "Beneficial Uses" to OAR 340-41-202, Table 1, which lists the beneficial uses for the North Coast-Lower Columbia Basin.

2. Public Domestic Water Supply and Private Domestic Water Supply are uses listed in the Beneficial Uses Table for each of the nineteen basin plans. Eight basin tables now have these two uses footnoted, with the footnote reading, "With adequate pretreatment and natural quality to meet Drinking Water Standards." The Department strongly believes that these two uses need this caution in the Table for the other eleven basins because of the general rise in gastrointestinal problems in recent years among residents served by community systems and among individuals drinking raw surface waters. Unless such problems are caused by other sources, they are usually traced to the inadequate pretreatment of the drinking water supplies. Therefore, the Department proposes to add the caution mentioned above to the Beneficial Uses Tables in the following eleven basins:

OAR	Table	Basin
340-41-202	1	North Coast-Lower Columbia
340-41-242	2	Mid Coast
340-41-282	3	Umpqua
340-41-322	4	South Coast
340-41-362	5	Rogue
340-41-482	7	Sandy
340-41-522	8	Hood
340-41-562	9	Deschutes
340-41-602	10	John Day
340-41-682	12	Walla Walla
340-41-882	17	Malheur Lake

B. Refinement of Beneficial Uses Tables for Malheur River and Owyhee River Basins

The Water Policy Review Board has established beneficial uses in broad categories for managing water quantity. The Department has expanded on these uses for managing water quality. For example, Fish Life, which is a designated use, has been expanded by DEQ in some basins into the following subcategories: anadromous fish passage, salmonid fish rearing, salmonid fish spawning, and resident fish and aquatic life. An important element of Oregon's Water Quality Standards are these beneficial uses.

Over the past 37 years, water quality standards have evolved from the general to the specific. Studies, data, and experience have led to four major successive reviews resulting in refinement to the original water quality standards adopted in 1947.

In 1981, the Malheur County Planning Office completed a two-year water quality study in Malheur County related to nonpoint sources of waste. The Department of Fish and Wildlife provided this study with information on fish species and their distribution in the lower Malheur and lower Owyhee Rivers.

The studies concluded:

1. The present listings of beneficial uses for the Malheur River and Owyhee Basin streams are too general. They assume that all uses apply to all basin waters.

2. Cold water fish species such as trout do not occur in the Snake River, the lower 69 miles of the Malheur River, the Owyhee Reservoir, and the lower 18 miles of Owyhee River.

3. Water contact recreation in the lower Malheur River and the lower Owyhee River is unsuitable because of summer low flows, high fecal coliform densities, and muddy river bottoms.

These studies (summarized in two Water Body Assessment Reports available from the Department), provided sufficient information to propose refining the Beneficial Use Tables for the Malheur River and Owyhee River Basins, as shown in Attachments 1 and 2. These refinements would reflect the present and highest future uses of waters in the basins. Adoption of these tables would not alter land uses, would not further jeopardize existing aquatic life, would not require changes in the numerical water quality standards, and would not result in any degradation in water quality.

REQUEST FOR PUBLIC COMMENTS AND SUGGESTIONS:

A. To Amend Present Water Quality Standards

Water Quality Standards for Oregon appear in Division 41 of Oregon Administrative Rules (OAR) Chapter 340. This division embodies the Statewide Water Quality Management Plan and includes the following topics: Preface; Definitions; Policies and guidelines generally applicable to all basins; implementation program applicable to all basins; and individual basin plans for 19 river basins. Each basin plan includes: Beneficial Uses to be protected; Water Quality Standards not to be exceeded; and Minimum Design Criteria for treatment and control of wastes.

The Department wishes to invite comments and suggestions for amending any elements of the topics mentioned above.

B. To Amend the Fecal Coliform Standard for Freshwaters to be Applicable During the Water Contact Recreation Season

The existing numerical Fecal Coliform Standard for fresh waters reads as as follows:

> "Organisms of the coliform group where associated with fecal sources (MPN or equivalent MF using a representative number of samples): A log mean of 200 fecal coliform per 100 milliliters based on a minimum of 5 samples in a 30-day period with no more than 10 percent of the samples in the 30-day period exceeding 400 per 100 ml."

At present the standard is interpreted as being applicable year-round. This standard serves as an index for evaluating the microbiological suitability of recreational waters. The standard is generally met during water contact recreation in the summer, when rainfall is light and land runoff is low. However, the standard is often exceeded during wet weather between fall and spring when cold water temperatures, high streamflows, and high turbidities prevail. Since water contact recreation does not occur during the cold, wet-weather period, should this standard apply year-around?

The Department wishes to invite comments on the issue of having the Fecal Coliform Standard apply during the water contact recreational season rather than year-round. Such comments will be helpful to the Department in formulating specific proposals in the future.

ELQ:l
TL3009
February 10, 1984

ATTACHMENT 1

Beneficial Uses Proposed for Malheur River Basin to Replace Existing Table

TABLE 15
(340-41-802)

Beneficial Uses	Intensive Irrigation		Moderate Irrigation	Reservoirs	Light Irrigation
	Snake R. Main Stem RM 335 - 395	Malheur R. (Namorf to Mouth) Willow Cr. (Brogan to Mouth) Bully Cr. (Reservoir to Mouth)	Willow Cr. (Malheur Reservoir to Brogan) Malheur R. (Beulah Dam and Warm Springs Dam to Namorf)	Antelope Malheur Bully Creek Beulah Cow Cr. Warm Springs	Malheur River and Tributaries Upstream From Reservoirs
Public Domestic Water Supply 1/	X		X	X	X
Private Domestic Water Supply 1/	X		X	X	X
Industrial Water Supply	X		X	X	X
Irrigation	X	X	X	X	X
Livestock Watering	X	X	X	X	X
Salmonid Fish (Trout) Rearing			X	X	X
Salmonid Fish (Trout) Spawning			X		X
Resident Fish & Aquatic Life	X	X	X	X	X
Wildlife & Hunting	X	X	X	X	X
Fishing	X	X	X	X	X
Boating	X			X	X
Water Contact Recreation	X			X	X
Aesthetic Quality	X	X	X	X	X

1/ With adequate pretreatment and where natural quality meets drinking water standards.

ELQ:g
TG3155.A
2/3/84

ATTACHMENT 2

Beneficial Uses Proposed for Owyhee Basin to Replace Existing Table

TABLE 16
(340-41-842)

Beneficial Uses	Snake R. RM 395-409	Intense Irrigation: Owyhee R. (RM 0-18)	Moderate Irrigation: Owyhee R. (RM 18-Dam)	Owyhee Reservoir	Light Irrigation: Owyhee River and tributaries Upstream from Owyhee Reservoir
Public Domestic Water Supply 1/	X		X	X	X
Private Domestic Water Supply 1/	X		X	X	X
Industrial Water Supply	X		X	X	X
Irrigation	X	X	X	X	X
Livestock Watering	X	X	X	X	X
Salmonid Fish (Trout) Rearing			X		X
Salmonid Fish (Trout) Spawning			X		X
Resident Fish & Aquatic Life	X	X	X	X	X
Wildlife & Hunting	X	X	X	X	X
Fishing	X	X	X	X	X
Boating	X			X	X
Water Contact Recreation	X		X	X	X
Aesthetic Quality	X	X	X	X	X

1/ With adequate pretreatment and where natural quality meets drinking water standards.

ELQ:g
TG3155.A
1/30/84

WATER BODY ASSESSMENT
MALHEUR RIVER
Malheur County, Oregon

A. Introduction

In 1981, the Malheur County Planning Office in Vale, Oregon, completed a study entitled "Final Report, Two-Year Sampling Program, Malheur County Water Quality Management Plan." The purpose of the study was to assess the nonpoint source water quality problems in the County. Of the six objectives of the study, one was to provide sufficient information to re-evaluate the established beneficial uses and water quality standards for the Malheur Basin. Also, the Oregon Department of Fish and Wildlife (Bowers, Hosford, and Moore) completed a study in 1979, entitled "Stream Surveys of the Lower Owyhee and Malheur Rivers, A Report to the Malheur County Water Resources Committee." The purposes of the fish population surveys were to update the Department's records and to provide information for re-evaluation of the beneficial uses in the lower Malheur River.

The first of these is the final report for a study conducted under Section 208 of the Clean Water Act, as amended, and contains extensive information on the quantity, quality, and disposition of the area's water resources. The second document reports the results of a sampling program conducted by the Oregon Department of Fish and Wildlife (ODFW) on the fish populations in the lower 69 miles of the Malheur River during June and July, 1978. Information in the ODFW report was incorporated into the 208 report. Additional fisheries information supplied by ODFW was also considered. Most of this Water Body Assessment report is extracted from the 208 Final Report.

Oregon Administrative Rules (OAR) Chapter 340, Division 41, contain the Statewide Water Quality Management Plan; Beneficial Uses, Policies, Standards, and Treatment Criteria for Oregon. The present Beneficial Uses for Malheur River Basin are shown in Table 1. An outcome of the two studies mentioned above suggest that the beneficial uses for the Malheur River Basin should be further refined. This report provides the assessment for proposing a refinement to the beneficial uses for the basin.

B. Basin Setting

Malheur County, located in the southeastern corner of Oregon, is bordered by Idaho to the east and Nevada to the south. The Malheur River Basin is predominately hilly, strongly dissected terrain, underlain by old sediments and volcanic rock. Elevations range from around 2,100 feet near the Snake River to mountainous plateaus above 5,000 feet and some isolated peaks above 6,000 feet. Three main physiographic divisions occur in the Malheur Basin: (1) low-elevation terraces and flood plains, (2) grass-shrub uplands and (3) forested uplands.

Low-Elevation Terraces and Flood Plains. This important area of irrigated agriculture occupies flood plains and a sequence of terraces parallel to the Snake River, extending up the valleys of the Malheur River and Willow Creek. These areas are under intensive agricultural production, growing

sugar beets, onions, potetoes, corn, mint, grain, alfalfa seed, vegetable seed and hay. The alluvial soils have varying parent materials. Some of the soils are deep, well-drained loams, while others are clayey, poorly drained and contain alkali. Many of the areas with alkali in the basin have been reclaimed and are currently under agricultural production.

Grass-Shrub Uplands. Uplands of the Malheur River Basin consist mainly of rolling, hilly, grass-shrub covered ground underlain by old lacustrine sedimentary formations of Tertiary age. Recent age lava flows, as well as lava flows dating back to Tertiary times, also underlay much of the basin.

A thin surface mantle of wind-borne loess is present in places, and narrow alluvial lands occur along streams. The soils are light colored, low in organic matter and generally calcareous. Vegetation consists mainly of bluebunch wheatgrass, sandberg bluegrass and sagebrush.

Forested Uplands. The northwest corner of the Malheur River Basin is forested. Open stands of ponderosa pine with understories of elksedge and pinegrass predominate. The soils of this forested area are underlain by basalt and andesite. They are stony, moderately deep, slightly acid and have a loam texture. Primary uses are summer range, timber production, and wildlife habitat.

C. Water Resources

A distinguishing feature of Malheur County is its numerous reservoirs and diversion structures within the Malheur and Owyhee River systems. With an average annual precipitation of less than 10 inches, the delivery of irrigation water is essential for the high agricultural productivity of the area. Irrigation water, or live water, is delivered to individual farms by a complicated network of irrigation canals and laterals. Further complicating the water distribution system is the use and reuse five or six times of irrigation return flow. Additional irrigation water is obtained from groundwater sources and the interbasin transfer from the Owyhee Reservoir.

The maximum legal diversion in the Malheur River Basin is based on the average annual yield of water. Although the total actual annual diversion of water is much less than this, there is practically no unappropriated water during the irrigation season. To satisfy all the legal water rights on the Malheur River with live water, twice the average annual yield of water would be necessary.

Figure 1 presents a schematic diagram of the Malheur River together with its associated reservoirs, diversions and irrigation canals. Most of the water for irrigation is supplied by large irrigation projects (Warm Springs and Beulah Reservoirs) on the Malheur River and on the Owyhee River (Owyhee Reservoir). Smaller projects are located on Bully Creek, Willow Creek and Jordan Creek.

D. Fishery Resources

Historical Perspective. The upper portions of the North and Middle Forks contain miles of excellent spawning gravel and cold, clear water that were probably used extensively by anadromous fish (salmon and steelhead).

Spawning salmon were taken by early settlers in the Logan Valley area. These fish moved quickly through the lower river and held in the headwater areas of the upper Malheur. They held in the deeper pools for several months prior to spawning. After the eggs hatched, the young salmon reared in these same areas and moved quickly through the lower river during the spring high runoff on their way to the ocean.

It is doubtful that many salmonoids used the Lower Malheur (lower 50 miles) except as a migration route, because of the warm water and poor habitat.

The first barrier to upstream fish migration was the Nevada Dam near Vale. Although information is scarce, it is doubtful that this low dam, constructed in 1880, was a total barrier to upstream salmon and steelhead migration during high flow periods. The construction of Warm Springs Dam in 1918, ended the anadromous fish runs in the Middle Fork Malheur. In 1931, with the construction of Beulah Dam (Agency Dam), the same fate befell what was left of any anadromous fish runs on the North Fork Malheur, if indeed there were any salmon or steelhead runs still in existence in the Malheur watershed at that time. All fish migration into the upper Snake River ended with the construction of Brownlee Reservoir in 1958.

The major irrigation reservoirs constructed on the Malheur River and tributaries changed the natural flow characteristics on the lower river. Instead of early summer high flows, summer and fall low flows, and winter steady flow, the peak flows now occur in spring, if and when the upstream reservoirs spill. A sustained summer high flow now exists as water is released from the dams for irrigation purposes. A significant change, which is also the major factor limiting fish production on the lower Malheur River, is the extreme low flows during winter when the reservoirs store water for the next irrigation season. The section of the river from Namorf to the vicinity of Hope is where the winter low flows are the most severe. As the river flows to its mouth, these low flows are augmented by flows from drainage ditches, Bully Creek, Willow Creek, and Cottonwood Creek.

Present Fishery Management Policies on the Malheur River. The Oregon Department of Fish and Wildlife manage the Malheur River and tributaries upstream from the Namorf Diversion primarily as trout habitat. There are two exceptions: (1) Warm Springs Reservoir is managed for trout and warm-water game fish; and (2) the Middle Fork between Warm Springs Reservoir and Drewsey is managed for smallmouth bass.

Three important parameters guide fish management in the Malheur River. The first includes the annual snowpack, expected spring runoff, and associated

water storage in the reservoirs. The amount of storage from spring runoff, coupled with irrigation demand, dictates the carry-over water storage. A second important factor is the periodic buildup of non-game fish. These fish compete with the trout for available food, and when their numbers become too great, trout growth is affected. The third factor is the low natural trout reproduction rate, thus providing few fish to the reservoir and the river. The reservoirs and the river fishery depend entirely on annual stocking of hatchery-produced rainbow trout.

Rainbow trout currently stocked in the Malheur River attain rapid growth when water conditions are favorable and non-game fish numbers are low. However, ODFW feels that the rainbow trout is not the best trout species for the harsh conditions found in southeastern Oregon. ODFW has recently embarked on a program to introduce the redband trout to the Malheur River and is currently attempting to adapt this trout to hatchery rearing. The redband trout is native to eastern Oregon and should be more suited to the conditions found in Malheur County. They can tolerate warmer water temperatures and are efficient predators on non-game fish. However, all the problems associated with this project have not been solved, and the success or failure of this program may not be known for some years.

The Malheur River from Namorf to the mouth is managed as a warm water fishery. However, ODFW has expended very little time and resource on this stretch of the river because it is not a productive fish habitat.

Upper Malheur River. The North Fork of the Malheur River above Beulah Reservoir is managed as a trout fishery; however, Dolly Varden and whitefish are also present. There are approximately 500 angler days per year on this reach of the river, used mostly by local anglers.

The Little Malheur River, a tributary of the North Fork above Beulah Reservoir, is also managed as a trout fishery. There are approximately 100 angler days per year on the Little Malheur River.

Middle Zone. The Malheur River between Riverside and Juntura has a productive trout fishery, but the low winter flows adversely affect the overwinter survival rate of the trout. The winter flows from the South Fork are valuable in maintaining an adequate flow for the trout fishery. ODFW recently acquired legal access to the river at Riverside. The department is planning to develop launching facilities for float boaters for fishery access. There are an estimated 2,500 angler days per year on this reach.

The North Fork from Beulah Dam to Juntura is managed as a trout fishery. The winter low flows, during periods when water is held back for storage behind Beulah Dam, are detrimental to the fish habitat. There are 1,500 angler days on this reach of the river.

The Malheur River from Juntura to Namorf has an excellent trout habitat, but every 6 to 7 years it becomes necessary to rid the reach of non-game

fish and restock it with trout. There are 7,000 angler days per year on this stretch of the river.

Lower Malheur. ODFW, in the summer of 1978, surveyed the lower 69 miles from Namorf to the mouth (see Tables 2 and 3). The purpose of the survey was to update ODFW information on the fish population in this section of the river. ODFW found three distinct sections of this lower zone: (1) from Namorf to the Gellerman-Froman Diversion Dam; (2) from the Gellerman-Froman Diversion Dam to the Nevada Dam; and (3) from the Nevada Dam to the mouth.

In the section between Namorf and the Gellerman-Froman Diversion Dam there was little change in water quality. Water temperatures were higher because of natural warming of the water due to higher air temperatures. Only three game fish were captured--one bullhead, one catfish and one smallmouth bass. Non-game fish sight feeders were common. Winter low flows over a streambed which has few deep pools for overwinter survival seems to be the major limitation in this section of the river.

In the stretch between the Gellerman-Froman Diversion to the Nevada Dam, the river flows through an intensive agricultural region. The river carries a heavy silt load. As the silt load increases there is also a loss of sight feeding fish. Low water flows immediately below the Gellerman-Froman Dam also limit fish production in this area.

The Malheur River from the Nevada Dam to the mouth also flows through intensive agricultural lands. Only 2 percent of the total fish sampled in this section of the river were composed of warm-water game fish.

Snake River.

In the stretch of Snake River from River Miles 335 to 395, the river supports mainly warm water game fish and rough fish species. Creel census conducted by the Department of Fish and Wildlife suggest that any trout in the Snake River would be incidental and are probably washed in on freshet flows from tributaries such as the Owyhee River.

E. Recreation

Power Boating/Waterskiing. Beulah Reservoir is popular for power boating and water skiing because of its oval shape and lack of obstructions in the water. The Bureau of Reclamation estimated that there are 2,690 visitor days per year on the lake.

Warm Springs Reservoir has the potential for power boating and water skiing, but poor road access to the reservoir inhibits these types of recreational activities.

Bully Creek Reservoir, because of its close proximity to the cities of Vale and Ontario, receives heavy use during the summer months by power boaters and water skiers. Hazards exist when water is drawn out for irrigation.

There are 9,700 visitor days per year according to estimates by the Bureau of Reclamation.

Malheur Reservoir is used primarily for fishing, and has no power boating activity.

The Snake River between Ontario and Farewell Bend is used by power boaters and water skiers.

Float Boating. Float boating on the Snake River is connected with fishing and water fowl hunting. River currents are slow, with no challenging rapids for rafters.

The Malheur River from Riverside to Juntura is used by boaters to get to better fishing areas. Water levels fluctuate according to discharges from Warm Springs Reservoir. The river is usually deep enough for successful canoeing.

The reach of the Malheur River from Juntura to Namorf has slow moving water with a few minor rapids. Most of the boating use is combined with fishing.

There are no other stream reaches in Malheur County suitable for boating activities. The heavily silted bottoms and low flows below the diversion dams make the lower Malheur River unsuitable for boating uses.

Bathing. Swimming in Malheur River Basin occurs mainly in the reservoirs and at the city recreational pools. The summer low flows, high fecal coliform densities (1,000 organisms per 100 ml) associated with irrigation return waters, and muddy bottoms, generally make swimming unsuitable in the lower 69 miles of the Malheur River. The upper Malheur River and its tributaries are suitable for swimming, provided sufficient water depth is present.

F. Water Supplies

At present the Malheur River from Namorf to the mouth is not used for public or private domestic water supplies, nor is it used for industrial supply. Since this river reach carries a high silt content and associated contaminants during the irrigation season, these uses should be discouraged unless no other source is available.

G. Conclusions

Based on the two-year study of water quality in the Owyhee Basin by the Malheur County Planning Office and the fish population surveys on the lower Malheur River conducted by the Oregon Department of Fish and Wildlife, the following conclusions are drawn:

1. The flows in the Malheur River have been extensively altered through the construction of several dams and diversion structures designed to store and distribute water for agricultural uses. These same dams, as well as others on the Snake River to which the Malheur River is tributary, prevent natural fish migrations in the river and thus have permanently altered the river's fisheries. In addition, water quality below the Namorf Dam has been affected, primarily through agricultural practices, in a way which severely restricts the types of fish that can successfully inhabit the water.

2. The present listing of beneficial uses for the Owyhee Basin streams is too general. It assumes that all uses apply to the entire basin.

3. The lower Malheur River (currently designated as a salmonid fishery) is managed as a warm water fishery. Due to a number of physical constraints on the lower Malheur River, conditions are unfavorable for game fish, and rough fish predominate. In practice, the lower Malheur River serves as a source and a sink for irrigation water. This type of use contributes to water quality conditions which are unfavorable to salmonids.

4. Water contact recreation in the lower Malheur River is unsuitable because of summer low flows, high fecal coliform densities, and muddy river bottom.

5. Public and private domestic supplies and industrial water supply uses are discouraged in the areas of intensive irrigation.

G. Recommendation

The beneficial uses in the Malheur River Basin should be refined as shown in Table 4. These uses would reflect the present and highest future uses of the river system. Adoption of this list would not alter land uses, jeopardize existing aquatic life, require changes in water quality standards, or result in any degradation in water quality.

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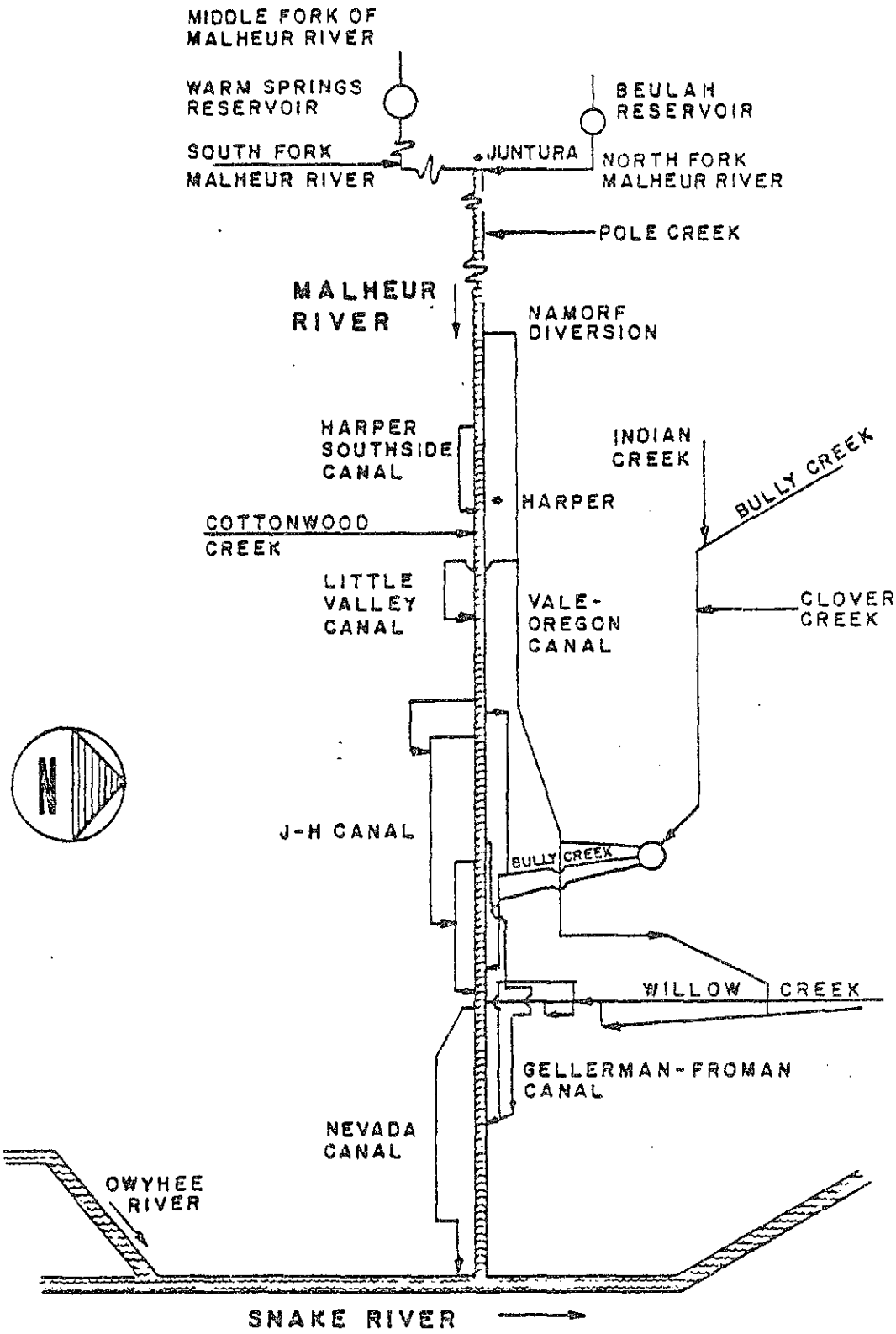
February 8, 1984



SIMPLIFIED FLOW SCHEMATIC
MALHEUR RIVER IRRIGATION SYSTEM

- FIGURE 1 -

TABLE 1

(Existing Beneficial Uses for Malheur River Basin)

TABLE 15
(340-41-802)

Beneficial Uses	Snake R. Main Stem RM 335 to 395	Malheur R. & Tributaries to Malheur & Snake Rivers
Public Domestic Water Supply 1/	X	X
Private Domestic Water Supply 1/	X	X
Industrial Water Supply	X	X
Irrigation	X	X
Livestock Watering	X	X
Salmonid Fish (Trout) Rearing	X	X
Salmonid Fish (Trout) Spawning	X	X
Resident Fish & Aquatic Life	X	X
Wildlife & Hunting	X	X
Fishing	X	X
Boating	X	X
Water Contact Recreation	X	X
Aesthetic Quality	X	X

1/ With adequate pretreatment and where natural quality meets drinking water standards.

ELQ:g
TG3154
1/27/84

Table 2

Malheur River
Fish Species Abundance by Stream Section a/

FISH SPECIES	Mouth-Nevada Dam			Nevada Dam-G.F.* Dam			G.F.* - Namorf		
	Coll.	Obs.	Total	Coll.	Obs.	Total	Coll.	Obs.	Total
Game Fish									
Bluegill				1		1			
Brown bullhead		2	2				1	8	9
Bullfrog							6	2	8
Channel catfish	19	9	28	2	1	3	1		1
Crayfish							4		4
Flathead catfish		1	1						
Smallmouth bass							1		1
White crappie	8	21	29	44	98	142			
Routh Fish									
Bridgelip sucker	71		71+	96		96+	210		210
Carp	71	734	805	81	470	551	78	42	120
Chiselmouth	15	67	82	84	450	534	387	125	512
Coarsescale sucker	113	1428	1541+	118		118+	491		491+
Dace	4	20	24	17	100	117	68	230	298
Redside shiner	30	507	537	63	8420	8483	237	955	1192
Squawfish				1		1	125	50	175
Unidentified suckers		3010	3010		3000	3000	1775		1775

a/ After Bowers et. al., 1979.

* G-F: Gellerman-Froman.

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TG3105
1-12-84

Table 3
Malheur River
Total Fish and Fish per Mile by Stream Section[a/]

Stream Section	Total Game Fish Inventoried	Total Rough Fish Inventoried	Game Fish Inventoried Per Mile	Rough Fish Inventoried Per Mile	Percent Game Fish
Mouth to Nevada Dam	60	3,060	3.1	160.0	1.9
Nevada Dam to G-F* Dam	146	3,000	10.6	948.8	4.6
G-F* Dam to Namorf	23	4,773	0.6	134.2	0.48

a/ After Bowers et. al., 1979.

* G-F: Gellerman-Froman.

ELQ:g
TG3105
1-12-84

TABLE 4

Beneficial Uses Proposed for Malheur River Basin to Replace Existing Table

TABLE 15
(340-41-802)

Beneficial Uses	Snake R. Main Stem RM 335 - 395	Intensive Irrigation: Malheur R. (Namorf to Mouth) Willow Cr. (Brogan to Mouth) Bully Cr. (Reservoir to Mouth)	Moderate Irrigation: Willow Cr. (Malheur Reservoir to Brogan) Malheur R. (Beulah Dam and Warm Springs Dam to Namorf)	Reservoirs: Antelope Malheur Bully Creek Beulah Cow Cr. Warm Springs	Light Irrigation: Malheur River and Tributaries Upstream From Reservoirs
Public Domestic Water Supply 1/	X		X	X	X
Private Domestic Water Supply 1/	X		X	X	X
Industrial Water Supply	X		X	X	X
Irrigation	X	X	X	X	X
Livestock Watering	X	X	X	X	X
Salmonid Fish (Trout) Rearing			X	X	X
Salmonid Fish (Trout) Spawning			X		X
Resident Fish & Aquatic Life	X	X	X	X	X
Wildlife & Hunting	X	X	X	X	X
Fishing	X	X	X	X	X
Boating	X			X	X
Water Contact Recreation	X			X	X
Aesthetic Quality	X	X	X	X	X

1/ With adequate pretreatment and where natural quality meets drinking water standards.

ELQ:g
TG3155.A
2/3/84

WATER BODY ASSESSMENT
OWYHEE RIVER
Malheur County, Oregon

A. Introduction

In 1981, the Malheur County Planning Office in Vale, Oregon, completed a study entitled "Final Report, Two-Year Sampling Program, Malheur County Water Quality Management Plan." The purpose of the study was to assess the nonpoint source water quality problems in the County. Of the six objectives of the study, one was to provide sufficient information to re-evaluate the established beneficial uses and water quality standards for the Owyhee Basin. Also, the Oregon Department of Fish and Wildlife (Bowers, Hosford, and Moore) completed a study in 1979, entitled "Stream Surveys of the Lower Owyhee and Malheur Rivers, A Report to the Malheur County Water Resources Committee." The purposes of the fish population surveys were to update the Department's records and to provide information for re-evaluation of the beneficial uses in the lower Owyhee River.

The first of these is the final report for a study conducted under Section 208 of the Clean Water Act, as amended, and contains extensive information on the quantity, quality, and disposition of the area's water resources. The second document reports the results of a sampling program conducted by the Oregon Department of Fish and Wildlife (ODFW) on the fish populations in the lower 18 miles of the Owyhee River during June and July, 1978. Information in the ODFW report was incorporated into the 208 report. Additional fisheries information supplied by ODFW was also considered. Most of this Water Body Assessment report is extracted from the 208 Final Report.

Oregon Administrative Rules (OAR) Chapter 340, Division 41, contain the Statewide Water Quality Management Plan; Beneficial Uses, Policies, Standards, and Treatment Criteria for Oregon. The present Beneficial Uses for Owyhee Basin are shown in Table 1. An outcome of the two studies mentioned above suggest that the beneficial uses for the Owyhee Basin should be further refined. This report provides the assessment for proposing a refinement to the beneficial uses for the basin.

B. Basin Setting

The Owyhee Basin, located in the southwest corner of Malheur County, is predominately gently sloping to rolling lava plateau terrain. Elevations are generally between 4,000 and 5,000 feet, but range from 2,100 near the Snake River to over 7,000 feet near McDermitt.

The soils of the Owyhee Basin are associated with three distinctive landscapes: (1) alluvial bottomlands and fans, (2) lava plateaus, and (3) canyonlands.

Alluvial Bottomlands and Fans. Most of the irrigated farming in the Owyhee Basin occurs on the soils of this physiographic division. They are located primarily at lower elevations along the Snake and Owyhee Rivers and are contiguous with the more extensively irrigated lands of the Malheur Basin. The majority of the soils are deep, well-drained silt loams. Some alkali soils also occur in this area. Major crops grown on these soils include potatoes, corn, sugar beets, onions, vegetable seed, alfalfa seed, mint, grain and alfalfa.

Lava Plateaus. Most of the Owyhee Basin consists of gently sloping to rolling lava plateau uplands underlaid by basaltic or rhyolitic flows and tuffs. The soils generally are less than 20 inches deep to bedrock. They are light-colored, very stony and generally fine textured. A thin silica cemented hardpan is often present immediately above the bedrock.

The vegetation on the lava plateaus is mainly bluebunch wheatgrass, Sandberg bluegrass and big sagebrush. Low sagebrush is prevalent at higher elevations.

Canyonlands. The major areas of canyonlands are along the Owyhee River and Succor Creek. For much of its length, the Owyhee River Canyon is deeply incised into soft sedimentary formations capped by lava flows. Moderately deep loamy soils are present on some of the smoother areas of these sediments. Some areas of the basin have been uplifted, faulted, and dissected into extremely rough terrain. The Mahogany and Battle Mountains and the eastern extension of the Trout Creek Mountains are the main areas of this type of terrain.

C. Water Resources

Owyhee River. The Owyhee River originates in southwestern Idaho and northern Nevada, flowing 175 miles through the eastern portion of Malheur County. The Owyhee Dam at River Mile 28 controls the flow of water below the dam. The total length of the river is 240 miles. The river basin drains an area of 11,340 square miles, of which 6,240 square miles are in Malheur County. The Owyhee River discharges into the Snake River south of the city of Nyssa, Oregon.

The river system can be divided into three zones: (1) upper zone--above the Owyhee Reservoir Dam, (2) middle zone--from below the reservoir to the Owyhee Ditch Diversion Dam, and (3) lower zone--from the Owyhee Ditch Diversion Dam to the mouth. Figure 1 presents a schematic diagram of the Owyhee together with its associated reservoirs, diversions, and irrigation canals.

In the upper zone, the Owyhee River is characterized by high flows during the spring runoff and summer low flows. The runoff peaks by April or early May, and by June the river is reduced to its summer flow. The flow above Rome is partially regulated by Wildhorse Reservoir in Nevada and by Antelope Reservoir on Jordan Creek near Jordan Valley in Oregon.

Jordan Creek, a major tributary, joins the Owyhee River 2.5 miles northwest of Rome. The flow in Jordan Creek is influenced by natural weather conditions, resulting in high flows during the spring runoff and subsequent low flows during summer. Jordan Creek has a history of flooding. Antelope Reservoir, which lies 22 miles east of Rome on a tributary to Jordan Creek, has a history of leakage problems within the reservoir. This leakage contributes to some of the sustained flow in Jordan Creek. Cow Creek and Dry Creek are other major tributaries of Jordan Creek. Other important tributaries of the Owyhee River and Reservoir include Crooked Creek and Dry Creek, respectively.

The flow in the 28 miles (middle and lower zones) below the Owyhee Reservoir Dam is controlled by release from the dam. This release stops at the end of irrigation season in mid-October. Flows during the shut-off period are limited to leakage at the dam (2 to 3 cfs), inflow from natural springs, irrigation return flows, and snow melt. Flows beginning as early as January or as late as March range between 1,000 cfs to 8,000 cfs, but have exceeded 20,000 cfs when the reservoir spills. During irrigation season, from May to October, release from the dam is relatively stable, ranging from 100 cfs to 200 cfs.

The Owyhee Ditch Diversion Dam, about 12 miles from the mouth, alters the flow characteristics in the lower zone of the river. During the summer the diversion dam diverts all the reservoir release water, except for leakage. Below the diversion dam, the flow varies with the amount of irrigation return flow discharged back to the river. The first irrigation drain canal enters the river about two miles downstream from the diversion dam.

Snake River. The Snake River flows along the eastern edge of Malheur County. The Owyhee Irrigation District pumps water from the Snake River to its Dunaway pumping plant south of Nyssa and to its Dead Ox pumping plant north of Ontario. The Owyhee and Malheur Rivers are major tributaries to the Snake River. Smaller tributaries to the Snake River in Malheur County include Succor Creek near Adrian and Birch Creek near Farewell Bend.

D. Fish Resources

The Owyhee River is managed for a variety of fish species. The Owyhee River System above the Owyhee Reservoir is managed as both cold water (trout) and warm water fisheries. The Owyhee Reservoir, also known as Lake Owyhee, is managed primarily as a warm water fishery. The first ten miles below Owyhee Dam, is managed as a cold water fishery. The remaining lower 18 miles of the river is managed as a warm water fishery.

Historical Perspective. Historically, runs of summer Chinook salmon migrated from the Owyhee River into Nevada. The summer low flows and high water temperatures made the lower Owyhee River unsuitable habitat for the salmon. The salmon probably moved rapidly through the lower river, holding and spawning in the upper river and tributaries where the water temperature would be tolerable. The young salmon reared two years in the upper head waters and moved through the lower river quickly with the spring snow melt and on to the ocean.

The construction of irrigation and hydroelectric projects on the Owyhee River and Snake River have altered the flow characteristics of the river and the distribution and quality of the water. The construction of the Owyhee Dam in 1932 ended all upstream migration of the anadromous salmon. Salmon still had access below the Owyhee Dam until the construction of Brownlee Dam on the Snake River in 1958. The Department of Fish and Wildlife last captured juvenile Chinook salmon from the lower Owyhee River in 1954.

Non-native warm water game fish (bass, catfish, crappies, etc.) were introduced into Lake Owyhee and nearby waters during the mid-1930s and changed the makeup of the aquatic community.

Lake Owyhee. Lake Owyhee provides a good habitat for a warm water fishery. The reservoir inundated a steep-sided, rocky canyon that provides many areas for fish to feed, spawn, and hide. Largemouth bass and black crappie are the two most sought-after game species. Crappie make up about 80 percent of the annual harvest. Other species include channel catfish, bullhead, yellow perch, carp, northern squawfish, and suckers. Although uncommon, a few rainbow trout are also found in the headwaters of the reservoir. The Department of Fish and Wildlife believes the trout in the reservoir are washed in from the Owyhee River during spring freshet flows. Smallmouth bass and squawfish are found in the Owyhee River upstream from the reservoir. No endangered or threatened fish species occur in the reservoir.

Water quality of the reservoir and the river just above the reservoir is generally good. However, seasonal high water temperatures and turbid conditions have affected the fishery. Water temperatures in the river and

the shallow parts of the reservoir reach 80°F (28°C) or more in mid-summer to early fall. The high water temperatures are due to warm air temperatures and low natural flows. Turbidity is natural in the Owyhee Basin.

Owyhee Lake is the largest lake in southeastern Oregon and provides an important fishery to county residents, statewide residents, and neighboring Idaho residents. The Oregon Department of Fish and Wildlife estimates that anglers expended about 80,000 angler days on the reservoir in 1979. Approximately 50 percent of the angler use on Lake Owyhee is by Idaho residents. The ODFW has indicated that the reservoir can withstand more fishing pressure.

Owyhee River (below the Owyhee Dam). The Owyhee River from the Owyhee Dam to the Snake River, a total of 28 miles, provides a variety of aquatic habitat. The upper 14 miles flows through a rocky canyon area. The channel in this reach has a rock and gravel bottom with a good mix of pools and riffles. Riparian vegetation occurs on the banks, although it is sparse in some areas. The lower 14 miles intersects the alluvial plain where the intensive agricultural activities occur. This reach has less gradient than the upper reach and has a silt and sandy bottom. The lower 7 miles of the river is heavily silted.

The first 10 miles immediately below Owyhee Dam contains a highly productive rainbow trout fishery. In the spring, after the danger of a flood spill from the Owyhee Dam has passed, the ODFW annually stocks 20,000 to 40,000 fingerling and 4,000 yearling rainbow trout. Stocking is necessary to provide a summer-fall catchable trout fishery because natural reproduction and overwinter survival are minimal due to winter low flows and freezing conditions. In 1979, angler use was estimated at

4,000 to 5,000 angler-days, with a catch of about 15,000 to 20,000 trout. Angler activity and success is highest in the fall and winter when the flows are greatly reduced at the end of the irrigation season.

Flows during the irrigation season range between 150 and 200 cfs, depending on downstream irrigation demand. Summer flows of clear, cold (48°F to 55°F), nutrient-rich water are released deep from the reservoir which makes the river below the dam ideal for trout. Food is abundant in the river and excellent growth occurs; fingerlings grow 5 to 7 inches during the summer months.

As the water moves downstream from the Owyhee Dam, it is naturally warmed during the hot summer months to temperatures that are intolerable to trout. The next 18 miles downstream to the mouth are managed as a warm-water fishery. Many species of warm-water game fish are found in this part of the river. These fish are not native to the area, but have been introduced at various locations over the last 50 years. Included in this aquatic community are channel catfish, crappie, bass, bluegill, and bullheads. Angler use is light (300 angler days) in this section compared to the trout area, but it does afford some recreational opportunities for warm-water angling.

Most of the warm-water game fish inhabit the lower Owyhee River between River Mile 18 and River Mile 7. Non-game fish make up nearly the entire fish population in the lower 7 miles of the river. A survey by the ODFW in summer of 1978, indicates that only 25 percent of all fish in the lower 15 miles are game fish (see Table 2). During the irrigation season, a low flow or no flow condition below the Owyhee Ditch Diversion Dam adversely affects the warm-water fishery. There are no endangered or threatened species in the river below the Owyhee Dam.

Snake River. The Snake River from River Mile 395 to 409 borders the east side of Owyhee Basin. According to the Oregon Department of Fish and Wildlife, the Snake River primarily supports a warm-water fishery, with smallmouth bass the species most sought after. Based on their creel census, they believe the few trout that may be present in the river during spring were washed out of the Owyhee River.

E. Recreation

Owyhee Wild and Scenic River. A total of 192 miles of the Owyhee River system have been found qualified and recommended for the National Wild and Scenic River System. The qualified portion of the Owyhee consists of the East Fork from the western boundary to the Duck Valley Indian Reservation downstream to the South Fork to its confluence with the North and Middle Forks at Three Forks to form the mainstem, and finally down the mainstem to the slack waters of Lake Owyhee. The 14 miles from China Gulch to Crooked Creek qualify as scenic, the remaining 128 miles qualify as wild. The Owyhee River from Wildhorse Reservoir in Nevada to Lake Owyhee is in free-flowing condition. At present the recommendation to classify the Owyhee River as a National Wild and Scenic River is pending in Congress.

Power Boating/Waterskiing. Lake Owyhee is extensively used by water skiers and power boaters. The Bureau of Reclamation (now Water and Power Resource Service) estimated that the lake had 3,300 visits and 13,910 visitor days, and Lake Owyhee State Park had 15,256 daytime visits during the 1975-76 use season.

Float Boating. The Owyhee River from the Three Forks to the slack water of Lake Owyhee is rated for its challenging white water for rafters and kayakers. It is also rated for its scenery, wildlife, and primitive state. Best use is between March and June, with May being the best month.

Bathing. Swimming in Owyhee Basin occurs mainly in the reservoirs and at the city recreational pools. The summer low flows high fecal coliform densities associated with irrigation return waters, and muddy bottoms, generally make swimming unsuitable in the lower Owyhee River. The upper Owyhee River and its tributaries are suitable for swimming, provided sufficient water depth is present.

F. Conclusions

Based on the two-year study of water quality in the Owyhee Basin by the Malheur County Planning Office and the fish population surveys on the lower Owyhee River conducted by the Oregon Department of Fish and Wildlife, the following conclusions are drawn:

1. The present listing of beneficial uses for the Owyhee Basin streams is too general. It assumes that all uses apply to the entire basin.

2. Cold water fish species such as trout do not occur in the Snake River, in the Owyhee Reservoir, and in the lower 18 miles of Owyhee River.

3. Water contact recreation in the lower Owyhee River is unsuitable because of summer low flows, high fecal coliform densities, and muddy river bottom.

G. Recommendation

The beneficial uses in the Owyhee River Basin should be refined as shown in Table 3. These uses would reflect the present and highest future uses of the river system. Adoption of this list would not alter land uses, would not further jeopardize existing aquatic life, would not require changes in water quality standards, and would not result in any degradation in water quality.

ELQ:1
TL3062
February 2, 1984

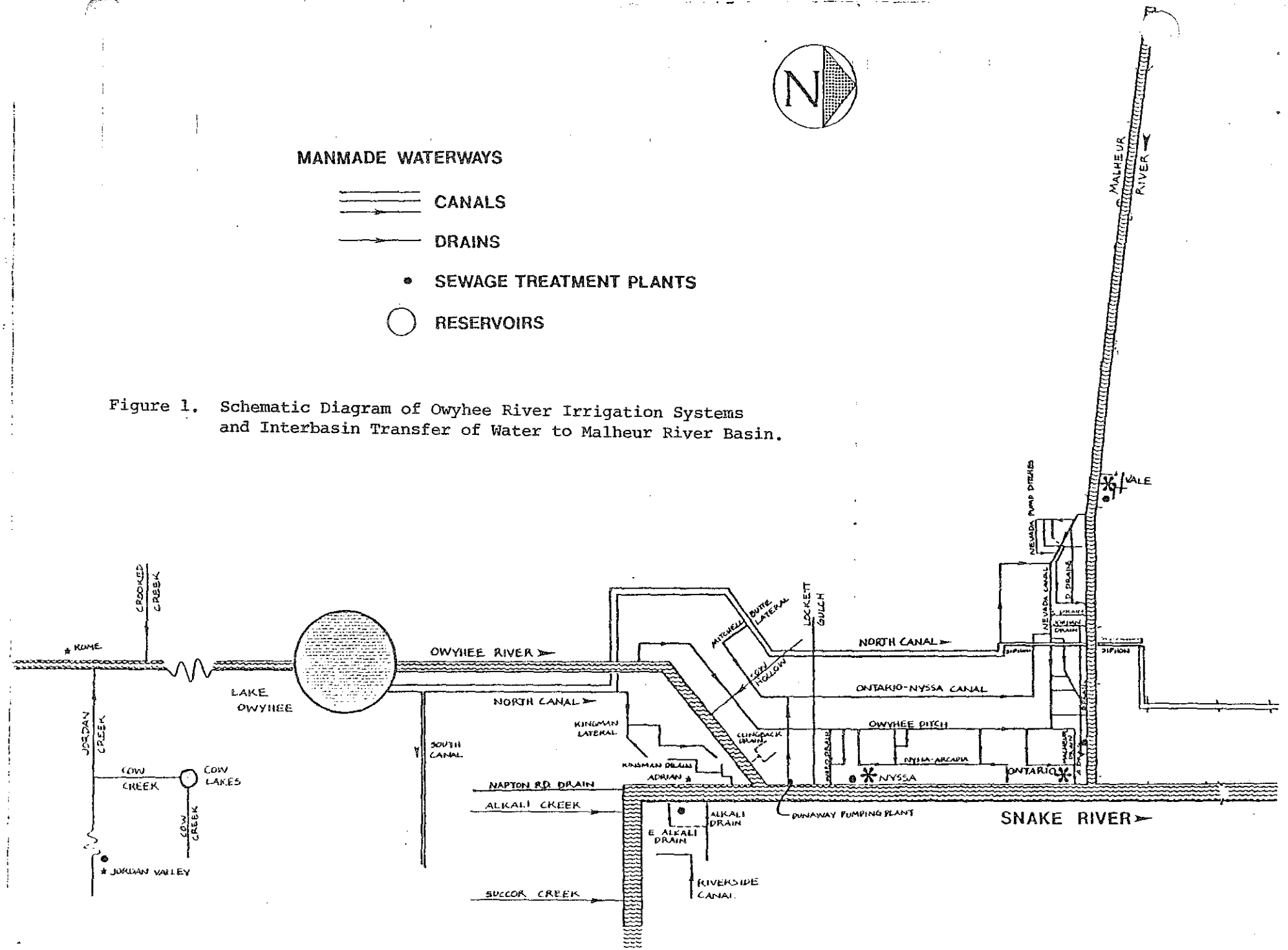

Figure 1. Schematic Diagram of Owyhee River Irrigation Systems and Interbasin Transfer of Water to Malheur River Basin.

Table 1

(Existing Beneficial Uses for Owyhee Basin)

TABLE 16
(340-41-842)

Beneficial Uses	Snake R. (RM395 to 409)	Owyhee Basin Streams
Public Domestic Water Supply 1/	X	X
Private Domestic Water Supply 1/	X	X
Industrial Water Supply	X	X
Irrigation	X	X
Livestock Watering	X	X
Salmonid Fish Rearing	X	X
Salmonid Fish Spawning	X	X
Resident Fish & Aquatic Life	X	X
Wildlife & Hunting	X	X
Fishing	X	X
Boating	X	X
Water Contact Recreation	X	X
Aesthetic Quality	X	X

1/ With adequate pretreatment and where natural quality meets drinking water standards.

ELQ:g
TG3154
1/27/84

TABLE 2
Owyhee River
Fish Species Abundance by Stream Section 1/

FISH SPECIES	STREAM SECTIONS								
	Mouth - R.M. 7			R.M. 7-Owyhee Ditch			O. Ditch - Snively H.S.		
Game Fish	Coll	Obs.	Total	Coll.	Obs.	Total	Coll.	Obs.	Total
Black crappie	5	2	7	26	87	113	19	9	28
Bluegill	6	40	46	71	525	596	4	200	204
Brown bullhead		1	1						
Bullfrog		1	1						
Channel catfish	4	6	10	4	1	5			
Crayfish		2	2		2	2		1	1
Largemouth bass	1	3	4	30	58	88	3	30	33
Smallmouth bass				12	10	22	5	10	15
Warmouth bass				3		3			
Rough Fish									
Bridgelip sucker	15		15+	40		40+	20		20+
Carp	13	292	205	10	280	290	11	92	103
Chiselmouth	2		2	8		8	6	35	41
Coarscale sucker	31		31+	18		18+	28		28+
Dace							3	150	153
Redside shiner	8	70	78	10		10	21	410	431
Squawfish	1		1			1	13	75	88
Unidentified suckers		602	602		775	775		505	505

1/ After Bower et al., 1979.

ELQ:g
TG3154
1/27/84

TABLE 3

Beneficial Uses Proposed for Owyhee Basin to Replace Existing Table

TABLE 16
(340-41-842)

Beneficial Uses	Intense Irrigation: Snake R. RM 395-409	Intense Irrigation: Owyhee R. (RM 0-18)	Moderate Irrigation: Owyhee R. (RM 18-Dam)	Moderate Irrigation: Owyhee Reservoir	Light Irrigation: Owyhee River and tributaries Upstream from Owyhee Reservoir
Public Domestic Water Supply 1/	X		X	X	X
Private Domestic Water Supply 1/	X		X	X	X
Industrial Water Supply	X		X	X	X
Irrigation	X	X	X	X	X
Livestock Watering	X	X	X	X	X
Salmonid Fish (Trout) Rearing			X		X
Salmonid Fish (Trout) Spawning			X		X
Resident Fish & Aquatic Life	X	X	X	X	X
Wildlife & Hunting	X	X	X	X	X
Fishing	X	X	X	X	X
Boating	X			X	X
Water Contact Recreation	X		X	X	X
Aesthetic Quality	X	X	X	X	X

1/ With adequate pretreatment and where natural quality meets drinking water standards.

ELQ:g
TG3155.A
1/30/84

ATTACHMENT 2

Historical Development of Oregon's Water Quality Standards

Over the course of nearly 40 years, Oregon's Water Quality Standards have evolved from the general to the specific. General water quality standards were first adopted in Oregon by the State Sanitary Authority in November 1947. Since then four major successive reviews of standards have been conducted. Changes suggested by studies, data, and experience have shaped the standards to protect the beneficial uses of water.

The first set of standards contained two numerical limits (dissolved oxygen content and pH range) and six descriptive standards. Each descriptive standard grouped classes of nuisance and toxic conditions that may be offensive to our senses, injurious to public health, or deleterious to other uses of water including: fish and related forms of aquatic life, domestic water supplies, shellfish propagation, bathing and recreation, irrigation, livestock watering, navigation, and industry.

In determining the degree of treatment required for municipal and sanitary sewage, the waters of Oregon were classified in three divisions -- Classes A, B, and C. Municipal waste was required to provide the equivalent of secondary treatment for discharges to Class A waters, and primary treatment for discharges to Class B waters. Both classes of water could be used for: public water supplies, swimming and recreation, irrigation, propagation of game and commercial fish, or propagation of shellfish. The distinguishing feature between Class A and Class B waters was stream flow adequate to dilute the treated waste. Temporary discharge of raw waste could be permitted in Class C waters, provided the discharge was not detrimental to any reasonable use of the water.

In 1967, the Sanitary Authority adopted general water quality standards which apply to all waters of the state. In addition, special water quality standards were adopted in 1967 for interstate waters, which included Goose Lake, marine and estuarine waters, and these rivers: Grande Ronde, Walla Walla, Snake, Columbia, Klamath, and Willamette. Special standards included more numerical limits for selected physical, chemical, and biological parameters. These standards also delineated the beneficial uses broadly for these waters.

From October 1969 to March 1970 the Sanitary Authrority and Environmental Quality Commission adopted additional special water quality standards for selected intrastate river basins. These included the Rogue, Umpqua, Deschutes, and Sandy Basins, as well as the Clackamas, Molalla, Santiam, McKenzie, and Tualatin subbasins within the Willamette Basin. Again, the beneficial uses were listed to apply broadly across the basin waters for the present and the future.

In December 1976, the Department completed an overall Water Quality Management Plan for Oregon on a basin-by-basin basis. This plan was developed in response to requirements of Section 303(e) of Public Law 92-500 and in accordance with applicable provisions of Oregon Law (ORS Chapter 468).

The overall aim of this plan was to set forth a program to preserve and enhance water quality and to provide for beneficial uses of the water resource, while preserving environmental quality and the health and general welfare of the people. This plan is primarily a water pollution prevention program entailing the following objectives:

1. To identify and delineate recognized beneficial uses of Oregon's public waters for water quality management purposes.

2. To establish water quality standards which will describe the quality necessary to serve all recognized beneficial uses to the greatest possible extent.

3. To protect existing water quality where such quality is higher than the established standards.

4. To guide logical and orderly planning and implementation of such waste treatment capabilities and waste controls that may be necessary to accommodate planned future growth and development without sacrificing water quality.

5. To identify water quality deficiencies and standards non-compliance and to propose and implement the necessary corrective action to resolve the problems.

Until 1970, only five river basins, one interstate lake, and six interstate rivers had special water quality standards and delineated beneficial uses. For the remainder of the basins, the general water quality standards and the beneficial uses declared by the Water Policy Review Board applied. In developing the individual basin plans, the Department consolidated the general and special water quality standards applicable to the basin, evaluated their adequacy based on available data, and proposed changes where data suggested changes were necessary. For a number of basins, more stringent standards were proposed to replace the existing general standards which were considered insufficiently protective of beneficial uses. The process used to identify the beneficial uses for these basins was to distinguish the parent river(s) from the remaining basin waters, placing each under separate headings. All uses were assumed to occur or could occur somewhere in the basin.

The last statewide review of standards occurred in 1979. Amendments were made to clarify Oregon's Water Quality Standards for: Temperature, Turbidity, Fecal Coliform, Total Dissolved Gas, Antidegradation Policy and Toxic Substances.

Edison L. Quan:g
TG3176
2/2/84

ATTACHMENT 3

Existing Beneficial Uses for Malheur River Basin

TABLE 15
(340-41-802)

Beneficial Uses	Snake R. Main Stem RM 335 to 395	Malheur R. & Tributaries to Malheur & Snake Rivers
Public Domestic Water Supply 1/	X	X
Private Domestic Water Supply 1/	X	X
Industrial Water Supply	X	X
Irrigation	X	X
Livestock Watering	X	X
Salmonid Fish (Trout) Rearing	X	X
Salmonid Fish (Trout) Spawning	X	X
Resident Fish & Aquatic Life	X	X
Wildlife & Hunting	X	X
Fishing	X	X
Boating	X	X
Water Contact Recreation	X	X
Aesthetic Quality	X	X

1/ With adequate pretreatment and where natural quality meets drinking water standards.

ELQ:g
TG3154
2/3/84

ATTACHMENT 4

Existing Beneficial Uses for Owyhee River Basin

TABLE 16
(340-41-842)

Beneficial Uses	Snake R. (RM395 to 409)	Owyhee Basin Streams
Public Domestic Water Supply 1/	X	X
Private Domestic Water Supply 1/	X	X
Industrial Water Supply	X	X
Irrigation	X	X
Livestock Watering	X	X
Salmonid Fish Rearing	X	X
Salmonid Fish Spawning	X	X
Resident Fish & Aquatic Life	X	X
Wildlife & Hunting	X	X
Fishing	X	X
Boating	X	X
Water Contact Recreation	X	X
Aesthetic Quality	X	X

1/ With adequate pretreatment and where natural quality meets drinking water standards.

ELQ:g
TG3154
2/3/844

ATTACHMENT 5

Beneficial Uses Proposed for Malheur River Basin to Replace Existing Table

TABLE 15
(340-41-802)

Beneficial Uses	Intensive Irrigation		Moderate Irrigation	Reservoirs	Light Irrigation
	Snake R. Main Stem RM 335 - 395	Malheur R. (Namorf to Mouth) Willow Cr. (Brogan to Mouth) Bully Cr. (Reservoir to Mouth)	Willow Cr. (Malheur Reservoir to Brogan) Malheur R. (Beulah Dam and Warm Springs Dam to Namorf)	Antelope Malheur Bully Creek Beulah Cow Cr. Warm Springs	Malheur River and Tributaries Upstream From Reservoirs
Public Domestic Water Supply 1/	X		X	X	X
Private Domestic Water Supply 1/	X		X	X	X
Industrial Water Supply	X		X	X	X
Irrigation	X	X	X	X	X
Livestock Watering	X	X	X	X	X
Salmonid Fish (Trout) Rearing			X	X	X
Salmonid Fish (Trout) Spawning			X		X
Resident Fish & Aquatic Life	X	X	X	X	X
Wildlife & Hunting	X	X	X	X	X
Fishing	X	X	X	X	X
Boating	X			X	X
Water Contact Recreation	X			X	X
Aesthetic Quality	X	X	X	X	X

1/ With adequate pretreatment and where natural quality meets drinking water standards.

ELQ:g
TG3155.A
2/3/84

ATTACHMENT 5

Beneficial Uses Proposed for Owyhee Basin to Replace Existing Table

TABLE 16
(340-41-842)

Beneficial Uses	Intense Irrigation: Snake R. RM 395-409	Intense Irrigation: Owyhee R. (RM 0-18)	Moderate Irrigation: Owyhee R. (RM 18-Dam)	Moderate Irrigation: Owyhee Reservoir	Light Irrigation: Owyhee River and tributaries Upstream from Owyhee Reservoir
Public Domestic Water Supply 1/	X		X	X	X
Private Domestic Water Supply 1/	X		X	X	X
Industrial Water Supply	X		X	X	X
Irrigation	X	X	X	X	X
Livestock Watering	X	X	X	X	X
Salmonid Fish (Trout) Rearing			X		X
Salmonid Fish (Trout) Spawning			X		X
Resident Fish & Aquatic Life	X	X	X	X	X
Wildlife & Hunting	X	X	X	X	X
Fishing	X	X	X	X	X
Boating	X			X	X
Water Contact Recreation	X		X	X	X
Aesthetic Quality	X	X	X	X	X

1/ With adequate pretreatment and where natural quality meets drinking water standards.

ELQ:g
TG3155.A
1/30/84

ATTACHMENT 6

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Changes in Water Quality Standards
(OAR Chapter 340, Division 41)

Date Prepared: February 3, 1984
Hearing Date:
Record Closed:

WHO IS AFFECTED: Anyone who has an interest in the development of Water Quality Standards.

WHAT IS PROPOSED: The Department proposes to add, replace, and clarify language in existing Water Quality Standards contained in OAR Chapter 340, Division 41.

WHAT ARE THE HIGHLIGHTS: The Department proposes to: (a) add language to tables on beneficial uses in eleven basins which cautions by footnote that public and private domestic water supplies are beneficial uses with pretreatment and where natural quality meets drinking water standards; (b) refine the beneficial uses tables for the Malheur River and Owyhee River Basins to reflect the present and highest future uses of waters in these basins; and (c) to invite comments and suggestions for proposing future amendments to present standards.

HOW TO COMMENT: Public Hearing(s)

WHAT IS THE NEXT STEP: After the hearing record has been evaluated, the rules as proposed or revised will be presented for Commission approval.

Edison L. Quan:g
TG3184
229-6978
February 10, 1984

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. 1-800-452-4011

Contains Recycled Materials

ATTACHMENT 7

Agenda Item H, February 24, 1984, EQC Meeting

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(7), this statement provides information on the Environmental Quality Commission's intended action to adopt and amend rules.

(1) Legal Authority

ORS 468.735 provides that the Commission by rule may establish standards of quality and purity for waters of the state in accordance with the public policy set forth in ORS 468.710. ORS 183.545 requires a review every three years of state agency Administrative Rules to minimize the economic effect these rules may have on businesses. ORS 183.550 requires, among other factors, that public comments be considered in the review and evaluation of these rules. The Clean Water Act (Public Law 92-500, as amended) requires the states to hold public hearings, at least once every three years, to review applicable water quality standards.

(2) Need for the Rule

The need for specific proposed changes to Water Quality Standards contained in OAR Chapter 340, Division 41 are summarized below:

1. Beneficial Uses Tables. Proposed changes to eleven basin tables on beneficial uses are to:

   a. Add language to identify one table.

   b. Add language to clarify that public and private domestic water supplies are beneficial uses applicable with adequate pretreatment and where natural quality meets Drinking Water Standards.

2. Beneficial Uses Tables for Malheur River and Owyhee River Basins.

   Recent studies completed in these basins provide sufficient data to refine the uses to reflect the present and highest future uses of water.

(3) Principal Documents Relied Upon in this Rulemaking

Clean Water Act amended in 1977.

Federal Register, Vol. 48, No. 217, November 8, 1983, Water Quality Standards Regulation.

Two-year Sampling Program, Malheur County Water Quality Management Plan, 1981.

Stream Surveys of the Lower Owyhee and Malheur Rivers, 1979, Department of Fish and Wildlife (Bowers et al).

ORS 468.735; ORS 468.710; ORS 183.545; and ORS 183.550.

(4) Fiscal and Economic Impact

The proposed modifications mentioned above are not expected to have any adverse fiscal impact on individuals, small businesses, or local governments.

(5) Land Use Consistency

The Department has concluded that the proposal conforms with the Statewide Planning Goals and Guidelines.

Goal 6 (Air, Water and Land Resources Quality): This proposal is designed to improve and maintain water quality by providing additional recognition of public and private domestic water supplies in Tables on Beneficial Uses for 11 basins and amending the Beneficial Uses Tables for the Malheur and Owyhee River Basins.

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 manner as indicated for testimony in this notice. It is requested that local, state, and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning goals within their expertise and jurisdiction.

The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any appropriate conflicts brought to our attention by local, state or federal authorities.

Edison L. Quan:g
229-6978
February 10, 1984
TG3182

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Changes in Water Quality Standards
(OAR Chapter 340, Division 41)

Date Prepared: April 5, 1984
Hearing Dates: May 15, 16, 17, 1984
Record Closed: May 25, 1984, 5 p.m.

WHO IS AFFECTED: Anyone who has an interest in the development of Water Quality Standards.

WHAT IS PROPOSED: The Department proposes to add, replace, and clarify language in existing Water Quality Standards contained in OAR Chapter 340, Division 41.

WHAT ARE THE HIGHLIGHTS: The Department proposes to: (a) add language to tables on beneficial uses in eleven basins which cautions by footnote that public and private domestic water supplies are beneficial uses with pretreatment and where natural quality meets drinking water standards; (b) refine the beneficial uses tables for the Malheur River and Owyhee River Basins to reflect the present and highest future uses of waters in these basins; and (c) to invite comments and suggestions for proposing future amendments to present standards.

HOW TO COMMENT:

Public Hearings

Portland - May 15, 1984, 1:30 p.m. - Meeting Room C, Second Floor Portland Bldg., 1120 SW Fifth Ave.

Roseburg - May 16, 1984, 1:00 p.m. - Room 216, Douglas County Courthouse 1036 S.E. Douglas

Ontario - May 17, 1984, 7:00 p.m. - OSU Extension Building 710 SW 5th Ave.

Written comments should be sent to the Department of Environmental Quality, Water Quality Division, P. O. Box 1760, Portland, OR 97207. The comment period will end May 25, 1984, 5 p.m.

Any questions or requests for draft rules and guidelines or other information should be directed to E. L. Quan of the Water Quality Division, 229-6978 or toll free 1-800-452-4011.

WHAT IS THE NEXT STEP: After the hearing record has been evaluated, the rules as proposed or revised will be presented for Commission approval.

Edison L. Quan:g
TG3184
229-6978
March 20, 1984

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. 1-800-452-4011

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The need for specific proposed changes to Water Quality Standards contained in OAR Chapter 340, Division 41 are summarized below:

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ORS 468.735; ORS 468.710; ORS 183.545; and ORS 183.550.

(4) Fiscal and Economic Impact

The proposed modifications mentioned above are not expected to have any adverse fiscal impact on individuals, small businesses, or local governments.

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The Department has concluded that the proposal conforms with the Statewide Planning Goals and Guidelines.

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The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any appropriate conflicts brought to our attention by local, state or federal authorities.

Edison L. Quan:g
229-6978
February 10, 1984
TG3182

VICTOR ATIYEH
GOVERNOR

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: Fred Hansen, Director

Subject: Agenda Item No. K, July 19, 1985, EQC Meeting

Request for Approval of Commission to Approve the FY86 Construction Grants Management System and Priority List for Fiscal Year 1986

Background

Section 106 of the Clean Water Act requires that each state establish a priority system and annually develop a priority list for allocating federal grants for municipal sewage treatment works construction. By Administrative Rule, the Environmental Quality Commission has established criteria to rate and rank projects eligible for federal grants as well as procedures for administrative management of the priority list. A priority list must be adopted to establish the ranking of potential projects for which funding may be available during the period October 1, 1985 through September 30, 1986 (FY86). The priority list also identifies the relative priorities for projects that may apply for grants in future years, if continued funding is available.

At the April 19, 1985 meeting, the EQC authorized a public hearing for June 10, 1985 on the draft statewide construction grants priority list for FY86. The compilation of the list was completed after EQC authorized the hearing and it was distributed to interested persons thirty days in advance of the hearing. The final list includes the most recent project planning information and is based on recent EPA guidance.

By the close of the public record on June 12, fifteen statements were received. In general, the comments addressed individual project point ratings or rankings. Only one comment addressed priority criteria. No changes were suggested to the project management system. The final priority list is proposed at this time so that it will be fully approved by EPA and effective at the beginning of the grant period (October 1, 1985 to September 30, 1986).

Discussion and Evaluation

A. Summary of Recent Federal Activity regarding the Reauthorization of the Construction Grants Program.

The Senate and the House of Representatives have each recently concluded independent actions on the reauthorization of the program. Conference Committee effort in subsequent months will attempt to find agreement on provisions where there are differences. The major funding issues are summarized below.

1. Both House and Senate Bills continue the grants program at the national authorization level of $2.4 billion for three years. For FY89 and FY90, the funding levels supported by each are different. Both the House and Senate proposals agree on the elimination of the grants program in 1990.

2. The establishment of a state revolving loan fund (SRF) is included in both proposals. The SRF concept would enable each state to establish a loan fund to help finance the construction of future projects after the grant program is eliminated. To capitalize the fund, federal grants would be made to each state to provide seed money.

   The mechanics of the SRF funding proposals are different. The House would begin the creation of state revolving funds immediately through a supplemental authorization while the Senate would create them in 1989. Both proposals would end the capitalization of the revolving funds in 1994.

   Both House and Senate proposals currently require that the states contribute a percentage of state funds as matching funds to the SRF.

3. The Senate adopted a change in the state allotment formula, which would increase Oregon's share from $27.6 to $27.8 million. The House has not considered a change in the allotment formula.

4. The Senate version would create a set aside of 1-1/2% for grants to correct marine combined sewer overflow projects. Alternatively, the House Bill would restore the grant eligibility of combined sewer overflow projects and would reauthorize the $200 million national fund level currently in effect.

5. Another Senate Bill, proposed by the President, contains language that would limit grant applicants to only those who had received an initial grant for construction and needed additional funds to complete work on the remaining phases or segments of the projects.

B. Priority Management System and Project List

Based on staff review of testimony received from the public, changes were made to the draft priority list. These are described in Attachment E and are a result of a reevaluation of individual project ratings and rankings. One new project was added to the list. No changes are proposed to the management system.

Since few grants have been awarded to projects expected to receive them during FY85, these have been relisted for FY86 according to their priority order. If these projects do not receive a grant this year and funds are available to reach their priority during FY86, they will be reconsidered for funding.

EPA has advised us that their acceptance of the FY86 priority list will be based on current regulations until the Clean Water Act amendments are enacted; they will then determine whether statutory changes require them to modify their acceptance. This policy should enable us to minimize interruptions in the continuation of grant awards since some funds are expected to be available after October 1, 1985, regardless of whether new appropriations are made.

EPA has also asked that we distinguish projects that are expected to be funded during FY86 using carryover funds from those expected to use new FY86 appropriations. EPA will establish an initial funding line on the FY86 priority list according to the amount of carryover funds available and later extend the list to include other projects as soon as the appropriations are released.

On the draft FY86 priority list, about $5 million was assumed to be carried forward into FY86. The final list assumes that this carryover may be as large as $18 million. However, there will be substantial reductions to the amount of carryover funds available as of October 1, 1985 because several grant awards are expected to occur within the next few months. The actual distinction between carryover and new appropriation projects will not be certain until September 30.

One major uncertainty exists regarding the eligibility of any project considered for grant award after September 30, 1985. The legislation supported by the President would restrict future funding to only those projects needed to complete remaining phases and segments where a construction grant has been awarded. If that restriction is enacted, only those projects having been qualified by EPA as a "grandfather" projects would be funded. These projects are noted by an asterisk after the grant amount.

Summation

1. The EQC must compile and adopt a priority list for allocating federal construction grants for FY86 (October 1, 1985 - September 30, 1986). About $27.6 million is expected to be available for Oregon.

2. The final recommended FY86 construction grants priority list was developed in accordance with OAR 340-53-005 et seq. Selection of projects for the fundable list were based on priority ranking, work schedules submitted by potential applicants, and the state's estimate of funds available.

3. Fifteen respondents provided statements at the public hearing. Reevaluations of priority ratings were considered where water quality and public health impact documentation was submitted prior to June 12, 1985.

4. Although Congress is presently considering changes that will affect the program, the priority list has been developed on the basis of current regulations.

5. The list will be used to allocate available funds carried forward into FY86 and later appropriations, as allowed by federal eligibility rules.

Director's Recommendation

Based on the Summation, the Director recommends that the Commission adopt the FY86 Construction Grants Priority List as presented in Attachment I.

Fred Hansen

Attachments:
- A Hearing Officer Report
- B Record of Written Testimony
- C Attendance List
- D List of Planning and Design Schedule Submittals
- E Summary, Evaluation and Response to Testimony
- F Priority System & Criteria Rules
- G Technical Corrections to the FY86 Priority List
- H FY86 Points Calculation List, as Revised
- I FY86 Proposed Priority List, as Revised

B.J. Smith:h
WH163
229-5415
June 28, 1985

ATTACHMENT A

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY INTEROFFICE MEMO

TO: Environmental Quality Commission DATE: June 24, 1985

FROM: B.J. Smith, Hearing Officer

SUBJECT: Public Hearing on the Draft FY86 Construction Grants Priority System and List

A public hearing on the referenced subject was held at the Department of Environmental Quality offices in Portland beginning at 10:00 a.m., on June 10, 1985. The hearing was preceded by public notice given to all interested parties on May 10, 1985. Publication was made in the Secretary of State's Bulletin on May 1, 1985.

1. A summary of the issues was presented by the Hearing Officer.

2. The Hearing Officer reminded those present that the hearing record will close at 5:00 p.m., June 12, 1985, and that the priority system and list are scheduled for action by the Environmental Quality Commission at the July 19, 1985, meeting in Portland.

The following summarizes the public testimony. Copies of written testimony are available at the DEQ, Water Quality Division.

1. Richard L. Walton, Public Works Dept., Marion County

Mr. Walton appealed the proposed ranking of number 145 for the Brooks-Hopmere Sewer District. He stated that a problem had been recognized since 1963. The area has a groundwater table as high as six inches below ground and the soils -- Amity, Concord, Dayton and Bashaw -- are not suitable for subsurface drainfield systems.

Mr. Walton read a 1972 letter from the Marion County Director of Environmental Health Services which cited that sewage effluent was apparently running in front of the Brooks Elementary School and it created a health hazard. Correction of the problem was impeded by lack of a governmental agency and low assessed property values, as well as small lots and inadequate soils and drainage.

Mr. Walton further discussed a recent study that proposed construction of an outfall sewer to serve Brooks and the Marion County garbage burner. Construction of the outfall is planned for summer, 1985.

Ultimately, the County would hope to construct a sewer collection system and lagoon treatment but obtaining the necessary $2.4 million is an obstacle.

2. Russ Fetrow, Russ Fetrow Engineering

Mr. Fetrow indicated that representatives of Marion County asked that he testify regarding Brooks-Hopmere because of his familiarity with the area as a former DEQ Regional Manager. He stated that certain data regarding sewage disposal problems was lost when the County Sanitarian's Office was moved.

Discussions between DEQ and Marion County regarding the area have occurred since the later 1960's. Existing development has occurred despite the fact that the poorly drained soils and high perched groundwater table caused malfunctioning septic tank systems. The situation has been minimized somewhat by low water useage and, since 1975, subsurface disposal limitations that control the amount of construction of new homes.

In the late 1960's, discharges of inadequately treated sewage to drainage ditches and streams were documented to occur from industries. Residential areas were not inspected at that time. DEQ staff and Marion County reviewed data gathered on the Brooks area, but unfortunately the documentation was lost.

Mr. Fetrow concluded that many homes might be illegally connected to old storm drains. Residents of the Brooks-Bethel Gospel Park have complained about unsanitary debris and algal growth in the lake. Their water supply system could potentially be affected. They have been unsuccessful in developing an enlarged disposal system.

An over-sized discharge pipe for cooling water from the new garbage burning plant will also be able to convey treated effluent from a sewer system. Marion County is ready to proceed with development of a facilities plan for the service area.

3. C.M. "Marty" Cooper, City of Joseph

Mr. Cooper commented on the status of the 1977 Joseph facilities plan, indicating that it was the intent of the City to implement the plan as soon as funds were available. However, he noted that the population had increased since the document was completed and that the Joseph treatment facility expansion would be needed before the City could provide sewer service to the Wallowa Lake area. He urged that a higher priority be established for Joseph's project.

4. Ralph Swinehart, Wallowa Mountain Engineering representing Wallowa County

Mr. Swinehart described the characteristics of the Wallowa Lake Basin, including the existence of shallow gravelly soils and groundwater levels 1-1/2 feet below surface. These may be generally unsuitable for subsurface disposal systems. Existing disposal systems at Wallowa Lake State Park and the small lots at the upper end of the Lake are suspected of affecting groundwater quality.

Area residents have expressed concern that algae is increasing and Lake quality may be deteriorating, potentially affecting both recreational useage and the quality of Joseph's drinking water drawn from the Lake.

Recently, Wallowa County installed 5 wells at the head of the Lake area and will operate a testing program throughout the summer of 1985 to provide valuable data on groundwater quality.

Mr. Swinehart requested that projects developed to preserve high quality surface and groundwater be given a higher priority.

5. Ralph Swinehart, Wallowa Mountain Engineering representing City of Enterprise

Mr. Swinehart supported the implementation of a project for the City of Enterprise, as generally developed in the City's 1977 facilities plan report. He indicated that the City was prepared to begin implementation of its plan during FY86.

6. Judge L. G. Childers, Wallowa County

Judge Childers addressed the economic development potential of the Wallowa Lake Basin, both around the Lake and adjacent to Joseph. As Wallowa County attempts to be less dependent upon the lumber industry as its economic base, tourism is expected to be a major new industry. A sewer system is needed for the Lake area to accomplish economic diversification.

Judge Childers referred to the Wallowa Lake Basin Economic Development Plan (February 1985) and emphasized that the solution for solving sewerage needs at Wallowa Lake is dependent upon the construction of additional treatment capacity at the City of Joseph.

7. Bill Cameron, Public Works Director, City of Gresham (Letter of May 28, 1985)

Mr. Cameron expressed satisfaction that several Gresham interceptor projects were rated highly on the draft priority list but he requested that the two treatment plant projects be grouped and ranked with the highest interceptor. He contended that they are operationally

dependent and in accordance with present administrative rules, if the lower project(s) were found to be necessary in order to provide service to the higher project, they should be ranked together.

The City's treatment plant permit is for a 10 MGD facility but the present average daily dry weather flow plus the capacity that has been sold or committed by the City for specific uses totals about 11.9 MGD. Since the flows from the interceptors would add about 2 MGD, he concluded that service the these areas could not be provided without a treatment plant expansion.

Treatment capacity at the plant has been temporarily increased to about 12 MGD as a result of a program to haul sludge to Hood River for disposal.

8. R. Lyman Houk, City Administrator, City of Philomath

Mr. Houk expressed satisfaction with the City's priority rating for FY86 and the use of carry-over funds to award a grant in the event that the City was unable to complete its application during FY85. He emphasized, however, that it was the City's intent to obtain a grant this fiscal year.

He supported the addition to the list of two new project segments, the Applegate Interceptor and Newton Creek force main, which were developed during the recent facility planning process.

In September 1984, the City passed a water and sewer bond issued for $1.8 million. Since that time, the City has pursued a resolution to its sewer system problems. Within the last year, the City has obtained funding and reconstructed Pump Station A for about $70,000 and has developed a facility plan to meet federal requirements. The plan is presently being reviewed by DEQ. The plan recommends construction of a waste stabilization lagoon, a new pump station, two force mains and two interceptors at a total cost of about $1.6 million. The City is currently engaged in land and easement acquisition and final design.

Mr. Houk expressed his appreciation to EPA and DEQ staff for their assistance in development of the City's facility plan.

9. Edward Branchfield, Member, Board of Directors of Carmel-Foulweather Sanitary District

The District has asked the Lincoln County Department of Planning and Development to prepare a study to determine where the greatest need for service exists. Next, the District will attempt to obtain a planning grant through the County for an engineering report. The Board will possibly have to phase-in District wide service. Although

they are not ready to proceed, they wanted to continue to be listed on the priority list.

10. Paul Castilleja, Mayor, City of Joseph

The City wanted to maintain its current priority listing. Although the Joseph project is related to the proposed project for service to the Wallowa Lake Basin, the City wishes to implement improvements to their system in 1987, regardless of whether funding assistance for the Joseph/Wallowa Lake interceptor and collection system has been secured.

11. Charles L. Holbert, Mayor, City of Coos Bay

Due to the fact that the Coos Bay Bacterial Water Quality Management Plan was prepared by DEQ, the City requested an increased priority.

The facilities plan is being prepared, providing more detailed cost and project estimates. The City requested that the draft project descriptions be modified as follows:

(1) Change Plant #1 improvements to wastewater plants #1 and #2 improvements at $5.9 million; and

(2) I/I correction to flow conveyance at $781,000.

The completed facilities plan is expected in September 1985.

12. Gregory Di Loreto, City Engineer, City of Newberg

The City supported the priority ranking of #3 for the 8th Street Force Main and will begin preparing its grant application within the next few months.

13. Dave Wright, City Engineer, City of Grants Pass

The City questioned why the Mill Street interceptor was not included on the priority list although it was included on the priority points calculation list. The Mill Street Interceptor is the same type of project as others that were included on the priority list.

Wet-weather bypassing at the City's plant was described in the adopted facility plan. Mr. Wright requested that the treatment plant, proposed to be eliminated from the 1986 priority list, be reinstated.

14. David J. Abraham, Director of Dept. of Utilities, Clackamas County

Mr. Abraham requested that portions of his FY85 testimony be reintroduced regarding the need for construction of the Gladstone force main, Abernethy interceptor, Newell interceptor, and Tualatin pump station/West Linn force main.

Mr. Abraham stated that DEQ required that a regional solution be considered for the Tri City area and had approved a regional solution in the 1978 facilities plan after imposing a building moratorium in Oregon City and Gladstone. A condition was included in the National Pollutant Disposal Elimination System permit that each of the three plants, including the Willamette plant, be abandoned when the regional system is available.

Mr. Abraham contended that DEQ lowering the priority of some Tri City project segments was not consistent with the requirement for a regional solution. The "fragmentation" of the regional program will result in the misuse of public funds because the cost of operating the two plants is much greater than the cost to operate one. He noted that this policy will cause the West Linn plant to be left in operation indefinitely. He said the practice of providing lower priority for portions of the system violates a commitment to the public on how their approved bond funds are to be spent and emphasized that a heavy tax burden is already imposed on the area. The District has committed to separate combined storm and sanitary sewers at local expense.

A summary of violations at the Willamette treatment plant during the last twelve months was provided.

The County supported the concept of a contingency list of projects that are ready for construction when funding becomes available.

15. Peter de Fazio, Chairman, Lane County Board of Commissioners

Lane County requested that the Collard Lake/Clear Lake sewerage project be added to the FY86 priority List. The area is currently prohibited from future development due to restrictions on subsurface disposal systems. Clear Lake is presently a water supply source for the Heceta Water District and the City of Florence. The proposed project will serve 115-150 people and is intended to reduce phosphorous loading in the Clear Lake Watershed.

The County proposes a schedule for construction in 1986, at an estimated cost of $600,000 to $1,000,000. Alternative technology is being considered.

The County also submitted a limnological study of Clear Lake, an alternatives evaluation, a phosphorous accumulation study and other materials.

B. J. Smith

B. J. Smith
Hearing Officer

WH156

ATTACHMENT B

RECORD OF WRITTEN TESTIMONY

1. Letter of May 28, 1985, from William E. Cameron, Director of Public Works, City of Gresham.

2. Letter of June 3, 1985, from Peter de Fazio, Chairman, Lane County Board of Commissioners.

3. Letter of June 6, 1985, from Paul Castilleja, Mayor, City of Joseph.

4. Letter of June 7, 1985, from Dave Wright, City Engineer, City of Grants Pass.

5. Letter of June 10, 1985, from Gregory Di Loreto, City Engineer, City of Newberg.

6. Letter of June 10, 1985, from Charles L. Holbert, Mayor, City of Coos Bay.

7. Letter of June 12, 1985, from David J. Abraham, Director of Dept. of Utilities, Clackamas County.

8. Letter of June 12, 1985, from William E. Cameron, Public Works Director, City of Gresham.

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ATTACHMENT C

ATTENDANCE LIST

FY86 CONSTRUCTION GRANTS PRIORITY LIST HEARING

ROOM 1400

YEON BUILDING

PORTLAND, OREGON

June 10, 1985

NAME	REPRESENTING
Ralph Swinehart	Wallowa County
Dick Walton	Marion County
Jon Boyd	Adair Village
Marty Cooper	Wallowa County
Russell Fetrow	Marion County
Bill Cameron	City of Gresham
Joe Brobston	City of Salem
Richard Huddleston	City of Salem
Bill Sobolewski	Environmental Protection Agency
David Abraham	Clackamas County
R. Lyman Houk	City of Philomath
Charles Liebert	Tri City Service District

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WH156

LIST OF PLANNING AND DESIGN SCHEDULE SUBMITTALS

In accordance with OAR 340-53-015(2)(g) and (h), these schedules were used, along with priority ranking, to establish the FY 86 list of fundable projects. Not all projects supplying a schedule are expected to qualify for a FY 86 grant, due to the limited amount of funds available.

1. Astoria/Williamsport

2. Bear Creek Valley Sanitary Authority/Whetstone

3. Brookings/STP Imp
   /I & I Correction

4. Clackamas Co. S.D. #1/Kellogg

5. Coos Bay/STP Imp

6. Corvallis/West

7. Dallas/I & I Correction
   /STP Exp.

8. Drain/Pass Creek

9. Enterprise/STP Imp

10. Estacada/STP Exp.

11. Eugene/Airport

12. Grants Pass/North Int.
    /Pine St. P1 Int.
    /Seventh Street Int.
    /Greenwood Int.
    /Mill Street Int.

13. Gresham/STP Imp
    /Solids Handling
    /Stark Street Int.
    /Glisan Street Int.
    /175th - 176th Ave. Int.
    /Division Street Ints.
    /182nd Avenue Int.
    /W. Johnson Creek Int.

14. Happy Valley/C.C.S.D. 1 Service District

15. Irrigon/System

16. Joseph/STP Imp

17. Keizer/North Keizer

18. Klamath Falls/North Suburban (Pelican City)

19. La Pine S.D./System

20. Lowell/I & I Correction
Lowell/STP Imp

21. Madras/Ints

22. Marion County/Brooks-Hopmere S.D.

23. Metropolitan Wastewater Management Commission/Permanent Sludge
/I/I Corr.
/Maj.Rehab.

24. Mill City/System

25. Mt. Angel/STP IMP
/I & I Correction

26. Newberg/6th St. Reliever
/River Road Interceptor
/8th Street Force Main
/Hancock St. Reliever Sewer

27. North Bend/Phase 2

28. Philomath/STP Imp
/Ints, FM, PS

29. Portland/S. E. Relief Ph.3
/S. E. Relief Ph.4
/S. E. 111th Avenue Int.

30. Roseburg Urban Sanitary Authority/Sewer Rehabilitation

31. Salem/Pringle Creek

32. St. Helens/STP Imp.
/I & I Correction
/P.S. #1

33. Scappoose/STP exp.

34. Tangent/System

35. Tri-City Sanitary District/Myrtle Creek STP

36. Tri-City Service District/Gladstone F.M.
/Abernethy Int.
/Newell Int.
/Willamette P.S.
/West Linn F.M.
/I & I Correction

37. Wallowa County/Lake Ints.

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WM168

SUMMARY, EVALUATION AND RESPONSE TO TESTIMONY

The following two sections present summaries and responses to relevant public hearing testimony on the draft FY86 priority list and the priority criteria and management system. A summary of the June 10, 1985 public hearing and the record of testimony appears as Attachment A and B. Copies of written testimony are available in the files of the Environmental Quality Commission and the Water Quality Division.

The summaries and responses to the testimony are organized as follows:

1. Testimony Related to Priority Criteria; and

2. Testimony Related to the Individual Project and Segment Classification and Ranking on the Draft FY86 Priority List.

1. Testimony Related to Priority Criteria

a. One respondent recommended that a higher priority be given to projects intended to preserve high quality surface or groundwater. In particular, the comment was related to testimony regarding a lake used extensively for recreation and water supply.

Response

During the past five years, Congress and U.S.EPA have refocused, by Statute and rule, the use of construction grant funds toward the elimination of discharges of pollutants that result in the impairment of beneficial uses or frequently violate the water quality standards adopted to protect designated uses. When completed, construction projects are expected to have demonstrable water quality benefits to the stream, lake or groundwater source. This demonstration may be accomplished by water quality sampling, sewerage system monitoring, or groundwater quality evaluation.

The existing condition or quality of the affected water, whether it is "high" quality or has several parameters violated, does not directly affect project priority. Instead, the priority of a project is directly related to the extent to which it is expected to restore an adversely affected beneficial use, such as recreation or water supply.

2. Testimony Related to the Individual Project and Segment Classification and Ranking on the Draft FY86 Priority List

Several respondents requested reassessment or provided new information regarding their priority ratings.

a. Marion County -- Brooks-Hopmere Sewer District requested that their priority be raised from number 145 due to failing subsurface disposal problems.

Letter Class D priority was assigned because there is only limited information available concerning past septic tank/drainfield failures and no information demonstrating direct sewages discharges or impacts on surface or groundwater quality.

Growth and development in the area using on-site sewage disposal systems are restricted due to poorly drained soils and a high seasonal groundwater table. However, little data is available to classify the existing disposal problems. According to Department staff, the 1970's survey of the Brooks area referenced in the testimony was informal. The survey suggested that lack of on-site system failures may be due to some systems being tied into agricultural drain tiles.

A higher Letter Class rating is appropriate for areas which demonstrate that on-site sewage disposal practices result in direct discharges of waste to surface waters or impacts to surface or groundwater quality. A current and complete sanitary survey would be needed for this evaluation.

b. Joseph and Wallowa Lake. Several respondents requested that the priority for the City be elevated and noted the relationship between the City's treatment capacity and future plans to provide service to Wallowa Lake.

Currently, the Joseph treatment plant improvements were evaluated and rated due only to the concern that the existing lagoon treatment systems leaks to the groundwater. No data establishing the effect on the quality of the groundwater has been made available. Joseph presently has a higher priority than the Wallowa Lake interceptor.

Although a preliminary review indicates that Joseph does not presently have treatment capacity available, the potential service to the Wallowa Lake area should be evaluated in an updated facility plan with respect to lagoon capacity to (1) treat initial flows and (2) treat design flows from the Lake area.

Oregon Administrative Rules enable the EQC to raise priority of a lower project segment to that of a higher one if the higher ranking segment would not be operational absent the construction of the lower ranking segment.

Since an expansion of capacity at Joseph would provide an operational unit without the flow from the Lake area, the Lake interceptor is not combined at the higher Joseph priority ranking. Each project is considered at separate rankings.

Information on groundwater and/or surface water quality being developed by Wallowa County this summer should aid greatly in a reassessment of the Lake interceptor priority. Department staff suggest that these findings be submitted to us as soon as they are available.

c. The City of Gresham requests that additional priority points be granted to their proposed sewage treatment plant improvement projects or the projects be made operationally dependent to the six interceptors proposed to serve residents on cesspools. They note that the EQC has recognized there is a serious potential threat to groundwater in Mid-Multnomah County from cesspools, but that Gresham cannot make a commitment to provide treatment capacity for residents connecting to the six interceptors unless new capacity is constructed at the same time as the interceptors.

The Department agrees that the sewage treatment and solids handling facilities must be enlarged to provide service to areas on cesspools and seepage pits which Gresham proposes to serve; thus, these projects will be listed as operationally dependent to the highest priority interceptor project. However, this listing is a qualified listing because Gresham has not yet submitted specific schedules and implementation programs for eliminating all discharges to the groundwater, as requested by the EQC, and because it appears that approximately 0.30 mgd plant capacity remains after existing commitments are fulfilled. Since it is estimated that approximately 3000 people on cesspools could be initially served using this remaining available capacity, if Gresham fails to demonstrate in its implementation program that the initial population on cesspools to be served is greater than 3000, the operational dependency determination will be dropped.

Likewise, the project cost shown are merely estimates and a determination of grant eligible portions of the treatment, solids handling and interceptor cost are dependent upon the approved implementation schedule for sewering the cesspool areas as well as other factors such as prior grant awards.

d. Coos Bay requested that a higher priority be established because of the Coos Bay Bacterial Water Quality Management Plan prepared by DEQ. The City also requested that the costs for improvements be updated based on the facilities planning effort currently underway and that the description of STP #1 be expanded to include STP #2 and that inflow/infiltration correction be modified to "flow conveyance" improvements.

The City currently has two projects on the draft FY86 list. They are STP #1 improvements and inflow/infiltration correction for STP #1. Both are presently listed as a Letter Class B priority because they were expected to minimize or eliminate surface water pollution where water quality standards are violated repeatedly and beneficial uses are impaired. The Bacterial Quality Management Plan was the foundation of the finding regarding water quality standards and it analyzed the impact of inadequately waste discharges on shellfishing and recreational values. The City's project appears to be rated correctly with respect to the letter class and numerical rating factors.

The priority list is intended to rank and rate individual construction projects on the basis of the need for water quality and public health improvements. In order of priority, funds are directed toward potential projects that are likely to eliminate (1) the impairment of beneficial uses or frequent violations of water quality standards adopted to protect designated uses resulting from a declared public health hazard; (2) the impairment of beneficial uses or frequent violation of water quality standards; and (3) the inability to meet effluent permit limits. Next, remaining funding is directed toward projects that would contribute to minimizing or eliminating pollution of surface or underground waters, but restoration of a beneficial use or water quality standards may not occur once the project is constructed. The priority of a project, then, reflects a hierarchy of water quality/public health objectives, the extent to which the project is expected to accomplish the objective, based on an analysis of each individual project. In many communities, the ordering of priorities results in several projects classified differently.

The Coos Bay sewerage treatment system contains two facilities, Coos Bay #1 and #2, as well as a number of overflow and bypass points from the collection system tributary to Coos Bay #1. On a water quality basis, there are distinctively different needs for construction of improvements at Coos Bay #1 than at Coos Bay #2. Infrequent permit limit violations and occasional hydraulic overloading at the Coos Bay #2 plant have not been shown to have a demonstrable impact on beneficial uses or water quality standards violations. These flows are discharged to the deep channel in the Bay and according to DEQ's modelling efforts, tend

to have little effect outside of the channel. The Department does acknowledge that violation of effluent limits occur infrequently and have added a STP improvement project for Coos Bay #2 under Letter Class D, consistent with the priority criteria.

At this time, Coos Bay has completed five chapters of a regional facilities plan. However, these chapters do not contain information that identifies or enables us to evaluate each "flow conveyance" improvement needed for STP #1 nor is there a cost effectiveness demonstration regarding infiltration and inflow. Due to the complexity of the planning work, any identification of projects for Coos Bay #1 is tentative.

Eligible project definitions will be modified at such time as a completed draft facility plan is approvable by DEQ, and detailed additional information required by the priority rating criteria for each proposed pipeline, pump station, or treatment addition is supplied. A priority list amendment may be needed at that time.

To eliminate the possibility of underestimating the cost of potential construction, the grant estimates will be increased on the final FY86 list.

e. The City of Grants Pass requested inclusion of an STP Improvement project and a Mill Street interceptor project on the priority list. To respond to the testimony, a review of the City's 1983 Sewage Collection Master Plan and September 1984 Facilities Plan, Financial Plan and Rate Study was performed. The findings of that review follow.

The listings of an STP Expansion project; Pine, North, Greenwood and Seventh Street interceptor projects; and Mill Street Rehabilitation projects were based on last year's cursory review of the 1983 Sewage Collection Master Plan and draft Facilities Plan. The Collection System Plan noted that, based on modeling of existing sewage and I/I flows, these interceptors appear to be overloaded resulting in surcharging and possible overflow conditions. On the FY85 list, improvements to the Pine, North, Greenwood and Seventh Street interceptors (Phase 1 within Systems 101, 102, 103, 104, 202, 502, 801 and 802) and Mill Street sewer rehabilitation (Phase 1 within System 901) were evaluated as being needed to eliminate 5.5 mgd of the estimated peak I/I and therefore were classified under Letter Class C. The STP expansion project was evaluated as being needed to accommodate growth and development and therefore was classified under Letter Class E. A more detailed review of the documents this year leads to a revision of that evaluation.

The September 1984 Facilities Plan indicates that all but two bypasses from the Grants Pass collection system have been eliminated. The plan cites that raw sewage overflows occur into a storm drain which discharges into the Rogue River from Manhole I-4 off M Street east of Eighth Street, but actual frequency, duration and volumes of bypassed sewage are not identified. Bypasses are estimated at the incoming trunk sewer to the Rogue River when wastewater flows at the treatment plant exceed its 13 MGD hydraulic capacity which occurs approximately 5 times per year during heavy rainfall events. These flows are blended with treated effluent at the outfall. The facility plan furthermore notes that based on modelled flows and expansion needs, it is more economical to convey and treat the entire peak wet weather estimated I/I flow of 19.7 mgd, rather than to eliminate more than 10-15 percent of the I/I.

The Department cannot concur with the determination that this quantity of I/I should be treated. The plan's analysis was based on modelled flows using data from one storm event rather than on measured inflow and infiltration during peak wet weather flow. Also the actual condition of the collection system has not been evaluated to determine the effectiveness of sewer rehabilitation and I/I control measures to alleviate bypass occurrences. These points, together with the lack of a clear relationship in the facility plan between excessive flow removal proposed to be accomplished with the interceptor projects and treatment capacity proposed to be added, made it difficult to prioritize the identified projects as they relate to the need for to correcting bypasses. Therefore, the following projects (renamed according to the facility's plan designations) will be prioritized under Letter Class D with 50 Regulatory Emphasis points. This new classification reflects occurrences of infrequent discharges above permit limits and the contribution of the projects to minimize or eliminate pollution of surface waters:

1.	Second Street	-	System 101, previously listed as Pine Street
2.	"F" & Booth Street	-	System 102, previously listed as Pine Street
3.	Pine & Rogue R. Dr.	-	System 103, previously listed as Pine Street
4.	Rogue R. Dr. - Lee Lane	-	System 104, previously listed as Pine Street
5.	S. Seventh Street	-	System 202, previously named North Interceptor

6.	Bridge St. - Greenwood	-	System 502, previously named Greenwood
7.	"A" Street	-	System 801, previously named Seventh St
8.	N. Seventh St.	-	System 802, previously named Seventh St
9.	Mill Street Rehab	-	Sewer Rehabilitation in System 901, as indicated on Table 4-3 of the Facilities Plan. This is shown as ineligible because the condition of the sewers structurally is unknown.

The STP expansion project will be elevated to Letter Class D and assigned 50 Regulatory Emphasis points. The priority of the Solids Handing project under Letter Class D will not be changed.

The Department intends to work with the city to resolve the issues raised. The classification of projects and eligibility determinations may be modified on the FY 87 priority list.

f. Clackamas County Tri-City Service District requested that the West Linn-Willamette project for conveying flows from the area currently served by the Willamette STP to the Tri-City Regional STP be ranked at the same priority as the highest ranked Tri-City S.D. project in Letter Class B. The District also considers that the separate rankings for the Gladstone Force Main, the Abernethy Interceptor and the Newell Interceptor, currently ranked as Letter Class C, are a deviation from the treatment plant concept required and approved by the DEQ and EQC. The District feels that the separate rankings are a violation of the commitment to the District's public on how their approved bond funds for local share are to be spent.

In 1980, the policies regarding the management of the sewerage works construction grants priority list included an approach for segmenting construction projects into components and prioritizing each separately under the adopted criteria. This was intended to spread limited federal dollars to ensure that first funded were projects that correct the most critical water quality problems and result in the greatest water quality benefit. This practice has been consistently applied to all projects and has resulted in earlier federal funding for the critical project segments, although some projects within many communities were selectively delayed funding. The consequences of the policy to communities who passed bond measures before and around 1980 were recognized by the EQC. These communities were asked to find alternative sources of funding or accept delays in federal funding of their remaining improvements.

In 1984, to ensure that these delays would be as short as possible for projects ready to proceed, two management techniques were utilized: (1) submittal of planning and design schedules as a basis to track progress of projects considered for funding and, if necessary, provide the information to bypass those that make insufficient progress, and (2) a designated list of contingency projects, specifying the order of funding opportunity for projects that are ready to proceed if bypasses occur or additional funds become available during the year. During FY83 and 84, all projects designated as contingency were eventually funded, primarily due to the availability of additional funds throughout the year.

The basis for establishing the Letter Class C rating for the West Linn Willamette STP is that the project is needed to insure treatment capability within the effluent standards established in the permit. The recent submittal of a summary of treatment violations is consistent with the Letter Class C categorization. No additional water quality data were submitted to demonstrate that a Letter Class B priority is appropriate.

g. Lane County request that the Collard Lake/Clear Lake project be added to the list. Department staff reviewed the written testimony and supplementary background items provided by Lane County. It is our understanding that:

1. The Clear Lake Watershed study is being conducted to develop a management plan and implementation strategies to protect Clear Lake as a water supply source for the Heceta Water District.

2. A limnological study of Clear Lake and an assessment of possible effects of increased nutrient loads were conducted because of concern about nitrogen and phosphorus contributions from on-site sewage disposal systems near Collard Lake reaching Clear Lake.

3. The study of Clear Lake indicated that phosphorous is the limiting nutrient in the Lake.

4. The existing eleven homes on Collard Lake shore property produce the theoretical maximum phosphorus loading that Clear Lake can withstand.

5. Continued development in the watershed would cause unacceptable levels of phosphorus resulting in increased algae production and would affect the water supply at some point in the future.

Therefore, the Department concludes that the purpose of a proposed sewerage project, as a management plan alternative for protecting the Clear Lake/Collard Lake watershed, is for the prevention of potential water pollution problems in Clear Lake.

A new need will be prioritized as a Letter Class E project with 120 Regulatory Emphasis points on the priority point calculation list. Letter Class E projects are those necessary to prevent potential water pollution problems and are not listed on the project priority list for funding. Projects to address future pollution expected to occur from growth and development are not eligible for grant assistance. A high Regulatory Emphasis score was assigned because of the EQC's rule restricting issuance of subsurface permits in this geographic area.

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WH162

MUNICIPAL WASTE WATER TREATMENT WORKS CONSTRUCTION GRANTS PROGRAM

DIVISION 53

DEVELOPMENT AND MANAGEMENT OF THE STATEWIDE SEWERAGE WORKS CONSTRUCTION GRANTS PRIORITY LIST

Purpose

340-53-005 The purpose of these rules is to prescribe procedures and priority criteria to be used by the Department for development and management of a statewide priority list of sewerage works construction projects potentially eligible for financial assistance from U.S. Environmental Protection Agency's Municipal Waste Water Treatment Works Construction Grants Program, Section 201, Public Law 95-217.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 24-1980, f. 9-29-80, ef. 10-1-80

Definitions

340-53-010 As used in these regulations unless otherwise required by context:

(1) "Department" means Department of Environmental Quality. Department actions shall be taken by the Director as defined herein.

(2) "Commission" means Environmental Quality Commission.

(3) "Director" means Director of the Department of Environmental Quality or his authorized representatives.

(4) "Municipality" means any county, city, special service district, or other governmental entity having authority to dispose of sewage, industrial waste, or other wastes, any Indian tribe or authorized Indian Tribal Organization or any combination of two or more of the foregoing.

(5) "EPA" means U.S. Environmental Protection Agency.

(6) "Treatment Works" means any facility for the purpose of treating, neutralizing or stabilizing sewage or industrial wastes of a liquid nature, including treatment or disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishings thereof and their appurtenances.

(7) "Grant" means financial assistance from the U.S. Environmental Protection Agency Municipal Waste Water Treatment Works Construction Grants Programs as authorized by Section 201, Public Law 95-217 and subsequent amendments.

(8) "Advance" means an advance of funds for a Step 1 or Step 2 project. The advance is equal to the estimated allowance which is expected to be included in a future Step 3 grant award. An advance is made from funds granted to Oregon by EPA; it is not a direct grant by EPA to a municipality.

(9) "Project" means a potentially fundable entry on the priority list consisting of Step 3 or Step 2 plus 3 treatment works or components or segments of treatment works as further described in OAR 340-53-015(4).

(10) "Treatment Works Component" means a portion of an operable treatment works described in an approved facility plan including but not limited to:

(a) Sewage treatment plant;
(b) Interceptors;
(c) Sludge disposal or management;
(d) Rehabilitation;
(e) Other identified facilities.
(f) A treatment works component may but need not result in an operable treatment works.

(11) "Treatment Works Segment" means a portion of a treatment works component which can be identified in a contract or discrete sub-item of a contract and may but need not result in operable treatment works.

(12) "Priority List" means all projects in the state potentially eligible for grants listed in rank order.

(13) "Fundable Portion of the List" means those projects on the priority list which are planned for a grant during the current funding year. The fundable portion of the list shall not exceed the total funds expected to be available during the current funding year less applicable reserves.

(14) "Facilities Planning" means necessary plans and studies which directly relate to the construction of treatment works. Facilities planning will demonstrate the need for the proposed facilities and that they are cost-effective and environmentally acceptable.

(15) "Step 1 Project" means any project for development of a facilities plan for treatment works.

(16) "Step 2 Project" means any project for engineering design of all or a portion of treatment works.

(17) "Step 3 Project" means any project for construction or rehabilitation of all or a portion of treatment works.

(18) "Eligible Project Costs" means those costs which could be eligible for a grant according to EPA regulations and certified by the Department and awarded by EPA. These costs may include an estimated allowance for a Step 1 and/or Step 2 project.

(19) "Innovative Technology" means treatment works utilizing conventional or alternative technology not fully proven under conditions contemplated but offering cost or energy savings or other advantages as recognized by federal regulations.

(20) "Alternative Technology" means treatment work or components or segments thereof which reclaim or reuse water, recycle waste water constituents, eliminate discharge of pollutants, or recover energy.

(21) "Alternative System for Small Communities" means treatment works for municipalities or portions of municipalities having a population of less than 3,500 and utilizing alternative technology as described above.

(22) "Funding Year" means a federal fiscal year commencing October 1st and ending September 30th.

(23) "Current Funding Year" means the funding year for which the priority list is adopted.

(24) "State Certification" means assurance by the Department that the project is acceptable to the state and that funds are available from the state's allocation to make a grant award.

(25) "Small Community" means, for the purposes of an advance of allowance for Step 1 or Step 2, a municipality having less than 25,000 population.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 24-1980, f. 9-29-80, ef. 10-1-80; DEQ 15-1982, f. & ef. 7-27-82

Priority List Development

340-53-015 The Department will develop a statewide priority list of projects potentially eligible for a grant:

(1) The statewide priority list will be developed prior to the beginning of each funding year utilizing the following procedures:

(a) The Department will determine and maintain sufficient information concerning potential projects to develop the statewide priority list.

(b) The Department will develop a proposed priority list utilizing criteria and procedures set forth in this section.

(c)(A) A public hearing will be held concerning the proposed priority list prior to Commission adoption. Public notice and a draft priority list will be provided to all interested parties at least thirty (30) days prior to the hearing. Interested parties include, but are not limited to, the following:

(i) Municipalities having projects on the priority list;

(ii) Engineering consultants involved in projects on the priority list;

(iii) Interested state and federal agencies;

(iv) Any other persons who have requested to be on the mailing list.

(B) Interested parties will have an opportunity to present oral or written testimony at or prior to the hearing.

(d) The Department will summarize and evaluate the testimony and provide recommendations to the Commission.

(e) The Commission will adopt the priority list at a regularly scheduled meeting.

(2)(a) The priority list will consist of a listing of all projects in the state potentially eligible for grants listed in ranking order based on criteria set forth in Table 1. Table 1 describes five (5) categories used for scoring purposes as follows:

(A) Project Class,

(B) Regulatory Emphasis,

(C) Stream Segment Rank,

(D) Population Emphasis,

(E) Type of Treatment Component or Components.

(b) The score used in ranking a project consists of the project class identified by letter code plus the sum of the points from the remaining four categories. Projects are ranked by the letter code of the project class with "A" being highest and within the project class by total points from highest to lowest.

(3) The priority list entry for each project will include the following:

(a) Priority rank consisting of the project's sequential rank on the priority list. The project having the highest priority is ranked number one (1).

(b) EPA project identification number.

(c) Name and type of municipality.

(d) Description of project component.

(e) Project step.

(f) Grant application number.

(g) Ready to proceed date consisting of the expected date when the project application will be complete and ready for certification by the Department. For the current funding year the ready to proceed date will be based upon planning and design schedules submitted by potential applicants. For later funding years, the ready to proceed date may be based upon information available to the Department.

(h) Target certification date consisting of the earliest estimated date on which the project could be certified based on readiness to proceed and on the Department's estimate of federal grant funds expected to be available. The target certification date for the current funding year will be assigned based on a ready to proceed date. In the event actual funds made available differ from the Department's estimate when the list was adopted the Department may modify this date without public hearing to reflect actual funds available and revised future funding estimates.

(i) Estimated grant amount based on that portion of project cost which is potentially eligible for a grant as set forth in OAR 340-53-020.

(j) The priority point score used in ranking the projects.

(4) The Department will determine the scope of work to be included in each project prior to its placement on the priority list. Such scope of work may include the following:

(a) Design (Step 2) and construction of complete treatment works, (Step 2 plus 3); or

(b) Construction of one or more complete waste treatment systems; or

(c) Construction of one or more treatment works components; or

(d) Construction of one or more treatment works segments of a treatment works component.

(5)(a) When determining the treatment works components or segments to be included in a single project, the Department will consider:

(A) The specific treatment works components or segments that will be ready to proceed during a funding year; and

(B) The operational dependency of other components or segments on the components or segment being considered; and

(C) The cost of the components or segments relative to allowable project grant. In no case will the project included on the priority list, as defined by OAR 340-53-010(9) exceed ten (10) million dollars in any given funding year. Where a proposed project would exceed this amount the scope of work will be reduced by limiting the number of components or dividing the components into segments. The total grant for treatment works to a single applicant is not however limited by this subsection.

(b) The Department shall have final discretion relative to scope of work or treatment works components or segments which constitute a project.

(6) Components or segment not included in a project for a particular funding year will be assigned a target certification date in a subsequent funding year. Within constraints of available and anticipated funds, projects will be scheduled so as to establish a rate of progress for construction while assuming a timely and equitable obligation of funds statewide.

(7) A project may consist of an amendment to a previously funded project which would change the scope of work significantly and thus constitute a new project.

(8) The Director may delete any project from the priority list if:

(a) It has received full funding;

(b) It is no longer entitled to funding under the approved system;

(c) EPA has determined that the project is not needed to comply with the enforceable requirements of the Clean Water Act or the project is otherwise ineligible.

(9) If the priority assessment of a project within a regional 208 areawide waste treatment management planning area conflicts with the priority list, the priority list has precedence. The Director will, upon request from a 208 planning agency, meet to discuss the project providing the request for such a meeting is submitted to the Director prior to Commission approval of the priority list.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 24-1980, f. 9-29-80, ef. 10-1-80; DEQ 28-1981(Temp), f. & ef. 10-19-81; DEQ 15-1982, f. & ef. 7-27-82; DEQ 14-1983, f. & ef. 8-26-83

[**ED. NOTE:** The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Eligible Costs and Limitations

340-53-020 For each project included on the priority list the Department will estimate the costs potentially eligible for a grant and the estimated federal share:

(1) Where state certification requirements differ from EPA eligibility requirement the more restrictive shall apply.

(2) Except as provided for in section (3) of this rule, eligible costs shall generally include Step 1, Step 2, and Step 3 costs related to an eligible treatment works, treatment works components or treatment works segments as defined in federal regulations.

(3) The following will not be eligible for state certification:

(a) The cost of collection systems except for those which serve an area where a mandatory health hazard annexation is required pursuant to ORS 222.850 to 222.915 or where elimination of waste disposal wells is required by OAR 340-44-019 to 340-44-044. In either case, a Step 1 grant for the project must have been certified prior to September 30, 1979.

(b) Step 2 or Step 3 costs associated with advanced treatment components.

(c) The cost of treatment components not considered by the Department to be cost effective and environmentally sound.

(4) The estimated grant amount shall be based on a percentage of the estimated eligible cost. The percentage is seventy-five (75) percent of the estimated eligible cost until FY 1985, when it is reduced to fifty-five (55) percent of the estimated eligible cost for new projects. The Commission may reduce the percentage to fifty (50) percent as allowed by federal law or regulation. The Department shall also examine other alternatives for reducing the extent of grant participation in individual projects for possible implementation beginning in FY 1982. The intent is to spread available funds to address more of the high priority needs in the state.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 24-1980, f. 9-29-80, ef. 10-1-80; DEQ 15-1982, f. & ef. 7-27-82

Establishment of Special Reserves

340-53-025 From the total funds allocated to the state the following reserves will be established for each funding year:

(1) Reserve for grant increases of five (5) percent.

(2) Reserve for Step 1 and Step 2 grant advances of up to ten (10) percent. This reserve shall not exceed the amount estimated to provide advances for eligible small communities projected to apply for a Step 3 or Step 2 plus 3 grant in the current funding year and one funding year thereafter.

(3) Reserve for alternative components of projects for small communities utilizing alternative systems of four (4) percent.

(4) Reserve for additional funding of projects involving innovative or alternative technology of four (4) percent.

(5) Reserve for water quality management planning of not more than one percent of the state's allotment nor less than $100,000.

(6) Reserve for state management assistance of up to four percent of the total funds authorized for the state's allotment.

(7) The balance of the state's allocation will be the general allotment.

(8) The Director may at his discretion utilize funds recovered from prior year allotments for the purpose of:

(a) Grant increases; or

(b) Conventional components of small community projects utilizing alternative systems; or

(c) The general allotment.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 24-1980, f. 9-29-80, ef. 10-1-80; DEQ 15-1982, f. & ef. 7-27-82; DEQ 14-1983, f. & ef. 8-26-83

Use of Discretionary Authority

340-53-027 The Director may at the Director's discretion utilize up to twenty (20) percent of the annual allotment for replacement or major rehabilitation of existing sewer systems or elimination of combined sewer overflows provided:

(1) The project is on the fundable portion of the state's current year priority list; and

(2) The project meets the enforceable requirements of the Clean Water Act; and

(3) Planning for the proposed project was complete or substantially complete on December 29, 1981.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 20-1984, f. & ef. 11-8-84

Priority List Management

340-53-030 The Department will select projects to be funded from the priority list as follows:

(1) After Commission adoption and EPA acceptance of the priority list, allocation of funds to the state and determination of the funds available in each of the reserves, final determination of the fundable portion of the priority list will be made. The fundable portion of the list will include the following:

(a) Sufficient projects selected according to priority rank to utilize funds identified as the state's general allotment; and

(b) Additional projects involving alternative systems for small communities as necessary to utilize funds available in that reserve.

(2) Projects to be funded from the Step 1 and 2 grant advance reserve will be selected based on their priority point scores and whether they are projected to apply for Step 3 or Step 2 plus 3 grant in the current funding year or one funding year thereafter.

(3) Projects included on the priority list but not included within the fundable portion of the list will constitute the planning portion of the list.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 24-1980, f. 9-29-80, ef. 10-1-80; DEQ 15-1982, f. & ef. 7-27-82

Priority List Modification and Bypass Procedure

340-53-035 The Department may modify the priority list or bypass projects as follows:

(1) The Department may add to or rerank projects on the priority list after the adoption of the priority list but prior to the approval of the priority list for the next year providing:

(a) Notice of the proposed action is provided to all affected lower priority projects.

(b) Any affected project may within 20 days of receiving adequate notice request a hearing before the Commission provided that such hearing can be arranged before the end of the current funding year.

(2) The Department will initiate bypass procedures when any project on the fundable portion of the list is not ready to proceed during the funding year:

(a) The determination will be based on quarterly progress reports.

(b) Written notice will be provided to the applicant of intent to bypass the project.

(c) An applicant may request a hearing on the proposed bypass within 20 days of adequate notice. If requested the Director will schedule a hearing before the Commission within 60 days of the request, provided that such hearing can be arranged before the end of the current funding year.

(d) If a project is bypassed it will maintain its priority point rating for consideration in future years. If a project is bypassed for two consecutive years the Commission may remove it from the priority list.

(e) Department failure to certify a project not on the fundable portion of the list or for which funds are otherwise unavailable will not constitute a "bypass".

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 24-1980, f. 9-29-80, ef. 10-1-80; DEQ 15-1982, f. & ef. 7-27-82; DEQ 14-1983, f. & ef. 8-26-83

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TABLE 1
(340-53-015)

CONSTRUCTION GRANTS PRIORITY CRITERIA
PROJECT CLASS

Letter Code	Description
A.	Project will minimize or eliminate surface or underground water pollution where: 1. Water quality standards are violated repeatedly or 2. Beneficial uses are impaired or may be damaged irreparably. In addition: 1. The EQC by rule OAR 340-44-005 to 440-040, had mandated elimination of discharge or inadequately treated waste to disposal wells or 2. The Administrator of the Health Division or the EQC has certified findings of fact which conclude that (a) Water pollution or beneficial use impairment exists and (b) Hazard to public health exists. Documentation required includes: 1. Field investigations, and 2. Public Notice and hearing and 3. Written findings of fact.
B.	Project will minimize or eliminate surface or underground water pollution where: 1. Water quality standards are violated repeatedly or 2. Beneficial uses are impaired or may be damaged irreparably. Documentation required includes: 1. Actual written documentation of existing water use impairment or 2. Actual written documentation of repeated violation of standards.
C.	Project is required to insure treatment capability to comply with water quality standards including: 1. Minimum federal effluent guidelines established by rule pursuant to PL 95-217 or 2. Effluent standards established in an issued WPCF or NPDES permit or 3. Treatment levels or effluent standards that would be placed in a permit to comply with state or federal regulation (for a source not presently under permit). Documentation required includes: Actual written documentation of the applicable guideline, standard, permit condition, or other regulatory requirement.
D.	Project is necessary to minimize or eliminate pollution of surface or underground waters from: 1. Nonpoint sources where malfunctioning subsurface sewage disposal systems in developed areas are a contributing factor or 2. Point sources where infrequent discharges above permitted levels are a contributing factor. Documentation required includes: 1. Sufficient information to suggest a problem, but 2. Insufficient data to conclusively demonstrate the problem. Facility planning is expected to provide additional documentation.
E.	Project is desirable for prevention of potential water pollution problem. Documentation required includes: 1. Recognization that a problem could develop in the future, but 2. Lack of information to suggest a present water quality problem.

Regulatory Emphasis Points	Description
150	Project received a limited time extension to meet the 1977 secondary treatment goals of the Clean Water Act. Documentation required includes: 1. Addendum to the NPDES permit extending the compliance date, or 2. Stipulated consent agreement indicating noncompliance. Finding must have been made prior to January 1, 1978.
130	Project is necessary for immediate correction of a public health hazard through extraordinary measures such as: 1. Annexation, or 2. Service district formation. Documentation required includes: 1. EQC order, or 2. Certification of public health hazard by the Administrator of the Health Division pursuant to ORS 431.705 et.seq. or 222.850 et.seq.

Points	Description
120	Project is necessary to eliminate a voluntary or involuntary moratorium, including: 1. Involuntary connection limitation to a centralized facility, or 2. EQC rule that restricts issuance of subsurface disposal permits for a specific geographic area or 3. Voluntary limitations on connection to a centralized facility or construction of subsurface disposal systems. Voluntary moratorium must meet the following conditions: a. The moratorium was formally enacted prior to August 1, 1979, and b. It attempts to limit flow to a central facility which is at or beyond 90 percent capacity, and c. The jurisdiction has a medium to high growth rate and therefore requires preventive pollution control action. Documentation required includes: 1. Rule or order establishing involuntary moratorium, or 2. Order, ordinance, or other documentation of voluntary moratorium.
90	Project is necessary because of the potential for regulatory action identified by: 1. NPDES permit limitations or conditions which would be included in a permit when issued or amended, or 2. DEQ approval of a facility plan including a determination of such potential, or 3. A sanitary survey conducted by the Health Division or the DEQ. Documentation required includes: DEQ written concurrence based on the above.
50	Project is needed because of probable water quality problems identified through preliminary screening of problem and water quality concerns. Documentation required includes: Written suggestion by DEQ.
0	No immediate need for the project has been identified. Background information is either insufficient or unavailable to document the existence of present water quality problems.

STREAM SEGMENT RANK

Stream Segment ranking points shall be assigned based on the formula:

$$\text{Segment Points} = 100 - 2(BR) - \frac{1}{n}(SR)(50)$$

where:

BR = Basin Rank (1 to 19) based on the total population within the Oregon portion of the river basin. The basin having the greatest population is ranked number 1.

n = Number of stream segments in the particular basin.

SR = Segment rank within basin as indicated in the statewide water quality management plan.

Following is a listing of basin ranks, stream segment ranks, and computed stream segment ranking points:

Basin Rank

Basin	1978 Population	No. of Stream Segments	Basin Rank
Willamette	1,672,000	23	1
Rogue	180,100	4	2
Umpqua	84,700	3	3
Deschutes	76,600	4	4
South Coast	76,300	5	5
North Coast/Lower Columbia	66,440	18	6
Klamath	58,200	5	7
Umatilla	50,000	3	8
Mid Coast	44,630	10	9
Hood River	34,200	4	10
Grande Ronde	30,100	3	11
Malheur River	22,480	1	12
Sandy	18,530	3	13
Powder	17,200	4	14
John Day	12,250	2	15
Walla Walla	10,300	2	16
Malheur	7,650	3	17
Goose and Summer Lakes	6,900	2	18
Owyhee	3,420	2	19

Points	Description
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90	Project is necessary because of the potential for regulatory action identified by: 1. NPDES permit limitations or conditions which would be included in a permit when issued or amended, or 2. DEQ approval of a facility plan including a determination of such potential, or 3. A sanitary survey conducted by the Health Division or the DEQ. Documentation required includes: DEQ written concurrence based on the above.
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North Coast/Lower Columbia	66,440	18	6
Klamath	58,200	5	7
Umatilla	50,000	3	8
Mid Coast	44,630	10	9
Hood River	34,200	4	10
Grande Ronde	30,100	3	11
Malheur River	22,480	1	12
Sandy	18,530	3	13
Powder	17,200	4	14
John Day	12,250	2	15
Walla Walla	10,300	2	16
Malheur	7,650	3	17
Goose and Summer Lakes	6,900	2	18
Owyhee	3,420	2	19

Stream Segment Ranking Data

Segment	Segment Rank	Points
No. 1, Willamette Basin		
Tualatin	1	95.73
Willamette (River Mile	2	93.45
Willamette (River Mile 84-186)	3	91.18
South Yamhill River	4	88.91
North Yamhill River	5	86.64
Yamhill River	6	84.36
Pudding River	7	82.09
Molalla River	8	79.82
S. Santiam River	9	77.55
Santiam River & N. Santiam	10	75.27
Coast Fork Willamette River	11	73.00
Middle Fork Willamette River	12	70.73
Clackamas River	13	68.45
McKenzie River	14	66.18
Rickreall Creek	15	63.91
Luckiamute River	16	61.64
Marys River	17	59.36
Calapooia River	18	57.09
Long Tom River	19	54.82
Columbia Slough	20	52.55
Thomas Creek	21	50.27
Remaining Willamette Basin Streams	22	48.00
No. 2, Rogue Basin		
Bear Creek and Tributaries	1	83.50
Applegate River	2	71.00
Middle Rogue	3	58.50
Remaining Rogue Basin Streams	4	46.00
No. 3, Umpqua Basin		
South Umpqua River	1	77.33
Cow Creek	2	60.67
Remaining Umpqua Basin Streams	3	44.00
No. 4, Deschutes Basin		
Crooked River	1	79.50
Deschutes River (River Mile 120-166)	2	67.00
Deschutes River (River Mile 0-120)	3	54.50
Remaining Deschutes Basin Streams	4	42.00
No. 5, South Coast Basin		
Coos Bay	1	80.00
Coos River	2	70.00
Coquille River (River Mile 0-35)	3	60.00
Coquille River (River Mile 35-Source)	4	50.00
Remaining South Coast Basin Streams	5	40.00
No. 6, North Coast/Lower Columbia Basin		
Lewis and Clark River	1	85.22
Klatskanine River	2	82.44
Wilson River (River Mile 0-7)	3	79.88
Trask River (River Mile 0-6)	4	76.88
Skipanon River	5	74.10
Nestucca River (River Mile 0-15)	6	71.32
Nehalem River	7	68.54
Wilson River (River Mile 7 +)	8	65.76
Trask River (River Mile 6 +)	9	62.98
Nestucca River (River Mile 15 +)	10	60.20
Nehalem Bay	11	57.42
Tillamook Bay	12	56.64
Tillamook River (River Mile 0-15)	13	51.86
Nestucca Bay	14	49.08
Necanicum River	15	46.30
Tillamook River (River Mile 15+)	16	43.54
Netarts Bay	17	40.74
Remaining North Coast/ Lower Columbia Basin Streams	18	38.00
No. 7, Klamath Basin		
Lost River	1	76.00
Klamath River (River Mile 210-250)	2	66.00
Williamson	3	56.00
Sprague	4	46.00
Remaining Klamath Basin Streams	5	36.00
No. 8, Umatilla Basin		
Umatilla River	1	67.33
Columbia River (Umatilla Basin)	2	50.67
Remaining Umatilla Basin Streams	3	34.00
No. 9, Mid Coast Basin		
Siuslaw Bay	1	77.00
Yaquina Bay	2	72.00
Siletz River	3	67.00
Yaquina River	4	62.00
Alsea River	5	57.00

Segment	Segment Rank	Points
Siuslaw River	6	52.00
Alsea Bay	7	47.00
Salmon River	8	42.00
Siletz Bay	9	37.00
Remaining Mid Coast Basin Streams	10	32.00
No. 10, Hood Basin		
Hood River Main Stem	1	67.50
Columbia River (Hood Basin)	2	55.00
Hood River East, (Middle and West Forks	3	42.50
Remaining Hood Basin Streams	4	30.00
No. 11, Grande Ronde Basin		
Grande Ronde River	1	61.33
Wallowa River	2	44.67
Remaining Grande Ronde Basin Streams	3	28.00
No. 12, Malheur Basin		
Malheur River	1	26.00
No. 13, Powder Basin		
Snake River (Powder Basin)	1	61.50
Powder River	2	49.00
Burnt River	3	36.50
Remaining Power Basin Streams	4	24.00
No. 14, Sandy Basin		
Columbia River (Sandy Basin)	1	55.33
Sandy River	2	38.67
Remaining Sandy Basin Streams	3	22.00
No. 15, John Day Basin		
John Day River	1	45.00
Remaining John Day Basin Streams	2	20.00
No. 16, Walla Walla Basin		
Walla Walla River	1	43.00
Remaining Walla Walla Basin Streams	2	18.00
No. 17, Malheur Lake Basin		
Silvies River	1	49.33
Donner & Blitzen River	2	3267
Remaining Malheur Lake Basin Streams	3	16.00
No. 18, Goose and Summer Lakes Basin		
Chewaucan River	1	39.00
Remaining Goose and Summer Lakes Basin Streams	2	14.00
No. 19, Owybee Basin		
Owybee River	1	17.00
Remaining Owybee Basin Streams	2	12.00

Population Emphasis

Population emphasis points shall be assigned on the basis of the formula:

Points = Population Served $^{2 \log 10}$
where:

Population Served represents the existing Oregon population that would be initially served by the project if it were in operation.

PROJECT TYPE

Description	Points
Secondary Treatment and BPWTT	10
Major Sewer System Rehabilitation	9
Interception of Existing Discharge	8
Infiltration/Inflow Correction	7
Interceptor to Serve Existing Development	6
Treatment More Stringent than Secondary	5
Correction of Combined Sewer Overflows	3
Interceptor to Serve New Development	2
New Collectors	1

Segment	Segment Rank	Points
Siuslaw River	6	52.00
Alsea Bay	7	47.00
Salmon River	8	42.00
Siletz Bay	9	37.00
Remaining Mid Coast Basin Streams	10	32.00
No. 10, Hood Basin		
Hood River Main Stem	1	67.50
Columbia River (Hood Basin)	2	55.00
Hood River East, (Middle and West Forks	3	42.50
Remaining Hood Basin Streams	4	30.00
No. 11, Grande Ronde Basin		
Grande Ronde River	1	61.33
Wallowa River	2	44.67
Remaining Grande Ronde Basin Streams	3	28.00
No. 12, Malheur Basin		
Malheur River	1	26.00
No. 13, Powder Basin		
Snake River (Fowder Basin)	1	61.50
Powder River	2	49.00
Burnt River	3	36.50
Remaining Power Basin Streams	4	24.00
No. 14, Sandy Basin		
Columbia River (Sandy Basin)	1	55.33
Sandy River	2	38.67
Remaining Sandy Basin Streams	3	22.00
No. 15, John Day Basin		
John Day River	1	45.00
Remaining John Day Basin Streams	2	20.00
No. 16, Walla Walla Basin		
Walla Walla River	1	43.00
Remaining Walla Walla Basin Streams	2	18.00
No. 17, Malheur Lake Basin		
Silvies River	1	49.33
Donner & Blitzen River	2	3267
Remaining Malheur Lake Basin Streams	3	16.00

Segment	Segment Rank	Points
No. 18, Goose and Summer Lakes Basin		
Chewaucan River	1	39.00
Remaining Goose and Summer Lakes Basin Streams	2	14.00
No. 19, Owyhee Basin		
Owyhee River	1	17.00
Remaining Owyhee Basin Streams	2	12.00

Population Emphasis

Population emphasis points shall be assigned on the basis of the formula:

Points = Population Served $^{2 \log 10}$
where:

Population Served represents the existing Oregon population that would be initially served by the project if it were in operation.

PROJECT TYPE

Description	Points
Secondary Treatment and BPWTT	10
Major Sewer System Rehabilitation	9
Interception of Existing Discharge	8
Infiltration/Inflow Correction	7
Interceptor to Serve Existing Development	6
Treatment More Stringent than Secondary	5
Correction of Combined Sewer Overflows	3
Interceptor to Serve New Development	2
New Collectors	1

Technical Corrections to the FY86 PPL

The following corrections were made to produce the recommended priority list, as a result of testimony discussed in Attachment A or from administrative corrections. They are listed according to the relative ranking the project was given on the draft priority list distributed on May 10, 1985.

GRANTEE/PROJECT	TECHNICAL CORRECTION	COMMENT
Coos Bay #1/STP Exp	Grant estimate for project increased from $696,000 to $2,500,000.	Update costs based on preliminary information.
Coos Bay #1/II Correction	Grant estimate for project decreased from $1,573,000 to $430,000.	Cost estimate supplied by City. Final description of projects is deferred until a facilities plan is complete.
Keizer/Clear Lake - Lower Labish Interceptors	Stream rank changed from 93.45 to 48.00.	Data entry error.
Grants Pass/North Int.	Name changed to S. Seventh; Project Class changed from C to D; Regulatory Emphasis changed from 90 to 50.	Evaluation of testimony (see Attachment E).
Grants Pass/Pine St. Int.	Project separated into Second St. ($58,200), F & Booth St. ($36,000); Pine and Rogue ($231,000); and Rogue-Lee ($44,500). Project Class changed from C to D. Regulatory Emphasis changed from 90 to 50. Project Costs reestablished as noted above; grants become	Evaluation of testimony (see Attachment E).

GRANTEE/PROJECT	TECHNICAL CORRECTION	COMMENTS
	$32,000, $20,000, $127,000 and $24,000 respectively.	
Grants Pass/Seventh St. Int.	Project separated into A Street ($97,700) and N. Seventh St. ($271,200). Project Class changed from C to D; Regulatory Emphasis changed from 90 to 50; Project costs reestablished as noted above; grants become $54,000 and $149,000 respectively.	Data entry error.
Grants Pass/Greenwood Int.	Project name changed to Bridge St. Interceptor. Project Class changed from C to D; Regulatory Emphasis changed from 90 to 50.	Data entry error.
Grants Pass/STP Exp	Project Class Changed from E to D.	Evaluation of testimony (see Attachment E).
Gresham/STP Imp - Solids handling	Made operationally dependent with Stark St. trunk and therefore assigned same priority rank.	Testimony noted lack of uncommitted capacity to serve higher ranking interceptors.
Sisters/System	Priority ranking on list changed from number 131 to 143. On Points Calculation list, ineligible collection system regulatory emphasis points decreased from 90 to 50 points.	Data entry error.
Marion County/Brooks - Hopmere System	Regulatory Emphasis changed from 0 to 50.	Data entry error.

GRANTEE/PROJECT	TECHNICAL CORRECTION	COMMENT
Lane County/Collard Lake/ System (I)	New Entry on Points Calculation List Only.	Recent information supplied by County.
Klamath Falls/Pelican City Collection (I)	Regulatory emphasis changed from 120 to 130.	Data entry error.
Grants Pass/Mill St. Int (I)	Project Class changed from C to D; Regulatory Emphasis changed from 90 to 50.	Data entry error.
Coos Bay #2/STP IMP	New Entry.	Request by City.

Note: "(I) denotes ineligible project.

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
PRIORITY CALCULATION LIST

REPORT OPTIONS: FINAL REPORT OF ALL PROJECTS ORDERED BY TOTAL POINTS

	PROJECT NUMBER	COMMUNITY	AREA	COMPONENT	STEP	CLASS	REG. EMPH.	POP. EMPH.	STREAM RANK	PROJECT TYPE		TOTAL POINTS
E	048607	BEND	CITY	EFF DISPOSAL	3	A	130	8.47	79.50	10	A	227.97
E	056903	MONROE	NORTH AREA	INTERCEPTOR	3	A	130	3.69	54.82	6	A	194.51
E	056903	MONROE	NORTH AREA	COLLECTION	3	A	130	3.69	54.82	1	A	189.51
E	068301	WESTPORT C.S.D.	DISTRICT	SYSTEM	4	A	130	5.42	38.00	10	A	183.42
E	062414	MWMC	REGIONAL	STP P6	3	B	150	10.33	91.18	10	B	261.51
E	062419	MWMC	REGIONAL	STP P7	3	B	150	10.33	91.18	10	B	261.51
E	049304	TRI CITY SD	REGIONAL	STP P1 AND 2	3	B	120	9.10	93.45	10	B	232.55
E	049305	TRI CITY SD	REGIONAL	STP P3	3	B	120	9.10	93.45	10	B	232.55
E	049306	TRI CITY SD	REGIONAL	STP P4	3	B	120	9.10	93.45	10	B	232.55
E	049308	TRI CITY SD	REGIONAL	STP P5	3	B	120	9.10	93.45	10	B	232.55
E	049306	TRI CITY SD	REGIONAL	WILL INT 1A	3	B	120	9.10	93.45	8	B	230.55
E	049307	TRI CITY SD	REGIONAL	WILL INT 1B	3	B	120	9.10	93.45	8	B	230.55
E	049307	TRI CITY SD	REGIONAL	WILL INT 2	3	B	120	9.10	93.45	8	B	230.55
E	049306	TRI CITY SD	OREGON CITY	OREGON CITY INT	3	B	120	8.33	93.45	8	B	229.78
E	049307	TRI CITY SD	GLADSTONE	PUMP STATION	3	B	120	7.94	93.45	8	B	229.39
E	049306	TRI CITY SD	W. LINN-BOLTON	RIVER ST PM	3	B	120	7.75	93.45	8	B	229.20
E	049307	TRI CITY SD	W. LINN-BOLTON	BOLTON FORCE M	3	B	120	7.31	93.45	8	B	228.76
E	049307	TRI CITY SD	W. LINN-BOLTON	BOLTON PS	3	B	120	7.31	93.45	8	B	228.76
E	049307	TRI CITY SD	W. LINN-BOLTON	RIVER ST PS	3	B	120	7.31	93.45	8	B	228.76
E	068901	EUGENE	RVR R-SANTA CLA	SC INT/PM/PS	3	B	120	7.26	91.18	6	B	224.44
E	068902	EUGENE	RVR R-SANTA CLA	RR INT/PS	3	B	120	6.99	91.18	6	B	224.17
I	068901	EUGENE	RVR R-SANTA CLA	SC COLL.	3	B	120	8.31	91.18	1	B	220.49
I	068902	EUGENE	RVR R-SANTA CLA	RR COLL.	3	B	120	8.03	91.18	1	B	220.21
E	069301	ROSEBURG U.S.A.	REGIONAL	STP	3	B	120	8.96	77.33	10	B	216.29

ATTACHMENT H

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
PRIORITY CALCULATION LIST

	PROJECT NUMBER	COMMUNITY	AREA	COMPONENT	STEP	CLASS	REG. EMPH.	POP. EMPH.	STREAM RANK	PROJECT TYPE	TOTAL POINTS
E	068101	SEASIDE	CITY	STP IMP	3	B	150	7.40	46.30	10	B 213.70
E	068101	SEASIDE	CITY	P.S. P1A	3	B	150	7.31	46.30	8	B 211.61
E	068101	SEASIDE	CITY	II CORRECTION	3	B	150	7.40	46.30	7	B 210.70
E	049402	NEWBERG	CITY	STP IMP,P1	3	B	90	8.12	93.45	10	B 201.57
E	049402	NEWBERG	CITY	FLOW EQUAL.	3	B	90	8.12	93.45	10	B 201.57
E	049403	NEWBERG	CITY	STP IMP,P2	3	B	90	8.12	93.45	10	B 201.57
E	049403	NEWBERG	CITY	SLUDGE COMP.	3	B	90	8.12	93.45	10	B 201.57
I	068203	USA	HILLSBORO	II CORRECTION	3	B	90	8.00	95.73	7	B 200.73
E	064601	SALEM	PRINGLE CREEK	INTERCEPTOR	3	B	90	8.26	93.45	8	B 199.71
E	049402	NEWBERG	CITY	12TH ST INT	3	B	90	7.74	93.45	8	B 199.19
E	049402	NEWBERG	CITY	HESS CR INT EXT	3	B	90	7.74	93.45	8	B 199.19
E	049404	NEWBERG	CITY	8TH ST FM	3	B	90	6.95	93.45	8	B 198.40
E	062801	COOS BAY NO.1	CITY	STP IMP	3	B	90	7.91	80.00	10	B 187.91
E	052002	NORTH BEND	CITY	SEWER REHAB	3	B	90	7.98	80.00	9	B 186.98
E	052003	NORTH BEND	CITY	PS/FM/INT	3	B	90	7.98	80.00	8	B 185.98
E	052003	NORTH BEND	CITY	II CORRECTION	3	B	90	7.98	80.00	7	B 184.98
E	062802	COOS BAY NO.1	CITY	II CORRECTION	3	B	90	7.91	80.00	7	B 184.91
E	069302	ROSEBURG U.S.A.	ROSEBURG CITY	SEWER REHAB	3	B	90	8.40	77.33	9	B 184.73
E	069301	ROSEBURG U.S.A.	REGIONAL	INTERCEPTOR	3	B	90	8.07	77.33	8	B 183.40
E	042601	PORTLAND	INVERNESS	N.E. 122ND INT	3	B	120	8.00	48.00	6	B 182.00
I	042601	PORTLAND	INVERNESS	N.E. 122 INT(R)	3	B	120	8.00	48.00	6	B 182.00
I	042601	PORTLAND	INVERNESS	N.E. 122 COLL	3	B	120	8.00	48.00	6	B 182.00
E	042602	PORTLAND	INVERNESS	CHERRY PARK INT	3	B	120	7.27	48.00	6	B 181.27
I	042602	PORTLAND	INVERNESS	CHERRY PK INT(R	3	B	120	7.27	48.00	6	B 181.27
I	042602	PORTLAND	INVERNESS	CHERRY PK COLL	3	B	120	7.27	48.00	6	B 181.27

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
PRIORITY CALCULATION LIST

PROJECT NUMBER	COMMUNITY	AREA	COMPONENT	STEP	CLASS	REG. EMPH.	POP. EMPH.	STREAM RANK	PROJECT TYPE	TOTAL POINTS
E 052002	NORTH BEND	CITY	CSO	3	B	90	7.98	80.00	3	B 180.98
E 061902	ASTORIA	WILLIAMSPORT	INTERCEPTOR	3	B	130	4.53	38.00	6	B 178.53
E 053601	LAPINE S.D.	DISTRICT	SYSTEM	3	B	90	4.45	67.00	10	B 171.45
E 044901	FALLS CITY	AREA 2	SYSTEM	3	B	90	5.50	61.64	10	B 167.14
E 062001	PHILOMATH	CITY	STP IMP	3	B	90	6.85	59.36	10	B 166.21
E 062001	PHILOMATH	NEWTON CREEK	FORCE MAIN	3	B	90	6.85	59.36	8	B 164.21
E 062001	PHILOMATH	NEWTON CREEK	PUMP STATION	3	B	90	6.85	59.36	8	B 164.21
E 062001	PHILOMATH	NEWTON CREEK	INTERCEPTOR	3	B	90	6.85	59.36	8	B 164.21
E 062001	PHILOMATH	CITY	FORCE MAIN A	3	B	90	6.85	59.36	8	B 164.21
E 062001	PHILOMATH	APPLEGATE	INTERCEPTOR	3	B	90	6.05	59.36	8	B 163.41
E 047101	TANGENT	CITY	SYSTEM	3	B	90	5.33	57.09	10	B 162.42
E 056903	MONROE	CITY	SEWER REHAB	3	B	90	5.50	54.82	9	B 159.32
E 063902	COVE ORCHARD SD	DISTRICT	SYSTEM	4	B	90	3.56	48.00	10	B 151.56
E 034204	PORTLAND	SOUTHEAST 111TH	INTERCEPTOR	3	B	90	6.66	48.00	6	B 150.66
E 056702	HAPPY VALLEY	CITY	INTERCEPTOR	3	B	90	6.33	48.00	6	B 150.33
E 062901	DRAIN	CITY	STP IMP	4	B	90	6.07	44.00	10	B 150.07
E 069503	GRESHAM	STARK ST TRUNK	INTERCEPTOR	3	B	90	5.96	48.00	6	B 149.96
E 069504	GRESHAM	GLISAN ST	INTERCEPTOR	3	B	90	5.68	48.00	6	B 149.68
E 069505	GRESHAM	175TH/176TH AVE	INTERCEPTOR	3	B	90	5.61	48.00	6	B 149.61
E 069507	GRESHAM	DIVISION ST	INTERCEPTORS	3	B	90	5.04	48.00	6	B 149.04
E 069506	GRESHAM	182ND AVE	INTERCEPTOR	3	B	90	4.83	48.00	6	B 148.83
E 060701	BCVSA	WHETSTONE	INT/PS/FM	3	B	90	6.51	46.00	6	B 148.51
E 069508	GRESHAM	W. JOHNSON CRK	INTERCEPTOR	3	B	90	3.56	48.00	6	B 147.56
E 052601	CLACK. CO SD #1	RHODODENDRON	INT/FM/PS(2)	3	B	90	4.41	38.67	8	B 141.08
E 053701	LINCOLN CO.	S.W. AREA	SYSTEM	3	B	90	6.62	32.00	10	B 138.62

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
PRIORITY CALCULATION LIST

	PROJECT NUMBER	COMMUNITY	AREA	COMPONENT	STEP	CLASS	REG. EMPH.	POP. EMPH.	STREAM RANK	PROJECT TYPE	TOTAL POINTS
E	049309	TRI CITY SD	REGIONAL	II CORRECTION	3	C	120	9.10	93.45	7	C 229.55
E	047202	ELGIN	CITY	STP IMP	3	C	150	6.48	61.33	10	C 227.81
E	061502	CARLTON	CITY	STP IMP	3	C	120	6.21	86.64	10	C 222.85
E	051604	KLAMATH FALLS	PELICAN CITY	INTERCEPTOR	3	C	130	5.54	66.00	6	C 207.54
I	059203	DALLAS	NORTHEAST	INTERCEPTOR	3	C	130	3.91	63.91	6	C 203.82
I	059205	DALLAS	NORTHEAST AREA	COLLECTION	3	C	130	3.91	63.91	6	C 203.82
E	060402	CLACKAMAS CO	KELLOGG	SLUDGE DIGEST	3	C	90	9.11	93.45	10	C 202.56
I	051604	KLAMATH FALLS	PELICAN CITY	COLLECTION SYS	3	C	130	5.54	66.00	1	C 202.54
E	062416	MWMC	REGIONAL	SLUDGE P1	3	C	90	10.33	91.18	10	C 201.51
E	062417	MWMC	REGIONAL	SLUDGE P2	3	C	90	10.33	91.18	10	C 201.51
E	034202	PORTLAND	SOUTHEAST RLVG	INTERCEPTOR P3	3	C	90	9.84	93.45	8	C 201.29
E	034203	PORTLAND	SOUTHEAST RLVG	INTERCEPTOR P4	3	C	90	9.84	93.45	8	C 201.29
E	062418	MWMC	SPRINGFIELD	SEWER REHAB	3	C	90	9.25	91.18	9	C 199.43
E	049311	TRI CITY SD	GLADSTONE	FORCE MAIN	3	C	90	7.94	93.45	8	C 199.39
E	057502	USA	GASTON	INTERCEPTOR	3	C	90	5.47	95.73	8	C 199.20
E	049313	TRI CITY SD	OREGON CITY	ABERNETHY INT	3	C	90	7.63	93.45	8	C 199.08
E	049314	TRI CITY SD	OREGON CITY	NEWELL INT	3	C	90	7.31	93.45	8	C 198.76
E	049315	TRI CITY SD	WEST LINN-WILLA	TUALATIN PS	3	C	90	7.09	93.45	8	C 198.54
E	049315	TRI CITY SD	WEST LINN-WILLA	WEST LINN FM	3	C	90	7.09	93.45	8	C 198.54
E	062415	MWMC	REGIONAL	WEST IRWIN PS	3	C	90	9.23	91.18	8	C 198.41
E	062418	MWMC	SPRINGFIELD	II CORRECTION	3	C	90	9.25	91.18	7	C 197.43
E	062503	MONMOUTH	CITY	RELIEF SEWER	3	C	90	7.46	91.18	8	C 196.64
E	049602	JUNCTION CITY	CITY	II CORRECTION	3	C	90	6.96	91.18	7	C 195.14
E	050603	SHERIDAN	SOUTH SIDE	SEWER REHAB	3	C	90	6.00	88.91	9	C 193.91
I	066802	CORVALLIS	CITY	CSO	3	C	90	9.24	91.18	3	C 193.42

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
PRIORITY CALCULATION LIST

	PROJECT NUMBER	COMMUNITY	AREA	COMPONENT	STEP	CLASS	REG. EMPH.	POP. EMPH.	STREAM RANK	PROJECT TYPE	TOTAL POINTS
E	069401	N. ALBANY C.S.D	AREA 2A	INTERCEPTOR	3	C	90	5.95	91.18	6	C 193.13
I	066404	ALBANY	CITY	CSO	3	C	90	8.89	91.18	3	C 193.07
E	050604	SHERIDAN	SOUTH SIDE	II CORRECTION	3	C	90	6.00	88.91	7	C 191.91
E	061503	CARLTON	CITY	II CORRECTION	3	C	90	6.21	86.64	7	C 189.85
E	058802	MT ANGEL	CITY	STP IMP	3	C	90	6.92	82.09	10	C 189.01
E	064501	PRINEVILLE	CITY	STP IMP	3	C	90	7.43	79.50	10	C 186.93
I	044403	MOLALLA	CITY	II CORRECTION	3	C	90	6.98	82.09	7	C 186.07
E	058803	MT ANGEL	CITY	II CORRECTION	3	C	90	6.92	82.09	7	C 186.01
E	043203	SWEET HOME	CITY	II CORRECTION	3	C	90	7.68	77.55	7	C 182.23
E	053907	ST HELENS	N. VERNONIA RD	INTERCEPTOR	3	C	130	3.81	38.00	6	C 177.81
I	051404	OAKRIDGE	CITY	REHAB	3	C	90	7.09	70.73	9	C 176.82
E	057302	LOWELL	CITY	STP IMP	3	C	90	5.63	70.73	10	C 176.36
E	069702	WESTFIR	CITY	STP IMP	3	C	90	4.94	70.73	10	C 175.67
I	057305	LOWELL	CITY	SEWER REHAB	3	C	90	5.63	70.73	9	C 175.36
E	063101	VERNONIA	CITY	STP IMP	3	C	90	6.48	68.54	10	C 175.02
E	051403	OAKRIDGE	CITY	II CORRECTION	3	C	90	7.09	70.73	7	C 174.82
E	059402	ESTACADA	CITY	STP IMP	3	C	90	6.16	68.45	10	C 174.61
E	066701	SOUTH SUB. S.D.	DISTRICT	STP IMP	3	C	90	8.51	66.00	10	C 174.51
E	057304	LOWELL	CITY	RELIEF SEWER	3	C	90	5.63	70.73	8	C 174.36
E	057303	LOWELL	CITY	II CORRECTION	3	C	90	5.63	70.73	7	C 173.36
I	053907	ST HELENS	N. VERNONIA RD	COLL SYSTEM	3	C	130	3.81	38.00	1	C 172.81
E	069701	WESTFIR	CITY	II CORRECTION	3	C	90	4.94	70.73	7	C 172.67
E	059403	ESTACADA	CITY	II CORRECTION	3	C	90	6.47	68.45	7	C 171.92
E	056502	STANFIELD	CITY	II CORRECTION	3	C	90	6.42	67.33	7	C 170.75
E	057902	MADRAS	FRINGE AREA	INTERCEPTORS	3	C	90	6.07	67.00	6	C 169.07

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
PRIORITY CALCULATION LIST

	PROJECT NUMBER	COMMUNITY	AREA	COMPONENT	STEP	CLASS	REG. EMPH.	POP. EMPH.	STREAM RANK	PROJECT TYPE	TOTAL POINTS
E	059202	DALLAS	CITY	II CORRECTION	3	C	90	7.89	63.91	7	C 168.80
I	047202	ELGIN	CITY	SEWER REHAB	3	C	90	6.48	61.33	9	C 166.81
E	047203	ELGIN	CITY	PS	3	C	90	6.48	61.33	8	C 165.81
E	047202	ELGIN	CITY	II CORRECTION	3	C	90	6.48	61.33	7	C 164.81
I	057903	MADRAS	FRINGE AREA	COLLECTION	3	C	90	6.07	67.00	1	C 164.07
E	056904	MONROE	CITY	STP IMP	3	C	90	5.33	54.82	10	C 160.15
I	053304	FLORENCE	CITY	SEWER REHAB	3	C	90	7.48	52.00	9	C 158.48
E	069501	GRESHAM	CITY	STP IMP	3	C	90	9.23	48.00	10	C 157.23
E	069502	GRESHAM	CITY	SOLIDS HANDLING	3	C	90	9.23	48.00	10	C 157.23
E	057702	HOOD RIVER	WESTSIDE	INT/PS	3	C	90	5.40	55.00	6	C 156.40
E	053303	FLORENCE	CITY	II CORRECTION	3	C	90	7.32	52.00	7	C 156.32
I	070201	POWERS	CITY	SEWER REHAB	3	C	90	5.78	50.00	9	C 154.78
E	050804	AMITY	CITY	OUTFALL	3	C	90	6.03	48.00	10	C 154.03
E	059501	HALSEY	CITY	STP IMP	3	C	90	5.67	48.00	10	C 153.67
E	055402	ENTERPRISE	CITY	STP IMP	3	C	90	6.61	44.67	10	C 151.28
E	042902	EAGLE POINT	CITY	INTERCEPTOR	3	C	90	6.89	46.00	8	C 150.89
E	059701	YONCALLA	CITY	STP IMP	3	C	90	5.86	44.00	10	C 149.86
E	061702	OAKLAND	CITY	STP IMP	3	C	90	5.86	44.00	10	C 149.86
E	070101	KEIZER	CLEAR LAKE	INTERCEPTOR	3	C	90	5.59	48.00	6	C 149.59
I	059702	YONCALLA	CITY	SEWER REHAB	3	C	90	5.86	44.00	9	C 148.86
E	055403	ENTERPRISE	CITY	II CORRECTION	3	C	90	6.61	44.67	7	C 148.28
E	067201	BROOKINGS	CITY	STP IMP	3	C	90	7.09	40.00	10	C 147.09
E	059703	YONCALLA	CITY	II CORRECTION	3	C	90	5.86	44.00	7	C 146.86
E	067202	BROOKINGS	CITY	II CORRECTION	3	C	90	7.09	40.00	7	C 144.09
E	058602	RAINIER	CITY	SEWER REHAB	3	C	90	6.44	38.00	9	C 143.44

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
PRIORITY CALCULATION LIST

	PROJECT NUMBER	COMMUNITY	AREA	COMPONENT	STEP	CLASS	REG. EMPH.	POP. EMPH.	STREAM RANK	PROJECT TYPE	TOTAL POINTS
E	053902	ST HELENS	CITY	II CORRECTION	3	C	90	7.72	38.00	7	C 142.72
E	055904	LINCOLN CITY	CITY	INTERCEPTOR P2	3	C	90	7.15	37.00	8	C 142.15
E	053903	ST HELENS	CITY	PS NO. 1	3	C	90	6.00	38.00	8	C 142.00
E	064801	HEPPNER	CITY	STP IMP	3	C	90	6.28	34.00	10	C 140.28
E	063501	ATHENA	CITY	STP IMP	3	C	90	5.97	34.00	10	C 139.97
E	061802	NEWPORT	CITY	OUTFALL	3	C	90	7.82	32.00	10	C 139.82
E	061803	NEWPORT	CITY	SLUDGE	3	C	90	7.82	32.00	10	C 139.82
E	046901	MODOC POINT	SAN DIST	SYSTEM	3	C	90	3.16	36.00	10	C 139.16
I	053908	ST HELENS	CITY	CSO	3	C	90	7.72	38.00	3	C 138.72
E	047302	DUFUR	CITY	STP IMP	3	C	90	5.49	30.00	10	C 135.49
E	070301	NYSSA	CITY	STP IMP	3	C	90	6.88	20.00	10	C 126.88
E	070401	CONDON	CITY	STP IMP	3	C	90	5.75	20.00	10	C 125.75
E	065101	FOSSIL	CITY	STP IMP	3	C	90	5.39	20.00	10	C 125.39
E	058902	MILTON-FREEWATE	CITY	SOLIDS HANDLING	3	C	90	7.33	18.00	10	C 125.33
E	070302	NYSSA	CITY	PS	3	C	90	6.88	20.00	8	C 124.88
E	058302	IONE	CORE AREA	SYSTEM	3	C	90	4.00	20.00	10	C 124.00
E	051503	SCIO	CITY	II CORRECTION	3	C	50	5.53	50.27	7	C 112.80
E	059502	HALSEY	CITY	II CORRECTION	3	C	50	5.67	48.00	7	C 110.67
I	069602	HUNTINGTON	CITY	SEWER REHAB	3	C	50	5.48	36.50	9	C 100.98
E	063502	ATHENA	CITY	II CORRECTION	3	C	50	5.97	34.00	7	C 96.97
I	069603	HUNTINGTON	CITY	CSO	3	C	50	5.48	36.50	3	C 94.98
E	069402	N. ALBANY C.S.D	AREA 1,2,3 &4	HICKORY PS/FM	3	D	120	7.23	91.18	6	D 224.41
E	069403	N. ALBANY C.S.D	AREA 1,2 &4	SP. HILL DR INT	3	D	120	7.04	91.18	6	D 224.22
E	049405	NEWBERG	CITY	RIVER RD INT	3	D	90	7.74	93.45	8	D 199.19
E	049406	NEWBERG	CITY	6TH ST REL SEW	3	D	90	6.97	93.45	8	D 198.42

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
PRIORITY CALCULATION LIST

	PROJECT NUMBER	COMMUNITY	AREA	COMPONENT	STEP	CLASS	REG. EMPH.	POP. EMPH.	STREAM RANK	PROJECT TYPE	TOTAL POINTS
E	049407	NEWBERG	CITY	HANCOCK REL SEW	3	D	90	5.48	93.45	8	D 196.93
E	058202	IRRIGON	CITY	SYSTEM	3	D	130	5.76	50.67	10	D 196.43
E	069404	N. ALBANY C.S.D	AREA 3	N. ALB. RD INT	3	D	90	5.83	91.18	6	D 193.01
E	067001	TRI CITY S.D.	MYRTLE CREEK	SLUDGE DISP	3	D	90	7.56	77.33	10	D 184.89
E	067002	TRI CITY S.D.	MYRTLE CREEK	II CORRECTION	3	D	90	7.56	77.33	7	D 181.89
E	069801	GOLD BEACH	MYRTLE ACRES	INTERCEPTOR	3	D	130	3.48	40.00	6	D 179.48
I	069101	CHARLESTON	SAN DISTRICT	COLLECTION	3	D	90	5.56	80.00	1	D 176.56
E	051605	KLAMATH FALLS	REGIONAL	II CORRECTION	3	D	90	8.52	66.00	7	D 171.52
E	066101	GRANTS PASS	CITY	SOLIDS HANDLING	3	D	90	8.64	58.50	10	D 167.14
E	037102	USA	DURHAM	SLUDGE	3	D	50	10.16	95.73	10	D 165.89
E	053302	FLORENCE	CITY	STP IMP	3	D	90	7.32	52.00	10	D 159.32
E	063701	MARION CO	BROOKS-HOPMERE	SYSTEM	3	D	50	5.76	91.18	10	D 156.94
E	067601	ADAIR VILLAGE	CITY	STP IMP	3	D	50	5.54	91.18	10	D 156.72
E	067602	ADAIR VILLAGE	CITY	II CORRECTION	3	D	50	5.54	91.18	7	D 153.72
E	066801	CORVALLIS	WEST	INTERCEPTOR	3	D	50	4.94	91.18	6	D 152.12
E	051302	CRESWELL	NIBLOCK RD	INTERCEPTOR	3	D	50	4.45	91.18	6	D 151.63
E	057602	USA	BANKS	INTERCEPTOR	3	D	90	5.38	48.00	8	D 151.38
E	067501	WALLOWA	CITY	STP IMP	3	D	90	5.83	44.67	10	D 150.50
E	066601	DOUGLAS CO	CAMAS VALLEY	SYSTEM	3	D	90	4.35	44.00	10	D 148.35
E	053306	FLORENCE	HECETA BEACH	ALT. COLLECTION	3	D	90	5.31	52.00	1	D 148.31
E	062803	COOS BAY NO.2	CITY	STP IMP	3	D	50	7.67	80.00	10	D 147.67
E	068105	SEASIDE	CITY	P.S. IMP	3	D	90	7.40	46.30	2	D 145.70
E	060201	NESKOWIN S.A.	DISTRICT	SYSTEM	3	D	90	4.80	38.00	10	D 142.80
E	069201	WARRENTON	CITY	II CORRECTION	3	D	90	6.96	38.00	7	D 141.96
E	044701	MILL CITY	CITY	SYSTEM	3	D	50	6.37	75.27	10	D 141.64

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
PRIORITY CALCULATION LIST

PROJECT NUMBER	COMMUNITY	AREA	COMPONENT	STEP	CLASS	REG. EMPH.	POP. EMPH.	STREAM RANK	PROJECT TYPE	TOTAL POINTS
E 040802	TOLEDO	CITY	PS	3	D	50	7.02	72.00	10	D 139.02
E 051402	OAKRIDGE	CITY	STP IMP	3	D	50	7.09	70.73	10	D 137.82
E 051606	KLAMATH FALLS	REGIONAL	STP EXPANSION	3	D	50	8.52	66.00	10	D 134.52
E 051902	JOSEPH	CITY	STP IMP	3	D	90	6.13	28.00	10	D 134.13
E 070701	SILETZ	CITY	STP IMP	3	D	50	6.00	67.00	10	D 133.00
E 066102	GRANTS PASS	CITY	STP EXP	3	D	50	8.64	58.50	10	D 127.14
E 066103	GRANTS PASS	S. SEVENTH	INTERCEPTOR	3	D	50	7.36	58.50	8	D 123.86
E 066104	GRANTS PASS	SECOND ST.	INTERCEPTOR	3	D	50	7.21	58.50	8	D 123.71
E 066105	GRANTS PASS	F AND BOOTH ST.	INTERCEPTOR	3	D	50	7.21	58.50	8	D 123.71
E 066106	GRANTS PASS	PINE AND ROGUE	INTERCEPTOR	3	D	50	7.21	58.50	8	D 123.71
E 066107	GRANTS PASS	ROGUE AND LEE	INTERCEPTOR	3	D	50	7.21	58.50	8	D 123.71
I 066111	GRANTS PASS	MILL ST.	SEWER REHAB	3	D	50	6.09	58.50	9	D 123.59
E 066108	GRANTS PASS	A STREET	INTERCEPTOR	3	D	50	7.08	58.50	8	D 123.58
E 066109	GRANTS PASS	N. SEVENTH ST.	INTERCEPTOR	3	D	50	7.08	58.50	8	D 123.58
E 066110	GRANTS PASS	BRIDGE ST.	INTERCEPTOR	3	D	50	6.09	58.50	8	D 122.59
E 066201	SODAVILLE	CITY	SYSTEM	3	D	50	4.51	57.09	10	D 121.60
E 066001	VENETA	CITY	II CORRECTION	3	D	50	6.76	54.82	7	D 118.58
E 056402	NORTH POWDER	CITY	STP IMP	3	D	50	5.29	49.00	10	D 114.29
E 053305	FLORENCE	HECETA BEACH	INTERCEPTOR	3	D	50	5.31	52.00	6	D 113.31
E 065001	BURNS	CITY	II CORRECTION	3	D	50	6.90	49.33	7	D 113.23
E 070601	BENTON CO.	ALPINE	SYSTEM	3	D	50	4.00	48.00	10	D 112.00
E 045801	CORVALLIS	AIRPORT	INTERCEPTOR	3	D	50	4.60	48.00	8	D 110.60
E 051504	SC10	N. W. AREA	INTERCEPTOR	3	D	50	4.00	48.00	6	D 108.00
E 054102	SISTERS	CITY	SYSTEM	3	D	50	5.73	42.00	10	D 107.73
E 067502	WALLOWA	CITY	II CORRECTION	3	D	50	5.83	44.67	7	D 107.50

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
PRIORITY CALCULATION LIST

	PROJECT NUMBER	COMMUNITY	AREA	COMPONENT	STEP	CLASS	REG. EMPH.	POP. EMPH.	STREAM RANK	PROJECT TYPE	TOTAL POINTS
E	054601	CRESCENT S.D.	DISTRICT	SYSTEM	3	D	50	5.44	42.00	10	D 107.44
E	057504	USA	GASTON WEST	INTERCEPTOR	3	D	0	3.40	95.73	6	D 105.13
E	061703	OAKLAND	UNION GAP	INTERCEPTOR	3	D	50	4.19	44.00	6	D 104.19
E	067101	PILOT ROCK	CITY	STP IMP	3	D	50	6.43	34.00	10	D 100.43
E	064701	TWIN ROCKS	SAN DISTRICT	PS	3	D	50	4.00	38.00	8	D 100.00
I	054102	SISTERS	CITY	COLLECTION	3	D	50	5.73	42.00	1	D 98.73
I	054601	CRESCENT S.D.	DISTRICT	COLL	3	D	50	5.44	42.00	1	D 98.44
E	051801	ONTARIO	CITY	II CORR	3	D	50	7.95	26.00	7	D 90.95
E	044201	LANE CO	MAPLETON	SYSTEM	3	D	0	4.00	52.00	10	D 66.00
E	069901	CORNELIUS	CITY	INTERCEPTOR	3	D	0	7.38	48.00	8	D 63.38
I	056903	MONROE	FRINGE	COLLECTION	3	D	0	2.35	54.82	1	D 58.17
E	054202	CARMEL-FOUL. SD	DISTRICT	SYSTEM	3	D	0	4.60	38.00	10	D 52.60
E	069601	HUNTINGTON	CITY	STP IMP	3	D	0	5.48	36.50	10	D 51.98
E	060101	WALLOWA COUNTY	WALLOWA LAKE	INTS	3	D	0	6.00	44.67	0	D 50.67
I	051303	CRESWELL	CITY	STP IMP	3	E	90	6.56	91.18	10	E 197.74
I	068903	EUGENE	AIRPORT	STP EXP	3	E	90	4.00	91.18	10	E 195.18
I	070901	LANE COUNTY	COLLARD LAKE	SYSTEM	3	E	120	4.19	48.00	10	E 182.19
I	059204	DALLAS	CITY	STP EXPANSION	3	E	90	7.91	63.91	10	E 171.82
I	066002	VENETA	CITY	STP EXPANSION	3	E	90	6.60	54.82	10	E 161.42
I	053904	ST HELENS	CITY	STP IMP	3	E	90	7.72	38.00	10	E 145.72
I	069202	WARRENTON	CITY	STP EXPANSION	3	E	90	6.95	38.00	10	E 144.95
I	068104	SEASIDE	N WAHENA RD	FORCE MAIN	3	E	90	5.09	46.30	2	E 143.39
I	068103	SEASIDE	S WAHENA RD	FORCE MAIN	3	E	90	4.89	46.30	2	E 143.19
I	069203	WARRENTON	HARBOR & ENSIGN	PS/FM	3	E	90	5.05	38.00	2	E 135.05
I	069204	WARRENTON	MERLIN & SECOND	FORCE MAIN	3	E	90	4.85	38.00	2	E 134.85

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
PRIORITY CALCULATION LIST

	PROJECT NUMBER	COMMUNITY	AREA	COMPONENT	STEP	CLASS	REG. EMPH.	POP. EMPH.	STREAM RANK	PROJECT TYPE	TOTAL POINTS
I	053905	ST HELENS	CITY	INT P1	3	E	90	3.40	38.00	2	E 133.40
I	053906	ST HELENS	CITY	INT P2	3	E	90	3.40	38.00	2	E 133.40
I	068201	USA	HILLSBORO	EFF DISPOSAL	3	E	0	8.00	95.73	10	E 113.73
I	057505	USA	GASTON SOUTH	INTERCEPTOR	3	E	0	3.40	95.73	6	E 105.13
I	070102	KEIZER	NORTH	INTERCEPTORS	3	E	0	4.00	93.45	6	E 103.45
I	044302	TURNER	CITY	INTERCEPTOR	3	E	0	6.12	91.18	6	E 103.30
I	046001	ALBANY	N.E. KNOXBUTTE	INTERCEPTOR	3	E	0	5.09	91.18	6	E 102.27
I	068202	USA	HILLSBORO	CORNELIUS INT.	3	E	0	4.00	95.73	2	E 101.73
I	070801	COLUMBIA CITY	SOUTH END	COLLECTION	3	E	50	5.73	38.00	1	E 94.73
I	067801	LYONS-MEHAMA	REGIONAL	SYSTEM	3	E	0	6.21	75.27	10	E 91.48
I	068001	GATES	CITY	SYSTEM	3	E	0	5.35	75.27	10	E 90.62
I	047701	DETROIT	CITY	SYSTEM	3	E	0	5.19	75.27	10	E 90.46
I	067901	IDANHA	CITY	SYSTEM	3	E	0	5.08	75.27	10	E 90.35
I	055101	SANDY	CITY	STP EXPANSION	3	E	0	6.91	68.45	10	E 85.36
I	045601	JOSEPHINE CO	MERLIN/COL. V.	SYSTEM	3	E	0	4.00	58.50	10	E 72.50
I	043102	BAKER	CITY	STP IMP	3	E	0	7.96	49.00	10	E 66.96
I	066301	SCAPPOOSE	CITY	STP EXPANSION	3	E	0	7.03	48.00	10	E 65.03
E	070101	KEIZER	LOWR-MID LABISH	INTERCEPTORS	3	E	0	4.00	48.00	6	E 58.00
I	061704	OAKLAND	DRIVERS VALLEY	INTERCEPTOR	3	E	0	3.75	44.00	6	E 53.75
I	062902	DRAIN	PASS CREEK	INTERCEPTOR	3	E	0	3.69	44.00	6	E 53.69
I	070501	CURRY CO.	HARBOR-WINCHUCK	INTERCEPTOR	3	E	0	6.49	40.00	6	E 52.49
I	060101	WALLOWA COUNTY	WALLOWA LAKE	COLL SYSTEM	3	E	0	6.00	44.67	1	E 51.67
I	061304	NEWPORT	CITY	STP EXP	3	E	0	7.82	32.00	10	E 49.82

FINAL MUNICIPAL WASTE WATER TREATMENT WORKS CONSTRUCTION GRANTS FY86 PRIORITY LIST

Federal regulations governing the Municipal Waste Water Treatment Works Construction Grants Program require that grants be awarded from an approved statewide priority list. The FY86 priority list is intended to satisfy those requirements and was developed in accordance with OAR 340-53-005 et seq., Development and Management of the Statewide Sewerage Works Construction Grants Priority List. These rules specify that the FY86 list shows separate priority rating points for each component or segment of the proposed treatment works based on priority criteria, unless components or segments were operationally dependent upon other components or segments. In the latter case, the higher priority ranking would be given to operationally dependent units.

The priority list includes all known projects potentially eligible for a grant and the estimated grant amount. The estimated target certification date is also given in cases where the potential applicant has submitted a schedule that demonstrates when a completed application could be made. The list may also contain projects or segments that are not eligible but insufficient planning information prevents a final determination.

Funding Assumptions

1. Projects that are targeted for but have not yet been awarded a FY85 grant are relisted. The FY86 funding opportunities for these projets depend upon their priority rating and the target certification date. If grant is awarded to a FY85 target project, it will be removed from the FY86 list.

2. The national authorization for FY86 is presently being considered by Congress. If the authorization level is continued at the FY83-85 level, Oregon would receive about $27.636 million. If the authorization or allotment for Oregon differs from this estimate, projects will be added or deleted from the fundable list according to priority order.

3. If $27.64 million in FY86 funds is allotted, it would be separated into the following reserves:

	Fund Reserve	Estimated $ (Millions)
General Allotment	83% minus $150.000	22.787
Reserve for Grant Increases	5%	1.382
Small Community Alternative Reserve	4%	1.105
Innovative/Alternative Reserve	4%	1.105
Steps 1 and 2 Advance Reserve	10% maximum ($50,000 Estimate)	.050
Reserve for Water Quality Management	1% maximum ($100.000 Estimate)	.100
Reserve for State Management Assistance	4%	1.105

If Congress alters the reserve fund structure when it reauthorizes the grant program, the funds for FY86 will be maintained as close to proposed levels as is allowed by law.

4. No projects will be scheduled on the priority list for the reserve for Step 1 and 2 grant advances. Potential recipients of these funds may make application to the DEQ to the extent that funds are available under OAR 340-53-025. Refer to the priority points calculation list to determine the relative priority rating of these projects.

5. On the final priority list, several projects will be designated as contingency projects. They will be moved onto the fundable list during FY86 should funds become available. Contingency project designation for FY86 does not assure that the project will become fundable in the following year; priority ranking will govern the subsequent year's fundable list. Contingency projects will be designated "CP" on the final list.

ATTACHMENT I

6. Due to the potential for cost changes on the large number of projects yet to complete facilities planning, a portion of the general allotment will remain uncommitted during the early months of the year. As cost estimates are refined, projects from the contingency list will be added to the fundable list.

Scheduling Assumptions

1. Projects which have not yet been awarded grants from FY85 funds are targetted for future funding according to priority order. THE NEW TARGET DATE WILL NOT BE EFFECTIVE UNLESS THE PROJECT FAILS TO SECURE A GRANT BY OCTOBER 1. 1985.

2. Target certification dates were estimated for projects that are likely to receive funding in the following manner:

FY86 Date + "C"	=	Sufficient funds are expected to be CARRIED OVER from FY85 to fund these projects, regardless of whether there is a FY86 national appropriation.
FY86 Date + "A"	=	Funds are expected to be available if there is a FY86 APPROPRIATION.
Contingency Projects and Others	=	Funds are expected to be available from appropriations after FY86. Top ranking ready-to-proceed projects are Contingency Projects and will be offered the opportunity to apply for FY86 funds if scheduled projects fail to utilize the funds.

3. NO PROJECT IS SCHEDULED TO RECEIVE FUNDING DURING FY86 UNLESS THE APPLICANT HAS SUBMITTED A PLANNING AND DESIGN SCHEDULE WHICH DEMONSTRATES THAT THE APPLICATION WILL BE READY FOR CERTIFICATION BY THE DEPARTMENT. SEE OAR 340-53-015(3)(g) AND (h).

4. Step 2 plus 3 or Step 3 projects for small communities utilizing alternative technology will be scheduled according to the funds available in a special reserve and in accordance with the priority ranking for projects known to be eligible for that reserve.

Other Assumptions

1. If actual appropriations differ from the "funding assumptions", more or fewer projects may be certified in a given year without additional public hearing or initiation of bypass procedures. See OAR 340-53-015(3)(h). Projects will be added or deleted from the fundable list according to priority, assuming the planning and design schedules were submitted prior to adoption of the FY86 priority list.

2. If federal eligibility criteria is modified, appropriate deletions can be made without priority list modification or bypass. When reserve capacity funding is eliminated for appropriate projects, project cost estimated may be reduced. IF CONGRESS RESTRICTS FUNDING DURING FY86 TO ONGOING PHASED/SEGMENTED PROJECTS, ONLY THOSE PROJECTS WITH ASTERISKS NEXT TO THE GRANT AMOUNT ARE ELIGIBLE.

3. Minor modifications as a result of updated project information can be made to the list without additional public hearing.

4. The projects that qualify for 75% funding are marked by an asterisk next to the grant amount.

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STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
CONSTRUCTION GRANTS FINAL PRIORITY LIST

RANK	COMMUNITY	AREA	COMPONENT	PROJECT NUMBER	STEP	READY TO PROCEED	TARGET CERT.		GENERAL FUND	SMALL COMM. FUND	ALT. TECH. FUND	INNOV TECH. FUND	STEP1&2 ADVANCE	PRIORITY POINTS
1	TRI CITY SD	REGIONAL	STP P5	049308	3	FY 85	03/86	C	337*					B 232.55
2	SALEM	PRINGLE CREEK	INTERCEPTOR	064601	3	FY 87	06/87		1,375					B 199.71
3	NEWBERG	CITY	8TH ST FM	049404	3	FY 86	08/86	C	148*					B 198.40
4	COOS BAY NO.1	CITY	STP IMP	062801	3	FY 86	10/85	C	2,500					B 187.91
5	NORTH BEND	CITY	SEWER REHAB	052002	3	FY 85	10/85	C	376					B 186.98
			PS/FM/INT	052003	3	FY 86	07/86	C	396					B 185.98
			II CORRECTION	052003	3	FY 86	07/86	C	291					B 184.98
6	COOS BAY NO.1	CITY	II CORRECTION	062802	3	FY 86	10/85	C	430					B 184.91
7	ROSEBURG U.S.A.	ROSEBURG CITY	SEWER REHAB	069302	3	FY 86	09/86	C	1,234					B 184.73
8	PORTLAND	INVERNESS	N.E. 122ND INT	042601	3	FY 85	10/85	C	1,325					B 182.00
9	PORTLAND	INVERNESS	CHERRY PARK INT	042602	3	FY 85	10/85	C	1,156					B 181.27
10	NORTH BEND	CITY	CSO	052002	3	FY 85	10/85	C	376					B 180.98
11	ASTORIA	WILLIAMSPORT	INTERCEPTOR	061902	3	FY 85	10/85	C	385					B 178.53
12	LAPINE S.D.	DISTRICT	SYSTEM	053601	3	FY 85	07/86	C		1,163	423			B 171.45
13	FALLS CITY	AREA 2	SYSTEM	044901	3		10/86			385	140			B 167.14
14	PHILOMATH	CITY	STP IMP	062001	3	FY 85	12/85	C	465					B 166.21
		NEWTON CREEK	FORCE MAIN	062001	3	FY 85	12/85	C	130					B 164.21
			PUMP STATION	062001	3	FY 85	12/85	C	91					B 164.21
			INTERCEPTOR	062001	3	FY 85	12/85	C	85					B 164.21
		CITY	FORCE MAIN A	062001	3	FY 85	12/85	C	73					B 164.21
		APPLEGATE	INTERCEPTOR	062001	3	FY 85	12/85	C	45					B 163.41

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ATTACHMENT I

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
CONSTRUCTION GRANTS FINAL PRIORITY LIST

RANK	COMMUNITY	AREA	COMPONENT	PROJECT NUMBER	STEP	READY TO PROCEED	TARGET CERT.		GENERAL FUND	SMALL COMM. FUND	ALT. TECH. FUND	INNOV TECH. FUND	STEP1&2 ADVANCE	PRIORITY POINTS
15	TANGENT	CITY	SYSTEM	047101	3	FY 85	04/86	A	258	361	131			B 162.42
16	PORTLAND	SOUTHEAST 111TH	INTERCEPTOR	034204	3	FY 87	08/87		6,050					B 150.66
		SOUTHEAST RLVG	INTERCEPTOR P3	034202	3	FY 86	11/85	A	9,200*					C 201.29
			INTERCEPTOR P4	034203	3	FY 87	10/86		3,200*					C 201.29
17	HAPPY VALLEY	CITY	INTERCEPTOR	056702	3	FY 86	07/86	A	635					B 150.33
18	GRESHAM	STARK ST TRUNK	INTERCEPTOR	069503	3	FY 86	07/86	A	245					B 149.96
		CITY	STP IMP*	069501	3	FY 86	07/86	A	1,528					C 157.23
			SOLIDS HANDLING*	069502	3	FY 86	07/86	A	2,494					C 157.23
19	GRESHAM	GLISAN ST	INTERCEPTOR	069504	3	FY 86	07/86	A	191					B 149.68
20	GRESHAM	175TH/176TH AVE	INTERCEPTOR	069505	3	FY 86	07/86	A	398					B 149.61
21	GRESHAM	DIVISION ST	INTERCEPTORS	069507	3	FY 86	07/86	A	307					B 149.04
22	GRESHAM	182ND AVE	INTERCEPTOR	069506	3	FY 86	07/86	A	393					B 148.83
23	BCVSA	WHETSTONE	INT/PS/FM	060701	3	FY 85	10/85	A	1,162*					B 148.51
24	GRESHAM	W. JOHNSON CRK	INTERCEPTOR	069508	3	FY 86	07/86	A	145					B 147.56
25	CLACK. CO SD #1	RHODODENDRON	INT/FM/PS(2)	052601	3	FY 85	10/85	A	526					B 141.08
26	LINCOLN CO.	S.W. AREA	SYSTEM	053701	3		10/86		495					B 138.62
27	TRI CITY SD	REGIONAL	II CORRECTION	049309	3	FY 85	10/85	A	934*					C 229.55
28	ELGIN	CITY	STP IMP	047202	3		10/86		259					C 227.81
			II CORRECTION	047202	3		10/86		43					C 164.81

*Operational dependency is conditioned upon initial service to more than 3,000 people presently served by cesspools or other subsurface disposal systems. Failure to provide such a committment will cause the project to revert to a lower priority rank based on its individual priority point score.

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STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
CONSTRUCTION GRANTS FINAL PRIORITY LIST

	RANK	COMMUNITY	AREA	COMPONENT	PROJECT NUMBER	STEP	READY TO PROCEED	TARGET CERT.		GENERAL FUND	SMALL COMM. FUND	ALT. TECH. FUND	INNOV TECH. FUND	STEP1&2 ADVANCE	PRIORITY POINTS
	29	CARLTON	CITY	STP IMP	061502	3		10/86		466					C 222.85
	30	KLAMATH FALLS	PELICAN CITY	INTERCEPTOR	051604	3	FY 86	03/86	A	464					C 207.54
	31	CLACKAMAS CO	KELLOGG	SLUDGE DIGEST	060402	3	FY 86	10/85	A	3,729*					C 202.56
CP	32	MWMC	REGIONAL	SLUDGE P2	062417	3	FY 86	10/86		7,369*		983			C 201.51
CP	33	MWMC	SPRINGFIELD	SEWER REHAB	062418	3	FY 85	10/86		263					C 199.43
CP				II CORRECTION	062418	3	FY 85	10/86		1,436*					C 197.43
	34	TRI CITY SD	GLADSTONE	FORCE MAIN	049311	3	FY 86	10/86		180*					C 199.39
	35	USA	GASTON	INTERCEPTOR	057502	3		10/86		667					C 199.20
	36	TRI CITY SD	OREGON CITY	ABERNETHY INT	049313	3	FY 86	10/86		800*					C 199.08
	37	TRI CITY SD	OREGON CITY	NEWELL INT	049314	3	FY 86	10/86		714*					C 198.76
	38	TRI CITY SD	WEST LINN-WILLA	TUALATIN PS	049315	3	FY 86	10/86		941*					C 198.54
				WEST LINN FM	049315	3	FY 86	10/86		817*					C 198.54
	39	MONMOUTH	CITY	RELIEF SEWER	062503	3		10/87		70					C 196.64
	40	JUNCTION CITY	CITY	II CORRECTION	049602	3		10/87		52					C 195.14
	41	SHERIDAN	SOUTH SIDE	SEWER REHAB	050603	3		10/87		35					C 193.91
	42	N. ALBANY C.S.D	AREA 2A	INTERCEPTOR	069401	3		10/87		313					C 193.13
	43	SHERIDAN	SOUTH SIDE	II CORRECTION	050604	3		10/87		84					C 191.91

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CONSTRUCTION GRANTS FINAL PRIORITY LIST

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44	CARLTON	CITY	II CORRECTION	061503	3		10/87	46					C 189.85
45	MT ANGEL	CITY	STP IMP	058802	3	FY 86	10/87	133					C 189.01
46	PRINEVILLE	CITY	STP IMP	064501	3		10/87	413					C 186.93
47	MT ANGEL	CITY	II CORRECTION	058803	3	FY 86	10/87	107					C 186.01
48	SWEET HOME	CITY	II CORRECTION	043203	3		10/87	55					C 182.23
49	ST HELENS	N. VERNONIA RD	INTERCEPTOR	053907	3		10/87	146					C 177.81
50	LOWELL	CITY	STP IMP	057302	3	FY 86	10/87	236		21			C 176.36
51	WESTFIR	CITY	STP IMP	069702	3		10/87	165					C 175.67
52	VERNONIA	CITY	STP IMP	063101	3		10/87	121					C 175.02
53	OAKRIDGE	CITY	II CORRECTION	051403	3		10/87	272					C 174.82
54	ESTACADA	CITY	STP IMP	059402	3	FY 86	10/87	536					C 174.61
55	SOUTH SUB. S.D.	DISTRICT	STP IMP	066701	3		10/87	470					C 174.51
56	LOWELL	CITY	RELIEF SEWER	057304	3		10/87	6					C 174.36
57	LOWELL	CITY	II CORRECTION	057303	3	FY 86	10/87	9					C 173.36
58	WESTFIR	CITY	II CORRECTION	069701	3		10/87	35					C 172.67
59	ESTACADA	CITY	II CORRECTION	059403	3	FY 86	10/87	74					C 171.92

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RANK	COMMUNITY	AREA	COMPONENT	PROJECT NUMBER	STEP	READY TO PROCEED	TARGET CERT.	GENERAL FUND	SMALL COMM. FUND	ALT. TECH. FUND	INNOV TECH. FUND	STEP1&2 ADVANCE	PRIORITY POINTS
60	STANFIELD	CITY	II CORRECTION	056502	3		10/87	6					C 170.75
61	MADRAS	FRINGE AREA	INTERCEPTORS	057902	3	FY 86	10/87	297					C 169.07
62	DALLAS	CITY	II CORRECTION	059202	3	FY 87	10/87	89					C 168.80
63	ELGIN	CITY	PS	047203	3		10/87	5					C 165.81
64	MONROE	CITY	STP IMP	056904	3		10/87	39					C 160.15
65	HOOD RIVER	WESTSIDE	INT/PS	057702	3		10/87	100					C 156.40
66	FLORENCE	CITY	II CORRECTION	053303	3		10/87	142					C 156.32
67	AMITY	CITY	OUTFALL	050804	3		10/87	9					C 154.03
68	HALSEY	CITY	STP IMP	059501	3		10/87	123					C 153.67
69	ENTERPRISE	CITY	STP IMP	055402	3	FY 87	10/87	148					C 151.28
70	EAGLE POINT	CITY	INTERCEPTOR	042902	3		10/87	413					C 150.89
71	OAKLAND	CITY	STP IMP	061702	3		10/87	222					C 149.86
72	YONCALLA	CITY	STP IMP	059701	3		10/87	421					C 149.86
73	KEIZER	CLEAR LAKE	INTERCEPTOR	070101	3	FY 86	10/87	357					C 149.59
		LOWR-MID LABISH	INTERCEPTORS	070101	3	FY 86	10/87	751					E 58.00
74	ENTERPRISE	CITY	II CORRECTION	055403	3		10/87	77					C 148.28
75	BROOKINGS	CITY	STP IMP	067201	3	FY 89	11/88	358					C 147.09

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RANK	COMMUNITY	AREA	COMPONENT	PROJECT NUMBER	STEP	READY TO PROCEED	TARGET CERT.	GENERAL FUND	SMALL COMM. FUND	ALT. TECH. FUND	INNOV TECH. FUND	STEP1&2 ADVANCE	PRIORITY POINTS
76	YONCALLA	CITY	II CORRECTION	059703	3		10/87	17					C 146.86
77	BROOKINGS	CITY	II CORRECTION	067202	3	FY 89	11/88	200					C 144.09
78	RAINIER	CITY	SEWER REHAB	058602	3		10/87	439					C 143.44
79	ST HELENS	CITY	II CORRECTION	053902	3	FY 87	10/87	282					C 142.72
80	LINCOLN CITY	CITY	INTERCEPTOR P2	055904	3		10/87	250*					C 142.15
81	ST HELENS	CITY	PS NO. 1	053903	3	FY 87	10/87	84					C 142.00
82	HEPPNER	CITY	STP IMP	064801	3		10/87	737					C 140.28
83	ATHENA	CITY	STP IMP	063501	3		10/87	48					C 139.97
84	NEWPORT	CITY	OUTFALL	061802	3		10/87	722					C 139.82
85	NEWPORT	CITY	SLUDGE	061803	3		10/87	331					C 139.52
86	MODOC POINT	SAN DIST	SYSTEM	046901	3		10/87	314		114			C 139.16
87	DUFUR	CITY	STP IMP	047302	3		10/87	183					C 135.49
88	NYSSA	CITY	STP IMP	070301	3		10/87	237					C 126.88
89	CONDON	CITY	STP IMP	070401	3		10/87	83					C 125.75
90	FOSSIL	CITY	STP IMP	065101	3		10/87	693					C 125.39
91	MILTON-FREEWATE	CITY	SOLIDS HANDLING	058902	3		10/87	84					C 125.33

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CONSTRUCTION GRANTS FINAL PRIORITY LIST

RANK	COMMUNITY	AREA	COMPONENT	PROJECT NUMBER	STEP	READY TO PROCEED	TARGET CERT.	GENERAL FUND	SMALL COMM. FUND	ALT. TECH. FUND	INNOV TECH. FUND	STEP1&2 ADVANCE	PRIORITY POINTS
92	NYSSA	CITY	PS	070302	3		10/87	46					C 124.88
93	IONE	CORE AREA	SYSTEM	058302	3		10/86	33	22	8			C 124.00
94	SCIO	CITY	II CORRECTION	051503	3		10/87	28					C 112.80
95	HALSEY	CITY	II CORRECTION	059502	3		10/87	55					C 110.67
96	ATHENA	CITY	II CORRECTION	063502	3		10/87	36					C 96.97
97	N. ALBANY C.S.D	AREA 1,2,3 &4	HICKORY PS/FM	069402	3		10/87	237					D 224.41
98	N. ALBANY C.S.D	AREA 1,2 &4	SP. HILL DR INT	069403	3		10/87	842					D 224.22
99	NEWBERG	CITY	RIVER RD INT	049405	3	FY 86	10/87	55					D 199.19
100	NEWBERG	CITY	6TH ST REL SEW	049406	3	FY 86	10/87	55					D 198.42
101	NEWBERG	CITY	HANCOCK REL SEW	049407	3	FY 86	10/87	55					D 196.93
102	IRRIGON	CITY	SYSTEM	058202	3	FY 85	11/85 A		681	248			D 196.43
103	N. ALBANY C.S.D	AREA 3	N. ALB. RD INT	069404	3		10/87	215					D 193.01
104	TRI CITY S.D.	MYRTLE CREEK	SLUDGE DISP	067001	3	FY 88	10/87	490					D 184.89
105	TRI CITY S.D.	MYRTLE CREEK	II CORRECTION	067002	3	FY 88	10/87	73					D 181.89
106	GOLD BEACH	MYRTLE ACRES	INTERCEPTOR	069801	3		10/87	125					D 179.48
107	KLAMATH FALLS	REGIONAL	II CORRECTION	051605	3		10/87	264					D 171.52

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108	GRANTS PASS	CITY	SOLIDS HANDLING	066101	3		10/87	2,126					D 167.14
109	USA	DURHAM	SLUDGE	037102	3		10/87	4,620					D 165.89
110	FLORENCE	CITY	STP IMP	053302	3		10/87	1,488					D 159.32
111	MARION CO	BROOKS-HOPMERE	SYSTEM	063701	3	FY 87	10/87	191					D 156.94
112	ADAIR VILLAGE	CITY	STP IMP	067601	3		10/87	138					D 156.72
113	ADAIR VILLAGE	CITY	II CORRECTION	067602	3		10/88	138					D 153.72
114	CORVALLIS	WEST	INTERCEPTOR	066801	3	FY 86	10/88	165					D 152.12
115	CRESWELL	NIBLOCK RD	INTERCEPTOR	051302	3		10/88	176					D 151.63
116	USA	BANKS	INTERCEPTOR	057602	3		10/88	986					D 151.38
117	WALLOWA	CITY	STP IMP	067501	3		10/88	330					D 150.50
118	DOUGLAS CO	CAMAS VALLEY	SYSTEM	066601	3		10/88	440					D 148.35
119	FLORENCE	HECETA BEACH	ALT. COLLECTION	053306	3		10/86		382	139			D 148.31
			INTERCEPTOR	053305	3		10/86	182					D 113.31
120	COOS BAY NO.2	CITY	STP IMP	062803	3	FY 86	10/88	727					D 147.67
121	SEASIDE	CITY	P.S. IMP	068105	3		10/88	113					D 145.70
122	NESKOWIN S.A.	DISTRICT	SYSTEM	060201	3		10/87	394	1,218	443			D 142.80
123	WARRENTON	CITY	II CORRECTION	069201	3		10/88	127					D 141.96

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RANK	COMMUNITY	AREA	COMPONENT	PROJECT NUMBER	STEP	READY TO PROCEED	TARGET CERT.	GENERAL FUND	SMALL COMM. FUND	ALT. TECH. FUND	INNOV TECH. FUND	STEP1&2 ADVANCE	PRIORITY POINTS
124	MILL CITY	CITY	SYSTEM	044701	3	FY 87	10/88	880					D 141.64
125	TOLEDO	CITY	PS	040802	3		10/88	28					D 139.02
126	OAKRIDGE	CITY	STP IMP	051402	3		10/88	560					D 137.82
127	KLAMATH FALLS	REGIONAL	STP EXPANSION	051606	3		10/88	411					D 134.52
128	JOSEPH	CITY	STP IMP	051902	3	FY 87	10/88	371					D 134.13
129	SILETZ	CITY	STP IMP	070701	3		10/88	28					D 133.00
130	GRANTS PASS	CITY	STP EXP	066102	3		00/00	1,017					D 127.14
131	GRANTS PASS	S. SEVENTH	INTERCEPTOR	066103	3		10/88	62					D 123.86
132	GRANTS PASS	SECOND ST.	INTERCEPTOR	066104	3		10/88	32					D 123.71
133	GRANTS PASS	F AND BOOTH ST.	INTERCEPTOR	066105	3		10/88	20					D 123.71
134	GRANTS PASS	PINE AND ROGUE	INTERCEPTOR	066106	3		10/88	127					D 123.71
135	GRANTS PASS	ROGUE AND LEE	INTERCEPTOR	066107	3		10/88	24					D 123.71
136	GRANTS PASS	A STREET	INTERCEPTOR	066108	3		10/88	54					D 123.58
137	GRANTS PASS	N. SEVENTH ST.	INTERCEPTOR	066109	3		10/88	149					D 123.58
138	GRANTS PASS	BRIDGE ST.	INTERCEPTOR	066110	3		10/88	121					D 122.59
139	SODAVILLE	CITY	SYSTEM	066201	3		10/88	371					D 121.60

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140	VENETA	CITY	II CORRECTION	066001	3		10/88	3					D 118.58
141	NORTH POWDER	CITY	STP IMP	056402	3		10/88	105					D 114.29
142	BURNS	CITY	II CORRECTION	065001	3		10/88		220	80			D 113.23
143	BENTON CO.	ALPINE	SYSTEM	070601	3		10/88	275					D 112.00
144	CORVALLIS	AIRPORT	INTERCEPTOR	045801	3		10/88	330					D 110.60
145	SC10	N. W. AREA	INTERCEPTOR	051504	3		10/88	28					D 108.00
146	SISTERS	CITY	SYSTEM	054102	3		10/88	160	310	113			D 107.73
147	WALLOWA	CITY	II CORRECTION	067502	3		10/88	55					D 107.50
148	CRESCENT S.D.	DISTRICT	SYSTEM	054601	3		10/88	82	152	55			D 107.44
149	USA	GASTON WEST	INTERCEPTOR	057504	3		10/88	106					D 105.13
150	OAKLAND	UNION GAP	INTERCEPTOR	061703	3		10/88	124					D 104.19
151	PILOT ROCK	CITY	STP IMP	067101	3		10/88	660					D 100.43
152	TWIN ROCKS	SAN DISTRICT	PS	064701	3		10/88	17					D 100.00
153	ONTARIO	CITY	II CORR	051801	3		10/88	110					D 90.95
154	LANE CO	MAPLETON	SYSTEM	044201	3		10/88	331	1,071	390			D 66.00
155	CORNELIUS	CITY	INTERCEPTOR	069901	3		10/88	220					D 63.38

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156	CARMEL-FOUL. SD	DISTRICT	SYSTEM	054202	3		10/88	440					D 52.60
157	HUNTINGTON	CITY	STP IMP	069601	3		10/88	30					D 51.98
158	WALLOWA COUNTY	WALLOWA LAKE	INTS	060101	3	FY 87	10/88	435					D 50.67

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