

7/25/1986

OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS



State of Oregon
**Department of
Environmental
Quality**

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OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

July 25, 1986

Hearing Room A
State Capitol Building
Salem, Oregon

AGENDA

9:00 AM

CONSENT ITEMS

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

- A. Minutes of the June 13, 1986 regular meeting.
- B. Monthly Activity Report for May, 1986.
- C. Tax Credit Applications.

9:10 AM

PUBLIC FORUM

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

HEARING AUTHORIZATIONS

- D. Request for authorization to hold a public hearing on the Grants Pass Carbon Monoxide Control Strategy as a revision to the State Implementation Plan.
- E. Request for authorization to hold a public hearing to amend National Standards of Performance for New Stationary Sources, OAR 340-25-505 to -710 and to amend National Emission Standards and Procedural Requirements for Hazardous Air Contaminants, OAR 340-25-460 to -485.

ACTION 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.

- F. Brazier Forest Products--Review of Presiding Officer's decision.
- G. Open Burning Variance Request--Orville v. Lulay, Clackamas County.

- H. Proposed adoption of amendments to rules governing On-Site Sewage Disposal, OAR Chapter 340, Divisions 71, 72 and 73.
- I. Environmental Quality Commission Compliance Order for the City of Coos Bay.
- J. Request for an extension to OAR 340-41-026 pertaining to permitted waste loads for the City of Gresham.
- K. Request for extension of the July 1, 1986 deadline for providing the Opportunity to Recycle in Pendleton (ORS 468.186(9)).
- L. Request for extension of the July 1, 1986 deadline for providing the Opportunity to Recycle in Florence (ORS 468.186(9)).
- M. Informational Report: Status of Tualatin Basin Study.

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 hold a breakfast meeting at 7:30 am in room 50 of the Capitol Building. They will have a lunch meeting in the same room.

The next Commission meeting will be September 12 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, P. O. Box 1760, Portland, Oregon 97207, phone 229-5395, or toll-free 1-800-452-4011. Please specify the agenda item letter when requesting.

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC
MINUTES OF THE ONE HUNDRED SEVENTY-SECOND MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

June 13, 1986

On Friday, June 13, 1986, the one hundred seventy-second meeting of the Oregon Environmental Quality Commission convened at the Tillamook Bay Community College, 2510 First Street, Tillamook, 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.

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.

The Commission did not hold a breakfast meeting.

FORMAL MEETING

AGENDA ITEM A: Minutes of the April 25, 1986 EQC Meeting

It was MOVED by Commissioner Bishop, seconded by Commissioner Buist and passed unanimously that the minutes of the April 25, 1986 meeting be approved.

AGENDA ITEM B: Monthly Activity Report for March and April 1986

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

AGENDA ITEM C: Tax Credit Applications

Commissioner Brill asked about application T-1825 for Pacific States Galvanizing, Inc. His question was about the discrepancy in the review report which referred to the use of sulfuric acid and the application which referred to hydrochloric acid. Kern Cavanaugh, representing the company, explained that they used hydrochloric acid until it was disposed of because it could not be recycled back into the process, and were now using sulfuric acid.

Director's Recommendation

It is recommended that the Commission take the following action:

1. Issue tax credit certificates for pollution control facilities:

<u>Appl. No.</u>	<u>Applicant</u>	<u>Facility</u>
T-1801	Clear Pine Molding	Ductwork, cyclones, blowers and high pressure system
T-1817	Mark Weaver Ent. Inc.	Dust Collector
T-1822	John Rieger	Manure Control Facility
T-1823	Ore-Ida Foods, Inc.	Centrifuge, piping and associated control equipment
T-1824	Jim Durrer	Manure Control Facility
T-1825	Pacific States Galvanizing, Inc.	Neutralize and precipitate heavy metal solids
T-1826	Columbia Plywood Corp.	Wood waste handling system
T-1827	Precision Castparts Corp.	Bag filter dust collection system

2. Revoke Pollution Control Facility Certificates numbered 821, 823, 944 and 1340 issued to Champion Building Products. Reissue the same certificates to Davidson Industries.
3. Revoke Pollution Control Facility Certificate No. 1208 issued to Far West Farmer's Cooperative. Reissue the same certificate to JasPar Seed, Inc.

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

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED SEVENTY-THIRD MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

July 25, 1986

On Friday, July 25, 1986, the one hundred seventy-third regular meeting of the Oregon Environmental Quality Commission convened in Hearing Room A of the State Capitol Building, Salem, 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.

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.

BREAKFAST MEETING

All Commission members were present for the breakfast meeting.

Director Hansen announced that John Hector, supervisor of the Department's Noise Control Section, had been appointed at the Manager for the Central Region Office in Bend. The Commission congratulated Mr. Hector on his new position.

1. Information Report: First year review of Tri-Met bus noise inspection and compliance program.

On June 7, 1985 the Commission and Tri-Met entered into an agreement which requires the entire diesel powered bus fleet operated by Tri-Met be noise tested and corrective measures taken as necessary on an annual basis. Due to factors outside Tri-Met's control, the first year of testing was not completed until June 1986 instead of December 31, 1985 as stated in the agreement. Tri-Met is developing recommendations to amend the current agreement that will hopefully resolve the problems encountered during this first year of testing. It is anticipated that a proposed amended agreement will be submitted for Commission consideration at its September 1986 meeting.

Chairman Petersen asked what kind of auditing was done of the program. John Hector of the Department's Noise Control Section, replied that auditing had been limited, however Tri-Met has hired an engineer and the Department felt comfortable with that approach. Chairman Petersen asked if the paragraph in the agreement on auditing was effective. Ron Householder of the Department's Vehicle Inspection Program, said the Department did audit control on the Tri-Met fleet testing and would not like to see any changes in the agreement at this time.

Chairman Petersen emphasized that the citizen's group thought that auditing was important and he did also. He said an audit needed to be carried out.

Commissioner Bishop asked if the number of complaints had decreased. Mr. Hector replied he thought so, but had no data to support it.

Commissioner Brill asked who submitted the reports to the Commission and Mr. Hector replied that it was the Tri-Met engineer.

Commissioner Buist asked if Tri-Met paid attention to noise when they purchased new buses. Mr. Hector said that new buses have to meet standards, and they are quieter.

Director Hansen noted that Tri-Met was under pressure to make budget cuts, so the Department would be watching this program closely for results.

2. Informational Report: Review of light duty vehicle noise inspection program.

Light duty vehicle noise testing began in the Portland area vehicle inspection program on April 1, 1985. The initial noise failure rate was 1 1/2% as compared to the projected 5% rate. The noise failure rate has declined to less than 1% after one year of noise testing operation. No changes in noise standards or test procedures are currently projected. Acquisition of new emission testing and data system may provide for noise testing improvements. Motorcycle testing is not required as legislative authorization was not received. Due to the implementation of the Rogue Valley I/M program, heavy duty vehicle noise standards and procedures have not been developed.

Commissioner Brill asked about the complaint rate in the Rogue Valley program. Ron Householder, of the Department's Vehicle Inspection Office, replied that the Department has not received as many complaints from the Rogue Valley program as it had

received when the Portland program started. He said the failure rate in the Rogue Valley program was not as high as originally projected. However there is a 19% failure rate on 1975-1984 vehicles for disconnected pollution equipment, which is higher than the rate in Portland, but lower than the rest of the Country.

FORMAL MEETING

AGENDA ITEM A: Minutes of the June 13, 1986 EQC Meeting.

It was MOVED by Commissioner Buist, seconded by Commissioner Bishop and passed unanimously that the Minutes of the June 13, 1986 meeting be approved.

AGENDA ITEM B: Monthly Activity Report for May, 1986.

Commissioner Denecke asked if there would be a report on the Portland Airport noise control efforts. Chairman Petersen said he needed an update on the matter. Director Hansen replied that the Department has had continued conversations with the Port of Portland and the Port has committed staff to work on ways to address the noise program goals in view of the Federal Aviation Administration (FAA) ruling. The Department will be reporting back to the Commission periodically.

Commissioner Denecke asked if the Hayworth Farms contested case decision was now in the Court of Appeals, and Michael Huston, Assistant Attorney General, replied it was.

AGENDA ITEM C: Tax Credit Applications

Director's Recommendation

It is recommended that the Commission take the following action:

1. Revoke Pollution Control Facility Certificate number 837 issued to Champion International. Reissue the same certificate to U.S. Plywood.
2. Revoke Pollution Control Facility Certificate number 822 issued to Freres Lumber Company. Reissue a certificate numbered 822A to Freres Lumber for one bag filter and another certificate numbered 822B to U.S. Plywood for two other bag filters on the same site.

Commissioner Brill asked if the cost of borrowing money was eligible for tax credit. Lydia Taylor, of the Department's Management Services Division, replied that the cost of borrowing money on construction could be considered an eligible cost. Director Hansen said that

although DEQ administers the program by determining if equipment meets pollution control requirements, the actual determination of the credit received is up to the Department of Revenue.

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

PUBLIC FORUM

No one wished to appear

AGENDA ITEM D: Request for authorization to hold a public hearing on the Grants Pass Carbon Monoxide Control Strategy as a revision to the State Implementation Plan

This item requests authorization for a public hearing on the Grants Pass Carbon Monoxide Control Strategy. This would be a revision to the State Implementation Plan. Monitoring by the Department in downtown Grants Pass over the last several years established that the central part of the downtown did not meet the carbon monoxide public health standard. Last year the standard was exceeded on 13 days. The Environmental Quality Commission designated a portion of the City of Grants Pass as a nonattainment area for carbon monoxide on November 2, 1984. The City of Grants Pass as lead agency has developed a control strategy in cooperation with the Rogue Valley Council of Governments, Josephine County, Oregon Department of Transportation, and DEQ staff. A major part of the control strategy is construction of the third bridge across the Rogue River. This improvement is also expected to provide major traffic relief in downtown. The project has been placed in the construction category of the Oregon Department of Transportation's six-year highway improvement program and is expected to be completed within the five-year time frame that EPA has established for newly designated nonattainment areas to meet standards.

Director's Recommendation

Based on the summation in the staff report, the Director recommends that the Commission authorize a public hearing to consider testimony on the proposed Grants Pass Carbon Monoxide Control Strategy as a revision to the State Implementation Plan (OAR 340-20-047, Section 4.11).

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

AGENDA ITEM E: Request for authorization to hold a public hearing to amend National Standards of Performance for New Stationary Sources, OAR 340-25-505 to -710 and to amend National Emission Standards and Procedural Requirements for Hazardous Air Contaminants, OAR 340-25-460 and -465.

In the last year the Environmental Protection Agency has promulgated five more new source air emission standards and amended seven others. The Department has committed to bring State rules up to date with EPA rules on a once a year basis.

The new source classes affected are:

1. Basic Oxygen Process Facilities
2. Natural Gas Processing Plants (two rules)
3. Non-Metallic Mineral Processing Plants
4. Underground Uranium Mines

Seven classes are affected by amendments, of which the most important are:

1. TRS and Reporting Changes for Kraft Mills
2. Test Methods Amended for Sources of Hazardous Air Pollutants

If any of the following existing sources in Oregon make major modifications, they will be subject to the proposed rules:

1. Natural Gas Processing Plant near Mist, Columbia County
2. Oregon's Kraft Pulp and Paper Mills

Director's Recommendation

Based upon the summation in the staff report, it is recommended that the Commission authorize a public hearing to take testimony on the amendments to OAR 340-25-460 to 340-25-710, rules on National Standards of Performance for New Stationary Sources and for Hazardous Air Contaminants, and to consider asking EPA for authority to administer the equivalent Federal rules in Oregon.

Commissioner Buist asked if Oregon was just wanting to come in line with Federal regulations, what purpose would the public hearing serve. Tom Bispham, Administrator of the Department's Air Quality Division, said the purpose of the public hearing would be to allow for comment from interested parties on whether the proposed standards were appropriate, reasonable, etc. If adverse comments were received, the Department would evaluate them and determine if they were valid and if the EPA rules were appropriate for Oregon. If Oregon chooses not to accept the delegation, Mr. Bispham continued, EPA would have to

enforce its regulations in Oregon, or Oregon can choose to develop an alternative standard to achieve the same desired environmental effect.

Commissioner Buist asked if Oregon could accept some standards and not others. Mr. Bispham replied, it can, but in his memory Oregon has never rejected delegation. This is the first time in his recollection, Mr. Bispham continued, that there are issues that may put the state in the position of not accepting delegation. The Department may propose an alternative way to regulate rock crushers.

Director Hansen said that historically there has not been selective delegation of programs. However this particular regulation is raising a basic issue not only with Oregon, but with other states, on whether delegation can be rejected on selected issues the states do not agree with.

Mr. Bispham said the Department commented on EPA's rock crusher rule when it was being developed, but Oregon's comments along with those of other states were not incorporated into the regulations. A number of states are considering not accepting delegation of the rock crusher rule. He said the Organization of States may proposed EPA change the regulation at their meeting in December.

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

AGENDA ITEM F: Brazier Forest Products--Review of Presiding Officer's decision

Brazier Forest Products asks the Commission to review the decision of the hearings officer which found stockpiled material at Brazier's Clackamas County site to be solid waste requiring a DEQ solid waste disposal site permit.

Attorney John Caldwell appeared representing Brazier Forest Products. He said the record shows that Brazier was in Chapter 11 bankruptcy, but since the hearing the Company is no longer subject to Chapter 11 and one of its first capital investments is to blacktop the log yard. They have not added any bark to the pile and have sold their first load out of the pile to Grimms Fuel.

Mr. Caldwell said that facts were brought into the record concerning the dangers of this type of pile without any specific evidence that this particular pile was a pollution danger. He said the issue was a question of interpreting the statutes to determine whether the material is a waste, not whether the material is a danger or not. He said they did not anticipate this would be an issue, so did not present experts at the hearing to contradict the Department's testimony. If the Commission was going to consider the danger issue

in their deliberations on this matter, Mr. Caldwell requested the matter be sent back to the hearings officer to give the Company a chance for rebuttal.

Mr. Caldwell said the main question was one of policy. He said it was the Department's attitude that piles of bark from sawmills should be considered as waste storage sites requiring permits even though the material is being recycled back into the process. He said this matter would come up again and action needed to be taken by rulemaking to define what is waste and when it becomes a waste, and what is an unreasonable period of time to stockpile the material.

Mr. Caldwell requested the Commission look at the record and declare the material not a waste because it is usable and is being used. He said DEQ staff pushed Brazier into making use of this material, which was a good thing and in line with the statute. In view of that, he continued, it would be appropriate for the Commission to override the Hearing Officer's decision. He said the best course of action for the Commission would be to rule in favor of Brazier that this particular pile is not a waste, and then proceed to hold rulemaking hearings to define what is a waste.

Steve Sanders, Assistant Attorney General, appeared on behalf of the Department. He said the Department viewed this matter differently than Brazier. He said the policy to be determined was how the statute which requires the regulation of solid waste should be interpreted. The term should be defined by the agency in a way that protects the environment. The question of whether there are hazards from this pile is relevant and important, he continued. While not in the record, there is evidence of PCP and other hazardous materials in the pile. A farmer downstream had complained of livestock damage related to chemical poisoning by the sort of chemicals found in the pile. The farmer also noted that the irrigation ditch foamed after rains. Mr. Sanders said there was evidence in the record to show that this pile, and generically piles of wood waste, may potentially contain chemicals and whatever else, which are related to pollution problems such as leachate and hazardous chemicals coming off the piles. Mr. Sanders said this was important because if the Commission should decide this material is not solid waste it would defeat the statute regulating those types of materials which pose a threat to the environment. Mr. Sanders said the term waste should be interpreted to include these materials in order to meet the purpose of the statute.

In regard to rulemaking as suggested by Brazier, Mr. Sanders said the Company had asked the Commission for a declaratory ruling. He said the hearing officer concluded properly that the statute had been met.

Mr. Sanders said that the blacktopping of the log yard is not relevant to the decision. He said there was a huge pile of rock and dirt that pose a threat to the environment and from a policy standpoint requires it to be called waste.

Mr. Sanders asked that the hearing officer's order be affirmed.

Mr. Caldwell said that the findings on the danger of the pile were not appropriate for the Commission to consider, and they were willing to go to court to meet those questions with hard facts. He said if the pile was hazardous it should be dealt with under the hazardous waste statutes, but that is not the case.

Commissioner Buist asked if other sawmills consider their piles as waste. Mr. Sanders replied they did. Mr. Caldwell said some other mills regard the material as waste because they have caved in to pressure from DEQ. Mr. Sanders said Brazier was the first and only of 90 sites to object to a permit. Mr. Caldwell disagreed. Mr. Sanders clarified that there were probably some sites that DEQ has not sought to regulate yet.

Commissioner Buist asked why Brazier was opposed to obtaining a permit. Mr. Caldwell relied that it was economically burdensome to meet the requirements of test wells, monitoring, etc. In response to Commissioner Buist, Mr. Caldwell agreed it was the Company's position that the material was not a waste so a permit was not required.

Commissioner Denecke asked of what relevance was blacktopping the area. Mr. Caldwell said that the debris would then be cleaner and more marketable as the material could go directly into the hogger.

Commissioner Denecke asked if it was Brazier's position that the term solid waste was too ambiguous so rulemaking was necessary. Mr. Caldwell replied that the Hearing Officer's order convinced him that rulemaking was necessary. Chairman Petersen asked how formal rulemaking would help in this situation. Mr. Caldwell said a rule could address the length of time material could be stockpiled, and could address whether or not the material had been discarded and then taken back into inventory. Chairman Petersen said the intent of the user should make a difference as to whether the material is solid waste or not. Mr. Caldwell disagreed with the Hearing Officer and Mr. Sanders on whether the material was salvageable or not. He said a rule could clarify whether the material must actually be put to use. He said the statute did not require the material to be put to use, but simply that it be salvageable and able to be put to use. Chairman Petersen said he did not have a problem interpreting the statute and did not see the need for rules in this area. Mr. Caldwell said he did not personally have a problem interpreting the statute, but that rules

would help settle questions between DEQ and industry. Chairman Petersen said the fact that two parties disagree was not necessarily a cause for rulemaking; there could be disagreements over rules too. Chairman Petersen said the facts of each case must stand on its own.

It was MOVED by Commissioner Denecke, seconded by Commissioner Buist and passed unanimously that the Hearing Officer's Order be affirmed. Contained in the motion was the statement that the Commission did not base their decision on Finding of Fact No. 16.

AGENDA ITEM G: Open Burning Variance Request--Orville B. Lulay, Clackamas County

Mr. Orville B. Lulay operates a cedar mill in Carver, Oregon. Mr. Lulay has requested a variance from the statewide rules which prohibit open burning of industrial waste. He has to dispose of about 450 cubic yards of mill waste.

The Department has evaluated Mr. Lulay's request and is recommending that the variance be denied. Mr. Lulay has several nonburning alternatives for disposing of the waste including recycling the material at McFarlane's Bark by either hiring the material to be hauled or hauling it himself.

Strict control of open burning in the Portland/Metropolitan area is an important element of the area's clean air strategy, and since alternatives are available for Mr. Lulay, the Department is recommending that the variance request be denied.

Director's Recommendation

Based on the findings in the summation in the staff report, it is recommended that the Commission deny a variance to Orville B. Lulay for OAR 340-23-065(1), open burning prohibitions.

No one appeared on behalf of Mr. Lulay.

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

AGENDA ITEM H: Proposed adoption of amendments to rules governing on-site sewage disposal, OAR Chapter 340, Divisions 71, 72, and 73

At its June 13, 1986 meeting in Tillamook, the Commission was presented with a staff report requesting adoption of proposed amendments to the on-site sewage disposal rules. After receiving comments from three interested individuals, and, after discussion, the

Commission decided to postpone final action to allow staff to reexamine the sensitive issues and redraft the proposed amendments as appropriate.

The issues that evoked discussion concerned the chemical treatment of systems, the proposed definitions for active and stabilized dunes, and the proposal to reduce the size of seepage beds in some soils. Staff's review and evaluation of these issues and the proposed course of action is presented in the staff report.

Director's Recommendation

Based upon the summation in the staff report, it is recommended that the Commission adopt the proposed amendments to OAR Chapter 340, Divisions 71, 72 and 73.

Director Hansen stressed that the issue of chemical treatment, which caused the most discussion at the June meeting, was proposed to be deleted at this time and that over the next few months the Department would be working with the two parties who testified before the Commission to evaluate the issue before coming back to the Commission for action.

Doug Marshall, Tillamook County Environmental Health, appeared regarding low pressure bed sizing in beach sands, proposed rule 340-71-275(4) (d). Mr. Marshall's written testimony is made a part of the record of this meeting. Tillamook County requested a size reduction of low pressure beds placed in beach sands. He said cutting the current bed sizing in half would bring the floor area of these beds into conformance with the floor area of trenches placed in sandy soils. Since the sidewall area of trenches is somewhat greater than the sidewall for a bed, Tillamook County asked for a 25% reduction in seepage bed sizing.

Mr. Marshall urged the adoption of the following alternative to 340-71-275(4) (d)

S = Size Factor. Seepage beds shall use a factor of [200] 150 square feet.

Chairman Petersen asked if the primary issue was one of lot size. Mr. Marshall said no, because most of these lots can be approved for a sand filter and are not being denied because of lot size. In response to Commissioner Brill, Mr. Marshall said his testimony at this meeting did not relate to lot size or severe slopes. In response to Commissioner Petersen, Mr. Marshall said that most low pressure beds were found on smaller lots.

Richard L. Polson, Clackamas County Transportation and Development, testified they operated the on-site sewage disposal program for the County. Mr. Polson urged approval of the rules as proposed. They felt the rules represent appropriate technology and adequate consumer protection and any other significant changes in the rules may not. Mr. Polson agreed that further study of the chemical cleaners should take place and the rules should be adopted now as proposed. Mr. Polson felt the low pressure systems had not been around long enough to determine if an existing system, or a downsized system, would last for the life of a house.

Commissioner Buist suggested that there must be more experience with the low pressure systems in other places than Oregon. Mr. Polson said he could only comment on the studies which have been done on systems in Wisconsin. He said the loading rate in the Wisconsin studies was recommended at 1/2 gallon per square foot of absorption area per day. If that same rule were used in Oregon, seepage beds would be sized at 900 square feet of area. He said current regulations allow seepage beds to be sized at 600 square feet of area for a single family residence. Therefore, he continued, the sizing in Oregon is already less than the recommended sizing used according to the Wisconsin studies. Commissioner Buist said she understood the reason for that was because the proportion of fine sand in Oregon was different than that found in Wisconsin. Mr. Polson said no real research had been done in Oregon to identify where the critical point of failure would be in the seepage bed in Oregon. Commissioner Buist asked why then the sizing was not upped to 900 square feet. Mr. Polson said that was a policy decision which had been made in the past to size the systems at 600 square feet. Mr. Polson said he was not advocating making the rules more strict unless there was evidence to warrant it.

Commissioner Buist asked what happened when a low pressure bed system fails. Mr. Polson said the system would have to be replaced in another location on the lot. He said it would be difficult, if not impossible, and more expensive, to excavate the failed system and start over again. In response to Commissioner Buist, Mr. Polson said that low pressure bed systems in Clackamas County usually cost approximately \$2,500 to \$3,000 depending upon the site and the contractor, and sand filters usually cost approximately \$7,000.

Chairman Petersen asked if the life of a system was directly proportional to its size. Mr. Polson said it was. Mr. Marshall disagreed.

Commissioner Buist asked what causes a system to fail. Mr. Polson said that in a low pressure bed or a sand filter, failures were caused by a buildup of organic matter between the bottom of the bed and the soil or sand which is directly related to putting more into the system than it can handle.

Horst Eberspaecher, Septiclear, Inc., testified that at the June 13 meeting the Commission directed the Department to work with them and Chasm Chemical to resolve the issue of chemical treatment of septic tanks. Since that time, he said, they had not been contacted at all, although just before this meeting they had talked with Mary Halliburton of the Department's on-site sewage disposal program. He said that only the previous Monday had they received the information in the mail that this issue was being dropped from the proposed rule package. Mr. Eberspaecher said he found it unacceptable to have wasted their time without any problems being resolved. He said Ms. Halliburton told him the Department would be working with them soon to resolve the issue.

Chairman Petersen said Mr. Eberspaecher came before the Commission in June testifying that the inclusion of a prohibition on the use of the Company's chemicals would be damaging to its business and unnecessary. He said it was his understanding that that prohibition was excluded from the rule and therefore Septiclear Inc. was not at the present time impacted by the rules. Mr. Eberspaecher said this was a temporary issue as the matter will come back before the Commission at a later time. Chairman Petersen said he viewed the suggested deletion of the prohibition was to take into consideration Mr. Eberspaecher's concerns and to get some rules passed that the program can operate under and then study the issue. This does not mean necessarily that the companies would be affected adversely.

Director Hansen said it was his expectation that the parties involved would have been notified that the issue was being dropped. He said he felt the issue was dealt with appropriately by deleting it at this time and to work together over a greater period of time.

Chairman Petersen asked for Department comment on Mr. Marshall's suggestion regarding downsizing of the low pressure bed systems. Mary Halliburton of the Department's on-site sewage disposal systems section, said the Department debated on this issue following the June 13 meeting and came to the conclusion that although the it was desirable to look at ways to make it easier for installation on smaller sites, there was as much technical information to support downsizing elsewhere in the state as on the Coast, and therefore until the Department could resolve the issue of the coastal sand fines and the performance of low pressure systems on the Coast, the Department would be better off not proposing any modifications to the rules at this time.

Chairman Petersen noted that Mr. Marshall's memo indicated a failure rate of less than 1%. Ms. Halliburton said that in the time between the public hearing and proposing the rules at the June 13 meeting, it came to the Department's attention that there had been a failure of a low pressure system, however the Department has not been able to determine the reason for that failure.

Ms. Halliburton said that currently the seepage bed rule and the seepage trench rule for sizing are equivalent. The seepage trench takes into account sidewall area. If the Department proposes a downsizing of the bed then it would not be consistent with the seepage trench rule and there is no justification for that.

Director Hansen said that within Oregon there is a limited amount of information on this type of system. The issue is, he continued, does the Department follow Mr. Marshall's recommendation to downsize the system without sufficient information on the failure rate of the system. One of the Department's concerns, he said, is with a system that fails. It would most probably not be possible to go back and dig up that system and there may not be enough property to locate another system and therefore an alternative system would have to be put in. This would most likely be an expensive sand filter system. Director Hansen said if the systems were downsized, there may be more risk of failure and the possibility that the property owner may be required to install a more expensive alternative system.

Director Hansen indicated that over time information will become available on systems that are in place for a longer period of time on the failure rate and what type of replacement systems were needed.

Sherman Olson of the Department's On-Site Sewage Disposal Section, explained that prior to 1981 seepage bed systems were not recognized as an alternative system although there were a number of seepage beds installed in the State. Seepage beds were used, he continued, because they did not take a lot of area to put in. Those seepage beds that predate 1981 were generally gravity systems where a wide area was excavated and large diameter pipe was installed, and sewage was discharged just as it is for a disposal trench system. Those seepage beds were also used without regard to the type of soils where they were installed. Historically, those systems failed for a number of reasons. Prior to the Commission's June 13 meeting, Mr. Olson said the staff felt it would be reasonable not to downsize beds in beach sands because those sands tend to be finer than the sands around the Hermiston area where seepage beds are also used. The finer sands do not accept effluent as fast as coarser sands. Since the June 13 meeting the staff reexamined this matter and found it did not have the facts to downsize these systems anywhere in the state, so the proposal was deleted from the rule package.

Ms. Halliburton said the staff concluded that by downsizing the seepage bed systems by 25%, the cost would be reduced about \$100. Ms. Halliburton said this issue could be handled by the variance process.

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

Chairman Petersen told Mr. Marshall he appreciated his comments and testimony and what he was trying to accomplish. Chairman Petersen said he believed the Commission had the responsibility to implement rules that were the minimum necessary to be consistent with environmental practice. However, Chairman Petersen said he was sympathetic to the fact the staff did not have enough information to warrant the downsizing at this time, but perhaps in the future with more information that rule can be modified. Chairman Petersen said he hoped the Commission and Department would continually work to streamline the rules and make them more efficient and the least burdensome on the regulated community as possible. Commissioner Buist said she would hope that a real effort would be made to get more data on the low pressure bed systems and that the program be evaluated every so often for the possibility of reducing the size of the beds.

AGENDA ITEM I: Request for Issuance of an Environmental Quality Commission Compliance Order for the City of Coos Bay

This item pertains to compliance problems experienced by the City of Coos Bay Wastewater Treatment Plant Number 1 and a proposed Stipulated Order and Compliance Agreement between the City of Coos Bay and Commission.

The City of Coos Bay needs to construct sewerage system improvements to achieve compliance with effluent limitations, eliminate raw sewage bypasses which affect shellfish harvesting during the winter and to comply with the National Municipal Policy. The compliance agreement sets forth interim effluent limits, a schedule for construction and completion of sewerage system improvements and penalties should compliance with the terms of the order and agreement not be achieved by the City of Coos Bay.

Director's Recommendation

Based upon the summation in the staff report, it is recommended that the Commission issue the Environmental Quality Commission Compliance Order as discussed in Alternative 3 by signing the document prepared as Attachment I to the staff report.

Chairman Petersen said he perceived from the record some foot dragging in this matter, for whatever reason, and then a kind of a turn around. Director Hansen said that if there had been foot dragging, it was not on the part of the City of Coos Bay. He said the consultant to the City of Coos Bay did not provide the type of information necessary to make the evaluations that were important to determine, for example, whether or not correcting inflow and infiltration might be a cheaper

solution than expanding the sewage treatment plant. Director Hansen said those types of studies were absolutely required by EPA to be able to be eligible for grants. These studies were not being accomplished in a timely fashion by that consultant. Subsequently, the City of Coos Bay has changed consultants and activity has moved ahead. Director Hansen said he met with the Mayor and City Council and found they were committed to be able to put in place the proper infrastructure to allow for economic activity within the area which he thought was a very positive step.

Chairman Petersen noted that the first Notice of Violation occurred in September of 1982 with numerous Notices of Violation since that time without any assessment of penalties. He asked for an explanation of the Department's strategy in this process. Director Hansen said the strategy overall, as with all enforcement actions, is to gain compliance. With each Notice of Violation the Department met with City of Coos Bay officials and felt that progress was taking place. Although that progress was falling behind, it did not warrant taking civil penalty action. Director Hansen said there was now what was essentially a contract between the City and the Commission with a good compliance schedule. Chairman Petersen noted that in the agreement the City was committed to doing the job regardless of whether they receive any federal funds. Director Hansen said that was a requirement for receiving grant money.

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

Bill Curtis, Coos Bay City Manager, thanked the Commission for reviewing the City's situation and making this decision. He said this was not an easy case for the Department and Commission, nor for the City. He said the City does have some problems that they are working on daily and are confident they will be able to resolve them. On behalf of the Mayor, City Council and City of Coos Bay, Mr. Curtis thanked Director Hansen, John Jackson and Tom Lucas for their help on the Shellfish Study, B. J. Smith (now with the League of Oregon Cities), Ed Lynd (now retired), Mary Halliburton and Bruce Hammon (who they consider their local "good friend"). Mr. Curtis handed the Commission a packet of brochures on the area including the Coos Bay Shellfish Study and invited the Commission to visit Coos Bay.

Chairman Petersen said this is the type of story the Commission likes to hear where DEQ staff and local government work together to arrive at a favorable resolution of an ongoing problem. He told Mr. Curtis he appreciated his comments.

Director Hansen said that within the Department special compliments needed to be made to Mary Halliburton and Bruce Hammon.

AGENDA ITEM J: Request for an Exception to OAR 340-41-026(2) (an EQC policy requiring growth and development be accommodated within existing permitted loads) by the City of Gresham, Oregon

This item proposed that the EQC grant an exception to the Water Quality Management Plan (OAR Chapter 340, Division 41) policy and allow the City of Gresham a portion of their requested permitted load increase for BOD and suspended solids. The City of Gresham is proposing to expand its sewage treatment plant from 10 million gallons per day (MGD) to 15 MGD to provide service to Mid-Multnomah County residents currently served by cesspools and to accommodate growth and development to 1997.

Director's Recommendation

Based upon the alternatives and evaluation in the staff report, the Director recommends that the Commission grant a portion of the requested permitted load increase. The Director also recommends that the Department be asked to draft a permit modification which increases the permitted waste loads by an amount resulting from the City of Gresham providing service to the 28,600 Mid-Multnomah County residents currently on cesspools and seepage pits.

The Director also recommends that the Department be directed to reevaluate the applicability of OAR 340-41-026(2) to all river basins and/or develop more specific criteria for proposing exceptions to the policy.

John Lang, City of Portland, testified that this decision would influence how the City of Portland proceeds with the expansion of the Columbia Boulevard Sewage Treatment Plant. He requested that the Commission approve options 4 and 1 in the staff report. They supported the concept of doing a study of this policy and also of the water quality of the Columbia River. The City believed a study may merit some changes in existing policy. Mr. Lang said the Columbia River could accommodate greater loadings than were presently allowed, and if the policy were changed it would eliminate the prohibition on expanding existing plants. Mr. Lang said the State of Washington was issuing permits for plant expansions in Clark County. They preferred option 1 over option 2 because option 2 creates some unique design requirements.

Dan Norris, Brown & Caldwell, testified they were retained to study the expansion of the Columbia Boulevard Sewage Treatment Plant. He said the standards for the Columbia River were piggybacked onto the standards for the Willamette River. He said it would be reasonable to accept alternative 1 and grant the City of Gresham's request until the study under alternative 4 is completed.

Commissioner Denecke asked if Mr. Norris was saying that the same standard was made for the Columbia as was in place for the Willamette River without any study being made of the Columbia River. Mr. Norris said that was correct to the best of his knowledge.

Wally Douthwaite, City Manager, City of Gresham, requested the Commission adopt alternatives 1 and 4. He said Gresham was also concerned about policy. The issues that concern Gresham are timing and financing. Gresham was notified for the first time in November 1985 that this administrative rule might be placed upon it. Mr. Douthwaite said that at the last expansion of the Gresham Sewage Treatment Plant in 1980 the 20 mg/l standard was applied and their future planning was based on that standard. He said with a different standard their revenue bonding may be in jeopardy. If the Director's recommendation were adopted and the plant needed to be redesigned, the City would have to go back to the bond market and admit that its financial projections were missed. Mr. Douthwaite said the financial projections for the rate structure were based on the current design for expansion and increased construction costs would result in a rate increase to customers.

In response to Commissioner Brill, Mr. Douthwaite said they had expressed their concerns to Department staff.

Chairman Petersen asked if the figures calculated for the Mid-County sewer project would be dramatically altered if alternative 2 were adopted. Ken Rust, Government Finance Associates, said if Alternative 2 were adopted, the costs would change for treatment plant elements which is a small portion of the Sewer Implementation Plan. He said in the near term this would not be a big difference in rates, however in the 1990's the rate impacts would be significant in order to meet financial obligations.

Director Hansen said that additional population growth needed to be handled along with economic growth of companies. The question was not so much relative to Mid-County but that additional growth needs to be provided for. He said Gresham was proposing to spread costs over the full rate base. The Department was not proposing that the 16/16 standard be in place, but rather is talking about loads and the treatment levels that are needed to meet the loading levels. Director Hansen emphasized the Department was not asking for a stricter standard in option 2, but a change from existing policy.

Chairman Petersen asked how long it would take to do the testing, and at what expense. Director Hansen replied the Department had committed to do the testing in-house within one year. Richard Nichols, Administrator of the Department's Water Quality Division, said the Department could do the testing more quickly. He said they may want

to involve the State of Washington regarding the Columbia River. Mr. Nichols said quick analysis may be able to be done given the great dilution in the Columbia River.

Mr. Douthwaite said the City of Gresham has completed the facilities plan for ultimate plant expansion, and are almost through the first design phase. He was concerned that EPA funding may be jeopardized. William Cameron, Gresham City Engineer, said the plans will be 95% complete soon and the City had planned to go to bid in January. The City currently does not have enough capacity to service the proposed Fujitsu plant and Mid-County.

Director Hansen said that what is being proposed in Alternative 2 is that Mid-County waste load increase would go into effect immediately in the permit. The type of expansion the City is planning on can go forward as Mid-County would not be fully on-board for 20 years.

Mr. Douthwaite said they anticipate a further phase 2 expansion of the plant in 1997.

Commissioner Denecke asked how alternative 1 would affect future actions on other river basins. Director Hansen replied that the rule specifically provides for exceptions. A part of option 4 is to develop a more rational basis for that criteria to grant exceptions.

Chairman Petersen said he was inclined to go along with the City's request. Director Hansen clarified the Department was not urging that exceptions to policy not be granted, only that it wanted to have criteria before an exception is granted.

Mr. Nichols said that if options 1 and 4 were chosen, there would not be great damage done to the Columbia River.

It was MOVED by Commissioner Buist, seconded by Commissioner Bishop and passed unanimously that alternative 1 and 4 be approved, principally because of the Columbia River.

AGENDA ITEM M: Request for Approval for the Proposed Priority Ranking and Schedule to Study Water Bodies Exceeding the Chlorophyll a Value in OAR 340-41-150(1) and the Tualatin Water Quality Assessment Workplan

This item proposes a priority list and schedule to study water bodies with identified nuisance algal growth concerns. This activity results from the rule recently adopted for nuisance phytoplankton growth. This item also outlines a schedule to develop an updated water quality management plan for the Tualatin Basin. A portion of the Tualatin Project addresses algal growth issues in the drainage basin.

Director's Recommendation

It is recommended that the Commission approve the priority ranking assignments and study schedule proposed in Attachment B to the staff report for water bodies with identified nuisance algal growth concerns, and approve the schedule outlined for the Tualatin Basin project in Attachment A to the staff report.

Gary Kraemer, Unified Sewerage Agency of Washington County, testified they were satisfied with the Director's Recommendation.

George Benson, Lake Oswego Corporation, said they were pleased with the study and thought the total look at the Tualatin Valley watershed would present some results that can be addressed. He said it was important that the results turn into a work plan and that restrictions be put into place to provide quality water for Lake Oswego. They supported the study and DEQ's efforts.

Chairman Petersen asked about nonpoint sources. Bruce Cleland, of the Department's Water Quality Division, said in January a monitoring program was initiated focusing on all the major drainages. This information will be used to get some more extensive survey data on sources.

Commissioner Denecke commented this was the first time he had realized that Bear Creek was a high priority. Mr. Cleland said the City of Ashland's permit was up for renewal in September and there are water quality related problems in Bear Creek. He said there were a fair amount of residents on Bear Creek and an intensive look has not been done on the Creek in some time.

The Commission unanimously approved the Director's Recommendation.

Director Hansen noted there had been a good cooperative effort among all parties.

AGENDA ITEM K: Request for Extension of the July 1, 1986 Deadline for Providing the Opportunity to Recycle in Pendleton, Oregon (ORS 459.185(9))

Pendleton Sanitary Service, Inc. has requested an extension of the July 1, 1986 deadline for providing on-route recycling collection service in Pendleton, Oregon to May 1, 1987. The Department recommends the Commission grant an extension to November 1, 1986 with conditions.

Director's Recommendation

Based on the findings in the Summation in the staff report, it is recommended that the Commission grant Pendleton Sanitary Service an extension to November 1, 1986 of the July 1, 1986 deadline for providing the opportunity to recycle to persons in Pendleton, Oregon, and for submitting the recycling report to the Department in accordance with ORS 459.180 and 459.185, with the following conditions:

1. Pendleton Sanitary Service will continue to operate and publicize its full-line recycling depot at the Pendleton landfill and the newspaper drop boxes in the City.
2. Pendleton Sanitary Service will implement its recycling education and promotion program as soon as possible, but no later than October 1, 1986.
3. Pendleton Sanitary Service will coordinate preparation of its portion of the Umatilla Wasteshed recycling report with the City of Pendleton and submit the final report to the Department by November 1, 1986.

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

AGENDA ITEM L: Request for Extension of the July 1, 1986 Deadline for Providing the Opportunity to recycle in Florence, Oregon (ORS 459.185(9)).

Westlane Disposal Company has requested an extension of the July 1, 1986 deadline for providing on-route recycling collection service in Florence, Oregon to January 1, 1987. The Department recommends the Commission deny the request.

Director's Recommendation

Based upon the findings in the summation of the staff report, it is recommended that the Commission deny Westlake Disposal Company an extension to January 1, 1987 of the July 1, 1986 deadline for providing the opportunity to recycle to persons in Florence, Oregon in accordance with ORS 459.180 and ORS 459.185. It is further recommended that the Commission direct Westlane Disposal Company to implement the opportunity to recycle as soon as possible, but by no later than September 1, 1986.

Evelyn Fender, Siuslaw Disposal, Inc., presented written testimony supporting denial of Westlane Disposal's extension request. This written testimony is made a part of the record of this meeting.

Loren Parker, Westlane Disposal Co., testified he could not afford to comply with the law at this time and presented information to the Commission regarding his financial status. He said he had been closed out of the business of garbage hauling within the City of Florence for six years, and has had to compete for the rest of the business. He said his was a small business, just barely hanging on and could not handle any additional cost. He said he would get financial aid if allowed to collect within the City as of January 1.

Chairman Petersen asked Mr. Parker if he was sure he would be able to collect within the City after January 1. Mr. Parker said there was now an initiative petition being circulated which would cause the franchise to go for bid once again if approved on the ballot.

Commissioner Bishop, noting the Commission was in a difficult position, MOVED to approve the Director's Recommendation. The motion was seconded by Commissioner Buist and passed with Commissioner Brill voting no.

There being no further business, the meeting was adjourned.

At the Commission's lunch meeting they viewed a slide show on the Grants Pass carbon monoxide problem and the steps the community has taken to resolve the problem. David St. Louis, Willamette Valley Region Manager presented a status report on problem areas in the region. Marianne Fitzgerald, of the Department's Hazardous and Solid Waste Division, presented a status report on the implementation of the Opportunity to Recycle Act.

Respectfully submitted,

Carol Spletstaszer
EQC Assistant

PUBLIC FORUM

Chairman Petersen took this opportunity to comment that the Commission was pleased to be visiting Tillamook. He explained the Commission tries to get around the state during the year to visit communities out of the Willamette Valley.

Sherry Miller, a Tillamook resident, appeared with concerns about dust emissions from a cement plant located on first street in Tillamook. She said the emissions of fine dust make it hard to breath, especially for the senior citizens in the neighborhood. She asked what could be done.

After Chairman Petersen determined Ms. Miller had not yet talked to anyone at the Department, he referred her to Tom Bispham, Administrator of the Air Quality Division, and Janet Gillaspie, Northwest Region Manager who were both in the audience. Mr. Bispham and Ms. Gillaspie discussed the problem with Ms. Miller during a break in the meeting. They will pursue her concerns.

AGENDA ITEM D: Informational Report: Proposed Delegation Agreement between the Environmental Protection Agency and the Department of Environmental Quality for phased delegation of Construction Grants Program Management from the EPA to DEQ.

The proposed Delegation Agreement provides for a phased transfer of management responsibilities for the wastewater facility construction grants portion of the Federal Clean Water Act from the EPA to the DEQ. The EPA would retain oversight authority for the program throughout the term of the Agreement.

Director's Recommendation

It is recommended that the Commission concur in the course of action outlined by the draft Delegation Agreement, which is to accept phased delegation of the management of the Construction Grants program from the EPA to the DEQ.

Commissioner Bishop asked who was responsible for paying staff salaries in this program. Mary Wahl of the Department's Water Quality Division, replied that staffing comes directly out of the grant. She said money currently available to run the program through FY 1988 was obligated. Director Hansen said the Federal Government provides that up to 4% of the grant may be used for administration.

Commissioner Buist asked what Step III grants were. Ms. Wahl said those grants were for construction rather than design of a project.

Regarding the statement on page 21 of the staff report about the Federal Government becoming involved where they have an "overriding interest" in a project, Commissioner Buist asked where that might occur. Ms. Wahl replied that she did not know of an instance where that had occurred. Director Hansen said that an innovative control technology would be one that EPA might want to watch closely. Ms. Wahl said that EPA would retain oversight and may step in at any time.

Chairman Petersen said that the whole idea of EPA retaining oversight was difficult to understand. The reason the state wants delegation is that the citizens of Oregon would rather deal with the State than the Federal government. As long as the state was efficiently administering the program, he continued, EPA would probably not step in.

Ms. Wahl said EPA was very interested in Oregon taking over the program as it is one of the last states in the nation to accept delegation. She said the cities of Oregon would gain in this process.

Commissioner Buist asked why the number of full time equivalent employees was increasing. Ms. Wahl replied that the workload was increasing causing a need for more staff.

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

AGENDA ITEM E: Informational Report: Slash Burning Smoke Management Plan Revision.

This is an informational report on proposed changes to the smoke management rules and guidelines governing forest slash burning. These changes are the result of a year-long review, initiated at the Commission's direction, between the Department, the State Department of Forestry, federal land management agencies, the forestry industry, environmental groups and the general public. This is the first comprehensive review of the Smoke Management Plan since its adoption in 1972. The Department is responsible for approving a plan and the State Forester promulgates rules to carry out the plan. The proposed changes would generally update and improve smoke management regulations and would incorporate elements necessary for visibility protection in Class I areas.

Director's Recommendation

It is recommended that the Commission concur in the following course of action to be pursued by the Department.

1. Solicit public comment on the proposed revisions to the Smoke Management Plan and Directive, coincident with joint public hearings on the smoke management rules (Department of Forestry) and the Visibility Protection Plan (Department).

2. Report to the Commission at its September 11, 1986 meeting on the comments received and proposed final revisions to the Plan and Directive, requesting guidance for approval action by the Department.

Commissioner Buist asked what steps were currently being taken to encourage alternative technologies to deal with slash. Sean O'Connell of the Department's Field Burning Office, replied that the U.S. Forest Service in their experimental office in Seattle is researching ways to burn with less smoke and other ways to utilize slash. In this proposed plan revision, he said, there is a reference to experimental burning and it is hoped the State Department of Forestry would get more involved.

Neil Skill, State Department of Forestry, said they were looking at ways to burn more efficiently such as rapid ignition, and reduction of burning by prioritizing it so it does not take place at all unless absolutely necessary. He said the basic assumption of the Smoke Management Plan is that burning is advantageous to forests. It is known that smoke can be managed so it does not have a negative impact on people. Mr. Skill said that quick ignition is what is primarily used to reduce smoke impact.

Commissioner Buist asked what research was being done on alternative technologies. Mr. Skill replied that a number of ways have been tried to remove the slash, but have not been successful. The Department of Forestry does not do that type of research, but it does take place at several institutions. Projects for the high utilization of slash are being pursued by the Department of Natural Resources, and several power companies. Mr. Skill said that removal of slash has not been successful because of the economics involved when the wood products market is down. Removal may be more successful when that market increases, he continued.

Commissioner Buist asked what was meant by "performance based smoke standards." Mr. O'Connell replied that throughout the course of the summer field burning season, if there is a certain quantity of smoke accumulate in certain areas at certain levels then the restrictions on burning become tighter. For instance, he continued, in Eugene and Springfield 14 hours of smoke intrusions are allowed before stricter regulations go into effect. After that point, the mixing height is required to be higher. Chairman Petersen asked how this related to forestry smoke management. Mr. O'Connell said that no performance standards were in place now for Forestry and none were proposed. Currently there are a limited number of places where smoke is measured. The Department does not have instruments on the coast or in Bend and its ability to assert a smoke standard is limited. This is mainly because of lack of data, Mr. O'Connell said. Without the instruments to provide the data it would be difficult to design a standard.

Chairman Petersen asked if it made sense for two agencies to manage smoke. Mr. O'Connell said this question had come up several times over the years. State law divides the responsibilities between DEQ and the Department of Forestry. He said there were some advantages to Forestry managing slash burning as it is a different type of burning. Mr. O'Connell said that field burning was a tighter system and the burning does not last as long. He said there could be some savings and some improvements in effectiveness by consolidating meteorological forecasting. Both agencies get the same data on separate equipment and there is little interaction between forecasters.

Chairman Petersen said he was not convinced there could not be a better program without damaging either the grass seed industry or the forest products industry. He suggested there could be one unit to manage all the smoke from slash burning and field burning comprised of both members from Forestry and DEQ. He said he knew this was a politically sensitive area, but encouraged the Department to explore what direction would make sense. Chairman Petersen was not satisfied this proposed program was the best, but understood it was an improvement. He expressed sympathy with the industry, but did not see the teeth that should be in the program. Chairman Petersen said that living in Bend, he felt strongly about this as it seemed there was a conscious effort to send the smoke in the direction of Central Oregon.

Chairman Petersen said the Department has done as much as it could on woodstove smoke. That program is going to take 25 years to have an impact. He said it was important to find voluntary ways to get people to reduce smoke. Most of wood for heating is cut in the fall, he commented, and does not have a chance to dry out and thus causes more smoke. He asked if the Department of Forestry could encourage people to cut on state lands in the Spring.

Mr. Skill replied that encouraging people to cut firewood in the Spring could assist to some degree in eliminating slash, but the Department of Forestry had not made a deliberate effort to encourage this. He commented that firewood cutting on State lands was not significant compared with that done elsewhere.

Director Hansen said it did not make good sense for two different agencies to manage smoke. However, there were a lot of mechanical aspects, such as field registration, etc., that make best sense to be in the program area that has that responsibility. He said the real test is that on a particular day would the Department make the same determination on allowing burning as would Forestry. Director Hansen said the Department would be watching closely over the next three years to see how this program works.

Regarding the impact of smoke in Bend, Director Hansen said that issue would be dealt with by the visibility item. However, the only real way emissions are going to be substantially reduced is to remove the material from the forests. He said the technology is there with companies such as

Biomass, but the cost of utilization and transportation is prohibitive. He said the timber market has to come back to make this economically feasible. Director Hansen commented that he did not see the proposed smoke management plan revision as a timid step.

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

AGENDA ITEM F: Request for authorization to hold public hearings on proposed revisions to the State Air Quality Implementation Plan (OAR 340-20-047) to address visibility protection in Class I areas.

In December 1980, the Environmental Protection Agency adopted its rules for the protection of visibility in the nation's national parks and wilderness areas. Subsequent legal challenges stalled EPA's program, leading to the Commission's April 1982 decision to postpone adoption of an Oregon visibility protection plan. Recent court decisions have required EPA to assure that each state's implementation plan includes revisions necessary to comply with the Clean Air Act requirements for Class I area protection.

To meet the requirements of the EPA rules within the time frame allowed under the court decision and to insure that Oregon's scenic resources are protected, the Commission adopted revisions to the State Implementation Plan committing to operation of a visibility monitoring network in September 1985. At the same time, revisions to the New Source Review Rule were adopted to include visibility impairment analysis for Class I areas.

The second phase of the visibility protection plan addressing control strategies, interstate visibility protection, procedures for plan review and coordination, and other issues must be adopted by the Department by December 1986.

The Department is requesting the Commission's approval to proceed with public hearings on the second phase of these rules—adoption of the Oregon Visibility Protection Plan. The Plan has been developed over the past eight months in cooperation with the Oregon Visibility Advisory Committee which includes the U. S. Forest Service, National Park Service, Oregon forest land managers, Oregon Seed Council and environmental groups.

In Appendix 1 to the staff report, Notice of Public Hearings, the time and places listed are, in part, in error. The hearings will be held the following dates.

August 5 in Portland
August 7 in Springfield
August 11 in Bend
August 13 in Medford
August 15 in Newport

Director's Recommendation

Based on the summation in the staff report, the Director recommends that the Commission authorize hearings to consider public testimony on the proposed Visibility Protection Plan State Implementation Plan (SIP) revision which control strategy, best available retrofit, program coordination, integral vistas and other elements under OAR 340-20-047, Section 5.2.

Commissioner Buist was interested in the cost benefit analysis and what data it was based on and also the health benefit analysis which was apparently based on an EPA-sponsored study. She asked what type of particulates did the study deal with. John Core of the Department's Air Quality Division, said that in preparation of the visibility protection program it was necessary to get a cost benefit analysis. The Department commissioned a study conducted by an engineering firm which took 9-10 months to complete. A number of EPA studies were looked at which were conducted to come up with the PM10 standard. EPA hired someone to do the cost analysis. The figures are based on nationally developed information on levels of particulate and the health effects related to those levels. Mr. Core said it was a composite figure.

Commissioner Buist commented that those studies were almost certainly related to urban particulates. Mr. Core replied they probably were, but it was the best information available. Commissioner Buist was interested in seeing the report, and Mr. Core agreed to send it to her.

Commissioner Buist asked what was meant by "best available retrofit technology." Mr. Core said that was specific language used in EPA regulations which means that in the event there was a stationary source impacting visibility in a Class I, area the Department may have to apply some type of control technology. He said Oregon does not have that problem and it is not an important part of this SIP, but is on the EPA checklist.

Commissioner Buist asked who reviews the program and who makes an assessment on how successful it is. Mr. Core said that review would be based on visibility monitoring data collected by DEQ and the Forest Service. The Department will share its info with the Forest Service and the Bureau of Land Management and review will be on a yearly basis beginning a year from next summer.

Chairman Petersen asked about the concerns of the task force members regarding no direct civil penalties against violators. Director Hansen said that Forestry would be seeking legislative authority for civil penalties for Forest Practices Act violations.

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

AGENDA ITEM G: Request for authorization to hold public hearings to consider amendments to the Vehicle Program Operating Rules and Test Standards, OAR 340-24-300 through 24-350.

The Department is requesting authorization to conduct public hearings on the Vehicle Emission Inspection and Maintenance (I/M) rule amendments. Two amendments, basically housekeeping in nature, are proposed.

The first proposed amendment would summarize the over 40 different emission standards for 1972 and 1979 vehicles into simpler categories. This proposal was suggested by the inspection staff. No vehicles would have more stringent standards as a result of this proposal.

The second proposal would establish a catalyst emission test standard for heavy duty trucks. This standard is necessary since some manufacturers are equipping some models of heavy duty trucks with light duty engine packages that include catalysts.

These hearings also specifically provide an opportunity for formal public comment on all aspects of the I/M operating rules and standards. A total of three hearings have been set, including one evening hearing each in both the Portland and Medford areas.

Director's Recommendation

Based upon the summation in the staff report, it is recommended public hearings to gather testimony on the proposed changes to the I/M program test standards be authorized.

Commissioner Brill asked if these rules referred to diesel vehicles. Director Hansen said the Department does test diesel vehicles for hydrocarbon and visible emissions, but the heavy-duty trucks referred to in these rules are gas powered.

Chairman Petersen asked if vehicles that currently have more lenient standards would be penalized. Director Hansen referred Chairman Petersen to the exceptions list in the proposed rules which would assure that no vehicle would have to meet more stringent standards than they do now.

Chairman Petersen asked how the I/M program was going in Medford. Tom Bispham of the Department's Air Quality Division, replied the Department had been very pleased with the Medford program and there have been no adverse incidents at the testing station. He said the petition issue has not moved well from the petitioners standpoint. They have about 30,000 signatures with 62,000 needed to put the issue on the ballot.

Director Hansen commented that there are as many problems in the Portland program today, after 10 years of operation, as the Department is seeing in Medford, which says the program is going even more smoothly in Medford.

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

AGENDA ITEM H: Request for authorization to conduct public hearings on proposed amendments to the Water Quality Standards Regulations, OAR Chapter 340, Division 41: Anti-Degradation Policy, Mixing Zone Policy and Toxic Substances Standards.

This item presents issue papers on the standards for anti-degradation, mixing zones and toxic substances. The issue papers discuss the current standards and propose amendments to clarify the intent and application of those standards.

Director's Recommendation

Based on the summation in the staff report, the Department requests authorization from the Commission to proceed to public hearing to take testimony on the proposed amendments for the anti-degradation policy, the mixing zone policy, and the toxic substances standards as presented in Attachment F to the staff report.

An addendum to the staff report was submitted to the Commission proposing the following language changes to the proposed rules:

Anti-degradation

1. Page A-6, F-1, add the following sentence at the end of paragraph 2:

Water quality, however, may not be degraded to less than is necessary to fully protect all designated beneficial uses.

2. Page A-7, F-1, change paragraph 4 to clarify special protection for outstanding waters of the state:

[In no event, however, may degradation of water quality interfere or become injurious to the beneficial uses of water]
Existing water quality shall be maintained and protected within surface waters of the following areas:...

Toxic Substances

3. Page A-27 (b), F-7 (b), add the following references for dioxin and the EPA drinking water standards:

February 15, 1984, v. 49 No. 32 p. 5831, 40 CFR Parts 141-143,, 1985.

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

AGENDA ITEM I: Request for authorization to conduct a public hearing on proposed revisions to "Spills and Other Incidents" rules, OAR 340-108-001 through 340-108-021; Proposed revisions to Hazardous Waste Management Schedule of Civil Penalties rule, OAR 340-12-068; and proposed adoption of additional Oil and Hazardous Material Cleanup rules, OAR 340-108-030, -050, -060 and -070.

House Bill 2146 significantly strengthened the Department's authority over spills and releases of oil and hazardous materials. It requires the Commission to designate hazardous materials covered by the program (including such things as oil, federally listed hazardous substances, radioactive materials and wastes and communicable disease agents). It also requires the Commission to establish a quantity of spilled or released material which would require the reporting of the incident. Lastly, it gives the Department authority to direct cleanups undertaken by responsible parties or contract for cleanup and seek cost recovery where there is an uncooperative responsible party.

The Department proposes to hold a public hearing on June 3, 1986 to hear testimony on a draft set of rules to implement HB 2146. In addition to proposed rules covering the subjects above, are three proposed approaches to cleanup standards. The Department is asking people to express a preference on approach as well as comment on the particular cleanup standards contained within an approach.

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 proposed revisions to existing spill rules in OAR 340, Division 108.

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

AGENDA ITEM J: Appeal of Hearing Officer's Order, DEQ v. Amos Funrue, case number 05-AQ-FB-84-141.

This item is Amos Funrue's appeal of a Hearing Officer's decision upholding DEQ's assessment of a \$500 civil penalty against him.

Mr. Funrue appeared and showed the Commission on a relief map the site of the field and the direction of the wind on the day in question, which was blowing toward Mt. Hood. Mr. Funrue then read his testimony from a detailed outline, which is hereby made a part of the record.

Mr. Funrue said the specific charge was that he failed to actively extinguish all flames and major smoke sources when prohibition conditions were imposed by the Department. He said he was not guilty of this charge because he was applying water to flames and fighting a wildfire. He said he was not claiming that no acres were burned after 4:00 pm. Mr. Funrue said that at the time he was authorized to burn he was informed the fires out time was 4:00 pm until such time as it may be extended. In past years, he continued, the field had burned in less than 30 minutes. Mr. Funrue testified there were several wildfires caused by unpredictable wind conditions and the time required to control the wildfires was the direct cause of taking longer than the normal 30 minutes to burn the field. Mr. Funrue testified he had three water rigs at the field which were geared to containing a fire. He said extinguishment of a large field fire on a hot, dry, windy day requires fire department effort.

When DEQ investigator Randy Rees arrived at the field sometime after 4:00 pm, Mr. Funrue said he was out of Mr. Rees's sight because he was at the back of the field fighting a wildfire. Mr. Funrue claimed Mr. Rees's investigation was sloppy and unreliable as the address given for the fire location does not exist; the location given during the hearing for picture "F" is not possible; there were conflicting statements about Mr. Rees's arrival time at the field; and Mr. Rees was not present at the hearing in person and Mr. Funrue felt the telephone conference call was unsatisfactory.

Mr. Funrue said he did not agree with or accept the penalty imposed as the evidence did not establish there was any air pollution impact from his late burning.

Michael Huston, Assistant Attorney General, appeared representing the Department. Glen Klein, the Assistant Attorney General who represented the Department during the hearing on this case was unable to attend this meeting. Mr. Huston said there were three versions of the facts. The first is Mr. Funrue's, he continued, which was that he did indeed fail to extinguish the burning field because he was paying attention to wildfires. Mr. Huston said that significant to Mr. Funrue's case was that he and other farmers who testified during the hearing were under the impression they had a 30 minute grace period for mopping up. The second version, Mr. Huston continued, was that found by the Hearing Officer that Mr. Funrue was not actively extinguishing the fire and a significant portion of the field continued to burn after the fires out time; there was a wildfire; and there was no evidence to support the Department had caused the grace period impression.

The Department's position, Mr. Huston said, was that the record shows the fire was actively lighted after the fires out time. The significance of that fact is very dramatic which tends to make this violation a much more aggravated one and ends the debate about the wildfire and the 30 minute grace period, he said. If Mr. Funrue was actively lighting the fire after

the fires out time, Mr. Huston continued, they could not have been fighting a wildfire or relying on a grace period. Mr. Huston said the DEQ inspector observed flames and an increase in smoke after 4:40 pm and that testimony was supported at the hearing by photographs. Mr. Huston said the record also shows that at 4:40 pm on the day in question, Mr. Funrue's daughter told the inspector the lighting of the field had been completed 20 minutes previously, and Mr. Funrue said he had completed lighting the field about 4:30 pm.

Mr. Huston said it was the Department's judgment that the Hearing Officer's order be affirmed because it did find a clear violation of the rules and the \$500 civil penalty is within the Department's discretion. Mr. Huston said the Department believes the violation was far more serious than perceived by the Hearing Officer and as explained by Mr. Funrue. Mr. Huston said it was Mr. Funrue's intent to burn the field on that day and he believed he could do it in time.

Mr. Funrue reiterated he was fighting a wildfire before the field was completely lighted. He said he did not claim no acres were burned after 4:00 pm, nor that the field was not lighted after 4:00 pm. Mr. Funrue said he was not present when the lighters joined so he simply did not know what time that happened. Mr. Funrue agreed it was possible the field was lit after the fires out time.

Commissioner Buist said the Commission had heard before about the perception among growers of a 30 minute grace period. She asked exactly what the law was, and how it was conveyed to growers. Sean O'Connell of the Department's Field Burning Office, replied there was no grace period and commented that he is asked that question often by growers. Mr. O'Connell said the Department informs growers every summer by direct mailing that when fires out time is announced the field must be actively extinguished. This is also reinforced at yearly grower meetings. Mr. O'Connell said the rule states when prohibition conditions are implemented, the grower must actively extinguish the fire. On the particular day in question, Mr. O'Connell stated, there were smoke problems in many cities and weather conditions did change. Growers could burn that day from 1:00 pm to 4:00 pm, but weather conditions were deteriorating causing smoke problems.

Commissioner Buist said Mr. Funrue waited for awhile before he was given the permission to burn and in his experience the field would burn in 30 minutes. She asked if it would be reasonable to burn that field realizing there were only 44 minutes in which to get the burning accomplished. Mr. O'Connell said that how long it takes a particular field to burn depends on daily conditions such as humidity and temperature, but that 45 minutes to burn a field was marginal. Commissioner Buist asked why then was permission to burn given that close to the fires out time. Mr. O'Connell said it would not be efficient for the Department to assert its own judgment over farmers when it came to their individual fields. He said the burden was on the farmer, knowing their field and equipment, to determine if the burning can be accomplished in the time remaining.

Commissioner Buist asked what Mr. Funrue should have done when the wildfires started. Mr. Huston said the Department asserted that the wildfire consisted of one fence post fire which was not particularly dangerous.

Commissioner Buist asked what proportion of days when burning is allowed are extensions granted and did that information come over the radio. Mr. O'Connell said that typically burning is allowed and the fires out time is extended if conditions were good and that information is announced over the radio. He said extensions were made probably 60-70% of the days burning is allowed. However on this particular day, Mr. O'Connell said, it was discussed on the radio all day that conditions would be deteriorating. In view of that, he said, it would be unreasonable to expect an extension would be made.

Mr. O'Connell said that in general, in case of a wildfire, a farmer could stop lighting the field and take care of the wildfire and then burn a smaller area.

Mr. Huston said that no one argued that the continued lighting of the field had anything to do with the wildfire. Mr. Funrue contended the fighting of the wildfire prevented him from extinguishing the field burn.

Commissioner Denecke asked if Mr. Funrue's statements on page 4, line 19 of the Department's Response to Respondent's brief were true?

"Mr. Funrue testified that he thought he finished lighting the fire at 4:15-4:20 and that he finished burning about 4:50."

Mr. Funrue responded there was some truth in those statements but that was not what he intended to say. He said he intended it was to say possible, but he was not denying it.

Mr. Funrue wanted to point out that the fence post fire referred to in the transcript was actually several fence posts on fire that took 15-20 minutes to put out.

Commissioner Denecke MOVED that the penalty be affirmed because Mr. Funrue's best estimate was he continued to light the field 15-20 minutes after fires out time. Commissioner Bishop seconded the motion and it was passed with Commissioners Buist and Brill voting no.

Commissioner Buist explained she was voting no because the facts in the case were murky. Commissioner Brill said he would have liked to see the penalty lowered.

AGENDA ITEM K: Request for a variance from Gasoline Vapor Balance Requirements (OAR 340-22-120(1)(b)) for Mt. Hood Oil Company.

Mt. Hood Oil Company requested a seven year variance to exempt two of its customers from the Department's Volatile Organic Compound rules. These rules are triggered by the total volume of gasoline delivered by the bulk plant and the volume received by each customer.

Director's Recommendation

Based upon the findings in the summation in the staff report, it is recommended that the Commission grant a variance for the Mt. Hood Oil Company with the following conditions:

1. The Mt. Hood Oil Company be granted a variance from OAR 340-22-120(1)(b) until December 13, 1986.
2. Only two customers can receive deliveries of 10,000 or more gallons per month during the variance period and they are J.S. Matheny, 13928 N.E. Glisan, Portland, Oregon; and Jennings and Elston, 19751 S.E. Highway 212, Boring (Damascus), Oregon.
3. The Mt. Hood Oil Company is required to select the best option for achieving compliance and operate in compliance after December 13, 1986.

It was MOVED by Commissioner Bishop, seconded by Commissioner Buist and passed unanimously.

AGENDA ITEM L: Request for a variance from rules prohibiting open burning of solid waste, OAR 340-61-040(2), for 20 disposal sites.

At the January 1986 meeting, the Commission concurred with the Department and declined to adopt rules allowing open burning as solid waste disposal sites. Staff, however, indicated that the Department would return in support of variances for a limited number of permittees. Twenty local governments have requested variances to them to continue open burning.

Director's Recommendation

Based upon the findings in the summation, it is recommended that variances be granted for five years to allow continued open burning of solid waste at the 20 disposal sites listed in Attachment II to the staff report, with the following conditions:

1. Tires, asphaltic shingles and hazardous wastes shall not be disposed by open burning.
2. When EPA adopts new criteria, variances will be reviewed and may have to be revoked or modified.

It is further recommended that the City of Powers also be required to comply with the following additional conditions:

1. Controlled access (site fenced with a gate).
2. Attendant on duty while site is open and while burning solid waste.
3. Burning limited to two times per week and only when site is closed.
4. Ash burial at least twice per year.

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

AGENDA ITEM M: Proposed adoption of revisions to OAR Chapter 340, Division 30, Specific Air Pollution Control Rules for the Medford-Ashland Air Quality Maintenance Area concerning source testing requirements as an amendment of the State Implementation Plan.

Oregon Administrative Rules, Chapter 340, Division 30, Specific Air Pollution Control Rules for the Medford-Ashland Air Quality Maintenance Area, were adopted April 7, 1978 by the EQC. Parts of these rules address source testing for quantifying particulate matter emissions from large wood-waste boilers and from charcoal plants. These sources are required to conduct quarterly tests subsequent to an emission limit exceedance as demonstrated by the annual source test. The average of all tests is used to demonstrate compliance. Quarterly testing and this averaging aspect of the current requirement creates problems for the Department and industry, and do not help in the process to achieve compliance. A public hearing was conducted May 1, 1986 to receive testimony regarding a proposed rule revision to delete the quarterly testing requirement. Oral testimony from represented industry was in full support of the rule revision.

Director's Recommendation

Based on the summation in the staff report, it is recommended that the EQC adopt the revision to OAR Chapter 340, Division 30, and amend the State Implementation Plan regarding source testing the Medford-Ashland AQMA. The proposed amendments would omit from the testing regulation

the requirement to conduct quarterly source testing on large wood waste boilers and charcoal plants subsequent to an emission limit exceedance on an annual test. Compliance determination would be based on the annual test results.

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

AGENDA ITEM N: Proposed adoption of amendments to rules governing on-site sewage disposal, OAR Chapter 340, Divisions 71, 72, and 73.

At the January 31, 1986 meeting, the Commission authorized public hearings on proposed amendments to the On-Site Sewage Disposal Rules. In addition to a number of proposed housekeeping amendments, staff identified eighteen issues as being significant.

After proper notice, public hearings were held in Bend, Medford, Newport and Portland during the latter part of February. In general, comments received on most of the proposed amendments were favorable. However, some of the significant issue received mixed testimony in both support and opposition. These issues include:

1. A proposed prohibition on the replacement of certain chemicals and explosives into on-site systems;
2. A proposed definition for "active sand dune;"
3. Introduction of a "strength of wastewater" factor to be used in determining the size of the treatment facility portion of a sewage disposal system.

Director's Recommendation

Based upon the summation in the staff report, it is recommended that the Commission adopt the proposed amendments to OAR Chapter 340, Divisions 71, 72 and 73 as presented in Exhibit A to the staff report.

Paul H. Oldenburg, Chasm Chemical Company, appeared and referred to a letter from Spears, Lubersky, Campbell, Bledsoe, Anderson and Young which was dated April 23, 1986 and hand-delivered to the Department. He said it was his understanding this information had not been given to the Commission until just the morning of this meeting. He felt the Department had not been fair in making sure the Commission got accurate information, and all the information. Mr. Oldenburg felt poorly treated by the Department, and asked to be treated fairly by the Commission. Mr. Oldenburg read the April 23, 1986 letter into the record.

Mr. Oldenburg testified he had not seen any real evidence of ground water pollution. He personally had spent 18 years developing his business and believed it is honest and a benefit to society. His company has a true market value of \$250,000 and supports three full-time and several parttime employees. The company honors its guarantees for as long as 10 years and have over 5000 customers in the greater Portland Metropolitan area. He asked if with all the systems his company treats, would not the DEQ have some evidence of their chemicals harming systems or the ground water. Mr. Oldenburg asked for testing before a prohibition is imposed. Also, as professionals in the field, Mr. Oldenburg said the DEQ was correct about some chemicals needing to be eliminated.

Horst Eberspaecher, submitted written testimony on behalf of Septiclear, Inc. He said they were waiting for evidence from DEQ to support the Department's claims of damages. His company has always had a full guarantee on treatments. They also sell products through retail stores which guarantee them. There have been no complaints against Septiclear.

Commissioner Denecke indicated Mr. Eberspaecher came to Salem to talk with him about these rules.

Doug Marshall, Tillamook County Sanitarian requested the Commission postpone action on the rules. He had only had the staff report for a short time and needed more time to adequately review the rules.

Sherman Olson of the Department's On-Site Sewage Disposal Section, said that during the testimony period, the attorney for Chasm Chemical requested a 90 day extension to the record close date, however the request was not received within the required 15 days after the notice was published. If it had been received in time, an extension would have been granted for a period of time. The staff had originally intended to bring this rule package to the Commission at its April meeting, he continued, but postponed until this meeting. With this unanticipated delay, Chasm was allowed to provide additional information by April 23 and a letter was hand-delivered to the Department on that date. Mr. Olson said the letter was reviewed by staff and Department counsel and it was found no new issues were raised from those raised at the hearings.

Regarding complaints about the use of these products, Mr. Olson said the comments he had received had been verbal and typically come from septic tank pumpers. He said there had been no written complaints and the Department had not gone out to look at systems that have been chemically treated.

Mary Halliburton, of the Department's On-Site Sewage Disposal Section, said the statements regarding the lack of information on the impact of acids in septic tanks and cesspools in Oregon are correct. She said it was an oversight not to include the April 23 letter in the Commission's meeting packet. She said the Department felt the concerns expressed in the letter

were conveyed in other testimony. Ms. Halliburton said the issue was that these companies need to be licensed by DEQ, but the Department does not approve of the method used to clear septic tanks. She said it was a policy issue of whether or not the Department should license these businesses and condone the practice.

Chairman Petersen said the Department could have sent the Commission the letter, but did he not want to give the perception the whole record does not get to the Commission. He said this was the first time this had ever occurred since he had been on the Commission and it was his experience the Commission receives everything in the record. He was convinced the omission of the letter was inadvertant.

Mr. Olson said the major contention of the letter is that acid treatments do not cause ground water degradation and there is no evidence it does. He said he had not reviewed any literature that acid treatments cause groundwater pollution. The complaints on treatments to systems generally deal with damage to the system.

Commissioner Buist asked if any other states had similar rules as the one proposed. Mr. Olson replied that most states do not have rules. However, the two states cited in the staff report have authority to adopt such rules and also have the ability to regulate the sale of the products in question.

Commissioner Bishop asked if it was possible to have a septic tank with no access. Mr. Olson said that the rules require tanks to have a manhole, but it does not have to be at ground level.

Chairman Petersen said he did not want to unnecessarily prolong the process in adopting these rules, but the Commission was not comfortable with this issue. He suggested action be postponed until the Commission's next meeting to resolve the organic/inorganic issue. He said there was not sufficient evidence available to support prohibition of the organic substances and felt it would be unfair to do so. He suggested that some type of program be established to obtain data and asked both Septiclear and Chasm to cooperate with the Department.

Chairman Petersen MOVED that action on this item be postponed until the Commission's next regular meeting. The motion was seconded by Commissioner Buist and passed unanimously.

AGENDA ITEM O: Proposed adoption of a rule establishing a maximum repair permit fee for Linn County, OAR 340-71-140(2) and OAR 340-72-090.

Linn County has requested authority to adopt a repair permit fee equal to the average amount the County has determined it costs to provide this service.

Because the proposed fee exceeds the current fee established by the Commission, approval to charge a high fee must be done by adoption of a rule.

At the Commission's meeting on April 25, 1986, authorization to conduct a public hearing on the issue was given. After proper notice, a public hearing was held in Albany on May 16, 1986. No adverse comment was received.

Director's Recommendation

Based upon the summation in the staff report, it is recommended the Commission adopt the proposed rule amendments establishing a maximum repair permit fee for Linn County.

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

AGENDA ITEM P: Request for Commission approval of the Fiscal Year 1987 Construction Grants Management System and Priority List for Fiscal Year 1987.

The proposed amendment to the Construction Grants Management System allows the Director to set aside 20 percent of the state's annual allotment for use in a state revolving loan program, if such a program is authorized by the Clean Water Act, and if the state elects to develop such a program.

Director's Recommendation

Based on the summation in the staff report, the Director recommends that the Commission adopt the FY87 Construction Grants Priority List as presented in Attachment H to the staff report and the proposed amendment to OAR 340-53-025 (Appendix F to the staff report), authorizing the Director to set aside 20 percent of the state's construction grants allotment to establish a State Revolving Fund.

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

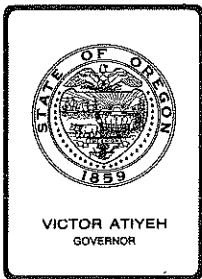
Chairman Petersen took this opportunity to congratulate Dick Nichols on his appointment to the position of Administrator of the Department's Water Quality Division.

There being no further business, the meeting was adjourned.

The Commission had lunch with local officials and then Commissioners Bishop, Brill, Denecke toured a dairy farm to observe manure handling facilities.

Respectfully submitted,

Carol Splettstaszer
EQC Assistant



Environmental Quality Commission

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MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. B, July 25, 1986, EQC Meeting

May 1986 Program Activity Report

Discussion

Attached is the May 1986 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: r
MD26
229-6484
Attachment

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

May 1986

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality, Water Quality,
Hazardous and Solid Waste Division
(Reporting Unit)

May 1986
(Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	Month	FY	Month	FY	Month	FY	
<u>Air</u>							
Direct Sources	6	64	5	61	0	0	12
Small Gasoline Storage Tanks							
Vapor Controls	-	-	-	-	-	-	-
Total	6	64	5	61	0	0	12
<u>Water</u>							
Municipal	14	150	8	155	0	4	35
Industrial	8	82	3	75	0	0	12
Total	22	232	11	230	0	4	47
<u>Solid Waste</u>							
Gen. Refuse	6	35	4	24	2	7	29
Demolition	1	5	2	3	-	1	2
Industrial	1	25	3	21	-	-	16
Sludge	1	3	-	1	-	1	1
Total	9	68	9	49	2	9	48
<u>Hazardous Wastes</u>							
	-	5	-	5	-	-	-
<u>GRAND TOTAL</u>	37	369	28	345	2	13	107

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

COUNTY	NUMBER	SOURCE	PROCESS DESCRIPTION	DATE OF ACTION	ACTION
BENTON	133	EVANS PRODUCTS BSP	DUCTING, VALVES, CONTROLS	05/13/86	APPROVED
WASHINGTON	140	UNITED EPITAXIAL TECH.	SCRUBBER INSTALLED	04/21/86	APPROVED
CLACKAMAS	142	PRECISION CASTPARTS CORP.	VANADIUM BAGHOUSE	05/05/86	APPROVED
POLK	147	WILLAMETTE INDUSTRIES INC	REPLACE DRAG CHAIN WH BLOWER	05/20/86	APPROVED
BENTON	149	EVANS PRODUCTS BSP	INSTALL TCE REMOVAL VESSELS	05/13/86	APPROVED

TOTAL NUMBER QUICK LOOK REPORT LINES 5

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

May 1986
(Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Req'r'g Permits
	Month	FY	Month	FY			
<u>Direct Sources</u>							
New	5	25	1	31	12		
Existing	5	18	4	15	16		
Renewals	19	141	24	165	83		
Modifications	<u>7</u>	<u>20</u>	<u>11</u>	<u>45</u>	<u>11</u>		
Total	36	204	40	256	122	1318	1346
<u>Indirect Sources</u>							
New	1	13	0	18	1		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	<u>1</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>1</u>		
Total	2	<u>14</u>	<u>0</u>	<u>18</u>	2	<u>250</u>	<u>251</u>
<u>GRAND TOTALS</u>	38	218	40	274	124	1568	1597

Number of
Pending Permits

Comments

27	To be reviewed by Northwest Region
16	To be reviewed by Willamette Valley Region
12	To be reviewed by Southwest Region
3	To be reviewed by Central Region
4	To be reviewed by Eastern Region
19	To be reviewed by Program Operations Section
21	Awaiting Public Notice
<u>20</u>	Awaiting end of 30-day Public Notice Period
122	

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

MONTHLY ACTIVITY REPORT
DIRECT SOURCES
PERMITS ISSUED

COUNTY	SOURCE	PERMIT NUMBER	APPL. RECEIVED	STATUS	DATE		PSEL
					ACHIEVED	APPL.	
BENTON	MORSE BROS., INC.	02	2088 03/27/86	PERMIT ISSUED	05/05/86	RNW	Y
BENTON	BUILDER'S SUPPLY CO.	02	2555 03/27/86	PERMIT ISSUED	05/05/86	RNW	Y
JACKSON	SOUTHWEST FOREST INDUSTR.	15	0039 02/06/86	PERMIT ISSUED	05/05/86	RNW	Y
LINN	MORSE BROS., INC.	22	0032 03/27/86	PERMIT ISSUED	05/05/86	RNW	Y
LINN	MORSE BROS., INC.	22	7134 03/27/86	PERMIT ISSUED	05/05/86	RNW	Y
LINN	MORSE BROS., INC.	22	7135 03/27/86	PERMIT ISSUED	05/05/86	RNW	Y
MULTNOMAH	PORTLAND ADVENTIST HOSPTEL	26	2210 01/27/86	PERMIT ISSUED	05/05/86	RNW	N
MULTNOMAH	GREAT NORTHERN PROD INC	26	2538 04/23/86	PERMIT ISSUED	05/05/86	MOD	N
YAMHILL	MARTIN & WRIGHT PAVING	36	0027 02/20/86	PERMIT ISSUED	05/05/86	RNW	Y
BAKER	ASH GROVE CEMENT WEST INC	01	0015 11/12/85	PERMIT ISSUED	05/12/86	RNW	Y
CLACKAMAS	STEIN OIL CO., INC.	03	2676 11/12/85	PERMIT ISSUED	05/12/86	MOD	N
CLACKAMAS	CARSON OIL CO INC	03	2724 04/14/86	PERMIT ISSUED	05/12/86	MOD	N
CLATSOP	CAVENHAM FOREST INDUST.	04	0041 07/22/85	PERMIT ISSUED	05/12/86	MOD	Y
CROOK	PINE PRODUCTS CORP.	07	0006 10/14/85	PERMIT ISSUED	05/12/86	RNW	Y
CURRY	LITTY FUNERAL DIR INC	08	0045 02/14/86	PERMIT ISSUED	05/12/86	NEW	N
DESCHUTES	DAW FOREST PRODUCTS CO	09	0001 04/25/86	PERMIT ISSUED	05/12/86	MOD	Y
DOUGLAS	ROSEBURG FOREST PRODUCTS	10	0017 08/21/85	PERMIT ISSUED	05/12/86	RNW	Y
DOUGLAS	HARSCO CORP REED MIN DIV	10	0066 12/16/85	PERMIT ISSUED	05/12/86	RNW	Y
GRANT	CHANEY'S ASPHALT PVNG CO	12	0034 10/30/85	PERMIT ISSUED	05/12/86	EXT	Y
GRANT	CHANEY'S ASPHALT PVNG CO	12	0035 10/30/85	PERMIT ISSUED	05/12/86	EXT	N
KLAMATH	KLAMATH PACIFIC CORP	18	0068 04/21/86	PERMIT ISSUED	05/12/86	MOD	Y
LINN	CENTRAL LINN SEEDS INC	22	1027 03/12/86	PERMIT ISSUED	05/12/86	RNW	N
MARION	RIVERBEND SAND & GRAVEL	24	4671 12/10/85	PERMIT ISSUED	05/12/86	RNW	Y
MULTNOMAH	COLLINS OIL CO.	26	3020 04/14/86	PERMIT ISSUED	05/12/86	MOD	N
MULTNOMAH	CARSON OIL CO	26	3079 04/14/86	PERMIT ISSUED	05/12/86	MOD	N
MULTNOMAH	ROSS HOLLYWOOD CHAPEL	26	3091 05/01/86	PERMIT ISSUED	05/12/86	MOD	
POLK	OSTROM LUMBER CO.	27	0129 03/06/86	PERMIT ISSUED	05/12/86	RNW	N
POLK	LACREOLE LUMBER & ROCK CO	27	0217 02/20/86	PERMIT ISSUED	05/12/86	RNW	Y
POLK	PACIFIC INTNL PIPE & ENG	27	8027 04/16/85	PERMIT ISSUED	05/12/86	EXT	N
WASHINGTON	COFFEE LAKE ROCK INC.	34	2674 03/15/85	PERMIT ISSUED	05/12/86	RNW	Y
YAMHILL	DAYTON SAND & GRAVEL CO.	36	2010 01/31/86	PERMIT ISSUED	05/12/86	RNW	Y
YAMHILL	KAMPH ROCK CRUSHING CO	36	7023 03/03/86	PERMIT ISSUED	05/12/86	RNW	Y
PORT.SOURCE	CAPITOL CRUSHING CO.	37	0131 02/04/86	PERMIT ISSUED	05/12/86	RNW	Y
PORT.SOURCE	AI READY MIX	37	0353 08/12/85	PERMIT ISSUED	05/12/86	EXT	N
COLUMBIA	STIMSON LUMBER CO.	05	1777 05/05/86	PERMIT ISSUED	05/22/86	MOD	N
DESCHUTES	BEND MILL WORKS CO.	09	0015 07/25/85	PERMIT ISSUED	05/22/86	RNW	
JOSEPHINE	COPELAND PAVING INC	17	0055 03/14/86	PERMIT ISSUED	05/22/86	RNW	Y
KLAMATH	ALPINE VENEERS INC.	18	0010 02/27/86	PERMIT ISSUED	05/22/86	RNW	N
KLAMATH	MAYWOOD INDUSTRIES	18	0063 03/10/86	PERMIT ISSUED	05/22/86	RNW	
MULTNOMAH	GRESHAM COOPERATIVE	26	3073 05/08/86	PERMIT ISSUED	05/22/86	MOD	N

TOTAL NUMBER QUICK LOOK REPORT LINES

40

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

May 1986
(Month and Year)

PERMIT ACTIONS COMPLETED

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

Indirect Sources

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

May 1986
(Month and Year)

PLAN ACTIONS COMPLETED 11

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

MUNICIPAL WASTE SOURCES 8

Linn	Albany/Corvallis KOA On-Site System 6,000 gpd	6-3-86	Preliminary Approval
Umatilla	Hinkle Hotel On-Site System, Repair 10,900 gpd	6-2-86	Preliminary Approval
Josephine	Bridgeview Comm Church Sand Filter/On-Site Disposal 2010 gpd	5-9-86	Comments to County for permit conditions
Coos	Charleston, S.D. Phase I Sewer Project	5-23-86	Preliminary Approval
Clackamas	Canby Redwood Interceptor Sewer	5-8-86	Preliminary Approval
Clackamas	West Linn Riverview Heights	6-2-86	Preliminary Approval
Wasco	The Dalles West 2nd Street Project	6-2-86	Preliminary Approval
Douglas	Green Sanitary District Georginna Drive	5-28-86	Preliminary Approval

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

May 1986
(Month and Year)

PLAN ACTIONS COMPLETED 11

* County	* Name of Source/Project * /Site and Type of Same	* Date * of Action*	* Action	*
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INDUSTRIAL WASTE SOURCES 3

Tillamook	Wayne Christie Manure Control Facility Tillamook	5-5-86	Approved	
Clatsop	Crown Zellerbach Land fill Leachate Collection System, Wauna	5/15/86	Approved	
Crook	Pacific Power & Light Oil Spill Containment Facilities Powell Butte	5-15-86	Approved	

SUMMARY OF ACTIONS TAKEN
ON WATER PERMIT APPLICATIONS IN MAY 86

6 JUN 86

SOURCE CATEGORY & PERMIT SUBTYPE	NUMBER OF APPLICATIONS FILED						NUMBER OF PERMITS ISSUED						APPLICATIONS PENDING PERMIT ISSUANCE (1)			CURRENT TOTAL OF ACTIVE PERMITS		
	MONTH			FISCAL YEAR			MONTH			FISCAL YEAR			NPDES	WPCF	GEN	NPDES	WPCF	GEN
	NPDES	WPCF	GEN	NPDES	WPCF	GEN	NPDES	WPCF	GEN	NPDES	WPCF	GEN						
DOMESTIC																		
NEW	1	2	0	5	20	0	0	3	1	2	16	1	6	12	0			
RW	0	0	0	0	1	0	0	0	0	0	0	0	1	1	0			
RWO	4	5	0	24	18	0	1	1	0	10	7	0	33	20	0			
MW	0	0	0	3	0	0	0	0	0	3	0	0	3	0	0			
MWO	1	0	0	12	2	0	1	0	0	6	2	0	7	0	0			
TOTAL	6	7	0	44	41	0	2	4	1	21	25	1	50	33	0	231	159	29
INDUSTRIAL																		
NEW	1	1	1	5	11	21	0	2	1	3	11	5	5	9	1			
RW	1	0	0	1	0	0	0	0	0	0	0	0	1	0	0			
RWO	0	1	0	19	20	1	4	3	0	31	17	0	17	13	0			
MW	1	0	0	1	0	0	0	0	0	0	0	0	2	0	0			
MWO	0	0	0	9	4	4	1	1	4	10	2	23	5	1	0			
TOTAL	3	2	1	35	35	26	5	6	5	44	30	28	30	23	1	172	135	340
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	1	0	0	1	0	0	0	0	0	0	0	0	1	0			
MW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
MWO	0	0	0	0	1	0	0	0	0	0	1	0	0	0	0			
TOTAL	0	1	0	0	2	0	0	0	0	0	1	0	0	1	0	2	11	57
GRAND TOTAL	9	10	1	79	78	26	7	10	6	65	56	29	80	57	1	405	305	426

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-86.

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	SUB- TYPE	SOURCE ID	LEGAL NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
<u>General: Cooling Water</u>								
IND	100	GEN01	MWO	100130	KLAMATH FALLS, CITY OF	KLAMATH FALLS	KLAMATH/CR	09-MAY-86 31-DEC-90
<u>General: Filter Backwash</u>								
IND	200	GEN02	NEW	66584	CITY OF ALBANY	ALBANY	LINN/WVR	06-MAY-86 31-DEC-90
<u>General: Log Ponds</u>								
IND	400	GEN04	MWO	15819	GOLD BEACH PLYWOOD, INC.	GOLD BEACH	CURRY/SWR	06-MAY-86 31-DEC-90
IND	400	GEN04	MWO	100134	LEBANON PLYWOOD, INC.	LEBANON	LINN/WVR	09-MAY-86 31-DEC-90
<u>General: Placer Mining</u>								
IND	600	GEN06	MWO	100136	CAN AM RESOURCES, INC.		GRANT/ER	30-MAY-86 31-JUL-86
<u>General: Sewers & Pump Stations</u>								
DOM	1100	GEN11	NEW	35061	GREEN SANITARY DISTRICT		DOUGLAS/SWR	23-MAY-86 31-DEC-86

CAT	PERMIT NUMBER	TYPE	SUB- TYPE	SOURCE ID	LEGAL NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
<hr/> <hr/>									
NPDES									
<hr/> <hr/>									
IND	3760	NPDES	MWO	89638	OGDEN MARTIN SYSTEMS OF MARION, INC.	BROOKS	MARION/WVR	06-MAY-86	30-NOV-88
DOM	100176	NPDES	RWO	90948	U. S. DEPARTMENT OF AGRICULTURE - MT HOOD NATIONAL FOREST	TIMBERLAKE	CLACKAMAS/NWR	07-MAY-86	31-DEC-90
DOM	3887	NPDES	MWO	90745	UNIFIED SEWERAGE AGENCY OF WASHINGTON COUNTY	FOREST GROVE	WASHINGTON/NWR	14-MAY-86	31-JUL-89
IND	100177	NPDES	RWO	96116	RIEDEL INTERNATIONAL, INC.	PORTLAND	MULTNOMAH/NWR	14-MAY-86	30-APR-91
IND	100178	NPDES	RWO	51360	LOUISIANA-PACIFIC CORPORATION	DILLARD	DOUGLAS/SWR	14-MAY-86	31-MAR-91
IND	100184	NPDES	RWO	28389	EUGENE WATER & ELECTRIC BOARD	EUGENE	LANE/WVR	30-MAY-86	31-MAR-91
IND	100185	NPDES	RWO	19905	COOS BAY TIMBER OPERATORS, INC.		COOS/SWR	30-MAY-86	31-MAY-91
<hr/> <hr/>									
WPCF									
<hr/> <hr/>									
IND	3720	WPCF	NEW	74486	ARCO OIL AND GAS CORPORATION	MIST	COLUMBIA/NWR	06-MAY-86	31-JUL-88
IND	100175	WPCF	RWO	58835	DELONG SPORTSWEAR, INC.	JEFFERSON	MARION/WVR	07-MAY-86	31-MAR-91
DOM	100179	WPCF	NEW	100117	VAN DOOZER, DAVID A.	CANBY	CLACKAMAS/NWR	14-MAY-86	31-MAR-91
DOM	100180	WPCF	NEW	100124	GREIG, MICHAEL J. & PRISCILLA AND HEINS, ARLENÉ		LINN/WVR	14-MAY-86	31-MAY-91
IND	100181	WPCF	NEW	100091	OREGON GOLD AND SILVER PRODUCERS, INC.	CANYON CITY	GRANT/ER	14-MAY-86	30-APR-87
DOM	100182	WPCF	NEW	100113	HILMAR, VIRGINIA; HILMAR, VLASTA & HENRY, GEORGE	GOLD BEACH	CURRY/SWR	14-MAY-86	30-APR-91
DOM	100183	WPCF	RWO	63310	OLNEY SCHOOL DISTRICT 11C	ASTORIA	CLATSOP/NWR	19-MAY-86	30-APR-91
IND	3710	WPCF	MWO	69550	OREGON GOLD MINES, INC.	MERLIN	JOSEPHINE/SWR	30-MAY-86	30-JUN-88
IND	100186	WPCF	RWO	27650	ERDMAN MEAT PACKING, INC.	BANDON	COOS/SWR	30-MAY-86	31-JAN-91

CAT	PERMIT NUMBER	TYPE	SUB- TYPE	SOURCE ID	LEGAL NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
IND	100187	WPCF	RWO	46940	KLAMATH TALLOW CO.	KLAMATH FALLS	KLAMATH/CR	30-MAY-86	30-APR-91

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division
(Reporting Unit)

May 1986
(Month and Year)

SUMMARY OF SOLID AND HAZARDOUS WASTE PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sites Under Permits	Sites Reqr'g Permits
	Month	FY	Month	FY			
<u>General Refuse</u>							
New	-	4	-	4	1		
Closures	-	5	2	5	5		
Renewals	1	37	3	27	41		
Modifications	2	12	3	68	-		
Total	3	58	7	104	47	182	182
<u>Demolition</u>							
New	-	1	-	1	-		
Closures	-	1	1	2	1		
Renewals	-	2	-	1	2		
Modifications	-	1	-	2	-		
Total	-	5	1	6	3	13	13
<u>Industrial</u>							
New	-	15	-	8	11		
Closures	-	1	-	5	1		
Renewals	-	25	6	14	21		
Modifications	1	10	4	10	-		
Total	1	51	10	37	33	103	103
<u>Sludge Disposal</u>							
New	1	3	-	1	2		
Closures	-	-	-	-	-		
Renewals	-	1	1	1	-		
Modifications	-	-	-	-	-		
Total	1	4	1	2	2	16	16
<u>Hazardous Waste</u>							
New	-	1	-	-	9		
Authorizations	64	654	64	654	-		
Renewals	-	-	-	-	1		
Modifications	-	-	-	-	-		
Total	64	655	64	654	10	14	19
<u>GRAND TOTALS</u>	69	773	83	803	95	328	333

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous & Solid Waste Division
(Reporting Unit)

May 1986
(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Linn	Willamette Industries, Lebanon Existing landfill	5/5/86	Permit renewed.	*
Marion	Young & Morgan Lumber Existing (unused) landfill	5/5/86	Permit renewal application withdrawn.	*
Clatsop	Seaside Transfer Station Existing facility	5/7/86	Permit amended.	*
Multnomah	Killingsworth Landfill Existing landfill	5/7/86	Closure permit issued.	*
Tillamook	Manzanita Transfer Sta. Existing facility	5/7/86	Permit renewed.	*
Clatsop	Warrenton Landfill Closed facility	5/14/86	Closure permit issued.	*
Klamath	Six Bit Prairie Existing sludge site	5/15/86	Permit renewed.	*
Douglas	Glendale Transfer Sta. Existing facility	5/19/86	Permit amended.*	*
Douglas	Yoncalla Transfer Sta. Existing facility	5/19-86	Permit renewed.	*
Gilliam	Condon Landfill Existing facility	5/19/86	Permit amended.*	*
Clackamas	Clackamas Log Yard Existing landfill	5/21/86	Permit amended.	*

*Permits amended by the Department to extend the expiration dates. These actions are intended to simplify the renewal process when no significant changes in the permit are required.

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	* * *
Columbia	Coates Tire Site Existing landfill	5/21/86	Permit amended.	
Columbia	Santosh Landfill Closed facility	5/21/86	Closure permit issued.	
Coos	Weyerhaeuser Co. Allegany Shop Site Existing landfill	5/21/86	Permit renewed.	
Coos	Weyerhaeuser Co. Mettman Ridge Site Existing landfill	5/21/86	Permit renewed.	
Lane	Weyerhaeuser Co. Hickethier Quarry Site Existing landfill	5/21/86	Permit renewed.	
Benton	Morse Bros., Inc. Tremaine Landfill Closed facility	5/22/86	Permit terminated (at permittee's request).	
Crook	Hudspeth Sawmill Co. Closed landfill	5/23/86	Permit revoked.	
Hood River	Hanel Lumber Co. Existing landfill	5/23/86	Permit renewed.	

DATE	WASTE TYPE	SOURCE	DISPOSE NOW	DISPOSE ANNUALLY
07-MAY-86	MERCURY CONTAMINATED CLEAN UP MATERIAL	ELECTRIC SERVICES	0	0.54 CUBIC YARDS
09-MAY-86	LAB PACKS - WASTE PESTICIDES	NONCOMMERCIAL RESEARCH ORG.	0	0.27 CUBIC YARDS
09-MAY-86	LAB PACKS - WASTE PESTICIDES	NONCOMMERCIAL RESEARCH ORG.	0	0.54 CUBIC YARDS

3 Request(s) approved for generators in British Columbia

09-MAY-86	PCB CONTAMINATED SOLIDS	PETROLEUM REFINING (& ASPHALT)	0	0.27 CUBIC YARDS
09-MAY-86	SOIL CONTAMINATED WITH LANDMASTER HERBICIDE	RCRA SPILL CLEANUP	0	170.00 CUBIC YARD

2 Request(s) approved for generators in Montana

07-MAY-86	TIN LEAD PLATING SOLUTION	PLATING & ANODIZING	0	4.85 CUBIC YARDS
09-MAY-86	OUTDATED LAB CHEMICALS - COPPER SULFATE	OTHER CHEMICAL PREPARATIONS	0	0.27 CUBIC YARDS
09-MAY-86	OUTDATED LAB CHEMICALS - FLAMMABLE	OTHER CHEMICAL PREPARATIONS	0	0.81 CUBIC YARDS
14-MAY-86	MIXED ACID WASTE	PLATING & ANODIZING	0	20.00 CUBIC YARDS
21-MAY-86	PCB CONTAMINATED SOLIDS	OTHER ELECTRONIC COMPONENTS	0	3000.00 CUBIC YARD
21-MAY-86	LAB PACK - CORROSIVE ACID	OTHER CHEMICAL PREPARATIONS	02	0.54 CUBIC YARDS
21-MAY-86	OUTDATED LAB CHEMICALS - POISON-TOXIC	OTHER CHEMICAL PREPARATIONS	0	1.08 CUBIC YARDS
21-MAY-86	LAB PACKS - CORROSIVE	OTHER CHEMICAL PREPARATIONS	0	1.62 CUBIC YARDS
21-MAY-86	LAMINATING RESIN	INSTR. TO MEASURE ELECTRICITY	0	0.54 CUBIC YARDS

DATE	WASTE TYPE	SOURCE	DISPOSE NOW	DISPOSE ANNUALLY
22-MAY-86	PCB BALLAST	MOTORS AND GENERATORS	0	0.27 CUBIC YARDS
22-MAY-86	LAB PACKS	OTHER GOVERNMENT AGENCY	0	1.08 CUBIC YARDS
28-MAY-86	PCB CONTAMINATED SOLIDS	MOTORS AND GENERATORS	0	135
28-MAY-86	WASTE WATER WITH HEAVY METALS	SECOND. SMELT NONFERROUS METAL	0	583.00 CUBIC YARD
28-MAY-86	SMOKEHOUSE MATERIAL (W/LEAD)	PRIMARY SMELT NONFERROUS METAL	0	27.00 CUBIC YARDS
29-MAY-86	SOIL SORBENTS CONT/SOLVENTS	HAZARDOUS WASTE DISPOSAL SITE	0	13.5

15 Request(s) approved for generators in Oregon

01-MAY-86	SOIL CONTAMINATED WITH LEAD	HAZARDOUS WASTE DISPOSAL SITE	0	30.00 CUBIC YARDS
01-MAY-86	SPILL RESIDUE WITH JET FUEL, NAPHTHA, HYDROLIC OIL, ETC	DEPARTMENT OF DEFENSE	0	10.00 CUBIC YARDS
07-MAY-86	CONSOLIDATION TANK SOLIDS FROM PAINTS & EPOXY RESINS	HAZARDOUS WASTE DISPOSAL SITE	0	648.00 CUBIC YARD
07-MAY-86	NONCHLORINATED SOLVENT CONTAMINATED SOIL & DEBRIS	AIRCRAFT	0	2,000.00 CUBIC YA
07-MAY-86	CHROME CONTAMINATED SOLIDS	AIRCRAFT	0	100.00 CUBIC YATD
07-MAY-86	CHLORINATED SOLVENT CONTAMINATED SOIL & DEBRIS	AIRCRAFT	0	2,000.00 CUBIC YA
07-MAY-86	LAB PACKS - WASTE ORM-A	COMMERCIAL TESTING LABS	0	0.27 CUBIC YARDS
07-MAY-86	LAB PACKS - WASTE IRRITATING AGENT	COMMERCIAL TESTING LABS	0	0.27 CUBIC YARDS
07-MAY-86	LAB PACKS - WASTE POISON B	COMMERCIAL TESTING LABS	0	0.27 CUBIC YARDS
09-MAY-86	PCP CONTAMINATED SOIL	ELECTRIC SERVICES	0	14.25 CUBIC YARDS
09-MAY-86	ASBESTOS	DEPARTMENT OF DEFENSE	0	10 CUBIC YARDS
09-MAY-86	ALKALINE CONTAMINATED SOIL	HAZARDOUS WASTE DISPOSAL SITE	0	135 CUBIC YARDS

DATE	WASTE TYPE	SOURCE	DISPOSE NOW	DISPOSE ANNUALLY
09-MAY-86	TETRACHLOROETHYLENE STILL SLUDGES	DRY CLEANING PLANTS (NO RUGS)	0	0.87 CUBIC YARDS
21-MAY-86	LAB PACKS - WASTE ORM-E	COMMERCIAL TESTING LABS	0	0.27 CUBIC YARDS
21-MAY-86	LAB PACKS - WASTE ORM-E	COMMERCIAL TESTING LABS	0	0.27 CUBIC YARDS
21-MAY-86	LAB PACK - WASTE FLAMMABLE	COMMERCIAL TESTING LABS	0	0.27 CUBIC YARDS
21-MAY-86	LAB PACKS - CORROSIVE	COMMERCIAL TESTING LABS	0	0.27 CUBIC YARDS
21-MAY-86	LAB PACKS - CORROSIVE	COMMERCIAL TESTING LABS	0	0.27 CUBIC YARDS
22-MAY-86	SPILL RESIDUE - WASTE PAINT SLUDGE	DEPARTMENT OF DEFENSE	0	13.50 CUBIC YARDS
22-MAY-86	MERCURIC NITRATE SOLUTION	COMMERCIAL TESTING LABS	0	0.87 CUBIC YARDS
22-MAY-86	BAGHOUSE DUST	STEEL FOUNDRIES	0	120.00 CUBIC YARD
22-MAY-86	MILL BREAKING WASTE	MINERALS, GROUND OR TREATED	0	0.81 CUBIC YARDS
22-MAY-86	MILL WASTE - LEAD BASED	MINERALS, GROUND OR TREATED	0	2.16 CUBIC YARDS
22-MAY-86	ACETONE STILL BOTTOMS	HAZARDOUS WASTE DISPOSAL SITE	0	16.20 CUBIC YARDS
28-MAY-86	PCB CONTAMINATED SOIL & DEBRIS	AIRCRAFT	0	500.00 CUBIC YARD
28-MAY-86	PAINT STRIPPER WASTE SLUDGE	DEPARTMENT OF DEFENSE	0	14.85 CUBIC YARDS
28-MAY-86	LAB PACK - POISON B LIQUID	HAZARDOUS WASTE DISPOSAL SITE	0	2.43 CUBIC YARDS
28-MAY-86	LAB PACK - HAZARDOUS WASTE SOLID	HAZARDOUS WASTE DISPOSAL SITE	0	2.43 CUBIC YARDS
28-MAY-86	API SEPARATOR SLUDGE	HAZARDOUS WASTE DISPOSAL SITE	0	81.00 CUBIC YARDS
28-MAY-86	CYANIDE IN SOLUTION	COMMERCIAL TESTING LABS	0	10.00 CUBIC YARDS
28-MAY-86	MILL WASTE - BARIUM BASED	INDUSTRIAL INORGANIC CHEMICALS	0	12.00 CUBIC YARDS
28-MAY-86	PLATING WASTE - FILTER CAKE	PLATING & ANODIZING	0	1.08 CUBIC YARDS
28-MAY-86	STEEL FROM DISMANTLED FUEL TANKS AND CONTAMINATED SOILS	INDUSTRIAL INORGANIC CHEMICALS	0	12.00 CUBIC YARDS

|DISPOS-R

Hazardous Waste Disposal Requests Approved Between
01-MAY-86 AND 31-MAY-86 for Chem-Security Systems, Inc., Gilliam Co.

10 JUN 86 PAGE 4

DATE	WASTE TYPE	SOURCE	DISPOSE NOW	DISPOSE ANNUALLY
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53 Requests granted - Grand Total

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit)	May, 1986 (Month and Year)
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SUMMARY OF NOISE CONTROL ACTIONS

Source Category	New Actions Initiated		Final Actions Completed		Actions Pending	
	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>Last Mo</u>
Industrial/ Commercial	13	126	5	100	197	189
Airports			1	10	1	1

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program	May, 1986
(Reporting Unit)	(Month and Year)

FINAL NOISE CONTROL ACTIONS COMPLETED

County	* * Name of Source and Location	* * Date	* * Action
Clackamas	Oregon Glass Company, Wilsonville	05/86	In Compliance
Multnomah	Schmitt Forge, Inc., Portland	05/86	No Violation
Multnomah	Tuxedo Charley's Portland	05/86	No Violation
Washington	J. V. Northwest, Inc. Tualatin	05/86	In Compliance
Benton	Northside Lumber Philomath	05/86	Source Closed
Malheur	Malheur Memorial Hospital Emergency Heliport, Nyssa	05/86	Exception Granted

CIVIL PENALTY ASSESSMENTS
DEPARTMENT OF ENVIRONMENTAL QUALITY
1986

CIVIL PENALTIES ASSESSED DURING MONTH OF MAY, 1986:

<u>Name and Location of Violation</u>	<u>Case No. & Type of Violation</u>	<u>Date Issued</u>	<u>Amount</u>	<u>Status</u>
Bergsoe Metal Corporation St. Helens, Oregon	HW/AQ-NWR-86-32A Unauthorized disposal of hazardous waste (lead and cadmium); failure to have a closure plan; failure to demonstrate finan- cial assurance.	5/19/86	\$16,000	Requested time extension to file an answer. Time extension to 7/1/86 was granted.
Roy Vandervelde Yamhill County	WQ-WVR-86-39 Discharge of silage waste and manure to public waters.	5/19/86	\$5,500	Hearing requested and answer filed 6/6/86.
Marvin Decker Washington County	AQOB-NWR-86-54 Open burned tires; 2 days of violation.	5/21/86	\$3,000	Hearing request and answer filed 6/2/86.
Luttrell Farms, Inc. Washington County	AQOB-NWR-86-55 Open burned tires; 2 days of violation.	5/21/86	\$3,000	Hearing request and answer filed 6/10/86.
Frank Tankersley Washington County	AQOB-NWR-86-62 Open burned tires.	5/23/86	\$1,500	Awaiting response to notice.
Douglas S. Coats, Inc. Washington County	AQOB-NWR-86-47 Open burned con- struction waste and railroad ties.	5/23/86	\$500	Awaiting response to notice.
Steve Hebener dba/Steve's Exxon Burns, Oregon	WQ-CR-86-43 Entry of gasoline into groundwater from a leaky tank.	5/23/86	\$50	Awaiting response to notice.
Hanna Nickel Smelting Co. Riddle, Oregon	WQ-SWR-86-38 Unauthorized discharge of waste to public waters.	5/28/86	\$1,000	Awaiting response to notice.

VAK:b
GB5757

May, 1986
DEQ/EQC Contested Case Log

<u>ACTIONS</u>	<u>LAST MONTH</u>	<u>PRESENT</u>
1 Preliminary Issues	0	3
2 Discovery	0	0
3 Settlement Action	2	2
4 Hearing to be scheduled	0	0
5 Hearing scheduled	3	3
6 HO's Decision Due	5	5
7 Briefing	1	0
8 Inactive	<u>2</u>	<u>2</u>
SUBTOTAL of cases before hearings officer.	13	15
9 HO's Decision Out/Option for EQC Appeal	0	1
10 Appealed to EQC	1	0
11 EQC Appeal Complete/Option for Court Review	1	1
12 Court Review Option Taken	2	1
13 Case Closed	<u>2</u>	<u>4</u>
TOTAL Cases	19	22

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

 \$ Civil Penalty Amount

 ACDP Air Contaminant Discharge Permit

 AGL Attorney General 1

 AQ Air Quality Division

 AQOB Air Quality, Open Burning

 CR Central Region

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

 ER Eastern Region

 FB Field Burning

 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

 Prty 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 1986

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	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.
HAYWORTH FARMS, INC., and HAYWORTH, John W.	01/14/83	02/28/83	04/04/84	Resp	50-AQ-FB-82-09 FB Civil Penalty of \$1,000	Appealed to Court of Appeals.
McINNIS ENT.	06/17/83	06/21/83	<u>07/01/86</u>	Prtys	52-SS/SW-NWR-83-47 SS/SW Civil Penalty of \$500	Hearing scheduled.
McINNIS ENTERPRISES, LTD., et al.	09/20/83	09/22/83	<u>07/01/86</u>	Prtys	56-WQ-NWR-83-79 WQ Civil Penalty of \$14,500	Hearing scheduled.
McINNIS ENTERPRISES, LTD., et al.	10/25/83	10/26/83	<u>07/01/86</u>	Prtys	59-SS-NWR-83-33290P-5 SS license revocation	Hearing scheduled.
CLEARWATER IND., Inc.	10/11/83	10/17/83	01/13/86	Hrgs	58-SS-NWR-83-82 SS Civil Penalty of \$1000	Decision due.
CLEARWATER IND., Inc.	01/13/84	01/18/84	01/13/86	Hrgs	02-SS-NWR-83-103 SS Civil Penalty of \$500	Decision due.

May 1986

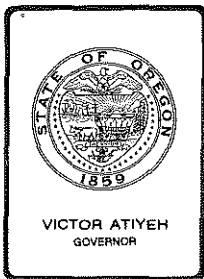
DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
VANDERVELDE, Roy	06/12/84	06/12/84	08/22/85	Dept	20-WQ-WVR-84-01 WQ-Civil-Penalty of-\$2,500	<u>Hearings officer affirmed penalty. Vandervelde's late appeal then dismissed by hearings officer without further appeal. Case closed.</u>
CLEARWATER Industries, Inc.	10/11/84	10/11/84	01/13/86	Hrng	24-SS-NWR-84-P Sewage Disposal Service License Denial	Request for permit withdrawn. Order of dismissal to be issued.
LAVA-DIVERSION PROJECT	12/14/84	12/27/84		Prtys	25-WQ-CR-FERC-5205 Hydroelectric plant certification	<u>Case closed.</u>
FUNRUE, Amos	03/15/85	03/19/85	06/20/85	Dept	05-AQ-FB-84-141 Civil Penalty of \$500	<u>EQC affirmed \$500 penalty.</u>
DANT & RUSSELL, INC.	05/31/85	05/31/85	03/21/86	Prtys	15-HW-NWR-85-60 Hazardous waste disposal Civil Penalty of \$2,500	Hearing deferred for settlement action.
MERIT OIL & REFINING CO.		07/24/85	05/13/86	Prtys	20-WQ-NWR-85-61 WQ Civil Penalty of \$1,200	Hearing deferred for settlement action.
E.J. BARTELLS CO.	10/04/85	10/08/85	02/27/86	Prtys	21-AQ-WQ/SW-NWR-85-78 \$10,000-Civil-Penalty	Settlement Agreement and Final Order signed by EQC 3-14-86. Case closed.

May 1986

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	Hrng Date	Resp Code	Case Type & No.	Case Status
AMCOAT, INC.	10/15/85	10/23/85	04/04/86	Prtys	22-HW/WQ-NWR-85-85 \$5,000 civil penalty	Stipulation and Final Order signed by EQC 4-25-86. Case closed.
BRAZIER FOREST PRODUCTS	11/22/85	12/12/85	02/10/86	Hrgs	23-HSW-85 Declaratory Ruling	<u>Presiding Officer's Ruling</u> <u>Issued May 16, 1986.</u>
NULF, DOUG	01/10/86	01/13/86	04/28/86	Prtys	01-AQFB-85-02 \$500 Civil Penalty	Decision due.
DOERFLER, RICHARD	01/24/86	01/31/86	04/11/86	Prtys	02-AQFB-85-03 \$300 Civil Penalty	Decision due.
<u>DECKER, MARVIN</u>	<u>06/02/86</u>	<u>06/03/86</u>		<u>Prtys</u>	<u>04-AQOB-NWR-86-54</u> <u>\$3,000 Civil Penalty</u>	<u>Preliminary Issues.</u>
<u>VANDERVELDE, ROY</u>	<u>06/06/86</u>	<u>06/10/86</u>		<u>Prtys</u>	<u>05-WQ-WVR-86-39</u> <u>\$5,500 Civil Penalty</u>	<u>Preliminary Issues.</u>
<u>LUTTRELL FARMS,</u> <u>INC.</u>	<u>06/10/86</u>	<u>06/12/86</u>		<u>Prtys</u>	<u>06-AQOB-NWR-86-55</u> <u>\$3,000 Civil Penalty</u>	<u>Discovery</u>



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item C, July 25, 1986, EQC Meeting

Tax Credit Applications

Director's Recommendations

It is recommended that the Commission take the following action:

1. Revoke Pollution Control Facility Certificate numbered 837 issued to Champion International. Reissue the same certificate to US Plywood.
2. Revoke Pollution Control Facility Certificate numbered 822 issued to Freres Lumber Company. Reissue a certificate numbered 822A to Freres Lumber Company for one bag filter and another certificate numbered 822B to US Plywood for two other bag filters on the same site.


Fred Hansen

SChew
229-6484
24 June 86

EQC Agenda Item C
July 25, 1986
Page 2

1986 Calendar Year Totals for Tax Credits Certified at this time:

Air Quality	\$2,853,600.52
Water Quality	2,664,469.20
Hazardous/Solid Waste	1,250,534.88
Noise	<u>18,387.00</u>
	6,786,991.60

State of Oregon
Department of Environmental Quality

REISSUANCE OF POLLUTION CONTROL FACILITY CERTIFICATE

1. Certificate issued to:

Champion International Corporation
Champion Building Products
PO Box 10228
Eugene, OR 97401

The certificate was issued for an air pollution control facility.

2. Summation:

In October 1977, the Environmental Quality Commission issued Tax Credit Certificate Number 837 to Champion International. This was for a bag-house control system for cyclones on a hardwood plant. The plant has since been sold to US Plywood and they have requested use of the certificate in their name. (Letters attached)

3. Director's Recommendation:

It is recommended that Certificate Number 837 issued to Champion International in October 1977, be revoked and reissued to US Plywood; the certificate to be valid only for the time remaining from the date of the first issuance.

SChew
229-6484
20 June 86

Timberlands
P.O. Box 849
Eugene, Oregon 97440
503 687-4647

Management Services Div.
Dept. of Environmental Quality
RECEIVED
DEC 3 1985

LSP



November 18, 1985

DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
NOV 18 1985
WATER QUALITY CONTROL

Department of Environmental Quality
Box 1760
Portland, OR 97207

Gentlemen:

Our mill at Mapleton, Oregon has been sold to Davidson Industries, P.O. Box 7, Mapleton, OR 97453. I will advise them that the following pollution control certificates are available for transfer to them:

<u>Certificate No.</u>	<u>App. No.</u>	<u>Description</u>
821	T-904	Waste Water Collection
823	T-906	Incinerate Dryer Emissions
944	T-1027	Hog Fuel Preparation System
1340	T-1434	Dryer Wash Water System

Our mills at Idanha and Lebanon, Oregon have been sold to Freres Lumber Co., Box 312, Lyons, OR 97358. I will advise them that the following control certificates are available for transfer to them:

<u>Certificate No.</u>	<u>App. No.</u>	<u>Description</u>
948	T-1026	Hog Fuel Preparation System
822 2/3 of Cert.	T-905	Buffalo Bag House Filter
830	T-914	Glue Waste Recirculation
1018	T-1122	Two Baghouses
1019	T-1123	Dryer Wash Water Recirc.
1022	T-1127	Clark Baghouse
1336	T-1430	Waste Water Recirculation
1339	T-1433	Dryer Exhaust to Boiler

Our Lebanite plant at Lebanon has been sold to U.S. Plywood Corporation, 37680 River Road, Lebanon, OR 97355. I will advise them that the following pollution control certificates are available for transfer to them:

Department of Environmental Quality
November 8, 1985
Page 2

<u>Certificate No.</u>	<u>App. No.</u>	<u>Description</u>
822 1/3 of Cert.	T-905	Buffalo Bag House Filter
837	T-916	Baghouse Control System

Our mills at Gold Beach and Dee have not been sold and are still on the market. There are several potential buyers currently looking at these mills. The following certificates apply to Gold Beach and Dee:

<u>Certificate No.</u>	<u>App. No.</u>	<u>Description</u>
825	T-908	Glue Wash Water
826	T-909	Three Baghouses
857	T-932	Wood Waste Reclaim System
871	T-944	Dryer Washwater Treatment
1021	T-1126	Glue Wash Water System
1338	T-1432	Modify Dryers & Scrubber
858	T-933	Waste Treatment Plant
945	T-1028	Hog Fuel Boiler

Very truly yours,

M. F. Rapp

Marvin F. Rapp

MFR/se

cc W. O. Larson
R. Heinert



U.S. Plywood Corporation
Lebanite Operation
37680 River Road
Lebanon, Oregon 97355
503 451 1463

Department of Environmental Quality
P.O. Box 1760
Portland, Or 97207

December 29, 1985

Gentlemen:

Request transfer of the following pollution control certificates.
Champion International sold the Lebanite Hardboard mill to U.S.
Plywood.

Certificate No.s : 822 and 837

Purchase Date : Assets sold effective 1 June 1985.
Papers signed on 27 August 1985

Sold to: U.S. Plywood Corporation
372 Danbury Road
Wilton, Ct 06897

Seller: Champion International Corporation
One Champion Plaza
Stamford, CT 06921

Attached is a copy of a letter from Marvin Rapp explaining the same.

Very truly yours,

A handwritten signature in cursive script that reads "Karen L. Buhl".

Karen L. Buhl

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 837
Date of Issue 10/21/77
Application No. T-916

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: <i>Champion International Corporation</i> Champion Building Products Division P. O. Box 10228 Eugene, Oregon 97401	Location of Pollution Control Facility: Lebanon, Oregon <div style="text-align: right; font-family: cursive; font-size: 1.2em; margin-top: 10px;">Lebanon</div>
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility: Baghouse control system for cyclones 14, 15, 16 and 21 on the hardboard plant. Baghouse is a Carter-Day Model 144 RJ-96	
Type of Pollution Control Facility: <input checked="" type="checkbox"/> Air <input type="checkbox"/> Noise <input type="checkbox"/> Water <input type="checkbox"/> Solid Waste	
Date Pollution Control Facility was completed: <u>8/1/72</u> Placed into operation: <u>8/1/72</u>	
Actual Cost of Pollution Control Facility: \$ <u>49,414.00</u>	
Percent of actual cost properly allocable to pollution control: <div style="text-align: center; margin-top: 5px;">80% or more</div>	

In accordance with the provisions of ORS 468.155 et seq., it is hereby certified that the facility described herein and in the application referenced above is a "Pollution Control Facility" within the definition of ORS 468.155 and that the air or water facility was constructed on or after January 1, 1967, the solid waste facility was under construction on or after January 1, 1973, or the noise facility was constructed on or after January 1, 1977, and the facility is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air, water, noise or solid waste pollution, and that the facility is necessary to satisfy the intents and purposes of ORS Chapter 459, 467 or 468 and the regulations adopted thereunder.

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

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

Signed _____

Title Joe B. Richards, Chairman

Approved by the Environmental Quality Commission on
the 21st day of October, 1977

State of Oregon
Department of Environmental Quality

REISSUANCE OF POLLUTION CONTROL FACILITY CERTIFICATE

1. Certificate issued to:

Freres Brothers Lumber
PO Box 312
Lyons, OR 97358

The certificate was issued for an air pollution control facility.

2. Summation:

In September 1977, the Environmental Quality Commission issued Tax Credit Certificate Number 822 to Champion International. This was for three baghouses at its Lebanon site. The Commission revoked the certificate in November 1985, and reissued it to Freres Brothers Lumber. The Department had been told that they had purchased the pollution control facilities.

In December 1985, US Plywood notified DEQ that Freres Brothers had only purchased one part of the Lebanon site and that US Plywood had purchased the rest of the site which included two of the baghouse filters listed on Tax Credit Certificate Number 822.

A site investigation by DEQ Staff indicated that Buffalo No. B-96-20 baghouse filter system was purchased by Freres Brothers and that Buffalo Nos. B-48-20 and B-80-20 baghouse filter systems were purchased by US Plywood.

3. Director's Recommendation

It is recommended that Certificate Number 822 issued to Freres Brothers in November 1985 for the three baghouse filters be revoked. Certificate Number 822A for Buffalo No. B-96-20 baghouse filter should be issued to Freres Brothers and Certificate Number 822B for Buffalo Nos. B-48-20 and B-80-20 baghouse filters be issued to US Plywood.

SChew
19 June 86
229-6484



April 11, 1986

Department of Environmental Quality
Box 1760
Portland, Oregon 97207

Attention: Maggie Conley

Gentlemen:

The enclosed plant location of the seven cyclones indicates that two of them are on the facilities purchased by Freres Lumber Co. and five are on the facilities purchased by U. S. Plywood. Therefore, 2/7ths of certificate 822 is eligible to be transferred to Freres Lumber Co., and 5/7ths to U. S. Plywood.

Copies of the letters to the two companies advising them of this allocation of the certificate are enclosed.

Very truly yours,

M. F. Rapp
Marvin F. Rapp

MFR/mgd

Encs.



April 11, 1986

Freres Lumber Co
Box 312
Lyon, Oregon 97358

Gentlemen:

The enclosed plant layout of cyclones at the Lebanon millsite indicates that the original allocation of Pollution Control Certificate number 822 was not correct. Only cyclones #44 and #45 are located on facilities purchased by you. Therefore, two-sevenths of the certificate should have been allocated to Freres Lumber Co.

The credit remaining for use is calculated as follows:

Balance available 12-31-85	<u>\$22,221</u>
2/7ths of above balance	<u>6,349</u>
Credit available for use in 1985	<u>3,174</u>
Less 1/4 of above to be used by Champion	794
Net credit available for Freres in 1985	<u>\$ 2,380</u>
Credit available for Freres in 1986	<u>\$ 3,175</u>

A copy of the cyclone layout is enclosed for your file.

Very truly yours,

M. F. Rapp
Marvin F. Rapp

MFR/mgd

Enc.

cc: DEQ - Portland
Phil Clark - Stamford



U.S. Plywood Corporation
Lebanite Operation
37680 River Road
Lebanon, Oregon 97355
503 451 1463

Department of Environmental Quality
P.O. Box 1760
Portland, Or 97207

December 29, 1985

Gentlemen:

Request transfer of the following pollution control certificates.
Champion International sold the Lebanite Hardboard mill to U.S.
Plywood.

Certificate No.s : 822 and 837

Purchase Date : Assets sold effective 1 June 1985.
Papers signed on 27 August 1985

Sold to: U.S. Plywood Corporation
372 Danbury Road
Wilton, Ct 06897

Seller: Champion International Corporation
One Champion Plaza
Stamford, CT 06921

Attached is a copy of a letter from Marvin Rapp explaining the same.

Very truly yours,

A handwritten signature in cursive script that reads "Karen L. Buhl".

Karen L. Buhl

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Cert. No. 822
Date First Issued 9-23-77
Date Reissued 11/22/85
Appl. No. T-905

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: Freres Lumber Co., Inc. PO Box 312 Lyons, OR 97358	Location of Pollution Control Facility: Lebanon, Oregon
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility: Buffalo No. B-48-20 baghouse filter system on cyclones #37 and #38; Buffalo No. B-96-20 baghouse filter system on cyclones #44 and #45; Buffalo No. B-80-20 baghouse filter system on cyclones #24, #25 and #27.	
Type of Pollution Control Facility: <input checked="" type="checkbox"/> Air <input type="checkbox"/> Noise <input type="checkbox"/> Water <input type="checkbox"/> Solid Waste <input type="checkbox"/> Hazardous Waste <input type="checkbox"/> Used Oil	
Date Pollution Control Facility was completed: <u>February 1972</u> Placed into operation: <u>February 1972</u>	
Actual Cost of Pollution Control Facility: \$ <u>285,970.00</u>	
Percent of actual cost properly allocable to pollution control: <p style="text-align: center;">80 percent or more</p>	

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.

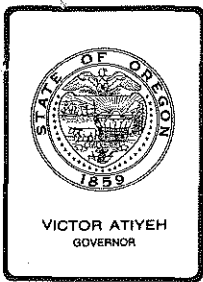
NOTE— The facility described herein is not eligible to receive tax credit certification as an Energy Conservation Facility under the provisions of Chapter 512, Oregon Law 1979, if the person issued the Certificate elects to take the tax credit relief under ORS 316.097 or 317.072.

NOTE: THIS IS A REISSUED CERTIFICATE VALID ONLY FOR THE TIME REMAINING FROM THE DATE OF FIRST ISSUANCE.

Signed James E. Petersen

Title James E. Petersen, Chairman

Approved by the Environmental Quality Commission on
the 22nd day of November, 1985.



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 D , July 25, 1986, EQC Meeting

Request for Authorization to Hold a Public Hearing on the Grants Pass Carbon Monoxide Control Strategy as a Revision to the State Implementation Plan

BACKGROUND

The federal Clean Air Act requires States to submit plans to demonstrate how they will attain and maintain compliance with national ambient air quality standards for those areas designated as "nonattainment." The Environmental Quality Commission designated a portion of the City of Grants Pass as a nonattainment area for carbon monoxide (CO) on November 2, 1984. Subsequently, the U.S. Environmental Protection Agency (EPA) designated the Grants Pass CO nonattainment area in the December 16, 1985 Federal Register.

A carbon monoxide control plan for the Grants Pass area must be submitted to EPA by December 16, 1986 (12 months after EPA designation). The plan must be adequate to meet air quality standards by December 1990 (5 years after EPA designation).

Governor Victor Atiyeh appointed the City of Grants Pass as the lead agency responsible for the preparation and implementation of the control plan in May 1985. A proposed carbon monoxide control strategy was completed in May 1986 by staffs of the City of Grants Pass and Rogue Valley Council of Governments, with the assistance of Josephine County and the Oregon Departments of Transportation and Environmental Quality. The control strategy was adopted by the City of Grants Pass on June 4, 1986 and forwarded to the Environmental Quality Commission for inclusion in the State Implementation Plan (SIP).

ORS 468.305 authorizes the Commission to prepare and develop a comprehensive plan for the control of air pollution. Attachment 1 contains the Statements of Need for Rulemaking, Fiscal and Economic Impact, and Land Use Consistency. Attachment 2 contains the carbon monoxide control strategy as adopted by the City of Grants Pass. Attachment 3 contains the lead agency designation.

EVALUATION AND ALTERNATIVES

Carbon Monoxide in General

Carbon monoxide (CO) is a colorless, odorless, tasteless gas. In the body, CO binds tightly to hemoglobin (the red pigment in blood that moves oxygen from the lungs to the rest of the body). Once hemoglobin is bound to CO, it can no longer carry oxygen. In this way, CO reduces the oxygen-carrying capacity of the blood and can have adverse health effects.

High concentrations of CO strongly impair the functions of oxygen dependent tissues, including brain, heart and muscle. Prolonged exposure to low levels of CO aggravates existing conditions in people with heart disease or circulatory disorders. There is a correlation between CO exposure and increased hospitalization and death among such patients. Even in otherwise healthy adults, carbon monoxide has been linked to increased heart disease, decreased athletic performance and diminished mental activity. Carbon monoxide also affects newborn and unborn children. High CO levels have been associated with low birth-weights and increased infant mortality.

A major natural source of CO is spontaneous oxidation of naturally occurring methane (swamp gas). The major human-caused source is incomplete combustion of carbon-based fuels. Primarily this is from gasoline-powered motor vehicles. Other important sources are woodstoves and fireplaces. Industry is generally a minor source.

How a motor vehicle is operated has an effect on the amount of CO emitted. At idle and low vehicle speed, CO emissions are high. Emissions are also increased when the outside temperature is low. Oregon's most serious CO problems occur during stagnant winter weather in areas of heavy traffic congestion.

Past CO control efforts have included roadway and signal improvements (to smooth traffic flow), diversion of traffic flow around the problem area (to reduce congestion), expanded public transit (to reduce automobile trips), the federal new car emission control program (requiring progressively more effective pollution control equipment on newer motor vehicles), and automobile inspection and maintenance programs (to insure proper vehicle maintenance and obtain maximum benefits from the pollution control equipment).

Grants Pass Carbon Monoxide

Carbon monoxide (CO) concentrations in Grants Pass during 1983-85 were substantially above the 8-hour carbon monoxide health standard. CO levels must be reduced by about 30 percent to meet the health standard in Grants Pass by December 1990.

Automobiles and trucks contributed about 75 percent of the CO emissions in the Grants Pass urban area and caused about 85 percent of the CO concentration in the Grants Pass downtown nonattainment area in 1984. If traffic volumes remained constant between 1984 and 1990, then automobile/truck emissions in Grants Pass would decrease by about 25 percent due to newer cars (with more effective pollution control equipment as required by the

federal new car emission control program) replacing older cars. However, highway CO emissions are expected to decrease by only 12 percent due to increasing traffic volume which results in decreased traffic speed which further increases CO emissions.

Alternative Transportation Improvements

A number of potential transportation improvement projects were evaluated and prioritized in a Roadway and Traffic Safety Management Plan for the City of Grants Pass in 1981. Although the primary criteria for prioritizing these projects were safety improvement, congestion reduction and energy conservation, some of these projects would also have air quality benefits.

A technical advisory committee grouped the potential projects into eight alternative 1990 transportation improvement scenarios. The technical advisory committee was made up of representatives of the City of Grants Pass, Josephine County, Rogue Valley Council of Governments, Oregon Department of Transportation, and Oregon Department of Environmental Quality. The following alternatives were evaluated:

- o Alternative 0: No Build
- o Alternative 1: Committed Projects Only (J and Mill St. Improvements)
- o Alternative 2: Committed & Agness Extension
- o Alternative 3: Committed & Third (East) Bridge
- o Alternative 4: Committed & Fourth (West) Bridge
- o Alternative 5: Committed & 4th/9th St. Improvements
- o Alternative 6: Committed & Signal Rehabilitation
- o Alternative 7: Third Bridge Only

The results of the traffic and air quality analyses are outlined in the following table. The speed units are miles-per-hour (mph), the traffic units are vehicle-miles-travelled (vmt), the emissions units are kilograms (kg) of carbon monoxide, and the ambient carbon monoxide units are milligrams per cubic meter. The two most critical intersections are located at 6th and F Streets and at 7th and M Streets.

Table 1. Peak 8-Hour Traffic and Air Quality Results.

Alternative	Speed (mph)	Traffic (VMT)	Emissions (kg)	Carbon Monoxide Level (mg/m ³)	
				6th & F	7th & M
1984 Base	17.9	26,440	1,791	13.2*	12.0*
1990 Alt 0	16.6	28,486	1,557	11.3*	11.7*
1990 Alt 1	16.6	28,644	1,573	11.3*	11.0*
1990 Alt 2	17.5	26,768	1,399	10.1*	11.3*
1990 Alt 3	19.7	20,078	942	7.6	6.3
1990 Alt 4	17.6	27,103	1,407	10.6*	9.3
1990 Alt 5	17.9	24,813	1,296	8.1	13.5*
1990 Alt 6	17.1	28,644	1,525	10.5*	11.0*
1990 Alt 7	19.8	19,786	920	7.6	6.6

*Violation of CO standard (10 milligrams per cubic meter).

The third bridge across the Rogue River was the only transportation improvement project identified that was adequate to attain the CO health standard by December 1990 and maintain the standard in subsequent years.

It is possible that one of the other transportation alternatives would be adequate to meet the standard by 1990 if combined with an automobile inspection and maintenance (I/M) program. But an I/M program, while proven effective in reducing CO emissions, would not reduce the serious traffic congestion problems identified in Grants Pass. Traffic congestion is expected to worsen with growth in population, employment and traffic. The projected 1995 traffic volumes and speeds without the third bridge indicate that CO violations would again occur in 1995 even with I/M due to the existing bottleneck problem at the Rogue River crossing.

Proposed Control Strategy

The CO control strategy adopted by the City of Grants Pass on June 4, 1986 (Attachment 2) is the combination of the federal new car emission control program and the construction of the third bridge. The Oregon Department of Transportation (ODOT) has included the third bridge project in the proposed Six-Year (1987-1992) Highway Improvement Program. (The Department strongly urged ODOT to include the third bridge project, which was not scheduled for construction in the initial Six-Year Program proposal, as outlined in Attachment 4.) The Six-Year Program is scheduled for adoption by the Oregon Transportation Commission on July 22, 1986.

The third bridge is proposed for construction beginning sometime after October 1988. The project is to be financed using State Modernization Funds at an estimated cost of \$15 million (1987 dollars).

The selected CO control strategy will substantially reduce traffic congestion and CO concentrations in the Grants Pass downtown area. CO emissions are projected to decrease by almost 50 percent between 1984 and 1990. The peak 8-hour CO concentration is projected to decrease to less than 8 milligrams per cubic meter by 1990, well below the 10 milligrams per cubic meter CO health standard.

Funding is uncertain for the other projects prioritized in the Grants Pass Roadway and Traffic Safety Management Plan. If funded and constructed, none of these projects would interfere (and some would help) with attainment of the CO standard in Grants Pass.

SUMMATION

1. A portion of the City of Grants Pass was designated as a carbon monoxide nonattainment area by the Commission in November 1984, and by the U.S. Environmental Protection Agency (EPA) in December 1985. Carbon monoxide concentrations in Grants Pass during 1983-85 were about 30 percent above state and federal standards.
2. The federal Clean Air Act requires that a carbon monoxide control plan for the Grants Pass area be submitted to EPA by December 16, 1986. The plan must be adequate to meet air quality standards by December 1990.
3. The City of Grants Pass was appointed as the lead agency responsible for the preparation and implementation of the control plan by Governor Victor Atiyeh in May 1985.

4. A proposed carbon monoxide control strategy was completed by staff of the City of Grants Pass and Rogue Valley Council of Governments, with the assistance of Josephine County and the Oregon Departments of Transportation and Environmental Quality, in May 1986. The control strategy was adopted by the City of Grants Pass on June 4, 1986 and forwarded to the Commission for inclusion in the State Implementation Plan.
5. The Grants Pass carbon monoxide control strategy includes the construction of a third bridge over the Rogue River and continuation of the federal new car emission control program. The third bridge would reduce carbon monoxide emissions and traffic congestion in the downtown nonattainment area by diverting traffic around the problem area. The federal new car program would continue to reduce carbon monoxide emissions due to normal replacement of existing cars with newer cars with more effective pollution control equipment.
6. The control strategy is projected to reduce carbon monoxide emissions by about 50 percent and reduce carbon monoxide concentrations to well within state and federal standards by December 1990.
7. The Oregon Department of Transportation has included the third bridge project in the proposed Six-Year Highway Improvement Program. The Six-Year Highway Improvement Program is scheduled for adoption by the Oregon Transportation Commission on July 22, 1986.

DIRECTOR'S RECOMMENDATION

Based on the Summation, the Director recommends that the Commission authorize a public hearing to consider testimony on the proposed Grants Pass Carbon Monoxide Control Strategy as a revision to the State Implementation Plan (OAR 340-20-047, Section 4.11).



Fred Hansen

Attachments:

1. Notice of Public Hearing and Statements of Need for Rulemaking, Fiscal and Economic Impact, and Land Use Consistency.
2. Proposed Grants Pass Carbon Monoxide Control Strategy as a Revision to the State Implementation Plan.
3. Acceptance of Lead Agency Responsibility by the City of Grants Pass and Designation of Grants Pass as the Lead Agency by Governor Atiyeh.
4. Letter From DEQ to ODOT Regarding Importance of Grants Pass Third Bridge Project.

Merlyn Hough:s
AS3261
229-6446
July 8, 1986

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

**Proposed Carbon Monoxide Control Strategy for Grants Pass
NOTICE OF PUBLIC HEARING**

Date Prepared: 06/18/86
Hearing Date: 09/15/86
Comments Due: 09/19/86

- WHO IS AFFECTED:** Residents, businesses, and government agencies in the City of Grants Pass and Josephine County.
- WHAT IS PROPOSED:** The Department of Environmental Quality is proposing to amend OAR 340-20-047, the Oregon Clean Air Act State Implementation Plan, by including the Grants Pass Carbon Monoxide Control Strategy. A hearing on this matter will be held in Grants Pass on September 15, 1986.
- WHAT ARE THE HIGHLIGHTS:** Carbon monoxide (CO) concentrations in downtown Grants Pass violate state and federal ambient air quality standards. The federal Clean Air Act requires States to submit plans for nonattainment areas demonstrating how they will attain ambient air quality standards.
- This proposal would incorporate the Grants Pass Carbon Monoxide Control Strategy, that was adopted by the City of Grants Pass on June 4, 1986, into the State Implementation Plan. The major element of the control strategy is the construction of a third bridge across the Rogue River to reduce traffic congestion and CO emissions in the downtown nonattainment area.
- 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 Merlyn L. Hough at 229-6446 (or toll-free at 1-800-452-4011).
- A public hearing will be held before a hearings officer at:
- 7:00 p.m. on September 15, 1986
Grants Pass City Council Chambers
101 NW A Street
Grants Pass, 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 September 19, 1986.



P.O. Box 1750
Portland, OR 97207

3/16/84

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.

**WHAT IS THE
NEXT STEP:**

After public hearing the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted rules will be submitted to the U. S. Environmental Protection Agency as part of the State Clean Air Act Implementation Plan. The Commission's deliberation should come on October 24, 1986 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.

AS277

RULEMAKING STATEMENTS

for Proposed Carbon Monoxide Control Strategy for Grants Pass

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

STATEMENT OF NEED:

Legal Authority

This proposal amends OAR 340-20-047. It is proposed under authority of ORS 468.305.

Need for the Rule

Carbon monoxide (CO) concentrations in downtown Grants Pass violate state and federal ambient air quality standards. The federal Clean Air Act requires states to submit plans for nonattainment areas demonstrating how they will attain ambient air quality standards.

Principal Documents Relied Upon

Clean Air Act as Amended (P.L. 97-95) August 1977. DEQ Air Quality Annual Reports. Carbon Monoxide Plan adopted June 4, 1986 by City of Grants Pass. Final Environmental Impact Statement, Grants Pass Third Bridge, ODOT.

FISCAL AND ECONOMIC IMPACT STATEMENT:

The major element of the proposed control strategy is the construction of a third bridge across the Rogue River. Construction of the third bridge is scheduled in the Oregon Department of Transportation's Six-Year (1987-1992) Highway Improvement Program for federal fiscal year 1989. Construction and right-of-way are to be financed by State Modernization Funds at an estimated cost of \$15 million (1987 dollars). This project would benefit regional income in the Grants Pass area during and immediately after the construction period by an estimated \$27 million due to the multiplier effect (multiplier of about 1.8 for this type of project in a community the size of Grants Pass).

Some small businesses would increase sales and others would lose sales as a result of this project. Overall sales would likely increase. Travel-oriented development would occur along the E-F couplet and at the east interchange and would more than offset a decrease in travel-oriented activity along 6th and 7th Streets. Improved access and lower congestion would encourage shopping in the central business district.

Several businesses located near the proposed bridge crossing site would be substantially affected as discussed in the environmental impact statement. Right-of-way impacts for those property owners who have property taken, displaced, or have access restricted would be mitigated in part by direct monetary compensation.

LAND USE CONSISTENCY STATEMENT:

The Proposed rule appears to affect land use and appears to be consistent with the Statewide Planning Goals.

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

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

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

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.

AS278

State of Oregon
Clean Air Act Implementation Plan
Section 4.11

PROPOSED
GRANTS PASS
CARBON MONOXIDE
CONTROL STRATEGY

City of Grants Pass
Department of Environmental Quality

June 1986

RESOLUTION NO. 1887

A RESOLUTION TO ADOPT THE GRANTS PASS CARBON MONOXIDE PLAN.

WHEREAS, the City of Grants Pass was designated as the lead agency by the U.S. Environmental Protection Agency for the development of revisions to the State Implementation Plan for carbon monoxide; and

WHEREAS, a plan has been developed which demonstrates compliance with the primary health standards for carbon monoxide by no later than December 16, 1990; and

WHEREAS, the plan's selected carbon monoxide control strategy for the Grants Pass non-attainment area is the combination of the federal new car emission control program and the construction of the third bridge (alternative 7); and

WHEREAS, the construction of the third bridge is a reasonable assumption based on the State Department of Transportation's draft 6-year Highway Improvement Program;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Grants Pass does hereby adopt the Grants Pass Carbon Monoxide Plan, dated May, 1986;

BE IT FURTHER RESOLVED that the City Manager is directed to submit the plan to the Oregon Environmental Quality Commission for its consideration and forwarding to the Environmental Protection Agency.

PASSED by the Council of the City of Grants Pass, Oregon, this 4th day of June, 1986.

SUBMITTED to and approved by the Mayor of the City of Grants Pass, Oregon, this 10th day of June, 1986.

Sane Remoko
Mayor

ATTEST:

ITEM: Resolution adopting the Grants Pass
Carbon Monoxide Plan

DATE: June 4, 1986

BACKGROUND:

The Grants Pass area was designated as a "non-attainment" area for carbon monoxide by the Environmental Quality Commission on November 2, 1984. The City was designated to be the lead agency for the development of a State Implementation Plan for carbon monoxide, as required under the Clean Air Act amendments of 1977. The City, utilizing funds from a grant from the Environmental Protection Agency, contracted with the Rogue Valley Council of Governments to prepare the Carbon Monoxide Plan. That plan has been completed, and was distributed for the Council's review and adoption.

The implementation plan's strategy for relieving the carbon monoxide problem is to construct the third bridge. Funding for the construction of the third bridge is included in the Oregon Department of Transportation's Statewide Highway Modernization Program, with construction scheduled to begin sometime after October of 1988.

Once the Council adopts the state implementation plan, it will be forwarded to the Department of Environmental Quality Commission for its adoption and then to the Environmental Protection Agency for final adoption.

CONCLUSION:

The Carbon Monoxide Plan meets the requirements of the Environmental Protection Agency in terms of demonstrating how the national ambient air standards for those areas designated as "non-attainment" will be attained and maintained. The option recommended by the plan (alternative 7: Third Bridge only) is a realistic carbon monoxide control strategy based on the combination of the federal new car emission control program in the planned construction of the third bridge. Therefore, it is very likely that the Environmental Protection Agency will accept the plan, and further, it is very likely that carbon monoxide levels will be reduced to below the national carbon monoxide health standard by December of 1990.

RECOMMENDATION:

It is recommended by the Air Quality Policy Advisory Committee and the staff that the Council adopt the Grants Pass Carbon Monoxide Plan by passing the Resolution attached hereto.

G R A N T S P A S S C A R B O N M O N O X I D E
P L A N

Prepared by:

ROGUE VALLEY COUNCIL OF GOVERNMENTS

In Cooperation with:

CITY OF GRANTS PASS
(Lead Agency)

JOSEPHINE COUNTY

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

OREGON DEPARTMENT OF TRANSPORTATION

. . . .

Prepared Under a Grant From:

THE ENVIRONMENTAL PROTECTION AGENCY

A C K N O W L E D G E M E N T S

MAYOR/COUNCIL

Jane Reyneke, Mayor

Jim Hitchcock
Douglas Murphy
Candace Bartow
Bill Scott

Dorian Corlis
Richard Lane
Sandra Antich
Rick Smolen

CITY MANAGER

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Lee Webb, Chairman
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Robert W. Lee
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TECHNICAL COMMITTEE

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Dave Wright, City Engineering
Rick Riker, County Planning
Bob Weber, County Engineering
Merlyn Hough, Oregon Department of Environmental Quality
Gary Shaff, Rogue Valley Council of Governments
Mel Makin, Oregon Department of Transportation

ROGUE VALLEY COUNCIL OF GOVERNMENTS

Dennis Lewis, Director
Carol Miller
Ron Hough

Eric Dittmer
Barbara Quadros

ADMINISTRATION

Ed Murphy
Lavonn Green

Kathy Staley

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4.11.0 GRANTS PASS NONATTAINMENT PLAN - STATE IMPLEMENTATION PLAN
FOR CARBON MONOXIDE

4.11.0.1 Introduction

The Clean Air Act Amendments of 1977 require states to submit plans to demonstrate how they will attain and maintain compliance with national ambient air standards for those areas designated as "nonattainment". The Grants Pass area was designated "nonattainment" for carbon monoxide by the Environmental Quality Commission on November 2, 1984. In accordance with Section 174 of the Clean Air Act Amendments of 1977, Governor Victor Atiyeh designated the City of Grants Pass on May 20, 1985 as the lead agency for the development of revisions to the State Implementation Plan for carbon monoxide. Subsequently, the U.S. Environmental Protection Agency designated the Grants Pass area nonattainment for carbon monoxide in the December 16, 1985 Federal Register.

The U.S. Environmental Protection Agency in a January 27, 1984 document issued general guidance for areas designated nonattainment after July 1, 1979. Based on that document, the City of Grants Pass is required to have a plan demonstrating compliance with the primary health standards for carbon monoxide by no later than December 16, 1990, which is five years from the date of nonattainment designation.

To do the necessary planning work, the City of Grants Pass accepted on July 31, 1985 a U.S. Environmental Protection Agency grant award of \$20,000. In a cooperative effort involving the Rogue Valley Council of Governments, Josephine County, the Oregon Department of Transportation and the Oregon Department of Environmental Quality, interagency work agreements were finalized in August 1985. It was agreed that the Rogue Valley Council of Governments would have the primary responsibility for writing the carbon monoxide plan. Work on the analysis of transportation control measures began in November 1985.

4.11.0.2 Summary

Carbon monoxide (CO) concentrations in Grants Pass during 1983-85 were about 30 percent above the 8-hour carbon monoxide health standard. CO levels must be reduced to meet the health standard in Grants Pass by December 1990.

Automobiles and trucks contributed about 75 percent of the CO emissions in the Grants Pass urban area and caused about 85 percent of the CO concentration in the Grants Pass downtown area in 1984. If traffic volumes remained constant between 1984 and 1990, then automobile/truck emissions in Grants Pass would decrease by about 25 percent due to newer cars (with more effective pollution control equipment as required by the federal new car emission control program) replacing older cars. However, highway CO emissions are expected to decrease by only 12 percent due to increasing traffic volume and decreasing traffic speed, both of which tend to increase CO emissions.

Several transportation improvement scenarios were analyzed for effects on traffic and air quality. A 3rd bridge across the Rogue River was the only transportation improvement project identified that was adequate to attain the CO health standard by 1990.

The selected CO control strategy for the Grants Pass area is the combination of the federal new car emission control program and the construction of the 3rd bridge. The 3rd bridge project is being included in the Six Year Highway Improvement Program by the Oregon Department of Transportation.

The selected CO control strategy will substantially reduce traffic congestion and CO concentrations in the Grants Pass downtown area. CO emissions are projected to decrease by almost 50 percent between 1984 and 1990. The peak 8-hour CO concentration is projected to decrease to less than 8 milligrams per cubic meter by 1990, well below the 10 milligrams per cubic meter CO health standard.

4.11.0.3 Clean Air Act

The Federal Clean Air Act, adopted in 1970 and amended in 1977, authorized the U.S. Environmental Protection Agency to determine what kinds of air pollutants are hazardous to public health and welfare, set standards for each, and cooperate with the states to enforce these standards. The Act further established time-lines for reaching these standards in communities where pollutants were found in excessive concentrations.

The time-frame for "newly designated areas" is shown below with specific dates applicable to Grants Pass.

<u>ACTIVITY</u>	<u>TIME FRAME</u>	<u>DATE</u>
1) Designated Nonattainment	Date of Federal Register Designation	December, 1985
2) State Implementation Plan (SIP) Submitted to EPA	Designation plus 12 months	December, 1986
3) EPA process SIP	Designation plus 18 months	June, 1987
4) Attainment Date	Designation plus 5 years	December, 1990

States are required to inventory all sources of air pollution in "nonattainment" areas (communities which exceed the standards). Under the Act, States are responsible for the development and implementation of abatement plans. These plans are a compilation of plans for various communities within a state's boundaries and are collectively referred to as the State Implementation Plan (SIP).

Under the time-line described above, the City of Grants Pass, as the designated lead agency (see Appendix 4.11-1 for copy of EPA designation), must submit its Plan for consideration by the Oregon Environmental Quality Commission (EQC) by July, 1986. The EQC must, in turn, complete their review and forward the amendment to the Environmental Protection Agency by December, 1986.

4.11.0.4 Air Quality Standards

The Clean Air Act provides for two kinds of standards: "primary," to protect human health, and "secondary," to protect the welfare and property. Only particulate and sulfur dioxide have both primary and secondary standards. The federal standards do not vary from one part of the nation to another. There is but one set of standards. States can adopt more stringent standards, but for carbon monoxide the Oregon and federal standard are essentially identical.

The carbon monoxide standard¹ is designed to provide a benchmark for determining what levels of CO pollution can occur without adversely affecting human health. While each community has very unique characteristics affecting the production, accumulation and dispersion of air pollutants, the adverse health affects experienced by the population within these communities when exposed to high levels of pollution is virtually identical. The standard for CO is based upon health considerations not property damage or welfare.

Grants Pass has never experienced CO concentrations in excess of the one-hour standard. Section 4.11.1.2 Ambient Monitoring Data, details the frequency that the eight-hour standard has been exceeded.

1 The eight-hour and one-hour standards for CO are 10 mg/m³ and 40 mg/m³, respectively.

4.11.0.4 Relationship Between State SIP and Local Planning

The local planning process has established specific goals and policies to guide local growth and development. Local governments utilize the planning program to help shape the future of their communities and ensure that adequate forethought is given to change. In urban areas there is exceedingly more reliance placed upon this program to ensure that all physical elements of community development are phased and coordinated. Sewer and water systems are planned in concert with development goals, streets and roads are designed to become a part of an integrated transportation system, and housing types (single family dwellings, mobile homes, and multiple family dwellings) are planned in accordance with the communities' needs and income levels.

The development of this Plan also drew upon the local planning process to establish the parameters for estimating future traffic flows. The two planning processes are, in a sense, one. This Plan is simply another element of a comprehensive planning document which will aid the community in efforts to mold the future and ensure that Grants Pass is a better and more livable place to live.

Specifically, the transportation system modeling utilized the estimates contained within the Grants Pass Community Development Plan to determine housing units and employment in the year 1990. The Community Development Plan is the City's controlling planning document. It is utilized, as it was in the development of this Plan, for water and sewer planning. The Community Development Plan contains projections for the year 2000. It is for this reason that some interpolation and judgement was necessary to estimate 1990 figures. Appendix 4.11-3 contains the existing and 1990 dwelling unit and employment estimates by transportation analysis zone.

4.11.1 AMBIENT AIR QUALITY

4.11.1.1 Geographic Description

The Grants Pass Carbon Monoxide Nonattainment Area is located within the City of Grants Pass in Josephine County, Oregon. The City of Grants Pass, at 948 feet elevation, lies in the Rogue River Valley and is surrounded by the Siskiyou Mountains and the Coast Range. The City of Grants Pass has an incorporated population of 15,350 (1985) and an urban area population estimated at 27,029 (1984). Figure 4.11-A is a map of the Grants Pass area.

A nationwide Environmental Protection Agency survey of air pollution potential identified Southwestern Oregon's interior valleys as having one of the highest potentials for pollutant buildup in the United States. This high potential for pollution is due to low wind speed, frequent temperature inversions, and the topography of the Rogue River Valley.

FIGURE 4.11-A

Grants Pass Area

Planning Boundary

GRANTS PASS

Bulb

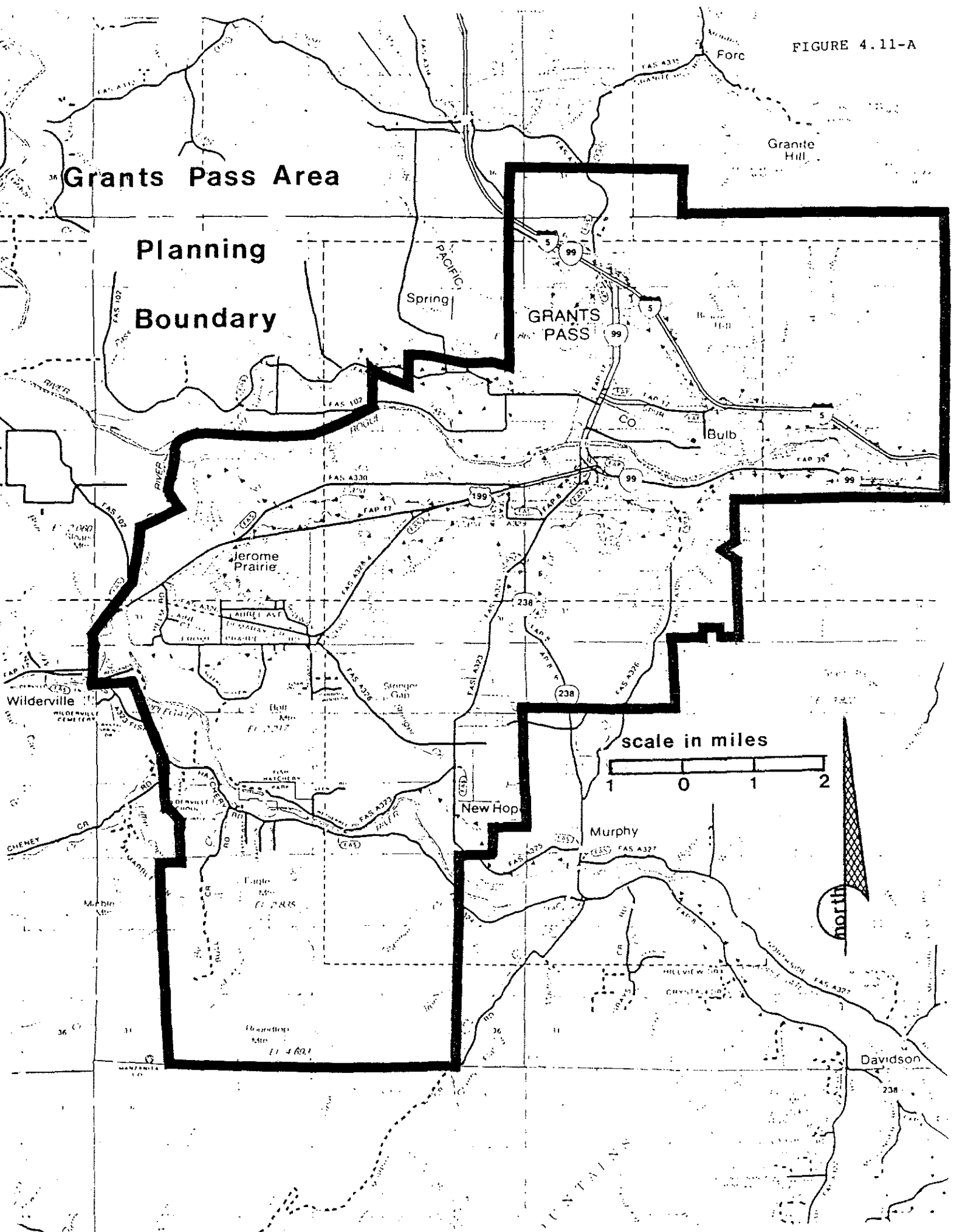
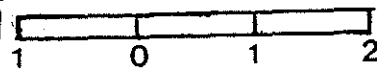
Wilderville

New Hope

Murphy

Davidson

scale in miles



4.11.1.2 Ambient Monitoring Data

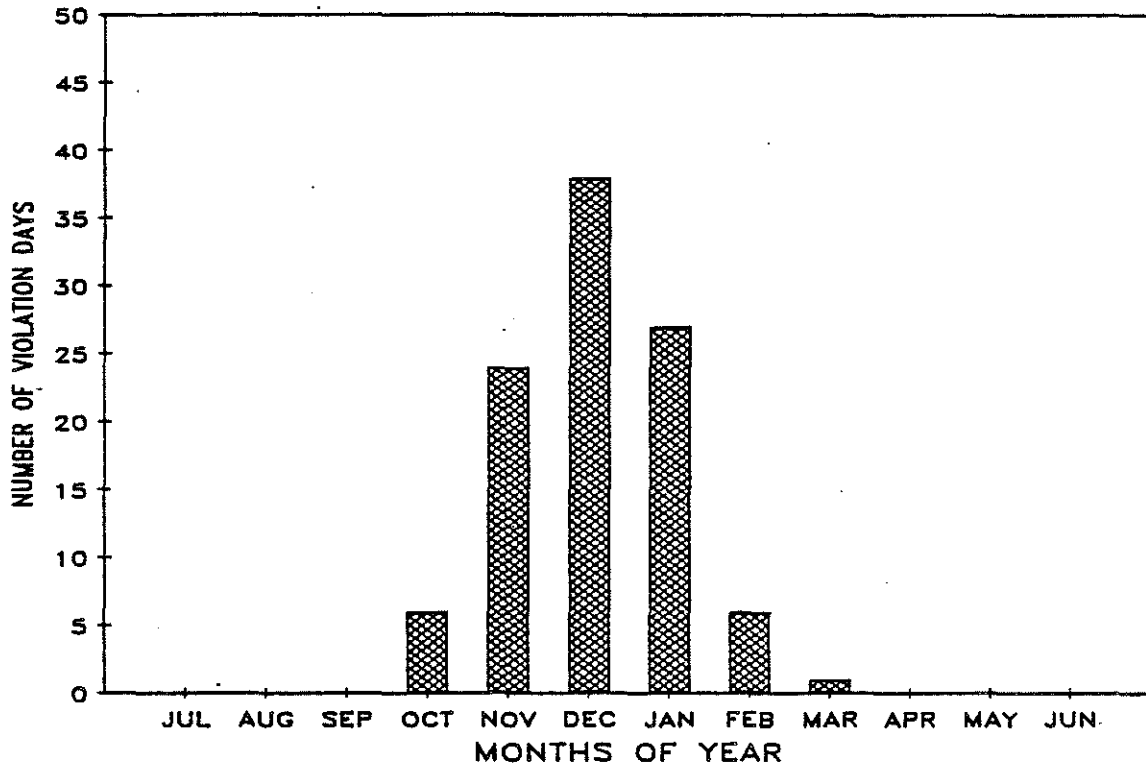
The Department of Environmental Quality began monitoring carbon monoxide (CO) in Grants Pass in 1979. The initial monitoring, done at a site near 6th and "L" Streets, indicated that maximum CO concentrations were close to but not above the ambient air quality standard of 10 milligrams per cubic meter (mg/m^3), 8-hour average, at the monitoring site. Subsequent monitoring near 6th and "G" Streets indicated the maximum CO concentrations were above the standard as outlined below:

Table 4.11.1-1 Carbon Monoxide Monitoring Data

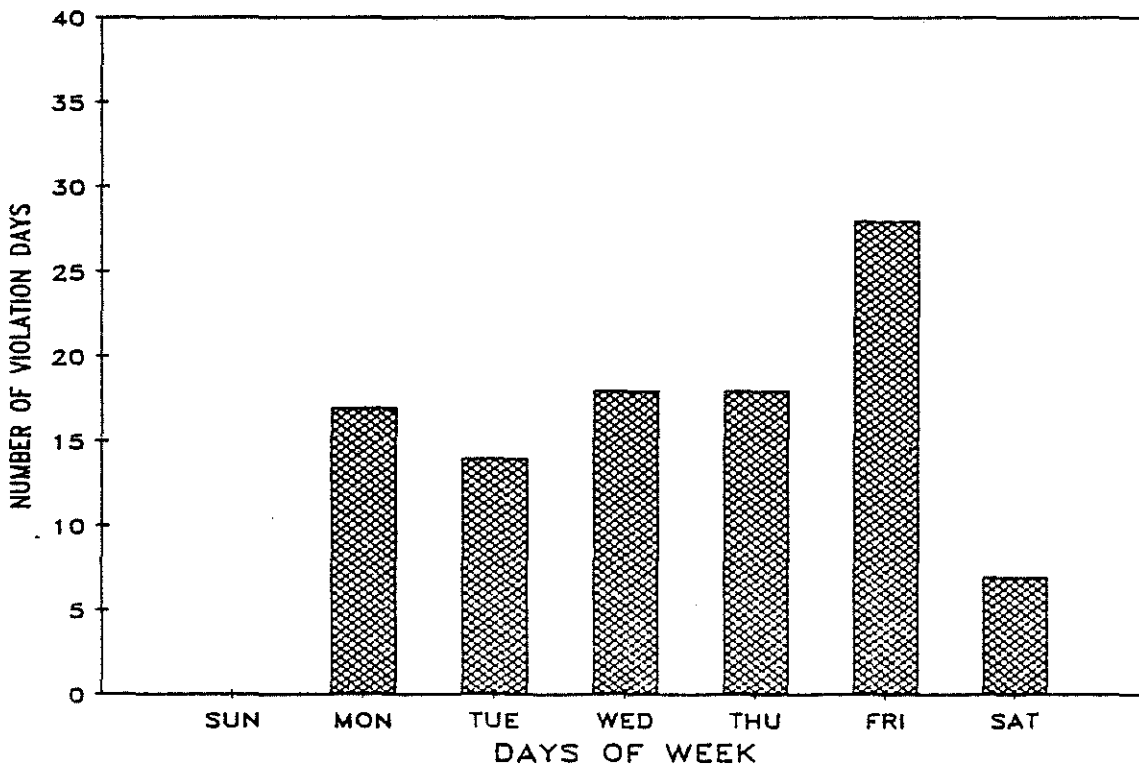
Year	Number of Days above Standard	Second Highest Day (MG/M^3)
1981	25	13.2
1982	38	14.9
1983	13	12.9
1984	16	12.8
1985	13	13.0

Figures 4.11-B and 4.11-C more completely describe the violations. It should be noted that the majority of violations occur in the months of November, December and January primarily due to poorer ventilation during these months. The highest daily concentrations usually occur around 4:00 pm to 5:00 pm. Violations occurred most frequently on weekdays (especially Friday), occasionally on Saturday, but never on Sunday. The time-of-day and day-of-week violation patterns are closely related to traffic congestion patterns.

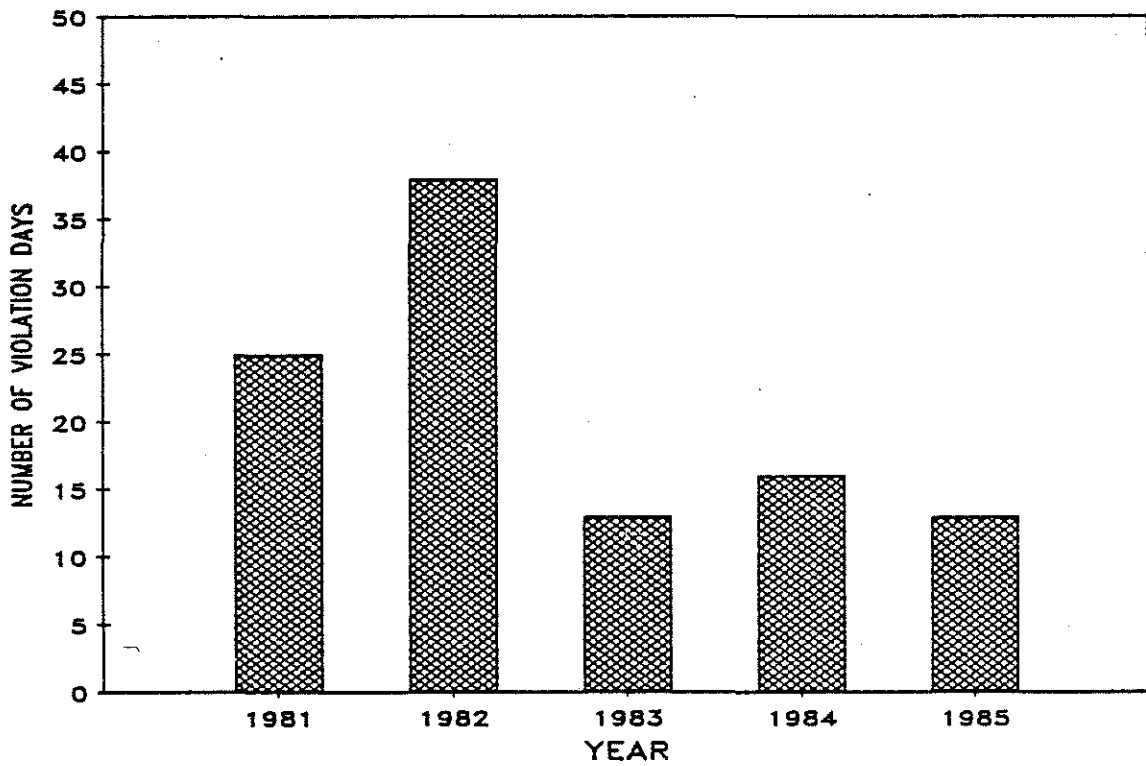
GRANTS PASS CARBON MONOXIDE VIOLATIONS
Over 5-Year Period: 1981-85



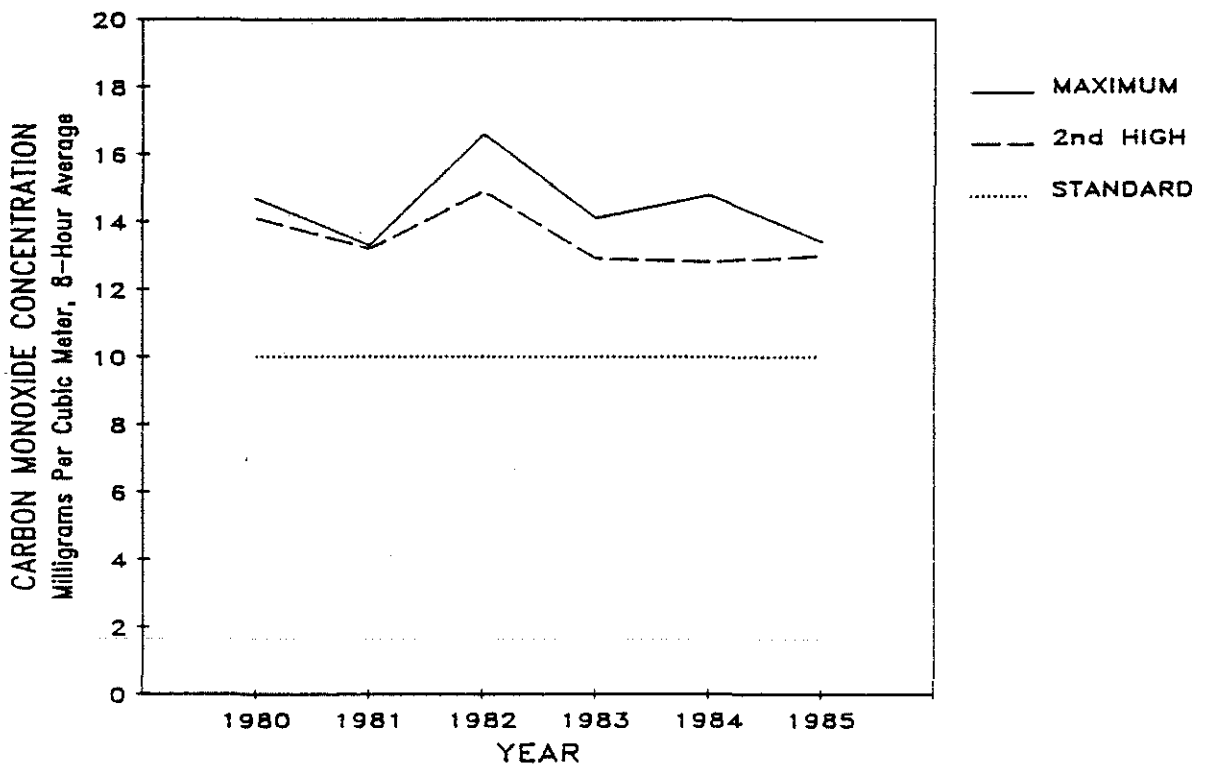
GRANTS PASS CARBON MONOXIDE VIOLATIONS
Over 5-Year Period: 1981-85



GRANTS PASS CARBON MONOXIDE VIOLATIONS Over 5-Year Period: 1981-85



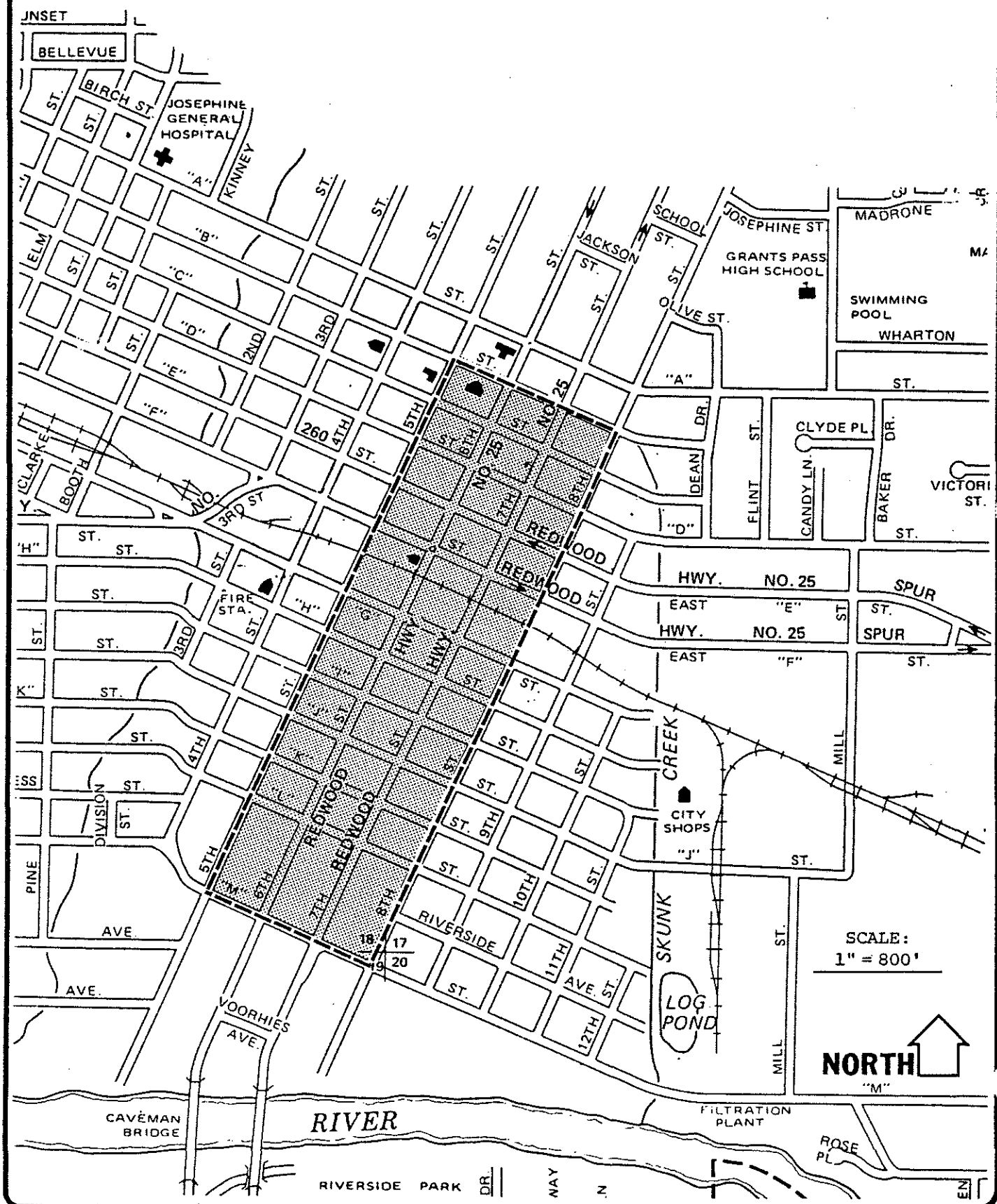
GRANTS PASS CARBON MONOXIDE LEVELS November 1980 to December 1985



4.11.1.3 Nonattainment Area Boundary

The Department of Environmental Quality (DEQ) conducted two special studies during 1982 - 1984 in order to locate the optimum monitoring site and define the problem area. A special study during the winter of 1982-83 determined that the 6th and "G" site reasonably characterized the maximum CO concentration area. A subsequent study during the 1983-84 winter identified the boundaries of the problem area. The problem area is enclosed by "B" Street (on the north), 8th Street (to the east), "M" Street (on the south), and 5th Street (to the west). Figure 4.11-D is a map of the nonattainment area.

NONATTAINMENT AREA for Carbon Monoxide



4.11.2 EMISSION INVENTORY

4.11.2.1 Urban Area Emission Inventory

Carbon monoxide emission inventories for 1984 and 1990 are summarized in the following table. The detailed emission inventories are included in the Appendix 4.11-7. The base year is 1984 and the attainment year is 1990.

Table 4.11.2-1. Grants Pass Urban Area (Figure 4.11-A) CO Emission Inventories.

Source Category	Carbon Monoxide Emissions (Tons per year)	
	1984	1990*
Transportation	11,830	9,370
Residential Heating	3,000	2,820
Industry	500	550
Other	50	60
Total	15,380	12,800

*Projected

The areawide annual total CO emission trend, however, is not as important as the highway CO emission trend in the CO nonattainment area during the peak 8-hour period. The highway emission inventories (automobile and truck emissions) for the downtown Grants Pass nonattainment area are outlined in the following section.

4.11.2.2 Nonattainment Area Emissions Inventories

Highway CO emission inventories for the downtown Grants Pass CO nonattainment area are outlined in the following table. Projected 1990 inventories are shown with and without the 3rd bridge.

Table 4.11.2-2. Nonattainment Area Highway CO Emission Inventories

Source Category	Carbon Monoxide Emissions (kg/8-hour)		
	1984	1990 w/o Bridge	1990 w/Bridge
Highway Vehicles	1,790	1,570	920

The 1984 emission inventory from this table will be used for tracking reasonable further progress as discussed later.

4.11.2.3 Design Concentration

Based on Environmental Protection Agency guidelines, the second highest 8-hour carbon monoxide concentrations observed during the last three years are to be used to calculate a base year design concentration upon which control strategies are to be developed. The annual second highest concentrations for 1982, 1983 and 1984 were used to derive a 1984 design 8-hour carbon monoxide concentration of 13.2 mg/m³. Appendix 4.11-5 describes the methodology used for this calculation.

4.11.2.4 Growth Factors

Various growth factors are available which describe likely future growth trends in the Grants Pass area. The City's Comprehensive Plan includes a range of future population estimates. These estimates were developed in the late 1970's and reflect the City's development policies. These estimates were used to develop 1990 population and employment levels.

Average annual growth rates for the Grants Pass planning area are summarized below and outlined in more detail in Appendix 4.11-3.

Table 4.11.2-3 Population and Employment Growth Factors

Indicator	Average Annual Rate of Growth (percent per year)	
	1980 - 1984	1984 - 1990
Population	4.6	10.0
Employment	1.6	1.3
Finance/service sector	1.7	2.6
Retail Trade	2.3	0.8
Industrial/Agriculture	1.0	0.6

The 1984 and 1990 population and employment estimates in each transportation zone were used to model traffic volumes on individual roadway links in the nonattainment area. Traffic volumes were projected to increase by an average 1.3 per cent per year in the nonattainment area between 1984 and 1990 without major transportation improvements.

4.11.3 CONTROL STRATEGY

4.11.3.1 Emission Reduction Necessary

The carbon monoxide design concentration is 13.2 mg/m^3 (Section 4.11.2.3). The required emission reduction of highway emissions to achieve the federal standard of 9 parts per million (10 mg/m^3) is approximately 29 percent. The calculation for the required emission reduction is shown in Appendix 4.11-6. The base year highway emission in the nonattainment area (1,790 kg/8-hour) must be reduced to 1,280 kg/8-hour by December, 1990.

In addition to the general emission target of 1,280 kg/8-hour, air quality modeling was used to determine the emission reductions needed to meet the CO standard on all of the individual roadway links and intersections in the nonattainment area. The results of this modeling are outlined in the following section. The most critical intersections identified in the air quality modeling were at 6th & "F" and 7th & "M" Streets.

4.11.3.2 Evaluation of Alternative Transportation Improvements

The City's Policy and Technical Advisory Committee evaluated eight alternative 1990 transportation improvement scenarios. See section 4.11.7 for a listing of the Policy Advisory Committee members and the agencies participating on the Technical Advisory Group. The following alternatives were evaluated:

- Alternative 0: No Build (Federal New Car Program)
- Alternative 1: Committed Projects Only (J/Mill)
- Alternative 2: Committed & Agness Extension
- Alternative 3: Committed and 3rd (East) Bridge
- Alternative 4: Committed and 4th (West) Bridge
- Alternative 5: Committed and 4th/9th Improvements
- Alternative 6: Committed and Signal Rehabilitation
- Alternative 7: 3rd Bridge Only

The results of the traffic and air quality analyses are outlined in the following table. These alternatives when modeled for their air quality benefits were combined with the federal new car program. The detailed results by roadway link are included in the Appendix 4.11-8.

Table 4.11.3-1. Peak 8-Hour Traffic and Air Quality Results.

Alternative	Speed (mph)	Traffic (VMT)	Emissions (kg)	CO Level (mg/m ³)	
				6th & F	7th & M
1984 Base	17.9	26,440	1,791	13.2*	12.0*
1990 Alt 0	16.6	28,486	1,557	11.3*	11.7*
1990 Alt 1	16.6	28,644	1,573	11.3*	11.0*
1990 Alt 2	17.5	26,768	1,399	10.1*	11.3*
1990 Alt 3	19.7	20,078	942	7.6	6.3
1990 Alt 4	17.6	27,103	1,407	10.6*	9.3
1990 Alt 5	17.9	24,813	1,296	8.1	13.5*
1990 Alt 6	17.1	28,644	1,525	10.5*	11.0*
1990 Alt 7	19.8	19,786	920	7.6	6.6

*Violation of CO standard (10 milligrams per cubic meter).

The 3rd Bridge was the only identified transportation project that was adequate to meet the CO standard at all sites in the nonattainment area by 1990. The 3rd Bridge will also reduce traffic congestion and improve the average traffic speed in the downtown area.

The selected CO control strategy for the Grants Pass nonattainment area is the combination of the federal new car emission control program and the construction of the 3rd Bridge (Alternative 7).

4.11.3.3 Transportation Measures Not Utilized

There are eighteen "reasonably available transportation measures" (RATM's) which must be considered during the development of a CO attainment plan. These measures, taken together, place primary emphasis upon reduction of CO from transportation sources. Listed below are those measures which were found, for a variety of reasons, to be unnecessary or undesirable.

- A) Programs designed to modify on-street parking in downtown and reduce motor vehicle emissions caused by extreme cold start conditions.

This measure is usually undertaken to reduce emissions resulting from the starting of an auto in the nonattainment area. Automobiles equipped with catalytic devices produce substantially more CO after being parked for more than one hour. The same is true for those without such devices when parked for more than four hours. Due to the relatively small contribution that these measures have, usually less than 0.1 of one percent of total, and their potential disruption of parking activities, this measure was not considered appropriate for implementation. Furthermore, it was believed that the existing method of controlling on street parking in the nonattainment area through metered spaces was fairly efficient in minimizing CO production from this source.

- B) Programs to establish public transit.

This measure would provide for the creation of a public transportation system within the City. A report entitled Transportation Service Extension Study; July, 1985 by the Rogue Valley Council of Governments concluded that such a system would be practical and fiscally possible given the passage of a tax base for operations.

Acknowledging the failure rate of past bond and levy measures, it is presumed that passage of a tax base and approval of a \$0.22 per \$1000.00 tax rate for public transit would be unlikely.

- C) Programs to create staggered work hours for employees.

Due to the incidence of peak concentrations around 5:00 P.M., it is presumed that allowing greater flexibility in work hours could result in lower peak CO levels in the City's downtown. Such a program would have the effect of smoothing the peak hour traffic, disperse the CO emissions over more hours and thus avoid exceeding the standard.

Most employers in the nonattainment area employ less than twenty people. With few major employers, implementing this

measure. It would be difficult and depend upon many employers volunteering to modify their existing work shifts. Changes of this type were found to be logistically difficult and practically impossible. Requiring participation of employers in the nonattainment area would be similarly difficult but also require a stringent enforcement mechanism which was also thought to be impractical.

- C) Provisions for employer participation in programs to encourage car pooling.

This measure is designed to increase the number of occupants per vehicle entering the downtown. While the measure has been successful in some communities, it usually requires that commuting distances be long and employers be large or concentrated in a few areas. Commuters to Grants Pass probably do not travel great distances nor is the City's land use consistent with either of the later requirements for effective car pooling programs.

- D) Motor vehicle emission inspection and maintenance program.

Inspection and maintenance programs (I&M) have proven to be very effective in reducing carbon monoxide levels where they include an anti-tampering and an emission inspection. Coupled with the political controversies which are often attendant with its implementation and availability of other methods to achieve the standard, this measure was not seriously considered. Typically a 10% to 30% reduction in emissions is attained. If implemented by the Environmental Quality Commission, the program would probably be patterned after the programs in Portland and Medford.

However, based upon projected 1995 and year 2000 traffic conditions, it is unlikely that an I & M program could reduce emissions sufficiently to meet the standard in these future years. Excessive traffic congestion and slow speeds in the nonattainment area would have a deleterious effect on CO emissions.

- E) Programs to establish exclusive bus and car pool lanes and area-wide car pool programs.

As noted earlier, it is unlikely that public transit could be established at this time. Car pool participation rates are probably low at present (see previous section re: employer car pooling participation) and establishing facilities for either car pooling or transit would be counter productive. Further, the absence of significant fees for parking and short commuting distances make the auto the preferred mode of travel almost to the exclusion of all others.

- F) Programs to limit portions of road surfaces or certain sections of the transportation system to the use of common carriers both as to time and place.

This measure would preclude private auto usage at specific locations. The absence of any alternative mode of travel make it impractical. Furthermore, implementation of the program would probably shift the area of violation to another part of the community.

- G) Programs to construct new parking facilities and operate existing parking facilities for the purpose of park and ride lots and fringe parking.

The lack of available mass transit facilities in Grants Pass precludes this alternative.

- H) Programs to limit portions of road surfaces or certain sections of the community to the use of non-motorized vehicles or pedestrian use, both as to time and place.

Implementation of this measure would probably simply result in moving the area of violation.

- I) Programs for secure bicycle storage facilities and other facilities, including bicycles lanes, for the convenience and protection of bicyclists, in both public and private areas.

The measure could reduce vehicle miles traveled by private automobiles; although the overall effect on air quality would be small.

- J) Programs to institute road user charges, tolls, differential rates to discourage single occupancy automobile trips.

This program would complement an effective car pooling or mass transportation system. These supporting systems are not likely to be available or effective. Furthermore, the toll booths would probably create hot spots of high CO concentrations in themselves. Such a program could also undermine efforts to direct growth within the City's urban growth boundary.

- K) Programs to control extended idling of vehicles.

This measure can prevent the creation of new hot spots and may also improve traffic safety. Unfortunately, the number of drive up windows in the violation area is not great and thereby would not have a significant impact upon the problem. Local businesses that utilize drive-up windows would be adversely effected.

- L) Programs for the conversion of fleet vehicles to cleaner engines or fuels, or to otherwise control fleet vehicle operations.

Measures of this type have met with hostility in most communities and are very costly. The technique phases-out larger and less efficient engines, and replaces them with smaller cleaner ones. The measure also includes conversion from gasoline to natural gas or propane.

- M) Programs for retrofit of emission devices or controls on vehicles and engines, other than light duty vehicles, not subject to regulations under section 202 of Title II of the Clean Air Act.

This measure would result in those vehicles which did not have emission control devices installed at the time that they were manufactured, heavy duty and pre-1968 vehicles, to be retrofitted to have such devices. The program is expensive, socially unacceptable, and not all vehicles can be controlled.

4.11.3.4 Impacts of Control Strategy

This section of the Plan reviews the socio-economic and environmental impacts of those transportation measures expected to be utilized to achieve air quality goals in Grants Pass. As stated in Section 4.11.3.2, the attainment strategy includes only the federal new car program and a single local construction project, the 3rd Bridge. The analysis of the socio-economic and pertinent environmental issues associated with the construction of the 3rd Bridge follows and utilizes as much as possible the data generated by the Environmental Impact Statement (EIS) on the 3rd Bridge done by the Oregon Department of Transportation in 1978.

The major social impact involved in the construction of the third bridge is the direct effect on the people involved in the right-of-way acquisition, and the community re-orientation to a new circulation pattern for Grants Pass. An excerpt from the 1978 EIS states:

"In the short run, a new bridge in Grants Pass would contribute only minimally to population growth in the urban area.

"This highway project would increase regional and local accessibility. An increase in the number of linkages between the area north and south of the river would facilitate access between these areas.

"Of particular significance would be the beneficial change in access for emergency vehicles, which now must compete with traffic congestion on 6th and 7th Streets and on the bridges. A new bridge would provide an additional route for these services.

"The construction and operation of a new highway would create adverse impacts on some public facilities, institutions, parks, and residences not (currently) exposed to a busy highway. . . .

"This highway project would improve pedestrian safety in the downtown area. Reducing traffic would allow safer use of sidewalks and crosswalks, especially for the senior citizens and children."

The anticipated routing of the 3rd Bridge (fig. 4.11-E) would minimize right-of-way acquisition and displacements and provide the most logical through route from the Redwood Highway north and south. Even still, the effect on the local neighborhood can be traumatic. Extensive review of these impacts was done for the 1978 EIS for the 3rd Bridge. In summary an established neighborhood will be disrupted by this project. People and residences will be displaced. Land uses will change. Property owners in the affected neighborhood have expressed their concerns in the past.

The economic impacts involve the effect the construction and traffic shift will have on the local economy. While there may be some local financial contribution, the major source of the project cost of approximately \$16 million (1985 dollars) is expected to come from State monies.

Whenever traffic patterns change there are related economic effects. There will likely be additional development along the new 3rd Bridge route. The economic effects will be related to traffic increases, much of which will be through traffic avoiding downtown congestion.

The 1978 EIS emphasizes the relationship between the economic impacts and the anticipated change in traffic patterns. The EIS research indicates increased retail activity in the CBD due to improved access and lower traffic congestion. The EIS notes, however, that travel oriented businesses downtown (motels, etc.) may experience reductions as through traffic utilizes the 3rd Bridge route. Such businesses will likely develop along the new route.

Most of the project financing will come from monies outside the area. This will be a short term economic benefit to the area which will likely develop into long term benefit as development increases along the new route

The environmental impacts involved include the effects of the 3rd Bridge construction on geology, wildlife, air and water resources, aesthetics, noise, history, and archaeological resources. The relative magnitude of the beneficial and adverse impacts resulting from the 3rd Bridge construction are difficult to weigh. It is expected that the air quality benefits, for example, will be significant, whereas the effect on historical resources, in comparison, will be relatively small.

Each of the expected environmental impacts is covered in detail in the 1978 EIS. Most of the data remains valid today. The Oregon Department of Transportation is responsible for assuring that current environmental considerations are incorporated into the future project decision making process.

The major new information generated since 1978 is this air quality analysis which emphasizes the benefits of the 3rd Bridge on carbon monoxide levels in the downtown. Other impacts relating to water resources, wildlife, geology, aesthetics, noise and history should remain as described in the 1978 EIS, but may need to be updated.

Recent air quality analysis by the Oregon Department of Environmental Quality has shown that downtown Grants Pass exceeds the eight-hour Federal Clean Air Act standard for carbon monoxide. Figure 4.11-D shows the area designated as non-attainment. Carbon monoxide is directly related to burning of organic fuels. In the Grants Pass planning area motor vehicles account for 77 percent of all CO emissions. Downtown traffic congestion increases CO levels which cannot dissipate in the winter when atmospheric inversions prevent normal air circulation and trap pollutants.

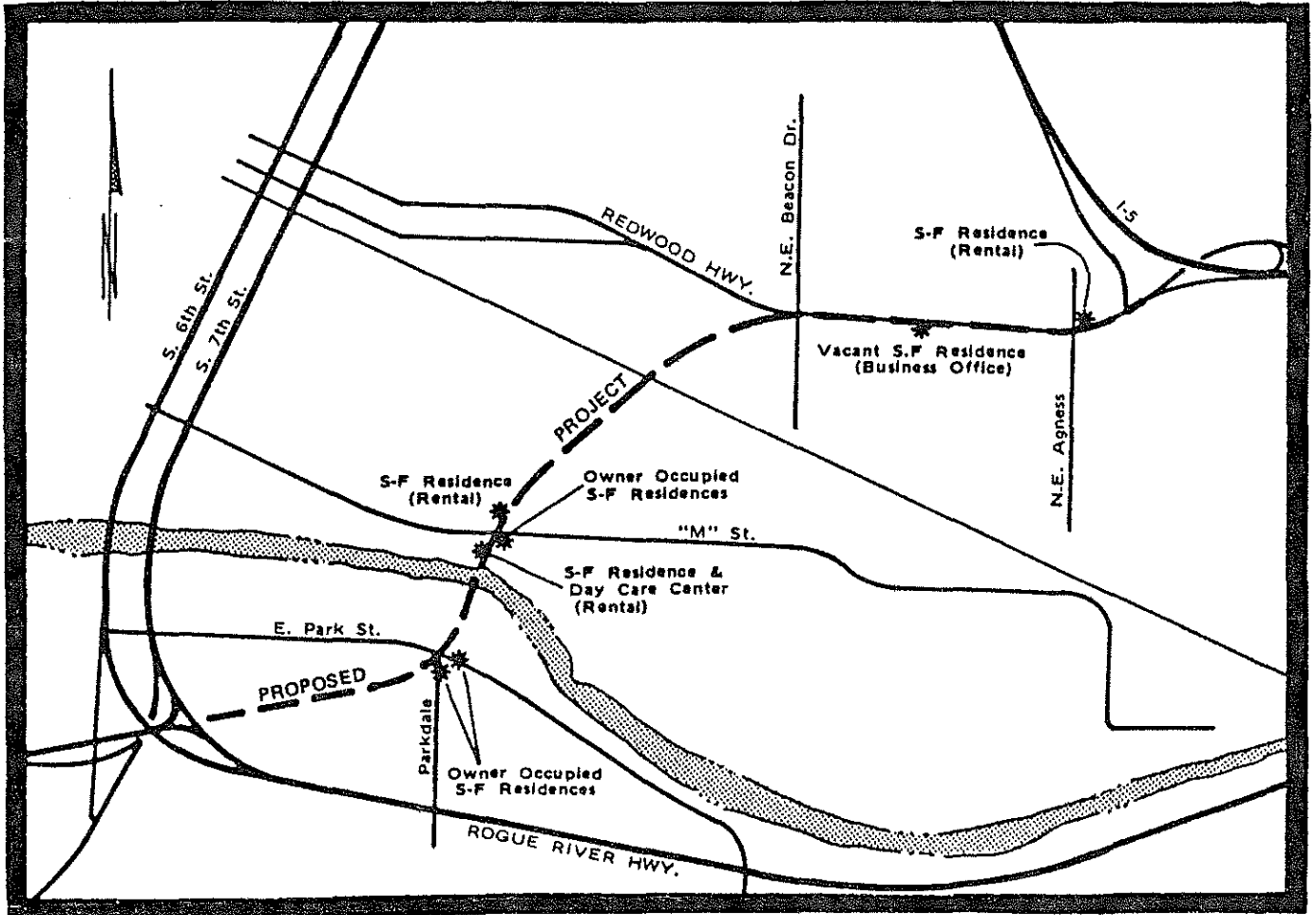


Figure 4.11-E. Proposed Third Bridge Location in Grants Pass, Oregon.

Source: Final Environmental Impact Statement for Foothill Boulevard
 (Third Bridge Grants Pass) by Oregon Department of Transportation.

The 3rd Bridge project is the only alternative among the several reviewed that will achieve air quality reductions to the extent that Grants Pass will achieve federal air quality standards. The reason is the shift in through traffic to the new route (along with substantial truck traffic) will reduce traffic congestion downtown. Fewer vehicles and increased traffic speeds combine to reduce emissions downtown significantly. The magnitude of the CO reductions is expected to allow for anticipated growth in the area as well.

The 3rd Bridge will also have the effect of reducing motor vehicle fuels consumed due to the combined result of increased speeds for that traffic passing through the downtown and the shorter distance traveled by users of the 3rd Bridge route.

Basic transportation needs will be met through construction of the Bridge. The resident population will realize improved mobility, regardless of mode, due to greater selection of routes to cross the Rogue River.

4.11.4 RULES AND REGULATIONS

The Oregon Revised Statutes (ORS) 468.275 through 468.620 authorize the Oregon Environmental Quality Commission to adopt programs necessary to meet and maintain state and federal standards. The mechanism for implementing these programs is the Oregon Administrative Rules (OAR). The rules that are pertinent to the carbon monoxide control strategy for Grants Pass are:

OAR 340-20-220 to 275, the new source review rules;

OAR 340-20-300 to 320, the plant site emission limit rules; and

OAR 340-31-025, the Oregon Standard for carbon monoxide (set equal to the primary and secondary federal standard).

4.11.4.1 New Source Review Rules

The new source review rules require major new or modified stationary sources locating in a nonattainment area to:

1. Meet lowest achievable emission rates;
2. Demonstrate that the source will comply with the growth increment available or provide emission offsets;
3. Provide an analysis of alternative sites, sizes, production processes and control techniques.

The new source review rules require major new or modified stationary sources locating in an attainment area to:

1. Provide best available control technology;
2. Demonstrate that the source would not cause violations of any PSD air quality increments or any state or federal ambient air quality standards; and
3. Demonstrate that the source would not impact a designated nonattainment area greater than the significant air quality impact levels.

4.11.4.2 Plant Site Emission Limit Rules

Plant site emission limit rules establish a baseline allowable emission rate for existing sources of carbon monoxide that are subject to regular permit requirements. These rules do not allow significant growth of stationary source emissions unless a growth margin is available or an offset can be obtained.

4.11.5 REASONABLE FURTHER PROGRESS

The Clean Air Act requires a demonstration that Reasonable Further Progress (RFP) is being made each year towards the attainment of all air quality standards. RFP is defined as annual incremental reduction in emissions sufficient to achieve compliance with standards by the required date.

4.11.5.1 Ambient Monitoring

Ambient carbon monoxide concentrations have been continuously monitored by the Oregon Department of Environmental Quality near the intersection of Sixth and G Streets since November 1980. The Department will continue to monitor CO concentrations at or near this site until attainment of the CO standard in Grants Pass.

4.11.5.2 Conformity of Federal Actions

The Clean Air Act and U.S. Department of Transportation guidelines require conformance between state transportation improvement and air quality implementation plans. The Federal Highway Administration (FHWA) may only approve those highway projects which conform with the State Implementation Plan (SIP) and must give priority to highway projects which are in the SIP as transportation control measures. The FHWA has indicated that its conformity/priority determinations will be made based on its review of the Six Year Highway Improvement Program of the Oregon Department of Transportation.

4.11.5.3 Annual Reporting

An evaluation of Grants Pass CO emission reductions will be included in the DEQ annual report to EPA on RFP. The annual CO emission inventory for highway vehicles will be compared to the RFP graph outline in Figure 4.11.5.-1. Highway CO emissions in the nonattainment area must be reduced from 1,790 kilograms per peak 8-hour period (kg/8-hr) in 1984 to 1,280 kg/8-hr by December 1990.

The City of Grants Pass will review the quarterly ODOT Project Scheduling Report and provide the DEQ by July 1 of each year with a written summary of the progress toward construction of the 3rd Bridge. A discussion of progress will be included in the DEQ annual report to EPA on reasonable further progress (RFP).

4.11.5.4 Contingency Provision

Under the following circumstances a contingency planning process will be implemented.

- 1) The construction schedule outlined in 4.11.6 is not being realized, and
- 2) The DEQ in their annual review of RFP concludes that RFP is not being maintained.

This planning process will be initiated by DEQ's notification of the City of Grants Pass that RFP is not being met. The City will ask the agencies participating on the Technical Advisory Committee to meet to review the Grants Pass Carbon Monoxide Study. The Technical Committee shall also review the 3rd Bridge construction schedule to ascertain the cause for the delay and potential remedies.

4.11.6 RESOURCE COMMITMENT

The Oregon Transportation Commission determined that the 3rd Bridge construction should be included in the 1987 - 1992 Six Year Highway Improvement Program. This plan will not be officially adopted until July, 1986. Only upon its official adoption, will there exist a verifiable commitment to construction of the 3rd Bridge.

Based upon the information that is available in advance of official action by the Transportation Commission, the following construction schedule is anticipated:

<u>Task</u>	<u>Tentative Schedule</u>
Project Design	April 1986 - July 1988
Right of Way Description	June 1986 - January 1987
Final Plans	January 1987 - December 1987
Right of Way Acquisition	February 1987 - September 1988
Preparation of Specifications	September 1988
Bid Opening (construction)	October 1988

There is always the possibility of delay affecting the above schedule. The annual reporting described in 4.11.5.3 will notify all parties of any changes in the scheduling; and, if necessary, the contingency planning process described in 4.11.5.4 will go into effect.

4.11.7 PUBLIC INVOLVEMENT

The City of Grants Pass was designated the lead agency by the Governor of Oregon to address the Carbon Monoxide issue in the City. Grants Pass contracted with the Rogue Valley Council of Governments (RVCOG) in 1985 to conduct an investigation into the carbon monoxide problem and possible solutions. Included in that study was a public information program which had the following goals;

1. Inform the citizens of Grants Pass and Josephine County of the nature and extent of the carbon monoxide problem,
2. Inform the citizens of the carbon monoxide study process, and
3. To encourage the citizens to participate in the study by providing input to the process.

The city of Grants Pass selected a Technical Advisory Committee and appointed a Policy Advisory Committee to facilitate review of the plan. The former was made up of staff professionals from Josephine County Planning and Public Works Departments, Grants Pass Community Development Department, Oregon Departments of Environmental Quality and Transportation and the RVCOG; the latter was made up of citizens representing the community. The Policy Advisory Committee members are: Robert W. Lee, Barbara McCaw, Richard Riker, R. Daniel Simcoe, and Lee Webb. These committee members helped organize the public awareness program and, in fact, participated in many of the presentations.

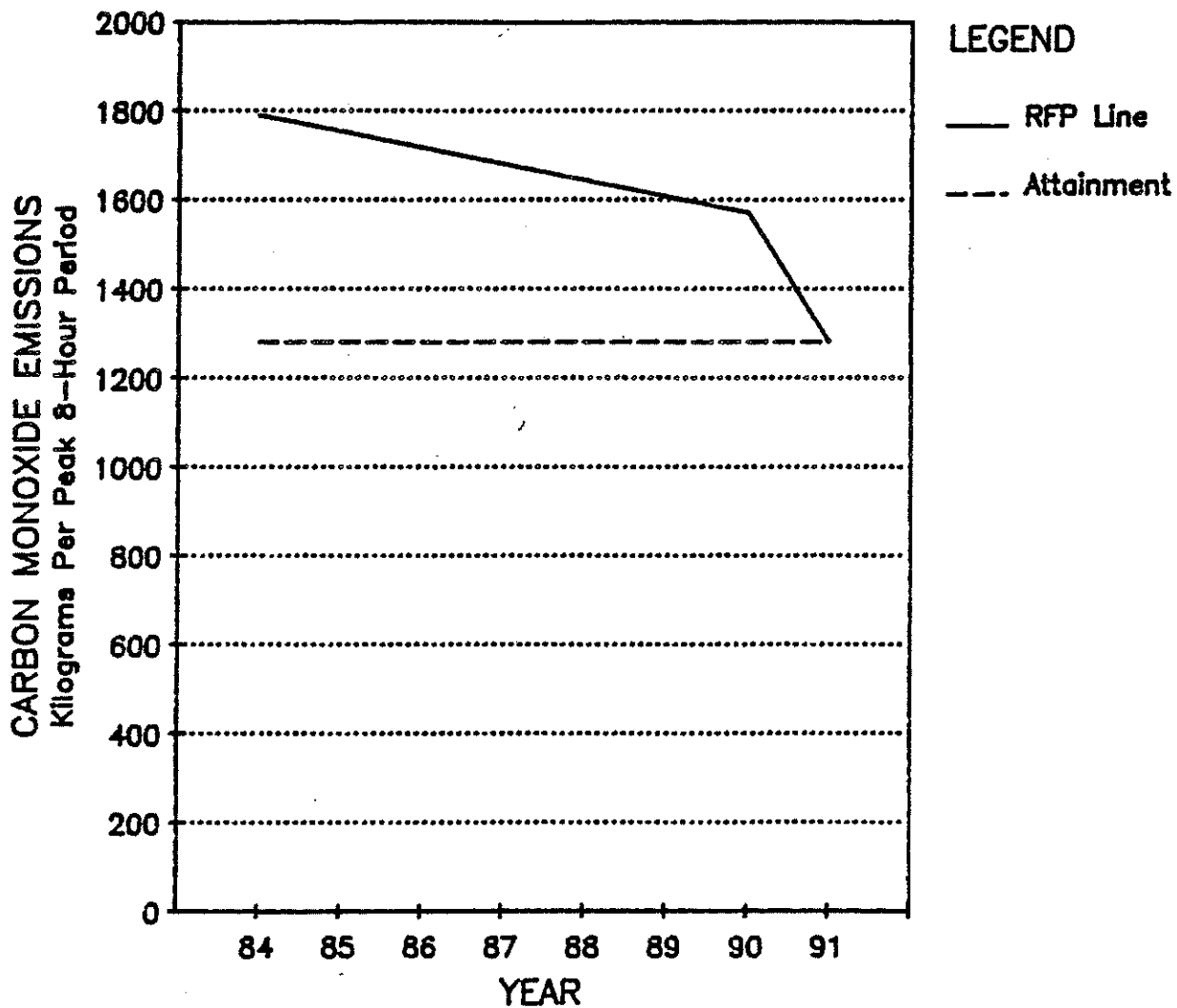
The Rogue Valley Council of Governments had a comprehensive slide/tape show prepared to describe the CO problem, the source, the health implications and the nature of the investigation into alternative solutions. That slide show and/or air quality planning summaries were presented to a variety of affected agencies and citizen groups including:

- | | |
|---|------------------|
| 1. Grants Pass City Council | (10/14/85) |
| 2. Grants Pass Citizens Policy Advisory Committee | (10/29/85) |
| 3. Rotary Club | (11/13/85) |
| 4. Josephine County Commissioners | (12/4/85) |
| 5. KAGI Radio/TV | (12/4/85) |
| 6. KAJO Radio | (12/4/85) |
| 7. Grants Pass Audubon | (12/12/85) |
| 8. KTVL TV | (aired 12/26/85) |
| 9. Josephine County Health Department | (1/21/86) |
| 10. Grants Pass Chamber of Commerce | (1/23/86) |
| 11. Oregon Highway Commission | (2/24/86) |
| 12. Grants Pass Policy Advisory Committee | (4/11/86) |
| 13. Grants Pass Policy Advisory Committee | (5/5/86) |

In addition to the above meetings each of the public agency sessions was covered by the local radio which publicized the proceedings in detail.

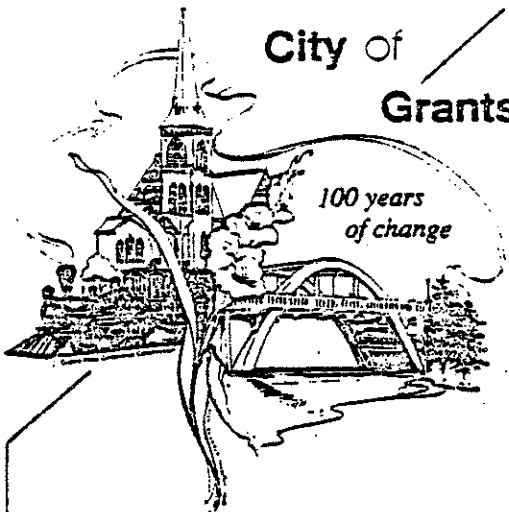
The final Plan draft was then presented to and reviewed by the Grants Pass Technical Advisory Committee (5/2/86), and Grants Pass Policy Advisory Committee (5/5/86). On June 4, 1986 the Grants Pass City Council adopted the document.

Figure 4.11.5-1
REASONABLE FURTHER PROGRESS
Highway Carbon Monoxide Emissions



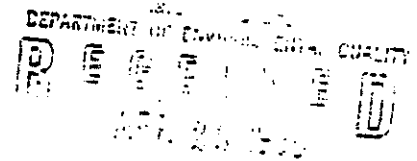
LEAD AGENCY DESIGNATION

- Acceptance of Responsibility by City of Grants Pass
- Designation as Lead Agency by Governor Victor Atiyeh



City of
Grants Pass

101 N.W. "A" Street
Grants Pass, Oregon 97526



OFFICE OF THE DIRECTOR

April 23, 1985

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

Re: Lead Agency for Carbon Monoxide Plan

Dear Mr. Hanson:

At its regular meeting of April 17, the Grants Pass Council adopted the enclosed resolution agreeing to be the lead agency for the carbon monoxide plan. We have an agreement with the Josephine County Board of Commissioners that they will make some of their staff available to provide "in-kind" services during the preparation of the plan.

Enclosed please also find a tentative schedule for the completion of the plan. Note that this schedule is tentative, and will be firmed up once we have selected a consultant and have had further discussions with your staff.

Note that the resolution makes the City's acceptance of the lead agency role contingent upon the award of a grant from the Environmental Protection Agency for two-thirds of the cost of the project, up to a maximum of \$20,000. Please let me know the details on this grant as soon as possible.

If you have any questions or comments, please don't hesitate to call.

Sincerely yours,

Ed Murphy
Director of Community Services

EM/jc

cc: Loren McPhillips, Environmental Protection Agency
Dennis Lewis, Rogue Valley Council of Governments
Board of County Commissioners
Bob Weber, County Engineer

Encl.

RESOLUTION NO. 1800

A RESOLUTION ACCEPTING THE DESIGNATION OF THE CITY OF GRANTS PASS AS THE LEAD AGENCY FOR THE PREPARATION AND IMPLEMENTATION OF A CARBON MONOXIDE ATTAINMENT PLAN.

WHEREAS, the U. S. Environmental Protection Agency has set standards for air quality under the Clean Air Act of 1977, and has required the state government to develop plans and strategies to meet those standards; and

WHEREAS, the carbon monoxide non-attainment area has been designated within the Downtown area of the City of Grants Pass; and

WHEREAS, consistent with federal and state policy, a local jurisdiction has been requested to prepare the attainment plan; and

WHEREAS, the Department of Environmental Quality has received a tentative commitment from the U. S. Environmental Protection Agency for up to \$20,000 to assist in the development of this attainment plan; and

WHEREAS, the City appears to be the most appropriate agency for the preparation and implementation of the Carbon Monoxide Attainment Plan;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Grants Pass that the City agrees to be the lead agency for the preparation and implementation of the Grants Pass Carbon Monoxide Attainment Plan; and

BE IT FURTHER RESOLVED that this acceptance is contingent upon the grant from the U. S. Environmental Protection Agency for 2/3 of the cost of preparing the plan, up to a maximum of \$20,000; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to submit a detailed work program with a budget and schedule leading to the submittal of a satisfactory attainment plan by December of 1985.

PASSED by the Council of the City of Grants Pass, Oregon, this 17th day of April, 1985.

SUBMITTED to and approved by the Mayor of the City of Grants Pass, Oregon this 22nd day of April, 1985.

Eric Heinicke
Mayor

ATTEST:

Quincy Jack
Finance Director

VICTOR ATIYEH
GOVERNOR



OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM, OREGON 97310

MAY 13 1985

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
MAY 22 1985

Ernesta Barnes
Region X Administrator
Environmental Protection Agency
1200 Sixth Avenue
Seattle, WA 98101

AIR QUALITY CONTROL

The purpose of this letter is to notify you that the City of Grants Pass will be the lead agency for the preparation and implementation of the Grants Pass carbon monoxide attainment plan. This designation is provided pursuant to Section 174 of the Clean Air Act.

Enclosed is a resolution by the City of Grants Pass dated April 22, 1985 accepting the designation as lead agency. Josephine County, the Rogue Valley Council of Governments, and the Oregon Department of Environmental Quality concur that the City of Grants Pass is the most appropriate lead agency.

Sincerely,

Victor Atiyeh
Governor

VA:n
AN155

Enclosure: City of Grants Pass Resolution No. 1800

cc: Mayor Jane Reyneke, City of Grants Pass
Dennis Lewis, Rogue Valley Council of Governments
Board of Josephine County Commissioners
bcc: Fred Hansen, DEQ Director
Air Quality Division, DEQ



Department of Environmental Quality

Attachment 4
Agenda Item D
July 25, 1986
EQC Meeting

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

March 28, 1986

Fred Miller, Director
Oregon Department of Transportation
135 Transportation Building
Salem, OR 97310

Re: Six-Year Highway Improvement
Program (1987-1992) - Grants
Pass Third Bridge Project

Jul
Dear Mr. Miller:

I would like to add to comments submitted by our Air Quality Division through A-95 Review on the proposed Six-Year Highway Improvement Program. The third bridge project in Grants Pass is proposed for development (final plans by federal FY87), but not for construction in the draft Six-Year Program.

Downtown Grants Pass has a serious carbon monoxide (CO) pollution problem. The federal Clean Air Act requires that a CO control plan for Grants Pass be submitted to the Environmental Protection Agency by December 1986 which is adequate to meet the CO health standard by December 1990. The City of Grants Pass, Rogue Valley Council of Governments, Josephine County, ODOT and DEQ are cooperatively working on the CO control plan.

The Grants Pass Technical Advisory Committee has not yet completed its analysis of transportation alternatives, but the analysis completed thus far indicates that:

- 1) The third bridge project is the single most effective transportation project identified to reduce CO concentrations in the Grants Pass CO nonattainment area;
- 2) The third bridge project would result in CO concentrations well below the health standard; and
- 3) It is doubtful that any of the other transportation improvement scenarios would be adequate to meet the CO standard by the deadline.

One might argue that an auto inspection maintenance (I/M) program should be implemented in Grants Pass as it has in Portland and in Medford to solve the serious carbon monoxide problem. It has been our experience that elected officials and the public look at I/M as a last resort control strategy. If there had been other traffic improvement projects that would

have solved the carbon monoxide problem in Portland and Medford (such as the third bridge option in Grants Pass), I am fairly certain we would not have seen I/M programs implemented within these two areas.

The CO control options in Medford were more limited than they are in Grants Pass. In Medford, the City, its consultants, the County, ODOT and DEQ were unable to identify a reasonable package of transportation improvement projects that were adequate to meet the CO health standard by the Clean Air Act deadline. Thus, an I/M program was a necessary supplement to the traffic flow improvement measures. In Grants Pass, the third bridge project would be adequate to meet the CO standard without an I/M program.

Several transportation projects were identified in Medford that, while not fully adequate to resolve the CO problem, would have significantly reduced the size of the nonattainment area. Some of these projects were strongly opposed by some parties for various reasons and have not been implemented. In contrast, the third bridge project appears to be widely supported in Grants Pass and Josephine County.

I am aware that the estimated \$15 million cost to build the bridge is a deterrent to putting it in the Six-Year Program construction category. Nevertheless, I would urge you to reexamine priorities for the Six-Year Program and strongly consider moving the third bridge project into your construction schedule as a high priority.

Our recent experience in Medford indicates that if an adequate control strategy is not developed, EPA may act upon its authority to impose Federal Highway Fund sanctions.

Thank you very much for the opportunity to comment on the Six-Year Program. If your staff has any questions about the air quality analysis, please have them contact Merlyn Hough at 229-6446 or Howard Harris at 229-6086.

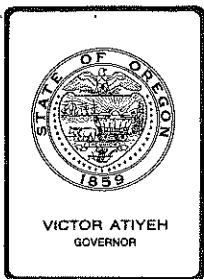
Sincerely,



Fred Hansen
Director

FH:s
AA5286

cc: Jane Reyneke, Mayor, City of Grants Pass
Michael Casey, City Manager, City of Grants Pass
Harold Haugen, Josephine County Commissioner
Robert Weber, Josephine County Engineer
Dennis Lewis, RVCOG
L.W. Rullen, ODOT
Gary Potter, ODOT
Robert Royer, ODOT
Gary Grimes, Southwest Region, DEQ



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item No. E, July 25, 1986, EQC Meeting

Request for Authorization to Hold a Public Hearing to Amend National Standards of Performance for New Stationary Sources OAR 340-25-505 to -710 and to Amend National Emission Standards and Procedural Requirements for Hazardous Air Contaminants, Oregon Administrative Rules (OAR) 340-25-460 to -485

Background

The U. S. Environmental Protection Agency (EPA) has been adopting New Source Performance Standards (NSPS) for major sources of air pollution since 1971. To acquire delegation to administer these standards, the Commission adopted Oregon Administrative Rules (OAR) 340-25-505 to -705 in September 1975, and amended them in 1981, 1982, 1983, 1984, and 1985. EPA delegated NSPS to the Department in 1976, 1981, 1983, 1984, and 1985.

EPA has been adopting National Emission Standards for Hazardous Air Pollutants (NESHAPS) since 1973. To acquire delegation to administer these standards, the Commission adopted Oregon Administrative Rules 340-25-450 to -480 in 1975 and amended them in 1982. EPA delegated these Hazardous Emission Standards to the Department in 1975 and 1982.

Problem Statement

EPA is continuously adopting and amending New Source Performance Standards (40 CFR 60 of federal protection of environment rules) and emission standards for hazardous air pollutants (Part 61 of federal protection of environment rules). The Department of Environmental Quality (DEQ) has historically committed to bring its rules up to date with EPA rules on a once a year basis when the Department believes those rules are reasonable and applicable in Oregon. By generally maintaining delegation to administer these federal rules in Oregon, the Department believes it can provide a more efficient implementation of the rules and reduce the confusion of industry having to deal with two agencies (DEQ and EPA).

Five new and seven amended rules published by EPA in the last year could require new DEQ rule adoptions. These federal rules cover the following source categories:

<u>NSPS Subpart, Section</u>	<u>New (N) or (A) Amended Rule</u>	<u>Subject of Rule Change</u>	<u>Federal Register Date</u>
I, 60.90 & 60.91	A	Name Change for Hot Mix Asphalt Plants	01/21/86, 04/10/86
N, 60.141 to 60.144	A	Name Change for Basic Oxygen Process Facilities and Minor Rule Changes	01/02/86
Na, 60.140a to 60.145a	N	Secondary Emission Standard for Basic Oxygen Process Facilities	01/02/86
BB, 60.280 to 60.284	A	Total Reduced Sulfur Compounds (TRS) and Reporting Changes for Kraft Mills	05/20/86
EE, 60.310	A	Exemption Point Added for Metal Furniture Coating	04/30/85
KKK, 60.630 to 60.636	N	Leaks at Natural Gas Processing Plants	06/24/85
LLL, 60.640 to 60.648	N	Sulfur Dioxide Vapor (SO ₂) From Natural Gas Processing Plants	10/01/85
000, 60.670 to 60.676	N	Nonmetallic Mineral Processing Plants	08/01/85
Appendix B, Method 9	A	Opacity Reading Method	12/27/85

<u>NESHAPS Subpart, Section</u>	<u>New (N) or (A) Amended Rule</u>	<u>Subject of Rule Change</u>	<u>Federal Register Date</u>
B, 61.20 to 61.28	N	National Hazardous Emission Standard for Radon-222 Emissions From Underground Uranium Mines	04/17/85

<u>NESHAPS Subpart, Section</u>	<u>New (N) or (A) Amended Rule</u>	<u>Subject of Rule Change</u>	<u>Federal Register Date</u>
D, 61.44	A	Test Method Added to Measure Beryllium from Rocket Motor Firing	11/07/85
E, 61.53	A	Test Method Added to Measure Mercury from Chlor-Alkali Cells, etc.	11/07/85
Appendix B, Part 61	A	Test Methods Amended for Sources of Hazardous Air Pollutants	11/07/85

Authority for the Commission to act is given in Oregon Revised Statutes (ORS) 468.020 and 468.295(3) where the Commission is authorized to establish emission standards for sources of air contaminants. A public hearing notice and "Statement of Need for Rulemaking" is Attachment 1 of this memorandum.

Alternatives and Evaluation

The Department has agreed, in the Fiscal Year 1987 State and EPA Agreement, to bring its rules up-to-date annually with EPA's NSPS and NESHAPS rule changes, where appropriate and applicable.

Alternatives are:

1. The Commission could take NO ACTION.

A no-action consequence would be that both the Department and EPA staffs would have to review certain emission sources in Oregon, because the DEQ's rules would not have been kept up to date with EPA's rules. Thus, a review by each staff for their different rules would be necessary.

2. The Commission could authorize the past year's new and amended federal standards (in Oregon rule form) for a public hearing.

This would help EPA-Department cooperation to achieve single, state jurisdiction and review of certain new and modified sources. This would also fulfill DEQ's promise to EPA that DEQ would adopt federal NSPS and NESHAPS rule changes once each year by the beginning of the first quarter of the federal fiscal year.

3. The Commission could adopt alternative 2 with the exception of two items: Non-Metallic Mineral Processing Rule 40 CFR 60, Subpart 000 and amendments to Test Method 9 (published in 50 FR 53108, December 27, 1985). With respect to the Non-Metallic Processing Rule, the Department believes the compliance monitoring and tracking requirements need further evaluation to determine their reasonableness and environmental value. The amendments to Test Method 9 require extensive opacity reading which the Department also believes require further evaluation as to its reasonableness.

The Department prefers Alternative 3 and will complete its study of the delayed rules within the next few months.

Rule Development Process

The Department has assembled a complete list of amendments to the federal standards, and the Federal Registers describing those rule changes, and has made appropriate changes in wording to fit these rules into the OAR format (see Attachment 2 for the proposed rule language).

PROPOSED RULE CHANGES AND ADDITIONS

Standards of Performance for New Stationary Sources (NSPS)

Asphalt concrete plants, Subpart I of Title 40 Code of Federal Regulations, Parts 60.90 and 60.91 (40 CFR 60.90, 60.91) was amended by Volume 51 Federal Register page 3300 (51 FR 3300) on January 24, 1986 to change the facility's name from "Asphalt Concrete Plants" to "Hot Mix Asphalt Facilities." A minor change also occurred by 51 FR 12324, on April 10, 1986, where descriptions of the action taken on January 24, 1986, was corrected in three places. This change is proposed for OAR 340-25-575.

Standards of Performance for Iron and Steel plants, Subpart N, 40 CFR 60.141 through 60.144, was amended by 51 FR 150 on January 2, 1986 to change the title to "Standards of Performance for Primary Emissions From Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973." Four definitions were changed and a more lax emission concentration was allowed for closed hood controls. Minor changes were made in the Monitoring and Test method sections. These changes are proposed for OAR 340-25-600.

Secondary emission standards for Basic Oxygen Process Furnaces, Subpart Na, 40 CFR 60.140a through 60.145a, was added by 51 FR 150 on January 2, 1986. Since there are no basic oxygen furnaces in Oregon, adding a new rule, OAR 340-25-602, to cover these fugitive emissions out of roof vents, will have no impact at this time.

Kraft Pulp Mills, Subpart BB, 40 CFR 60.280 to 60.284 was amended by 50 FR 18538 on May 20, 1986 to relax certain TRS emission limits and reporting requirements. Two of Oregon's eight Kraft pulp mills are covered by this

rule: International Paper's mill at Gardiner, and Boise Cascade's mill at St. Helens. Since the more stringent Oregon rule on Kraft mills remains (OAR 340-25-150 through -205) in effect, and rule 340-25-805 clearly states that the more stringent shall apply, then the relaxation of this federal rule would have no effect in Oregon. However, DEQ prefers to keep Oregon's version of the federal rule 340-25-630 up-to-date with the revised federal rule, so as to avoid the confusion of leaving an obsolete federal rule on the books in Oregon.

Metal Furniture Coating, Subpart EE, 40 CFR 60.310, was amended by 50 FR 18248 on April 30, 1985 to exempt facilities where less than 3,842 liters per year (1015 gal/yr) are used in coating. No plants in Oregon are large enough, or are new enough, to be affected by this proposed rule change to OAR 340-25-642.

Leaks at Natural Gas Processing Plants, Subpart KKK, 40 CFR 60.630 through 60.636, was added by 50 FR 26124 on June 24, 1985. When the one natural gas processing plant in Oregon (in Columbia County near Mist) expands during the next few years, it will come under this proposed rule OAR 340-25-708.

SO₂ from Natural Gas Processing Plants, Subpart LLL, 40 CFR 60.640 through 60.648, was added by 50 FR 40160 on October 1, 1985. This new proposed rule, OAR 340-25-710, affects no existing sources since the natural gas from the Mist field is so low in sulfur that no desulfurization is needed.

Emission Standards and Procedural Requirements for Hazardous Air Contaminants NESHAPS

The test methods for Hazardous Air Contaminants, Appendix B, 40 CFR 61, were amended by 50 FR 46290 to 46295 on November 7, 1985. This requires that OAR 340-25-460(6)(a) be brought up to date by citing this latest revision to the federal test methods, incorporated by reference.

The same above federal rule change on November 7, 1985 also specified a test method in 40 CFR 61.44 for measuring beryllium. This requires that OAR 340-25-475 be brought up to date by citing the latest revision to the federal standard, incorporated by reference.

The same above federal rule change on November 7, 1985 amended the method for testing for mercury in 40 CFR 61.53. This requires that OAR 340-25-480(3)(d) be brought up to date by citing the latest revision to the federal test methods, incorporated by reference.

The National Emission Standard for Hazardous Air Pollutants; Standard for Radon-222 Emissions From Underground Uranium Mines, Subpart B, 40 CFR 61.20 through 61.28 was added by 50 FR 15392 on April 17, 1985. This new standard requires air tight bulkheads be fitted on all active underground uranium mines, to contain the Radon-222 in all abandoned shafts. According to the Oregon Department of Geology and Mineral Industries, there are no active underground uranium mines in Oregon.

It is proposed to incorporate the new federal rule by reference (see Attachment 2, page 4, for proposed OAR 340-25-485), similar to the previous rule for Beryllium Rocket Motor Firing, another little used rule of this type. See the text of the complete federal rule in Attachment 3, and the text of the proposed OAR on page 4 of Attachment 2.

Summation

1. EPA adopted the first New Stationary Source Performance Standards (NSPS) in 1971 and the first National Emission Standard for Hazardous Air Pollutants in 1973.
2. To acquire delegation to administer the above federal rules in Oregon, the Commission adopted equivalent administrative rules in 1975 and subsequently received delegation.
3. The Commission adopted amendments to the NSPS rules in 1981, 1982, 1983, 1984, and in 1985 to bring them up to date with EPA rules. The Commission adopted amendments to the Hazardous Air Pollutant rules in 1982.
4. Historically, the Department has committed to bring its rules up to date with EPA rules on a once a year basis for those rules which the Department believes are reasonable and applicable in Oregon.
5. The proposed rule changes (Attachment 2) would bring the State rules up to date with the current federal rules with two exceptions: the rock crusher rule and revised Test Method 9. The Department is studying staff surveillance and monitoring requirements for both of these exceptions and may or may not recommend seeking delegation, depending on the amount of resources needed.
6. The sources affected by this proposed action are the following:
 - a. Hot Mix Asphalt Plants
 - b. Basic Oxygen Process Facilities, primary emissions
 - c. Basic Oxygen Process Facilities, secondary emissions
 - d. Kraft Pulp Mill Changes
 - e. Exemption point added for Metal Furniture Coating
 - f. Leaks at Natural Gas Processing Plants
 - g. SO₂ from Natural Gas Processing Plants
 - h. Hazardous Pollutant Emissions, Radon-222 from Active Underground Uranium Mines

- i. Test Method Added to Measure Beryllium from Rocket Motor Firing
- j. Test Method Added to Measure Mercury from Chlor-Alkali Cells, etc.
- k. Test methods Amended for Sources of Hazardous Air Pollutants

Director's Recommendation

Based upon the Summation, it is recommended that the Commission authorize a public hearing to take testimony on the attached amendments to OAR 340-25-460 to 340-25-710, rules on National Standards of Performance for New Stationary Sources and for Hazardous Air Contaminants, and to consider asking EPA for authority to administer the equivalent Federal Rules in Oregon.



Fred Hansen

- Attachments 1. Notice of Public Hearing with attached Statement of Need for Rulemaking
2. Proposed Rules 340-25-460 to 340-25-710
3. Federal Rule for Underground Uranium Mines 40 CFR 61.20-28

P.B. Bosserman:p
AA5348
(503) 229-6278
July 10, 1986

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

New Federal Air Quality Rules To Be Made Into State Standards

Date Prepared: July 9, 1986
Hearing Date: September 3, 1986
Comments Due: September 4, 1986

**WHO IS
AFFECTED:**

Industry which may build new, reconstruct, or modify air pollution sources in the categories listed below.

**WHAT IS
PROPOSED:**

The Department of Environmental Quality (DEQ) is proposing to amend OAR 340-25-460 to 340-25-710 to add four and modify seven standards already in force under by the federal Environmental Protection Agency (EPA):

<u>Item</u>	<u>40 CFR Subpart</u>	<u>Industry Affected</u>
1.	I, 60.90 & 60.91	Hot Mix Asphalt Plants
2.	N, 60.141 & 60.144	Basic Oxygen Process Facilities, primary emissions
3.	Na, 60.140a to 60.145a	Basic Oxygen Process Facilities, secondary emissions
4.	BB, 60.280 to 60.284	Kraft Pulp Mill Changes
5.	EE, 60.310	Exemption point added for Metal Furniture Coating
6.	KKK, 60.630 to 60.636	Leaks at Natural Gas Processing Plants
7.	LLL, 60.640 to 60.648	SO ₂ from Natural Gas Processing Plants
8.	B, 61.20 to 61.28	Hazardous Pollutant Emissions, Radon-222 from Active Underground Uranium Mines
9.	D, 61.44	Test Method Added to Measure Beryllium from Rocket Motor Firing
10.	E, 61.53	Test Method Added to Measure Mercury from Chlor-Alkali Cells, etc.
11.	Appendix B, Part 61	Test methods Amended for Sources of Hazardous Air Pollutants



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 ~~1-800-452-7919~~ and ask for the Department of Environmental Quality.

1-800-452-4011



The Department is not proposing to adopt one new federal rule on rock crushers, and a change in the observing time from 6 minutes to 180 minutes for Test Method 9. The Department is studying staff surveillance and monitoring requirements for these two federal rules, and may or may not recommend seeking delegation, depending on the amount of resources needed.

WHAT ARE THE HIGHLIGHTS:

The Department proposes to adopt these federal rules and to request EPA to delegate jurisdiction over those sources in Oregon to DEQ. This has been done previously with 37 other sources. This is considered a routine rulemaking action, since the sources must abide by an identical federal rule, already in force.

HOW TO COMMENT:

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

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

11:00 a.m.
Wednesday, September 3, 1986
Room 4A, 4th Floor, Yeon Bldg.
522 S.W. 5th, Portland, OR 97204

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 September 4, 1986.

WHAT IS THE NEXT STEP:

After public hearing, the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted rules will be submitted to the U. S. Environmental Protection Agency for delegation. The Commission's deliberation should come on October 24, 1986 as part of the agenda of a regularly scheduled Commission meeting.

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

RULEMAKING STATEMENTS

for
New Federal Rules to be
Made Into State Standards

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

STATEMENT OF NEED:

Legal Authority

This proposal amends Oregon Administrative Rules 340-25-460 to 340-25-710. It is proposed under authority of Oregon Revised Statutes 468.020(1) and 468.295(3) where the Environmental Quality Commission is authorized to establish different rules for different sources of air pollution.

Need for the Rule

The proposed changes bring the Oregon rules up-to-date with changes and additions to the federal "Standards of Performance for New Stationary Source", 40 CFR 60, and "National Emission Standards for Hazardous Air Pollutants", 40 CFR 61. As Oregon rules are kept up-to-date with the federal rules, then the federal Environmental Protection Agency (EPA) delegates jurisdiction for their rules to the Department, allowing Oregon industry and commerce to be regulated by only one environmental agency.

Principal Documents Relied Upon

1. Title 40 Code of Federal Regulations, as amended in recent Federal Registers.

<u>40 CFR Subpart</u>	<u>New (N) or (A) Amended Rule</u>	<u>Subject of Rule Change</u>	<u>Register Date</u>
I, 60.90 & 60.91	A	Name Change for Hot Mix Asphalt Plants	01/21/86, 04/10/86
N, 60.141 to 60.144	A	Name Change for Basic Oxygen Process Facilities and Minor Rule Changes	01/02/86
Na, 60.140a to 60.145a	N	Secondary Emission Standard for Basic Oxygen Process Facilities	01/02/86

BB, 60.280 to 60.284	A	TRS and Reporting Changes for Kraft Mills	05/20/86
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LLL, 60.640 to 60.648	N	SO ₂ From Natural Gas Processing Plants	10/01/85
Part 60, Appendix B, Method 9	A	Opacity Reading Method	12/27/85
000, 60.670 to 60.676	N	Nonmetallic Mineral Processing Plants	08/01/85
B, 61.20 to 61.28	N	National Hazardous Emission Standard for Radon-222 Emissions From Underground Uranium Mines	04/17/85
D, 61.44	A	Test Method Added to Measure Beryllium from Rocket Motor Firing	11/07/85
E, 61.53	A	Test Method Added to Measure Mercury from Chlor-Alkali Cells, etc.	11/07/85
Appendix B, Part 61	A	Test Methods Amended for Sources of Hazardous Air Pollutants	11/07/85

FISCAL AND ECONOMIC IMPACT STATEMENT:

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

Small businesses will incur less cost and processing time if these rules are administered by only one agency.

LAND USE CONSISTENCY STATEMENT:

The proposed rule changes appear to affect land use and appear to be consistent with the Statewide Planning Goals.

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

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

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

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.

AA5350

Emission Standards and Procedure Requirements
for Hazardous Air Contaminants

. . .

General Provisions

340-25-460 (1) Applicability. The provisions of these rules shall apply to any source which emits air contaminants for which a hazardous air contaminant standard is prescribed. Compliance with the provisions of these rules shall not relieve the source from compliance with other applicable rules of the Oregon Administrative Rules, Chapter 340, or with applicable provisions of the Oregon Clean Air Act Implementation Plan.

(2) Prohibited activities:

(a) No person shall operate any source of emissions subject to these rules without first registering such source with the Department following procedures established by ORS 468.320 and OAR 340-20-005 through 340-20-015. Such registration shall be accomplished within ninety (90) days following the effective date of these rules.

(b) After the effective date of these rules, no person shall construct a new source or modify any existing source so as to cause or increase emissions of contaminants subject to these rules without first obtaining written approval from the Department.

(c) No person subject to the provisions of these emission standards shall fail to provide reports or report revisions as required in these rules.

(3) Application for approval of construction or modification. All applications for construction or modification shall comply with the requirements of rules 340-20-020 through 340-20-030 and the requirements of the standards set forth in these rules.

(4) Notification of startup. Notwithstanding the requirements of rules 340-20-020 through 340-20-030, any person owning or operating a new source of emissions subject to these emission standards shall furnish the Department written notification as follows:

(a) Notification of the anticipated date of startup of the source not more than sixty (60) days no less than thirty (30) days prior to the anticipated date.

(b) Notification of the actual startup date of the source within fifteen (15) days after the actual date.

(5) Source reporting and approval request. Any person operating any existing source, or any new source for which a standard is prescribed in these rules which had an initial startup which preceded the effective date

of these rules shall provide the following information to the Department within ninety (90) days of the effective date of these rules:

(a) Name and address of the owner or operator.

(b) Location of the source.

(c) A brief description of the source, including nature, size, design, method of operations, design capacity, and identification of emission points of hazardous contaminants.

(d) The average weight per month of materials being processed by the source and percentage by weight of hazardous contaminants contained in the processed materials, including yearly information as available.

(e) A description of existing control equipment for each emission point, including primary and secondary control devices and estimated control efficiency of each control device.

(6) Source emission tests and ambient air monitoring:

(a) Emission tests and monitoring shall be conducted using methods set forth in 40 CFR, Part 61, Appendix B, as published in the Code of Federal Regulations last amended by the Federal Register, [June 8, 1982, pages 24703 to 24716.] November 7, 1985, pages 46290 to 46295. The methods described in 40 CFR, Part 61, Appendix B, are adopted by reference and made a part of these rules. Copies of these methods are on file at the Department of Environmental Quality.

(b) At the request of the Department, any source subject to standards set forth in these rules may be required to provide emission testing facilities as follows:

(A) Sampling ports, safe sampling platforms, and access to sampling platforms adequate for test methods applicable to such source.

(B) Utilities for sampling and testing equipment.

(c) Emission tests may be deferred if the Department determines that the source is meeting the standard as proposed in these rules. If such a deferral of emission tests is requested, information supporting the request shall be submitted with the request for written approval of operation. Approval of a deferral of emission tests shall not in any way prohibit the Department from canceling the deferral if further information indicates that such testing may be necessary to insure compliance with these rules.

(7) Delegation of authority. The Commission may, when any regional authority requests and provides evidence demonstrating its capability to carry out the provisions of these rules relating to hazardous contaminants, authorize and confer jurisdiction within its boundary until such authority and jurisdiction shall be withdrawn for cause by the Commission.

. . .

Emission Standard For Beryllium Rocket Motor Firing

340-25-475 The emission standard for Beryllium Rocket Motor Firing, 40 CFR, Part 61, Section 61.40 through 61.44, [adopted Friday, April 6, 1973, and] as last amended on [August 17, 1977 and March 3, 1978,] November 7, 1985, is adopted by reference and made a part of these rules. A copy of this emission standard is on file at the Department of Environmental Quality.

Emission Standard for Mercury

340-25-480 (1) Applicability. The provisions of this rule are applicable to sources which process mercury ore to recover mercury, sources using mercury chlor-alkali cells to produce chlorine gas and alkali metal hydroxide, and to any other source, the operation of which results or may result in the emission of mercury to the ambient air.

(2) Emission Standard. No person shall cause to be discharged into the atmosphere emissions from any source exceeding 2,300 grams of mercury during any 24 hour period, except that mercury emissions to the atmosphere from sludge incineration plants, sludge drying plants, or a combination of these that process wastewater treatment plant sludges shall not exceed 3200 grams of mercury per 24-hour period.

(3) Stack sampling:

(a) Mercury ore processing facility:

(A) Unless a deferral of emission testing is obtained under subsection 340-25-460(6)(c) of these rules, each person operating a source processing mercury ore shall test emissions from his source, subject to the following:

(i) Within ninety (90) days of the effective date of these rules for existing sources or for new sources having startup dates prior to the effective date of this standard.

(ii) Within ninety (90) days of startup in the case of a new source having a startup date after the effective date of this standard.

(B) The Department shall be notified at least thirty (30) days prior to an emission test so that they may, at their option, observe the test.

(C) Samples shall be taken over such periods and frequencies as necessary to determine the maximum emissions occurring during any 24 hour period. Calculations of maximum 24 hour emissions shall be based on that combination of process operating hours and any variation in capacities or processes that will result in maximum emissions. No changes in operation which may be expected to increase total emissions over those determined by

the most recent stack test shall be made until estimates of the increased emissions have been calculated, and have been reported to and approved in writing by the Department.

(D) All samples shall be analyzed and mercury emissions shall be determined and reported to the Department within thirty (30) days following the stack test. Records of emission test results and other data needed to determine mercury emissions shall be retained at the source and made available for inspection by the Department for a minimum of two (2) years following such determination.

(b) Mercury chlor-alkali plant:

(A) Hydrogen and end-box ventilation gas streams. Unless a deferral of emission testing is obtained under subsection 340-25-460(6)(c), each person operating a source of this type shall test emissions from his source following the provisions of subsection (3)(a) of this rule.

(B) Room ventilation system:

(i) Unless a deferral of emission testing is obtained under subsection 340-25-460(6)(c), all persons operating mercury chlor-alkali plants shall pass all cell room air in forced gas streams through stacks suitable for testing.

(ii) Emissions from cell rooms may be tested in accordance with provisions of paragraph (3)(b)(A) of this rule or may demonstrate compliance with paragraph (3)(b)(B)(iii) of this rule and assume ventilation emissions of 1,300 grams/day of mercury.

(iii) If no deferral of emission testing is requested, each person testing emissions shall follow the provisions of subsection (3)(a) of this rule.

(c) Any person operating a mercury chlor-alkali plant may elect to comply with room ventilation sampling requirements by carrying out approved design, maintenance, and housekeeping practices. A summary of these approved practices shall be available from the Department.

(d) Stack sampling and sludge sampling at wastewater treatment plants shall be performed in accordance with 40 CFR 61.53(d) or 40 CFR 61.54, last amended by Federal Register [June 8, 1982, page 24703.] November 7, 1985, pages 46290 to 46295.

Work Practice Standard for Radon-222 Emissions from Underground Uranium Mines

340-25-485 The work practice standard for Radon-222 Emissions from active Underground Uranium Mines, 40 CFR, Part 61, Sections 61.20 through 61.28, as published in 50 FR 15392 on April 17, 1985, is adopted by reference and made a part of these rules. The standard requires airtight bulkheads to prevent Radon-222 from escaping from abandoned parts of uranium mines that are extracting greater than 10,000 tons of ore per year, or will extract more than 100,000 tons of ore during the life of the mine.

Standards of Performance for New Stationary Sources

Statement of Purpose

340-25-505 The U.S. Environmental Protection Agency has adopted in **Title 40, Code of Federal Regulations, Part 60**, Standard of Performance for certain new stationary sources. It is the intent of this rule to specify requirements and procedures necessary for the Department to implement and enforce the aforementioned Federal Regulation.

Definitions

340-25-510 (1) "Administrator" herein and in **Title 40, Code of Federal Regulations, Part 60**, means the Director of the Department or appropriate regional authority.

(2) "Federal Regulation" means **Title 40, Code of Federal Regulations, Part 60**, as promulgated prior to [March 22, 1985.] May 21, 1986.

(3) "CFR" means Code of Federal Regulations.

(4) "Regional authority" means a regional air quality control authority established under provisions of ORS 468.505.

Statement of Policy

340-25-515 It is hereby declared the policy of the Department to consider the performance standards for new stationary sources contained herein to be minimum standards; and, as technology advances, conditions warrant, and Department or regional authority rules require or permit, more stringent standards shall be applied.

Delegation

340-25-520 The Commission may, when any regional authority requests and provides evidence demonstrating its capability to carry out the provisions of these rules, authorize and confer jurisdiction upon such regional authority to perform all or any of such provisions within its boundary until such authority and jurisdiction shall be withdrawn for cause by the Commission.

Applicability

340-25-525 This rule shall be applicable to stationary sources identified in rules 340-25-550 through 340-25-715 for which construction, reconstruction, or modification has been commenced, as defined in **Title 40, Code of Federal Regulations, 40 CFR 60.**

General Provisions

340-25-530 Title 40, CFR, Part 60, Subpart A as promulgated prior to [March 22, 1985] May 21, 1986 is by this reference adopted and incorporated herein. Subpart A includes paragraphs 60.1 to [60.16] 60.18 which address, among other things, definitions, performance tests, monitoring requirements, and modifications.

Performance Standards

Federal Regulations Adopted by Reference

340-25-535 Title 40, CFR, Parts 60.40 through 60.154, and 60.250 through 60.648, and 60.680 through 60.685 as established as final rules prior to [March 22, 1985] May 21, 1986, is by this reference adopted and incorporated herein, with the exception of the December 27, 1985 federal revision to 40 CFR 60 Appendix B, Test Method 9. As of [March 22, 1985] May 21, 1986, the Federal Regulations adopted by reference set the emission standards for the new stationary source categories set out in rules 340-25-550 through 340-25-715 (these are summarized for easy screening, but testing conditions, the actual standards, and other details will be found in the Code of Federal Regulations).

...

Standards of Performance for Hot Mix Asphalt [Concrete Plants] Facilities

340-25-575 The pertinent federal rules are 40 CFR 60.90 to 60.93, also known as Subpart I. The following emission standards, summarizing the federal standards set forth in Subpart I, apply to each hot mix asphalt [concrete plant:] facility. Standards for Particulate Matter. No owner or operator subject to the provisions of this rule shall discharge or cause the discharge into the atmosphere from any affected facility any gases which:

- (1) Contain particulate matter in excess of 90 mg/dscm (0.040 gr/dscf).
- (2) Exhibit 20 percent opacity or greater.

Standards of Performance for [Iron and Steel Plants] Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973

340-25-600 The pertinent federal rules are 40 CFR 60.140 to 60.144, also known as Subpart N. The following emission standards, summarizing the federal standards set forth in Subpart N, apply to each basic oxygen process furnace in iron and steel plants subject to this rule if the furnace was modified or constructed after June 11, 1973. Standards for

Particulate Matter. No owner or operator subject to the provisions of this rule shall discharge or cause the discharge into the atmosphere from any affected facility any gases which:

(1) Contain particulate matter in excess of 50 mg/dscm (0.022 gr/dscf); and

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

(3) Contain particulate matter in excess of 68 mg/dscm (0.030 gr/dscf) as measured for the primary oxygen blow, if constructed, modified, or reconstructed after January 20, 1983.

Standards of Performance for Secondary Emissions From Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983

340-25-602. The pertinent federal rules are 40 CFR 60.140a to 60.145a, also known as Subpart Na. The following emission standards, summarizing the federal standards set forth in Subpart Na, apply to top-blown Basic Oxygen Process Facilities and hot metal transfer stations and skimming stations used with bottom-blown or top-blown Basic Oxygen Process Facilities, that commenced construction, modification, or reconstruction after January 20, 1983, in any iron and steel plant.

(1) Standard for Particulate Matter. No owner or operator shall discharge or cause the discharge into the atmosphere any secondary emissions that:

(a) Exit from the Basic Oxygen Process Facility (BOPF) shop roof monitor (or other building openings) and exhibit greater than 20 percent opacity during the steel production cycle of any top-blown BOPF or during hot metal transfer or skimming operations for any bottom-blown BOPF; except that an opacity greater than 10 percent but less than 20 percent may occur once per steel production cycle.

(b) Exit from a control device used solely for the collection of secondary emissions from a top-blown BOPF or from hot metal transfer or skimming for a top-blown or a bottom-blown BOPF and contain particulate matter in excess of 23 mg/dscm (0.010 gr/dscf).

(c) Exit from a control device used solely for the collection of secondary emissions from a top-blown BOPF or from hot metal transfer or skimming for a top-blown or a bottom-blown BOPF and exhibit more than 5 percent opacity.

(d) A fume suppression system used to control secondary emissions from an affected facility is not subject to paragraphs (b) and (c) of this standard.

(e) A control device used to collect both primary and secondary emissions from a BOPF is not subject to paragraphs (b) and (c) of this standard.

. . .

Standards of Performance for Kraft Pulp Mills

340-25-630 The pertinent federal rules are **40 CFR 60.280 to 60.286**, also known as **Subpart BB**. The standards for kraft pulp mills' facilities, summarizing the federal standards set forth in **Subpart BB**, are applicable only to a recovery furnace, smelt dissolving tank, lime kiln, digester system, brown stock washer system, multiple-effect evaporator system, [black liquor oxidation system,] and condensate stripper system built or modified after September 24, 1976:

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

(a) From any recovery furnace;

(A) In excess of 0.10 g/dscm (0.044 gr/dscf) corrected to 8 percent oxygen, or

(B) Exhibit 35 percent opacity or greater;

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

(c) From any lime kiln;

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

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

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

(a) From any digester system, brown stock washer system, multiple-effect evaporator system, [black liquor oxidation system,] or condensate stripper system in excess of 5.0 ppm by volume on a dry basis, corrected to the actual oxygen content of the untreated gas stream;

(b) From any straight kraft recovery furnace in excess of 5.0 ppm by volume on a dry basis corrected to 8 percent oxygen;

(c) From any cross recovery furnace in excess of 25 ppm by volume on a dry basis, corrected to 8.0 percent oxygen;

(d) From any smelt dissolving tank in excess of [0.0084] 0.016 g/Kg black liquor solids, dry weight ([0.0168] 0.033 lb/ton);

(e) From any lime kiln in excess of 8.0 ppm by volume on a dry basis, corrected to 10 percent oxygen.

...

Standards of Performance for Metal Furniture Surface Coating

340-25-642 The pertinent federal rules are 40 CFR 60.310 to 60.316, also known as Subpart EE. The following emission standard, summarizing the federal standard set forth in Subpart EE, applies to metal furniture surface coating operations in which organic coatings are applied which commenced construction, modification, or reconstruction after November 28, 1980, that use 3,842 liters of coating (as applied) or more per year.

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

...

Standards of Performance for Leaks from Onshore Natural Gas Processing Plants

340-25-708 The pertinent federal rules are 40 CFR 60.630 to 60.636, also known as Subpart KKK. The emission standards set forth in Subpart KKK apply to each onshore natural gas processing plant that commenced construction, reconstruction, or modification after January 20, 1984. The detailed standards for VOC leaks from these plants are set forth in 40 CFR 60.632 through 60.634, three pages of detailed rules.

Standards of Performance for SO₂ from Onshore Natural Gas Processing Plants

340-25-710 The pertinent federal rules are 40 CFR 60.640 to 60.648, also known as Subpart LLL. The emission standards set forth in Subpart LLL, paragraph 60.642 and Tables 1 and 2 attached thereto, apply to each onshore natural gas processing plant that commenced construction, or modification after January 20, 1984, which emits 2 long tons per day or more of hydrogen sulfide (expressed as sulfur) in the acid gas.

...

AS3200

List of Subjects in 40 CFR Part 61

Air pollution control, Hazardous materials, Asbestos, Beryllium, Mercury, Vinyl chloride, Benzene, Arsenic, Radionuclides.

Dated: April 10, 1985.

Lee M. Thomas,
Administrator.

Part 61 of Chapter 1 of Title 40 of the Code of Federal Regulations is amended by adding the following Subpart B consisting of §§ 61.20 through 61.28:

PART 61—[AMENDED]**Subpart B—National Emission Standard for Radon-222 Emissions from Underground Uranium Mines**

Sec.

- 61.20 Applicability.
- 61.21 Definitions.
- 61.22 Standard.
- 61.23 Alternatives Standard.
- 61.24 Bulkhead Inspection and Testing.
- 61.25 Bulkhead Repair.
- 61.26 Recordkeeping.
- 61.27 Reporting Requirements.
- 61.28 Source Reporting and Waiver Request.

Authority: Sec. 112 and 301(a) Clean Air Act, as amended, 42 U.S.C. 7412, 7601(a).

Subpart B—National Emission Standard for Radon-222 Emissions from Underground Uranium Mines**§ 61.20 Applicability.**

The provisions of this subpart are applicable to an owner or operator of an active underground uranium mine which:

- (a) Has mined or will mine over 100,000 tons of ore during the life of the mine; or
- (b) Has had or will have an annual ore production rate greater than 10,000 tons, unless it can be demonstrated that the mine will not exceed a total ore production of 100,000 tons during the life of the mine.

§ 61.21 Definitions.

As used in this subpart, all terms not defined here shall have the meaning given them in the Clean Air Act or in subpart A of Part 61 and the following terms shall have the specific meanings given below:

- (a) "Abandoned area" means a deserted mine area in which work has ceased and in which further work is not intended. Areas which function as escapeways, and areas formerly-used as lunchrooms, shops, and transformer or pumping stations are not considered abandoned areas. Except for designated ventilation passageways designed to minimize the distance to vents, worked-out mine areas are considered

abandoned areas for the purpose of this subpart.

(b) "Active mine" means an underground uranium mine from which ore or waste material is currently removed by conventional methods.

(c) "Area" means a man-made underground void from which ore or waste has been removed.

(d) "Bulkhead" means an air-restraining barrier constructed for long-term control of radon-222 and radon-222 decay product levels in mine air.

(e) "Inactive mine" is a mine from which uranium ore has been previously removed but which is not an active mine as of the effective date of the standard. Inactive mines which become active mines after the effective date of the standard are considered new sources under the provisions of subparts A and B of this part.

(f) "Modification" as applied to an active underground uranium mine means any major change in the method of operation or mining procedure which will result in an increase in the amount of radon-222 emitted to air. The normal development or operation of an active mine, even though it results in an increase in emissions, is not considered a modification for the purposes of this subpart.

(g) "Temporarily abandoned area" means a mine area in which further work is not intended for at least six months. Areas which function as escapeways, formerly-used lunchrooms, shops, and transformer or pumping stations are not considered abandoned areas. Except for designated ventilation passageways designed to minimize the distance to vents, worked-out mine areas are considered temporarily abandoned areas for the purpose of this subpart if work is not intended in the area for at least six months.

(h) "Underground uranium mine" means a man-made underground excavation made for the purpose of removing material containing uranium for the principal purpose of recovering uranium.

(i) "Work" means mining activity done in the usual and ordinary course of developing and operating a mine.

§ 61.22 Standard.

(a) An owner or operator of an underground uranium mine subject to this subpart shall install and maintain bulkheads to isolate all abandoned and temporarily abandoned areas according to the following requirements:

- (1) The bulkhead shall be a structure designed and constructed for long-term control of the isolated area and shall be sealed to minimize air leakage through

the bulkhead. The bulkhead shall be of sufficient structural strength to resist mechanical abuse, blasting shocks, air pressure differentials, and rock movement for an extended period of time in the mine-operating environment. The basic bulkhead structure may consist of a timber or metal stud frame, covered with lumber, expanded metal lath, plywood, or other sheet products. It may be a continuous nonporous membrane or it may support such a membrane. A sealant shall be applied onto the basic structure and in the joints between the structure and the rock to form a continuous seal and radon barrier. The sealant shall be of a type that will provide a protective seal, and will not easily crack or develop holes or leaks. A sealant may consist of coatings of mortar, masonry, latex, urethane foam, or similar materials. A properly constructed and sealed bulkhead shall have no visible cracks or gaps.

(2) If negative pressure behind the bulkhead is used, then a maximum of 20 percent of the total volume of air contained in the isolated area can be exhausted per day.

(3) As mine areas become abandoned or temporarily abandoned after the applicable date of this standard, the mine owner or operator must install a bulkhead in compliance with the provisions of § 61.22(a) within 30 days of the area becoming abandoned or temporarily abandoned.

(b) Upon written application from an owner or operator of an underground uranium mine subject to this subpart, the Administrator may approve alternative bulkhead designs or construction, or other methods for isolating abandoned or temporarily abandoned areas, if such alternatives can be shown to provide isolation of the area equivalent to the requirements of § 61.22(a)(1).

§ 61.23 Alternative Standard.

(a) If compliance with the requirements of § 61.22 will result in increased radon-222 decay product concentrations in the active areas of the mine, will require workers to enter unsafe areas, or will otherwise be impractical to achieve because of unique or unusual circumstances, then the owner or operator of an existing source (i.e., existing active mine) may apply to the Administrator for an alternative standard. The Administrator may establish an alternative standard if the applicant demonstrates that an alternative is necessary to provide for the health and safety of the workers and will minimize the exposure of nearby individuals and the general population to radon-222 decay products, to the

extent practical. Applications for an alternative standard shall be made within 90 days of the effective date of the standard and include the following information:

(1) The reasons for requesting an alternative;

(2) A description of the alternative requested;

(3) A description of all measures that have been taken or will be taken by the mine owner or operator to minimize the exposure of nearby individuals and the general population to radon-222 decay products, to the extent practical.

(4) A schedule for complying with the alternative standard.

(b) An inactive mine which again becomes active may request an alternative standard under § 61.23(a). Application for an alternative standard must be submitted as part of an application for approval of construction or modification as required under § 61.07.

(c) Requests for an alternative standard shall be sent to the Assistant Administrator for Air and Radiation (ANR-443), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

§ 61.24 Bulkhead Inspection and Testing.

An owner or operator of an underground mine subject to the requirements of § 61.22 shall conduct the following bulkhead inspections and tests:

(a) A visual inspection of the condition of each bulkhead required under § 61.22(a) shall be conducted every three months by a qualified representative of the mine owner or operator to determine if, in his or her judgment, the integrity of the bulkhead is in compliance with the requirements of § 61.22(a)(1). A record of each inspection shall be made in accordance with the requirements of § 61.26.

(b) For bulkheaded areas maintained under negative pressure, measurement of the air exhaust rate from the area shall be made at least every three months to determine compliance with the requirement of § 61.22(a)(2). A record of each exhaust rate measurement shall be made in accordance with the requirements of § 61.26.

(c) Upon written application from an owner or operator of an underground uranium mine subject to this subpart, the Administrator may approve alternative testing and inspection procedures if such alternative procedures can be shown to provide reasonable assurance that the mine is in compliance with the requirements of § 61.22(a).

§ 61.25 Bulkhead Repair.

Bulkheads determined not to be in compliance with the requirements of § 61.22(a) during inspections required under § 61.24 shall be repaired within ten days in accordance with the requirements of § 61.22(a).

§ 61.26 Recordkeeping.

Records of inspections and tests required under § 61.24 shall be maintained as described below. These records shall include a bulkhead identification number and location and the date of each inspection or test.

(a) The results of each inspection required under § 61.24(a) shall be recorded as follows:

(1) A description of the condition of the bulkhead including identification of any damage and the extent of damages.

(2) A determination that the bulkhead is in compliance with the specifications of § 61.22(a) or that repairs are needed.

(b) A record shall be maintained for each bulkhead repaired under the requirements of § 61.25.

(c) A record shall be maintained for each air flow rate measurement conducted under the requirements of § 61.24(b). These records shall show the results of each test and the method used. The percent of the total air volume behind the bulkheaded area which is exhausted per day at the measured flow rate shall be recorded.

(d) Records of inspections and tests shall be maintained at the mine and made available for inspection and copying by the Administrator for a minimum of two years.

(e) A current map or schematic of the mine showing the location of each bulkhead required under § 61.22(a) and the approximate air volume of the isolated area shall be maintained. Each bulkhead shall be assigned an identification number which shall be used in inspections and tests, and the reporting requirements of §§ 61.24 and 61.26. This map shall be kept at the mine and be made available for review by the Administrator.

(Approved by the Office of Management and Budget under the control number 2060-0115)

§ 61.27 Reporting Requirements.

(a) An owner or operator of an underground uranium mine subject to the requirements of this subpart shall submit a certification to the Administrator by March 1, 1986, and annually thereafter. This certification shall be based on information and data concerning the calendar year immediately preceding the required data for submission of the certification and shall consist of a statement that the

bulkheading requirements of § 61.22(a) or any alternative standard established under § 61.23 have been implemented.

(b) If a waiver of compliance is granted, this certification is to be submitted on a date scheduled by the Administrator.

(Approved by the Office of Management and Budget under control number 2060-0115)

§ 61.28 Source Reporting and Waiver Request.

(a) The owner or operator of any existing source, or any new source to which a standard prescribed under this subpart is applicable which had an initial startup which preceded the effective date of a standard prescribed under this subpart shall, within 90 days after the effective date, provide the following information in writing to the Administrator:

(1) Name and address of the owner or operator;

(2) The location of the source;

(3) A brief description of the nature, size, design, and method of operation of the mine including: (i) current or expected annual ore production rates, (ii) current cumulative ore production, (iii) expected cumulative ore production over the life of mine;

(4) The number of abandoned and temporarily abandoned areas in the mine and the number of these areas which are isolated by bulkheads; and

(5) A statement by the owner or operator of the source as to whether he can comply with the standard prescribed in this subpart within 90 days of the effective date.

(b) An owner or operator of an existing underground uranium mine (i.e., existing source) unable to operate in compliance with the standard prescribed under this subpart or lacking sufficient information to apply for an alternative standard within 90 days of the effective date of the standard may request a waiver of compliance with

such standard for a period not exceeding two years from the effective date. Any request shall be in writing and shall include the following information:

(1) The reasons for requesting the waiver;

(2) A schedule for achieving compliance with the standard, or if applicable, the alternative standard, including the steps which will be taken to come into compliance including a date by which each step will be achieved; and

(3) Interim emission control steps will be taken during the waiver period.

(c) Changes in the information provided under paragraph (a) of this section shall be provided to the Administrator within 30 days after such change, except that if changes will result from modification of the source, as defined in §§ 61.02, the provisions of § 61.07 and 61.08 are applicable.

[FR Doc. 85-9200 Filed 4-16-85; 8:45 am]
BILLING CODE 6560-50-M



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORADUM

TO: Environmental Quality Commission DATE: July 11, 1986

FROM: Linda K. Zucker, Hearings Officer

SUBJECT: Review of the Presiding Officer's Declaratory Ruling -- Brazier Forest Products of Oregon, Inc., Case No. 23-HSW-85.

On November 25, 1985 the Environmental Quality Commission agreed to issue a declaratory ruling on the applicability of its solid waste disposal site permit requirements to materials stored by Brazier. The Commission designated its hearings officer to conduct a hearing and issue a ruling. The parties agreed that the hearings officer would determine the case facts but that factual findings and legal conclusions would be reviewable by the Commission.

A hearing was conducted, legal memoranda submitted, and a ruling issued which supported regulation. This matter is now before the Commission on Brazier's request for review of the May 16, 1986 ruling.

Enclosed are:

1. Petition for Declaratory Ruling.
2. Presiding Officer's Declaratory Ruling dated May 16 1986.
3. DEQ's letter to the Commission dated July 9, 1986.
4. Brazier's brief on appeal to the Commission dated July 11, 1986.
5. Brazier's trial brief.
6. DEQ's brief dated March 3, 1986.
7. Brazier's reply.
8. Hearing transcript.
9. Hearing Exhibits.

LKZ:r
HRL268

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

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of the
State of Oregon

In the matter of the application)
of Brazier Forest Products of)
Oregon, Inc., an Oregon)
corporation, for a declaratory) PETITION FOR
ruling as to the applicability of) DECLARATORY RULING
ORS 459.005 to 459.285 and)
Chapter 340, Division 61, OAR to)
the storage of residual materials)
from its sawmill)

1. Petitioner, Brazier Forest Products of Oregon, Inc. is a corporation with mailing address of P. O. Box 330, Molalla, Oregon 97038.

2. Petitioner maintains a sawmill near Molalla in Clackamas County, Oregon. Said sawmill, in the course of manufacturing of lumber, produces sawdust, barkchips, and dust and other small irregular items of wood which are not immediately marketable. Petitioner stores said material on its property. As the wood material breaks down from natural action, it becomes valuable for horticultural purposes. There is a regular market for the by-products of sawmills, such as sawdust, barkchips and the like for horticultural and landscaping purposes.

3. A claim has been made that said materials constitute waste as defined in ORS 459.005 to 459.285 and in Chapter 340, Division 61 OAR. Petitioner seeks a declaratory ruling with respect to the applicability of said statutes and regulations to its storage pile of sawmill residual products.

4. Petitioner contends that the material stored is not waste

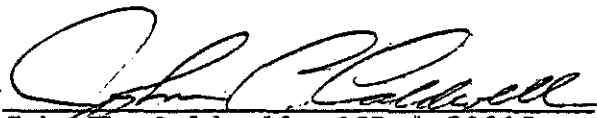
1 or solid waste because it has economic value. In the
2 alternative, petitioner contends that if the materials stored
3 should be determined to be waste (which is specifically denied by
4 petitioner), that the storage site is exempt from the requirement
5 of a permit pursuant to OAR 340-61-0202(d). The declaratory
6 ruling requested will eliminate any necessity on the part of
7 petitioner to obtain a permit for solid waste storage if favor-
8 able to petitioner.

9 5. The specific ruling requested by petitioner is that peti-
10 tioner is not required to obtain a permit under OAR 340-61-020(1)
11 for the above-referred to storage site.

12 6. Donalda Porter whose address is c/o John Lowe, Attorney at
13 Law, 2941 Warner Milne Road, Oregon City, Oregon 97045 has a
14 special interest in the requested declaratory ruling as shown by
15 a letter from Mr. Lowe written on her behalf dated February 4,
16 1985 to the Department.

17 DATED this 17th day of September, 1985.

18 HIBBARD, CALDWELL, BOWERMAN,
19 SCHULTZ & HERGERT

20 By 
21 John C. Caldwell, OSB # 50015
22 Clark I. Balfour, OSB #79152
23 Of Attorneys for Petitioner

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Page

2 - PETITION FOR DECLARATORY RULING

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BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

In the matter of the application)
of Brazier Forest Products of Oregon,)
Inc., an Oregon Corporation, for a)
declaratory ruling as to the)
applicability of ORS 459.005 to)
459.285 and Chapter 340, Division 61,)
OAR to the storage of residual)
materials from its sawmill)

PRESIDING
OFFICER'S
DECLARATORY
RULING
CASE NO. 23-HSW-85

8 BACKGROUND

9 Brazier Forest Products of Oregon, Inc. (Brazier) has asked the
10 Environmental Quality Commission (EQC) for a Declaratory Ruling with
11 respect to the applicability of ORS 459.005 to 459.285 to its storage pile
12 of sawmill residual products.

13 Petitioner contends that the material stored is not waste or solid
14 waste because it has economic value. In the alternative, petitioner
15 contends that if the material stored should be determined to be waste
16 as defined by statute, it is nonetheless not solid waste because of its
17 exclusion from the definition of solid waste as a soil amendment,
18 fertilizer, or material used for other productive purposes. Brazier
19 contends further that the material is salvageable for use in agricultural
20 operations and related activities and is therefore not regulated.

21 FINDINGS OF FACT

22 1. Brazier Forest Products of Oregon, Inc. operates a sawmill just
23 outside of Molalla in Clackamas County, Oregon. It is a cutting mill which
24 draws on logs cleared by suppliers. Part of the operation includes a
25 log yard where logs are stored in large piles pending use.

26 2. From time to time logs are moved around the yard and restacked

1 causing substantial quantities of bark and remaining limbs to be knocked
2 off the logs. This material builds up in the log yard which is unpaved.
3 There is heavy rock in the log yards so that the large wheeled tractors
4 which pick up and move logs can operate in wet weather. Brazier regravels
5 the yard from time to time.

6 When bark from the logs has built up substantially (eight to ten
7 inches and more) in any area of the log yard, it is scooped up and moved
8 to a stockpile some distance away on Brazier's property. Thereafter, the
9 material is not actively managed. It is this stockpile that DEQ seeks
10 to regulate under a solid waste disposal facility permit.

11 3. The stockpile is composed mostly of bark and a small amount of
12 other wood. Some dirt and rock is normally picked up along with the bark
13 in the loading scoops. The pile contains approximately 25 to 30 percent
14 rock. Pieces range from gravel size to as large as 12 to 15 inches in
15 diameter. The pile contains approximately 5 percent miscellaneous material
16 including ash, metal and large wood chunks. The stockpile is approximately
17 500 feet wide and 500 feet long. Approximately 6,000 yards of material
18 is added annually. Its average depth is 12 feet but parts are as deep
19 as 15 to 16 feet.

20 4. The raw material of the Brazier mill is logs. When a log is
21 processed, everything is used. All sawmill log by-products require some
22 further treatment before they are useful. This treatment can be
23 accomplished on-site or off-site. Brazier is not equipped to use and
24 manufacture all the log residue into another product. It does have a
25 machine to make hogged fuel and equipment to grind bark or chip it to fine
26 size. However, shavings are sold to a papermill where they are ground

1 or run through a hammermill to make paper or particleboard. Sawdust is
2 sold to a particleboard or paper plant where it is manufactured into those
3 products. If markets did not exist for shavings and sawdust, they would
4 be stockpiled by Brazier.

5 5. There is an established market for sawmill log by-products which
6 are not contaminated by rock, gravel, wood products or miscellaneous
7 material.

8 6. In the 13 years of operation of the present Brazier mill, no
9 material from the stockpile has ever been sold. In fact, with an isolated
10 exception,¹ none of the material has ever been used for anything. However,
11 after being told by DEQ of the need for a solid waste disposal facility
12 permit, Brazier began looking for a market for the material.

13 7. Brazier has received a proposal from Grimm's Fuel Co. (Grimm's)
14 regarding possible purchase by Grimm's of the stockpile material.

15 8. Grimm's operates a wholesale and retail bark products
16 manufacturing and processing plant which accepts yard debris and other
17 woody by-products from mills. Grimm's processes the materials turning
18 them into barkdust and landscape material.

19 The processing operation is as described by Grimm's Vice President:

20 It is rather complex. Basically we have screening
21 operations with a bunch of conveyors. The material
22 is dumped onto a large 25-foot live floor, just about
23 wide enough to back a semi truck on to. There are
24 times the semi's are backed right onto these large
25 live floors, unloaded right onto the live floor ...
26 it is just a set of continuous chains. Once we get

¹Some material was once provided to a farmer to fill in wet spots in his road.

1 the semi off, we will start up the live floor. It
2 will advance the matter toward the shaker screens.
3 The shaker screens bounce up and down and shake the
4 fines out into the bottom and go up into a conveyor
5 into the fine pile. There is two different layers
6 to the screen. The stuff that goes all the way through
7 to the fine pile. The stuff that goes through the
8 first layer, the stuff that goes through the middle
9 layer goes down into a middle conveyor and goes into
10 the hog to be reground. Some of it is too big. Or
11 sometimes when we need medium, we will pull that
12 conveyor away and have a medium grade bark product.

13 Some of the material is then ground. The big log pieces are picked out
14 and turned into fire wood.

15 9. A purpose of the process is to separate the rocks which are then
16 used by Grimm's in its driveway making it unnecessary for Grimm's to
17 purchase road rock.

18 10. The Grimm's proposal recites:

19 Date 2-5-86

20 Grimm's Fuel Company, Inc. hereby proposes to purchase
21 woody material from Brazier Forest Products' Molalla
22 stock pile. Buyer (GFC) shall haul the material via
23 their tractor-trailer and pay seller (Brazier) \$.50
24 per unit (7.4 cubic yards). This purchase agreement
25 shall be subject to the following conditions and
26 restrictions:

1. Seller shall maintain, in a reasonable condition,
an access road and turnaround area suitable for
a 40-foot semi tractor-trailer with a gross
vehicle weight of 80,000 pounds.
2. Seller shall construct and maintain a loading
dock or ramp of sufficient height to load a 13'6"
trailer. Buyer will give seller two weeks notice
before first pick up to give seller time to
prepare.
3. Seller shall provide a front end loader and an
operator to load the buyer's trailer.

- 1 4. Buyer shall be responsible for maintaining an
2 accurate tally of units hauled and pay the seller
3 within 10 days following the end of the month.
4 5. Buyer shall haul woody material at their
5 convenience and provide adequate notice to seller
6 so that scheduling of a loader and operator can
7 be accomplished smoothly.
8 6. Buyer is not required to take any specific amount
9 of material but shall take no less than one full
10 load at a time.
11 7. Either party may cancel this agreement on 30 days
12 written notice.

13 Seller: _____ Buyer: (Signed) Jeffery
14 Signature/Title D. Grimm/V.P.
15 Signature/Title

16 11. Under the Grimm's proposal, Grimm's is not obligated to buy
17 nor Brazier to sell any quantity of the stockpiled material.

18 12. When Grimm's purchases bark the price ranges from \$0.25 to \$10.00
19 per unit compared to the Brazier proposal price of \$.50 per unit. The
20 price depends on demand, trucking costs, and the quality of the material.
21 Demand is unpredictable but in the next few months Grimm's does not expect
22 to sell a lot of barkdust. Grimm's vice president found it "hard to say
23 how much we will sell when we do start selling it."

24 13. Grimm's did once pay \$10.00 per unit for material from a large
25 stockpile which contained quite a bit of rock.

26 14. The economics of the lumber business has changed in recent years
and product use has changed significantly since the 1950's. At one time
slab wood bark was disposed of by burning. Then papermills started using
chips made from slab wood, edgings and trim-ends. Bark was excluded.
Now bark is "hogged". Progressively, uses were found for the wood

1 residue until today the residue is largely reclaimed and approximately
2 30 percent of wood product revenues come from wood by-products.

3 15. Publisher's Paper has a log yard in Oregon City from which it
4 has sold clean screened bark to a number of barkdust retailers.
5 Publisher's manages its bark accumulation by moving it to an end of its
6 log yard and, in the proper season when demand for landscape purposes is
7 good, it cleans the bark and loads it and sells it to different barkdust
8 retailers. Its accumulated bark is sold about every two years depending
9 on demand. Publisher's sells the screened wood chunks for fire wood and
10 reclaims the screened rock for reuse in its yard. Its stockpile is
11 approximately 90 to 95 percent bark.

12 16. There are identified environmental problems associated with large
13 bark accumulations. Exposure to the atmosphere causes bark to decompose
14 slowly releasing undesirable components such as lignins, tanins, and wood
15 sugars. Sometimes the material produces offensive odors. Leachate running
16 from the accumulation can flow into streams exerting an oxygen demand and
17 depressing aquatic life. Some bark is noxious to fish. Accumulations
18 carry a potential for groundwater contamination. There is a potential
19 for spontaneous combustion which can cause air pollution. There is a
20 potential for hazardous waste problems because anti-stain chemicals, glue,
21 solvents, and oils are used in the processing of mill materials.

22 ULTIMATE FACTS

23 1. In putting its contaminated bark aside and allowing it to
24 accumulate for 13 years without particular management or effort to find
25
26

1 further use for it, Brazier failed to manage the material as an asset and
2 effectively discarded it.

3 2. Contaminated bark material from Brazier's log yard is essentially
4 useless in that it has not been actively managed for 13 years or
5 productively employed or sold. It is not shown to have economic value.

6 CONCLUSION OF APPLICABILITY AND EFFECT

7 The sawmill residual material stored by Brazier and addressed by this
8 proceeding is subject to DEQ regulation by solid waste disposal permit
9 in that it is waste as defined in ORS 459.005(22)(b) and it is solid waste
10 as defined in ORS 459.005(18).

11 DISCUSSION

12 The Department of Environmental Quality (DEQ) is authorized to
13 regulate waste by requiring a disposal site permit. ORS 459.205.
14 "Waste" is defined by statute as "useless or discarded materials".
15 ORS 459.005(22). The terms "useless" and "discarded" have not themselves
16 been defined by statute or rule. DEQ's authority to regulate the Brazier
17 bark stockpile depends on the meaning of the terms useless or discarded.

18 In analyzing how statutory terms such as these should be applied,
19 three classes of terms have been distinguished:

- 20 1. Terms of precise meaning, the applicability of which in any
21 particular case requires only agency fact finding;
22 2. Inexact terms which require agency interpretation and
23 application of the legislature's intended meaning;
24 3. Delegated terms which require the agency to complete a general
legislative policy decision by specifically applying it to
individuals fact situations. Springfield Education Assn.
v. School Dist., 290 Or. 217, 223-230, 621 P2d 547(1980).

25 Brazier has not objected to this agency's failure to announce by rule how
26 the terms "useless" and "discarded" are to be applied. That is because

1 Brazier believes that the terms are precise terms with meanings so clear
2 they need no prior definition and allow no interpretation. Pet. Reply
3 Br. 4. DEQ, on the other hand, believes the terms fall within the second
4 and third categories, being inexact terms which the legislature left to
5 the agency to define and apply using the policy behind the solid waste
6 management statute as a guide. DEQ Br. 4.

7 DEQ and Brazier disagree, then, as to how to classify the terms, but
8 neither suggests prior rulemaking was necessary. The disagreement centers
9 instead on the amount of interpretation the agency may undertake in
10 applying the statutory terms to Brazier's circumstance. Under any view,
11 the policy behind the authorizing legislation is key.

12 Whether certain facts are within the intended meaning
13 depends upon the policy that inheres in the term by
14 its use in a statute which is intended to accomplish
15 certain legislative purposes. Springfield, supra,
16 at 225.

17 Here the statutory policy statement includes the following
18 purpose:

19 459.015(2) "In the interest of the public health,
20 safety and welfare, and in order to conserve energy
21 and natural resources, it is a policy of the State
22 of Oregon to establish a comprehensive state-wide
23 program for solid waste management which will:

24 ". . .

25 "(h) Provide for the adoption and enforcement of
26 minimum performance standards necessary for the safe,
economic and proper waste management."

27 ". . .

28 "(L) Promote application of resource recovery systems
29 which preserve and enhance the quality of air, water
30 and land resources."

1 The law also requires the regulatory framework to address the
2 "accumulation, storage, collection, transportation and disposal of solid
3 wastes to prevent . . . air pollution, pollution of surface or ground
4 waters and hazards. . . to the public..." ORS 459.045(1)(a). The policy
5 of the statute invites a broad construction to protect and enhance the
6 environment by fostering management of material while in durable disuse
7 so as to protect against damage to the environment. This policy allows
8 a broad view of the statutory terms to accomplish the stated purpose of
9 establishing a comprehensive program for solid waste management including
10 the accumulation and storage of waste to prevent pollution and the
11 promotion of resource recovery to preserve and enhance environmental
12 resources.

13 The Random House Dictionary of the English Language, 1983, includes
14 in the definition of "use": "to employ for some purposes; put into service;
15 make use of; and avail oneself of." The definitions of the word "useless"
16 include "of no use; not serving the purpose or any purpose; unavailing
17 or futile; without useful qualities; and of no practical good." Id. The
18 antonym of useless is "useful". The definitions of "useful" include "being
19 of use or service; serving some purpose; serviceable, advantageous, helpful
20 or of good affect; of practical use, as for doing work; producing material
21 results; and supplying common needs. Id. The word "discard" means "to
22 cast aside; reject; dismiss, especially from use, and to throw out, as
23 a card or cards from one's hand, for example." Id.

24 The policy is supported by the plain meaning of the statutory terms.
25 The requirements of the present proceeding do not include an exhaustive
26 or comprehensive definition or interpretation of the terms "useless" and

1 "discarded". The terms can be understood and applied directly to the facts
2 of this case without impermissible or expansive construction. Without
3 exhausting all possible meanings of the statutory terms it is within the
4 agency's authority to construe "useless" to apply to materials which have
5 been durably idle without serving any productive purpose. It is within
6 the agency's authority to construe "discarded" to reach material put aside
7 without present intention of management or use.

8 To prove uselessness the agency need not prove there is no possible
9 use. A realistic view of the material is that it has not been used
10 or consumed or applied to any purpose or service for 13 years. That
11 gives it the essential character of uselessness. It is speculative to
12 consider its use will change in the near future. It is reasonable to
13 require a fairly contemporaneous determination of usefulness. Human
14 ingenuity is likely to increase the uses to which materials can be put,
15 but until the uses are found, the materials need to be managed to avoid
16 environmental damage.

17 A significant disputed circumstance in the debate over usefulness
18 was the economic value of the material. There was no dispute
19 that the material had been put aside and left unused for 13 years. There
20 was no offer or proof of a current sale but there was proof of barkdust
21 generally as a potentially marketable commodity under certain
22 circumstances. There was an effort to prove a future market for the
23 material. Brazier did not prove a market. First, the offered proposal
24 is merely that. It binds neither party to performance. Moreover, the
25 terms of Brazier's proposed performance include the cost of road
26 maintenance, loading dock construction, loader and operator. The

1 preponderance of the evidence does not support a finding that the material
2 has economic value. Economic value is some evidence of usefulness and
3 of an intent to retain rather than discard. However, it is a single
4 indicator, insufficient to weigh the balance against 13 years of disuse.
5 Economic value is relevant but not determinative.

6 DEQ did not need to refute Brazier's subjective intent with regard
7 to the materials. Brazier acknowledged that its motivation in seeking
8 a sale was regulatory interest in the material. While Brazier may
9 subjectively consider the material a valuable commodity, the record shows
10 the material has merely accumulated for 13 years, access is costly, and
11 there is little prospect of demand for it in the near future. It is
12 objectively shown to be both useless and discarded. It is waste.

13 Brazier contends that even if its stockpiled material is found to be waste,
14 it is not solid waste.² DEQ's authority to require disposal site permits
15 applies to "land and facilities used for the disposal, handling or transfer
16 of or resource recovery from solid waste." Even if the material is waste,
17 Brazier argues no permit would be necessary unless it were also solid waste
18 Pet. Reply Br. 6. Solid waste is defined in ORS 459.005(18) which
19 provides:

20 "Solid Waste" means all putrescible and nonputrescible
21 wastes, including but not limited to garbage, rubbish,
22 refuse, ashes, waste paper and cardboard; sewage
23 sludge, septic tank and cesspool pumpings or other
24 sludge; commercial, industrial, demolition and
or parts thereof; discarded home and industrial

25 ²At hearing Brazier withdrew its claim for exception from permit requirements
26 under OAR 340-61-020(2)(d).

1 appliances; manure, vegetable or animal solid and
2 semisolid wastes, dead animals and other wastes; but
the term does not include:

3 (a) Hazardous wastes as defined in ORS 466.005.

4 (b) Materials used for fertilizer or for other
5 productive purposes or which are salvageable as such
6 materials are used on land in agricultural operations
and the growing or harvesting of crops and the raising
of fowls or animals.

7 Brazier reasons that the material in the stockpile, except for the rock,
8 is useful for soil amendment and horticultural and other productive
9 purposes and is salvageable as such, so it comes under the ORS
10 459.005(18)(b) provision.

11 The case record shows that barkdust is used as a soil amendment.
12 The case record does not show the contaminated material in the Brazier
13 stockpile to be "used for fertilizer or for other productive purposes."
14 Again, the record shows the material to have simply accumulated without
15 active management for 13 years. The record does not show the material
16 to be realistically salvageable for use on land in agricultural operations
17 and for growing or harvesting of crops and the raising of fowls or animals,
18 or to be presently used for such purposes.

19 While actual use is not necessary to refute uselessness, it takes
20 persuasive evidence of enhanced potential to overcome 13 years of disuse. The
21 case record does not contain evidence of that quality. Whether DEQ is correct
22 in asserting that as a matter of law ORS 459.015(18)(b) only applies to material
23 "in use" need not be decided here because the Brazier stockpile does not meet
24 the requirements of the provision as a matter of fact.

25 In any case, while ORS 459.005(18)(b) is roughly drafted, it is highly
26 likely that it requires something more than a mere showing that a material

1 is somehow capable of the uses recited in the section. At a minimum,
2 there must be some real prospect that the capability will be realized.
3 That prospect is not demonstrated in this instance.

4 Legislative policy, the statutory language and Brazier's circumstances
5 as recited in the findings, all support regulation of the bark material.

6 RULING

7 The bark material stored by Brazier near Molalla constitutes waste
8 as defined in ORS 459.005 to 459.285 and as such is subject to DEQ
9 regulation by solid waste disposal permit.

10

11

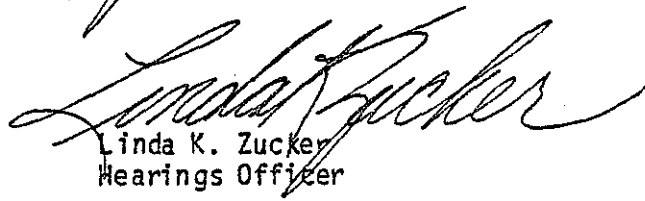
12 Dated this 16th day of May, 1986.

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15

16



Linda K. Zucker
Hearings Officer

17

18 NOTICE: Review of this ruling is by appeal to the Environmental Quality
19 Commission pursuant to OAR 340-11-132. Judicial review may be
20 obtained thereafter pursuant to ORS 183.482.

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SOLID WASTE MANAGEMENT
(General Provisions)

459.005 Definitions for ORS 459.005 to 459.285. As used in ORS 459.005 to 459.335, unless the context requires otherwise:

- (1) "Affected person" means a person or entity involved in the solid waste collection service process including but not limited to a recycling collection service, disposal site permittee or owner, city, county and metropolitan service district.
- (2) "Area of the state" means any city or county or combination or portion thereof or other geographical area of the state as may be designated by the commission.
- (3) "Board of county commissioners" or "board" includes county court.
- (4) "Collection franchise" means a franchise, certificate, contract or license issued by a city or county authorizing a person to provide collection service.
- (5) "Collection service" means a service that provides for collection of solid waste or recyclable material or both.
- (6) "Commission" means the Environmental Quality Commission.
- (7) "Department" means the Department of Environmental Quality.
- (8) "Disposal site" means land and facilities used for the disposal, handling or transfer of or resource recovery from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, resource recovery facilities, incinerators for solid waste delivered by the public or by a solid waste collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site; but the term does not include a facility subject to the permit requirements of ORS 468.740; a landfill site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a solid waste collection service; or a site operated by a wrecker issued a certificate under ORS 822.110.
- (9) "Land disposal site" means a disposal site in which the method of disposing of solid waste is by landfill, dump, pit, pond or lagoon.
- (10) "Land reclamation" means the restoration of land to a better or more useful state.
- (11) "Local government unit" means a city, county, metropolitan service district formed under ORS chapter 268, sanitary district or sanitary authority formed under ORS chapter 450, county service district formed under ORS chapter 451, regional air quality control authority formed under ORS 468.500 to 468.530 and 468.540 to 468.575 or any other local government unit responsible for solid waste management.
- (12) "Metropolitan service district" means a district organized under ORS chapter 268 and exercising solid waste authority granted to such district under ORS chapters 268 and 459.
- (13) "Permit" includes, but is not limited to, a conditional permit.
- (14) "Person" means the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.
- (15) "Recyclable material" means any material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same material.
- (16) "Resource recovery" means the process of obtaining useful material or energy resources from solid waste and includes:
- (a) "Energy recovery," which means recovery in which all or a part of the solid waste materials are processed to utilize the heat content, or other forms of energy, of or from the material.
 - (b) "Material recovery," which means any process of obtaining from solid waste, by pre-segregation or otherwise, materials which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose.
 - (c) "Recycling," which means any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity.
 - (d) "Reuse," which means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.
- (17) "Solid waste collection service" or "service" means the collection, transportation or disposal of or resource recovery from solid wastes but does not include that part of a business operated under a certificate issued under ORS 822.110.
- (18) "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper

and cardboard; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure, vegetable or animal solid and semisolid wastes, dead animals and other wastes; but the term does not include:

(a) Hazardous wastes as defined in ORS 466.005.

(b) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.

(19) "Solid waste management" means prevention or reduction of solid waste; management of the storage, collection, transportation, treatment, utilization, processing and final disposal of solid waste; or resource recovery from solid waste; and facilities necessary or convenient to such activities.

(20) "Source separate" means that the person who last uses recyclable material separates the recyclable material from solid waste.

(21) "Transfer station" means a fixed or mobile facility normally used, as an adjunct of a solid waste collection and disposal system or resource recovery system, between a collection route and a disposal site, including but not limited to a large hopper, railroad gondola or barge.

(22) "Waste" means useless or discarded materials.

(23) "Washed" means an area of the state having a common solid waste disposal system or designated by the commission as an appropriate area of the state within which to develop a common recycling program. [1971 c.648 §2; 1973 c.811 §1; 1973 c.835 §135; 1975 c.239 §1; 1977 c.867 §21; 1983 c.338 §931; 1983 c.729 §14; 1983 c.766 §5]

459.010 [1967 c.428 §2; 1969 c.583 §42; repealed by 1971 c.648 §33]

459.015 Policy. (1) The Legislative Assembly finds and declares that:

(a) The planning, development and operation of recycling programs is a matter of state-wide concern.

(b) The opportunity to recycle should be provided to every person in Oregon.

(c) There is a shortage of appropriate sites for landfills in Oregon.

(d) It is in the best interests of the people of Oregon to extend the useful life of existing solid waste disposal sites by encouraging recycling and

reuse of materials whenever recycling is economically feasible.

(2) In the interest of the public health, safety and welfare and in order to conserve energy and natural resources, it is the policy of the State of Oregon to establish a comprehensive state-wide program for solid waste management which will:

(a) After consideration of technical and economic feasibility, establish priority in methods of managing solid waste in Oregon as follows:

(A) First, to reduce the amount of solid waste generated;

(B) Second, to reuse material for the purpose for which it was originally intended;

(C) Third, to recycle material that cannot be reused;

(D) Fourth, to recover energy from solid waste that cannot be reused or recycled, so long as the energy recovery facility preserves the quality of air, water and land resources; and

(E) Fifth, to dispose of solid waste that cannot be reused, recycled or from which energy cannot be recovered by landfilling or other method approved by the department.

(b) Clearly express the Legislative Assembly's previous delegation of authority to cities and counties for collection service franchising and regulation and the extension of that authority under the provisions of ORS 459.005, 459.015, 459.035, 459.165 to 459.200, 459.250, 459.992 and 459.995.

(c) Retain primary responsibility for management of adequate solid waste management programs with local government units, reserving to the state those functions necessary to assure effective programs, cooperation among local government units and coordination of solid waste management programs throughout the state.

(d) Promote research, surveys and demonstration projects to encourage resource recovery.

(e) Promote research, surveys and demonstration projects to aid in developing more sanitary, efficient and economical methods of solid waste management.

(f) Provide advisory technical assistance and planning assistance to local government units and other affected persons in the planning, development and implementation of solid waste management programs.

(g) Develop, in coordination with federal, state and local agencies and other affected persons, long-range plans including regional approaches to promote reuse, to provide land reclamation in sparsely populated areas, and in

urban areas necessary disposal facilities for resource recovery.

(h) Provide for the adoption and enforcement of minimum performance standards necessary for safe, economic and proper solid waste management.

(i) Provide authority for counties to establish a coordinated program for solid waste management, to regulate solid waste management and to license or franchise the providing of service in the field of solid waste management.

(j) Encourage utilization of the capabilities and expertise of private industry in accomplishing the purposes of ORS 459.005 to 459.105, 459.205 to 459.245 and 459.255 to 459.285.

(k) Promote means of preventing or reducing at the source, materials which otherwise would constitute solid waste.

(L) Promote application of resource recovery systems which preserve and enhance the quality of air, water and land resources. [1971 c.648 §1; 1975 c.239 §2; 1983 c.729 §15]

459.017 Relationship of state to local governments in solid waste management.

(1) The Legislative Assembly finds and declares that:

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

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

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

(2) It is the intent of the Legislative Assembly that any action taken by the Environmental Quality Commission to establish a landfill disposal site under ORS 459.049 be recognized as an extraordinary measure that should be exercised only in the closest cooperation with local government units that have jurisdiction over the area affected by the proposed establishment of a landfill disposal site. [1979 c.773 §2]

459.020 [1967 c.248 §1; repealed by 1971 c.648 §33]

(State Administration)

459.025 General powers and duties of department. Subject to policy direction by the commission, the department:

(1) Shall promote and coordinate research, studies and demonstration projects on improved

methods and techniques in all phases of solid waste management.

(2) May apply to and receive funds from the Federal Government and from public and private agencies to carry out studies, research and demonstration projects in the field of solid waste management.

(3) May enter into agreements with the Federal Government, state agencies, local government units and private persons to carry out ORS 459.005 to 459.105, 459.205 to 459.245 and 459.255 to 459.285. [1971 c.648 §4; 1973 c.335 §136]

459.030 [1967 c.423 §3; 1969 c.593 §43; repealed by 1971 c.648 §33]

459.035 Assistance in development and implementation of solid waste management plans and practices and recycling programs. Consistent with ORS 459.015 (2)(c), the department shall provide to state agencies, local government units and persons providing solid waste collection service, advisory technical and planning assistance in development and implementation of effective solid waste management plans and practices, implementation of recycling programs under ORS 459.165 to 459.200 and 459.250, and assistance in training of personnel in solid waste management. The department shall report to the Legislative Assembly from time to time on further assistance that will be needed to develop, implement and administer effective solid waste management programs or recycling programs. The department shall assist in surveys to locate potential disposal sites. The department may request the assistance of other state agencies. [1971 c.648 §3; 1983 c.729 §16]

459.040 [1967 c.423 §4; 1969 c.593 §44; repealed by 1971 c.648 §33]

459.045 Rules. (1) The commission shall adopt reasonable and necessary solid waste management rules governing the:

(a) Accumulation, storage, collection, transportation and disposal of solid wastes to prevent vector production and sustenance, transmission of diseases to humans or animals, air pollution, pollution of surface or ground waters, and hazards to service or disposal workers or to the public.

(b) Location of disposal sites, giving consideration to the adaptability of each disposal site to the population served, topography and geology of the area and other characteristics as they affect protection of ground and surface waters and air pollution; minimum standards of design, management and operation of disposal sites; and open burning and salvage operations at disposal sites.

(c) Construction, loading and operation of vehicles used in performing solid waste collection



DEPARTMENT OF JUSTICE

GENERAL COUNSEL DIVISION

Justice Building

Salem, Oregon 97310

Telephone: (503) 378-4620

July 9, 1986

Environmental Quality Commission
522 SW Fifth
Portland, OR 97204

Re: Declaratory Ruling Regarding Brazier Forest Products
DOJ File No. 340-410-G0013-85

Ladies and Gentlemen:

The department concurs with the hearings officer's conclusion that the stockpile of wood waste and rocks on the Brazier Forest Products property is subject to regulation by the department as solid waste.

Further arguments advanced by Brazier Forest Products excepting to the proposed order can adequately be addressed by the department's brief, a copy of which is attached, and by oral argument before the commission.

Respectfully submitted,

A handwritten signature in cursive script that reads "Stephen E.A. Sanders".

Stephen E.A. Sanders OSB# 85321
Assistant Attorney General
Of Attorneys for Department of
Environmental Quality

SEAS:tla67/declar2.1
cc: Hazardous and Solid Waste, DEQ
Northwest Region, DEQ
Jack Caldwell, Attorney at Law

1 its sawmill residue between sales too long?

2 ○ At what point in time should material be
3 considered discarded?

4 ○ When should material be considered useless?

5 ○ Under what circumstances can material which has
6 been discarded be taken back into inventory and
7 lose the character of waste?

8 ○ Should some requirements of frequency of turnover
9 of stockpiled sawmill residue be established?

10 The Hearings Officer, on pages 12 and 13 of her ruling,
11 could only say about ORS 459.005(18)(b) that "it is highly
12 likely that [this section] requires something more . . ." than
13 the words of the statute require. The word "salvageable" means
14 capable of being salvaged, but she said that capability was not
15 enough. She also interprets that section to require there must
16 be a prospect that the capability will be realized. We consider
17 those statements to be erroneous, but, more importantly, they
18 point up the need for rulemaking. A rule should:

19 ○ Clarify salvageability;

20 ○ Clarify "other productive purposes";

21 ○ Clarify the issue of whether the material must
22 actually be put to use.

23 V.

24 Although it was addressed in Petitioner's Reply Brief,
25 we deem it necessary to mention the "danger issue" again because
26 of the Hearings Officer finding number 16 on page 6 of her

1 ruling. We reiterate that the question in this case is not one
2 of danger, but of definition. It was improper, first, to allow
3 testimony on the subject and, secondly, for the Hearings Officer
4 to include finding number 16. The entire finding should be
5 disregarded. A major problem with it is it is not case specific.

6 There is no evidence of danger with respect to the
7 subject stockpile. There is no evidence that there is bark
8 noxious to fish in the pile, nor any hazardous waste in the pile.
9 If the Commission, in this case, decides that the question of
10 danger should affect its ruling, then it should remand the case
11 to the Hearings Officer with instructions to reopen. If the
12 issue is at all important, Petitioner is ready, willing and able
13 to produce expert testimony to show that the pile will not be a
14 hazard in the future. The record already shows that it never has
15 been a hazard in the past.

16 CONCLUSION

17 One of the points made by the Hearings Officer is
18 that it was only when DEQ staff approached Petitioner that some
19 move was made to find a market for the stockpile and dispose of
20 it. That is correct. This, however, shows that the policy of
21 the statute is being carried out. One major purpose of the solid
22 waste statute is to encourage utilization of materials. In
23 calling Brazier's attention to the stockpile, the staff has very
24 effectively carried out the policy set forth in ORS 459.015(2)(k)
25 which declares that State Policy 2:

26 "Promote means of preventing or reducing

1 at the source, materials which otherwise
2 would constitute solid waste."

3 If there are problems with the holding time of
4 materials, that matter can adequately be addressed by rule.

5 Respectfully submitted,

6 HIBBARD, CALDWELL, BOWERMAN,
7 SCHULTZ & HERGERT

8 By 

9 John C. Caldwell, OSB #50015
10 Of Attorneys for Petitioner

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 of the

3 State of Oregon

4 In the matter of the application)
5 of Brazier Forest Products of)
6 Oregon, Inc., an Oregon)
7 corporation, for a declaratory) PETITIONER'S BRIEF
8 ruling as to the applicability of)
9 ORS 459.005 to 459.285 and)
10 Chapter 340, Division 61, OAR to)
11 the storage of residual materials)
12 from its sawmill)

9 JURISDICTION AND PROCEDURE

10 This is a proceeding for a declaratory ruling by the
11 Environmental Quality Commission (Commission) under ORS 183.410.
12 The Commission exercised its authority to issue a declaratory
13 ruling with respect to the matters set forth in the petition.
14 Pursuant to OAR 340-11-062, the Commission designated its
15 Hearings Officer as the Presiding Officer for the hearing. This
16 proceeding is also subject to OAR Chapter 137, Division 2 of the
17 Attorney General's Model Rules on Declaratory Rulings.

18 The procedural rules provide for argument, the filing
19 of briefs, the taking of testimony and the rendering of an
20 opinion by the Presiding Officer. The Commission will then
21 issue its ruling. A recent comment on the matter says:

22 "The effect of a declaratory ruling is
23 similar to that of an order in a contested
24 case." State Administrative Law (Oregon
 CLE, 1985), Section 2.6

25 FACTS

26 The petitioner, Brazier Forest Products of Oregon,

1 Inc., (Brazier) operates a sawmill just out of Molalla in
2 Clackamas County, Oregon. It has the usual equipment which
3 operating sawmills need. Part of the operation includes a
4 log yard where logs are stored in large piles pending use. On
5 occasion logs are moved around the yard and restacked. Substan-
6 tial quantities of bark and any remaining limbs are normally
7 knocked off the logs during the operation. This material builds
8 up in the log yard which is unpaved. There is heavy rock in the
9 log yard so that the large wheeled tractors which pick up and
10 move logs can operate in wet weather.

11 When bark from the logs has built up substantially in
12 any area of the log yard, it is scooped up and moved to a stock-
13 pile some distance away on Brazier's property. It is mostly
14 bark and a small amount of other wood. Some dirt and rock is
15 normally picked up along with the bark in the loading scoops.

16 The pile of bark and woody material has built up to a
17 substantial size in the years during which Brazier has operated
18 the plant. They have not sold any of the material in the pile.
19 After Brazier was told by a DEQ representative that they needed
20 to get a permit for a solid waste storage, they started looking
21 for a market and have found one. They have found that the
22 material in the stockpile is useful when the manufacturing
23 process is completed by screening and grinding. Even the rock
24 and the larger chunks of wood which do not go through the screen
25 have a worthwhile economic use.

26 The type of bark material in the stockpile represents

1 only one of several by-products which occur in the manufacture of
2 lumber. Others include sawdust, shavings, barkdust, hog fuel and
3 chips. Most of these items require further manufacturing
4 before becoming the product used by a consumer. Sawdust can be
5 used for agricultural purposes and shavings for animal bedding
6 without further treatment. Much sawdust and shavings from the
7 mill goes into various kinds of particle board manufacturing.
8 Barkdust, hog fuel and chips for pulp mills are manufactured on
9 the Brazier premises. Material from the stockpile is no
10 different in that it requires further manufacturing by its
11 purchaser before going to a consumer.

12 LEGAL ISSUES

13 The primary legal issue is whether the material in the
14 stockpile constitutes "waste" or "solid waste" as defined in ORS
15 459.005(18) and (22). Brazier believes it is neither.

16 For the piled material to be "waste," it must be
17 "useless" or "discarded." It is certainly not useless. The
18 evidence establishes there is a market for the material and that
19 it can regularly be sold, processed and put to good use. Log
20 yard bark has been purchased from other mills for a long time.
21 Even the rock is useful.

22 The material in the pile has not been discarded but is
23 stored on the premises. If the material which was placed in the
24 pile originally was thought of as discarded, it certainly is no
25 longer the case. Brazier now knows that it has an asset instead
26 of a liability and intends to sell the material.

1 Even should the stockpile be found to be "waste" as
2 defined in the statute (which is not conceded), it is definitely
3 not "solid waste." It is excluded from that definition by ORS
4 459.005(18)(b). That subsection excepts fertilizer. The
5 material resulting from processing the pile is used as a soil
6 amendment and as a fertilizer. Materials used for other produc-
7 tive purposes are also excepted. The evidence establishes that
8 when processed, the material in the pile will be very useful for
9 a variety of productive purposes.

10 The third category is materials which are salvageable
11 for use in agricultural operations and related activities. That
12 they are salvageable is well established.

13 The Attorney General has written two excellent opinions
14 on the question of when a material constitutes "waste" or "solid
15 waste." The first is 39 Atty. Gen. ^{# 7777 AK3} 7770 (1979) and the second is
16 42 Atty. Gen. 132 (1981). The 1981 opinion does not apply to the
17 type of case we have here. It relates to items which have been
18 manufactured, have been used, worn out and discarded. The
19 Attorney General correctly points out the item must have lost
20 its value for its original purpose. He correctly concluded that
21 such items are waste, unless they come within the exceptions of
22 solid waste.

23 The 1979 opinion on the other hand discusses materials
24 which are by-products produced in the process of turning
25 vegetable matter into a finished product. In that opinion, the
26 Attorney General correctly concluded that such material is

42 Atty Gen 132 #8060
39 Atty Gen 770

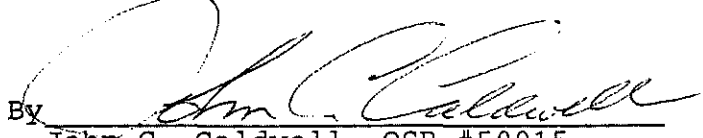
1 "waste" and is "solid waste" if it fits the definition of "waste"
2 in subsection (22) and does not come within the exemptions of
3 subsection (18). The Attorney General correctly advised this
4 raises a factual question. We have such a factual question here.

5 CONCLUSION

6 The decision in this case will have a substantial
7 effect on the wood products industry in the State of Oregon. In
8 developing and analyzing the case, it has become apparent that
9 the same material which is not waste in the hands of one party
10 may be waste in the hands of another. In fact, material in the
11 hands of one owner can change character from waste to not waste
12 if we carry out and apply the reasoning so ably set forth in the
13 Attorney General's opinions. The facts of this case answer the
14 factual question clearly. They show that the stockpile is not
15 "waste." Brazier respectfully requests a ruling declaring that
16 its stockpile near Molalla is not "waste" or "solid waste."

17 Respectfully submitted,

18 HIBBARD, CALDWELL, BOWERMAN,
19 SCHULTZ & HERGERT

20 
21 By John C. Caldwell

22 John C. Caldwell, OSB #50015
23 Of Attorneys for Petitioner
24
25
26

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

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ORS 459.005 to 459.285 and) BRIEF
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the storage of residual materials)
8 from its sawmill)

9 The wood debris stored on the Brazier Forest Products of
10 Oregon, Inc. (Brazier), property is "waste" or "solid waste" as
11 defined by the Solid Waste Management statute and administrative
12 rules, case law and industry usage. Consequently, the stockpile
13 is a waste "disposal site" (ORS 459.005(8)), and Brazier must
14 obtain a permit from the Department of Environmental Quality
15 (DEQ). ORS 459.205; OAR 340-61-020(1). Brazier contends that
16 the material--approximately 65 percent bark, 30 percent rock and
17 dirt and 5 percent miscellaneous debris--is not "waste" and
18 denies DEQ's regulatory authority.

19 Statutory Definition

20 The terms in question are defined by the Solid Waste
21 Management Statute, ORS chapter 459. "Waste" is defined as
22 "useless or discarded materials." ORS 459.005(22); OAR
23 340-61-010(47). "Solid waste" is defined as:

24 "[A]ll putrescible and nonputrescible wastes,
25 including but not limited to garbage, rubbish,
26 refuse, ashes, waste paper and cardboard;
sewage sludge, septic tank and cesspool pump-
ings or other sludge; commercial, industrial,

1 demolition and construction wastes; discarded
2 or abandoned vehicles or parts thereof; dis-
3 carded home and industrial appliances; manure,
4 vegetable or animal solid and semisolid wastes,
5 dead animals and other wastes; but the term
6 does not include:

7 "(a) Hazardous wastes as defined in ORS
8 466.005.

9 "(b) Materials used for fertilizer or for
10 other productive purposes or which are sal-
11 vageable as such materials are used on land in
12 agricultural operations and the growing or
13 harvesting of crops and the raising of fowls
14 or animals." ORS 459.005(18); OAR 340-61-010(41).

15 The stockpile is solid waste because it is useless to
16 Brazier who has discarded it, and is (or is similar to) refuse,
17 commercial or industrial wastes, vegetable wastes or other solid
18 wastes. Brazier does not claim that the material is useful to
19 them. They concede that they cannot use this material to produce
20 lumber, chips, shavings or barkdust, the products for which they
21 purchase the logs in the first place. Nor can they use the rock
22 in the pile to surface the log deck area, the purpose for which
23 the rock was originally used. Further, Brazier concedes they
24 have discarded the material, as defined by Webster's Ninth New
25 Collegiate Dictionary to mean the "throwing away of something
26 that has become useless or superfluous though often not
intrinsically valueless." They have removed the material from
the log deck because it interferes with the mill's operation and
is no longer useful as either a surface for the log deck area or
a source for mill products. Brazier is not using the material in
any agricultural operation. Rather, their contention rests on

1 the assertion that "material which is not waste in the hands of
2 one party may be waste in the hands of another. In fact,
3 material in the hands of one owner can change character from
4 waste to not waste if we carry out and apply the reasoning so
5 ably set forth in the Attorney General's opinions."

6 (Petitioner's brief at page 5.) Brazier then reasons that because
7 they have discovered some potential use for the material, the
8 character of the material has changed to "not waste."¹

9 Contrary to Brazier's assertion, the Attorney General
10 concludes that waste does not change character when it changes
11 hands. The Attorney General opinions referred to are 39 Op Atty
12 Gen 770 (1979) (AG I) and 42 Op Atty Gen 132 (1981) (AG II).
13 These opinions discuss what constitutes "waste" so as to fall
14 within the scope of DEQ solid waste management authority.

15 AG I determined that when vegetable processors disposed of
16 the byproducts of their operation (stalks, seeds, rinds and
17 pulp), that material became solid waste. "Food processors
18 dispose of these products themselves or through others to whom
19 the products are given or sold or contracted for disposal." AG I
20 at 772. Just because the processing byproducts are sold does not
21 mean they are not solid waste. The opinion notes that these
22 products are sometimes used as animal feed (silage) or as soil
23 amendment/fertilizer, but cites problems associated with the
24 improper storage or application of these materials. It concludes
25 that they are exempt from classification as solid waste only when

1 they are properly applied to productive purposes in agricultural
2 operations. Id.

3 In AG II, a farmer asserted that old tires were no longer
4 waste because he was using them for stock fencing. The opinion
5 nevertheless concluded that they had been discarded by their
6 prior owner who used them as tires, were useless for that purpose
7 and so were still solid waste within the meaning of the Solid
8 Waste Management statute. The opinion further addressed whether
9 materials would still be waste if delivered to and purchased by
10 recyclers:

11 "We note that such groups and firms sometimes
12 pay the public for these materials, in recognition
13 of their salvage value. This does not necessarily
14 mean the materials are not essentially useless to
or discarded by the disposers. The materials may
still be classified as solid waste." AG II at 139.

15 The Attorney General's reasoning is especially applicable in this
16 case: His conclusion rests on determining what policy the
17 legislature was trying to encourage when it used a particular
18 term.

19 The analysis comes from Springfield Education Assn. v.
20 Springfield School District No. 19, 290 Or 217, 621 P2d 547
21 (1980) (Springfield). Springfield categorized terms used in
22 rulemaking in three ways. The terms at issue here fall within
23 the second and third categories, being inexact terms which the
24 legislature left to the agency to define and apply. In his
25 exhaustive analysis of the terms "useless" and "discarded," the
26 Attorney General concluded:

1 "Though the breadth of permissible agency inter-
2 pretation and the scope of judicial review varies
3 from class to class, under Springfield, the touch-
stone remains the policy behind the legislation."
AG II at 135.

4 The primary goal of this proceeding, then, is to interpret
5 the statute and rules in a way that carries out the legislative
6 policy embodied in the Solid Waste Management statute. That
7 policy is set forth in ORS 459.016: *15/1/82*

8 "In the interest of the public health, safety and
9 welfare, and in order to conserve energy and
10 natural resources, it is a policy of the State of
Oregon to establish a comprehensive state-wide
program for solid waste management which will:

11 ". . .

12 "(c) . . . reserve to the state those functions
13 necessary to assure effective programs, coopera-
14 tion among local government units and coordination
of solid waste management programs throughout the
state. . . ."

15 ". . .

16 "(h) Provide for the adoption and enforcement
17 of minimum performance standards necessary for the
safe, economic and proper waste management. . . ."

18 ". . .

19 "(L) Promote application of resource recovery
20 systems which preserve and enhance the quality of
air, water and land resources."

21 ORS 459.045(1) then directs that rules be promulgated which
22 govern the:

23 "(a) Accumulation, storage, collection,
24 transportation and disposal of solid wastes to
25 prevent . . . air pollution, pollution of sur-
face or ground waters and hazards . . . to the
public [and] . . .

26 ". . .

1 "(d) Definition of other 'wastes' subject
2 to regulation pursuant to ORS 459.005 to ORS
3 459.105. . . ."

4 The legislature's concern is to protect and enhance the
5 quality of the state's air, water and natural resources and to
6 encourage resource recovery. The purpose of the rules must be to
7 regulate materials which threaten these resources. Thus, the
8 definition of "waste" or "solid waste" must be broad enough to
9 meet these policy objectives.

10 Brazier concedes (and the evidence is uncontroverted) that
11 stockpiles of this kind of material pose serious threats to the
12 state's environmental quality. Leachate from similar stockpiles
13 has lead to serious water pollution. Spontaneous combustion has
14 occurred in waste wood piles which has detrimentally affected
15 the state's air quality. Hazardous chemicals used in wood pro-
16 ducts manufacture could find their way into such stockpiles and
17 from there into the environment. If "waste" is defined in a way
18 which restricts DEQ authority to regulate these hazards, the
19 legislative policy expressed by the statute is defeated.

20 The DEQ is in a particularly good position to determine
21 which interpretation properly fulfillls legislative policy. In
22 1000 Friends of Oregon v. Wasco County, 68 Or App 765, 776, 686
23 P2d 375 (1984), the court declared that an agency with
24 specialized expertise, experience and staff is entitled to
25 deference when it interprets its own rules. Similarly, in
26 Springfield, the court noted that the agency's interpretation is
27 assumed valid "if the agency was involved in the legislative

1 process, or if we infer that it has expertise based upon
2 qualifications of its personnel or because of its experience in
3 the application of the statute to varying facts." 290 Or at 227.

4 The DEQ was involved in the legislative process which
5 drafted this statute. See Minutes, House Environment Committee
6 (HB 1051), Exhibit 3 (statement by Department of Environmental
7 Quality, presented by E.A. Schmidt, Supervisor, Solid Waste
8 Disposal Program), Feb. 18, 1971. The DEQ-proposed definition of
9 solid waste was incorporated into the statute. Because the
10 agency produced this statutory definition, it is entitled to
11 deference in its interpretation.

12 In addition, the DEQ has the expertise, based on the
13 qualifications of its personnel and its experience with the
14 hazards which this material poses to the environment, to entitle
15 it to deference when applying the rule to varying fact
16 situations, specifically the Brazier stockpile.

17 The legislature granted the agency broad authority to define
18 solid waste. The solid waste definition language "including, but
19 not limited to . . ." (ORS 459.005(10)), anticipates that the
20 agency will determine that other material is also solid waste, as
21 does the specific authority to pass rules defining other kinds of
22 waste subject to regulation. ORS 459.045.

23 Further, the DEQ definition of waste is in keeping with the
24 entire statutory framework of environmental management. For
25 example, in ORS chapter 468 ("Pollution Control"), waste is
26 defined to mean "sewage, industrial wastes, and all other . . .

1 solid . . . or other substances which will or may cause pollution
2 or tend to cause pollution of any waters of the state." ORS
3 468.700. Brazier concedes that the material does or may cause
4 water pollution, so the stockpile falls within this statutory
5 definition of waste. The "waste" definition in the Solid Waste
6 Management statute should be consistent with the "waste"
7 definition in the Pollution Control statute. The legislative
8 policy of both statutes is to protect Oregon's environment. See
9 ORS 468.710.

10 Brazier contends that the material is "useful" because it
11 can be sold, sent elsewhere, segregated, sized and subsequently
12 sold to others; in short, that it is suitable for resource
13 recovery--a primary objective of the Solid Waste Management
14 statute. Resource recovery is defined as "the process of
15 obtaining useful material or energy resources from solid waste
16 and includes:

17 "(a) 'Energy recovery,' which means recovery
18 in which all or a part of the solid waste materials
19 are processed to utilize the heat content, or other
forms of energy, of or from the material.

20 "(b) 'Material recovery,' which means any
21 process of obtaining from solid waste, by presegre-
22 gation or otherwise, materials which still have
useful physical or chemical properties after serv-
ing a specific purpose and can, therefore, be
reused or recycled for the same or other purpose.

23 "(c) 'Recycling,' which means any process by
24 which solid waste materials are transformed into
25 new products in such a manner that the original
products may lose their identity.

26 "(d) 'Reuse,' which means the return of a
commodity into the economic stream for use in the

1 same kind of application as before without change
2 in its identity." ORS 459.005(16); OAR
3 340-61-010(37). (Emphasis added.)

4 Brazier claims that "hog fuel" or wood chunks that can be
5 sold as firewood can be recovered from the stockpile. This falls
6 squarely within the definition of "energy recovery."

7 Brazier claims that the dirt in the pile can be separated
8 out for use as a soil amendment and that the bark chunks can be
9 segregated, ground to the proper size and then used as bark mulch
10 for horticultural purposes. These processes fall squarely within
11 the definitions of "material recovery" and "recycling."

12 Brazier claims that the pit run rock in the stockpile can be
13 reused as road bed or paving material. This process falls
14 squarely within the definition of "reuse." By statutory
15 definition, all resource recovery begins with "solid waste."

16 Brazier now claims that because it plans to fulfill the
17 statutory policy of resource recovery it should not be subject to
18 the resource recovery statute.² Brazier admits at page 2 of its
19 brief that it would not have engaged in efforts to find a market
20 for the material if it had not been for DEQ insistence that the
21 stockpile came within the statute's authority. Evidence that the
22 regulatory authority conferred by the statute is having the
23 effect of encouraging the desired conduct is further reason that
24 the statute should apply to this material.

25 If the pile is not subject to DEQ authority, there is scant
26 evidence the material will ever be moved. Although Brazier now
27 claims that the stockpile represents a valuable company asset,

1 the material has been collecting, unsold, for 13 years. As noted
2 in footnote 1, supra, it seems unlikely that Brazier would
3 recognize a profit from the material, based on the Grimm's Fuel
4 Company offer.

5 State regulation will encourage resource recovery, even if
6 only marginally or not quite profitable. Thus, the terms "waste"
7 and "solid waste" should be interpreted to include wood waste
8 piles. That interpretation confers DEQ authority to regulate,
9 which in turn encourages recycling policies and practices. If
10 "waste" is defined to exclude this stockpiled material, there is
11 no evidence that the material would ever serve any beneficial
12 purpose.

13 Case Law Analysis

14 The definition of "waste" to mean material that is useless
15 or discarded by the generator of the waste (e.g., Brazier), even
16 if valuable to a subsequent owner, is consistent with all
17 researched cases which define waste.

18 In Kirksey v. City of Wichita, 103 Kan 761, 175 P 974
19 (1918), Kirksey objected to a city ordinance which awarded an
20 exclusive waste and garbage collection contract. Kirksey con-
21 tended that he was still free to purchase kitchen scraps to feed
22 his pigs since such material, as to him, was not discarded or
23 useless and so was not subject to the waste ordinance. He argued
24 that among what he collected were items which still could have
25 been sold or salvaged by the owner and which Kirksey sometimes
26 converted to his personal use.

1 The case rejects his arguments, noting that "the word
2 'waste' . . . indicat[es] material that has lost its value for the
3 purposes for which it was handled by the owner, and has been cast
4 aside. * * * The fact that the waste matter has a disposal value
5 . . . [or] that there may be some possible salvage" does not
6 affect the city's authority to regulate the material as waste.
7 175 P at 974-5.

8 In State v. Max W. Fenberg & Sons, Inc., 52 Ohio App 2d 203,
9 369 NE2d 12 (1976), the court determined that a load of wood
10 pallets and skids, cardboard, paper and similar material being
11 discarded by the defendant fell within the definition of waste
12 even though such materials might have value and frequently were
13 salvaged. The court noted that they were waste because they were
14 "left over from a manufacturing process or industrial operation"
15 and that the material was waste vis a vis the defendant because
16 the material was "worthless or useless to it." 369 NE2d at 15.
17 (Emphasis added.)

18 Similarly, in Studner v. United States, 300 F Supp 1394
19 (Cust Ct 1969), the court concluded that used print rollers were
20 waste since they had been discarded as useless by their previous
21 owner and in spite of the fact that Studner was importing them
22 for resale as decorative items. See also National Carloading
23 Corp. v. United States, 22 Cust Ct 328 (1949) (pieces of sisal
24 which fell off in manufacturing and could not be made into shoes,
25 bags or brushes, but could be used to stuff furniture were
26 waste); Cia Algodonera v. United States, 23 CCPA 42 (1935)

1 (cottonseed hulls, a byproduct of cottonseed meal and oil produc-
2 tion, but which were added to cattle feed, were waste); Koons
3 Wilson & Co. v. United States, 12 Ct Cust Appls 418 (1924) (beet
4 pulp, the dried residue of sugar beets after sugar extraction,
5 used for cattle feed, was waste).

6 Brazier's stockpile is "waste" by the rule and rationale
7 expressed in each of these opinions. The material is left over
8 from Brazier's manufacturing operations; it is useless to Brazier
9 for production of lumber, chips, bark dust or shavings; the
10 material has been discarded to a site away from its main
11 operation for 13 years to allow continued equipment operation in
12 the log deck area. The material is still waste, even though it
13 might be sold to someone else to be salvaged, recycled or
14 manufactured further. The material is therefore legally both
15 useless and discarded and consequently solid waste subject to DEQ
16 regulation.

17 Industry Usage or Custom

18 Statutory terms may be defined consistent with "usage and
19 customs of the business or trade at which the statute is
20 directed." 22 Op Atty Gen 222 (1945). The DEQ witness testified
21 that there are currently approximately 90 similar sites in
22 Oregon, all operating under DEQ solid waste permit. No other
23 company has ever denied that this material is waste or that DEQ
24 has authority to regulate it as waste. If the stockpile is
25 considered waste by wood products industry custom and usage, it
26 should be considered waste when regulating that industry.

1 Agricultural Use Exception Inapplicable

2 In its petition for declaratory ruling, Brazier claimed that
3 even if the material was waste, it was exempt from the permit
4 requirement pursuant to OAR 340-61-020(2)(d). That rule makes an
5 exception for facilities which receive only "source separated
6 recyclable materials" and was intended to exempt recycling depots
7 which receive separated glass, cans and paper. At the
8 administrative hearing, Brazier withdrew this claim, conceding
9 that that rule does not apply to their stockpile. DEQ agrees and
10 so does not respond with legal argument.

11 Brazier now asserts that the material, even if "waste" or
12 "solid waste," falls within the exception provided by ORS
13 459.015(18)(b), because the material is fertilizer, or a soil
14 amendment, or salvageable. Brazier misreads both the statute and
15 the rule (OAR 340-61-010(41)(b)), which recites the statute
16 verbatim.

17 The crucial language exempts materials from solid waste
18 regulation when they are "used for fertilizer or for other
19 productive purposes or which are salvageable as such materials
20 are used on land in agricultural operations and the growing or
21 harvesting of crops and the raising of fowls or animals." Id.
22 (Emphasis added.) In other words, it is only when the material
23 is actually applied to some agricultural purpose that it is no
24 longer considered waste. The rule is intended to exempt material
25 like manure spread on a field. Consequently, even though manure
26 is specifically defined as a "solid waste," it is exempted as it

1 is used on the land (i.e., actually spread) as fertilizer. The
2 policy reason for this is clear. Because manure (and similar
3 materials) are defined as "solid waste," when applied to a field
4 the entire field would become a solid waste "disposal site," sub-
5 ject to DEQ permit requirements. This interpretation of the sta-
6 tute would be unnecessarily burdensome to a farming "recycling"
7 policy the statute hopes to encourage, so the exemption is built
8 into the rule. Similar materials would include lime used to
9 adjust soil pH, rotted hay or sawdust used to mulch farm crops;
10 and straw, sawdust and shavings used as animal bedding. At the
11 time the material is actually applied to the productive purpose,
12 it falls outside DEQ's solid waste regulatory authority. As it
13 is stockpiled awaiting some potentially useful purpose, it is
14 still solid waste.

15 The exception, when so viewed, meets the legislative policy
16 behind the Solid Waste Management statute. It encourages
17 resource recovery of materials like manure which, when
18 stockpiled, pose a serious threat to the state's water quality.
19 As applied to a field in accordance with sound traditional
20 farming practice, however, manure reduces reliance on chemical
21 fertilizer and soil amendments and soon biodegrades beyond
22 recognition.

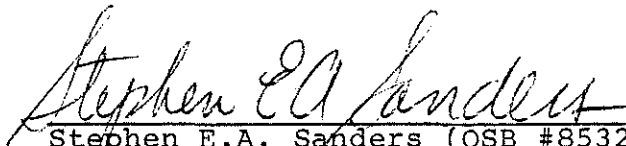
23 To interpret the statute so that material is not solid waste
24 as long as it could be--or sometimes is--used for agricultural
25 purposes results in an absurdity. A plausible argument could be
26 made that almost any of the solid wastes specifically mentioned

1 could be used in agricultural operations. Ashes are recommended
2 to home gardeners as a source of potash; waste paper and
3 cardboard could be used as mulch; sewage sludge can be used for
4 fertilizer; vegetable wastes can be fed to animals or composted
5 to make humus, a soil amendment; dead animals are ground up to
6 feed mink for fur farming. Surely Brazier does not suggest that
7 a stockpile of dead animals accumulating at a rate of 6,000 cubic
8 yards per year should be excluded from regulation as a solid
9 waste because a mink farmer had offered to buy such amounts as he
10 might need at 50 cents per 7.4 cubic yard unit.

11 CONCLUSION

12 The terms "waste" and "solid waste" should be defined to
13 include the stockpiled woodwastes on the Brazier property because
14 only such a definition is consistent with the legislative policy
15 behind the solid waste management statute, case law and industry
16 usage. Further, the material does not fall within the exception
17 to the waste definition until it is actually applied to some
18 beneficial agricultural purpose.

19 Respectfully submitted,

20 

21 Stephen E.A. Sanders (OSB #85321)
22 Assistant Attorney General
23 Of Attorneys for Department of
24 Environmental Quality

24 FOOTNOTES

25 1 Brazier submits a Grimm's Fuel Company offer to purchase as
26 much of the material as Grimm's may need at 50 cents per unit
(7.4 cubic yards) as evidence that the material is now useful.

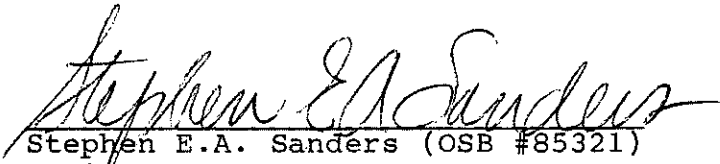
1 Brazier produces about 6000 cubic yards (about 800 units) of the
2 material each year, so could conceivably realize a gross income
3 of about \$400 for each year's production. The entire stockpile
4 (800 units/year x 13 years = 10,400 units) would be worth a gross
5 amount of approximately \$5,200. In exchange, by the terms of the
6 agreement, Brazier must build a road and a ramp, plus supply a
7 front end loader and an operator at Grimm's convenience. There
8 is no evidence that Brazier could supply these services at a cost
9 less than the value of the material. In any case, Brazier did
10 not sign the agreement; either party could cancel the agreement
11 with 30 days' notice to the other; and Grimm's representative did
12 not plan (nor would he be obligated) to purchase any of the
13 material in the foreseeable future.

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2 This is similar to arguing that one should not be subject to
the 55 MPH speed limit statute (23 USCA § 154) because it saves
fuel to drive at 55 and so achieves the stated purpose of the
Act. In both cases, the core of the argument is that the statute
should not apply because it works. Brazier's argument, by
analogy, would be, "Because I plan to save fuel by driving at 55,
I should be allowed to drive as fast as I want."

CERTIFICATE OF SERVICE BY MAIL

1
2 I HEREBY CERTIFY that I have made service of the foregoing
3 Department of Environmental Quality Brief upon the parties hereto
4 by causing to be mailed in the United States Post Office at
5 Salem, Oregon, on ~~February~~ *March* 3, 1986, a true, exact and full copy
6 thereof, enclosed in an envelope with postage thereon prepaid,
7 addressed to:

8 Jack Caldwell
9 Attorney at Law
10 PO Box 667
11 Oregon City, OR 97045-3753

12 
13 Stephen E.A. Sanders (OSB #85321)
14 Assistant Attorney General
15 Of Attorneys for Department of
16 Environmental Quality
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1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 of the

3 State of Oregon

 EQC
 Hearing Section

4 In the matter of the application)
5 of Brazier Forest Products of)
6 Oregon, Inc., an Oregon)
7 corporation, for a declaratory)
8 ruling to the applicability of)
 ORS 459.005 to 459.285 and Chapter)
 340, Division 61, OAR to the)
 storage of residual materials)
 from its sawmill.)

NO.

MAR 24 1986

PETITIONER'S REPLY
BRIEF

9 The brief filed by DEQ raises several issues which
10 must be addressed. DEQ, however, completely missed one very
11 basic point. The Environmental Quality Commission and the
12 Department of Environmental Quality together constitute an
13 administrative agency. The entire statutory scheme under the
14 various acts administered by the agency places the Commission in
15 the position of making final decisions. ORS 468.020 gives rule
16 making power to the Commission, not the DEQ. Likewise, when
17 construing and applying statutes and rules, neither the Director
18 nor the staff of DEQ speak for the agency. That function belongs
19 to the Commission. Consequently, the passionate arguments
20 contained in the DEQ brief that deference must be given to agency
21 interpretations is misplaced. The agency has made no
22 interpretation.

23 The staff, of course, would like to speak for the
24 agency, but it does not. The DEQ position is one of simply
25 urging that the Commission adopt their viewpoint, substantially
26 extending the agency jurisdiction. In doing so, they are

Page

1 - PETITIONER'S REPLY BRIEF

1 following a course aptly described by Justice A. T. Goodwin:

2 "The tendency of administrators to expand
3 the scope of their operations is perhaps as
4 natural as nature's well-known abhorrence of
5 a vacuum. But no matter how highly motivated
6 it may be, the tendency to make law without
7 a clear direction to do so must be curbed by
8 the overriding constitutional requirement
9 that substantial changes in the law be made
10 solely by the Legislative Assembly, or by
11 the people." Oregon Newspaper Publishers
12 Association v. Peterson, 244 Or 116 at 123,
13 415 P2d 21 (1966).

14 Matters which Brazier will address are: the confusion
15 shown by DEQ in the basic definition of words; the construction
16 of the statutes; the "strawman" set up by DEQ; and how the cases,
17 statutes and rules apply.

18 THE MEANING OF WORDS

19 The courts will follow the plain meaning of the
20 statutory language when possible. This is illustrated by the
21 "exact terms" analysis of the court in Springfield Education
22 Assn. v. School District No. 19, 290 Or 217, 621 P2d 547 (1980)
23 (Springfield); State Administrative Law (Oregon CLE, 1985)
24 § 2.36.

25 Our Court of Appeals has said about legislative intent:

26 "The most persuasive evidence of that intent
is the words of the statutes themselves."
Ochoco Construction v. LCDC, 56 Or App 32 at
p. 40, 641 P2d 49 (1982).

Of course, when there is a statutory definition or some other
clear definition, that is applied. In the absence, we must turn
to the dictionary.

1 The greatest language problem DEQ has is its
2 misapplication of the prefix "re." Webster's Third New
3 International Dictionary (Unabridged) 1981 defines "re" as a
4 prefix meaning "again, anew." It also defines "recycle" as "to
5 pass again through a cycle." DEQ, in its brief, sometimes
6 attempts to use those terms in their dictionary meaning and other
7 times in accordance with the definition found in ORS 459.005(16)
8 cited on page 8 of the DEQ brief.

9 Those statutory definitions are of no help in getting
10 to the basic question because those definitions apply only to
11 material that has already been determined to be "waste" and then
12 "solid waste" as defined in the statute. You cannot apply those
13 definitions to decide that something is waste. That would be
14 reasoning from the particular to the general. Only the
15 dictionary definitions of the words "reuse" and "recycle" can be
16 applied in deciding whether someone is using material for the
17 first time or, in fact, is using it over again.

18 A major fallacy of the DEQ brief is assuming the
19 answer. This results in a circular argument. The threshold
20 question is the application of the statutory definition of
21 "waste." If something is not waste under that statutory defini-
22 tion, the DEQ cannot make it so by wishing it were different.

23 On page 8, DEQ gives an excellent example of circular
24 argument when it asserts that if a thing is suitable for resource
25 recovery, it must be solid waste. Of course, that would make it
26 statutory waste if that were the case. Material may be suited

1 for "resource recovery," or a lot of other things but still
2 cannot be subject to the statute if it does pass the initial
3 test.

4 CONSTRUCTION OF THE STATUTE

5 The Legislature made a clear statement when it said:

6 "Waste means useless or discarded materials."
7 ORS 459.005(22)

8 DEQ argues that its construction of the term is entitled to
9 deferential treatment. Brazier has already pointed out the
10 fallacy in that position. It is not even a correct statement if
11 it were the agency interpretation. Agencies are generally
12 entitled to "only limited deference" with respect to questions
13 of law. State Administrative Law, Oregon CLE (1985) § 2.8
14 (Chapter by Don Arnold and Dave Frohnmayer).

15 As a matter of fact, the agency has not further
16 defined nor interpreted the statutory definition of waste. It
17 merely adopted the statutory language by rule. That is proper
18 because it was so clear it does not need construction.

19 It is questionable that the agency could expand the
20 definition. The Court of Appeals has said:

21 "An administrative agency may not, by its
22 rules, expand the authority granted it by
23 the terms of a statute." Employment Division
v. Smith, 64 Or App 33 at p. 37, 666 P2d
24 1369 (1983).

25 The Hearings Officer requested some discussion of
26 Springfield, supra. In this case, we really do not get to
Springfield for analysis of the definition of waste in that it

1 appears the Legislature has "completely expressed its meaning."
2 Springfield, at p. 225.

3 Although the reasoning in the Springfield opinion is
4 apparently profound, it really does not say anything particularly
5 new. "Exact terms" are terms so clear no construction is
6 needed and the plain meaning rule can apply. The handling of
7 "inexact terms" by an agency is really no different than what
8 courts and agencies have always done in construing statutes which
9 are not completely clear. They apply the rules of statutory
10 construction, look at legislative history and make a decision on
11 the meaning of a statute. In doing this, an agency is acting in
12 a quasi-judicial function.

13 Justice Tanzer's statement in Springfield indicating
14 that an interpretation may occur in a contested case setting has
15 apparently been interpreted to mean that an agency can sidestep
16 rule making by exercising delegated authority to decide to "flesh
17 out" a statute in a contested case. Brazier submits that such
18 an interpretation is incorrect. An agency can do no more
19 construing and interpreting in a contested case setting than a
20 circuit court could do if it were hearing an administrative
21 matter pursuant to ORS 183.484.

22 In the third part of the Springfield analysis
23 concerning delegation of fairly broad powers to an agency, it is
24 clear that rule making is required. In the case of that type of
25 delegation, an agency can do what a court cannot (or at least
26 should not) do, i.e., promulgate rules which have the force of

1 law. What has not been said in the analysis of Springfield, is
2 that an agency under its general rule making authority can take a
3 statute which requires construing and finish the job which the
4 Legislature did imperfectly by adopting a clarifying rule.

5 The other statute requiring construction is ORS
6 459.005(18)(b) which reads:

7 " (b) Materials used for fertilizer or for
8 other productive purposes or which are
9 salvageable as such materials are used on
10 land in agricultural operations and the
growing or harvesting of crops and the
raising of fowls or animals."

11 If material fits within the definition of the above subsection,
12 it is then by definition not "solid waste." DEQ apparently
13 thinks of it as solid waste which is exempt, but that is clearly
14 not the case. The statement in subsection (b) is probably one
15 of the murkier bits of legislative drafting in ORS. The DEQ rule
16 is of no help in determining the statutory meaning in that it
17 merely parrots the statute. OAR 340-61-010(41). The DEQ's
18 argument that the material must actually be on a field is
19 ingenious, but does not match up with the facts or the law. In
20 the first instance, the evidence is very clear that the material
21 in the stockpile, except for the rock, are useful for soil
22 amendments and horticultural or other productive purposes and are
23 clearly salvageable as such.

24 Anyone who has driven around Oregon knows of huge
25 piles of manure at dairies and feed lots which appear never to
26 diminish. Another example is material from pea vines and other

1 similar vines which are stacked in the fields for a long time to
2 ferment before being placed in silos or applied back on the
3 ground.

4 The Attorney General also disagrees with the DEQ
5 analysis. In 39 A.G. 770, one of the questions asked with
6 respect to vegetable byproducts was:

7 "Are such byproducts waste?

8 "ANSWER: Yes, if they are useless or
9 discarded and not used for fertilizer or are
10 not salvageable for use on land in agricul-
11 tural operations and the growing or
12 harvesting of crops and the raising of fowl
13 or animals." (Emphasis added)

14 It is clear from the opinion that is not necessary to put such
15 materials immediately on land. It might be used in growing
16 or harvesting of crops and for animals or some other way. The
17 far fetched argument found at the end of the DEQ brief about
18 piles of animal bodies which would clearly be a nuisance is an
19 insult to anyone's intelligence.

20 THE STRAWMAN

21 It is a measure of the weakness of an argument when it
22 is necessary to misstate an opponent's position in order to
23 support one's own posture. If Brazier's factual evidence and
24 arguments were as bad as they are represented to be, Brazier
25 would certainly lose. Such misinterpretation may not be
26 intentional, but it is, at best, the result of wishful thinking.

There are ten or twelve places in the DEQ brief where
it is stated "Brazier asserts," "Brazier concedes," "Brazier

1 admits" or the like. Hardly any are true. It is regretfully
2 necessary to comment on these because Brazier cannot take the
3 chance that the Commission might interpret silence as agreement.
4 Reference will be made to the DEQ brief pages and lines.

5 Page 2, line 18. Brazier does not and has not ever
6 conceded that the material was discarded or thrown away.

7 Page 2, line 26. Brazier is not basing its contention
8 on the one assertion claimed at the top of page 3.

9 Page 3, line 8 to 11. Brazier has not asserted that
10 material changes character when it changes hands. Cases are
11 cited subsequently in this brief showing how courts have
12 recognized how different circumstances can change how material
13 is treated. Footnote one is inaccurate and further is an
14 example of someone not in business trying to second guess a
15 business decision by business people.

16 Review of Mr. Grimm's testimony will show that he did
17 not say that he had no plans to purchase in the foreseeable
18 future. Further, with respect to the dollar amounts, Mr. Storey
19 testified he wanted to do more negotiating before signing the
20 agreement. Brazier does not believe it will lose money.

21 Page 6, line 9. Brazier does not concede "serious
22 (or any) threat." It should be clear from the evidence that
23 Brazier simply took a look at the situation to see if there
24 was a problem. No one has found any.

25 Page 8, line 3. Brazier does not concede that the
26 material does or may cause water pollution. In fact, it is

1 quite clear it has not and will not because it has been there a
2 long time and there is evidence that no pollution exists or has
3 existed.

4 Page 8, line 10 to 13. Brazier does not contend
5 that the material is suitable for resource recovery. It does
6 not have to be sent elsewhere, but could be handled on site as
7 Publishers Paper does at its Clackamas Division Mill in Oregon
8 City.

9 Page 9, line 6. Brazier does not claim that the
10 dirt would be separated, nor is that what Mr. Grimm testified to.
11 About the only accurate statements of Brazier's claim are
12 those on page 9, lines 3 and 11. The assertion that some
13 wood in the pile can be used for hog fuel or firewood is correct.
14 It does not fall within the definition of energy recovery,
15 however, unless it is first deemed solid waste, which it is not.
16 The rock is the only thing which does fall within the definition
17 of reuse. The rock in the pile is not a major percentage and
18 certainly does not change the character of the rest of the
19 material in the pile. The statement in the sentence beginning on
20 line 15 of page 9 is so obviously false as to need no comment.
21 Brazier does not admit, as is claimed on line 17 of page 9,
22 that it would not have looked for a market if it had not been for
23 the attempt of DEQ to arrogate to itself powers it does not
24 possess. That may have started things moving at this time, but
25 economics of land use, the market place and the need to maximize
26 the use of forest products point toward a use of the material in

1 the stockpile sooner rather than later.

2 DEQ by the statement on line 26, page 9 shows a
3 lack of understanding of the difference between a "valuable"
4 asset and something that is, in fact, an asset. The term
5 "valuable" is relative. With respect to the entire output of
6 the mill, the stockpile is not very valuable. In some people's
7 hands it might be. The point is that it is an asset and, as is
8 shown by the evidence, Brazier intends to negotiate the best
9 deal it can with respect to sale of the asset.

10 Throughout the DEQ brief, there are references to great
11 dangers of pollution and other dangers to the public. Testimony
12 was admitted with respect to those issues over the objection of
13 Brazier. The question of the effect the material may have is
14 entirely incidental to the question of whether it comes within
15 the statutory definition. Danger or potential danger is not the
16 issue. An argument with respect to those issues should be
17 addressed either to the Legislature or to the Commission in a
18 rule making proceeding, not a quasi-judicial proceeding.

19 In the second place, it is unfair to allow such
20 evidence to be presented in that it can color the Commission's
21 attitude on its decision. The issue of danger was not one
22 presented by the petition, was and is irrelevant to the issue,
23 and left Brazier in a position of being unable to respond.
24 If, in fact, the question of danger to the environment is an
25 issue, Brazier should be given an opportunity to call its own
26 experts to examine the situation and to show that there is no

1 pollution problem and no other environmental danger.

2 There is absolutely no evidence in the record that the
3 pile has ever caused any pollution problems. The only evidence
4 is that upon inspection there was no evidence of any problem
5 with ground water or with the irrigation ditch only a few feet
6 away from the stockpile. The danger issue is the ultimate
7 strawman.

8 THE CASES, THE STATUTE AND THE RULES

9 DEQ has cited two cases which require comment. The
10 Kirksey case involved a city ordinance. The ordinance was very
11 different from our statute and did not contain any definition of
12 waste. The court in that case made its own definition. The case
13 does not apply because our Legislature has already provided a
14 definition of waste in the statute. Kirksey v. City of Wichita,
15 103 Kan 761, 175 P 974 (1918).

16 In the Fenberg case, the court also had to come up
17 with its own definition of waste. The court said (at page 205)
18 that the "critical issue" was deciding if certain material
19 consisted of "solid wastes" which were not defined in the
20 applicable regulations. Again, this case does not apply because
21 our Legislature has defined both waste and solid waste. State
22 v. Max W. Fenberg & Sons, Inc., 52 Ohio App 2d 203, 369 NE2d 12
23 (1976).

24 The other cases cited are customs law cases in which
25 different statutes using different definitions are applied to
26 materials going through customs. They are not in point. We

1 must look to our own state statutes since they provide us with
2 definitions.

3 DEQ, in this case and apparently many others, has
4 attempted to expand its reach by statutory construction and
5 interpretation. The interesting thing is that the Commission
6 has made no rule to clarify a distinction between a solid waste
7 disposal site and a stockpile of useful material. If a
8 definition of waste can be expanded by rule (which is not
9 conceded), it must be done by rule making. The reach of a rule
10 is always limited by the statutory authority. Employment
11 Division v. Smith, supra; Morgan v. Stimson Lumber Co., 38 Or
12 App 579, 590 P2d 792 (1979); Payne v. Department of Commerce, 61
13 Or App 165, 656 P2d 361 (1982).

14 DEQ makes much of the fact that some other sawmills
15 have solid waste permits. The evidence showed that there are
16 many more sawmills in the state that do not have solid waste
17 permits. The fact of the issuance of a permit to another mill
18 says absolutely nothing about its applicability of the law in the
19 instant case. There is no evidence showing the differences among
20 the various sites. From DEQ's action in this case, it is
21 entirely probable that the staff wrongly asserted jurisdiction
22 over stockpiled material from other log yards. If that is the
23 case, it is ironic they would use their own erroneous interpre-
24 tation to justify another erroneous interpretation of the law.

25 Some cases on treatment of wood byproducts show that
26 a material may be waste at one time and not at another. In

1 Fleming v. Pantzer Lumber Co., 162 F2d 276 (7th Cir) (1947), a
2 lumber manufacturer claimed that moldings processed from what
3 appeared to be millends were waste and not subject to wartime
4 price regulation. The court held to the contrary, although
5 before the war they were waste. The Supreme Court of Georgia in
6 Eimco BSP Services Company v. Nick P. Chilivis, Commissioner,
7 (GA) 244 SE2d 829 (1978), a tax case, said (at page 833 S.E.):

8 "As a wasteful by-product, the bark and
9 resin did not qualify for the
10 § 92-3403a(C)(2) exemption; however, they
11 were valueless as waste and, therefore, went
12 untaxed. When they began to be recycled for
13 use as an energy source, they did technically
14 become subject to taxation. . ."

15 The definitions applied are consistent with our statute.

16 Brazier produced evidence concerning a similar opera-
17 tion by Publishers Paper Co. in its Clackamas Division Sawmill at
18 Oregon City. The difference between the operation there and the
19 Brazier's operation is that some, but not all, of the processing
20 of the bark from the log yard is done on Publishers' premises.
21 Nevertheless, DEQ claims that Publishers' operation also is
22 subject to a solid waste permit requirement.

23 DEQ argues on page 12 of its brief that the material
24 left over is useless to Brazier. There is no evidence that it
25 is useless to Brazier. The fact that Brazier plans to sell
26 it for further manufacturing off site does not change the
27 character of the material with respect to whether it is waste.
28 The place of such further manufacturing makes no difference. For
29 example, Brazier might conclude that it wished to set up on site

1 a facility such as Publishers uses at the Clackamas Division.
2 Brazier has substantial land and might later even put in
3 facilities, like Grimm's Fuel has at Sherwood, for further
4 manufacturing .


5 On the other hand, Brazier might decide that it no
6 longer wished to manufacture its own barkdust and hog fuel on
7 site. Brazier, in such case, could stockpile the material on
8 its premises and sell it to customers to haul away. Yet, if
9 Brazier stockpiled the bark which it presently manufacturing
10 into barkdust to hold for sale and manufacturing off the
11 premises, DEQ obviously would claim it somehow had become waste.

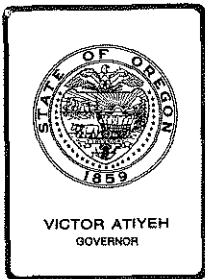
12 CONCLUSION

13 There are no Oregon cases construing the statutory
14 definitions in question. The application of the plain meaning
15 rule should suffice to show the material is not waste. If the
16 statutes require construction, the Commission in a quasi-judicial
17 decision should not go beyond the sort of statutory construction
18 which a court would apply. Brazier's stockpile is not waste
19 because the material is neither useless nor discarded. Brazier
20 requests again a ruling as prayed for in its petition.

21 Respectfully submitted,

22 HIBBARD, CALDWELL, BOWERMAN,
23 SCHULTZ & HERGERT

24 By 
25 John C. Caldwell, OSB #50015
26 Of Attorneys for Petitioner
Brazier Forest Products



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 G, July 25, 1986, EQC Meeting

Request for Variance from the Open Burning of Industrial Waste Prohibition (OAR 340-23-065(1)) for Orville B. Lulay

Background

Orville B. Lulay operates a one-person cedar sawmill at Carver, Oregon. Carver is located on the Clackamas River between Clackamas and Estacada. The area is generally rural, but there is a 189-space trailer park about a quarter of a mile from the mill site. He takes cedar logs and saws them into lumber. He previously operated a larger sawmill operation at the site with a partner. The operation of both these sawmills creates waste products, such as sawdust and trimmings. When Mr. Lulay was operating the sawmill with the partner, he had made arrangements with Fuels and Fires Management to chip all of the waste material. However, when they started chipping the material, they found that they could not chip it all because the stringy bark would cause the chipper to plug. Therefore, they chipped some of the material but left other material behind. There is approximately 450 cubic yards of the material left on the site. Mr. Lulay and the fire district's Fire Marshall estimate that the burning could be completed in two days. Since the material underneath the site where the burning is proposed to be conducted consists of wood wastes, dirt, and rock, the fire district's Fire Marshall is concerned that this material may catch on fire and burn for a longer period of time.

Mr. Lulay states that the waste currently being generated on site is being used by someone to make cedar planter boxes. He is currently bailing up all of the trim material for easy removal. Waste has accumulated on the site, since September, 1985. Mr. Lulay says that he operated a sawmill in North Plains, but because of the recession in 1974 and 1975 in the lumber industry, he lost the sawmill to his creditors.

At this time, Mr. Lulay is requesting that the Commission grant a variance to him from OAR 340-23-065(1), which prohibits the burning of industrial waste, such as cedar trimmings and ends, in Clackamas County. With the exception of four counties (Multnomah, Clackamas, Columbia, and Washington), industrial open burning may be authorized for a single

occassion only by a special letter permit issued in accordance with OAR 340-23-100. In Clackamas, Columbia, Multnomah and Washington Counties, there is no provision in the rules for open burning of industrial waste.

Since receiving Mr. Lulay's letter dated August 1, 1985, the Department has helped Mr. Lulay look for alternatives to open burning. After visiting the site on September 12, 1985, McFarlane's Bark, Inc. was contacted to determine if they could recycle the material. They obtained a load of the material and processed it. When they were again contacted concerning their findings in May, 1986, they reported that they would take the material without a disposal fee if it were brought to their site near Milwaukie.

Under Oregon Revised Statutes (ORS) 468.345, the Commission may grant a variance under these conditions:

. . . that strict compliance with the rule or standards is inappropriate because:

(a) Conditions exist that are beyond the control of the persons granted such variance; or

(b) Special circumstances render strict compliance unreasonable, burdensome or impractical due to special physical conditions or cause; or

(c) Strict compliance would result in substantial curtailment or closing down of a business, plant or operation; or

(d) No other alternative facility or method of handling is yet available.

Mr. Lulay has requested a variance under (c) above, claiming strict compliance would curtail or close his operation.

Evaluation and Alternatives

Mr. Lulay has requested a variance to burn approximately 450 cubic yards of waste material that has accumulated at the site which he rents. His landlord is requiring that the material be removed. Mr. Lulay maintains that he cannot afford either the cost or the time to have the material removed by means other than open burning.

The following are the alternatives available to Mr. Lulay other than open burning:

1. Rent a dump truck for a cost of \$700 and transport the material to McFarlane's Bark himself. This would take him approximately a week.
2. Have a waste hauler haul the material to McFarlane's Bark at a cost of approximately \$2,250.

3. Rent a pit incinerator for an approximate cost of \$6,000. Use of the pit incinerator would require that a letter permit be obtained from the Department (OAR 340-23-105).

There are two alternatives available to the Commission. They are to either grant or deny the variance request. If the Commission were to grant the variance, there is concern that there would be many more variance requests to burn industrial and commercial waste in the Portland metropolitan area. Since 1970 the Department has taken a very firm stand against industrial and commercial burning. The Department generally issues civil penalties for first time violations of industrial and commercial open burning. This has been successful in maintaining a tight control over open burning in the Portland metropolitan area, and therefore is an important element of the clean air strategy. Since all the waste is not currently being removed from the site, there is concern that in the future another variance would be requested to eliminate the accumulated waste.

In denying the variance, the Commission would provide equitable treatment to all industrial sources. Commercial, demolition, and industrial open burning has been prohibited by the Department in the Portland metropolitan area since 1970 as a part of the state implementation plan for achieving air quality standards. Since that time, the many sources including churches, cities, governmental agencies, contractors, and counties have found alternatives to the open burning of their wastes. Since the late 1970's no one in this area has been granted a variance for open burning.

The Department considers the proper disposal of waste material from industrial sources as a cost of doing business. If Mr. Lulay had been taking care of his waste as it was generated, it would take him less than two days per year and \$200 per year to take the material to McFarlane's Bark. The Department does not believe Mr. Lulay meets the requirements for obtaining a variance. The \$700 expense to rent a truck is not considered by the Department to be unreasonable. It should also be noted that the time required to remove the material should not be a factor of expense since Mr. Lulay will have to commit time to preparing, tending and extinguishing any burning.


Summation

1. OAR 340-23-065(1) prohibits open burning of industrial waste in Clackamas County.
2. Control on all types of open burning is an important element of the Portland metropolitan clean air strategy.
3. Orville B. Lulay has requested that a variance from open burning regulations be granted to burn approximately 450 cubic yards of cedar mill wastes.
4. Mr. Lulay claims that he does not have either the resources or the time to haul the material away.

5. The Department recommends that the request for a variance be denied. Mr. Lulay does not meet the criteria for granting a variance and if a variance was granted, there is concern that other industrial and commercial businesses would also want to burn.

Director's Recommendation

Based on the findings in the summation, it is recommended that the Commission deny a variance to Orville B. Lulay for OAR 340-23-065(1), open burning prohibitions.



Fred Hansen
Director

Attachments

- 1) Letter from Orville B. Lulay
requesting a variance, dated April 23, 1985
- 2) Letter to Orville B. Lulay, dated May 13, 1985.
- 3) Letter from Orville B. Lulay
submitting additional information, dated May 28, 1985
- 4) Letter to Orville B. Lulay, dated July 24, 1985.
- 5) Letter from Orville B. Lulay
submitting additional information, dated August 1, 1985

Charles R. Clinton:y
RY2901
229-6955
July 11, 1986

ORVILLE B. LULAY
15200 S. E. Bilsher Ct.
Milwaukie, OR 97222

April 23, 1985

JKJ
[Signature]

Ms. Judy Johndohl
Department of Environmental Quality
Post Office Box 1760
Portland, OR 97207

Re: Request Commercial Waste Burning Variance

Dear Ms. Johndohl:

In 1982 a former partner and I had a cedar sawmill operation, now discontinued, at Carver, Oregon on the Arrowhead Timber Co. site. We had our logs custom sawn there with a portable sawmill and made arrangements with Fuels and Fire Management to chip the slabwood after we accumulated enough of it for them to bring in their large chipper. When they came to do the chipping they were unable to chip all of the material because of the stringy bark on the cedar slabs and edgings.

I offered to give the remainder of the waste material to commercial companies but they were not able to chip it either, so I gave as much of it to individuals as they would take for firewood. There is now approximately 450 cubic yards left, with no new material being added, and is a fire hazard since it has had time to dry. To have it hauled away would cost upwards of \$2,000.00, an amount I simply cannot afford to pay.

We will push the material into window type piles in the large open log yard at the site - a diagram is enclosed. The fire will be adequately supervised and will be periodically restacked and fed to aid combustion. We estimate the burning time will be one or two days. Mr. Jack Wiseman of Clackamas County Fire District told me he would be glad to issue a burning permit if we obtained a variance in writing to burn from the DEQ.

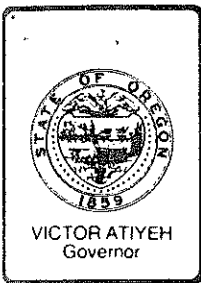
The property owner wants this material removed since it is an eyesore and a fire hazard, and I don't have an answer how to do this unless it is burned on the site.

I request a variance for the burning of this commercial waste.

Very truly yours,

[Signature]
Orville B. Lulay

Department of Environmental Quality
APR 25 1985



Department of Environmental Quality

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

May 13, 1985

- Mr. Orville B. Lulay
15200 S. E. Bilsher Ct.
Milwaukie, OR 97222

Dear Mr. Lulay:

In response to your letter of April 23, 1985, requesting a variance to burn commercial waste, on the Arrowhead Timber Company site in Carver, we have determined that further information is needed to make a decision and recommendation for your variance request.

In order for us to process a variance, you will need to document the following information:

1. Further clarify all of the alternative disposal methods and potential costs that you have investigated.
2. What precautionary measures do you plan to use to ensure that nuisance conditions do not occur while burning?
3. What precautionary measures do you plan to take to prevent an uncontrolled burn on the property?
4. Describe the method(s) you will use to ensure the material burns cleanly.
5. Why aren't the alternative disposal methods feasible?

If you intend to pursue the variance from the open burning rules, please prepare a written response to the above items by May 31, 1985. Upon receipt and consideration of the above information, the Department will notify you of the next Environmental Quality Commission meeting that would address your request.

Sincerely,

Judy K. Johndohl
Environmental Analyst
Northwest Region

JKJ:y
RY412

cc: Clackamas County Fire District #71

RECEIVED
MAY 30 1985

ORVILLE B. LULAY
15200 S. E. Bilsher Ct.
Milwaukie, OR 97222

NORTHWEST REGION

May 28, 1985

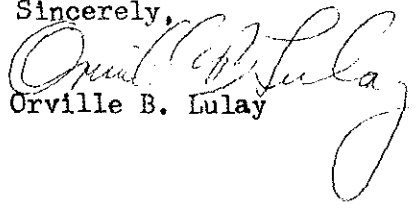
Ms. Judy K. Johndohl
Department of Environmental Quality
Post Office Box 1760
Portland, OR 97207

Dear Ms. Johndohl:

In response to your letter of May 13, 1985 requesting further information regarding a variance to burn commercial waste on the Arrowhead Timber Company site in Carver, I submit the following additional information.

1. The alternative disposal methods that I have tried were to sell it, to give it away, or to have it hauled away. I was unable to interest anyone in buying it or just taking it, including McFarlane's Bark, Inc. who came to look at it. I gave as much of it away as people would take for fire wood. I obtained a quotation from Ed Obrist to have it hauled away for the sum of \$3,480.00 which I am unable to pay.
2. The precautionary measures we plan to use to ensure that nuisance conditions do not occur while burning are to have a hot fire so the smoke will be held to a minimum.
3. The precautionary measures we plan to take to prevent an uncontrolled burn on the property are to place the material to be burned in the large log yard so it is at a good distance from any building, and to stand by with fire hoses and a bulldozer.
4. To ensure that the material burns cleanly we will windrow it in the log yard so that the fire will be able to get air to a large surface area, and we will restack the material as needed to aid combustion.
5. The alternative disposal methods are not feasible because I can't sell it, I can't give it away, and I can't afford to have it hauled away. If this material was levelled out on the log yard it would cause future operational problems and would be a greater problem of removal than it is now, besides the property owner will not allow this to be done.

I have tried to respond to your letter item by item and hope you find the responses adequate.

Sincerely,

Orville B. Lulay

ORVILLE B. LULAY
15200 S. E. Bilsher Ct.
Milwaukie, OR 97222
August 1, 1985

cc: AY.
done

Mr. Charles R. Clinton
Department of Environmental Quality
Post Office Box 1760
Portland, OR 97207

Dear Mr. Clinton:

In response to your letter of July 24, 1985 requesting further information regarding a variance to burn commercial waste on the Arrowhead Timber Company site in Carver, I submit the following additional information:

The existing conditions that pose a financial hardship on me to remove the debris by non-burning methods date back to the 1974-75 lumber recession. I was attempting to get a new business started during that time which consisted of lumber drying and remanufacturing at North Plains, Oregon. As a result of this business failure I lost my business, my job, my home, my wife's farm and other property, my childrens inheritance, and was left penniless and deeply in debt. This may be verified by Mike McBride at Safeco Credit Co. in Seattle, WA, and by the manager of the Clackamas County Bank, main branch in Sandy, OR among others. I have not recovered from this loss, but have been struggling ever since to provide the necessities of life for my family. I must make house payments, car payments, health & welfare and other insurance as well as rent on the property at Carver, payments on the equipment I use at work there. Since I lost everything I now have to make payments on everything. The lumber business has not been good recently, and is not good now. The log prices are high and the lumber prices are low in relation to each other, so operating now is a matter of survival. I am operating on borrowed money and find it most difficult to keep up payments. I do not have the means to pay for hauling the subject debris away and pay dump fees which were quoted at \$3,480.00. I am now 61 years old and operate a one man sawmill six and sometimes seven days a week to make myself a job, otherwise I would be out of work.

In regards to the burning procedured I proposed in previous letters, I was guided by the Oregon Administrative Rules Chapter 340, Division 23 which recommend putting the material to be burned in windrows, however after talking to Jack Wiseman of Clackamas County Fire District #71 he suggested we start with a pile, then add to it to keep the fire smaller and easier to control. We agree with this procedure and would plan to use it. We also wish to mention that we have an adequate on site water supply and hose lines to control the fire.

I hope you will find this an adequate response to your letter and will issue the variance.

Sincerely,

Orville B. Lulay
Orville B. Lulay

NORTHWEST REGION

AUG 5 1985

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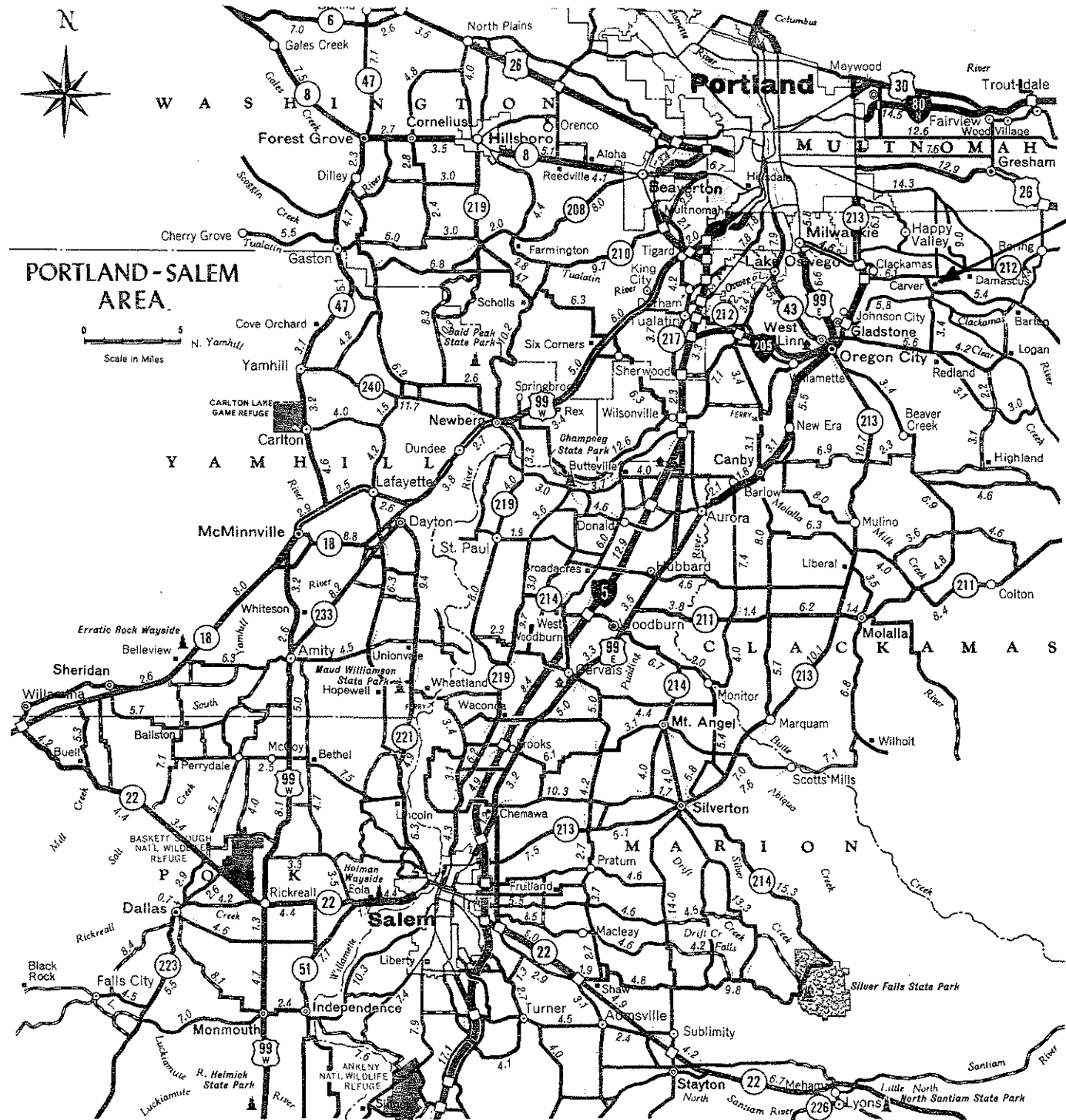
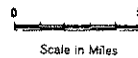
Portland

M U L T N O M A H

Orville B. Lulay's

Sawmill Site

PORTLAND - SALEM
AREA



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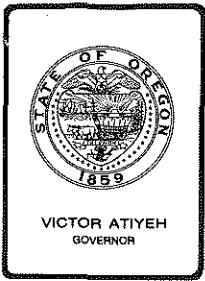
C L A C K A M A S

M A R I O N

Salem

Stayton

Lyons



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 I, July 25, 1986, EQC Meeting

Request for Issuance of An Environmental Quality Commission
Compliance Order For The City of Coos Bay, Oregon.

Background and Problem Statement

Compliance problems experienced by the City of Coos Bay Wastewater Treatment Plant Number 1 sewerage facilities combined with policy issues relative to the Clean Water Act Amendments of 1981 require consideration by the Commission. The Department also is requesting that the Commission reconcile these issues by issuing a Compliance Order to the City of Coos Bay. The specific problems and issues are presented below under the Background and Problem Statement, as follows:

1. Background on the City of Coos Bay Sewerage Facilities.
2. Compliance of Discharges With Respect to Water Quality Standards and Designated Beneficial Uses.
3. Performance of Coos Bay Wastewater Treatment Plant Number 1 With Respect to Achieving NPDES Permit Limitations.
4. Sewerage Works Construction Needs and Financial Capability of The City of Coos Bay.
5. National Municipal Policy and the Clean Water Act Amendments of 1981.
6. Summary of Problem Statement.

1. Background on the City of Coos Bay Sewerage Facilities

The City of Coos Bay provides sewage treatment via two wastewater collection systems and treatment plants. The western collection system encompasses the Empire district of Coos Bay and the sewered areas of Charleston Sanitary District. Wastewater from these areas is conveyed to Coos Bay Sewage Treatment Plant Number 2 where treated effluent is discharged to Coos Bay at river mile 4.5. The larger

eastern collection system serves the majority of the City of Coos Bay including the Bunker Hill Sanitary District and the recently annexed Eastside district. Wastewater from these areas is conveyed to Coos Bay Treatment Plant Number 1 for treatment and discharge to Coos Bay at river mile 13.2. Both of the sewage treatment plants operate under National Pollutant Discharge Elimination System (NPDES) permits issued by the Department. Of the two sewage treatment plants, Coos Bay Water Treatment Plant Number 1 is the largest, serving a population equivalent of 15,658 residents, and is the subject of this staff report.

The City of Coos Bay developed a sanitary sewer system during the period 1949 through 1954. In 1954, the City constructed Coos Bay Number 1 as a primary wastewater treatment facility to treat domestic waste. According to various facility plans, the wastewater collection system served by this treatment plant operated as a combined sewer system conveying both sewage and stormwater. In 1973, the treatment facility was expanded and upgraded to an activated sludge treatment system to provide secondary treatment. This was accomplished with funding assistance from U.S. Environmental Protection Agency (EPA) construction grants. The design of the plant is for a dry weather wastewater design flow of 2.66 mgd and a hydraulic capacity of 5.85 mgd. Two primary treatment plants that had served Eastside and Bunker Hill Sanitary districts also were abandoned in the process of upgrading Coos Bay Wastewater Treatment Plant Number 1.

Construction of the upgraded treatment plant was approved by the Department and the EPA recognizing that during severe storm events higher flows might be generated. Wastewater mixed with large quantities of storm-induced inflow and infiltration that entered the collection system might be bypassed at several locations within the collection system or at the influent pumping station during severe storm events. In the 1970's bypassing untreated wastewater from the collection system directly to the Bay was viewed as an acceptable practice so long as: 1) bypassing events occurred infrequently and 2) the City of Coos Bay implemented an approved correction program to reduce extraneous water from entering the collection system.

The design assumptions on which the 1973 plant expansion and upgrade were based included reduction of tide and storm water intrusion to meet the "established flow criteria." Estimated costs for a 5 year sewage collection system improvement program based on 1973 construction estimates were \$2,109,100. The improvement program included separation of combined sewers, and sealing and construction of new sanitary sewers in designated areas. Since 1974, the City has expended approximately \$1,123,600 on sewer system improvement.

The monthly average design and wet weather flows to the treatment plant were to be adequately treated and disinfected to meet discharge limitations set forth in the NPDES permit. The effluent limitations specified in the 1975 permit and again in the 1980 permit renewal appear in Attachment A. These were established consistent with the Minimum Design for Treatment and Control of Waste for the South Coast Basin (OAR 340-41-335) which call for: 1) Treatment resulting in

monthly average effluent concentrations not to exceed 20 mg/1 of BOD and 20 mg/1 Suspended Solids or equivalent control during low stream flows (approximately May 1 to October 31) and 2) A minimum of secondary treatment or equivalent control and unless otherwise specifically authorized by the Department operation of all waste treatment and control facilities at maximum practicable efficiency and effectiveness so as to minimize waste discharges to public waters during the period of high stream flows (approximately November 1 to April 30). Secondary treatment is defined as an effluent quality of 30 mg/1 of BOD and 30 mg/1 of Suspended Solids for activated sludge treatment plants.

2. Compliance Discharges With Respect to Water Quality Standards and Designated Beneficial Uses.

In 1982, the Department conducted a water quality study of Coos Bay and its tributary drainages to assess the adequacy of water quality conditions for support of shellfishing, a designated beneficial use of water in Coos Bay. This study was conducted in response to U.S. Food and Drug Administration and other state agency concerns pertaining to shellfish contamination in the estuary. There was serious potential that the estuary would be closed for shellfish harvesting. Commercial and recreational shellfishing is an important beneficial use of Coos Bay. A synopsis of the 1983 Coos Bay Water Quality Management Plan prepared from that study is provided in Attachment B.

Major contributors of fecal coliform bacteria affecting the Bay's shellfish growing waters during the wet weather months were identified. Among them, bypasses of raw sewage from the sewerage systems served by Coos Bay and North Bend Wastewater Treatment Plants were identified as two of the most significant. The City's log of the most significant bypasses associated with Treatment Plant No. 1 (Pump Station Number 1) show that discharges bypassing treatment occur up to 20 days per month between November and May.

Recommendations of the Coos Bay Water Quality Management Plan included elimination of raw sewage bypasses through sewer system correction measures to reduce inflow and infiltration included hydraulic overloading within the system and at the sewage treatment plants. One of the goals of the plan was for the affected parties (Coos Bay and North Bend) to continue to seek funding support to accelerate improvement actions to correct the inflow and infiltration sources. The overall goal of their Water Quality Management Plan is to provide for year round shellfishing in Coos Bay. Currently, shellfish harvesting is limited to the summer months.

In 1981, the Environmental Quality Commission adopted a "Policy on Sewerage Works Planning and construction (OAR 340-41-034) which acknowledges that publicly owned sewerage utilities have developed an increasing reliance on federal sewerage works construction grants programs to fund a large portion of the cost of treatment works construction. Policy statements to guide future sewerage works planning and construction include the following excerpted from OAR 340-41-034 3(f):

"Sewerage construction programs should be designed to eliminate raw sewage bypassing during the summer recreation season (except for a storm event greater than the 1 in 10 year 24 hour storm) as soon as practicable. A program and timetable should be developed through negotiation with each affected source. Bypasses which occur during the remainder of the year should be eliminated in accordance with an approved longer term maintenance based correction program. More stringent schedules may be imposed as necessary to protect drinking water supplies and shellfish growing areas."

The Department staff have interpreted the policies, and more specifically OAR 340-41-034 3(f), to allow longer term correction schedules for the elimination of bypasses if local financing of needed sewerage improvements is pursued. However, if EPA Sewerage Works construction grant funds are used to assist in financing improvements, the regulations of CFR 35.2030 and 35.2214 require projects receiving funding assistance meet the enforceable requirements of the Clean Water Act (effluent limits, water quality objectives and beneficial use protection).

Immediately after the study in 1982, sewerage works construction improvement projects for both the City of Coos Bay and North Bend were elevated and added to the Department's Sewerage Works Construction Grants priority list under Letter Class B to reflect their need to minimize water quality standards violations and impacts on beneficial uses resulting from raw sewage bypassing events. Funding projects with EPA Sewerage Works Construction grants, however, is contingent upon completion of facilities planning and design activities which satisfy EPA requirements.

3. Coos Bay Wastewater Treatment Plant Number 1 Performance With Respect to Achieving NPDES Permit Limitations.

In addition to the identified water quality impacts caused by frequent occurrences of raw sewage bypasses during wet weather the City of Coos Bay Wastewater Treatment Plant Number 1 has not consistently achieved effluent limitations specified in its NPDES permits since the 1975 construction of the upgraded treatment plant. A chronology of reported violations of the monthly average limits expressed in milligrams/liter and total pounds per day since 1983 appears in Attachment C. The total suspended solids is exceeded most frequently during the wet weather period.

Over the years, hydraulic overloading, design problems and operational problems have been identified by the City of Coos Bay as causes of noncompliance. Various minor treatment plant improvements, operational changes and maintenance activities were pursued by the City to achieve compliance. Additionally, separation of combined storm sewers and inflow and infiltration correction measures identified by the City as appropriate means to reduce hydraulic overloads which cause solids washout at the treatment plant were pursued as discussed previously.

Compliance actions undertaken by the Department in 1979 included Notice of Intent to Assess Civil Penalties and reissuance of an NPDES permit in 1980 which incorporated additional compliance conditions and schedules. One compliance condition called for continuation of a program outlined in the 1974 Sewer Collection System Construction Program developed by the City's engineering consultant for eliminating storm water intrusion. Five specific repair and construction conditions and compliance dates were incorporated into the permit. Additionally, a second compliance condition required that if federal funds became available, the City must pursue additional inflow and infiltration elimination based on a schedule tied to the award of EPA Sewerage Works construction grants. Specific items contingent upon grants award for Step 1 - Facilities Plan, Step 2 - Engineering Plans and Specifications, and Step 3 - Construction were included in the permit compliance schedule.

The City complied with the schedule requiring several specific inflow and infiltration correction measures by July 1984. The City, however, declined the opportunity to apply for a Step 1 Facilities Planning grant and by Federal Fiscal Year 1982, Step 1 and Step 2 activities were no longer eligible for EPA grants under the Clean Water Act Amendments of 1981.

Subsequent Department enforcement actions between September 1982 and May 1984 (Attachment D) culminated with the City of Coos Bay locally funding and hiring a consulting firm in August 1984 to prepare a facilities plan. The purpose of the plan is to: 1) address compliance problems associated with effluent violations and raw sewage bypasses and 2) meet EPA facility planning requirements to make application for an EPA Sewerage Works construction grant funding assistance for sewerage facilities improvements.

The Department staff held meetings with City and consulting firm and reviewed elements of the draft facility plan through 1985 and early 1986 in an effort to track the City's progress toward completing facilities planning activities.

By letter to the City of Coos Bay dated March 21, 1986, however, the Department related that the facility plan submittal was considered incomplete and therefore not approvable at that time (Attachment E). It appeared that the facilities plan could not be completed in time for the City to apply for a grant in FY 86 (prior to August 15, 1986). The Department requested additional information be collected and evaluated, particularly with regard to flows and the condition of the sewerage system. Department staff and EPA view this information is necessary to generate reliable flow projections and establish adequate information and basis upon which to design and upgrade pump station and treatment facilities and to make sewer improvements that will meet water quality objectives and achieve compliance.

The Department recognized that the request for supplemental information would involve additional time and effort by the City to collect; and, if construction grants were pursued, the City of Coos Bay's ability to achieve compliance with permit limits would be delayed. To complete facilities planning activities, additional work to verify flows and determine sources of infiltration into the sewerage system would require data collection during several additional wet weather storm events. The period of time needed subsequent to completing an approvable facilities plan (preparation of engineering plans and specification and construction activities) would extend the date for completing construction of sewerage facility improvements to July 1, 1989. Attainment of operational level, therefore, would not be satisfied until December 1, 1989, six months after facilities are completed.

The NPDES permit for the Coos Bay Wastewater Treatment Plant 1 was to expire January 31, 1985. It was not renewed in early 1985 pending information in the facilities plan which would establish an appropriate design flow on which to base final pounds/day effluent limits. Later, national policy issues described in Item 5 were raised by EPA and affected permit issuance.

The evaluation report developed in preparation for the permit renewal included a statistical analysis of effluent data. This analysis shows that the existing Coos Bay Wastewater Treatment Plant Number 1 generally can achieve 50 mg/l Total Suspended Solids on a monthly basis. These limits, though higher than secondary treatment limits are viewed as appropriate interim limits until the sewerage facilities improvements are completed in accordance with an established, enforceable compliance schedule.

4. Sewerage Works Construction Needs and Financial Capability of the City of Coos Bay.

The City of Coos Bay has tentatively identified sewerage construction project needs and costs to comply with effluent limitations, eliminate raw sewage bypasses and expand facilities to accommodate a 20 year design life. For Wastewater Treatment Plant Number 1, these costs are estimated at \$5.78 million. They include improvements to the conveyance system, sewer rehabilitation and treatment plant modifications including solids handling facilities.

A financial capability analysis (Attachment F) submitted by the City evaluates the impact of construction costs and the annual operation, maintenance and replacement costs both for these improvements as well as for the planned improvements to be made at the Coos Bay Wastewater Treatment Plant Number 2 which experiences occasional minor permit violations. The total proposed wastewater treatment project costs are estimated to be \$9,405,200.

If the City is successful in meeting requirements for sewerage works construction grant funds, approximately \$4.5 million of the total costs would be EPA grant eligible and the City would have to borrow approximately \$5.45 million. The debt would be absorbed by the sewer

users and financed at \$607,521 per year over the current \$209,000 per year bonded debt. If the City does not receive grant funding, sewer users would finance \$1.5 million per year in new debt.

Currently, the existing annual cost for residential sewer users is \$143.00 per household. Their costs would rise to \$ 263.00 per year (84% increase) with grant funding and to \$330.00 per year (131% increase) without grant funding. EPA's suggested criteria for median household income (MHI) percentage for sewer user charges is 1.5%. Using the estimated annual costs and MHI of \$14,513 the percentage of household income for sewer user fees would translate as follows:

- 0.98 % MHI current expenses
- 1.81 % MHI with grant funding of treatment improvements
- 2.27 % MHI without grant funding of treatment improvements

Therefore, with or without grant funding, the percentages of monthly household income born by residents to finance, operate, and replace treatment plant improvements are above the EPA suggested criteria.

The financial condition of the community and effects of the early recession are described in detail in the Financial Capability Analysis. A review of this material suggests that it is in the interest of the City of Coos Bay to pursue EPA sewerage works construction grant funding to assist in financing treatment plant improvements to achieve compliance. In order to apply for a grant, the City of Coos Bay must complete an approvable facilities plan and submit engineering plans and specifications. This process will extend their schedule to complete construction of needed improvements to Coos Bay Wastewater Treatment Facilities Number 1 to July 1, 1989. Attainment of operational level would be delayed until December 1, 1989, six months following start-up of completed projects.

5. National Municipal Policy

In January 1984, William D. Ruckelshaus, then Administrator of the U. S. Environmental Protection Agency, signed a National Municipal Policy directive expressing the EPA's interpretation of the 1981 Amendment to the Clean Water, (Attachment G). The amendments extended the deadline to July 1, 1988 by which all publicly owned treatment works (POTWs) must meet statutory compliance deadlines and achieve the water quality objectives of the Act, whether or not they received Federal funds.

The policy states that the EPA will focus on "POTWs that previously received Federal funding assistance and are not currently in compliance with their applicable effluent limits, on all other major POTWs, and on minor POTWs that are contributing significantly to an

impairment of water quality." In addition, the policy relates that "where there are extraordinary circumstances that preclude compliance of such facilities by July 1, 1988, EPA will work with states and the affected municipal authorities to ensure that these POTWs are on enforceable schedules for achieving compliance as soon as possible thereafter, and are doing all they can in the meantime to abate pollution to the Nation's Waters."

The policy also relates an implementation strategy which directs approved NPDES states to require affected municipal authorities to develop either Composite Correction Plans or Municipal Compliance Plans as necessary. The former generally applies to municipalities with facilities that can attain compliance through minimal capital construction or improved operations, maintenance and financial management of the facilities. Municipal Compliance Plans affect those municipalities that need to construct wastewater treatment facilities to achieve compliance.

The policy is general in nature with respect to appropriate enforcement mechanisms that states can utilize to establish enforceable fixed-date schedule, including interim abatement measures for achieving compliance.

Policy interpretations and guidance from the EPA Office of Municipal Pollution Control and the Office of Water Enforcement and Permits, however are more explicit though inconsistent. In EPA memoranda dated July 24, 1985, NPDES states must obtain judicial orders to establish enforceable schedules beyond the 1988 deadline to be in conformance with the policy. (Attachment G) However, in reply to Congressman Ed Jones, Tennessee, concerning EPA's enforcement policy and policy for awarding grants to municipalities for construction, EPA related that they expect EPA Regions and States to "reach agreement on a compliance schedule that results in compliance as soon as possible after the July 1, 1988, deadline, and to incorporate this schedule into a consent decree that is sanctioned by a State or Federal Court. This interpretation appears to be applicable to any community seeking an extension based on a finding of either financial or physical impossibility to meet the July 1, 1988 statutory deadline.

It also appears that there is inconsistency within EPA Region X with regard to implementation and oversight of enforcement mechanisms pertaining to the National Municipal Policy. For example, some communities within the State of Washington who have been recalcitrant and uncooperative have been issued Court Orders. Others who have been cooperative and are taking appropriate actions to attain compliance have been issued Section 309 EPA Orders, which are similar in content to Environmental Quality Commission Compliance Orders.

6. Summary of Problem Statement

The issues presented in 1-5 must be reconciled and addressed. The sewerage system served by the City of Coos Bay Wastewater treatment Plant Number 1 becomes hydraulically overloaded during the wet weather

period causing raw sewage bypasses which adversely affect the shellfish growing waters in Coos Bay with fecal coliform contamination. Additionally, the NPDES permit effluent limitations for Total Suspended Solids are frequently exceeded during the wet weather period. The treatment plant's hydraulic capacity is limited and cannot adequately treat wet weather period wastewater flows that include a substantial volume of extraneous water that enters the sewerage system.

The City of Coos Bay has determined that improvement to its sewerage facilities are necessary to achieve compliance with the water quality standards and to meet effluent limitations. The City has demonstrated that the City would face a heavy financial burden if expected to finance the entire cost of sewerage facility improvements without EPA sewerage works construction grants. Additionally, to pursue federal funding assistance requires them to complete an approvable facilities plan and engineering plans and specifications. The time requirements to complete these items will delay their ability to achieve compliance beyond July 1, 1988. A reasonable time frame has been developed and negotiated between the City of Coos Bay and the Department which establishes interim effluent limitations and a final compliance date of December 1, 1989.

The City of Coos Bay will not be able to meet the Statutory deadline of July 1, 1988 by which municipalities must achieve compliance with water quality objectives and secondary treatment standards (as set forth in the National Municipal Policy and 1981 Amendments of the Clean Water Act). An EPA approvable enforcement mechanism is needed to: 1) establish interim effluent limits which exceed secondary treatment standards, 2) establish compliance conditions and dates beyond July 1, 1988 for achieving compliance with secondary treatment effluent limits and water quality objectives and 3) enable the City to apply for and receive EPA Sewerage Works Construction grant funds to assist in financing needed sewerage facility improvements. Irrespective of enforcement of the terms of the existing permit, an NPDES permit must be renewed following public notice and EPA review (Attachment H).

Alternatives and Evaluation

Department staff have identified several compliance and enforcement alternatives for assuring that the City of Coos Bay achieve compliance with effluent limitations and eliminate raw sewage bypasses affecting the shellfish beneficial use in Coos bay.

They are as follows:

1. Request that the Department renew the NPDES permit with interim and final limits, including a compliance schedule which specifies conditions and dates against which progress and of compliance can be evaluated, measured and achieved.

Policies pertaining to Sewerage Works Planning and Construction (OAR 340-41-034) adopted by the Environmental Quality Commission in 1981 advised communities of their responsibilities to assure continued compliance with or without assistance of sewerage works construction by developing financing plans to upgrade and expand treatment works as needed. However, instances of noncompliance which require capital construction projects to achieve compliance and dependence upon grant assistance still exist as exemplified by the number of construction projects identified on the sewerage works construction grants priority list.

Ordinarily when it is understood by the Department that compliance with effluent limits and water quality objectives requires major capital construction, control strategies (compliance conditions) and schedules are incorporated into permits. These are incorporated either through permit modification actions or, if appropriate and timely, upon permit renewal.

If the limits and conditions subsequently are not achieved the Department pursues enforcement action to bring about compliance. Enforcement mechanisms have typically included Notice of Violation, Notice of Intent to Assess Civil Penalty, Civil Penalty and issuance of a moratoria to limit or prohibit additional sewer connections.

The Department, however, has been advised by the Environmental Protection Agency that for major municipal treatment facilities, no permits can be issued which contain either interim effluent limits or compliance schedules to meet secondary treatment. In addition, according to EPA, the National Municipal Policy prohibits them from approving any NPDES permit where deadlines for achieving compliance with secondary treatment criteria or water quality objectives extends beyond July 1, 1988. It is very likely that if the Department were to propose issuance of a permit of this type, EPA, at a minimum, would either issue an enforcement order to the state, or proceed to litigate against City of Coos Bay past or future for noncompliance with effluent limitations. They also could take enforcement action against the City for fecal coliform water quality standards violations. Additionally, award of an EPA Sewerage Work construction grant cannot be made to a project where the completed construction extends beyond July 1, 1988 unless the permittee is under a "court sanctioned order."

Therefore, this alternative is not viable. The Department also does not believe that the consequence of independent EPA enforcement action would accelerate attainment of compliance by Coos Bay.

2. Request that the Department litigate against the City of Coos Bay pursuant to ORS 468.035 and ORS 454. for noncompliance and have a Federal or state court issue a Court Order requiring compliance that specifies conditions and a schedule extending beyond July 1, 1988.

This course of action has been highly recommended by EPA. However, staff has been reluctant to pursue this alternative for several reasons. First, the City of Coos Bay has made good faith effort through facility planning activities to develop a plan which will reasonably define the wastewater flows generated, the sources and

volumes of inflow and infiltration, the cost-effective alternatives for removal and treatment and the specific conveyance and treatment alternatives to achieve the water quality objectives and attain permit compliance. In recent months the City has raised its sewer user rates to generate additional revenues; undertaken a rate study; ordered flow measurement devices to aid in the quantification of wastewater flows within the sewer system; and is taking steps to purchase equipment to aid in assessing the conditions of sewers.

These activities will facilitate completion of an approvable facilities plan and engineering plans and specifications to enable the City to start construction of needed sewerage facilities improvements. This alternative might be appropriate if the Coos Bay Wastewater Treatment Facilities provided only primary treatment of wastewater but does not appear warranted in this situation. The Department, also does not wish to set a precedence with litigation should, in the future, other municipalities be found to be unable to meet the statutory deadline of July 1, 1988.

This alternative implies that the City of Coos Bay is uncooperative and cannot agree to a compliance schedule. It would, however, satisfy requirements of the EPA and some EPA interpretation of the National Municipal Policy implementation strategy.

3. Issue an Environmental Quality Commission Order to the City of Coos Bay which specifies a) interim effluent limitations, b) interim milestones, c) a final compliance date for attaining compliance with sewage bypass events which occur in a 5 year storm event, and d) penalties should compliance with any specified date not be achieved (Attachment I).

This alternative is viewed by Department staff as the most appropriate enforcement approach. First, it recognizes the authority of the Commission to enforce the water quality objectives of the State under ORS 468.090 et. seq. Secondly, it is consistent with past practices of the State in assuring compliance with water quality needs and water quality permits. They stipulated Compliance Agreement recognizes that the terms of the existing NPDES permit cannot be achieved. An Order can establish each of the necessary items, such as interim effluent limits for total suspended solids, compliance conditions and dates for construction of improved facilities and elimination of bypasses, and penalties to assure compliance. The City of Coos Bay is agreeable to the Order. Their attitude is indicative of their willingness to cooperate and achieve compliance in a reasonable timeframe.

Summation

1. Through studies conducted by the Department in 1981, raw sewage bypasses discharged from the conveyance system and at the influent pump station to the treatment plant have been shown to adversely affect the beneficial use of shellfishing in Coos Bay.

Fecal Coliform bacteria in raw sewage are a primary contributor of shellfish contamination. Raw sewage bypass events occur during the wet weather period. Elimination of raw sewage bypassing events to: a)

achieve the goals of the Coos Bay Shellfish Management Plan, and b) achieve compliance with secondary treatment criteria (specified in both the current and the draft permit to be issued to the City of Coos Bay following public notice and EPA review) necessitate improvements to the sewerage system and facilities which require construction projects. These projects will not be completed until July 1, 1989.

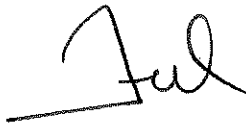
2. Effluent discharges from the City of Coos Bay Wastewater Treatment Plant Number 1 have violated limitations set forth in NPDES permit Number 3162-J.

Compliance with secondary effluent limitations during the winter wet weather period (specified in both the current and the draft renewal permit to be issued to the City of Coos Bay, following public notice and EPA review) necessitate improvements to the sewerage facilities. These improvements require construction projects. These projects will not be completed until July 1, 1989.

3. The City of Coos Bay has acted in good faith effort and intends to address noncompliance by completing facilities planning, design and construction of sewerage facilities improvements. The City has demonstrated a financial need to pursue EPA Sewerage Works construction grants to assist in funding eligible portions of construction projects.
4. According to EPA, the Department cannot issue a permit renewal which specifies: a) interim limits, b) a compliance schedule for attainment of a minimum of secondary treatment which extends beyond the federal statutory deadline of July 1, 1988, or c) a compliance schedule for elimination of raw sewage bypasses affecting water quality or beneficial uses which extends beyond July 1, 1988. If the Department were to pursue this course of action, the EPA would likely issue an Order to the state or litigate against the City of Coos Bay. Grant assistance to the City would be jeopardized.
5. The Department prefers not to litigate against the City of Coos Bay and have a Federal or State Court issue a Court Order. This appears to staff as an inappropriate enforcement approach under the specific circumstances presented and given the good faith effort of the City of Coos Bay.
6. Based on the Alternatives and Evaluation an appropriate enforcement mechanism is an Environmental Quality Commission Order which specifies a) interim effluent limits, b) a schedule for achieving compliance, and 3) penalties should compliance with any milestone not be achieved. The Commission is granted legal authority under ORS 468.100 and ORS 183.415(5) to issue such an order.
7. The City of Coos Bay is in agreement with the limits and compliance conditions contained in the proposed Environmental Quality Commission Order.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission issue the Environmental Quality Commission Compliance Order as discussed in Alternative 3 by signing the document prepared as Attachment I.



Fred Hansen

Attachments

- A. Current NPDES Permit Issued to City of Coos Bay for Wastewater Treatment Plant Number 1.
- B. Synopsis of the 1983 Coos Bay Water Quality Management Plan.
- C. Chronology of Noncompliance with NPDES Permit Effluent Limitations (October 1983 - February 1986)
- D. Chronology of Enforcement Actions for NPDES Permit Violations. (September 1979 - May 1986)
- E. Department Letter to the City of Coos Bay Regarding Draft Facilities Plan.
- F. Financial Capability Analysis Prepared by City of Coos Bay.
- G. National Municipal Policy and related EPA Correspondence.
- H. Draft Permit Renewal for the City of Coos Bay including Public Notice.
- I. Environmental Quality Commission Compliance Order.

M.M. Halliburton:c
229-6099

Permit Number: 3162-J
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NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

WASTE DISCHARGE PERMIT

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

Issued pursuant to ORS 468.740 and The Federal Clean Water Act

ISSUED TO:

City of Coos Bay
 Box 1118
 Coos Bay, OR 97420

SOURCES COVERED BY THIS PERMIT:

<u>Type of Waste</u>	<u>Outfall Number</u>	<u>Outfall Location</u>
Domestic Sewage	001	Coos Bay

PLANT TYPE AND LOCATION:

Sewage Treatment Plant No. 1
 1435 North Sixth
 Coos Bay

RECEIVING SYSTEM INFORMATION:

Major Basin: South Coast
 Minor Basin: Coos
 Receiving Stream: Coos Bay
 County: Coos
 Applicable Standards: OAR 340-41-325

Issued in response to Application Number OR-102357-A received 6/21/78

William H. Young
 William H. Young, Director

JUL 29 1980
 Date

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify, or operate a waste water collection, treatment, control and disposal system and discharge to public waters adequately treated waste waters only from the authorized discharge point or points established in Schedule A and only in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

	<u>Page</u>
Schedule A - Waste Disposal Limitations not to be Exceeded.....	2
Schedule B - Minimum Monitoring and Reporting Requirements.....	3
Schedule C - Compliance Conditions and Schedules.....	4-5
Schedule D - Special Conditions.....	-
General Conditions.....	6-9

Each other direct and indirect discharge to public waters is prohibited.

This permit does not relieve the permittee from responsibility for compliance with any other applicable federal, state, or local law, rule, standard, ordinance, order, judgment or decree.

SCHEDULE A

1. Waste Discharge Limitations not to be Exceeded After Permit Issuance.

Outfall Number 001

<u>Parameter</u>	<u>Average Effluent Concentrations</u>		<u>Monthly Average</u>		<u>Weekly Average</u>		<u>Daily Maximum</u>	
	<u>Monthly</u>	<u>Weekly</u>	<u>kg/day</u>	<u>(lb/day)</u>	<u>kg/day</u>	<u>(lb/day)</u>	<u>kg</u>	<u>(lbs)</u>

June 1- October 31:

BOD	20 mg/l	30 mg/l	201	(444)	302	(665)	403	(888)
TSS	20 mg/l	30 mg/l	201	(444)	302	(665)	403	(888)
FC per 100 ml	200	400						

November 1 - May 31:

BOD	30 mg/l	45 mg/l	302	(665)	453	(998)	604	(1330)
TSS	30 mg/l	45 mg/l	302	(665)	453	(998)	405	(1330)
FC per 100 ml	200	400						

Other Parameters (Year-Round)

Limitations

pH
 Average dry weather flow
 to the treatment facility

Shall be within the range 6.0 - 9.0
 10068 m³/d (2.6 MGD)

2. Notwithstanding the effluent limitations established by this permit, no wastes shall be discharged and no activities shall be conducted which will violate Water Quality Standards as adopted in OAR 340-41-325 except in the following defined mixing zone:

The allowable mixing zone shall not extend beyond a radius of 15 meters from the point of discharge.

SCHEDULE B

1. Minimum Monitoring and Reporting Requirements
 (unless otherwise approved in writing by the Department)

Outfall Number 001 (sewage treatment plant outfall)

Item or Parameter	Minimum Frequency	Type of Sample
Total Flow (MGD)	Daily	--
Quantity Chlorine Used	Daily	--
Effluent Chlorine Residual	Daily	Grab
BOD-5 (influent)	2 per week	Composite
BOD-5 (effluent)	2 per week	Composite
TSS (influent)	2 per week	Composite
TSS (effluent)	2 per week	Composite
pH (influent and effluent)	2 per week	Grab
Fecal Coliform (effluent)	Weekly	Grab
Average Percent Removed (BOD & TSS)	Monthly	Calculation
Digester pH	Daily	--
Digester Temperature	Daily	--
Digester Volatile Acids & Alkalinity	2 per week	--
Digester raw sludge (total solids)	2 per week	--
Quantity of sludge disposed	Each trip	--

Monitoring reports shall include a record of the location and method of disposal of all sludge and a record of all applicable equipment breakdowns and bypassing.

Reporting Procedures

Monitoring results shall be reported on approved forms. The reporting period is the calendar month. Reports must be submitted to the Department by the 15th day of the following month.

2. Operating Staff

The permittee shall provide an adequate operating staff as identified in the facility plan which was developed by the City's consulting engineering firm of HGE. The staff must be duly qualified to carry out the operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

SCHEDULE C

Compliance Conditions and Schedules

1. The permittee shall develop and submit for approval an industrial waste pretreatment program in accordance with the following time schedule:
 - a. By July 1, 1980, complete a detailed industrial survey and submit it to the Department for determination of whether or not a pretreatment program is required;
 - b. By January 1, 1981, acquire the necessary legal authority to apply and enforce a pretreatment program as required by the federal Clean Water Act;
 - c. By July 1, 1981, develop the necessary funding to implement an approvable program;
 - d. By July 1, 1981, develop procedures for implementing the pretreatment program; and
 - e. By January 1, 1982, submit an approvable program to the Department.
2. The permittee shall eliminate excessive infiltration and inflow from the sewerage system in accordance with the following:
 - a. Complete repairs/construction on laterals E-1, E-1.1, and E-1.2 by no later than March 15, 1980.
 - b. Complete repairs/construction on laterals C-4 and C-6 by March 15, 1982.
 - c. Complete repairs/construction on lateral C-9 by March 15, 1982.
 - d. Complete repairs/construction on lateral E-7 by March 15, 1983.
 - e. Complete repairs/construction on laterals E-3, E-14, and E-15 by March 15, 1984.
3. In the event that federal funds become available to the City of Coos Bay, additional elimination of infiltration and inflow shall occur as identified in the Sewer System Evaluation Study. The following schedule shall be followed:
 - a. Within 12 months of a Step I grant offer, the Facilities Plan shall be completed and submitted to the Department, along with a Step II grant application.
 - b. Within 6 months of a Step II grant offer, final engineering plans and a Step III grant application shall be submitted to the Department.
 - c. Within 18 months of a Step III grant offer, construction shall be completed.
4. An annual report detailing I/I work completed the previous year is due by January 15 of each year this permit is in effect. Included shall be lines work on, money spent on repair/replacement of line, and number of catch basins eliminated

5. In order to improve plant operation the following improvements shall be made:
 - a. Complete installation of a return activated sludge manifold by September 1, 1980.
 - b. Provide a means of reducing free fall from the aeration tank to the MLSS wet well by September 1, 1980.
 - c. Evaluate the need and determine the cost of improved metering on both the return activated sludge and waste activated sludge flow by January 1, 1981.

If found to be essential for consistent plant performance, installation shall be completed by September 1, 1981.
 - d. Perform tests on the secondary clarifier influent distribution launder and modify as needed to improve settling characteristics.
6. The permittee is expected to meet the compliance dates which have been established in this schedule. Either prior to or no later than 14 days following any lapsed compliance date, the permittee shall submit to the Department a notice of compliance or noncompliance with the established schedule. The Director may revise a schedule of compliance if he determines good and valid cause resulting from events over which the permittee has little or no control.

GENERAL CONDITIONS

- G1. All discharges and activities authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit.
- G2. Monitoring records:
- a. All records of monitoring activities and results, including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records, shall be retained by the permittee for a minimum of three years. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the Director.
 - b. The permittee shall record for each measurement or sample taken pursuant to the requirements of this permit the following information: (1) the date, exact place, and time of sampling; (2) the dates the analyses were performed; (3) who performed the analyses; (4) the analytical techniques or methods used; and (5) the results of all required analyses.
 - c. Samples and measurements taken to meet the requirements of this condition shall be representative of the volume and nature of the monitored discharge.
 - d. All sampling and analytical methods used to meet the monitoring requirements specified in this permit shall, unless approved otherwise in writing by the Department, conform to the latest edition of the following reference:

American Public Health Association, Standard Methods for the Examination of Water and Wastewaters.
- G3. The permittee shall provide an adequate operating staff which is duly qualified to carry out the operation, maintenance and testing functions required to insure compliance with the conditions of this permit.
- G4. All waste collection, control, treatment and disposal facilities shall be inspected at least daily when in operation and be operated in a manner consistent with the following:
- a. At all times all facilities shall be operated as efficiently as possible and in a manner which will prevent discharges, health hazards, and nuisance conditions.
 - b. All screenings, grit, and sludge shall be disposed of in a manner approved by the Department of Environmental Quality such that it does not reach any of the waters of the state or create a health hazard or nuisance condition.

- c. Bypassing of untreated waste is generally prohibited. No bypassing shall occur without prior written permission from the Department except where unavoidable to prevent loss of life or severe property damage.
- G5. Whenever a facility expansion, production increase, or process modification is anticipated which will result in a change in the character of pollutants to be discharged or which will result in a new or increased discharge that will exceed the conditions of this permit, a new application must be submitted together with the necessary reports, plans, and specifications for the proposed changes. No change shall be made until plans have been approved and a new permit or permit modification has been issued.
- G6. The permittee shall require the following of all industrial users of the municipal sewerage and sewage treatment system:
- a. Each industrial user shall pay its fair share of construction costs and operation, maintenance and replacement costs in accordance with guidelines promulgated pursuant to Section 204(b)(2) of the Federal Act.
 - b. Each industrial user shall provide applicable pretreatment of waste in accordance with guidelines promulgated pursuant to Section 307(b)(1) of the Federal Act. Any industrial user subject to these requirements shall be required to submit to the permittee periodic notice (over intervals not to exceed 9 months) of progress toward full compliance with the requirements of the pretreatment guidelines. Copies of these notices shall be forwarded to the Department.
 - c. The effluent from each industrial user shall be adequately monitored either by the permittee or by the industry for the permittee pursuant to Section 308 of the Federal Act. These monitoring records shall be retained by the permittee and made available to the Department upon request.
- G7. The permittee shall notify the Department in writing each time an industrial user which will discharge more than 10,000 gallons per day is connected to the sewerage system, unless the industrial user is discharging only domestic sewage at volumes not expected to have a noticeable impact on the sewage treatment works. Such notice shall include information on (a) the quality and quantity of pollutants to be introduced to the treatment plant and (b) any anticipated impact of such change in the quality or quantity of effluent to be discharged from the treatment works.

A similar notice is also required each time there is a substantial change in volume or character of waste being discharged to the treatment works from industrial users already connected to the sewerage system.

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- G8. After notice and opportunity for a hearing this permit may be modified, suspended, or revoked in whole or in part during its term for cause including but not limited to the following:
- a. Violation of any terms or conditions of this permit or any applicable rule, standard, or order of the Commission;
 - b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
 - c. A change in the condition of the receiving waters or any other condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- G9. The permittee shall, at all reasonable times, allow authorized representatives of the Department of Environmental Quality:
- a. To enter upon the permittee's premises where an effluent source or disposal system is located or in which any records are required to be kept under the terms and conditions of this permit;
 - b. To have access to and copy any records required to be kept under the terms and conditions of this permit;
 - c. To inspect any monitoring equipment or monitoring method required by this permit; or
 - d. To sample any discharge of pollutants.
- G10. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.
- G11. The Department of Environmental Quality, its officers, agents, or employees shall not sustain any liability on account of the issuance of this permit or on account of the construction or maintenance of facilities because of this permit.
- G12. In the event the permittee is unable to comply with all the conditions of this permit because of a breakdown of equipment or facilities, an accident caused by human error or negligence, or any other cause such as an act of nature, the permittee shall:
- a. Immediately take action to stop, contain, and clean up the unauthorized discharges and correct the problem.
 - b. Immediately notify the Department of Environmental Quality so that an investigation can be made to evaluate the impact and the corrective actions taken and determine additional action that must be taken.

- c. Submit a detailed written report describing the breakdown, the actual quantity and quality of resulting waste discharges, corrective action taken, steps taken to prevent a recurrence, and any other pertinent information.

Compliance with these requirements does not relieve the permittee from responsibility to maintain continuous compliance with the conditions of this permit or the resulting liability for failure to comply.

G13. If a toxic effluent standard or prohibition (including any schedule or compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Federal Act for a toxic pollutant which is present in the discharge authorized herein and such standard or prohibition is more stringent than any limitation upon such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and the permittee shall be so notified.

G14. Definitions of terms and abbreviations used in this permit:

- a. BOD means five-day biochemical oxygen demand.
- b. TSS means total suspended solids.
- c. mg/l means milligrams per liter.
- d. kg means kilograms.
- e. m^3/d means cubic meters per day.
- f. MGD means million gallons per day.
- g. Averages for BOD, TSS, and Chemical parameters based on arithmetic mean of samples taken.
- h. Average Coliform or Fecal Coliform is based on geometric mean of samples taken.
- i. Composite sample means a combination of samples collected, generally at equal intervals over a 24-hour period, and apportioned according to the volume of flow at the time of sampling.
- j. FC means fecal coliform bacteria.

SYNOPSIS OF THE 1981 COOS BAY WATER QUALITY STUDY AND MANAGEMENT PLAN

In 1982, the Department conducted a study of Coos Bay and its tributary drainages to assess the water quality of Coos Bay for support of the shell fishing use established for Coos Bay.

Potential and existing shellfish growing areas in Upper Coos Bay and South Slough were sampled for fecal coliform bacteria and found to exceed the shellfish growing water bacteria standard of 14 fecal coliform cells per 100 ml. during the wet weather period. Sources of fecal coliform bacteria were identified and evaluated. They included bypasses of raw sewage from the City of Coos Bay and North Bend sewerage systems, animal waste sources in the Haynes Inlet and catching slough drainages, failing on-site sewage disposal systems and inadequately disinfected sewage treatment plant discharge at Coos Bay Wastewater Treatment Plant Number 2. Oyster meat samples collected during the wet weather study were found to exceed the allowable commercial market standard of 230 fecal coliform bacterial per 100 grams of oyster meat. Subsequent to the field investigations, data analysis and modeling of inputs to the bay and its flushing characteristics, a Coos Bay Drainage Basin Water Quality Management Plan was developed in cooperation with the Coos Bay Citizens and Technical Advisory Committees.

The development of the Coos Bay Bacterial Water Quality Management Plan is in response to the stated goals of the Federal Water Pollution Control Act, the National Shellfish Sanitation Program (NSSP) the program needs of the Oregon Shellfish Sanitation Program (OSSP) and Water Quality Program of the Oregon Department of Environmental Quality (DEQ). A goal of the Federal Water Pollution Control act, commonly referred to as the Clean Water Act of 1972 (Public Law 92-500) with 1977 Amendments (Public Law 95-217) and 1981 amendments (Public Law 97-8) had called for , ". . . wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983. The NSSP goals are "(1) the continued safe use of this natural resource and (2) active encouragement of water quality programs which will preserve all possible coastal areas for this beneficial use". The natural resource referred to by the NSSP goals is shellfish. "Shellfish are a renewable, manageable natural resource of significant economical value to many coastal communities, and which should be managed as carefully as are other natural resources such as forests, water, and agricultural lands". The program needs of the OSSP include an adequate water quality data base to support decisions on shellfish growing area classifications to achieve the goals of the NSSP.

The development of this Plan was also a result of the desire of the Coos Bay area citizens for expansion of the commercial harvesting of the shellfish. For this expansion to occur, Oregon State Health Division (OSHD) must certify the sanitary quality of the growing area waters. To

accurately classify these areas, OSHD relies on water quality information collected in those areas by the Oregon Department of Environmental Quality. If this information is not available, an accurate judgment by OSHD is hampered.

The Plan was the culmination of efforts by many governmental agencies and citizen groups working together (1981-1983) to (1) define the existing water quality of Coos Bay as it relates to shellfishing, (2) identify pollution sources affecting the water quality of the bay, (3) redefine shellfish growing area classifications at the request of local citizens, and (4) identify acceptable, sensible corrective measures to improve the water quality and allow expansion of the shellfish industry in Coos Bay.

At the onset of the DEQ project in 1981, there was limited knowledge of the water quality in the upper and middle bay shellfish growing areas and of fecal sources discharging into the Bay. There was also the well known fact that no further expansion of the shellfish growing areas could occur without more definitive water quality information concerning the fecal sources and the shellfish growing area conditions.

Through the process of investigating the current water quality conditions in the Bay, it became apparent that only during summer, no rain, weather conditions would sanitary harvesting of shellfish be possible. On the other hand, the data also showed some serious pollution problems during intense storm conditions. These conditions also demonstrate the need for corrective action not only from a shellfish harvest standpoint but also for general public health.

The following goals and recommendations were formulated through a committee process involving many local citizens, local special interests, local and state governments.

Goal I

Recognize the existing water quality conditions of the Bay and tributaries and adequately describe them so as to provide a data base for submittal of a request for commercial shellfish growing area reclassification.

1. Recommend submittal of a Shellfish Management Plan for Coos Bay that:
 - o Allows summer dry weather conditional shellfish harvesting in defined areas of the upper and middle bay that are currently classified as year-around restricted or prohibited areas.
 - o Define procedures and special conditions for conducting the plan with a focus on further data base building and protection of public health by refinement of the shellfish harvest closure periods.

Goal II

Provide a plan of action for the specific purpose of improving the year-around bacterial water quality in the Bay and tributaries for the benefit of the shellfish industry and compatible users of the water on a year-around basis.

1. Recommend that responsible persons and agencies use the most expeditious and timely methods to eliminate problems of bypassing and all other fecal waste sources entering the Bay or its drainage basin by:
 - o Requesting that the Cities of North Bend and Coos Bay eliminate the occurrence of diluted, untreated sewage bypassing from their sewage collection systems.
 - o Requesting that the Oregon State Health Division and Department of Environmental Quality conduct near-shore sanitary surveys of homes and businesses in the specified areas within close proximity to shellfish growing areas.
 - o Requesting the local agriculture industry to insure control of animal waste runoff from the farms in the specified areas of the Coos Bay drainage basin.
 - o Requesting that all responsible persons and agencies seek increased funding to expedite implementation of this Plan.

Based on the cities' and DEQ's continued work toward elimination of untreated sewage bypassing, improvement actions described in this plan were developed to address causes of the bypassing. The causes are were identified as follows, though sewerage facilities planning including inflow and infiltration analysis had not been developed as part of the plan:

Coos Bay

- o Major infiltration from cracks and deteriorating sanitary sewer lines resulting in hydraulic overloads to the sewerage system.
- o Minimal number of catch basins still connected to sanitary sewer.
- o Minimal inflow problem from roof drains, subgrade manhole covers.

North Bend

- o Major problem from combined storm and sanitary sewers.
- o Some inflow problems from roof drains and subgrade manhole covers.
- o Some problem from inadequate sewer line sizing.
- o Unknown, but suspected minor infiltration from cracks and deteriorating sanitary sewer lines.

Improvement actions to be initiated by the Cities to eliminate the causes of untreated sewage bypassing were described as follows:

Coos Bay

1. Continue to correct inflow and infiltration sources as discovered. The work will occur within existing limited resources of the City budget. Emphasis will be towards correction of inflow sources.
2. Participate in the sewage bypassing notification procedure of Goal I, Coos Bay Drainage Basin Bacterial Water Quality Management Plan.
3. Continue to seek funding support from local, state and/or federal sources to speed up improvement actions to correct the inflow and infiltration sources.

North Bend

1. Do a study to determine specific problem areas and resources needed to eliminate inflow problems. Study to be completed October 1, 1983. Results of study will form the basis for prioritizing improvement actions for the next five years, starting with 1984.
2. Place proposed 1983-84 budgeted sewer projects as items under Schedule C of the NPDES Waste Discharge Permit, Compliance Conditions and Schedules, of the North Bend STP. Sewer projects listed are:
 - o Harrison St. Sewer
 - o 101 Sewer Separation
 - o Virginia Reliever Sewer
 - o Sewer Separation Union & Colorado
3. Participate in the sewage bypassing notification procedure of Goal I, Coos Bay Drainage Basin Bacterial Water Quality Management Plan.
4. Continue to seek funding support from local, state and/or federal sources to speed up improvement actions to correct the inflow and infiltration sources.

Through modeling efforts elimination of untreated sewage bypassing by both cities was determined as essential to reduce the identified bacterial problems in Coos Bay which prohibit shellfish harvesting in the Upper and Middle Bay shellfish growing areas during wet weather.

Alternative methods of preventing bypassing such as enlarging the capacity of each STP were discussed and deemed to be costly alternatives. Each city was advised they could elect to use this option instead of, or in combination, with inflow/infiltration correction, though the requirement of EPA Sewerage Works construction grant funding were not described. Additionally financial implications of the correction measures were also discussed. The recession and existing debt burden on the communities resulted in the Department proceeding to accept an extended, voluntary program of bypass elimination as long as local funds were used.

The cost of eliminating the identified sewage bypass problems were preliminarily identified as follows:

- (1) Cost for determining bypass elimination priorities.
- (2) Cost for construction of facilities or collection lines.
- (3) Costs for implementation and use of the bypassing notification procedure.

Coos Bay:

Construction costs were estimated in to be \$2,859,115.00. However, Coos Bay requested that funds for the construction come from outside city sources.

No additional funds were viewed as needed by the City, DEQ or Oregon State Health Division to implement and use the bypass notification procedure developed in the plan.

North Bend:

Construction costs for 1983-84 were estimated to be \$260,342. Additional costs for continued combined sewer and inflow correction was estimated to be more than \$1 million.

No additional funds were viewed as needed by the City, DEQ or Oregon State Health Division to implement the bypass notification procedure unless flowing gauging equipment was needed at the bypass point.

Funding sources for the 1983-84 construction work at North Bend were to come from Federal Revenue Sharing Funds. Additional funds for work beyond 1984 were not determined. Funds for continued work in Coos Bay were not determined.

The day-to-day maintenance activities on the collection systems of both cities found isolated inflow problems. These were to be corrected and funded through existing sewer funds within each city's budget.

Chronology of Noncompliance
with NPDES Permit Effluent Limitations

(October 1983 - February 1986)

<u>Month</u>	<u>Parameter</u>	<u>Violation Effluent Quality/Limit</u>
October 1983	TSS mg/l MA	29/30
	TSS lbs/d MA	447/444
November 1983	MA TSS mg/l	40/30
	MA TSS lbs/d	1172/665
December 1983	MA TSS mg/l	70.9/30
	MA TSS lbs/d	2126/665
January 1984	MA TSS mg/l	78.8/30
	MA TSS lbs/d	1588/665
February 1984	MA TSS mg/l	283.6/30
	MA TSS lbs/d	5647/665
	MA BOD mg/l	678/30
May 1984	MA TSS mg/l	36.8/30
	MA TSS lbs/d	737/665
September 1984	MA TSS mg/l	27/30
November 1984	MA TSS lbs/d	803/665
March 1984	MA TSS mg/l	40.0/30
	MA TSS lbs/d	764/665
October 1985	MA TSS lbs/d	790/665
February 1986	MA TSS mg/l	40.75/30
	MA TSS lbs/d	1292/665

WC680.2

Chronology of Enforcement Actions
for NPDES Permit Violation

(September 1979 and May 1986)

September 25, 1979	Notice of Violation and Intent to Assess Civil Penalty for effluent limit violation in January, May, June and July 1979.
September 15, 1982	Notice of Violation for effluent limit violation in August 1982.
February 13, 1984	Notice of Violation for effluent limit violation in October, November and December 1983.
May 1, 1984	Notice of Violation for effluent limit violation in January and February 1984.
September 27, 1984	Notice of Violation and Intent to Assess Civil Penalty for violation of permit conditions requiring submittal of I/I report by July 1, 1984.
March 11, 1985	Notice of Violation for effluent limit violation in November 1984.
April 25, 1985	Notice of Violation for effluent limit violation in January and March 1985.
May 1, 1986	Notice of Violation for effluent limit violation in January, February and March 1986.

WC680.1



Department of Environmental Quality

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

March 21, 1986

- Bill Curtis, City Manager
City of Coos Bay
500 Central Avenue
Coos Bay, OR 97420

Dear Mr. Curtis:

The Department of Environmental Quality and the U.S. Environmental Protection Agency have reviewed the Coos Bay Wastewater Facilities Plan: Draft for Public and Agency Review; Revised Chapter 3, 4 and 5; and Chapters 6, 7 and 8 Latest Revision prepared by H. G. E., Inc.

The Department recognizes the City of Coos Bay has made a concerted effort to resolve compliance problems related to wastewater treatment plant # 1, and raw sewage bypassing by undertaking facilities planning with the intent of applying for FY 86 U.S. EPA Sewage Works Construction Grant funds. Despite these efforts, the reviewing agencies consider the Facility Plan incomplete and therefore not approvable at this time.

In substance, our concerns reside with the lack of detailed information regarding the condition of sewer systems tributary to Coos Bay Plant # 1. Additionally the plan does not provide acceptable quantification and evaluation of the impacts that inflow/infiltration flows have on the treatment facility, pump stations and bypass. Therefore, additional information is necessary to augment and confirm the findings and recommendations presently contained in the facilities plan. Specifically, we offer the following comments with regard to these issues:

1. The methodology for quantifying wastewater flows remains a dominant issue. Foremost, all parties involved must have confidence in the manner in which flow information is collected and determined.

The Coos Bay Plant # 1 provides treatment for wastewater flows from the city residents and those of Bunker Hill Sewer District's sewer system. In order to receive federal assistance, the City must demonstrate that the federally funded treatment works are not and will not be subject to excessive Infiltration/Inflow (I/I). Sufficient flow data and characteristics of the sewer system are needed to enable a sound engineering decision to be made on possibly excessive or nonexcessive I/I and on the selection of the cost effective treatment alternatives for the Coos Bay Plant # 1.

Suggestions for improving flow information and the resulting recommendations are listed as follows:

- a. Not only must the city's sewer system be addressed, but the Bunker Hill Sewer District's sewer system must be evaluated as well. Both systems should be evaluated in a consistent and systematic manner. For example, both systems may be initially screened using EPA's guidelines of 120 gpd and 275 gpd for domestic/infiltration and domestic/I/I respectively. Sub-systems with problems should undergo additional evaluation (e.g., I/I flows significantly in excess of these guidelines, surcharging, and sewers in need of major rehabilitation).

To date, only the total flows from Bunker Hill Sewer District have been reported. These flows were generated primarily from pump station record meters and do not indicate the conditions of the sewers, in-line storage, bypassing, and the extent of I/I flows that are kept out of the system during surcharging of the lines. Additional information about this sewer system including age of pipes, sub-systems experiencing I/I problems, analysis of why surcharging is the current mode of operation and alternatives to dealing with this type of operation, is vital in determining the sizing of various downstream conveyance and treatment works. This information is also needed for fulfilling other EPA requirements such as the user charge system.

- b. The amended facilities plan should provide a complete description of how the flow monitoring program was conducted and how the flow information was analyzed. The report should discuss the reasons for the selection of manholes; identification of the location of manholes monitored; method of recording the flows; time the flow monitoring was achieved; duration of flow monitoring; rainfall affecting this monitoring period; effect of the ground water table and tidal influences; and other pertinent information such as the ground water table and tidal elevations in relation to the sewer invert elevation.
- c. The amended plan should provide technical details on the interrelationship of the ground water table, tidal influence, and rainfall intensity during dry weather flow and wet weather flow periods in selected sub-systems. Specific information, such as sewer invert elevation, height of ground water in relation to these sewers, and the tide elevation should be provided. We are not asking the City or Bunker Hill Sewer District to do this for every length of sewer and manhole in their sewer system, only in those sub-systems or mini-systems where it has been determined that additional I/I evaluation is needed.

Additionally, consider EPA's 1975 Guidelines for conducting a Sewer System Evaluation Survey (SSES) as a valuable reference to facilitate information gathering in a systematic manner. We are not suggesting that a complete SSES is necessary. Only the employment of protocol set forth in that documentation, where appropriate.

We urge you to conduct continuous flow monitoring for an additional dry and wet weather periods and confirm the findings and recommendations presently contained in the plan.

2. The facilities plan describes the complex environment within this planning area. Of special importance are the sewers in those areas at or near sea level in unstable soil conditions and subject to tidal influences. Additional continuous flow monitoring should be conducted in these as well as other designated areas (i.e. those exhibiting surcharges or requiring major sewer rehabilitation). Internal inspections should also be conducted to determine the sources and extent of I/I problems. This analysis should be conducted during both dry weather and wet weather flow periods, and during high and low tides. Exfiltration may occur from badly deteriorated sewers and such sewers should be dealt with in an appropriate manner to be identified in the facilities plan.

Because of the complexity of the environment, the city should also seriously consider the benefits of completing pilot correction work in mini-systems similar to that proposed in the facility plan. The intent is to verify that the various suggested I/I removal rates are indeed feasible.

The end result of the above work should be the generation of more reliable costs, and methods necessary to establish the extent of flow removal.

Clearly, we recognize that a response to our request for supplemental information will take additional time. We encourage the City to initiate flow monitoring and acquiring information on the condition of the sewer system as soon as possible.

We would like to arrange a meeting with the City in the near future to discuss the compliance issues and grant funding implications of the additional time and effort needed to complete the facilities plan. Fred Hansen, DEQ Director and Mike Downs, Acting Administrator, Water Quality Division have expressed an interest in attending this meeting.

If you have any questions or need clarification of the issues, please contact me.

Sincerely,

Mary M. Halliburton
Manager
Sewage Disposal Section
Water Quality Division

MMH:c
WC323

cc: Dick Nored, HGE, Inc.
Bryan Yim, Construction Grants Branch, Region X, U.S. EPA
U.S. EPA, Oregon Operations Office

CITY OF COOS BAY

FINANCIAL

CAPABILITY

ANALYSIS

RECEIVED
JUN 13 1986Water Quality Division
Dept. of Environmental Quality

June 12, 1986

Mr. Joe Schwarm
Public Works Director
City of Coos Bay
500 Central Avenue
Coos Bay, Oregon 97420

13-2247-01

Subject: Update of Facilities Plan Cost

Dear Mr. Schwarm:

As you requested, we have reviewed the cost estimates in the facilities plan to see if any additional information available at this point in the project warrants updating those costs. This letter is to confirm the updated costs that you discussed with Jack Detweiler on June 4, 1986.

We recommended updating the costs in four areas. First, approximately \$700,000 was added to the conveyance system to cover the costs of a new Pump Station No. 1 and force main. The recommended capacity of the new station is far beyond what can reasonably be accomplished by simply upgrading the existing station, which was originally assumed.

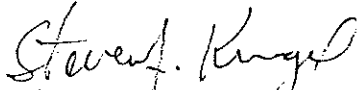
Second, approximately \$50,000 was added to the liquid stream treatment to account for repairing the damaged outfall diffuser. Third, the cost for the facultative sludge lagoon, which previously was split between Plant No. 1 and Plant No. 2, was lumped into the cost for Plant No. 1. The costs were originally split to allocate costs to the two plants. In reality, however, a single regional lagoon facility will be constructed. Costs were lumped to reflect that fact. Fourth, approximately \$500,000 was added to account for the detailed geotechnical work and pile foundation supports that will be required for Plant No. 1 facilities. Extensive foundation piling was required on the existing plant.

City of Coos Bay
June 12, 1986
Page two

I have enclosed a summary of the facilities plan cost estimates that reflects these changes. Please call me if you have any questions.

Very truly yours,

BROWN AND CALDWELL


Steven J. Krugel
Project Manager

SJK:lhb
Enclosure

cc/enc: Mary Halliburton, Department of Environmental Quality

COOS BAY PROJECT COST SUMMARY

Item	Project cost, dollars ^a	Estimated EPA grant eligible, dollars	Estimated EPA grant share, dollars
Conveyance system	1,460,000 ^b	1,460,000	802,500
Sewer line rehabilitation	821,400	--	--
Sewer line TV inspection	65,100	--	--
Plant No. 1 modifications			
Liquid treatment	3,687,400 ^c	3,595,665	1,977,610
Solids handling	444,375	442,475	243,360
Facultative sludge lagoon	479,650 ^d	456,640	251,150
Laboratory and office	292,000	292,000	160,000
Land and building	336,400	66,820	36,750
Geotechnical work and foundation support	535,000 ^e	535,000	294,250
Subtotal Plant 1 (rounded)	5,780,000	5,390,000	2,860,000
Plant No. 2 modifications			
Liquid treatment	944,400	944,400	519,420
Solids handling	339,475	337,575	185,670
Facultative sludge lagoon	-- ^d	--	--
Subtotal Plant 2 (rounded)	1,280,000	1,280,000	710,000
Total (rounded)	9,410,000	8,130,000	4,470,000

^aProject costs include engineering and contingency.
Costs adjusted to ENR 4535. Cost estimates from Facility Plan
Table 69, except as noted.

^bConveyance system cost includes new Pumping Station No. 1 and
force main. Pumping station cost is \$567,000 and the force main
cost is \$432,000 for a total of \$999,000.

^cLiquid treatment includes allowance for outfall diffuser repair
at \$50,000.

^dTotal facultative sludge lagoon costs added to Plant No. 1 costs
because a single regional facility will be constructed.

^eCost represents geotechnical investigation and estimated cost
for foundation support on pilings.

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INTRODUCTION

The City of Coos Bay, while preparing its Wastewater Treatment Facility Plan, has made preliminary financial estimates on construction costs and the annual operation, maintenance and replacement costs for the proposed wastewater facilities. Taking these cost estimates into consideration, the city then analyzed the impact these additional costs would have on the residents by means of an increase in their sewer user fees. The effect of the impact was investigated with and without grant funding. The city, through this analysis, also explored and summarized its overall socio-economic conditions relative to grant funding.

Based upon this analysis and the socio-economic conditions of this community, the city believes that a substantial financial burden would be put on the residents through increases in sewer user fees with grant funding. Even though this would be a substantial burden, an increase in sewer use fees without grant funding would have a devastating effect on the residents and the city. The grant funding is absolutely needed and without it the city would not even be able to consider a project of this magnitude.

SUMMARY

Proposed Project Costs and its Effect on Residential Sewer Users

The total proposed wastewater treatment project is estimated to cost approximately \$9,405,200. Of that amount, \$4,471,816 is estimated to be E.P.A. fundable whereas the remainder (\$4,933,384 plus an additional \$515,000 for contingencies) would be the city's responsibility. Thus, the city would have to borrow approximately \$5,448,384. Based upon the history of the city council's decisions, this debt would be absorbed totally by the sewer users. As such, the city may revenue bond this amount for 20 years at 9.25%. This would mean that the sewer users would have to pay an additional \$607,521 per year bonded debt over the current \$209,000 per year bonded debt. These amounts added to the estimated increase in the cost for operations, maintenance and replacement of the proposed facilities would entail approximately \$903,000 per year in user fees. This amount, of course, would be with grant funding. If, on the other hand, the city did not receive grant funding, the sewer users would have to pay approximately \$1,500,000 per year instead of \$903,000 per year.

Considering that, historically, residential users pay approximately 58% of the sewer user fees, the financial impact on the residents with grant funding would be substantial. The financial impact without grant funding would be devastating. For example, the existing annual cost per household is \$143.00. With grant funding the cost would rise to \$263.00 per year, an 84% increase. Without grant funding this cost would jump astronomically to \$330.00 per year, a 131% increase. Using these costs and the median household income (MHI) of \$14,513, the percentage of household income would translate into .98% MHI, 1.81% MHI and 2.27% MHI respectively. The suggested criteria recommended by E.P.A. for this percentage of MHI is 1.5% (Is Your Proposed Wastewater Project Too Costly? May 1984). This would mean that either with or without grant assistance, the residential customers would be above the suggested 1.5%.

Socio-Economic Conditions

A key indicator of the financial condition of the community is the annual rate of population change. This change for the city is -1%, indicating a weak rating. This decline is totally attributable to the loss of basic jobs and the subsequently higher than average unemployment rates. These rates have ranged from 10%-18%. Currently, Coos County's unemployment rate is 11.2% compared to 9.6% at the state level and 7.0% nationally.

The recession of the early 1980's has not improved substantially on the southcoast and there are few possibilities that the historical mainstays of the local economy, namely wood and lumber products and fishing, will return to the pre-1980 status in the foreseeable future.

Although efforts are continuing to diversify the economy, the community has been unable to attract other types of industries. The area is plagued with inadequate transportation corridors and attempts to capitalize on deep-draft port usage have been stymied by competition by other urban areas on the Pacific Coast.

The declining economy is further evident in the loss of income to the community's residents demonstrated by low per capita income figures compared to state and national averages. Although relatively competitive in 1978, Coos County residents earn only 86% of the state average and only 78% of the national average. Families are earning less because a higher percentage of the available jobs are the low paying ones of trade and service businesses. Moreover, since 1980, there has been a 38% increase in the number of families within the low income category. This figure represents more than one-half of the total families in Coos Bay, or 55%. Obviously, any additional debt imposed upon the community will become a tremendous financial burden.

Although on the surface, the city's financial situation may appear to be stable, it is not without imperfections due to the unstable economy. The city's current bonded debt consists of water and sewer bonds paid by user fees and Bancroft bonds for special property development assessments paid by benefitting property owners. Theoretically, these debts should be self-supporting, and currently are so. What is not evident is the following:

- (1) Sewer and water user fees will be increased on July 1 1986 by 20% to continue coverage of operating expenses and bonded debt.
- (2) Delinquencies on property assessments have forced the city to transfer \$200,000 into the bond redemption fund and foreclose on an increasing number of properties in an attempt to eventually recover those costs. Thus, it is believed that this investment will be sufficient to cover debt retirement without levying additional property taxes. It is important to note that the city's total amount of assessment debt is not greater because in 1981 the City Council anticipated the economic crisis and prudently placed a moratorium on such projects.

CONCLUSION

The estimated cost for this project would have tremendous financial burden on the sewer users of Coos Bay because of the additional debt imposed even with grant funding. For the community to support a project of this magnitude without grant funding is totally out of the question.

Demographics

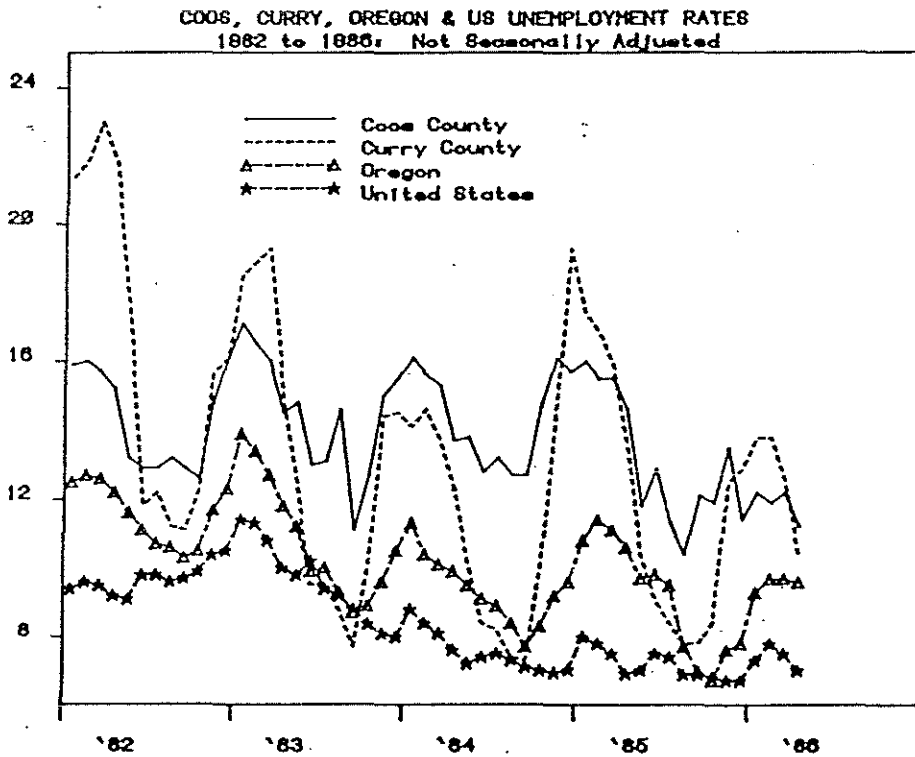
The City of Coos Bay has a population of 14,695 persons as of July 1, 1985. Because of poor economic conditions, an out-migration has occurred since 1980 with a total loss of 1,330 persons, or 8.2%. The annual rate of change during this five-year period is -1.7%.

Unemployment rates for Coos County have been consistently higher than most of the state due to the ongoing loss of basic wage jobs. Since 1980, rates have ranged from 10% to 18% with a current rate of 11.2%. This does not compare favorably with the current Oregon rate of 9.6% and the U.S. rate of 7.0%. Comparisons are shown in Figure 1.

Figure 1

CIVILIAN UNEMPLOYMENT RATES

Year	U.S.	Oregon	Coos	Curry
1979	5.8	6.8	8.8	10.2
1980	7.1	8.3	13.8	12.6
1981	7.6	9.9	15.7	14.9
1982	9.7	11.5	14.3	16.3
1983	9.6	10.8	14.5	13.2
1984	7.6	9.4	14.4	11.6
1985	7.3	8.5	13.1	11.7



Income

The 1984 per capita income for Coos County was \$9,983.00. Although the State of Oregon has not kept pace with the nation in per capita income, that for

Coos County has improved even less. Since 1978, this measure of economic development has changed by only 38% in Coos County whereas in Oregon the increase has been 47% and 64% in the nation. The structural changes in Oregon's economy which are mirrored here at the county level include a reduction in demand for Oregon wood products, a loss in the number of high-paid jobs in wood products manufacturing and construction, the growth of lower paying jobs in trade and services, the drop in real wages for industrial workers, the decreasing percentage of personal income coming from wages, salaries, and other labor earnings, and the corresponding rise in the earnings derived from capital and transfer payments. (Oregon Employment Division, "Labor Trends," May 1986) Table 1 shows a comparison of per capita income for Coos County, Oregon, and the United States.

Table 1

PER CAPITA INCOME 1978-84

YEAR	COOS COUNTY	STATE OF OREGON	UNITED STATES	COOS AS % OF OREGON	COOS AS % OF U.S.
1978	7,196	7,860	7,772	91.6	92.6
1979	7,934	8,682	8,651	91.4	91.7
1980	7,968	9,139	9,494	87.2	83.9
1981	8,480	9,959	10,544	85.1	80.4
1982	8,845	10,167	11,113	87.0	79.6
1983	9,390	10,734	11,681	87.5	80.4
1984	9,938	11,613	12,772	86.0	78.2

Source: Oregon Employment Division, May 1986

A November 1985 Survey conducted by the Center for Population Research and Census revealed that 55% of all families in the city fall at or below low income limits established by the Department of Housing and Urban Development and the State Intergovernmental Relations Division, as compared to 40% in 1980. The median income from this survey was \$14,513. Table 2 shows the household income by household size and the number and percentage of them below the low and moderate income limit.

Table 2

Coos Bay 1984 Household Income by Household Size

Income Range	Household Size							Row Total
	1	2	3	4	5	6	7	
0 to \$13,250	136	145	49	32	16	1	1	380
\$13,251 - \$15,150	18	33	19	9	1	2	0	82
\$15,150 - \$17,050	10	16	15	5	1	0	0	47
\$17,051 - \$18,950	7	15	5	10	1	0	1	39
\$18,951 - \$20,150	5	14	8	11	4	0	0	42
\$20,151 - \$21,350	4	11	7	7	9	0	0	38
\$21,351 - \$22,500	2	6	3	5	2	0	0	18
\$22,501 - \$23,700	1	6	5	5	0	0	1	18
Over \$23,701	14	73	44	49	23	1	0	204
Column Total	197	319	155	133	57	4	3	868
Households below IRD Low-Moderate Income Limit (percent)	136 (69)	178 (56)	83 (54)	56 (42)	23 (40)	3 (75)	2 (67)	478 (55)

Source: Center for Population Research and Census, Portland State University, 1985.

Coos Bay Finances

The City of Coos Bay maintains their accounting records in accordance with generally accepted accounting principals (GAAP) which specify when transactions are to be recognized and how they are to be recorded. Coos Bay has an annual independent audit to report the results of financial operations and to determine the extent to which its accounting activities conform to GAAP requirements. Excerpts from our most current audit are attached.

The annual financial reports for Coos Bay reflect the existence of a General Fund, Special Revenue Funds, Debt Service Funds, Capital Projects Funds, and Special Assessment Funds.

Property Tax Information

Real Property tax records are maintained by the county which handles assessments and collections for the municipal utilities within the County. Revenues collected by the county on behalf of Coos Bay are transferred to the city.

Outstanding Debt

The City of Coos Bay has one issue of tax-supported General Obligation bonds currently outstanding. There are \$448,000 in Water Bonds and \$1,399,000 in Sewer bonds which are G.O. bonds but are paid entirely out of user fees. Another \$1,405,000 of Bancroft Bonds are self supporting at this time from special assessments. Details of the outstanding bonded debt are shown on Table 3. Unbonded debt consists of \$6,295 for an installment computer purchase.

Sewer System Financing

The City is considering issuing either Revenue or G.O. Bonds to finance the Wastewater Facilities Plan improvements. The General Obligation bonds would require a vote of authorization from the citizens. In either case, the City would not levy property taxes for repayment, but would expect the revenues to come out of user fees.

Overlapping debt

Some of the six taxing districts which overlap the City of Coos Bay have General Obligation debt outstanding,

Debt Limits

The legal debt limit is prescribed by Oregon Revised Statutes 287.004 and is 3% of the true cash value of taxable property. This limit does not apply for debt related to water and sewer services.

Bond Ratings

The City of Coos Bay received an "A" rating from Moody's on G.O. Sewer Bonds issued in January 1975. The City does not have a current bond rating.

Wastewater Treatment System

The City of Coos Bay currently owns and operates two wastewater treatment plants. Plant #1, located in the downtown area, on the upper bay, was originally built in 1954 and modified to secondary treatment in 1973. The average designed flow for this plant is 2.66 MGD. Plant #2, in the Empire district on the lower bay, was originally built in 1964 and modified to secondary treatment in 1973. The average designed flow for this plant is 1.62 MGD.

Sewer Rates

Residence sewer users pay \$6.86 per month minimum for the first 300 cubic feet of water consumption or fraction thereof and \$1.24 for each 100 cubic feet of water consumption or fraction thereof, except that during the period of May 1st through October 31st, a flat rate is charged. This flat rate is the average user charge for the prior six-month period of November through April or fraction thereof. For sewer users without any prior history, a flat rate of \$11.82 per month is charged. Governmental sewer users pay the same as residence users, except that for users without prior history, a flat rate of \$38.53 per month is charged. Commercial and industrial sewer users pay the rate of \$6.86 for the first 300 cubic feet of water consumption or fraction thereof and the amount of \$1.24 for each additional 100 cubic feet of water consumption or fraction thereof. This is the current rate structure as of July 1, 1986.

CITY OF COOS BAY
Schedule of Bonded Indebtedness
June 30, 1985

Name of Issue	Maturity Date and Amount	Interest Rate	Original Issue	Beginning Retired	Beginning Outstanding	Transactions 1984-85		Bonds Outstanding 6-30-85
						Issued	Retired	
WATER BONDS:								
March 1, 1967	Annually 1985-87 \$ 35,000	3.7 - 4.0	\$ 650,000	\$ 545,000	\$ 105,000	\$ -	\$ 35,000	\$ 70,000
June 1, 1973	Annually 1985-93 25,000	5.1	450,000	225,000	225,000	-	25,000	200,000
March 1, 1976	Annually 1985-86 10,000	5.25 - 5.6	250,000	80,000	170,000	-	10,000	160,000
	Annually 1986-96 15,000	5.7 - 6.4						
<u>City of Eastside</u>								
July 7, 1972	Annually 1985-88 6,000	5.0	90,000	66,000	24,000	-	6,000	18,000
Total Water Bonds Retired 1984-85							<u>76,000</u>	
SEWER BONDS:								
April 1, 1974	Annually 1985-89 55,000	4.5 - 4.75	905,000	365,000	540,000	-	55,000	485,000
	1989-90 60,000	4.75						
	1990-91 65,000	4.75						
	Annually 1991-93 70,000	4.0						
January 15, 1975	Annually 1985-86 70,000	5.6 - 5.75	1,375,000	445,000	930,000	-	70,000	860,000
	1986-87 75,000	5.9						
	1987-88 80,000	6.1						
	1988-89 90,000	6.2						
	1989-90 95,000	6.3						
	1990-91 100,000	6.4						
	1991-92 110,000	6.5						
	1992-93 115,000	6.6						
	1993-94 125,000	6.7						
<u>City of Eastside</u>								
June 11, 1974	Annually 1985-86 6,000	6.1	120,000	60,000	60,000	-	6,000	54,000
	1986-87 6,000	6.1 - 6.2						
	Annually 1987-89 6,000	6.2						
	1989-90 6,000	6.2 - 6.25						
	Annually 1990-92 6,000	6.25						
	1992-93 6,000	6.3						
	1993-94 6,000	6.3						
Total Sewer Bonds Retired 1984-85							<u>131,000</u>	
PEDESTRIAN MALL:								
October 15, 1968	Annually 1985-89 80,000	4.9	1,200,000	800,000	400,000	-	80,000	320,000
Total Pedestrian Mall Bonds Retired 1984-85							<u>80,000</u>	
Total Bonds Retired 1984-85 - General Obligation Bond and Interest Redemption Fund							<u>\$ 287,000</u>	
Total Outstanding Bonds at June 30, 1985 - General Obligation Bond and Interest Redemption Fund								<u>\$ 2,167,000</u>

Schedule of Bonded Indebtedness

June 30, 1985

Name of Issue	Maturity Date and Amount		Interest Rate	Original Issue	Beginning Retired	Beginning Outstanding	Transactions 1984-85		Bonds Outstanding 6-30-85	
							Issued	Retired		
IMPROVEMENT BONDS:										
January 1, 1965	Annually	1985-86	\$ 25,000	3.9	\$ 374,449	\$ 324,449	\$ 50,000	\$ -	\$ 25,000	\$ 25,000
May 1, 1975			10,000	6.0	82,603	72,603	10,000	-	10,000	-
August 1, 1976	Annually	1985-87	10,000	5.4	72,799	42,799	30,000	-	10,000	20,000
June 1, 1979	Annually	1985-87	35,000	5.6	295,949	115,949	180,000	-	30,000	150,000
	Annually	1987-89	40,000	5.6 - 5.7						
April 1, 1980	Annually	1985-86	180,000	8.7	1,813,043	643,043	1,170,000	-	170,000	1,000,000
		1986-87	190,000	8.5						
		1987-88	200,000	8.0						
		1988-89	210,000	8.0						
		1989-90	220,000	8.1						
May 15, 1982		1985-86	25,000	11.5	285,573	50,573	235,000	-	25,000	210,000
		1986-87	25,000	11.0						
		1987-88	30,000	10.25						
		1988-89	30,000	10.5						
		1989-90	30,000	10.75						
		1990-91	35,000	11.0						
	1991-92	35,000	11.25							
Total Improvement Bonds Retired 1984-85									<u>\$ 270,000</u>	
Total Outstanding Bonds at June 30, 1985 - Bancroft Bond and Interest Redemption Fund										<u>\$ 1,405,000</u>

CITY OF COOS BAY

Detail of Long-Term Debt Maturities

June 30, 1985

Fiscal Year	Totals			Water Bonds	
	Total	Principal	Interest	Principal	Interest
1985-86	\$ 797,549	\$ 565,568	\$ 231,981	\$ 76,000	\$ 23,542
1986-87	756,105	560,971	195,134	81,000	19,978
1987-88	698,299	539,893	158,406	46,000	16,117
1988-89	673,880	551,000	122,880	40,000	13,808
1989-90	538,845	451,000	87,845	40,000	11,647
1990-91	301,300	246,000	55,300	40,000	9,473
1991-92	300,541	261,000	39,541	40,000	7,283
1992-93	254,073	231,000	23,073	40,000	5,077
1993-94	157,493	146,000	11,493	15,000	2,865
1994-95	16,920	15,000	1,920	15,000	1,920
1995-96	15,960	15,000	960	15,000	960
Totals	<u>\$ 4,510,965</u>	<u>\$ 3,582,432</u>	<u>\$ 928,533</u>	<u>\$ 448,000</u>	<u>\$ 112,670</u>

Sewer Bonds		Bancroft Improvement Bonds		General City Bonds	
Principal	Interest	Principal	Interest	Principal	Interest
\$ 131,000	\$ 78,252	\$ 275,000	\$ 115,518	\$ 80,000	\$ 13,720
136,000	71,303	260,000	93,507	80,000	9,800
141,000	63,913	270,000	72,378	80,000	5,880
151,000	56,049	280,000	51,063	80,000	1,960
161,000	47,366	250,000	28,832	-	-
171,000	38,040	35,000	7,787	-	-
186,000	28,321	35,000	3,937	-	-
191,000	17,996	-	-	-	-
131,000	8,628	-	-	-	-
-	-	-	-	-	-
-	-	-	-	-	-
<u>\$ 1,399,000</u>	<u>\$ 409,868</u>	<u>\$ 1,405,000</u>	<u>\$ 373,022</u>	<u>\$ 320,000</u>	<u>\$ 31,360</u>

Statement of Legal Debt Limit and Margin
General Obligation Bonds
June 30, 1985

True Cash Value of Taxable Property (1985/86)	\$358,000,245
Allowable Debt Limit (3% of TCV)	10,746,007
Gross Bonded Debt	3,572,000
Less: Self-Supporting Debt	<u>3,252,000</u>
Net Debt Subject to Limitation	320,000
Legal Debt Margin	10,426,007

- 1 Legal Debt Limit as prescribed by Oregon Revised Statutes 287.004(1).
- 2 Included as self supporting debt legally not subject to the statutory debt limitation are \$1,405,000 of Bancroft(special assessment) Bonds, 1,399,000 Sewer Bonds and 448,000 Water Bonds.

City of Coos Bay
Record of Tax Collection - All Funds
Seven-Year History

<u>Tax Year</u>	<u>Net Adj. Tax Levy</u>	<u>Amount Collected Year of Levy</u> ¹	<u>Amount Collected Current & Del.</u> ²	<u>Ratio of Current and Del to Levy</u>
1984-85	\$2,027,756	\$1,714,215	\$1,985,684	97.92
1983-84	1,642,500	1,578,922	1,831,833	111.53
1982-83	1,600,988	1,528,900	1,692,761	105.73
1981-82	1,484,266	1,461,463	1,590,331	107.15
1980-81	1,454,806	1,283,132	1,454,821	100.00
1979-80	1,404,545	1,175,208	1,272,638	90.61
1978-79	750,318	647,863	740,569	98.70

¹ The amount collected in year of levy will bear the same ratio to the levy amount in each taxing district within the county because of the countywide sharing in Oregon

² The ratio of current and delinquent collections approaches 100% each year but varies depending upon payment rates, discounts taken for full payment in November, etc. Where the ratio exceeds 100%, it usually indicates a substantially larger levy by the taxing district in the previous year or years.

City of Coos Bay
Assessed Valuation - Seven-Year History

<u>Fiscal Year</u>	<u>True Cash Value</u>	<u>% Increase in TCV Over Previous Year</u>
1978-79	\$ 188,279,888	27.8
1979-80	240,621,621	27.8
1980-81	276,764,260	15.0
1981-82	308,354,660	11.4
1982-83	283,228,800	(8.2)
1983-84	286,096,640	1.1
1984-85*	342,837,832	19.7

* In December 1983, the cities of Eastside and Coos Bay were consolidated into the "new" City of Coos Bay.

CITY OF COOS BAY

Combined Balance Sheet
All Fund Types and Account Groups

June 30, 1985

	Governmental		
	General	Special Revenue	Debt Service
<u>ASSETS</u>			
Cash	\$ (218,910)	\$(101,431)	\$ 617
Cash with fiscal agent	-	-	1,643
Investments	1,209,440	386,073	587,000
Receivables			
Taxes	552,457	-	35,326
Assessments	-	-	1,243,753
Loans receivable	-	-	-
Other	137,799	127,551	437
Inventories	1,436	-	-
Land	-	-	19,554
Buildings	-	-	-
Wastewater plants and system	-	-	-
Equipment	-	-	-
Motor vehicles	-	-	-
Equity in Coos Bay-North Bend Water Board	-	-	-
Amount available in Debt Service Fund	-	-	-
Amount to be provided for retirement of long-term debt	-	-	-
Total Assets	<u>\$ 1,682,222</u>	<u>\$ 412,193</u>	<u>\$ 1,888,330</u>
<u>LIABILITIES AND FUND EQUITY</u>			
Liabilities			
Accounts payable	\$ 9,491	\$ 11,905	\$ -
Refundable deposits	-	-	-
Rebates payable	-	-	42
Deferred revenue	526,835	-	33,380
Matured bonds and interest payable	-	-	1,548
General obligation bonds payable	-	-	-
Special assessment bonds payable	-	-	1,405,000
Unbonded contract payable	10,432	-	-
Total Liabilities	<u>546,758</u>	<u>11,905</u>	<u>1,439,970</u>
Fund Equity			
Investment in general fixed assets	-	-	-
Investment in Coos Bay-North Bend Water Board	-	-	-
Fund Balances			
Reserved	24,842	-	-
Unreserved			
Designated for general debt service	-	-	126,353
Designated for Bancroft debt service	-	-	322,007
Undesignated	1,110,622	400,288	-
Total Fund Equity	<u>1,135,464</u>	<u>400,288</u>	<u>448,360</u>
Total Liabilities and Fund Equity	<u>\$ 1,682,222</u>	<u>\$ 412,193</u>	<u>\$ 1,888,330</u>

The accompanying notes are an integral part of the financial statements.

CITY OF COOS BAY

Combined Statement of Revenues, Expenditures, and Changes in Fund Balances -
ALL GOVERNMENTAL FUND TYPES

For the Fiscal Year Ended June 30, 1985

	General	Special Revenue	Debt Service	Capital Projects	Special Assessment
REVENUES					
Taxes	\$ 2,361,394	\$ -	\$ 108,049	\$ 16,804	\$ -
Assessments receivable - collections	-	-	166,269	-	6,395
Licenses and permits	88,773	-	-	-	-
Intergovernmental revenues	213,093	1,012,743	103,052	654	-
Charges for services	69,879	805,567	-	-	-
Charges for use of property and money	107,629	43,693	152,654	19,459	2,213
Fines and forfeits	40,258	-	857	-	-
Miscellaneous revenues	547,116	7,248	-	10,090	-
Total Revenues	<u>3,428,142</u>	<u>1,869,251</u>	<u>530,881</u>	<u>47,007</u>	<u>8,608</u>
EXPENDITURES					
Current					
General government	812,946	-	-	1,200	-
Health and sanitation	-	668,449	-	-	-
Community promotion and support	190,915	-	-	-	-
Public safety	1,835,859	157,233	-	-	-
Public works	631,408	-	-	-	-
Culture and recreation	-	285,734	-	-	-
Capital outlay	-	-	-	132,795	-
Debt service					
Principal retirement	-	-	547,000	-	-
Interest	-	-	267,098	-	-
Total Expenditures	<u>3,471,128</u>	<u>1,111,416</u>	<u>814,098</u>	<u>133,995</u>	<u>-</u>
Excess of Revenues Over (Under) Expenditures	<u>(42,986)</u>	<u>757,835</u>	<u>(283,217)</u>	<u>(86,988)</u>	<u>8,608</u>
OTHER FINANCING SOURCES (USES)					
Operating transfer in	574,718	7,148	218,043	52,637	-
Operating transfers (out)	(50,000)	(802,546)	-	-	-
Other	(5,786)	85	91,986	-	(6,528)
Total Other Financing Sources (Uses)	<u>518,932</u>	<u>(795,313)</u>	<u>310,029</u>	<u>52,637</u>	<u>(6,528)</u>
Excess of Revenues and Other Sources Over (Under) Ex- penditures and Other Uses	475,946	(37,478)	26,812	(34,351)	2,080
END BALANCE - July 1, 1984	563,914	495,594	421,548	214,337	12,216
ANNUAL TRANSFERS IN (OUT)	<u>70,762</u>	<u>(57,828)</u>	<u>-</u>	<u>(12,934)</u>	<u>-</u>
END BALANCE - June 30, 1985	<u>\$ 1,110,622</u>	<u>\$ 400,288</u>	<u>\$ 448,360</u>	<u>\$ 167,052</u>	<u>\$ 14,296</u>

The accompanying notes are an integral part of the financial statements.

Types		Fiduciary	General Account Groups	
Capital	Special	Fund Types	General	General Long-
Projects	Assessments	Agency	Fixed Assets	Term Debt
\$ 1,299	\$(59,912)	\$ 58,052	\$ -	\$ -
-	-	-	-	-
187,500	-	-	-	-
18,360	-	-	-	-
-	74,208	-	-	-
833,061	-	-	-	-
23,600	-	-	-	-
-	-	-	-	-
-	-	-	1	-
-	-	-	3,586,063	-
-	-	-	6,349,826	-
-	-	-	1,580,930	-
-	-	-	868,151	-
-	-	-	6,211,000	-
-	-	-	-	126,353
-	-	-	-	2,040,647
<u>\$ 1,063,820</u>	<u>\$ 14,296</u>	<u>\$ 58,052</u>	<u>\$ 18,595,971</u>	<u>\$ 2,167,000</u>
\$ 22,912	\$ -	\$ 55,170	\$ -	\$ -
-	-	2,882	-	-
-	-	-	-	-
873,856	-	-	-	-
-	-	-	-	-
-	-	-	-	2,167,000
-	-	-	-	-
<u>896,768</u>	<u>-</u>	<u>58,052</u>	<u>-</u>	<u>2,167,000</u>
-	-	-	12,384,971	-
-	-	-	6,211,000	-
-	-	-	-	-
-	-	-	-	-
167,052	14,296	-	-	-
<u>167,052</u>	<u>14,296</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>\$ 1,063,820</u>	<u>\$ 14,296</u>	<u>\$ 58,052</u>	<u>\$ 18,595,971</u>	<u>\$ 2,167,000</u>

CITY OF COOS BAY

Statement of Revenues - Budget and Actual
GENERAL FUND

For the Fiscal Year Ended June 30, 1985

	<u>Estimates</u>	<u>Actual Revenues</u>	<u>Variance</u>
Taxes			
Property Taxes			
Current	\$ 1,636,250	\$ 1,627,304	\$ (8,946)
Delinquent	<u>121,000</u>	<u>233,528</u>	<u>112,528</u>
Total Property Taxes	1,757,250	1,860,832	103,582
Franchise Taxes	299,100	370,227	71,127
Transient Occupancy Taxes	<u>110,000</u>	<u>130,335</u>	<u>20,335</u>
Total Taxes	<u>2,166,350</u>	<u>2,361,394</u>	<u>195,044</u>
Licenses and Permits			
Licenses	51,500	50,142	(1,358)
Permits	<u>40,830</u>	<u>38,631</u>	<u>(2,199)</u>
Total Licenses and Permits	<u>92,330</u>	<u>88,773</u>	<u>(3,557)</u>
Intergovernmental Revenues			
Cigarette tax	32,160	30,516	(1,644)
Alcoholic beverage tax	117,780	104,403	(13,377)
State revenue sharing	70,000	70,925	925
State grants	<u>7,249</u>	<u>7,249</u>	<u>-</u>
Total Intergovernmental Revenues	<u>227,189</u>	<u>213,093</u>	<u>(14,096)</u>
Charges for Services			
Fire protection services	53,279	52,694	(585)
Other services	<u>27,100</u>	<u>17,185</u>	<u>(9,915)</u>
Total Charges for Services	<u>80,379</u>	<u>69,879</u>	<u>(10,500)</u>
Charges for Use of Money and Property			
Interest on investments	24,000	86,019	62,019
Property rentals	14,200	16,457	2,257
Parking space rentals	<u>4,500</u>	<u>5,153</u>	<u>653</u>
Total Use of Money and Property	<u>42,700</u>	<u>107,629</u>	<u>64,929</u>
Fines and Forfeits			
District Court fines	40,000	34,510	(5,490)
Parking fines	<u>10,000</u>	<u>5,748</u>	<u>(4,252)</u>
Total Fines and Forfeits	<u>50,000</u>	<u>40,258</u>	<u>(9,742)</u>
Miscellaneous Revenues			
Urban Renewal tax redistributions	-	95,317	95,317
Refunds	10,000	142	(9,858)
Miscellaneous	100	2,133	2,033
Equipment and scrap sales	-	1,003	1,003
Property sales	-	1,000	1,000
Retirement plan refund	600,000	376,908	(223,092)
Witness fees	500	117	(383)
Library arbitration award	-	60,496	60,496
Insurance recovery	<u>10,000</u>	<u>10,000</u>	<u>-</u>
Total Miscellaneous Revenues	<u>620,600</u>	<u>547,116</u>	<u>(73,484)</u>
TOTAL REVENUES	<u>\$ 3,279,548</u>	<u>\$ 3,428,142</u>	<u>\$ 148,594</u>

CITY OF COOS BAY

Statement of Expenditures - Budget and Actual
GENERAL FUND

For the Fiscal Year Ended June 30, 1985

	<u>Estimates</u>	<u>Actual</u>	<u>Variance</u>
GENERAL GOVERNMENT			
Personal services	\$ 456,416	\$ 429,219	\$ 27,197
Materials and services	300,094	272,397	27,697
Capital outlay	<u>104,700</u>	<u>111,330</u>	<u>(6,630)</u>
Total General Government	<u>861,210</u>	<u>812,946</u>	<u>48,264</u>
COMMUNITY PROMOTION AND SUPPORT			
Personal services	34,703	33,623	1,080
Materials and services	190,155	156,290	33,865
Capital outlay	<u>1,005</u>	<u>1,002</u>	<u>3</u>
Total Community Promotion and Support	<u>225,863</u>	<u>190,915</u>	<u>34,948</u>
PUBLIC SAFETY			
Personal services	1,617,992	1,600,055	17,937
Materials and services	199,759	194,576	5,183
Capital outlay	<u>45,013</u>	<u>41,228</u>	<u>3,785</u>
Total Public Safety	<u>1,862,764</u>	<u>1,835,859</u>	<u>26,905</u>
PUBLIC WORKS			
Personal services	371,168	359,044	12,124
Materials and services	265,099	221,856	43,243
Capital outlay	<u>51,805</u>	<u>50,508</u>	<u>1,297</u>
Total Public Works	<u>688,072</u>	<u>631,408</u>	<u>56,664</u>
INSURANCE RESERVE	<u>581,285</u>	<u>-</u>	<u>581,285</u>
TOTAL	<u>\$ 4,219,194</u>	<u>\$ 3,471,128</u>	<u>\$ 748,066</u>

CITY OF COOS BAY

Page 1

Schedule of Expenditures - Budget and Actual
GENERAL FUND

For the Year Ended June 30, 1985

	<u>Estimates</u>	<u>Actual Expenditures</u>	<u>Variance</u>
<u>GENERAL GOVERNMENT</u>			
City Council			
Materials and services	\$ <u>43,775</u>	\$ <u>50,623</u>	\$ <u>(6,848)</u>
City Manager			
Personal services	102,890	102,744	146
Materials and services	19,700	12,785	6,915
Capital outlay	<u>3,250</u>	<u>3,237</u>	<u>13</u>
Total City Manager	<u>125,840</u>	<u>118,766</u>	<u>7,074</u>
Finance Department			
Personal services	154,918	150,888	4,030
Materials and services	45,870	30,459	15,411
Capital outlay	<u>3,000</u>	<u>3,250</u>	<u>(250)</u>
Total Finance Department	<u>203,788</u>	<u>184,597</u>	<u>19,191</u>
City Attorney			
Materials and services	<u>29,250</u>	<u>35,862</u>	<u>(6,612)</u>
City Hall			
Personal services	5,649	6,144	(495)
Materials and services	<u>74,100</u>	<u>63,421</u>	<u>10,679</u>
Total City Hall	<u>79,749</u>	<u>69,565</u>	<u>10,184</u>
Community Development			
Personal services	182,521	160,987	21,534
Materials and services	13,224	8,470	4,754
Capital outlay	<u>1,650</u>	<u>1,271</u>	<u>379</u>
Total Community Development	<u>197,395</u>	<u>170,728</u>	<u>26,667</u>
Library Emergency			
Capital outlay	<u>80,000</u>	<u>78,408</u>	<u>1,592</u>
Non-Departmental			
Personal services	2,940	8,456	(5,516)
Materials and services	71,175	70,777	398
Capital outlay	<u>16,800</u>	<u>25,164</u>	<u>(8,364)</u>
Total Non-Departmental	<u>90,915</u>	<u>104,397</u>	<u>(13,482)</u>
Reimbursable			
Personal services	7,498	-	7,498
Materials and services	<u>3,000</u>	-	<u>3,000</u>
Total Reimbursable	<u>10,498</u>	-	<u>10,498</u>
TOTAL GENERAL GOVERNMENT	<u>861,210</u>	<u>812,946</u>	<u>48,264</u>

Schedule of Expenditures - Budget and Actual
GENERAL FUND

For the Fiscal Year Ended June 30, 1985

	<u>Estimates</u>	<u>Actual Expenditures</u>	<u>Variance</u>
<u>COMMUNITY PROMOTION AND SUPPORT</u>			
Community Promotion and Support			
Materials and services	\$ <u>155,500</u>	\$ <u>126,605</u>	\$ <u>28,895</u>
Mall			
Personal services	21,978	24,633	(2,655)
Materials and services	17,720	16,405	1,315
Capital outlay	<u>1,005</u>	<u>1,002</u>	<u>3</u>
Total Mall	<u>40,703</u>	<u>42,040</u>	<u>(1,337)</u>
Neighborhood Facility Building			
Personal services	12,725	8,990	3,735
Materials and services	<u>16,935</u>	<u>13,280</u>	<u>3,655</u>
Total Neighborhood Facility Building	<u>29,660</u>	<u>22,270</u>	<u>7,390</u>
TOTAL COMMUNITY PROMOTION AND SUPPORT	<u>225,863</u>	<u>190,915</u>	<u>34,948</u>
<u>PUBLIC SAFETY</u>			
Police			
Personal services	1,170,697	1,157,915	12,782
Materials and services	117,382	113,940	3,442
Capital outlay	<u>21,065</u>	<u>18,221</u>	<u>2,844</u>
Total Police	<u>1,309,144</u>	<u>1,290,076</u>	<u>19,068</u>
Fire			
Personal services	447,295	442,140	5,155
Materials and services	82,377	80,636	1,741
Capital outlay	<u>23,948</u>	<u>23,007</u>	<u>941</u>
Total Fire	<u>553,620</u>	<u>545,783</u>	<u>7,837</u>
TOTAL PUBLIC SAFETY	<u>1,862,764</u>	<u>1,835,859</u>	<u>26,905</u>
<u>PUBLIC WORKS</u>			
Engineering			
Personal services	121,376	114,191	7,185
Materials and services	11,913	7,821	4,092
Capital outlay	<u>26,630</u>	<u>23,787</u>	<u>2,843</u>
Total Engineering	<u>159,919</u>	<u>145,799</u>	<u>14,120</u>

Schedule of Expenditures - Budget and Actual
GENERAL FUND

For the Fiscal Year Ended June 30, 1985

	<u>Estimates</u>	<u>Actual Expenditures</u>	<u>Variance</u>
<u>PUBLIC WORKS (Cont'd)</u>			
Streets			
Personal services	\$ 178,655	\$ 178,274	\$ 381
Materials and services	239,914	202,389	37,525
Capital outlay	<u>16,555</u>	<u>16,099</u>	<u>456</u>
Total Streets	<u>435,124</u>	<u>396,762</u>	<u>38,362</u>
Parks and Recreation			
Personal services	71,137	66,579	4,558
Materials and services	13,272	11,646	1,626
Capital outlay	<u>8,620</u>	<u>10,622</u>	<u>(2,002)</u>
Total Parks and Recreation	<u>93,029</u>	<u>88,847</u>	<u>4,182</u>
TOTAL PUBLIC WORKS	<u>688,072</u>	<u>631,408</u>	<u>56,664</u>
<u>INSURANCE RESERVE</u>	<u>581,285</u>	<u>-</u>	<u>581,285</u>
TOTAL EXPENDITURES	<u>\$ 4,219,194</u>	<u>\$ 3,471,128</u>	<u>\$ 748,066</u>

Schedule of Expenditures - Budget and Actual
WASTEWATER FUND

For the Fiscal Year Ended June 30, 1985

	<u>Estimates</u>	<u>Actual</u>	<u>Variance</u>
Administration			
Health and Sanitation			
Materials and services	\$ 36,950	\$ 32,050	\$ 4,900
Coos Bay Plant			
Health and Sanitation			
Personal services	157,437	145,285	12,152
Materials and services	132,410	105,600	26,810
Capital outlay	<u>11,350</u>	<u>9,967</u>	<u>1,383</u>
Total Coos Bay Plant	<u>301,197</u>	<u>260,852</u>	<u>40,345</u>
Empire Plant			
Health and Sanitation			
Personal services	126,145	100,251	25,894
Materials and services	75,280	55,622	19,658
Capital outlay	<u>11,865</u>	<u>8,484</u>	<u>3,381</u>
Total Empire Plant	<u>213,290</u>	<u>164,357</u>	<u>48,933</u>
Sanitary Sewers and Storm Drains			
Health and Sanitation			
Personal services	104,630	72,543	32,087
Materials and services	<u>18,230</u>	<u>16,802</u>	<u>1,428</u>
Total Sanitary Sewers and Storm Drains	<u>122,860</u>	<u>89,345</u>	<u>33,515</u>
Pump Stations			
Health and Sanitation			
Personal services	45,270	65,880	(20,610)
Materials and services	69,040	53,644	15,396
Capital outlay	<u>2,700</u>	<u>2,321</u>	<u>379</u>
Total Pump Stations	<u>117,010</u>	<u>121,845</u>	<u>(4,835)</u>
Contingency	<u>25,000</u>	-	<u>25,000</u>
Totals	<u>\$ 816,307</u>	<u>\$ 668,449</u>	<u>\$ 147,858</u>

Schedule of Property Tax Transactions

For the Fiscal Year Ended June 30, 1985

Year	Taxes Receivable 7-1-84	Current Levy 1984-85	County Adjust- ments	Collections	Taxes Receivable 6-30-85
1984-85	\$ -	\$ 2,029,962	\$(34,072)	\$ 1,709,341	\$ 286,549
1983-84	230,842	-	6	84,743	146,105
1982-83	140,518	-	248	52,759	88,007
1981-82	84,541	-	(4)	44,634	39,903
1980-81	41,137	-	138	33,361	7,914
Prior	8,420	-	19	4,707	3,732
Totals	<u>\$ 505,458</u>	<u>\$ 2,029,962</u>	<u>\$(33,665)</u>	\$ 1,929,545	<u>\$ 572,210</u>

Interest on taxes 53,587

Tax offsets - oil, gas, mineral, severance
taxes and foreclosure sales 2,553

Total Turnovers \$ 1,985,685

Ownership of Turnovers and Taxes Receivable

General Fund	\$ 1,860,832	\$ 521,635
General Obligation Bond and Interest Redemption Fund	108,049	33,380
Street Improvement Fund	16,804	17,195
Totals	<u>\$ 1,985,685</u>	<u>\$ 572,210</u>

CITY OF COOS BAY

Statement of Revenues, Expenditures, and Changes in Fund Balance -
Budget and Actual
WASTEWATER FUND

For the Fiscal Year Ended June 30, 1985

	<u>Estimate</u>	<u>Actual</u>	<u>Variance</u>
REVENUES			
Intergovernmental revenues	\$ 62,000	\$ 51,381	\$ (10,619)
Charges for use of services			
Sewer use fees	810,350	792,188	(18,162)
Sewer connection fees	2,000	4,663	2,663
Recreational vehicle dump fees	-	1,058	1,058
Charges for use of property and money			
Interest on investments	8,000	24,560	16,560
Miscellaneous revenues	<u>-</u>	<u>3,490</u>	<u>3,490</u>
Total Revenues	<u>882,350</u>	<u>877,340</u>	<u>(5,010)</u>
EXPENDITURES			
Health and sanitation			
Personal services	433,482	383,959	49,523
Materials and services	331,910	263,718	68,192
Capital outlay	25,915	20,772	5,143
Contingency	<u>25,000</u>	<u>-</u>	<u>25,000</u>
Total Expenditures	<u>816,307</u>	<u>668,449</u>	<u>147,858</u>
Excess of Revenues Over (Under) Expenditures	66,043	208,891	142,848
OTHER FINANCING SOURCES (USES)			
Operating Transfers Out			
General Obligation Bond and Interest Redemption Fund	<u>(193,043)</u>	<u>(193,043)</u>	<u>-</u>
Excess of Revenues and Other Sources Over (Under) Expenditures and Other (Uses)	(127,000)	15,848	142,848
FUND BALANCE - July 1, 1984	<u>127,000</u>	<u>173,021</u>	<u>46,021</u>
FUND BALANCE - June 30, 1985	<u>\$ -</u>	<u>\$ 188,869</u>	<u>\$ 188,869</u>

CITY OF COOS BAY

Statement of Revenues, Expenditures, and Changes in Fund Balance -
Budget and Actual
WASTEWATER CONSTRUCTION FUND

For the Fiscal Year Ended June 30, 1985

	<u>Estimate</u>	<u>Actual</u>	<u>Variance</u>
REVENUES			
Intergovernmental revenues	\$ -	\$ 654	\$ 654
Charges for use of property and money			
Interest on investments	<u>5,000</u>	<u>10,488</u>	<u>5,488</u>
Total Revenues	5,000	11,142	6,142
 EXPENDITURES			
Capital outlay	<u>131,000</u>	<u>104,734</u>	<u>26,266</u>
Excess of Revenues Over (Under) Expenditures	(126,000)	(93,592)	32,408
 FUND BALANCE - July 1, 1984	 100,000	 102,316	 2,316
 RESIDUAL EQUITY TRANSFER IN Sewer Reserves Fund	 <u>26,000</u>	 <u>25,687</u>	 <u>(313)</u>
 FUND BALANCE - June 30, 1985	 <u>\$ -</u>	 <u>\$ 34,411</u>	 <u>\$ 34,411</u>

CITY OF COOS BAY

Combining Balance Sheet
All Special Revenue Funds

June 30, 1985

	<u>Totals</u>	<u>State Tax Street</u>	<u>Library</u>	<u>Wastewater</u>
<u>ASSETS</u>				
Cash	\$ (101,431)	\$ 60	\$ 252	\$ (18,777)
Investments	386,073	60,000	107,093	201,500
Due from other governments	120,477	-	36,143	-
Accounts receivable	7,074	-	-	6,404
Total Assets	<u>\$ 412,193</u>	<u>\$ 60,060</u>	<u>\$ 143,488</u>	<u>\$ 189,127</u>
<u>LIABILITIES AND FUND BALANCE</u>				
Liabilities				
Accounts payable	\$ 11,905	\$ -	\$ -	\$ 258
Total Liabilities	<u>11,905</u>	<u>-</u>	<u>-</u>	<u>258</u>
Fund Balances				
Unreserved				
Undesignated	400,288	60,060	143,488	188,869
Total Fund Balances	<u>400,288</u>	<u>60,060</u>	<u>143,488</u>	<u>188,869</u>
Total Liabilities and Fund Balances	<u>\$ 412,193</u>	<u>\$ 60,060</u>	<u>\$ 143,488</u>	<u>\$ 189,127</u>

<u>Revenue Sharing</u>	<u>S.T.A.A.R.</u>	<u>C.T.A.C.</u>	<u>Child Restraint Grant</u>	<u>911 Emergency Tax</u>	<u>Neighbor-hood Watch</u>
\$ (75,234)	\$ (1,931)	\$ (7,137)	\$ 482	\$ -	\$ 854
-	-	-	6,000	11,480	-
75,234	1,931	7,169	-	-	-
-	-	-	670	-	-
<u>\$ -</u>	<u>\$ -</u>	<u>\$ 32</u>	<u>\$ 7,152</u>	<u>\$ 11,480</u>	<u>\$ 854</u>

\$ -	\$ -	\$ 32	\$ 135	\$ 11,480	\$ -
-	-	32	135	11,480	-
-	-	-	7,017	-	854
-	-	-	7,017	-	854
<u>\$ -</u>	<u>\$ -</u>	<u>\$ 32</u>	<u>\$ 7,152</u>	<u>\$ 11,480</u>	<u>\$ 854</u>

CITY OF COOS BAY

Combining Balance Sheet
All Capital Projects Funds

June 30, 1985

	<u>Total</u>	<u>Street Improvement</u>	<u>Wastewater Construction</u>
<u>ASSETS</u>			
Cash	\$ 1,299	\$ 1,725	\$ (1,377)
Investments	187,500	67,000	54,000
Receivables - Taxes	18,360	18,360	-
Community Development loans receivable	833,061	-	-
Receivables - Other	<u>23,600</u>	<u>-</u>	<u>-</u>
Total Assets	<u>\$ 1,063,820</u>	<u>\$ 87,085</u>	<u>\$ 52,623</u>
<u>LIABILITIES AND FUND BALANCES</u>			
Liabilities			
Accounts payable	\$ 22,912	\$ -	\$ 18,212
Deferred revenues	<u>873,856</u>	<u>17,195</u>	<u>-</u>
Total Liabilities	<u>896,768</u>	<u>17,195</u>	<u>18,212</u>
Fund Equities			
Fund Balances			
Unreserved			
Undesignated	<u>167,052</u>	<u>69,890</u>	<u>34,411</u>
Total Fund Balances	<u>167,052</u>	<u>69,890</u>	<u>34,411</u>
Total Liabilities and Fund Balances	<u>\$ 1,063,820</u>	<u>\$ 87,085</u>	<u>\$ 52,623</u>

<u>Bike/ Pedestrian Path</u>	<u>Special Community Développement</u>	<u>Capital Construction</u>	<u>Reserves</u>
\$ 488	\$ 127	\$ 336	\$ -
10,000	1,500	5,000	50,000
-	-	-	-
-	833,061	-	-
-	23,600	-	-
<u>\$ 10,488</u>	<u>\$ 858,288</u>	<u>\$ 5,336</u>	<u>\$ 50,000</u>
\$ -	\$ -	\$ 4,700	\$ -
-	856,661	-	-
-	856,661	4,700	-
<u>10,488</u>	<u>1,627</u>	<u>636</u>	<u>50,000</u>
<u>10,488</u>	<u>1,627</u>	<u>636</u>	<u>50,000</u>
<u>\$ 10,488</u>	<u>\$ 858,288</u>	<u>\$ 5,336</u>	<u>\$ 50,000</u>

CITY OF COOS BAY

Combined Statement of Revenues, Expenditures, and Changes in Fund Balance -
Budget (G.A.A.P. Basis) and ActualGeneral and Special Revenue Funds and
Capital Projects Funds

For the Fiscal Year Ended June 30, 1985

	General Fund		
	Budget	Actual	Variance
REVENUES			
Taxes	\$ 2,166,350	\$ 2,361,394	\$ 195,044
Licenses and permits	92,330	88,773	(3,557)
Intergovernmental revenues	227,189	213,093	(14,096)
Charges for services	80,379	69,879	(10,500)
Charges for use of property and money	42,700	107,629	64,929
Fines and forfeits	50,000	40,258	(9,742)
Miscellaneous revenues	620,600	547,116	(73,484)
Total Revenues	<u>3,279,548</u>	<u>3,428,142</u>	<u>148,594</u>
EXPENDITURES			
Current			
General government	861,210	812,946	48,264
Health and sanitation	-	-	-
Community promotion and support	225,863	190,915	34,948
Public safety	1,862,764	1,835,859	26,905
Public works	688,072	631,408	56,664
Culture and recreation	-	-	-
Capital outlay	-	-	-
Insurance reserve	581,285	-	581,285
Total Expenditures	<u>4,219,194</u>	<u>3,471,128</u>	<u>748,066</u>
Excess of Revenues Over (Under) Expenditures	<u>(939,646)</u>	<u>(42,986)</u>	<u>896,660</u>
OTHER FINANCING SOURCES (USES)			
Operating transfers in	632,577	574,718	(57,859)
Operating transfers out	(50,000)	(50,000)	-
Other	-	(5,786)	(5,786)
Total Other Financing Sources (Uses)	<u>582,577</u>	<u>518,932</u>	<u>(63,645)</u>
Excess of Revenues and Other Sources Over (Under) Expenditures and Other Uses	<u>(357,069)</u>	<u>475,946</u>	<u>833,015</u>
FUND BALANCE - July 1, 1984	353,819	563,914	210,095
RESIDUAL TRANSFERS IN (OUT)	<u>72,381</u>	<u>70,762</u>	<u>(1,619)</u>
FUND BALANCE - June 30, 1985	<u>\$ 69,131</u>	<u>\$ 1,110,622</u>	<u>\$ 1,041,491</u>

The accompanying notes are an integral part of the financial statements.

Special Revenue Funds			Capital Prpjects Funds		
Budget	Actual	Variance	Budget	Actual	Variance
\$ -	\$ -	\$ -	\$ 10,000	\$ 16,804	\$ 6,804
-	-	-	-	-	-
1,001,199	1,012,743	11,544	-	654	654
818,650	805,567	(13,083)	-	-	-
22,990	43,693	20,703	7,100	19,459	12,359
-	-	-	-	-	-
2,200	7,248	5,048	23,000	10,090	(12,910)
<u>1,845,039</u>	<u>1,869,251</u>	<u>24,212</u>	<u>40,100</u>	<u>47,007</u>	<u>6,907</u>
-	-	-	4,000	1,200	2,800
816,307	668,449	147,858	-	-	-
-	-	-	-	-	-
142,522	157,233	(14,711)	-	-	-
-	-	-	-	-	-
359,253	285,734	73,519	-	-	-
-	-	-	215,551	132,795	82,756
-	-	-	-	-	-
<u>1,318,082</u>	<u>1,111,416</u>	<u>206,666</u>	<u>219,551</u>	<u>133,995</u>	<u>85,556</u>
526,957	757,835	230,878	(179,451)	(86,988)	92,463
7,148	7,148	-	52,275	52,637	362
(860,043)	(802,546)	57,497	-	-	-
-	85	85	-	-	-
<u>(852,895)</u>	<u>(795,313)</u>	<u>57,582</u>	<u>52,275</u>	<u>52,637</u>	<u>362</u>
(325,938)	(37,478)	288,460	(127,176)	(34,351)	92,825
384,727	495,594	110,867	190,768	214,337	23,569
(58,789)	(57,828)	961	(13,592)	(12,934)	658
<u>\$ -</u>	<u>\$ 400,288</u>	<u>\$ 400,288</u>	<u>\$ 50,000</u>	<u>\$ 167,052</u>	<u>\$ 117,052</u>

CITY OF COOS BAY

Combined Statement of Revenues, Expenditures, and Changes in Fund Balance -
Budget (Non-G.A.A.P. Basis) and Actual

Special Assessment Fund and Debt Service Funds

For the Fiscal Year Ended June 30, 1985

	Special Assessment Fund		
	Budget	Actual	Variance
REVENUES			
Taxes	\$ -	\$ -	\$ -
Assessment receivables collection	10,000	6,395	(3,605)
Intergovernmental revenues	-	-	-
Charges for use of property and money	4,000	2,213	(1,787)
Fines and forfeits	-	-	-
Bond sale	<u>100,000</u>	<u>-</u>	<u>(100,000)</u>
Total Revenues	<u>114,000</u>	<u>8,608</u>	<u>(105,392)</u>
EXPENDITURES			
Capital outlay	100,000	-	100,000
Debt service			
Principal retirement	-	-	-
Interest	<u>-</u>	<u>-</u>	<u>-</u>
Total Expenditures	<u>100,000</u>	<u>-</u>	<u>100,000</u>
Excess of Revenues Over (Under) Expenditures	<u>14,000</u>	<u>8,608</u>	<u>(5,392)</u>
OTHER FINANCING SOURCES (USES)			
Operating transfers in	-	-	-
Other	<u>-</u>	<u>(6,528)</u>	<u>(6,528)</u>
Total Other Financing Sources (Uses)	<u>-</u>	<u>(6,528)</u>	<u>(6,528)</u>
Excess of Revenues and Other Sources Over (Under) Expenditures and Other Uses	14,000	2,080	(11,920)
FUND BALANCE - July 1, 1984	<u>(14,000)</u>	<u>12,216</u>	<u>26,216</u>
FUND BALANCE - June 30, 1985	<u>\$ -</u>	<u>\$ 14,296</u>	<u>\$ 14,296</u>

The accompanying notes are an integral part of the financial statements.

Debt Service Funds

Budget	Actual	Variance
\$ 102,343	\$ 108,049	\$ 5,706
190,000	166,269	(23,731)
103,052	103,052	-
138,500	152,654	14,154
500	857	357
-	-	-
<u>534,395</u>	<u>530,881</u>	<u>(3,514)</u>
-	-	-
547,000	547,000	-
266,623	267,098	(475)
<u>813,623</u>	<u>814,098</u>	<u>(475)</u>
(279,228)	(283,217)	(3,989)
218,043	218,043	-
-	91,986	91,986
<u>218,043</u>	<u>310,029</u>	<u>91,986</u>
(61,185)	26,812	87,997
<u>585,000</u>	<u>421,548</u>	<u>(163,452)</u>
<u>\$ 523,815</u>	<u>\$ 448,360</u>	<u>\$ (75,455)</u>

CITY OF COOS BAY

Statement of Revenues, Expenditures, and Changes in Fund Balance -
Budget and Actual
WASTEWATER FUND

For the Fiscal Year Ended June 30, 1985

REVENUES	
Intergovernmental revenues	\$ 51,381
Charges for use of services	
Sewer use fees	792,188
Sewer connection fees	4,663
Recreational vehicle dump fees	1,058
Charges for use of property and money	
Interest on investments	24,560
Miscellaneous revenues	<u>3,490</u>
Total Revenues	<u>877,340</u>
EXPENDITURES	
Health and sanitation	
Personal services	383,959
Materials and services	263,718
Capital outlay	20,772
Contingency	<u> -</u>
Total Expenditures	<u>668,449</u>
Excess of Revenues Over (Under) Expenditures	208,891
OTHER FINANCING SOURCES (USES)	
Operating Transfers Out	
General Obligation Bond and Interest Redemption Fund	<u>(193,043)</u>
Excess of Revenues and Other Sources Over (Under) Expenditures and Other (Uses)	15,848
FUND BALANCE - July 1, 1984	<u>173,021</u>
FUND BALANCE - June 30, 1985	<u>\$ 188,869</u>

STATE OF OREGON, TREASURY DEPARTMENT

PAGE

MUNICIPAL DEBT INFORMATION SYSTEM

170-MNR056-10

OVERLAPPING DEBT SCHEDULE FOR CITY OF COOS BAY

AS OF 06/30/86

PAGE 1

O V E R L A P P I N G

OVERLAPPING DISTRICT(S)	ASSESSED VALUATION	PERCENT OVERLAPPING	GROSS BONDED DEBT	NET DIRECT DEBT	AUTHORIZED DEBT (NOT INCURRED)
COOS COUNTY	1,482,428,812	24.15	1,907,850	1,907,850	0
PORT OF COOS BAY	926,188,408	38.65	299,538	299,538	0
BAY AREA TRANSPORTATION	605,647,269	59.11	0	0	0
COOS BAY URBAN RE DIST	0	0.00	0	0	0
BAY AREA HOSPITAL D	988,509,834	36.22	302,437	302,437	0
COOS COUNTY S D 9	626,963,135	57.10	0	0	0
COOS ESD	1,467,733,071	24.39	0	0	0
SOWEST ORE COMM COLL	1,716,862,692	20.85	0	0	0
T O T A L S			2,509,825	2,509,825	0

TOTAL DIRECT AND OVERLAPPING NET DEBT IS 4,029,825 RATIO TO ASSESSED VALUATION IS 1.12 % PER CAPITA DEBT IS 274.23

DEFINITIONS :

'GROSS BONDED DEBT' INCLUDES ALL GENERAL OBLIGATION AND BANCROFT BONDS.

'NET DIRECT DEBT' INCLUDES GENERAL OBLIGATION BONDS MINUS ANY FULLY SELF-SUPPORTING BONDS (BANCROFT BONDS, SEWER AND WATER BONDS IF 100% SELF-SUPPORTING).

QUESTIONS ? CONTACT MUNI BOND DIVISION OF THE TREASURY DEPT., 159 STATE CAPITOL, SALEM, OREGON 97310 PHONE : 378-4930

Supplemental Information Sheet

This Supplemental Information Sheet may be used by your community as the basis for an in-depth evaluation of financial condition. It outlines a method for assessing a community's relative financial strengths and weaknesses.

What Is The Community's Debt History?

A. Bond Ratings		A	1973	from line
• Community's most recent general obligation bond rating		Rating	Date of rating	(500)
• Community's most recent revenue bond rating		None	Date of rating	(501)
B. Outstanding Debt				
• General Obligation Bonds	\$ 9,020,384			(502)
• Revenue Bonds	-0-			(503)
• Gross Direct Debt	9,020,384			(504)
• Direct Net Debt	5,768,384			(505)
• Overlapping Net Debt	4,029,825			(506)
• Overall Net Debt	9,798,209			(507)
• Other Debt	-0-			(508)
• New Debt for Other Capital Improvements	-0-			(509)
C. Debt Repayment Schedule				
• Total Overall Net Debt Due (Including new Issue) within next 5 years		\$3,357,570		(515)
D. Debt Limits				
• Briefly describe any limits on debt that apply to your community.	See narrative			(516)
• What % of your debt limit is currently used?	55.3 %			(517)

What Is The Community's Financial Condition?

Indicator	Indicator value	Indicator rating			from line
		Weak	Average	Strong	
1. Annual rate of change in population	-1.7%	Below -1% <u>X</u>	-1% to 1%	Above 1%	(602)
2. Current surplus as a % of total current expenditures	13.5%	Below 0%	0% to 5%	Above 5% <u>X</u>	(610)
3. Real property tax collection rate	84.5%	Below 96% <u>X</u>	96% to 98%	Above 98%	(611)
4. Property tax revenues as a % of full market value of real property	1/2 %	Above 4%	2% to 4%	Below 2% <u>X</u>	(615)
5. Overall net debt as a % of full market value of real property	4.2%	Above 5%	3% to 5% <u>X</u>	Below 3%	(616)
6. Overall net debt outstanding as a % of personal income	9.8%	Above 12%	4% to 12% <u>X</u>	Below 4%	(619)
7. Direct net debt per capita	\$188	Above \$750	\$250 to \$750	Below \$250 <u>X</u>	(620)
8. Overall net debt per capita	\$969	Above \$1,000	\$450 to \$1,000 <u>X</u>	Below \$450	(621)
9. % direct net debt outstanding due within next 5 years	58 %	Below 10%	10% to 30%	Above 30% <u>X</u>	(622)
10. Operating ratio	175 %	Below 100%	100% to 120%	Above 120% <u>X</u>	(630)
11. Coverage ratio	104 %	Below 120% <u>X</u>	120% to 170%	Above 170%	(631)

FINANCIAL CAPABILITY

COST OF FACILITIES AT TODAY'S PRICES

I.A. Estimated Construction Costs

I.B. Estimated Annual O,M,& R Costs for the Proposed Facilities

	line	Amount (\$)		line	Amount (\$)
-Wastewtr trtment plant	(201)	\$6,187,300	-Labor	(209)	\$575,000
-Pump station	(202)	\$567,000	-Utilities	(210)	\$150,000
-Interceptor sewers	(203)	\$0	-Materials	(211)	\$210,000
-Collection sewers	(204)	\$1,779,500	-Outside services	(212)	\$40,000
-On-site systems	(205)	\$0	-Misc. expenses	(213)	\$30,000
-Land acquisition	(206)	\$336,400	-Equipment replacement	(214)	\$150,000
-Other	(207)	\$535,000			
			-Total O,M,& R costs	(215)	\$1,155,000
-Total constr. costs	(208)	\$9,405,200			

HOW WILL THE FACILITIES BE FINANCED?

Grantee Share of Construction Costs

System component	line	Construction cost (\$)	EPA share (\$)	State share (\$)	Other grants (\$)	Grantee share (\$)
Treatment plant	(201)	\$6,187,300	\$3,337,815			\$2,849,485
Pump stations	(202)	\$567,000	\$311,850			\$255,150
Interceptor sewers	(203)	\$0	\$0			\$0
Collection sewers	(204)	\$1,779,500	\$491,150			\$1,288,350
On-site systems	(205)	\$0	\$0			\$0
Land acquisition	(206)	\$336,400	\$36,751			\$299,649
Other	(207)	\$535,000	\$294,250			\$240,750
TOTAL	(208)	\$9,405,200	\$4,471,816	\$0	\$0	\$4,933,384

II.A. Amount to be Borrowed

II.B. Methods of Financing the Amount to be Borrowed

line	Amount (\$)	Financing method	Amount borrowed	Interest rate	Term of maturity (yrs)	Annual debt service payment	line
-Grantee share of construction costs	(309) \$4,933,384	General obligation bond	\$5,448,384	9.25	20.00	\$607,521	(322)
-Constr.-related costs	(315) \$515,000					\$0	(323)
-Grantee contributions	(320) \$0					\$0	(324)
-Amount to be borrowed	(321) \$5,448,384						
		Revenue bond				\$0	(323)
		Loan				\$0	(324)
TOTAL			\$5,448,384	XXXXXXXXXXXXXXXXXXXX		\$607,521	(325)

II.C. Total Estimated Annual Wastewater Facilities Costs

II.D. Sources of Funding for Total Annual Wastewater Facilities

line	Amount (\$)	line	Amount (\$)
-Existing O,M,&R	(326) \$860,000	-Sewer service charges	(333) \$990,000
-Discontinued O,M,& R	(327) \$860,000	-Surcharge	(334) \$0
-Net existing O,M,& R	(328) \$0	-Special assessments and fees	
-Existing annual debt service	(329) \$209,000	-connection fees	(335) \$1,000
-O,M,& R for proposed facilities	(330) \$1,155,000	-betterment assessments	(336) \$0
-Debt service for proposed facilities	(331) \$607,521	-other	(337) \$2,500
		-Transfer from other funds	(338) \$60,000
		-Other	(339) \$135,000
		-Total funding	(340) *****
-Total est. annual wastewater facilities costs	(332) \$1,971,521		

ANNUAL COSTS PER HOUSEHOLD

	line	Amount (\$)
-Total est. annual waste-		
water facilities charges	(400)	\$1,971,521
-Nonresidential share of		
total annual charges	(401)	\$828,039
-Residential share of		
total annual charges	(402)	\$1,143,482
-Number of households (EHU)	(403)	4343
-Annual costs per household		
-wastewater collection		
and treatment	(404)	\$263.29
-other	(405)	\$0
-Total annual costs per		
household	(406)	\$263.29
-Median household income	(407)	\$14,513
-Average Design Flows		
-Existing		2.66 (MGD)
-Proposed		7.50 (MGD)

 SENSITIVITY ANALYSIS

Financial Factor	Existing	Proposed	Changes To Proposed Case					
			1	2	3	4	5	
Amount Borrowed	N/A	\$5,448,384	\$9,920,200	\$5,448,384				
Interest Rate (%)	N/A	9.25	8.00	8.00				
Lth of Maturity (yrs)	N/A	20.00	20.00	20.00				
O,M,& R	\$860,000	\$1,155,000	\$1,155,000	\$1,155,000				
# of Households (EHU)	4343	4343	4343	4343				
Med Household Income	\$14,513	\$14,513	\$14,513	\$14,513				
Residential Share	58.0	58.0	58.0	58.0				
Other								

FINANCIAL IMPACTS

Financial Factor	Scenarios	Annual	Monthly	Annual Cost	Annual Cost	
		\$/HSLD	\$/HSLD	As % MHI	/1000 Gal.	
Amount Borrowed	Existing	\$0	\$142.76	\$11.90	0.98	\$401.88
	Proposed	\$5,448,384	\$263.29	\$21.94	1.81	\$262.87
	1	\$9,920,200	\$329.88	\$27.49	2.27	\$329.35
	2	\$5,448,384	\$263.29	\$21.94	1.81	\$262.87
	3	\$0	\$182.16	\$15.18	1.26	\$181.87
	4	\$0	\$182.16	\$15.18	1.26	\$181.87
Interest Rate	Existing	0.00	\$142.76	\$11.90	0.98	\$401.88
	Proposed	9.25	\$263.29	\$21.94	1.81	\$262.87
	1	8.00	\$256.27	\$21.36	1.77	\$255.86
	2	8.00	\$256.27	\$21.36	1.77	\$255.86
	3	0.00	\$182.16	\$15.18	1.26	\$181.87
	4	0.00	\$182.16	\$15.18	1.26	\$181.87

O, M, & R

Existing	\$860,000	\$142.76	\$11.90	0.98	\$401.88
Proposed	\$1,155,000	\$263.29	\$21.94	1.81	\$262.87
1	\$1,155,000	\$263.29	\$21.94	1.81	\$262.87
2	\$1,155,000	\$263.29	\$21.94	1.81	\$262.87
3	\$0	\$109.04	\$9.09	0.75	\$108.87
4	\$0	\$109.04	\$9.09	0.75	\$108.87
5	\$0	\$109.04	\$9.09	0.75	\$108.87

of Households

Existing	4343	\$142.76	\$11.90	0.98	\$401.88
Proposed	4343	\$263.29	\$21.94	1.81	\$262.87
1	4343	\$263.29	\$21.94	1.81	\$262.87
2	4343	\$263.29	\$21.94	1.81	\$262.87
3	0	\$0.00	\$0.00	0.00	\$262.87
4	0	\$0.00	\$0.00	0.00	\$262.87
5	0	\$0.00	\$0.00	0.00	\$262.87

Med Household Inc

Existing	\$14,513	\$142.76	\$11.90	0.98	\$401.88
Proposed	\$14,513	\$263.29	\$21.94	1.81	\$262.87
1	\$14,513	\$263.29	\$21.94	1.81	\$262.87
2	\$14,513	\$263.29	\$21.94	1.81	\$262.87
3	\$0	\$263.29	\$21.94	0.00	\$262.87
4	\$0	\$263.29	\$21.94	0.00	\$262.87
5	\$0	\$263.29	\$21.94	0.00	\$262.87

Residential Share

Existing	58.0	\$142.76	\$11.90	0.98	\$401.88
Proposed	58.0	\$263.29	\$21.94	1.81	\$262.87
1	58.0	\$263.29	\$21.94	1.81	\$262.87
2	58.0	\$263.29	\$21.94	1.81	\$262.87
3	0.0	\$0.00	\$0.00	0.00	\$262.87
4	0.0	\$0.00	\$0.00	0.00	\$262.87
5	0.0	\$0.00	\$0.00	0.00	\$262.87

Lth of Maturity

Existing	0.0	\$142.76	\$11.90	0.98	\$401.88
Proposed	20.0	\$263.29	\$21.94	1.81	\$262.87
1	20.0	\$263.29	\$21.94	1.81	\$262.87
2	20.0	\$263.29	\$21.94	1.81	\$262.87
3	0.0	\$182.16	\$15.18	1.26	\$181.87
4	0.0	\$182.16	\$15.18	1.26	\$181.87
5	0.0	\$182.16	\$15.18	1.26	\$181.87

Other Payments

Existing	\$0	\$142.76	\$11.90	0.98	\$401.88
Proposed	\$0	\$263.29	\$21.94	1.81	\$262.87
1	\$0	\$263.29	\$21.94	1.81	\$262.87
2	\$0	\$263.29	\$21.94	1.81	\$262.87
3	\$0	\$263.29	\$21.94	1.81	\$262.87
4	\$0	\$263.29	\$21.94	1.81	\$262.87
5	\$0	\$263.29	\$21.94	1.81	\$262.87

WORKSHEET

ESTIMATED ANNUAL COSTS

Financial Factor	Scenarios	Debt	Existing	Proposed	O,M,&R	Other	Total	Annual
		Service	Debt Service	Debt Service			Annual	Residential
		Factor	Payments	Payments			Cost	Share
<u>Amount Borrowed</u>								
	Existing	---	\$209,000	---	\$860,000	\$0	*****	\$620,020
	Proposed	0.111505	\$209,000	\$607,521	\$1,155,000	\$0	*****	
	1	0.111505	\$209,000	\$1,106,151	\$1,155,000	\$0	*****	
	2	0.111505	\$209,000	\$607,521	\$1,155,000	\$0	*****	
	3	0.111505	\$209,000	\$0	\$1,155,000	\$0	*****	\$791,120
	4	0.111505	\$209,000	\$0	\$1,155,000	\$0	*****	\$791,120
	5	0.111505	\$209,000	\$0	\$1,155,000	\$0	*****	\$791,120
<u>Interest Rate</u>								
	Existing	---	\$209,000	---	\$860,000	\$0	*****	\$620,020
	Proposed	0.111505	\$209,000	\$607,521	\$1,155,000	\$0	*****	
	1	0.101852	\$209,000	\$554,930	\$1,155,000	\$0	*****	
	2	0.101852	\$209,000	\$554,930	\$1,155,000	\$0	*****	
	3	0.000000	\$209,000	\$0	\$1,155,000	\$0	*****	\$791,120
	4	0.000000	\$209,000	\$0	\$1,155,000	\$0	*****	\$791,120
	5	0.000000	\$209,000	\$0	\$1,155,000	\$0	*****	\$791,120

Existing	---	\$209,000	---	\$860,000	\$0 *****\$620,020
Proposed	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
1	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
2	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
3	0.111505	\$209,000	\$607,521	\$0	\$0 \$816,521 \$473,582
4	0.111505	\$209,000	\$607,521	\$0	\$0 \$816,521 \$473,582
5	0.111505	\$209,000	\$607,521	\$0	\$0 \$816,521 \$473,582

of Households

Existing	---	\$209,000	---	\$860,000	\$0 *****\$620,020
Proposed	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
1	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
2	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
3	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
4	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
5	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****

Med Household Inc

Existing	---	\$209,000	---	\$860,000	\$0 *****\$620,020
Proposed	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
1	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
2	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
3	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
4	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
5	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****

Residential Share

Existing	---	\$209,000	---	\$860,000	\$0 *****\$620,020
Proposed	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
1	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
2	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
3	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 ***** \$0
4	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 ***** \$0
5	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 ***** \$0

Lth of Maturity

Existing	---	\$209,000	---	\$860,000	\$0 *****\$620,020
Proposed	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
1	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
2	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
3	0.000000	\$209,000	\$0	\$1,155,000	\$0 *****\$791,120
4	0.000000	\$209,000	\$0	\$1,155,000	\$0 *****\$791,120
5	0.000000	\$209,000	\$0	\$1,155,000	\$0 *****\$791,120

Other Payments

Existing	---	\$209,000	---	\$860,000	\$0 *****\$620,020
Proposed	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
1	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
2	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
3	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
4	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****
5	0.111505	\$209,000	\$607,521	\$1,155,000	\$0 *****

NATIONAL MUNICIPAL POLICY

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

STATEMENT OF POLICY

When the Clean Water Act (CWA) was passed in 1972, Congress gave municipalities until 1977 to comply with its requirements. Congress authorized Environmental Protection Agency (EPA) to extend the deadline to 1983 and then again to July 1, 1988, for some municipalities. In addition, Congress amended the Act in 1981 to modify the basic treatment requirements. Therefore, Congress has authorized EPA to give some municipalities several additional years to achieve compliance and has also provided more reasonable treatment requirements for certain types of facilities.

The CWA requires all publicly owned treatment works (POTWs) to meet the statutory compliance deadlines and to achieve the water quality objectives of the Act, whether or not they receive Federal funds. The EPA will focus on POTWs that previously received Federal funding assistance and are not currently in compliance with their applicable effluent limits, on all other major POTWs, and on minor POTWs that are contributing significantly to an impairment of water quality. EPA's goal will be to obtain compliance by POTWs as soon as possible, and no later than July 1, 1988. Where there are extraordinary circumstances that preclude compliance of such facilities by July 1, 1988, EPA will work with States and the affected municipal authorities to ensure that these POTWs are on enforceable schedules for achieving compliance as soon as possible thereafter, and are doing all they can in the meantime to abate pollution to the Nation's waters.

IMPLEMENTATION STRATEGY

The Agency is committed to pursuing a clear course of action that fulfills the intent of Congress and results in the maximum improvement in water quality. The Agency is also committed to protecting the public's financial investment in wastewater treatment facilities. To meet these objectives, the Agency expects EPA Regions and States to adhere to the National policy stated above and to use the following mechanisms to carry out the intent of this policy.

EPA Regions will cooperate with their respective States to develop strategies that describe how they plan to bring noncomplying facilities into compliance. These strategies should include a complete inventory of all noncomplying facilities, should identify the affected municipalities consistent with the National policy, and should describe a plan to bring these POTWs into compliance as soon as possible. Regions and States will then use the annual State program grant negotiation process to reach agreement on the specific activities they will undertake to carry out the plan.

Based on the information in the final strategies, the permitting authority (Region or approved NPDES State) will require affected municipal authorities to develop one of the following as necessary:

Composite Correction Plan: An affected municipality that has a constructed POTW that is not in compliance with its NPDES permit effluent limits will be required to develop a Composite Correction Plan (CCP). The CCP should describe the cause(s) of noncompliance, should outline the corrective actions necessary to achieve compliance, and should provide a schedule for completing the required work and for achieving compliance.

Municipal Compliance Plan: An affected municipality that needs to construct a wastewater treatment facility in order to achieve compliance will be required to develop a Municipal Compliance Plan (MCP). The MCP should describe the necessary treatment technology and estimated cost, should outline the proposed sources and methods of financing the proposed facility (both construction and O&M), and should provide a schedule for achieving compliance as soon as possible.

The permitting authority will use the information in these plans and will work with the affected municipality to develop a reasonable schedule for achieving compliance. In any case where the affected municipal authority is unable to achieve compliance promptly, the permitting authority will, in addition to setting a schedule for achieving full compliance ensure that the POTW undertakes appropriate interim steps that lead to full compliance as soon as possible. Where there are extraordinary circumstances that make it impossible for an affected municipal authority to meet a July 1, 1988 compliance date, the permitting authority will work with the affected municipality to establish a fixed-date schedule to achieve compliance in the shortest, reasonable period of time thereafter, including interim abatement measures as appropriate. The general goal is to establish enforceable compliance schedules for all affected municipalities by the end of FY 1985. Once schedules for affected municipalities are in place, the permitting authority will monitor progress towards compliance and will take follow-up action as appropriate. Nothing in this policy is intended to impede or delay any ongoing or future enforcement actions.

OVERVIEW

EPA Headquarters will overview the implementation of this policy to ensure that actions taken by Regions and States are consistent with National policy and that the Agency as a whole is making progress towards meeting the statutory deadlines and achieving the water quality objectives of the Act.

Date


William D. Ruckelshaus



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 24 1985

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Implementation of the National Municipal Policy

FROM: Henry L. Longest, II *Henry L. Longest II*
Acting Assistant Administrator
for Water

Courtney M. Price *Courtney M. Price*
Assistant Administrator for Enforcement
and Compliance Monitoring

TO: Regional Administrators
Regions I - X

The purpose of this memorandum is to reaffirm the Environmental Protection Agency's (EPA) commitment to implementing the National Municipal Policy and focus your attention on specific actions EPA must pursue in order to obtain compliance by the July 1, 1988, statutory deadline. All noncomplying facilities must achieve compliance as soon as possible, regardless of the availability of Federal grant assistance. Publicly-owned treatment works (POTW) that demonstrate their inability to meet requirements by the compliance deadline due to extraordinary circumstances may obtain reasonable schedules with final dates after July 1, 1988, with the presumption that all such schedules must be established through judicial orders.

On April 12, 1985, then Assistant Administrator for Water, Jack Ravan, issued a memorandum clarifying certain enforcement positions we are taking concerning the National Municipal Policy (the Policy) and urging that we strive to meet the interim goal of establishing enforceable schedules for all noncomplying POTWs by September 30, 1985. Since that time, we have reviewed the second and third quarter Strategic Planning and Management System/Office of Water Evaluation Guide (SPMS/OWEG) results, discussed our implementation progress at the Office of Water Enforcement and Permits (OWEP) National Branch Chief's meeting on May 2, 1985, and reviewed the findings of the Office of Management Systems Evaluation (OMSE) study on how the Regions and States are carrying out the Policy. You will recall that, at the recent Regional Administrators

meeting, the Policy was one of the key items on the agenda. During this session, these matters were reviewed along with the status of the Policy. Lee Thomas also emphasized the role of enforcement in carrying out the Policy and the need for Regional leadership to assure equitable and consistent enforcement toward municipalities. Highlights of these activities are discussed below, including a POTW enforcement initiative scheduled for late FY 1985/early FY86. In addition, we have provided direction on five current enforcement issues related to the Policy in an attachment.

Status of Enforceable Schedules

As stated previously, one of the goals of the Policy is to have all noncomplying POTWs on final, enforceable schedules by the end of FY 1985. Despite good efforts by some EPA Regions, the combined efforts of Regions and States have addressed less than half the national workload for major POTWs as of the end of the third fiscal quarter. We will need a tremendous fourth quarter effort in order to meet our SPMS commitments, let alone the interim Policy goal for all noncomplying POTWs.

Obtaining Management Information

Additionally, we are concerned about the OMSE study finding that EPA Regions and States may not have all the necessary information to carry out their oversight and enforcement roles. Such information needs should have been a significant component of original State municipal strategies and deficiencies should have since been addressed in State/EPA agreements. OWEF is presently working with EPA Regions and States to automate fully the tracking of municipal data in the Permit Compliance System (PCS). Unfortunately, this cannot be accomplished until late FY 1985 or early FY 1986. In the interim, Regions and States must establish information sharing procedures so that administrative activities proceed smoothly. Regional Water Enforcement staff must also coordinate with Construction Grants staff to make better use of the available information on grant and funding status. Toward this end, OWEF and the Office of Municipal Pollution Control (OMPC) have initiated an effort to integrate PCS, NEEDS, and GICS files so that users can review pertinent compliance schedule, treatment, and construction grants information on POTWs by using the appropriate NPDES permit numbers.

Enforcement Initiative

In order to underscore EPA's resolve to enforce the July 1988 statutory deadline and the other National Municipal Policy requirements, EPA Headquarters, working with the Department of Justice, is developing a municipal enforcement initiative to supplement previous municipal referrals. The initiative will focus on major POTWs that need

construction to comply with FELs. Regions should closely examine all POTWs that are possible candidates for this initiative; the more varied they are in terms of location and size, the more likely the initiative will achieve its desired impact. Each Region will be expected to prepare its best case(s) for referral early in FY86 so as to send a truly national message to the POTW community. Our offices are already in touch with Regional staff to identify appropriate candidates. In the near future, we will send you further information about this initiative by separate memorandum.

It is clear that Regions and States must act now in concert to address the backlog of uncompleted schedules and to establish an effective working relationship that will allow them to gain the momentum necessary to achieve full compliance by 1988. We believe this will take your personal support and involvement, as well as that of your program and legal staff, in order to maintain EPA's resolve that the Policy be carried out with equal determination by all partners in the NPDES program. We ask that you lend additional emphasis to this Policy and see that EPA/ State activities are coordinated in a way that assures the integrity of the Policy.

We have also asked the technical and legal staffs in our offices to work closely with you and your staff to resolve any matters of concern. Should you need assistance, please contact William Jordan, Director, Enforcement Division, OWEP at (FTS) 475-8304, or Glenn Unterberger, Associate Enforcement Counsel for Water, OECM, at (FTS) 475-8180.

Attachment

ATTACHMENT

Enforcement Issues†

- Issue: Necessary EPA action where final, enforceable schedules are not in place by September 30, 1985.
- Action: OWEF will prepare a summary report of the POTWs in this category for the Administrator. EPA Regions should work with their States now to develop individual action plans for each POTW, beginning with those that need long-term construction schedules. Where States do not take action to require schedules or to establish enforceable schedules, the Region should take independent actions to do so. FY86 SPMS commitments should reflect the most expeditious timetable for completing enforceable schedules for the remaining majors and a substantial percentage of the minors.
- Issue: EPA's position concerning POTWs eligible for grants in FYs 1986, 1987, or beyond.
- Action: In all cases, Regions and States are to continue to require POTWs to comply with orders to establish schedules and meet statutory requirements by July 1, 1988, regardless of future eligibility for Federal grant assistance. POTWs must begin the work now to achieve compliance.
- Issue: EPA's response where States extend the 1988 compliance deadline in a manner inconsistent with the "extraordinary circumstances" provisions of the National Municipal Policy (and its associated Regional and State guidance), or extend the deadline by using nonjudicial actions.
- Action: Approved States must obtain judicial orders to establish enforceable schedules beyond the 1988 deadline to be in conformance with the Policy. If not, they must defer to EPA enforcement. All extensions beyond the statutory deadline should receive judicial review, be sanctioned by a Federal or State court, and be based on a demonstration of physical or financial impossibility. If a State does not wish to use court actions, or subscribe to the physical or financial impossibility requirement for extensions, or will not accept the Agency's premise that all extensions must be sanctioned by a court, Regions should: 1) issue an Administrative Order (AO) that specifies a compliance date no later than July 1, 1988 (where compliance by the statutory deadline is possible), or 2) prepare referrals of these POTWs to the Department of Justice, starting with the most serious cases. Regions and States are to confer on all schedules that are expected to go beyond July 1, 1988, to assure consistency with the National Policy and the accompanying Regional and State guidance.

† Detailed discussion papers have been prepared on each issue and will be provided to your staff in the near future.

Issue: Treatment of §301(h) applicants within the Policy.

Action: In all cases where a §301(h) waiver is denied, the POTW should be placed on an enforceable schedule to achieve compliance as soon as possible, but not later than July 1, 1988. In cases where the POTW demonstrates it cannot achieve compliance by the statutory deadline, the schedule should be incorporated in a judicial order. If a final decision on the waiver application has not yet been made, the Region should continue to monitor the permittee for compliance with applicable requirements and act on those items which the POTW will have to do regardless of the decision on the application.

Issue: Treatment of wet-weather bypasses within the Policy.

Action: Wet weather bypasses are not a priority category within the Policy. The Policy does apply to dry weather bypasses and the Region should use appropriate enforcement action to eliminate such activities and assure compliance.

Issue: Up-front penalties for violations of the July 1988 compliance deadline.

Action: As a matter of policy, EPA will seek up-front penalties for violations of the July 1, 1988, deadline. These penalties should consider the economic benefit to the municipality from noncompliance and the fact that EPA could not obtain acceptable action by the municipality short of litigation. In addition, these penalties should result from the exercise of sound, case-by-case judgment which reflects past violations and mitigating circumstances such as good faith efforts to comply, other regulatory issues affecting the certainty of final limits (revised water quality standards, wasteload allocations, pending §301(h) decisions, or §208 studies), and the ability to pay.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NS. 5/6

✓ cc: C. CARROLL
WOO

~~SUK...~~
OFFICE OF WATER *Green*

RECEIVED
EPA - REGION 10

AUG 1 1985

WATER DIVISION

JUL 26 1985

MEMORANDUM

SUBJECT: Relationship Between National Municipal Policy
and Construction Grants Extending Beyond FY 1988
FROM: *Rebecca W. Hanmer*
Rebecca W. Hanmer, Director
Office of Water Enforcement and Permits
TO: Water Management Division Directors
Regions I - X

There has recently been some confusion about EPA's policy with respect to award of grant funds for construction of facilities that will not be completed until after the July 1, 1988 statutory deadline. This has prompted me to reinforce with you the importance of maintaining close coordination between the staffs assigned to implementation of the National Municipal Policy (NMP) and those working with Construction Grants for municipalities that are affected by the policy. Misinformation and poor coordination can seriously undermine our efforts to implement the NMP.

On the policy issue, we recently responded to a Congressional inquiry on behalf of a State official whose staff was verbally advised that no more Federal grants for sewage treatment construction projects would be made where construction would be completed past July 1, 1988. Furthermore, he believed that EPA was about to transmit this policy to the States in written form. Exactly the same issue was raised during the House of Representatives floor debate on the Clean Water Act earlier this week. I have enclosed a copy of the transcript of the colloquy between Congressman Young (Missouri) and Congressman Roe (New Jersey) so that you will better understand the nature of the concern.

Our enclosed response to Congressman Jones sets forth what has always been our position on this issue: neither the NMP nor EPA policy with respect to funding construction of wastewater treatment facilities prohibits EPA or delegated

-2-

States from awarding grants to municipalities that may not be able to complete construction by the statutory deadline. In fact, we have been doing it for years with respect to funding POTWs that missed the 1977 statutory deadline for compliance.

I urge you to distribute copies of this letter and the House debate to all members of your grants and enforcement staffs. Where there seem to be problems, I would also ask that you make every effort to set the record straight with your States as well. If we hear of similar problems in any other Regions, I have asked Jim Elder to get in touch with you personally.

Attachments



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
WATER

JUL 22 1985

Honorable Ed Jones
House of Representatives
Washington, D.C. 20515

Dear Mr. Jones:

Thank you for your letter of June 25, 1985, requesting our comments on a letter from James E. Word, Commissioner of the Tennessee Department of Health and Environment. Commissioner Word is concerned that no more Federal grants for sewage construction projects would be made for publicly-owned treatment works (POTW's) not in compliance with the Clean Water Act (the Act) effluent limitations by July 1, 1988.

The key to understanding the issue that Commissioner Word has raised is to distinguish between our enforcement policy and our policy for awarding grants to municipalities for construction of wastewater treatment facilities. Our enforcement policy is set forth in the National Municipal Policy (NMP), which was published in the Federal Register on January 30, 1984, and says that: "The Clean Water Act requires all publicly-owned treatment works to meet the statutory deadlines and to achieve the water quality objectives of the Act, whether or not they receive Federal funds." The policy also provides for flexibility in dealing with communities that face extraordinary hardships in meeting the statutory deadline for reasons of financial or physical incapability.

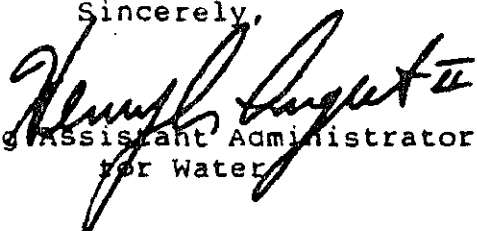
EPA grant policy with respect to funding construction of wastewater treatment facilities does not prohibit EPA (or a delegated State such as Tennessee) from awarding grants to municipalities that may not be able to complete construction by a statutory deadline. In fact, many municipalities that are now being addressed under the NMP were supposed to be in compliance with the earlier statutory deadline (1977), and we have continued to provide grant funds to these facilities.

Clearly, some of the facilities that are of concern to Commissioner Word may be eligible for extensions based on the finding of physical impossibility. These decisions have to be made on a case-by-case basis, however. In guidance we issued to the EPA Regions to help promote consistent nationwide implementa-

tion of the NMP, we advised that the Region or State should work with any community that is seeking an extension based on a finding of either financial or physical impossibility. Where such a finding can be supported by the facts, we expect the Region/State to reach agreement on a compliance schedule that results in compliance as soon as possible after the July 1, 1988, deadline, and to incorporate this schedule into a consent decree that is sanctioned by a State or Federal court.

If I or my staff can provide further information or assistance on this issue or any other, please contact me.

Sincerely,


Acting Assistant Administrator
for Water

Permit Number:
 Expiration Date: 1/31/90
 File Number: 19802
 Page 1 of 4 Pages

DRAFT

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

WASTE DISCHARGE PERMIT

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

Issued pursuant to ORS 468.740 and The Federal Clean Water Act

ISSUED TO:

City of Coos Bay
 500 Central Avenue
 Coos Bay, OR 97420

SOURCES COVERED BY THIS PERMIT:

<u>Type of Waste</u>	<u>Outfall Number</u>	<u>Outfall Location</u>
Treated Domestic Sewage	001	13.2
Pump station #1	002	13.9
1st & Golden Raw Sewage Bypass	003	15.7

PLANT TYPE AND LOCATION:

Coos Bay #1
 Activated Sludge

RECEIVING SYSTEM INFORMATION:

Major Basin: South Coast
 Minor Basin: Coos Bay
 Receiving Stream: Coos Bay
 County: Coos
 Applicable Standards: OAR 340-41-325

EPA REFERENCE NO: OR 102357

Issued in response to Application No. 999994 received October 8, 1984.

This permit is issued based on the land use findings in the permit record.

 Fred Hansen, Director

 Date

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify, or operate a waste water collection, treatment, control and disposal system and discharge to public waters adequately treated waste waters only from the authorized discharge point or points established in Schedule A and only in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

	<u>Page</u>
Schedule A - Waste Disposal Limitations not to be Exceeded...	2
Schedule B - Minimum Monitoring and Reporting Requirements...	3
Schedule C - Compliance Conditions and Schedules.....	-
Schedule D - Special Conditions.....	4
General Conditions.....	Attached

Each other direct and indirect discharge to public waters is prohibited.

This permit does not relieve the permittee from responsibility for compliance with any other applicable federal, state, or local law, rule, standard, ordinance, order, judgment, or decree.

SCHEDULE A

1. Waste Discharge Limitations not to be Exceeded After Permit Issuance.

Outfall Number 001

<u>Parameter</u>	<u>Average Effluent Concentrations</u>		<u>Monthly Average lb/day</u>	<u>Weekly Average lb/day</u>	<u>Daily Maximum lbs</u>
	<u>Monthly</u>	<u>Weekly</u>			

May 1 - October 31:

BOD	20 mg/l	30 mg/l	444	666	888
TSS	20 mg/l	30 mg/l	444	666	888
FC per 100 ml	200	400			

November 1 - April 30:

BOD	30 mg/l	45 mg/l	665	998	1330
TSS	30 mg/l	45 mg/l	665	998	1330
FC per 100 ml	200	400			

Other Parameters (year-round)

Limitations

pH Shall be within the range 6.0-9.0

Average dry weather flow to the treatment facility 2.66 MGD

Outfall Number 002 and 003 No discharge is permitted.

2. Notwithstanding the effluent limitations established by this permit, no wastes shall be discharged and no activities shall be conducted which will violate Water Quality Standards as adopted in OAR 340-41-325 except in the following defined mixing zone:

The allowable mixing zone shall not extend beyond a radius of 100 feet from the point of discharge.

SCHEDULE B

Minimum Monitoring and Reporting Requirements
 (unless otherwise approved in writing by the Department)

Outfall Number 001 (sewage treatment plant outfall)

<u>Item or Parameter</u>	<u>Minimum Frequency</u>	<u>Type of Sample</u>
Total Flow (MGD)	Daily	Measurement
Quantity Chlorine Used	Daily	Measurement
Effluent Chlorine Residual	Daily	Grab
BOD-5 (influent)	2 times per week	24 hr Composite
BOD-5 (effluent)	2 times per week	24 hr Composite
TSS (influent)	2 times per week	24 hr Composite
TSS (effluent)	2 times per week	24 hr Composite
pH (influent and effluent)	2 times per week	Grab
Fecal Coliform (effluent)	1 time per week	Grab
Average Percent Removed (BOD & TSS)	Monthly	Calculation
Digested Sludge Analysis for the following parameters: Cu, Cd, Cr, Pb, Zn, Ni ¹ (mg/kg dry weight)	2 times per year	Grab
Total N, No ₃ -N, NH ₃ -N, P, K		
Total solids, Volatile Solids (% dry weight)		
pH - standard units		

Outfall Number 002 and 003

Total Flow	Each occurrence	Measurement
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Monitoring reports shall include a record of the location and method of disposal of all sludge and a record of all applicable equipment breakdowns and bypassing.

Reporting Procedures

Monitoring results shall be reported on approved forms. The reporting period is the calendar month. Reports must be submitted to the Department by the 15th day of the following month.

SCHEDULE D

Special Conditions

1. Prior to discharging any wastes into the waters of the state, the permittee shall provide waste collection, treatment and disposal facilities which are adequate to meet the standards of Schedule A of this permit with a reasonable factor of safety.
2. The permittee shall manage all sludge in accordance with a sludge management plan developed pursuant to OAR 340, Division 50.
3. The permittee shall control industrial discharges into the sanitary sewer in accordance with the pretreatment program approved by the Department. An annual status report of all industries monitored shall be submitted by January 1 of each year.

P19802.W (c)

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

WATER QUALITY WASTE DISCHARGE PERMIT

Date Prepared: 6/1/86

Notice Issued:

Comments Due:

**WHO IS THE
APPLICANT:**

City of Coos Bay
500 Central Avenue
Coos Bay, Oregon 97420

**WHAT IS
PROPOSED:**

The City of Coos Bay has applied for renewal of a National Pollutant Discharge Elimination System (NPDES) permit for their Coos Bay Number 1 Wastewater Treatment Plant. This permit authorizes the City to construct, install, modify and operate a wastewater collection treatment and disposal system.

**WHAT ARE THE
HIGHLIGHTS:**

The proposed permit establishes effluent limitations prior to discharging treated effluent into Coos Bay at River Mile 13.2. The monthly average BOD and TSS are limited to 444 lbs/day between June 1 and Oct 31 and 665 lbs/day between Nov 1 and May 31. Raw sewage bypasses into the Bay are prohibited.

**SPECIAL
CONDITIONS:**

The permittee must manage all sludge in accordance with a plan developed pursuant to OAR 340, Division 50 and analyze sludge samples twice yearly. The permittee is responsible for all industrial waste discharges into the sewerage system by implementing an approved pretreatment program.

**HOW IS THE
PUBLIC AFFECTED:**

The permittee cannot achieve compliance with the terms of the permit. Thus an Environmental Quality Commission' Stipulated Compliance Agreement has been negotiated to set forth both interim limits for TSS, and a schedule for constructing improvements to achieve compliance and eliminate occurrences of raw sewage bypasses by no later than December 1, 1989. The water quality in Coos Bay will be improved as a result of completing needed sewerage facility improvement projects.



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.

HOW TO COMMENT: Written comments should be presented to DEQ by
at the following address:

Department of Environmental Quality
Water Quality Division
P. O. Box 1760
Portland, OR 97207 Telephone: 229-6099

**WHAT IS THE
NEXT STEP:**

If submitted comments indicate significant public interest in the application or objections to the tentative determination or if useful information could be produced thereby, the Director may, at his discretion, hold a public hearing on the application. Instances of doubt shall be resolved in favor of holding the hearing. Public notice regarding any hearing will be circulated at least 30 days in advance of the hearing.

After the conclusion of the public participation period, the permit will be issued as proposed, issued with modifications, or denied, depending on whether any substantive issues are raised during the public participation process.

WC708

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY,)	
OF THE STATE OF OREGON,)	
)	
Department,)	
)	STIPULATION AND FINAL ORDER
v.)	No. WQ-SWR-86-83
)	COOS COUNTY
)	
CITY OF COOS BAY,)	
)	
Respondent.)	

WHEREAS:

On July 29, 1980, the Department of Environmental Quality (Department) issued National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit Number 3162-J (Permit) to City of Coos Bay (Respondent) pursuant to Oregon Revised Statutes (ORS) 468.740 and the Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500. The Permit authorizes the Respondent to construct, install, modify or operate wastewater treatment control and disposal facilities and discharge adequately treated wastewaters from sewage treatment plant no. 1, located at 1435 North Sixth in Coos Bay, Oregon, into waters of the State in conformance with the requirements, limitations and conditions set forth in the Permit. The stated expiration date of the Permit is January 31, 1985. On October 8, 1984, Department received Respondent's application for renewal of the Permit. Pursuant to ORS 183.430(1), the Permit has continued in effect and will continue in effect until it is renewed or modified by the Department.

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2. Condition 1 of Schedule A of the Permit does not allow Respondent to exceed the following waste discharge limitations:

Outfall No. 001 (sewage treatment plant outfall)

Parameter	Average Effluent Concentrations		Monthly Average lb./day	Effluent Loadings		Daily Maximum lbs.
	Monthly	Weekly		Weekly Average	lb./day	
June 1 - October 31:						
BOD	20 mg/l	30 mg/l	444 lb./day	665 lb./day		888 lb.
TSS	20 mg/l	30 mg/l	444 lb./day	665 lb./day		888 lb.
FC per 100 ml	200	400				

November 1 - May 31:

BOD	30 mg/l	45 mg/l	665 lb./day	998 lb./day		1330 lb.
TSS	30 mg/l	45 mg/l	665 lb./day	998 lb./day		1330 lb.
FC per 100 ml	200	400				

Other Parameters (Year-Round)

Limitations

pH	Shall be within the range 6.0 - 9.0
Average dry weather flow to the treatment facility	2.6 MGD

Except for outfall no. 001, the Permit prohibits any other direct or indirect discharge to public waters.

3. From the date the Permit was issued through the present, Respondent has at times violated the conditions of the Permit. Department sent the following enforcement actions to Respondent:

Notice of Violation (NOV) dated September 15, 1982 for a biochemical oxygen demand (BOD) violation.

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1 NOV dated February 13, 1984 for total suspended solids (TSS) violations
2 during October, November and December, 1982 and November and December fecal
3 coliform violations and bypassing of untreated sewage.

4 NOV dated May 1, 1984 for TSS violations during January and February,
5 1984.

6 NOV and Intent to Assess Civil Penalty dated September 27, 1984 for May,
7 1984 TSS and BOD violations.

8 NOV dated March 11, 1985 for bypassing untreated sewage in October,
9 November and December, 1984 and for TSS violations in November, 1984.

10 NOV dated April 25, 1985 for January, 1985 BOD violation and March, 1985
11 BOD and TSS violations.

12 NOV dated May 1, 1986 for bypassing untreated sewage and for TSS violations
13 during the months of January, February and March, 1986.

14 4. Department and Respondent recognize that until new or modified
15 wastewater treatment facilities are constructed and put into full operation,
16 Respondent will continue at times to violate the November 1 through May 31 waste
17 discharge limitations for total suspended solids. Department and Respondent
18 also recognize that Respondent will at times continue to violate the Permit by
19 discharging untreated sewage from lift station no. 1 located at river mile 13.9
20 (hereinafter referred to as outfall no. 002) and from the 1st Street and Golden
21 Avenue lift station located at river mile 14.7 (hereinafter referred to as
22 outfall no. 003) during periods of high influent flow to the sewage treatment
23 plant which occur from November 1 through May 31.

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1 5. The Department and Respondent also recognize that the
2 Environmental Quality Commission has the power to impose a civil penalty and to
3 issue an abatement order for violations of conditions of the Permit. Therefore,
4 pursuant to ORS 183.415(5), the Department and Respondent wish to settle those
5 past violations referred to in Paragraph 3 and to limit and resolve the future
6 violations referred to in Paragraph 4 in advance by this stipulated final
7 order.

8 NOW THEREFORE, it is stipulated and agreed that:

9 A. The Environmental Quality Commission shall issue a final order:

10 (1) Requiring Respondent to comply with the following schedule:

- 11 (a) By February 1, 1987, submit to the Department a
12 facilities plan which meets the facility plan
13 requirements for obtaining a federal sewage
14 construction grant.
- 15 (b) By July 1, 1987, arrange for local funding and notify the
16 Department in writing when such has been accomplished.
- 17 (c) By August 1, 1987, submit to the Department engineering
18 plans and specifications for project segments required
19 to achieve permit compliance.
- 20 (d) By August 1, 1987, submit to the Department a complete
21 construction grant application.
- 22 (e) By October 1, 1987, begin construction of facilities.
- 23 (f) By April 1, 1988, October 1, 1988, and April 1, 1989,
24 submit progress reports to the Department.
- 25 (g) By August 1, 1989, complete construction of
26 facilities.

1 (h) By December 1, 1989, attain operational level and meet
2 all waste discharge limitations of the NPDES waste discharge
3 permit in effect at that time.

4 (2) Requiring Respondent to cease allowing new connections to the
5 sewage collection system served by sewage treatment plant no. 1
6 should Respondent fail to comply with the above schedule.

7 (3) Requiring Respondent to meet the following interim waste
8 discharge limitations until operational level is attained
9 as required by Paragraph A(1)(h) above:

10 (a) Total suspended solids during the period from November 1
11 through May 31 shall not exceed any of the following waste
12 discharge limitations: 50 milligrams per liter (mg/l)
13 monthly average effluent concentration; 70 mg/l weekly
14 average effluent concentration; 1,109 pounds per day
15 (lb./day) monthly average effluent loading; 1,552 lb./day
16 weekly average effluent loading; and 2,662 lbs. daily
17 maximum effluent loading.

18 (b) The volume of untreated sewage bypassed from outfall nos.
19 002 and 003 shall be maintained as low as practicable during
20 the period from November 1 through May 31.

21 (4) Requiring Respondent to comply with all the terms, schedules and
22 conditions of the Permit, except those modified by Paragraphs A(3)
23 (a) and (b) above, or of any other NPDES waste discharge permit
24 issued to Respondent while this stipulated final order is in
25 effect.

26 ///

1 B. Regarding the violations set forth in Paragraphs 3 and 4 above, which
2 are expressly settled herein without penalty, Respondent and Department
3 hereby waive any and all of their rights to any and all notices,
4 hearings, judicial review, and to service of a copy of the final order
5 herein. Department reserves the right to enforce this order through
6 appropriate administrative and judicial proceedings.

7 C. Regarding the schedule set forth in Paragraph A(1) above, Respondent
8 acknowledges that Respondent is responsible for complying with that
9 schedule regardless of the availability of any federal or state grant
10 monies.

11 D. Respondent acknowledges that it has actual notice of the contents
12 and requirements of this stipulated and final order and that
13 failure to fulfill any of the requirements hereof would constitute
14 a violation of this stipulated final order and make Respondent
15 liable for civil penalties of from \$100 to \$10,000 for each day of
16 violation. Therefore, should Respondent commit any violation of
17 this stipulated order, Respondent hereby waives any rights it might
18 have to an ORS 468.125(1) advance notice prior to the assessment of

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1 civil penalties. However, Respondent does not waive its rights to
2 an ORS 468.135(1) notice of assessment of civil penalty.

3
4 DEPARTMENT OF ENVIRONMENTAL QUALITY

5
6 By _____
Date _____ Fred Hansen
Director

7
8 RESPONDENT

9
10 By _____
Date _____ (Name _____)
(Title _____)

11
12 FINAL ORDER

13 IT IS SO ORDERED:

14 ENVIRONMENTAL QUALITY COMMISSION

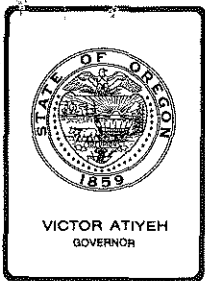
15
16 Date _____ James E. Petersen, Chairman

17
18 Date _____ Mary V. Bishop, Member

19
20 Date _____ Wallace B. Brill, Member

21
22 Date _____ Arno H. Denecke, Member

23
24 Date _____ A. Sonia Buist, M.D., Member



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 J, July 25, 1986, EQC Meeting

Request For An Exception To OAR 340-41-026(2) (An EQC Policy Requiring Growth and Development Be Accommodated Within Existing Permitted Loads) By The City of Gresham, Oregon.

Background and Problem Statement

The City of Gresham is requesting that the Environmental Quality Commission grant an exception to a water quality management plan policy, OAR 340-41-026(2). This policy states that, "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 future discharge loads from existing sources do not exceed presently allowed discharged loads unless otherwise specifically approved by the EQC."

This policy recognizes that the assimilative capacity of rivers is limited and maintenance of water quality, while accommodating growth will require more stringent controls. However, it is only one of several which apply to sewage treatment facilities which discharge treated effluent to surface waters. In determining the allowable discharge standards for new and expanded sewage treatment facilities, the Water Quality Management Plan, OAR 340, Division 41 presents other policies and requirements that together with OAR 340-41-026(2) must be reconciled. These include:

1. New or modified facilities must be designed to meet the applicable minimum River Basin treatment criteria. In the Willamette River Basin where discharges to the Columbia river occur or are proposed, a minimum effluent quality of 20 mg/l BOD and 20 mg/l Suspended Solids (SS) or Equivalent Control during the summer low stream flow and secondary treatment criteria during the winter high stream flow period applies. Equivalent control can be achieved by no discharge alternatives or a combination of no discharge and discharge such that the equivalent of at least 20 mg/l BOD and (SS) effluent quality is achieved during the low flow period.

2. All facilities must be designed to meet the dilution ratio:

$$\frac{\text{stream flow}}{\text{effluent flow}} > \text{effluent BOD in mg/l.}$$

The purpose of this requirement is to assure that organic loads do not cause nuisance conditions or impair beneficial uses. This is a "Rule of Thumb" type standard that needs to be verified by field evaluation to assure beneficial use protection.

3. The basic and perhaps the bottom line requirement which states that no wastes be discharged which will impair beneficial uses or violate of the water quality standards for the basin.

Gresham currently operates a wastewater treatment facility providing service to a population equivalent of 54,000. The current approved dry weather capacity upon which effluent limits are based is 10 mgd. The National Pollutant Discharge Elimination System (NPDES) Permit Number 3539-J issued in 1982 to the City calls for the following monthly average effluent limitations prior to discharge of treated sewage effluent to the Columbia River at River Mile 117.5:

	June 1 - Oct 31		Nov 1 - May 31	
	<u>Concentration</u> mg/l	<u>Mass Loading</u> lbs/day	<u>Concentration</u> mg/l	<u>Mass Loading</u> lbs/day
Biochemical Oxygen Demand - 5 day (BOD ₅)	20	1668	30/30	2502
Total Suspended Solids (TSS)	20	1668	30/30	2502
Fecal Coliform	200 cells/100 ml		200 cells/100 ml	

Gresham is proposing to construct expanded wastewater treatment facilities the fall of 1986: 1) to provide service to areas of Mid-Multnomah County currently now on cesspools and seepage pits in accordance with the "Threat to Drinking Water Order" entered by the Commission and the Mid-Multnomah Sewer Implementation Plan (1985) and 2) to accommodate a population growth of about 15,400 population equivalent to the year 1997. A permit modification will be needed to establish the permitted effluent limits for the expanded treatment plant. Also, engineering plans and specifications for the treatment design must be reviewed and approved by the Department. To establish the design requirements, issue a permit modification and approve construction, a determination by the Commission on Gresham's request is needed.

In 1985, the City of Gresham initiated a facilities plan update to meet EPA Sewerage Works Construction Grant funding requirements. In the process, the City requested the Department approve a plant expansion for a 15 mgd facility and the following monthly average effluent limitations:

	June 1 - Oct 31		Nov 1 - May 31	
	<u>Concentration</u> mg/1	<u>Mass Loading</u> lbs/day	<u>Concentration</u> mg/1	<u>Mass Loading</u> lbs/day
Biochemical Oxygen Demand - 5 day (BOD ₅)	20	2502	30	3753
Total Suspended Solids	20	2502	30	3753
Fecal Coliform	200 cells/100 ml		200 cells/100 ml	

A letter from the City making this request appears as Attachment A. The Department responded by requesting additional information be developed by the City for Department staff evaluation (Attachment B). A staff recommendation would be forwarded to the Commission for their consideration.

The request made by the City of Gresham represents a 50% increase in discharge loads of (834 lbs/day of BOD₅ and 834 lbs/day of TSS) to the Columbia River during the dry weather period (June 1 - Oct 31) and a 50% increase in discharge loads 1251 lbs/day of BOD₅ and 1251 lbs/day of TSS during the wet weather period (Nov 1 - May 31). To stay within the existing permitted discharge loads, the City of Gresham would have to provide treatment to achieve a minimum effluent quality of 13 mg/1 BOD₅ and TSS during the dry weather period and 19 mg/1 for each during the wet weather period.

The City provided the following in response to the Department's request for additional information:

- a. A flow analysis upon which the need for a 15 mgd dry weather design capacity to the year 1997 is based. This flow analysis shows how additional wastewater flows to the expanded plant are apportioned to Mid-County residents and growth, and how the proposed dry weather design capacity relates to wet weather flows.
- b. A facilities plan update describing alternative treatment methods and costs to provide 10 mg/1 BOD₅ and 10 mg/1 TSS using additional waste treatment process units. The alternatives would increase the proposed expanded facilities construction cost from between \$1.4 and 2.3 million dollars.
- c. An estimate of raw sewage waste loads currently discharged to the groundwater to be treated and discharged to the Columbia River through installation of sewers and treatment by the City of Gresham. An analysis of this information shows that the total increase due to population growth and development would be 442 lbs/day. The load that would be added to the Columbia River by the City providing service to existing population on cesspools and seepage pits is estimated at 392 lbs/day of BOD₅ and TSS.

- d. An evaluation of the requested discharge flow with respect to its ability to meet the dilution requirement at a concentration of 20 mg/l of BOD₅. This evaluation shows that a maximum wastewater flow of 45 mgd at 20 mg/l BOD₅ could meet the dilution requirement during the minimum daily recorded flow in the Columbia River at the Bonneville Dam release.
- e. A statement that instream water quality data on the Columbia River at Gresham's treatment plant outfall is not available to evaluate the water quality of the Columbia River to determine the impacts on beneficial uses.
- f. A statement of why an increase in waste discharge is warranted and strict adherence to the policy of OAR 340-41-036 is unreasonable.

Alternatives and Evaluations

Several alternatives exist for the Commission in response to the City of Gresham's request for an exception to the water quality management policy which requires that growth and development be accommodated within existing permitted loads. They are discussed and evaluated as follows:

1. Tentatively approve the requested 50% increase in permitted waste discharge loads subject to public notice on a draft NPDES permit modification on the matter in accordance with established permit issuance procedures.

The City of Gresham's existing NPDES waste discharge permit limits the concentration of BOD₅ and Total Suspended Solids to 20 mg/l, the minimum treatment criteria applicable for discharges to the Columbia River. In addition, the City has demonstrated that at the proposed increase in effluent flows the dilution requirement can be achieved, even during the recorded minimum daily low flow of 12,000 cubic feet second (cfs).

Though no water quality problems can be identified, there is limited water quality data for the Columbia River near Gresham. Water quality in the Columbia below Bonneville Dam has been monitored historically by the U. S. Geological Survey. The Columbia River at Warrendale (river mile 141) has been sampled routinely since 1974, while the Columbia River at Bradwood (river mile 39) was sampled from 1974 to 1980. The information collected from the Warrendale site, which is approximately 25 miles above the Gresham outfall, indicates generally good water quality. A review of data from the Bradwood site indicates some increase in fecal coliform bacteria and suspended solids. This may be the result of a) a number of sources which discharge to the Columbia in both Oregon and Washington, including several pulp and paper industries and b) influences of several major tributaries, such as Willamette, Cowlitz and Lewis Rivers.

To address any unanticipated potential impacts on the Columbia River, the Commission could direct the City and/or Department staff to conduct a water quality study on the effects of the permitted discharge load. If water quality problems are identified, filtration to achieve a higher quality effluent could be required by permit conditions at a later date if water quality problems are identified.

Approximately 28,600 residents which currently are served by seepage pits and cesspools would be served by sewers. As presented in Gresham's Facility Plan Update, the City of Gresham and Mid-Multnomah County residents would have to finance an additional capital outlay cost of between \$1.4 and 2.3 million if higher quality effluent must be provided. The estimated project costs to expand the treatment plant to 15 mgd to achieve 20 mg/l of BOD₅ and TSS are \$8.3 million. The alternative treatment methods presented included the addition of filtration to the expanded facilities; additional process units to convert the plant to a trickling filter/activated sludge system and land irrigation of treated effluent.

Tentative approval by the Commission to grant an increase in permitted waste loads (subject to public notice and comment and EPA review) would enable the Department to draft a permit modification with a proposed increase in loadings. The draft permit would be processed through established procedures outlined in OAR 340, Division 45. State Agencies, such as Fish and Wildlife and the State Health Division, and interested parties on the permits mailing list would be offered the opportunity to comment on the proposed permit. The City's plans to proceed with their schedule for construction might be delayed, while awaiting the issuance of the final permit.

2. Tentatively approve an increase in permitted waste loads, subject to permit modification procedures, however, limit approval of an increase to the load which would be added to the Columbia River by the City of Gresham providing service to areas of Mid-Multnomah County currently on cesspools and seepage pits.

This alternative recognizes that only a portion of the requested load increase of 834 lb/day of BOD₅ and TSS for the low flow discharge period is applicable to growth and development. The existing population of 28,600 residents that use cesspools and seepage pits will also be served by the expanded facilities.

Using the figures presented by the City, Department staff have accounted for the requested increase in BOD₅ and TSS load of 834 lbs/day for the expanded facilities, as follows:

Additional discharge load for existing
population to be served = 392 lbs/day BOD₅ & TSS

Additional discharge load for growth
and development to be served = 442 lbs/day BOD₅ & TSS

If the increase in load is limited to that which would result in providing service to areas of Mid-County currently on cesspools and seepage pits, the total permitted loads are calculated as follows:

	June 1 - Oct 31 Monthly Average Mass Loading <u>lbs/day</u>	Nov 1 - May 31 Monthly Average Mass Loading <u>lbs/day</u>
BOD ₅	2060	3090
TSS	2060	3090

These limits are calculated based on an additional 392 lbs/day to the existing permitted load limit for June 1 - Oct 31 and an additional 588 lbs/day (i.e., 1.5 x 392) to the existing permitted load limit for Nov 1 - May 31.

Effluent quality, in terms of concentration to achieve these load limit during the summer low flow are calculated to be 16 mg/l of BOD₅ and TSS. A higher level of treatment or significant reduction in wet weather flows would be needed to achieve the monthly average loading during the winter wet weather period. Department staff do not know if additional treatment process units would be needed to achieve these limits.

To confirm there are no anticipated impacts on the Columbia River as a result of allowing a portion of the requested increase in waste loads, the Commission could direct the City and/or Department staff to conduct a water quality study when the permitted load limit is reached.

3. Deny the request for an increase in permitted waste discharge loads for the expanded treatment facilities.

According to information presented by the City of Gresham, this alternative would result in City and Mid-Multnomah County residents served by the facility bearing an additional \$1.4 to \$2.3 million to finance treatment system improvements to achieve a higher quality effluent. The City of Gresham views this as an unreasonable financial burden given the total project costs to eliminate discharges to cesspools and seepage in Mid-Multnomah County. In addition, it may be an unreasonable alternative considering that the other policy requirement for expanded facilities can be achieved.

4. Request the Department to review the EQC policy requiring growth and development be accommodated within existing permitted loads and return to the EQC at a later date with possible revisions to the policy.

Clearly, the Department recognizes that universal application of OAR 340-41-026(2) was not intended when the policy was adopted by the Commission in 1976. Exceptions to the policy can be granted by the Commission. However, the policy does not outline specific criteria to guide permittees nor the Department in developing information for justifying that an exception is reasonable. In the case of Gresham, the situation is more difficult because of the lack of sufficient water quality data on the Columbia River, even though there is recognition that the Columbia is the largest river in the state with more than adequate dilution and it appears to have sufficient assimilative capacity. The Department believes the policy as currently written makes sense in most Oregon river basins. However, when applied to sources on the Columbia River, it may not be the best approach.

Therefore, this alternative is proposed to be combined with one of the three alternatives presented above. One advantage of having the Department examine the policy in greater detail is that inconsistencies and reconciliation of this policy with other policies for sources intending to expand would be addressed. The disadvantage is that it may leave the City of Gresham without a definite answer upon which to design an expansion of the Gresham plant depending upon the Alternatives 1 - 3 that the Commission selects. Further, the City would have to be informed that a future policy change, if adopted, could either increase or decrease permitted discharge loads.

Summation

1. The City of Gresham has requested an exception to OAR 340-41-026(2) which requires that growth and development be accommodated within existing permitted waste discharge loads, unless otherwise approved by the Commission.
2. The City has presented a rationale and basis to support their request. They will be providing an expanded treatment plant to eliminate raw sewage discharges to the groundwater in Mid-Multnomah County. The existing and proposed concentration limits meet the established criteria of OAR 340-41-445; and the dilution requirement can be achieved during the minimum Columbia River stream flows. An additional cost of between \$1.4 and 2.3 million dollars over the \$8.3 million construction project costs would be incurred to strictly comply with the policy of OAR 340-41-026(2).

3. The Department staff have calculated that the treated discharge load from existing population proposed to be served accounts for 392 lbs/day of the 834 lbs/day of BOD₅ and TSS requested load increase. The remaining portion of the requested load increase (442 lbs/day of BOD₅ and TSS) is to serve growth and development.
4. The Department staff believe a review of OAR 340-41-026(2) is needed to better address its applicability statewide and to develop specific criteria for proposing exceptions to the policy.

Director's Recommendation

Based upon the Alternatives and Evaluation, the Director recommends that the Commission grant a portion of the requested permitted load increase. The Director also recommends that the Department be asked to draft a permit modification which increases the permitted waste loads by an amount resulting from the City of Gresham providing service to the 28,600 Mid-Multnomah County residents currently on cesspools and seepage pits (Alternative 2).

The Director also recommends that the Department be directed to re-evaluate the applicability of OAR 340-41-026(2) to all river basins and/or develop more specific criteria for proposing exceptions to the policy.



Fred Hansen

Attachments

- A. Letter dated November 27, 1985 from the City of Gresham requesting an increase in permitted waste discharge loads.
- B. Letter dated January 27, 1986 from the Department requesting additional information to evaluate request.
- C. Supplemental information prepared by the City to justify request for an exemption to OAR 340-41-026(2).

MMH:c
WC686
229-6099
June 25, 1986

BLACK & VEATCH

ENGINEERS-ARCHITECTS

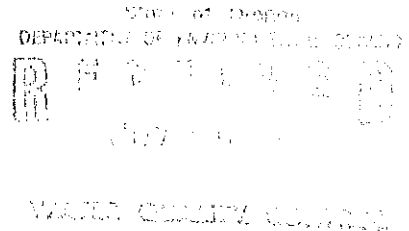
TEL. (415) 944-5770

3470 BUSKIRK AVENUE
PLEASANT HILL, CALIFORNIA 94523

MAILING ADDRESS: P.O. BOX 4247
WALNUT CREEK, CALIFORNIA 94596

B&V Project 12560.102
November 27, 1985

City of Gresham
NPDES Permit Modifications
(Permit No. 3539-J; exp. 5/31/87)
Mass Discharge Limits



Ms. Mary Halliburton
Department of Environmental Quality
State of Oregon
P.O. Box 1760
Portland, OR 97207

Dear Ms. Halliburton:

As we discussed yesterday, the City has a pressing need to upgrade and expand its wastewater treatment facility. We interpreted our August and September meetings with the Northwest Regional staff to mean the current concentration limits would be extended to apply to higher design flows. Our amendment to the City's Facility Plan has used this approach as an underlying assumption. However, we are now aware that the City requires a formal variance from DEQ policy outlined in OAR 340-41-026 to discharge a 20/20 summer and 30/30 winter at flows higher than existing permit level of 10 mgd.

This letter represents a formal request by the City of Gresham to have its waste discharge permit modified for a 15 mgd plant as follows:

Annual average flow to the treatment facility: 56,775 m³/d (15.0 mgd)

Parameter	Average Eff, mg/l		Monthly Average	Weekly Average	Daily Maximum
	Mthly	Wkly	kg/day (lb/day)	kg/day (lb/day)	kg/day (lb/day)
6/1-10/1:					
BOD	20	30	1137 (2502)	1706 (3753)	2274 (5040)
TSS	20	30	1137 (2502)	1706 (3753)	2274 (5040)
FC per 100 ml	200	400			
11/1-5/1:					
BOD	30	45	1706 (3753)	2559 (5630)	3411 (7506)
TSS	30	45	1706 (3753)	2559 (5630)	3411 (7506)
FC per 100 ml	200	400			

Dept of Environmental Quality
Mary Halliburton

2

B&V Project 12560.102
November 26, 1985

Our existing permit seems to contain incorrect receiving water information which applies to the Willamette Basin. We believe the correct standard is OAR 340-41-215; Lower Columbia River Basin.

The variance from DEQ policy is justified for the following reasons:

- There are no water quality problems documented in the receiving water.
- With the increased discharge, the standards of OAR 340-41-215 will be met except in the mixing zone of a radius of 30 meters.
- The increase is partially attributed to the sewerage of the Mid-Multnomah County area. The increased load on the Columbia River is offset by a substantially larger reduction in pollution to the surface streams and ground water in the Affected Area.
- Even though permit is being met, periodic bypasses of partially treated sewage occur with the existing facility due to hydraulic restrictions. The project underway will give the plant a secondary treatment peak capacity and hydraulic peak capacity of 30 and 45 mgd, respectively.
- Summer bypasses will be eliminated and winter bypasses limited to only the very extreme storm events; approximately once per year. The overall efficiency will be improved and the total pollutant load on the Columbia will be reduced.

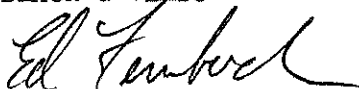
We are not aware of any water quality modeling or data for this stretch of the Columbia. You indicated DEQ would check their files for any information in this regard.

If you have any questions or require additional information, please contact Al Slechta at Gresham or me.

Your cooperation in this important matter is greatly appreciated.

Very truly yours,

BLACK & VEATCH



Ed Fernbach
Project Manager

cc: Ms. B.J. Smith, DEQ, Grants Unit
Ms. Janet Gillaspie, DEQ, Northwest Region
Mr. Al Slechta, Gresham

BLACK & VEATCH
ENGINEERS-ARCHITECTS

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

DEC 16 1985

TEL. (415) 944-5770

WATER QUALITY CONTROL 3470 BUSKIRK AVENUE
PLEASANT HILL, CALIFORNIA 94523

MAILING ADDRESS: P.O. BOX 4247
WALNUT CREEK, CALIFORNIA 94596
B&V Project 12560.102
December 13, 1985

City of Gresham
NPDES Permit Modifications
(Permit No. 3539-J; exp. 5/31/87)
Mass Discharge Limits

Ms. Mary Halliburton
Department of Environmental Quality
State of Oregon
P.O. Box 1760
Portland, OR 97207

Dear Ms. Halliburton:

In discussions with Chuck Clinton of the Northwest Region, he suggested we provide DEQ with an estimate of the cost impact on Gresham's treatment plant upgrade if a variance is not granted. Effluent filtration would be required between 50 and 150 days during the summer discharge season. Winter discharges may require some additional treatment.

A filtration system designed to treat 45 percent of the 15 mgd design flow would have a probable construction cost as follows.

	<u>Range (1986)</u>	
	\$	
Filters including inlets, backwash valving, trough, media and screen, controls, and high pressure air	429,000	- 750,000
Pumping	350,000	- 350,000
Site Work	120,000	- 180,000
Electrical at 15%	<u>135,000</u>	<u>- 192,000</u>
Total construction	1,034,000	to 1,472,000
Engineering, administration, and contingencies at 35%	<u>366,000</u>	<u>528,000</u>
Total	1,400,000	to 2,000,000

Dept of Environmental Quality
Ms. Mary Halliburton

2

B&V Project 12560.102
December 13, 1985

Additional annual operations and maintenance costs would increase by \$50,000 to \$100,000 per year depending on the performance of the existing plant.

Based on the project costs found in the Draft Amendment to the 1984 Facility Plan now in preparation, the present worth of the City's project would be increased by approximately 10 to 15 percent.

We believe these high additional costs will not result in a detectable increase in water quality in the lower Columbia River Basin.

If you have any questions, please don't hesitate giving us a call.

Very truly yours,

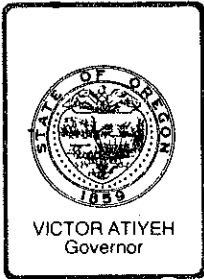
BLACK & VEATCH



Edward Fernbach
Project Manager

er

cc: Ms. B.J. Smith, DEQ Grants Unit
Ms. Janet Gillaspie, DEQ Northwest Region
Mr. Chuck Clinton, DEQ Northwest Region
Mr. Al Slechta, Gresham



Department of Environmental Quality

file

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

January 27, 1986

Al Slechta
Sanitary Engineer
City of Gresham
1333 N. W. Eastman Avenue
Gresham, OR 97030

Re: City of Gresham
File No. 35173
Multnomah County

Dear Al:

On November 26, 1985 we discussed the City of Gresham's proposed sewage treatment plant expansion project and applicable Environmental Quality Commission policies contained in Oregon Administrative Rules, Chapter 340, Division 41, Water Quality Management Plan. One general policy applicable to all basins requires that growth and development be accommodated by increased efficiency and effectiveness of waste treatment and control such that future discharge loads do not exceed presently allowed discharged loads, unless otherwise specifically approved by the Environmental Quality Commission. Subsequently Ed Fernbach submitted a request for increased waste loads, on behalf of the City of Gresham, to accommodate a treatment plant expansion from 10 mgd to 15 mgd based on present effluent concentration limits of 20 mg/l biochemical oxygen demand (BOD) and suspended solids (SS) during the dry weather period and 30 mg/l BOD and SS during the wet weather period.

In order for us to evaluate the request and forward a staff recommendation to the Environmental Quality Commission for their consideration, additional information is needed to accompany the request for increased discharge loads, as follows:

1. The basis for the 15 mgd flow dry weather and identification and basis for wet weather flow projections.

Detailed analysis of current and projected flows is needed to approve the proposed design flows. The approved design flows would affect the waste load increase potentially needed.

Edward Fernbach
January 27, 1986
Page 2

2. An evaluation of treatment alternatives and associated costs to comply with OAR 340-41-026.

Filtration is one method to achieve 10/10 effluent quality. Experience has demonstrated that facilities built with flexible operational modes and an effective means to remove solids from the waste stream and also operated by skilled treatment works staff can achieve 10/10 during the dry weather period.

3. An analysis of the environmental impact of projected additional waste loads on the Columbia River.

Compliance with the dilution requirement and water quality standards and protection of beneficial uses of water must be assured.

4. Discussion of reasons why compliance with OAR 340-41-026 is unreasonable.

The financial impact and capability of Gresham to comply with the policy needs to be evaluated and discussed.

It is our view that these items can best be addressed within the context of the City of Gresham Facility Plan amendment that is now being prepared. We would anticipate preparing a staff report and recommendation for the Commission's consideration after the plan is finished. Since it is the City of Gresham's intent to pursue EPA Sewerage Works Construction Grant funds, all facility plan reviews will be coordinated with B. J. Smith of DEQ's Construction Grants Unit and Willie Olandria of EPA, Oregon Operations Office. Additional information and analysis may also be required following these reviews to meet EPA Facility Plan requirements.

If you have any questions, please give me or B. J. a call.

Sincerely,

Mary M. Halliburton
Manager
Sewage Disposal Section
Water Quality Division

MMH:c
WC105

cc: Northwest Region, DEQ
B. J. Smith
Edward Fernbach, Black & Veatch
John Ewing, Black & Veatch

CHAPTER 6

WASTEWATER PLANNING

CONSIDERATIONS

The Facilities Plan presented wastewater disposal requirements, general design criteria for liquid and solids alternatives, and the basis for cost estimating and economic comparisons. This chapter contains a brief review of that information, a discussion of disposal requirements not considered in the Facilities Plan, the development of a conceptual plan for the future ultimate treatment needs, and additional information on odor control.

WASTEWATER DISPOSAL CRITERIA

Authority for the regulation of wastewater discharge in Oregon is shared by the EPA and DEQ. As the EPA's regional authority, DEQ is responsible for administering the application of minimum discharge standards. The minimum discharge standards for the Gresham wastewater treatment plant are established in Oregon Administrative Rules (OAR) 340-41-422 and issued as a National Pollution Discharge Elimination System NPDES permit. The existing NPDES permit is included as Appendix D.

In addition to the limitations imposed on total mass of BOD and SS discharged, the following requirements apply to this discharge:

- "During summer (June 1 to October 31): Treatment resulting in monthly average effluent concentrations not to exceed 20 mg/l (milligrams per liter) of BOD and 20 mg/l of SS or equivalent control."
- "During winter (November 1 to May 31): A minimum of Secondary Treatment or equivalent control unless otherwise specifically authorized by the Department...." DEQ defines secondary treatment as 30 mg/l for BOD and 30 mg/l for SS.

- "Effluent BOD concentrations in mg/l, divided by the dilution factor (ratio of stream flow to effluent flow) shall not exceed one (1) unless otherwise approved by the Environmental Quality Commission."
- "Sewage wastes shall be disinfected, after treatment, equivalent to thorough mixing with sufficient chlorine to provide a residual of at least 1 part per million after 60 minutes of contact time unless otherwise specifically authorized by the permit."
- "The allowable mixing zone shall not exceed a radius of 30 meters from point of discharge."
- "Positive protection shall be provided to prevent bypassing raw or inadequately treated sewage to public waters unless otherwise approved by the Department where elimination of inflow and infiltration would be necessary but not presently practicable."
- The permittee shall conduct and enforce the industrial waste pretreatment program as approved by DEQ on August 29, 1983.
- "The permittee shall maintain an ongoing program to reduce storm water infiltration and inflow. A progress report shall be submitted in June of each year."
- "All waste solids, including dredgings and sludges, shall be utilized or disposed of in a manner which will prevent their entry, or the entry of contaminated drainage or leachate therefrom, into the waters of the state, and such health hazards and nuisance conditions are not created."

The City will need a 5 mgd increase in permitted discharge to meet existing commitments and to provide plant capacity for sewerage of the Affected Area. Under general DEQ policies that apply to all basins (OAR 340-41-926 (2) and (3)), the following rules apply:

- "In order to maintain the quality of waters in the State of Oregon, it is the policy of the Environmental Quality Commission (EQC) to require that growth and development be accommodated by increased efficiency and effectiveness of waste treatment and control such that measurable future discharged waste loads from existing sources do not exceed presently allowed discharged loads unless otherwise specifically approved by the EQC."

- "For any new waste sources, alternatives which utilize reuse or disposal with no discharge to public waters shall be given highest priority for use wherever practicable. New source discharges may be approved by the Department if no measurable adverse impact on water quality or beneficial uses will occur. Significant or large new sources must be approved by the EQC."

The City's current NPDES permit allows for a 20 mg/l BOD and SS (20/20) discharge in summer and 30 mg/l BOD and SS (30/30) in winter with mass limits based on a 10 mgd flow. If the presently allowed mass loads are applied to future plant expansions, a 15 mgd permit would be based on 10 mg/l (10/10) and 20 mg/l (20/20) BOD and SS summer and winter, respectively. Future expansions would be designed to meet more restrictive discharge requirements during low Columbia River flow periods.

There are several modifications to the Facilities Plan required to meet a 10/10 summer discharge requirement. Two approaches to the 15 mgd expansion are described below.

Trickling Filter/Activated Sludge (TF/AS)

The Facilities Plan reported that TF/AS would have a capital cost \$2.3 million more than the activated sludge system required to meet the 20/20 requirements. The additional facilities that might be required include a combination of the following.

- Primary effluent pumping.
- New trickling filter units.
- Additional aeration basins.
- Additional secondary clarifiers.

Effluent Filtration

Effluent filtration during summer months would meet a 10/10 discharge requirement. A filtration system for 50 percent of the plant effluent followed by discharge of the combined secondary and filtered effluent would have a probable construction cost as shown in Table 6-1. This estimate is on the same order of magnitude as adding the TF/AS option.

TABLE 6-1. EFFLUENT FILTRATION CONSTRUCTION COSTS FOR 10/10 DISCHARGE

<u>Item</u>	<u>Probable Cost,^a \$</u>
Site work	180,000
Filters	750,000
Pumping	350,000
Electrical	<u>192,000</u>
Construction	1,472,000
Engineering, administration, and contingencies	<u>528,000</u>
Total	2,000,000

^aBased on ENR-CCI = 4600.

Anticipated Disposal Criteria

Imposition of the 10/10 discharge requirement will raise the total project cost by approximately 20 percent. The more restrictive 10 mg/1 BOD and SS appears not to be warranted for a new 15 mgd permit for the following reasons:

- There have been no adverse impacts on water quality or use of the Columbia attributable to Gresham's discharge.
- An increase in mass limits is needed for the service to Mid-Multnomah County.
- The increased BOD load on the Columbia River is offset by a substantially larger reduction in pollution to surface and ground water as onsite disposal systems are eliminated.

The treated effluent must meet the dilution requirements for the Columbia River set forth in OAR 340-41-455. A flow of 300 cfs in the south channel is required for dilution of a 15 mgd effluent. As described in a following section of this chapter, the ultimate flow from the Gresham Service Basin could reach 45 mgd requiring a 900 cfs flow in the channel. DEQ Northwest Region staff has indicated the flow south of Government Island remains at a sufficient level to obtain adequate dilution, even during dry periods such as the summer of 1985. The results of an analysis of Columbia River flows is found in Appendix E. Outflow data from Bonneville during an extremely low flow period in August 1985 was used to

estimate South Channel flows. Assuming channel depths are maintained, the minimum flow in the channel south of Government Island is approximately 12,000 cfs. A dilution of over eight times the minimum would be achieved at the ultimate 45 mgd design flow. Therefore, dilution criteria do not appear to result in further restrictions on Gresham's discharge.

The recommended plan described in this report will result in a reliable plant that has the ability to provide secondary treatment to all but a few storm related flows. The City will seek approval by the EQC for discharge limitations as shown in Table 6-2 based on the existing concentration limitations.

Planning in this study is based on the above limitations. However, all alternatives must be evaluated as to their flexibility in meeting future, more stringent requirements.

ONSITE TREATMENT SYSTEM REQUIREMENTS

As noted earlier, the Environmental Quality Commission is moving closer toward requiring the elimination of all onsite treatment and disposal in the study area. Therefore, onsite treatment is still considered a nonviable alternative in planning work.

ULTIMATE PLANT CONFIGURATION

A series of projects were developed in the Facilities Plan which utilized the City-owned 2.3 acres to the west and one-half acre of farm land to the south. These improvements were planned to meet the needs of the City through the year 2005. With the Fujitsu treatment capacity agreement; more stringent treatment requirements; short-range sewerage of the Affected Area; providing on-line capacity for current commitments; and satisfying requirements of current users, it appears that additional land would be required prior to 2005. Given the zoning patterns in the area, the existing plant site will ultimately be surrounded by residential, commercial, and light industrial neighbors. The potential problems and expense associated with acquiring additional land in the future prompted the City to look beyond the immediate needs and develop a master plan for the orderly expansion to the ultimate capacity requirements of the Gresham Service Basin.

TECHNICAL MEMORANDUM

City of Gresham
Wastewater Treatment Plant Expansion
Facilities Plan Amendment
South Channel Columbia River Flows

B&V Project 12560.102
February 6, 1986

To: Alfred Slechta
Sanitary Engineer

From: Edward J. Fernbach
Project Manager

PURPOSE

This memorandum describes the development of dilution available in the Columbia River Channel south of McGuire, Government and Lemon Islands.

- Estimate South Channel flows.
- Compare to dilution requirements under OAR 340-41-455.
- Develop an opinion on adequacy of dilution for ultimate 45 mgd treated discharge.

BACKGROUND

Flow Data

Outflow data for Bonneville for 1984 and 1985 from Army Corps of Engineers (COE) found in Attachment 1.

Channel Depths

Estimated from National Oceanic and Atmospheric Administration (NOAA) Chart 18531, June 1, 1985.

Scale 1-inch equals 3,000 feet.

Vancouver to Boneville.

Soundings at mean lower low water during the lowest river stages.

DEVELOPMENT

Minimum Flow

	<u>Outflow, cfs</u>
Thirty-day average	99,200
Minimum day (August 25)	80,800

Channel Cross Section

Channel cross sections were estimated at several locations as shown on Attachment 2. The areas are summarized in the following table.

<u>Section</u>	<u>Location</u>	<u>Cross Section Area, sf</u>
As ₁	South Channel, Mile 111	9,700
As ₂	South Channel, Mile 113	5,480
As ₃	South Channel, Mile 114	7,000
As ₄	South Channel, Mile 116	4,800
Am ₁	Main Channel, Mile 111	27,500
Am ₂	Main Channel, Mile 115	24,000
Am ₃	Main Channel, Mile 118	15,000

Control channel sections used for flow estimate:

Main Channel	22,000 sf
South Channel	4,800 sf

Channel Flows

Relative channel flows were estimated using Manning equation for open channel flow and conservation of mass. With the previous cross sections and hydraulic radius for Main and South Channel of 11 and 7.2, respectively, the flows are as follows:

	<u>Flow cfs</u>	
	<u>Main Channel</u>	<u>South Channel</u>
Minimum 30-day average	85,000	14,000
Minimum day	69,000	12,000

SUMMARY

OAR 340-41-422 requires effluent BOD concentration in mg/l divided by the ratio of river flow to effluent flow shall not exceed one. Using several effluent BOD concentrations, the required river flow is as follows.

Gresham Effluent Flow, mgd	Required River Flow, cfs		
	Effluent BOD, mg/l		
	30	20	15
15	450	300	150
30	900	600	300
45	1,350	900	450
75	2,250	1,500	750
90	2,700	1,800	900

Conclusion

During dry weather river flows, dilution requirements can be met even at ultimate Gresham wet weather flow projections. At ultimate annual average design flow of 45 mgd, the river carries over eight times the flow required at extreme minimum discharges from Bonneville.

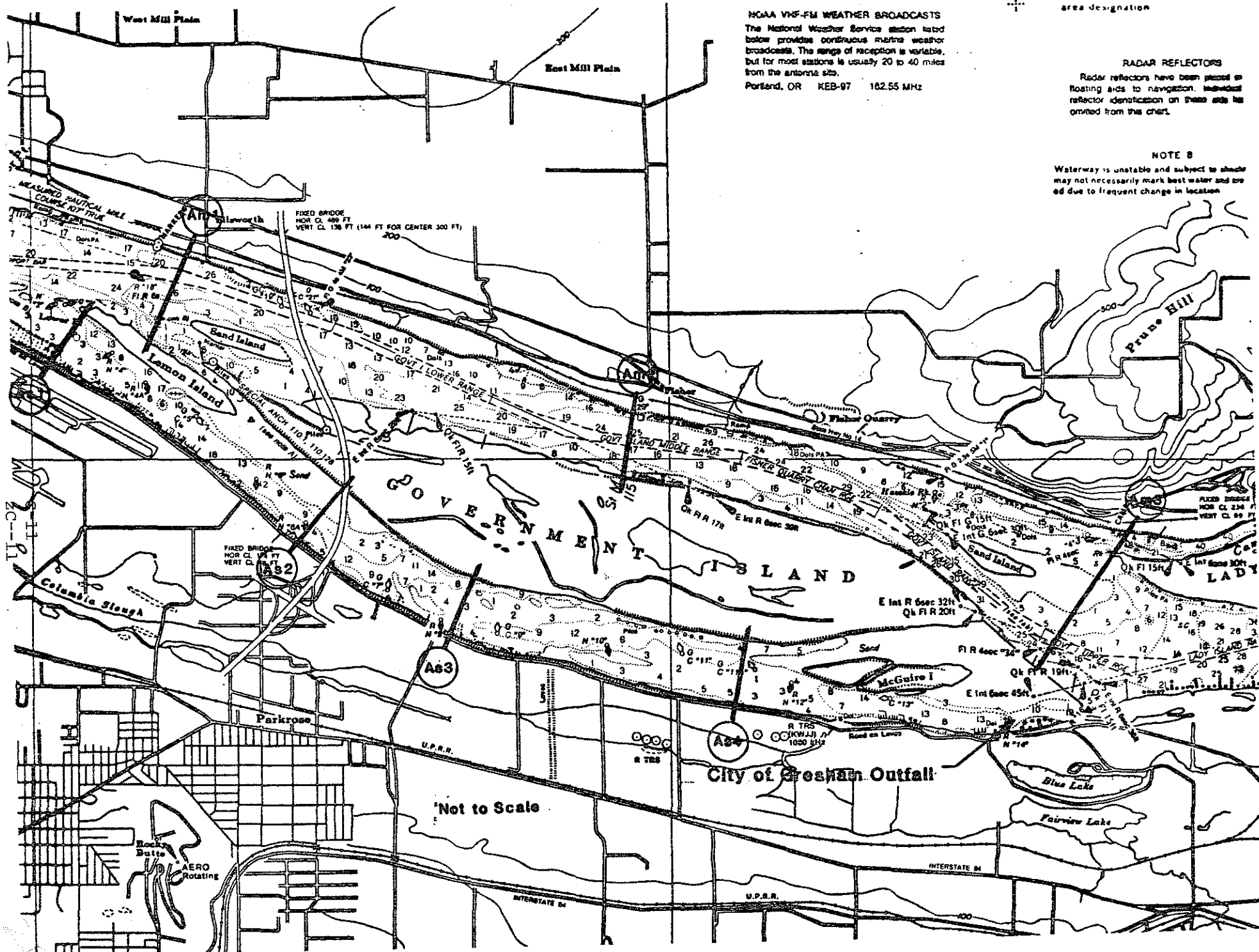
<u>Month</u>	<u>30-Day Average Total</u>	<u>Outflow Power</u>	<u>cfs Spill</u>
October 1984	132,000	123,000	0
November	148,000	139,000	0
December	166,000	161,000	0
January 1985	207,000	203,000	0
February	210,000	205,000	530
March	183,000	170,000	450
April	219,000	177,000	33,000
May	246,000	148,000	29,000
June	199,000	133,000	57,000
July	114,000	102,000	2,700
August	99,000	90,000	0
September	109,000	100,000	0
October	131,000	122,000	0
November	210,000	203,000	0
December	174,000	168,000	0

NPD RESERVOIR CONTROL CENTER
DAILY SUMMARY REPORT

PROJECT- BON BONNEVILLE
AUGUST 1985

DAY OF MONTH	GENERATION		SYA USE MWH	INFLOW KCFS	OUTFLOW			MIDNIGHT RESERVOIR ELEVATION	EL AT POWERHOUSE		AVG HEAD FT	PROJECT TAILWATER AVG ELEV
	TOTAL MWH	AVG HW			IN KCFS	SPILL	IN FEET + MSL		AVG FB	AVG YW		
1	10800	450	45	101.60	102.60	93.40	0.00	75.70	75.10	10.00	65.10	9.5
2	11593	483	44	112.00	112.00	102.80	0.00	75.70	74.70	11.30	63.40	10.5
3	11664	486	46	105.40	113.40	104.20	0.00	74.90	74.40	11.40	63.00	10.5
4	10772	449	44	91.90	105.90	96.70	0.00	73.50	73.40	10.70	62.70	9.9
5	10645	444	44	115.30	104.30	95.10	0.00	74.60	73.20	10.50	62.70	9.9
6	10944	456	48	107.10	106.10	96.90	0.00	74.70	73.70	10.50	63.20	9.6
7	11493	479	47	100.00	112.00	102.80	0.00	73.50	73.60	10.90	62.70	10.1
8	10054	419	55	120.90	98.90	89.70	0.00	75.70	73.00	9.90	63.10	9.1
9	9832	410	46	90.40	92.40	83.20	0.00	75.50	75.40	9.00	66.40	7.9
10	10037	418	45	90.80	95.80	86.60	0.00	75.00	74.60	9.20	65.40	8.2
11	9990	416	43	76.60	96.60	87.40	0.00	73.00	73.50	9.20	64.30	8.2
12	9564	399	43	108.60	94.60	85.40	0.00	74.40	72.60	9.20	63.40	8.1
13	10146	423	50	92.10	99.10	89.90	0.00	73.70	73.30	9.50	63.80	8.4
14	11072	461	49	107.60	110.60	101.40	0.00	73.40	72.70	10.70	62.00	9.7
15	11061	461	47	116.50	111.50	102.30	0.00	73.90	72.60	11.20	61.40	10.3
16	10523	438	48	113.00	104.00	94.80	0.00	74.80	73.30	10.40	62.90	9.5
17	9826	409	49	93.30	95.30	86.10	0.00	74.60	74.30	9.90	64.40	9.
18	8711	363	47	82.00	85.00	75.80	0.00	74.30	73.90	9.00	64.90	8.1
19	10363	432	48	107.10	101.10	91.90	0.00	74.90	74.00	10.10	63.90	9.1
20	10401	433	51	86.40	102.40	93.20	0.00	73.30	73.80	10.30	63.50	9.4
21	9530	397	48	105.60	94.60	85.40	0.00	74.40	73.00	9.60	63.40	8.4
22	10310	430	48	104.40	100.40	91.20	0.00	74.80	73.60	9.90	63.70	9.
23	10084	420	47	94.40	97.40	88.20	0.00	74.50	74.20	9.60	64.60	8.5
24	8847	369	49	74.70	86.70	77.50	0.00	73.30	73.10	8.30	64.80	7.8
25	8224	343	45	90.80	80.80	71.60	0.00	74.30	73.00	8.20	64.80	7.3
26	9627	401	45	93.50	93.50	84.30	0.00	74.30	73.80	9.20	64.60	8.3
27	10222	426	48	100.40	100.40	91.20	0.00	74.30	73.40	10.10	63.30	9.1
28	10841	452	49	115.30	106.30	97.10	0.00	75.20	73.70	10.60	63.10	9.6
29	9843	410	46	90.70	95.70	86.50	0.00	74.70	74.30	9.90	64.40	9.
30	8848	369	49	83.90	85.90	76.70	0.00	74.50	74.10	8.90	65.20	8.
31	9407	392	45	91.20	91.20	82.00	0.00	74.50	74.10	9.20	64.90	8.3
TOT	31	315274	1458	3063.50	3076.50	2791.30	0.00					
AVG		10170	423	98.82	99.24	90.04	0.00	74.45	73.72	9.88	63.80	8.977
MAX		11664		120.90	113.40	104.20	0.00	75.70	75.40	11.40	66.40	10.5
MIN		8224		74.70	80.80	71.60	0.00	73.00	72.60	8.20	61.40	7.3

C-10



NOAA VHF-FM WEATHER BROADCASTS
 The National Weather Service station listed below provides continuous marine weather broadcasts. The range of reception is variable, but for most stations is usually 20 to 40 miles from the antenna site.
 Portland, OR KEB-97 162.55 MHz

area designation

RADAR REFLECTORS
 Radar reflectors have been placed on floating aids to navigation. Individual reflector identification on these aids has omitted from this chart.

NOTE B
 Waterway is unstable and subject to shoals may not necessarily mark best water and may be due to frequent change in location

ATTACHMENT 2 CHANNEL CROSS SECTIONS

Not to Scale

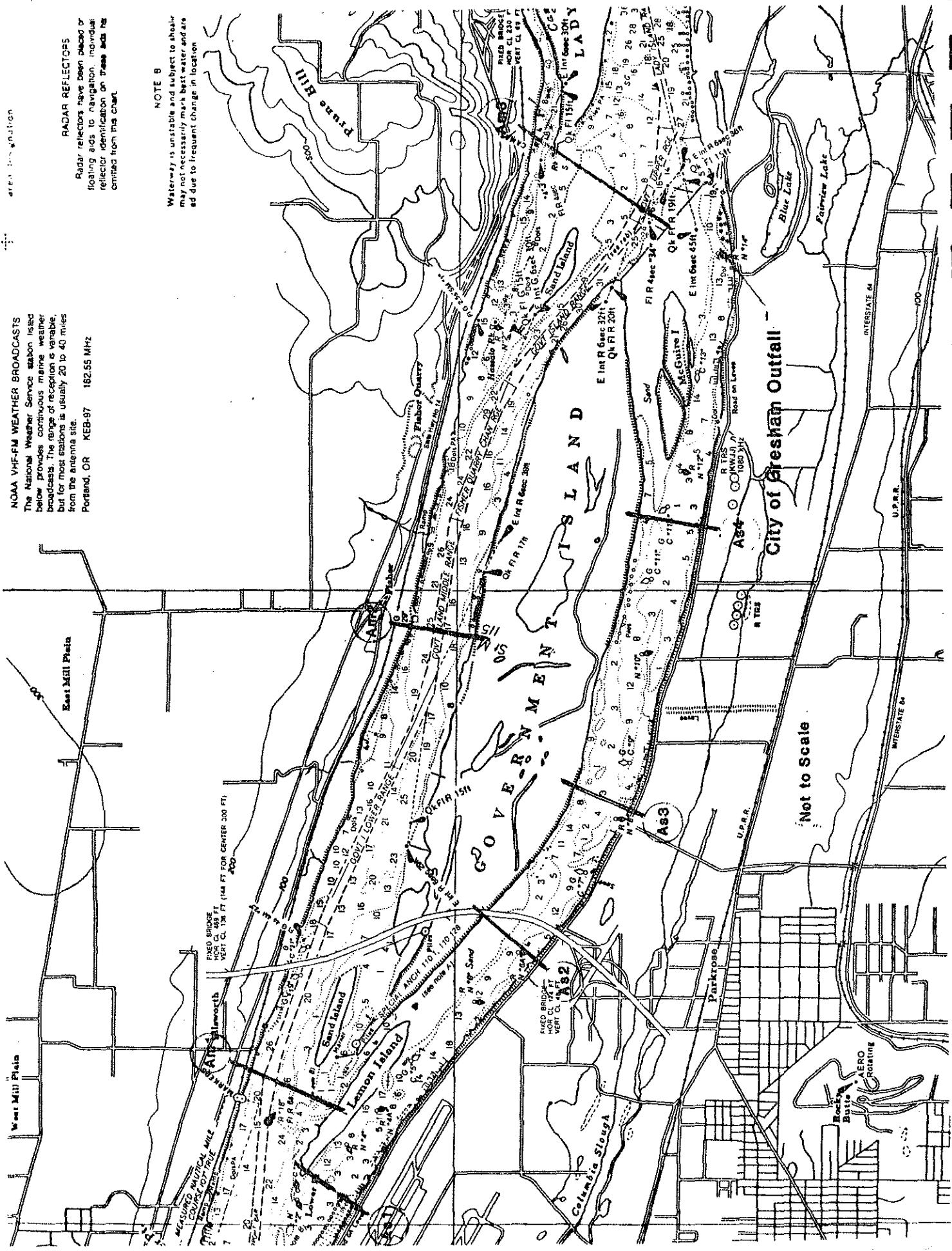
ATTACHMENT 2 CHANNEL CROSS SECTIONS

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 Portland, OR KEB-97 162.55 MHz

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 Radar reflectors have been placed or floating aids to navigation, individual reflector identification on these aids has been omitted from this chart.

NOTE B

Waterway is unstable and subject to shoaling may not necessarily mark best water and are due to frequent change in location



BLACK & VEATCH
ENGINEERS - ARCHITECTS

TEL. (415) 944-5770

3470 BUSKIRK AVENUE
MAILING ADDRESS: P.O. BOX NO. 4247
WALNUT CREEK, CALIFORNIA 94596

RECEIVED
JUN 27 1986

City of Gresham
Wastewater Treatment
Plant Improvements

B&V Project 12560.201
June 24, 1986

Water Quality Division
Dept. of Environmental Quality

Ms. Mary Halliburton
Water Quality Division
Department of Environmental Quality
P.O. Box 1760
Portland, Oregon 97207

Dear Ms. Halliburton:

Three issues in regards to a new NPDES Permit at our June 12, 1986 meeting needed additional information. As we understood, the following items are discussed in this letter:

- The benefits to Oregon waters from allowing increased secondary effluent discharge versus continued mid-county disposal to groundwater.
- Complaints regarding an exposed outfall.
- Feasibility of providing alternatives to filtration to meet stricter concentration limits.

Columbia Discharge Versus Groundwater Pollution

The Mid-Multnomah County sewer implementation plan developed an existing population of 28,600 in the affected area tributary to Gresham. The equivalent wastewater flows for this population were computed by CH₂M Hill as follows:

Domestic: 28,600 x 80 gpcd	= 2.3 mgd
I/I: 4,550 acres x 100 gal/acre/day	= 0.5 mgd
Commercial: 4,550 acres x 10% use x 1,500 gal/acre/day	= 0.3 mgd
Industrial: 800 acres x 10% use x 5,000 gal/acre/day	= 0.4 mgd
Subtotal	3.5 mgd
Already Sewered @ 32%	- 1.1 mgd
Total Unsewered	2.4 mgd

Gresham will be providing capacity to treat this flow. A comparison of the organic load to the onsite disposal systems versus the proposed NPDES mass limits is in the following table.

27

Ms. Mary Halliburton

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June 24, 1986

	Discharge, 1×10^6 pounds per year	
	<u>BOD₅</u>	<u>TSS</u>
Current Mid-Multnomah County Discharge to Groundwater	1.46	1.58
Increase in NPDES Permit to 15 mgd (5 mgd increase)		
Discharge at Permit Levels (20/20, 30/30)	0.38	0.38
Discharge at Expected Minimum Performance (15/15)	0.23	0.23

Approximately 95 percent of the affected area load will be removed at the Gresham plant. The total increase in load at the future 15 mgd design flow will be only 15 percent of existing load on the groundwater. The benefits of treatment at Gresham are even greater if the unsewered area is allowed to grow. Considering the benefits to the groundwater, we believe Gresham's request for an increase of 10 to 15 mgd in its NPDES permit at existing concentration limits should be granted by the Environmental Quality Commission.

Gresham Outfalls

The City has 42 and 27 inch diameter outfalls just north of Blue Lake Park and west of the marina at what would be the foot of about 201st Avenue. The invert of these two discharges is -0.40 feet above mean sea level. At the river's lowest discharge during the extremely dry summer of 1985, the river was near elevation 7.0 feet above mean sea level. The larger outfall would have been 4 feet under the surface. The complaints may have stemmed from one of the County's drainage outlets or air entrained in our drop section might result in bubbles at the surface. The City does not believe the outfalls are exposed. In the future, please advise the City as such complaints come in. Together we can find out what practice results in complaints. The City has never received any to our knowledge.

Alternatives to Meet Stricter Limits

The Facility Plan Amendment contained a brief analysis of the cost of providing filtration to meet more restrictive May through October requirements. As you noted in our meeting, the plants should be designed to do the best job practicable; not just the permit limits. Many plants in Oregon do occasionally or consistently meet a 10/10 limit. Some of those facilities employ the trickling filter/solids contact process. The original Facility Plan was by Brown & Caldwell. This option was not cost-effective. We believe that most plants that meet 10/10 are relatively small, operated with long aeration times and low secondary clarifier overflow rates. In our case, this extended aeration approach would require at least a doubling of the proposed liquid secondary

Ms. Mary Halliburton

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June 24, 1986

facilities. The Parallel South Plant would have to be constructed and the neighbors relocated immediately.

The capital cost of the various options are summarized in the following table.

<u>Approach</u>	<u>Construction Cost</u>
	\$ x 10 ⁶
Proposed Project	10.50
Effluent Filtration	11.97
Trickling Filter/Solids Contact (TF/SC)	12.66
Extended Aeration	13.28

ENR-CCI = 4,600

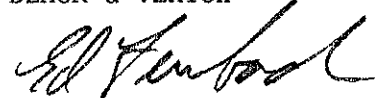
Filtration is the least costly approach. TF/SC may offer some reduction in operations cost. However, as the Facility Plan determined, the payback was not reasonable.

Approximately 25 percent of Gresham's 15 mgd design capacity will be by commercial and industrial users. Even with a comprehensive inspection and pretreatment program, the plant may see times of stress. Most plants of any size that consistently meet 10/10, such as Corvallis, have little industrial contribution. We believe a 10/10 May through October requirement puts an unreasonable burden on Gresham. The design as proposed will consistently perform at levels below the current 20/20 limits with competent operation.

We hope this information satisfies your needs in preparing your staff report. If you have any questions on the details behind this letter, do not hesitate to call.

Very truly yours,

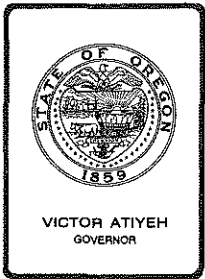
BLACK & VEATCH



Ed Fernbach
Project Manager

dv

cc: Mr. Bill Cameron, Dir. of Pub. Works
Mr. Al Slechta, Sanitary Engineer



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 K, July 25, 1986, EQC Meeting

Request for Extension of the July 1, 1986 Deadline for
Providing the Opportunity to Recycle in Pendleton, Oregon
(ORS 459.185(9))

Background and Problem Statement

The Recycling Opportunity Act, adopted by the 1983 Legislature, requires that the opportunity to recycle be provided to all persons in Oregon by July 1, 1986.

The opportunity to recycle includes:

- (a) A place for receiving source separated recyclable materials, located either at the disposal site or at another location more convenient to the population being served;
- (b) If a city has 4,000 or more people, on-route collection at least once a month of source separated recyclable materials from collection service customers within the City's urban growth boundary; and
- (c) A public education and promotion program that gives notice to each person of the opportunity to recycle and encourage source e separation of recyclable material.

ORS 459.185(9) allows any affected person to apply to the Commission to extend the time permitted for providing all or part of the opportunity to recycle or submitting a recycling report to the Department. The Commission may: (a) grant an extension upon a showing of good cause; (b) impose any necessary conditions on the extension; or (c) deny the application in whole or in part.

The Department has received a request from Pendleton Sanitary Service, Inc. for an extension of the deadline for providing the on-route recycling collection in Pendleton (Attachments I and II). Pendleton Sanitary Service is the franchised solid waste collector in the City of Pendleton, including the area within the urban growth boundary. Pendleton has a population of

14,400 persons. Pendleton Sanitary Service's solid waste franchise expired on March 30, 1986 and was renewed temporarily to June 30, 1986 to allow the City time to determine who would provide the solid waste and recycling collection services, and to allow the City and the franchisee time to negotiate the terms of the franchise. The franchise was granted on May 20, 1986. Since the recycling provisions of the new franchise would not go into effect until July 1, 1986, and considering the commitment required to provide on-route collection to all residential and commercial customers in Pendleton, Pendleton Sanitary Service has requested an extension of the July 1, 1986 deadline to May 1, 1987. The stated reason for the May 1, 1987 date is that the Pendleton Roundup and winter weather in Pendleton make garbage collection difficult without the additional problems associated with a new program.

Pendleton Sanitary Service has said they will continue the full-line recycling depot at the landfill and implement their education and promotion program beginning July 1, 1986.

The City of Pendleton has submitted a copy of the franchise ordinance to the Department and indicated they are working closely with Pendleton Sanitary Service in their efforts to implement the opportunity to recycle (Attachment III).

Alternatives and Evaluation

In order to grant the request for a time extension, the applicant must show good cause for needing the extension.

Pendleton Sanitary Service applied for the time extension in March 1986. At that time, it was in the midst of franchise negotiations with the City. The applicant was not certain what recycling provisions would be in the franchise which would become effective July 1, 1986.

The Department has contacted the City of Pendleton regarding the request for time extension. The City supports the applicant's request because it allows them more time to determine what level of recycling service is to be provided to its citizens. The City also requested a corresponding extension of the deadline for submittal of the recycling report to the Department.

The Department agrees that the timing of the franchise negotiations made it difficult if not impossible for Pendleton Sanitary Service to initiate new service by July 1, 1986, and the applicant has shown good cause for needing the extension. However, the Department does not agree that a ten-month extension is justified. At this time, franchise negotiations have been completed and Pendleton Sanitary Service has agreed to provide on-route collection of all recyclable materials from collection service customers. All that is needed is a period of time to set up the necessary equipment for collecting and marketing the recyclable materials and begin notifying

the customers of the availability of the recycling services. The Department recognizes that the Pendleton Roundup activities place a burden on the solid waste collection system during September. The Department does not agree with the applicant that winter weather constitutes good cause for delaying the program until May. The Department feels that ninety days from the date of the Commission's action is a reasonable period of time, and recommends that the Commission extend the deadline for providing the on-route recycling services in Pendleton and for submitting the recycling report to November 1, 1986.

The Commission may impose conditions on the extension. It could require Pendleton Sanitary Service to continue its full-line recycling depot at the landfill and newspaper drop boxes in town, which it has already agreed to do. It could require the company to implement an education and promotion program as soon as possible, which it also has agreed to do.

If the Commission denies the application, then Pendleton Sanitary Service would be in violation of state law (ORS 459.180). The Commission could direct Pendleton Sanitary Service to implement the opportunity to recycle as soon as possible, but with a specific deadline, to give the company a reasonable timeframe to set up its recycling program. If the company remains in violation of the law, the Department could initiate civil penalty proceedings. Alternatively, the Department could disapprove the Umatilla Wasteshed recycling report and grant the affected persons a reasonable time to correct the deficiency (ORS 459.185). In the event of disapproval and after a reasonable extension of time to correct deficiencies in the opportunity to recycle, the Commission could by order determine how the opportunity to recycle will be provided, including a timetable for implementation. Any person who violates an order of the Commission is also subject to civil penalties.

Summation

1. The opportunity to recycle must be provided to all persons in Oregon by July 1, 1986. The Commission may grant an extension of that deadline upon a showing of good cause, impose any necessary conditions on that deadline extension or deny the application in whole or in part.
2. Pendleton Sanitary Service, the franchised solid waste collector in the City of Pendleton, has requested an extension of the July 1 deadline to May 1, 1987.
3. Pendleton Sanitary Service's request is based on the timing of their franchise negotiations with the City. The current franchise expired March 30, 1986 and was extended ninety days to allow time to negotiate the terms of the new franchise. Since the company did not know what the recycling provisions of the franchise would be, they requested an extension of time to set up the new recycling program.

4. Pendleton Sanitary Service requested the extension to May 1, 1987 because of the franchise negotiations, and because the Pendleton Roundup places a burden on their solid waste collection program and the winter weather makes solid waste collection difficult.
5. The timing of the franchise negotiations constitutes good cause for requesting the extension, but the Pendleton Roundup and winter weather are not sufficient reasons to warrant significant further delays in starting up the on-route collection program.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission grant Pendleton Sanitary Service an extension to November 1, 1986 of the July 1, 1986 deadline for providing the opportunity to recycle to persons in Pendleton, Oregon, and for submitting the recycling report to the Department, in accordance with ORS 459.180 and ORS 459.185, with the following conditions:

1. Pendleton Sanitary Service will continue to operate and publicize its full-line recycling depot at the Pendleton Landfill and the newspaper drop boxes in the City.
2. Pendleton Sanitary Service will implement its recycling education and promotion program as soon as possible, but no later than October 1, 1986.
3. Pendleton Sanitary Service will coordinate preparation of its portion of the Umatilla Wasteshed recycling report with the City of Pendleton and submit the final report to the Department by November 1, 1986.



Fred Hansen

- Attachments:
- I. Letter from Pendleton Sanitary Service to DEQ dated March 10, 1986.
 - II. Letter from Pendleton Sanitary Service to DEQ dated June 30, 1986.
 - III. Letter from the City of Pendleton to DEQ dated June 23, 1986.

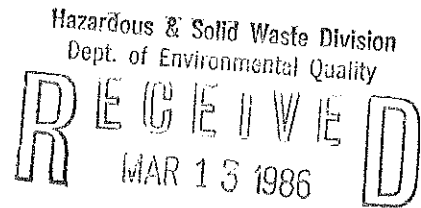
Lorie Parker:b
YB5831
229-5826
June 23, 1986

PENDLETON SANITARY SERVICE, INC.

P.O. BOX 1405
PENDLETON, OREGON 97801
(503) 276-1271

March 10, 1986

Mrs. Marianne E. Fitzgerald
Recycling Specialist
Solid Waste Division
DEPARTMENT OF ENVIRONMENTAL QUALITY
Post Office Box 1760
Portland, Oregon 97207



Re: Recycling startup

Dear Marianne:

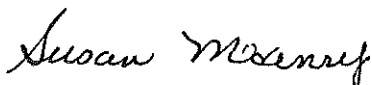
Thank you for your recent visit; I enjoyed visiting with you and Bill about recycling and our future plans. Since our visit, the Sanitary Regulatory Board has extended our franchise for ninety days to allow time to renegotiate the franchise. This brings the expiration date of our existing franchise, with no provision for recycling, to June 30, 1986. Considering that recycling is a provision under the new franchise which will not go into effect until July 1, 1986 at the earliest, and considering the commitment we will be required to make, we hereby request that our startup date for recycling collection be postponed to May 1, 1987. As we discussed, following implementation of the new franchise, we face the Pendleton Roundup at which time we must double our commercial routes and so it would be a difficult time to implement the program. The winter months make regular garbage collection difficult, even without trying to start a new program. We would appreciate consideration then, of the requested extension.

We intend to continue with depot recycling at the landfill and newspaper drop boxes throughout the city in the meantime. We also plan to implement our education and promotion program upon approval of our new franchise, hopefully July 1, 1986.

Should you have any questions, please do not hesitate to contact me. I'll look forward to your reply and to seeing you again soon.

Sincerely,

PENDLETON SANITARY SERVICE, INC.



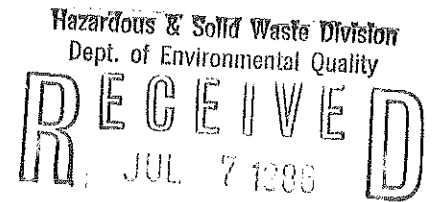
Susan McHenry, Manager

cc: City of Pendleton

Pendleton Sanitary Service, Inc.

P.O. Box 1405
Pendleton, Oregon 97801
(503) 276-1271

Attachment III
Agenda Item K
July 25, 1986 EQC Meeting



June 30, 1986

Marianne E. Fitzgerald
DEPARTMENT OF ENVIRONMENTAL QUALITY
PO Box 1760
Portland, Oregon 97297

Dear Marianne:

Confirming our telephone conversation last week and reiterating my letter of March 10, 1986, we again request your consideration of extension of any startup date for on-route recycling to at least January 1, 1987. While I understand your staff report will recommend November 1st for a startup date, we feel strongly, as mentioned in our earlier letter, that the winter months in Pendleton are not a good time to be adding material to already difficult collection procedures. Inclement weather hinders our collection procedures badly during winter months, and while I understand our request for extension to May 1, 1987 will not be considered, we desperately feel that winter months create not only difficulties, but hazards to try to implement a new program.

Additionally, in support of our request for extension, please bear in mind that we have had no money allocated to subsidize recycling through rate structure and therefore any collection system can only be a modification of our existing refuse collection system to be economically feasible. Design of such modifications will have to be on a trial and error basis, since our equipment is basically overloaded now.

Also as we discussed, Marianne, I would appreciate any advice you or Bill Bree might offer as to marketing. We are evaluating the financial impact of recycling and have compiled representative figures based on actual experience for the cost of collection and handling, but are in a foreign area with marketing.

We have, as we discussed, implemented our education and promotion with flyers at the landfill which tell what, where, when, how to prepare materials, telephone number to call for information, etc. These flyers are available at the office to all our walk-in customers. We have also begun printing notices on our billing statements to customers to promote our landfill recycling.

Pendleton Sanitary Service, Inc.

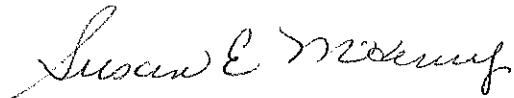
P.O. Box 1405
Pendleton, Oregon 97801
(503) 276-1271

Page two

Thank you again for your consideration of our request; we look forward to hearing from you after your July 25th meeting.

Sincerely,

PENDLETON SANITARY SERVICE, INC.



Susan E. McHenry, Vice President

cc: Rudy M. Murgo, City Attorney
Jon Nelson, City Manager



CITY OF PENDLETON

June 23, 1986

Office of City Attorney
P.O. Box 190 • 34 S.E. Dorion Avenue
Pendleton, Oregon 97801
Telephone (503) 276-1811

Ms. Marianne Fitzgerald
Department of Environmental Quality
P. O. Box 1760
Portland, Oregon 97207

Hazardous & Solid Waste Division
Dept. of Environmental Quality

RECEIVED
JUN 30 1986

RE: City of Pendleton/Solid Waste Ordinance No. 3358
City of Pendleton/Solid Waste Resolution No. 1447
City of Pendleton/Solid Waste Resolution No. 1448
Opportunity to Recycle

Dear Ms. Fitzgerald:

As I discussed recently with your staff the City recently passed the above. Copies are enclosed.

We have addressed the opportunity to recycle in the ordinance. Our franchisee operator, Ms. Susan McHenry, has advised me she has applied for an extension of the recycle date deadline of July 1, 1986, and that there is a good chance for an extension of the deadline. Obviously, as we discussed, we are working closely with her in her efforts.

Please contact me if you have any question about this matter.

Very truly yours,

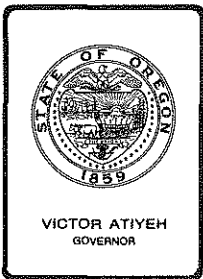
Rudy M. Murgo
City Attorney

rmm/sg

enclosures

cc: Jon S. Nelson, City Manager
Larry Rew, Attorney at Law
Susan McHenry, Pendleton Sanitary Service





Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item L, July 25, 1986, EQC Meeting

Request for Extension of the July 1, 1986 Deadline for
Providing the Opportunity to Recycle in Florence, Oregon
(ORS 459.185(9))

Background and Problem Statement

The Recycling Opportunity Act, adopted by the 1983 Legislature, requires that the opportunity to recycle be provided to all persons in Oregon by July 1, 1986.

The opportunity to recycle includes:

- (a) A place for receiving source separated recyclable materials, located either at the disposal site or at another location more convenient to the population being served;
- (b) If a city has 4,000 or more people, on-route collection at least once a month of source separated recyclable materials from collection service customers within the city's urban growth boundary; and
- (c) A public education and promotion program that gives notice to each person of the opportunity to recycle and encourages source separation of recyclable material.

ORS 459.185(9) allows any affected person to apply to the Commission to extend the time permitted for providing all or part of the opportunity to recycle or submitting a recycling report to the Department. The Commission may: (a) grant an extension upon a showing of good cause; (b) impose any necessary conditions on the extension; or (c) deny the application in whole or in part.

The Department has received a request from Westlane Disposal for an extension of the deadline for providing the opportunity to recycle (Attachment I). Westlane Disposal Co. is the solid waste collector in the urban growth boundary outside the city limits of Florence, Oregon. The affected area has 72 households.

Westlane Disposal is in a competitive situation with the franchised hauler in the cities of Florence and Dunes City. The citizens of Florence and Dunes City have voted to eliminate the franchised solid waste collection system in those cities, beginning January 1, 1987. After January 1, 1987, Westlane Disposal will compete for more customers within those cities. In order to do so, it must provide the opportunity to recycle to the people in Florence.

The company estimates that it would cost \$8,000 to institute an on-route recycling program, plus storage of the materials. Westlane Disposal claims that neither its competitor nor Northwest Resource Recyclers, the company that operates the recycling depot at the landfill, will cooperate in marketing the recyclable materials. Westlane Disposal says it cannot afford to make the investment in the recycling program at this time, but will be in a better position to do so as January 1, 1987 approaches. Therefore, the company requests an extension to January 1, 1987 to provide the opportunity to recycle in its portion of the Florence urban growth boundary.

The Department has investigated the situation in Florence and has received written comments from many of the local affected persons (Attachments II through V). None of the comments supported Westlane Disposal's request. The comments indicated that, (1) Westlane Disposal's situation is not unique and is instead a product of their own making, (2) the cost of providing recycling service is not prohibitive, and (3) cost-effective solutions exist for meeting the minimum requirements of the law. Both the current and the previous operators of the recycling depot at the landfill have agreed to accept Westlane's recyclable materials at the landfill. In addition, Lane County offers a \$2 per ton discount on solid waste disposal fees at all disposal sites in the county if a collection company certifies that it provides recycling service to its customers. This discount will help offset the costs of providing this service.

Alternatives and Evaluation

In order to grant the request for a time extension, the applicant must show good cause for needing the extension.

Westlane Disposal Co. applied for the time extension in June 1986. The stated reason is that it will not be in a financial position to implement an on-route recycling program until January 1987. The company is required to provide the service to only 72 customers within the urban growth boundary of Florence, but prefers to set up a system which will serve all of its anticipated customers.

The Department has contacted Westlane Disposal Co. to discuss ways to meet the minimum requirements of the law by providing on-route recycling services to its 72 customers in the urban growth boundary of Florence. If 20% of these people recycled, the company would be collecting materials from 14 households per month. If the service were offered weekly, the amount of materials being collected for recycling would likely not be large, and could fit on the existing solid waste collection vehicle if metal storage bins were added. The materials could be dropped off at the recycling depot at the landfill, eliminating Westlane Disposal's need for storage space. Westlane could also transport the materials to Eugene where several buy-back centers are available for marketing recyclable materials.

The Department finds that Westlane Disposal Co. has not shown good cause for needing the extension. The company has had adequate time to implement its recycling program, and an economical method exists for providing recycling services which meet the minimum requirements of the law. The company could expand the service to all of its customers in accordance with its plan at a later date. The Department, therefore, recommends that the Commission deny the request for extension of the deadline for providing on-route recycling to persons in the urban growth boundary of Florence.

If the Commission denies the application, then Westlane Disposal Co. would be in violation of state law (ORS 459.180). The Commission could direct Westlane to implement the opportunity to recycle as soon as possible, but with a specific deadline such as September 1, 1986, to give Westlane a reasonable timeframe to set up its recycling program. If the company remains in violation of the law, the Department could initiate civil penalty proceedings. Alternatively, the Department could disapprove this portion of the Lane Wasteshed recycling report and grant the affected person a reasonable time to correct the deficiency (ORS 459.185). In the event of disapproval and after a reasonable extension of time to correct deficiencies in the opportunity to recycle, the Commission could by order determine how the opportunity to recycle will be provided, including a timetable for implementation. Any person who violates an order of the Commission is also subject to civil penalties.

The Commission could grant the request, or grant it with conditions. If granted, Westlane Disposal would have six months, or whatever length of time is determined reasonable, to implement an on-route recycling program. Since the company wishes to set up a program which serves all of its customers, and promote the program as an integral part of its service, the Commission could impose the condition that if the extension is granted, the opportunity to recycle must be provided to all of its customers, including those outside of the Florence urban growth boundary.

Summation

1. The opportunity to recycle must be provided to all persons in Oregon by July 1, 1986. The Commission may grant an extension of that deadline upon a showing of good cause, impose any necessary conditions on that deadline or deny the application in whole or in part.
2. Westlane Disposal, a solid waste collector in the urban growth boundary outside the city limits of Florence, has requested an extension of the July 1, 1986 deadline to January 1, 1987.
3. Westlane Disposal's request is based on the January 1, 1987 expiration of the franchised solid waste collection system in Florence and Dunes City.
4. Westlane Disposal has stated it cannot afford to set up an on-route recycling program at this time, but will be in a better financial position to offer the recycling service to all of its customers after January 1, 1987.
5. Westlane Disposal is required to collect source-separated recyclable materials from only the 72 customers who live within the urban growth boundary of Florence.
6. Comments received from local affected persons in Florence indicate that an economical method for providing the opportunity to recycle exists at this time which meets the minimum requirements of the law.
7. The Department finds that Westlane Disposal Co. has not shown good cause for needing the time extension.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission deny Westlane Disposal Co. an extension to January 1, 1987 of the July 1, 1986 deadline for providing the opportunity to recycle to persons in Florence, Oregon in accordance with ORS 459.180 and ORS 459.185. It is further recommended that the Commission direct Westlane Disposal Co. to implement the opportunity to recycle as soon as possible, but by no later than September 1, 1986.



Fred Hansen

- Attachments:
- I. Letter from Westlane Disposal to DEQ, dated June 10, 1986
 - II. Letter from Northwest Resource Recyclers, Inc. to DEQ, dated June 25, 1986.
 - III. Letter from Lane County Waste Management Division to DEQ, dated June 27, 1986.
 - IV. Letter from Siuslaw Disposal, Inc. to DEQ, dated June 25, 1986.
 - V. Letter from the City of Florence to DEQ, dated June 30, 1986.

Lorie Parker:b
YB5837
229-5826
June 23, 1986

 WESTLANE DISPOSAL

Attachment I
Agenda Item L
July 25, 1986 EQC Meeting

A Necessary Service at a Sensible Price

P.O. Box 1330 • 85025 Hwy. 101 S. • Florence, Oregon 97439 • 997-6408

June 10, 1986

DEQ
Ms. Mary Ann Fitzgerald
P.O. Box 1760
Portland, Or 97207

RECEIVED
JUN 12 1986
Hazardous & Solid Waste Division
Dept. of Environmental Quality

Dear Ms. Fitzgerald:

As per your request we respectfully request an extension in the July 1 deadline to institute on-route recycling as mandated by Senate Bill 405.

We have a unique situation in Western Lane County, which I am sure no other hauler in Oregon has.

First, I have no franchise and have been embroiled the past six years, in a battle with the franchise holder in Florence and Dunes City. He has made doing business in the unincorporated areas around Florence and Dunes City very difficult. He has used the power of his franchise to compete unfairly with me, by keeping the rates in the franchised areas high while bidding against me with no regard for cost in the areas where I can work. I have had to work very hard with a tremendous loss of revenue, (by reducing my rates) just to hang on to customers. Add to this the cost of financing a legal battle to get the citizens of Florence and Dunes City to vote out, by initiative, the franchise system. Last May 21 we were finally successful and in January 1987 (when the current franchise runs out) we will be able to solicit for business in the two aforementioned cities.

We have only 72 customers in the urban growth areas around Florence but we must, because of the competitive situation, offer "on-route" recycling to all our 400 customers. For us to institute an "on route" recycling program with even the minimums required by SB 405 would cost us some \$8,000. Money we simply don't have. Add to this the fact that we have no place to store the recyclables and you can see our plight.

We have discussed with our competition a cooperative program to collect recyclables, but he has turned us down flat.

We have offered any recyclables we collect to Northwest Source Recyclers who have a pickup station at our landfill but they have policy against letting commercial haulers use their sites.

WESTLANE DISPOSAL

A Necessary Service at a Sensible Price

P.O. Box 1330 • 85025 Hwy. 101 S. • Florence, Oregon 97439 • 997-6408

-2-

We believe wholeheartedly in the concept of recycling but because of the aforementioned unique situations we cannot at this time start up a program. We are making plans to begin a comprehensive "on route" pickup in 1987. We will have new capital then and our campaign to gain new business in the cities will include an incentive to potential customers to recycle. It is all part of a master plan we are now formulating and the extension will make it possible to reach our goals. If we are forced to start a program at this time it might very well be the "straw that breaks" our backs. We are hanging on by a thread now, just waiting for January 1987 to arrive. It is the "light at the end of the tunnel" that we have been fighting the past six years to see. Please allow us to realize our goal by granting us an extension to January 1987.

Respectfully,



Loren N and Roberta M. Parker

NORTHWEST RESOURCE RECYCLING, INC.
1680 IRVING ROAD
EUGENE, OREGON 97402
(503) 461-2000

June 25, 1986

Hazardous & Solid Waste Division
Dept. of Environmental Quality

RECEIVED
JUN 27 1986

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

Dear Ms. Fitzgerald:

I have received your letter dated June 17, 1986 regarding the appeal by Westland Disposal.

NORTHWEST RESOURCE RECYCLING, INC. (NWRR) does not have a policy prohibiting the use of our facilities at the Florence Landfill site by commercial haulers. We, in fact, encourage use of our facilities by commercial haulers at all the sites we presently service, including Veneta, Franklin, Cottage Grove, Creswell, Mc Kenzie Bridge and others.

In fact, Mr. Walpole called Mr. Parker 24 months ago offering to assist in his recycling efforts. We also contacted his competition. We have picked up at his competition's yard over 14 tons of newspaper in the months of May and April 1986, alone. We pick up, in the yard of Horning Brothers in Reedsport, their newspaper.

I can not comment on the additional items addressed in Mr. Parkers' letter. He has been contacted by NWRR as long ago as 24 months, offered several options for handling his recyclables, including bundled newspaper, cardboard, glass and flatten tin cans in barrels. The offer included the options of picking up in his yard, him transporting the items to the Florence landfill, or his transporting his materials to our facility in Eugene, where we would purchase the recyclable at a price greater than we pay the general public.

Mr. Parker has declined all our options.


I would be happy to supply any additional information you might need to assist in your decision making.

Our offer to pick up materials at his yard continues to be in effect. Since we are no longer the holder of the contract to recycle at the landfill site in Florence, I can not continue to

offer the services there. Mr Parker can still exercise the option of bringing his accululated materials to our facility in Eugene, and we would purchase the materials.

Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Rick".

Richard A. Paul,
General Manager



Hazardous & Solid Waste Division
Dept. of Environmental Quality

RECEIVED
JUN 30 1986

June 27, 1986

Marianne Fitzgerald
Recycling Specialist
Hazardous and Solid Waste Div.
Dept. of Environmental Quality
P O Box 1760
Portland, Oregon 97207

Dear Ms. Fitzgerald,

I submit the following as comments on Westlane Disposal Co.'s request for a time extension in providing the opportunity to recycle:

- °Westlane has been aware, through both oral and written communication, since April of 1984, that it would need to provide recycling services to its customers by the July 1, 1986, deadline.
- °Westlane was offered, and is still offered, the opportunity to participate in Lane County's Curbside Recycling Program. This program helps to defray a wastehauling company's expense in providing curbside by 1)reducing tipping fees on residential wastes, and 2)undertaking the costs of promotion and education for the wastehauler.
- °Westlane has only 72 customers within the Florence urban growth boundaries. Even if it developed a participation rate of 35%, it would still be serving only 25 recycling households. An additional bin on a ~~packer-truck could easily handle~~ such a volume, the expense of which would not be prohibitive.
- °Mr. Loren Parker, Westlane's owner, indicates that he has no place to market his collected materials because Northwest Source (Northwest Resource Recycling, Inc.) has a policy against accepting commercial hauler's recyclables. This is not the case. Lane County has a contract with Northwest to provide recycling services at all of our disposal sites. They do not refuse any recyclable material from any source. This may be confirmed by contacting Jim Walpole, President of Northwest at 461-2000.
- °Finally, Westlane's figure of \$8,000 as the cost of offering a minimum recycling service should be verified by a specific breakdown of labor, equipment, insurance, etc.

Sincerely,

Ken Sandusky, Recycling Coordinator

SIUSLAW DISPOSAL, INC.
P.O. BOX 130
FLORENCE, OR 97439

Attachment IV
Agenda Item L
July 25, 1986 EQC Meeting

June 25, 1986

Department of Environmental Quality
Attn: Marianne E. Fitzgerald
Recycling Specialist-Hazardous and Solid Waste Division
522 SW Fifth Avenue, Box 1760
Portland, OR 97207

Re: Westlane Disposal Co. Request for Time Extension

Dear Ms. Fitzgerald,

In response to your letter of June 17, 1986 regarding Westlane Disposal Co.'s request for a time extension, we do have some comments to submit to you.

We, as we're sure you're aware, are the new company-Siuslaw Disposal, Inc. We became the new owners April 1, 1986. The business previously owned by Mike and Loraine Johnson, was Siuslaw Sanitary Service, Inc.-to whom you addressed your letter.

We feel that the request for an extension by Westlane Disposal Co. should be denied, as do the previous owners. Every hauler in Oregon has had the same time limit to institute the on-route recycling as Westlane Disposal Co. and has had to incur certain costs to prepare for this situation.

Westlane Disposal Co. has and has had for some time, a truck specifically set up for cardboard recycling in this area. Westlane started cardboard recycling here several years ago and runs a regular weekly cardboard recycling route at this time. Because of this, we see no exorbitant cost being laid out for that particular part of the plan. If recycling glass or newspapers is their concern, we can only say that it has posed no extraordinary problem to us or cost for that matter. We merely carry extra boxes or cans on the trucks to transport those particular recyclables. As for storage, Westlane's shop size appears to be adequate for containing recyclables.

Westlane Disposal Co. mentioned in their letter to you that the previous owners "turned them down flat" when they approached them regarding a co-operative plan; but according Siuslaw Sanitary Service, Inc., Westlane Disposal offered to share in the profits of recycling but not in the costs involved. Therefore, Siuslaw Sanitary didn't want to take the chance of being stuck with the cost of processing Westlane's materials. If you wish further information from Siuslaw Sanitary Service, Inc., please call (503)997-8092 (which is their number now) after July 3, 1986 or write them at their Post Office Box 1160, Florence, Or 97439.

Hazardous & Solid Waste Division
Dept. of Environmental Quality
RECEIVED
JUN 30 1986

SIUSLAW DISPOSAL, INC.
P.O. BOX 130
FLORENCE, OR 97439

(2)

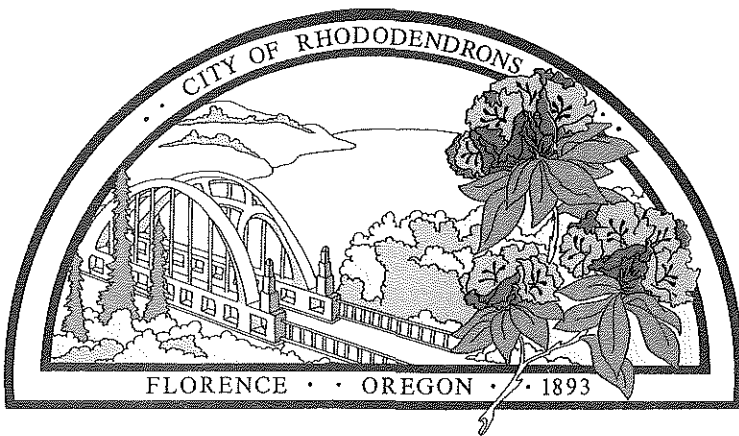
As we mentioned earlier, we have owned this business since April 1, 1986, and have not been approached by Westlane Disposal Co. at all regarding recycling in all that time.

Thank you for giving us the opportunity of expressing our views on this issue. If you have any questions for us, please call us at (503)997-8233, or write us at our address above.

Sincerely,

*Tom + Lu
+ Bob + Chris Fender*

The Fenders
Siuslaw Disposal, Inc.



City of Florence

P.O. BOX 340
250 HIGHWAY 101 NORTH

PH. (503) 997-3436
FLORENCE, OREGON 97439

June 30, 1986

Marrienne E. Fitzgerald
Recycling Specialist
Department of Environmental Quality
522 S.W. 5th Avenue
Box 1760
Portland, OR 97207

RE: Your letter of June 17, 1986 request for time extension.

Dear Ms. Fitzgerald:

We have reviewed your letter and the copy of the June 10, 1986 letter from Westlane Disposal concerning on route recycling. We cannot agree with the contention made by the Parker's in which they content that they have a unique situation.

Franchising for garbage collection purposes is quite common throughout the State of Oregon from small cities to very large cities. There are numerous parallel situations that exist that are directly comparable to Mr. Parker. In-as-much as there is one franchise operator allowed to operate within the city and all others are excluded. Mr. Parker has chosen to fight the franchising process in Florence and has taken this action of his own free will.

We fail to see any reason why Mr. Parker and Westlane Disposal should be exempted temporarily or permanently from the requirements of Senate Bill 405 in-as-much as whether he operates inside the city or outside the city has no bearing whatsoever. We can find no reason to agree with the contentions presented by the Parkers and therefore are not in a position to offer any support to their cause whatsoever.

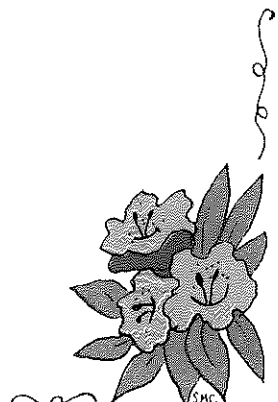
Very truly yours,

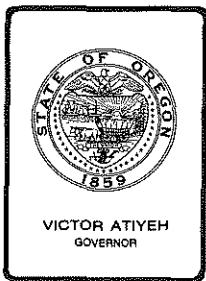
Clayton Schmitt
City Manager

CS/dm

Hazardous & Solid Waste Division
Dept. of Environmental Quality

RECEIVED
JUL 2 1986





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 M, July 25, 1986, EQC Meeting

Request Approval for the Proposed Priority Ranking and Schedule to Study Water Bodies Exceeding the Chlorophyll a Value in OAR 350-41-150(1) and the Tualatin Basin Water Quality Assessment Workplan

Background

In November 1985, the Department began an intensive assessment of water quality and pollution sources in the Tualatin Basin. A grant application for federal 205j funds was prepared and was recently approved by EPA. This grant provides the resources needed to review current water pollution control requirements in the drainage, to refine technical analysis tools, and to develop an updated water quality management plan for the basin.

A project workplan is available (Attachment A). Primary objectives of the project include:

- 1) To develop a plan for eliminating current dissolved oxygen standard violations in the lower Tualatin during summer low flow conditions.
- 2) To describe nutrient and bacterial conditions in the Tualatin River, including Lake Oswego, and identify actions needed to protect the beneficial uses of the entire drainage basin.
- 3) To assess current levels of toxics and toxicity effects in the basin, then begin to define actions needed to protect beneficial uses.

The Tualatin River project has been divided into three technical components which reflect each of these objectives. A public involvement component is also included in the overall project workplan. The intent is to solicit input from the public and to provide opportunities for citizen involvement during the planning process.

The Department has initiated an expanded water quality data collection program in the Tualatin River, in key tributaries, and in Lake Oswego. Monitoring efforts are being conducted in cooperation with the Unified Sewerage Agency (USA) and the Lake Oswego Corporation (LOC). The Stafford/Lower Tualatin Community Planning Organization has also provided assistance with data collection activities. There is opportunity for other interested agencies or groups to participate. By making the best use of available monitoring resources, a solid technical data base will be available to address the complex water quality planning issues in the Tualatin Basin.

A portion of the Tualatin project addresses the question of nuisance algal growths. This effort originates from concerns over nutrient loads to the lower Tualatin and Lake Oswego. A Nuisance Phytoplankton Growth Rule (OAR 340-41-150) was adopted by the Commission on March 14, 1986. According to this rule, waterbodies where phytoplankton growth may create a nuisance condition are to be identified using average chlorophyll a values.

If the values in OAR 340-41-150(1) are exceeded, the rule requires the Department to conduct studies according to a schedule approved by the Commission. These studies will collect the data to describe present water quality; determine the effect on beneficial uses; determine the probable causes of the exceedance; and develop a proposed control strategy for attaining compliance where technically and economically practicable.

As evidenced during the development of the Nuisance Phytoplankton Growth Rule, algal growth is a complex problem. The Department's intent is to place the initial focus in the Tualatin Basin for addressing algal growth concerns. By using this basin as a pilot to develop the analytical tools, such as computer models, other areas of the state can be studied more efficiently.

As a related issue, the Department has completed a biennial water quality status assessment (copies of the report will soon be mailed to Commission members). All ambient monitoring data was evaluated for compliance with the Nuisance Phytoplankton Growth Rule. A list of waterbodies has been identified where the values in OAR 340-41-150(1) are exceeded (Attachment B).

A priority ranking for study has been proposed for each of these waterbodies. This ranking has been determined by assessing how much the chlorophyll a content has exceeded the adopted criteria. An evaluation of other decisions to be made in the basin, such as permit renewals, has also been considered. Studies for high priority waterbodies could be initiated during the next biennium, provided adequate funding resources are made available. Studies for medium priority waterbodies could then be initiated during the 1989-91 biennium, again contingent on available funding.

Director's Recommendation

It is recommended that the Commission approve the priority ranking assignments and study schedule proposed in Attachment B for waterbodies with identified nuisance algal growth concerns and approve the schedule outlined for the Tualatin Basin Project in Attachment A.



Fred Hansen

Attachments: (2)

- A. Tualatin Drainage Basin: Point and Non-Point Source Pollution Assessment Project Workplan
- B. Waterbodies Exceeding the Chlorophyll a Value of OAR 350-41-150(1)

Bruce Cleland:h
WH858
229-6066
June 24, 1986

TUALATIN DRAINAGE BASIN

Point and Non-Point Source Pollution Assessment Project Workplan

A. BACKGROUND:

The Department of Environmental Quality (DEQ) has initiated an intensive review of water quality and pollution sources in the Tualatin Basin. Although significant improvements were made in the condition of the river during the 1970's, water quality in the Tualatin River over the past several years appears to be declining. Treatment requirements in the drainage are quite stringent, but population and industrial growth have led to increased waste loadings. Point source discharges, non-point urban and agricultural sources, natural background quality upstream, and low summer streamflows all contribute to water quality concerns in the river. In addition, public concerns about nuisance algal growth in Lake Oswego have created a need to assess nutrient concentrations and loadings in the basin.

A water quality assessment for the Tualatin River Basin is proposed to address these water quality issues. This effort will focus on reviewing current water pollution control requirements in the drainage, refining technical analysis tools, and developing an updated water quality management plan. The technical approach applied to the Tualatin is also designed to serve as a pilot for future water quality planning in the Willamette Basin. Alternative methods to assess water quality impacts on beneficial uses will be explored. Modeling techniques will be employed to complement data collection activities and to evaluate the relative importance of key factors influencing water quality. In short, the approach used in the Tualatin Basin will improve the Department's technical basis for identifying, developing, and evaluating long-term water pollution control strategies.

B. PURPOSE AND OBJECTIVES:

The ultimate goal of this Tualatin River project is to develop an updated plan which identifies water quality concerns and management strategies for the basin. This plan will guide the Department's future decisions regarding water quality control in the Tualatin River. First, refined water quality assessment tools will be developed. Modeling combined with additional monitoring will be used to organize and display technical information. Relationships between key water quality indicators and the various pollution sources in the drainage can then be estimated. Once assembled, management strategies will then be identified and evaluated.

To facilitate plan development, several major tasks are identified. Some of the activities, particularly the review and analysis of current data, are being performed with existing staff. However, several information gaps remain which need to be filled before control strategies can be identified and evaluated. Therefore, this project will include additional data gathering and analysis. The results of these studies will supplement the technical data base to develop the water quality management strategies.

Specifically, the objectives of this study are:

1. To document the aquatic life uses of the river, evaluate current dilution requirements, and develop a total maximum daily load for oxygen demand in the lower Tualatin which is needed to attain the dissolved oxygen (D.O.) standard during summer low-flow conditions.
2. To describe nutrient and bacterial conditions in the lower Tualatin River, including Lake Oswego, estimate the seasonal contributions resulting from key activities in the basin, and identify actions, which are needed to protect the beneficial uses of the system.
3. To assess the current levels of toxics and toxicity effects in the drainage, then begin to define actions needed to protect beneficial uses in the basin, particularly in light of potential high-tech development, agricultural concerns, and urban growth.

C. PROJECT MANAGEMENT:

The overall project will be directed by the Oregon Department of Environmental Quality. For portions of the study which relate to other agencies or interest groups, cooperative efforts will be initiated or continued. One example is the water quality monitoring conducted by the Unified Sewerage Agency of Washington County (USA). Other parties potentially interested in participating with data collection and analysis include the Lake Oswego Corporation, the Water Resources Department, the Soil & Water Conservation District, the Fish & Wildlife Department, and the U.S. Bureau of Reclamation.

DEQ will conduct portions of the water quality sampling, coordinate with other groups also collecting water quality data, and evaluate the information. DEQ will provide quarterly progress reports and a final report which summarizes the water quality findings. These reports include a description of modeling activities performed in support of data analysis and interpretation. Additional data collection will be coordinated with existing ambient water quality monitoring activities conducted in the basin.

D. WORK STATEMENTS:

This Tualatin River project can be divided into three parts which reflect each of the objectives:

1. Water Quality and Aquatic Life

The first part of the study will address aquatic life concerns. Dissolved oxygen is a key water quality parameter which has a major effect on aquatic life. The stretch of the Tualatin River below Rock Creek is currently in violation of the dissolved oxygen standard during the summer low-flow period. This condition has underscored the need to conduct a comprehensive review of water quality requirements for the protection of the aquatic life in the lower Tualatin River. Efforts will be initiated to define these uses focusing on the fishery as a primary indicator.

In parallel, a more detailed analysis of the dissolved oxygen profile of the river will be conducted. Existing ambient data suggests that the nitrification of ammonia may represent the greatest threat to dissolved oxygen levels in the Tualatin Basin. USA has conducted a preliminary modeling analysis as part of their Master Sewage Plan update. The Department intends to use this as a starting point to review current dilution requirements and to identify a total maximum daily load for oxygen demand in the Tualatin. The study design will look at D.O. changes both in time and in space under several different summer flow conditions. The study will also include a definition of nitrification rates which cause depression of dissolved oxygen concentrations.

The product of this portion of the project will be recommendations to address dissolved oxygen concerns. The goal will be the attainment of D.O. levels designed to protect the beneficial aquatic life uses of the lower Tualatin.

2. Water Quality and Recreational Use

The second part of the overall strategy addresses the recreational uses of the basin which are dependent on water quality. Although concerns have been raised about nuisance algal growths in the lake, very little technical data are available. Ambient monitoring data indicate elevated levels of fecal coliform bacteria in the lower Tualatin system. Additional information will be gathered to assess actual water quality conditions in terms of recreation. This is particularly important because of the potential financial resource commitment which could be required to resolve these problems. With many activities contributing to the nutrient and bacterial load of the system, a wide array of control options must be identified and evaluated.

This portion of the Tualatin study will consist of two primary efforts. One activity will analyze the water quality dynamics occurring within the lake. Relationships such as springtime total phosphorus to summertime chlorophyll a will be investigated. Algal bioassays are needed to quantify growth-response rates and to assess limiting conditions. An analysis of significant algal species will also be conducted along with a screening analysis of the internal regeneration of phosphorus from lake sediments.

The other part of this analysis will estimate seasonal contributions resulting from key activities in the basin. This will be accomplished through a loading analysis. Sources to be examined include point source effluents, urban runoff, agricultural activities, and wet weather by-passing. Data collection will occur by expanding the fixed network in the basin combined with several hydrologic-event related surveys. Interagency coordination with Water Resources Department is also needed to ensure that adequate flow data is assembled. This information is required to compute in-stream pollutant loads.

3. Water Quality and Toxics

The third portion of the project will be to evaluate toxics issues in the Tualatin Basin. A great deal of discussion on the potential influx of high-tech industry into Washington County is occurring. Very little data exist to describe conditions. This is needed to evaluate the existing and potential development of the high-tech industry. The manufacture of equipment for computers, electronics, and communications can use high volumes of water during certain processes. Discharge of these industrial waste streams could increase toxics concentrations in the drainage. Urban runoff and agricultural activities may also influence levels of toxics. The approach will be to first establish key monitoring stations within the basin. Bimonthly measurements will be performed over a 2-year period. Sediment samples collected at these sites will also be analyzed except during high-flow conditions. To complement the fixed network, ambient reconnaissance will be performed at about 30 stations. The sites will be sampled twice during low-flow conditions and twice during higher flow conditions. Parameter selection will be based on site-specific concerns (e.g., urban runoff, agriculture, etc.).

Screening of potential sources also will be performed. USA currently conducts chemical analyses on influent waste streams to their facilities as part of the pretreatment program. Biological screening methods will be employed on treatment plant effluents as well as other waste streams of concern (e.g., runoff from container nurseries). Screening of sediment collected from storm drains or ditches may also be performed to identify chemicals of concern.

E. PUBLIC INVOLVEMENTS:

Given the types of water quality management strategies to develop and decisions to be made, the public must be kept informed of this project. Initial public contact mechanisms will be established in cooperation with USA. DEQ will develop and implement a workplan which outlines activities for citizen involvement during the planning process.

F. STUDY TASKS:

Part 1: Water Quality and Aquatic Life

Task 1.1 Planning — Identify factors which may influence aquatic life in the lower Tualatin River, particularly dissolved oxygen conditions. Review the sites and flow conditions that will be monitored for D.O. concerns. Conduct preliminary surveys to screen sampling site network. Determine the logistics for sampling and analysis. Ensure proper source data will be collected during ambient data collection activities to compute input loads to the system.

Outputs:

- An inventory of sources, discharge points, and relative flow rates specific to the Tualatin which may influence dissolved oxygen concentrations.
- An initial detailed Quality Assurance Implementation Plan. This plan will discuss how the information collected will be used to address dissolved oxygen and ammonia concerns in the lower Tualatin.
- A schedule for sampling which includes the division of field and lab workload between USA and DEQ.
- An updated QA plan written after the first year, but prior to any model verification studies conducted during the second year.

Schedule: July 1986 - June 1987

Task 1.2 Data Collection -- Collect the required ambient data through a sequence of diurnal studies (mid June, mid July, mid August). All methods used will be in accordance to USEPA

and/or Standard Methods and will follow DEQ Standard Operating Procedures. Report data into ambient water quality data base for subsequent assessment.

Outputs:

- A refined data description of dissolved oxygen conditions in the lower Tualatin River. This will include information on the longitudinal and temporal changes of key parameters needed to develop the waste load allocation.
- A computer printout of survey results available within ninety (90) days of each sampling activity.

Schedule: July 1986 - September 1987

Task 1.3 Data Analysis -- Develop and implement refined technical analysis tools. Conduct additional tests needed to support modeling efforts. This includes time-of-travel studies, the collection of hydraulic geometry data, and the computation of nitrification rates. Assemble, display, and review information on the aquatic life uses of the lower Tualatin.

Outputs:

- A calibrated and verified water quality model which will support a detailed analysis of oxygen demand concerns.
- A summary of test results with a brief description of the impacts on model results.
- An evaluation of the aquatic life uses of the lower Tualatin.

Schedule: October 1986 - October 1987

Task 1.4 Management Options -- Summarize and assess results of the sampling program. Based on study results, define and evaluate the options for protecting the aquatic life uses of the lower Tualatin River. The evaluation will be based on an analysis of the relative effect various source activities contribute to dissolved oxygen concerns.

Outputs:

- A report which includes a management plan outline with key strategies for accomplishing

water quality objectives relative to the aquatic life uses of the river.

- An evaluation of options such as permit limits for ammonia, the release of additional dilution water during critical periods, or the export of effluent from the basin.

Schedule: December 1986 - December 1987

Part 2: Water Quality and Recreational Use

Task 2.1 Planning — Identify factors which may influence recreational use in the Tualatin drainage, particularly, nutrient and bacterial conditions. Conduct preliminary surveys to screen sampling site network. Develop a sampling program to assess conditions in Lake Oswego and to estimate the seasonal contributions of nutrients from different activities in the Tualatin Basin. Ensure overall compatibility between both portions of the study. Determine the logistics for sampling and analysis including streamflow measurements. Ensure proper point source data will be collected to account for these loads to the basin, particularly for key water quality parameters.

Outputs:

- An inventory of sources, discharge points, and relative flow rates specific to the Tualatin which may impact the recreational uses of the system.
- A detailed Quality Assurance Implementation Plan. This plan will discuss how the information collected will be used to address nutrient concerns in the basin.
- A schedule for sampling including the distribution of field and lab workload between participating groups such as USA, the Lake Oswego Corporation, Water Resources Department, and DEQ.
- An updated QA plan written prior to any special wet weather sampling or modeling support studies.

Schedule: July 1986 - March 1988

Task 2.2 Data Collection -- Collect and analyze the ambient water quality data as shown in the Q/A plan. All methods used will be in accordance to USEPA and/or Standard Methods and will follow DEQ Standard Operating Procedures. Report data into ambient water quality data base for subsequent assessment.

Outputs:

- A refined data description of nutrient and bacterial conditions in the Tualatin Basin.
- A computer printout of survey results within ninety (90) days of each sampling activity.

Schedule: July 1986 - May 1988

Task 2.3 Data Analysis -- Develop and implement refined technical analysis tools needed to estimate seasonal pollutant contributions resulting from key activities in the drainage. Collect and assemble any additional information specific to modeling efforts. This includes streamflow data and any necessary lab/field studies needed to determine algal growth rates and limiting conditions.

Outputs:

- A documented technical approach, such as a model, which can be utilized to estimate the magnitude of pollutants contributed from point and non-point sources in the basin which impact the recreational uses.
- A documented technical approach which can be utilized to describe lake dynamics which influences the timing and rate of algal growth in Lake Oswego.
- A summary of test results with a brief description of the impacts on modeling activities.

Schedule: September 1986 - May 1988

Task 2.4 Management Options -- Summarize and assess results of the sampling program. Based on study results, define and evaluate the options for protecting the recreational uses of the lower Tualatin River. The evaluation will be based on an analysis of the relative effect that various source activities contribute to nutrient and bacterial concerns.

Outputs:

- A report which includes a management plan outline with key strategies for accomplishing water quality objectives relative to the recreational uses of the river.
- An evaluation of options such as refined permit limits for nutrients, better control of wet-weather bypassing, etc.

Schedule: September 1986 - June 1988

Part 3: Water Quality and Toxics

Task 3.1 Planning — Identify factors which may contribute to the presence of toxic materials in the Tualatin River system. Review literature and existing data including pretreatment information to select target compounds for the chemical portion of the study. Conduct preliminary surveys to screen sampling site network. Develop overall sampling program to address identified toxics concerns. Determine the logistics for sampling and analysis within the resource constraints. Ensure proper point source data will be collected.

Outputs:

- An inventory of locations of concern in the Tualatin Basin which may be of interest based on types, sources, and forms of toxic compounds. This will include any pertinent information on the influence of fate, sinks, bioaccumulation, and recycling of toxics.
- A detailed Quality Assurance Implementation Plan. This plan will discuss how the information will be used to address toxics concerns in the basin.
- A schedule for sampling which includes the division of field and lab workload between DEQ and other participating agencies.
- An updated QA plan written prior to the start of the second year of sampling which reflects knowledge gained during screening efforts.

Schedule: October 1986 - May 1988

Task 3.2 Data Collection -- Collect and analyze samples as shown in the Q/A plan. All methods will be in accordance to USEPA and/or Standard Methods and will follow DEQ Standard Operating Procedures. Report data into ambient water quality data base for subsequent assessment.

Outputs:

- A refined data description of toxic conditions in the Tualatin Basin.
- A computer printout of survey results within ninety (90) days of each sampling activity.

Schedule: October 1986 - May 1988

Task 3.3 Data Analysis -- Develop and implement refined analysis tools needed to assess toxics issues in the Tualatin Basin. Perform lab toxicity bioassay tests to screen areas of concern which may be missed by the conventional chemical tests. Evaluate the potential use of models for analyzing water quality toxics concerns.

Outputs:

- A documented technical approach, such as a model or biological screening techniques, which can be used to analyze surface water toxic pollution concerns in the Tualatin.
- A summary of test results with a brief description of follow-up actions needed.

Schedule: October 1986 - May 1988

Task 3.4 Management Options -- Summarize and assess results of the of sampling program. Based on study results, identify a set of follow-up actions needed to better address surface water quality issues in the Tualatin. The evaluation will be based on an analysis of the relative effect various source activities contribute to toxics concerns.

Outputs:

- A report which includes a management plan outline with key strategies for accomplishing water quality objectives relative to toxics.

- An evaluation of follow-up options available for addressing surface water quality toxics concerns in the Tualatin.

Schedule: December 1986 - June 1988

G. REPORTS:

A quarterly progress will be produced starting 9/30/86 and continuing through 6/30/88. A final report which includes basin planning options will be produced by 6/30/88. This report will identify and evaluate key strategies for accomplishing water quality objectives needed to protect the beneficial uses in the basin. The evaluation will be based on an analysis of the relative effect various source activities contribute to water quality concerns.

H. RESOURCE ESTIMATE:

It is estimated that four full time equivalents (FTE's) over a 2-year period will be needed to accomplish all study tasks. The following table estimates how work will be divided among the three parts over the course of the study. The table is presented in terms of FTE's by quarter. As of April 1986, only 75 - 80 percent of the needed funding is available from EPA. If the additional resource cannot be secured, Task 3.3 cannot be accomplished and Task 3.2 will be reduced in scale.

Table 1. Resource (FTE) Estimates by Project Component

	3rd Qtr. 1986	4th Qtr. 1986	1st Qtr. 1987	2nd Qtr. 1987	3rd Qtr. 1987	4th Qtr. 1987	1st Qtr. 1988	2nd Qtr. 1988
1: Aquatic Life	2.6	0.8	0.6	0.8	1.8	0.4	—	—
2: Recreation	1.2	1.6	1.8	2.0	1.6	1.6	1.6	1.0
3: Toxics	0.2	1.2	1.6	1.2	0.6	1.4	2.4	3.0

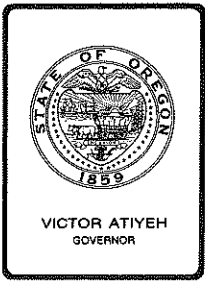
Waterbodies Exceeding the Chlorophyll a Value of OAR 340-41-150 (1)

Waterbody Name	Highest 3-Month Average Chlorophyll <u>a</u> Content Value (mg/l)						Priority*	Projected Study Completion**
	1980	1981	1982	1983	1984	1985		
Bear Creek near Medford	0.012	0.0202	0.0126	0.0083	0.0087	0.0075	High	Dec. 31, 1990
Tualatin River at Tualatin	0.009	0.0137	0.0134	0.0105	0.009	0.0185	High	June 30, 1988
Burnt River near Huntington	0.0171	0.0098	0.0038	—	—	—	Low	Dec. 31, 1993
Malheur River near Ontario	0.0177	0.0275	0.0058	—	—	—	Medium	Dec. 31, 1992
Klamath River near Keno	0.0254	0.0262	0.0131	0.0117	0.0085	—	Medium	Dec. 31, 1991
Klamath Strait near Midland	0.0295	0.0351	0.0167	0.0145	0.0131	—	Medium	Dec. 31, 1991
Link River at Klamath Falls	0.0706	0.0422	0.0321	—	—	—	Medium	Dec. 31, 1991
* Factors Considered in Ranking — Population and usage, waste discharge permit renewal.								
** Contingent on available funding.								

Note: OAR 340-41-150(1) specifies that the following chlorophyll a values shall be used to identify waterbodies where phytoplankton may create a nuisance condition and may impair the recognized beneficial uses:

- (a) 0.010 mg/l for natural lakes which thermally stratify.
- (b) 0.015 mg/l for natural lakes which do not thermally stratify, reservoirs, rivers, and estuaries.

The average chlorophyll a values shall be based on a minimum of three samples collected over any three consecutive months.



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

July 25, 1986

BREAKFAST AGENDA

- | | |
|--|-----------------|
| 1. Informational Report: First year review of Tri-Met noise inspection compliance program | John Hector |
| 2. Informational Report: First year review of light-duty vehicle noise inspection and compliance program | Ron Householder |

LUNCH AGENDA

- | | |
|---|---------------------|
| 1. Presentation on Grants Pass Carbon Monoxide problem and the steps the community is taking to resolve | Merlyn Hough |
| 2. Status on submittal of recycling reports to the Department | Marianne Fitzgerald |
| 3. Willamette Valley Region Manager's Report | Dave St. Louis |



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: John Hector, Noise Control Program
Subject: July 25, 1986 EQC Breakfast/~~Lunch~~ Agenda

Information Report: First Year Review of Tri-Met Bus Noise
Inspection and Compliance Program

Background

On June 7, 1985 the Commission and Tri-Met (Tri-County Metropolitan Transportation District) entered into an agreement that ensures the Portland metropolitan area transit bus fleet is maintained to meet appropriate noise emission levels. This agreement requires the entire diesel powered bus fleet operated by Tri-Met be noise tested and corrective measures taken as necessary on an annual basis. As each bus is determined to meet noise emission limits established for its sub-fleet, it is issued a Departmental certificate of compliance. Inspection and compliance certification is conducted by Tri-Met with oversight and audit the responsibility of the Department.

The first year of testing under the agreement was to be completed by December 31, 1985. However, due to factors outside Tri-Met's control, 1985 testing and compliance was not completed until June 1986. Tri-Met is developing recommendations to amend the current agreement that will hopefully resolve the problems encountered during this first year of testing. It is anticipated that a proposed amended agreement will be submitted for Commission consideration at the September EQC meeting.

Discussion

Tri-Met owns 601 diesel powered transit buses that make up 14 distinct sub-fleets due to make, model, production year and other factors. Allowable noise emission standards were established for each sub-fleet based upon limited data samples taken in 1985. Of the total 601 buses, 30 buses are inactive and were not noise certified. Thus, 571 buses were subjected to this first year of inspection and compliance. Two buses in this group (Nos. 401 and 972) have not been certified as they have sustained extensive body damage. These buses should be tested and certified prior to being placed in service again. A third bus (No. 908) has not been certified as it exceeds its standard by 3 1/2 decibels. Several major components of this bus are being replaced in an attempt to achieve compliance.

Of the remaining 568 buses, 23 were found to exceed standards after all reasonable corrective measures were taken by Tri-Met. All of these buses were within the 2 decibel tolerance established in the agreement allowing the Department to grant a variance. This group of 23 buses contains 19 (83 percent) that are 1/2 decibel above standard, 2 buses were 1 decibel above, and 2 buses were 1 1/2 decibels above standard.

The Director has approved a variance for those buses that were within the 2 decibel tolerance as provided in the agreement. It may be appropriate to consider amendments to the agreement standards for some bus sub-fleets that are now only slightly (1/2 dB) above the current limits to eliminate the need for variances to these buses in the future.

The two buses, Nos. 401 and 972, that have not yet completed the inspection process due to needed body repairs represent another issue that should be addressed in any proposed agreement amendments. It may be reasonable to provide an allowable time period, perhaps 30 days, to complete testing and certification of buses that are not available during the inspection year. However another option would be to withhold these buses from service until compliance certificates have been issued.

Data Evaluation

An evaluation of the test data results provides some information on the benefits of this program. The overall failure rate for initial tests was approximately 12 percent. Subsequent tests on vehicles undergoing compliance work found failure rates as high as 60 percent until compliance was met or it was determined that an exception (variance) request was justified.

Of the 571 active Tri-Met buses, the test program identified 69 as in excess of the standards. After corrective work, 45 were brought within the limits. All but one (bus number 908) of the remaining 24 buses were within the 2 dBA allowable exception tolerance and 19 of these buses were within 1/2 dBA of this standard.

The range of failures was as great as 6 decibels, although the mean was only 1.4 dBA for the 69 buses that failed their initial test. Most repairs were directly related to the exhaust system. Some repairs required only the tightening of exhaust pipe joint clamps while the majority required replacing of mufflers and pipe sections to achieve compliance or determine if an exception was necessary.

Special Projects

Tri-Met has initiated two projects to correct inherent noise problems on two sub-fleets. First is the fleet of 98 American General buses (Sub-fleet No. 28) manufactured in 1977. These buses are plagued with a fatigue problem in the exhaust pipe due to an inadequate design. Initial evaluation of this sub-fleet indicated that failure rates could be as great as 50 percent. Therefore, a retrofit campaign was begun in the fall of 1984 which reduced the failure rate to only 9 percent by the time these buses were first tested under this program.

The second project addresses a fleet of 32 buses (Sub-fleet No. 20) manufactured in 1971 by Flxible. It was determined that these buses were designed with a muffler that was not very effective. This fleet has a reputation for being loud and its standard was necessarily set to the highest level of 90 dBA. Over 30 percent of this fleet failed the initial test by an average of 2 decibels. Tri-Met has determined that a newer model muffler could be used to replace the original less-effective muffler on this fleet. This retrofit program is achieving an average reduction of over 6 decibels on this fleet.

Summation

1. The first annual noise inspection and compliance cycle has been completed for Tri-Met's fleet of diesel powered transit buses.
2. Initial failure rates were approximately 12 percent of the active operating fleet of 571 buses.
3. All but 26 buses have been tested as strictly meeting standards of which 23 have been issued exceptions (variances) as being within 2 dBA of its standard and having no known defect. The remaining three buses need repair work prior to noise emission testing and certification.
4. Tri-Met has expressed the need to propose several amendments to the existing inspection and compliance agreement. It is anticipated that a proposed amended agreement will be submitted for Commission review at the September 12, 1986 meeting.

Recommendation

Staff recommends the Commission concur with the following:

- a) Find this annual report acceptable; and
- b) Direct staff to negotiate with Tri-Met to reach agreement on necessary amendments to the current inspection and compliance agreement.

Attachments

1. Tri-Met Agreement
2. Exception Authorization
3. Tri-Met Technical Review

AS3301

J. Hector:s
229-5989
July 17, 1986

INTERGOVERNMENTAL AGREEMENT

(ORS 190.110)

This is an agreement between the State of Oregon, Environmental Quality Commission, the "EQC", and Tri-County Metropolitan Transportation District, "Tri-Met", a municipal corporation of the State of Oregon.

Recitals

1. The Tri-County Metropolitan Transportation District of Oregon owns and operates a fleet of transit buses providing public transportation to portions of Multnomah, Clackamas and Washington Counties in the State of Oregon.

2. Motor vehicle noise, including noise generated by transit buses, is a significant environmental problem given the high density of persons and motor vehicles in the service area of Tri-Met.

3. Studies conducted by Tri-Met and the Department of Environmental Quality have determined that a number of Tri-Met's transit buses exceed the maximum allowable noise levels set forth in Oregon Administrative Rules 340-35-030(1)(a), Table 2, as adopted by the Environmental Quality Commission.

IN RECOGNITION of the foregoing and to evaluate the effect of a compliance effort on over-all noise emissions, Tri-Met and the Environmental Quality Commission hereby agree to establish a compliance program to reduce and mini-

mize motor vehicle noise.

A. Annual Certification

Each bus identified by Tri-Met sub-fleet numbers listed in subsection B shall be certified annually prior to December 31st of the inspection year, beginning with 1985, and issued a Certificate of Compliance. The fee assessed for Certificates of Compliance shall be identical to that established in OAR 340-24-307 which is currently \$3.00 per certificate issued for motor vehicle fleet operation.

B. Noise Emission Standards

The maximum allowable noise emission standards for Tri-Met buses shall be as follows:

<u>Sub-Fleet Number</u>	<u>Population</u>	<u>Allowable Limit, dBA</u>
19	13	90
20	31	90
28	99	90
31	3	90
26	79	90
15	7	87
18	10	87
21	135	87
23	9	87
33	87	87
22	20	87
32	11	87
29	19	84
34	75	84

C. Testing Procedure

C.1 Test Site and Instrument Setup.

- 1.a The site shall be a flat, open space free of large, reflecting surfaces such as vehicles, buildings, walls or signboards within 50 feet of either the bus or the microphone.
- 1.b The area between the bus and the microphone shall have a surface of concrete, asphalt, or similar hard, non-porous material. It may be wet or dry but it shall not be covered with snow or some other sound-absorbing substance.
- 1.c Measurements shall not be made during falling precipitation or if there is a wind speed more than 10 mph.
- 1.d Measurements shall not be made unless the ambient sound level is at least 10 dBA lower than the level of the bus.
- 1.e The microphone shall be mounted on a tripod and positioned 25 feet \pm 1 foot from the centerline of the bus, and 5 feet \pm 1 foot above the ground opposite the louder side of the bus.
- 1.f If the engine compartment is in the rear of the bus, the microphone shall be positioned in line with the rear bumper. For any other

location of the engine compartment, the microphone shall be positioned in line with the center of the engine compartment.

- 1.g Only two people may be within 10 feet of the microphone during rating tests.

C.2 Procedure

- 2.a The bus shall be tested in a stationary position with the brakes set and the transmission selector in the forward drive position.
- 2.b The throttle pedal shall be fully and quickly depressed for approximately 10 seconds, causing the engine to stall against the resistance of the torque converter.
- 2.c The stabilized measurement occurring at the end of the 10-second test period shall be used to report the sound level rating of the bus.
- 2.d One measurement is normally sufficient, but if more than one measurement is obtained in a test sequence, then the tests shall be continued until the results stabilize. The stabilized result shall be reported as the sound level rating.
- 2.e The sound level rating shall be the whole number nearest the measured number and frac-

tion. If the fraction is one-half, the measurement shall be rounded up to the nearest whole number to obtain the sound level rating.

2.f While it is unavoidable to find small variations among results due to differences in sites, instrumentation, and bus condition, the allowance for this variation is incorporated into the applicable bus sound level standard rather than applied to the sound level rating based on measurement.

C.3 Requirements for Sound Measuring Instruments and Personnel

3.a The sound measuring system shall conform to American National Standards Institute standard S1.4-1971 Type 1 or Type 2.

3.b Sound measurements shall be taken on the "A-weighting" frequency response and the "fast" dynamic indicator response.

3.c The instrument shall be field calibrated immediately prior to use according to manufacturer's procedures.

3.d Within one year prior to use, the sound level measuring instrument and field calibrator shall receive a laboratory calibration in accordance to the manufacturer's specifications.

3.e Personnel conducting sound measurements shall have been trained and experienced in the use of sound measuring equipment and the procedures to measure bus noise emissions.

D. Repair Policy

Following the completion of noise testing at each of Tri-Met's operating facilities, those buses whose noise emissions are in excess of the standards will be identified. Once identified, those buses will be scheduled for repairs to correct deficiencies such as exhaust leaks which are known to adversely impact noise emissions. After remedial repairs have been made to each bus originally determined to be noncompliant with noise standards, supplementary testing will be conducted to insure ultimate compliance with those standards.

E. Records

Tri-Met will supply noise testing records related to all diesel buses operated in transit service to the DEQ annually on or before March 1st for the previous inspection year. These records will contain all information concerning initial noise testing, necessary repairs to noncompliant buses, supplementary noise testing, dates of all activities, and any other relevant information.

F. Audit

The Department of Environmental Quality may audit Tri-Met's compliance with noise standards by reviewing

inspection records, procedures, and other relevant information and by conducting noise testing of a representative sample of Tri-Met's buses.

G. Preventive Maintenance

Tri-Met will modify preventive maintenance schedules and practices where applicable to more closely monitor potential noise-related problems such as exhaust leaks.

H. Exceptions

The standards established in this Agreement should ensure that sound control devices on buses are maintained in good condition and repair. If Tri-Met determines that a specific bus still exceeds the standard by no more than 2 dBA after all reasonable inspection and repair of sound control devices have been conducted, it may apply for an exception. The Department may issue an exception for any bus that does not exceed the standard by more than 2 dBA after it is determined that all reasonable inspection and repair of sound control devices have been accomplished.

I. Review of Agreement

This agreement shall be reviewed by the parties prior to July 1, 1986, and if deemed appropriate, amended or supplemented on or before such date.

J. Term of Agreement and Termination

This agreement shall remain in full force and effect until mutually terminated by the parties.

IN WITNESS WHEREOF the parties have executed this agreement.

ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

By James E. Petersen
James E. Petersen, Chairman
Title
June 7 1985
Date

TRI-COUNTY METROPOLITAN TRANSPORTATION
DISTRICT, A MUNICIPAL CORPORATION
OF THE STATE OF OREGON

By J.E. Cowen
J.E. Cowen General Manager
Title
June 5, 1985
Date

APPROVED AS TO FORM

Contracts & Legal Services



Department of Environmental Quality

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

July 21, 1986

J. E. Cowen, General Manager
Tri-Met
4012 SE 17th Avenue
Portland, OR 97202

Re: Bus Noise Emission
Level Exceptions

Jim,

We have received your request for an exception (Department authorized variance) from strict compliance with the diesel bus noise emission standards established in the agreement between Tri-Met and the Environmental Quality Commission for 23 buses in your active fleet.

We found these 23 buses met the criteria established in Paragraph H. Exceptions of the agreement as being within two decibels of the established standard after all reasonable inspection and repair of sound control devices had been conducted.

Therefore, pursuant to Paragraph H of the agreement executed by you on June 5, 1985, I hereby authorize an exception from strict compliance with the noise emission standards for the following buses tested during the first annual inspection and compliance cycle. Therefore, the following buses may now be certified by you on complying with the requirements of this agreement:

<u>Bus No.</u>	<u>Fleet</u>	<u>Standard</u>	<u>Rating</u>
724	33	87	88
755	33	87	87 1/2
759	33	87	87 1/2
761	33	87	87 1/2
767	33	87	87 1/2
772	33	87	87 1/2
900	34	84	84 1/2
901	34	84	84 1/2
911	34	84	84 1/2
915	34	84	84 1/2
919	34	84	84 1/2
924	34	84	84 1/2

J. E. Cowen
July 21, 1986
Page 2

<u>Bus No.</u>	<u>Fleet</u>	<u>Standard</u>	<u>Rating</u>
929	34	84	84 1/2
942	34	84	84 1/2
951	34	84	84 1/2
958	34	84	85 1/2
960	34	84	84 1/2
962	34	84	84 1/2
965	34	84	84 1/2
966	34	84	84 1/2
968	34	84	84 1/2
1014	28	90	91 1/2
1035	28	90	91

I understand Tri-Met is developing recommendations for possible amendments to the testing agreement. We would recommend consideration of adjustments to current standards that might eliminate the need for exceptions of one decibel or less within fleet numbers 33 and 34.

Thank you for your continued cooperation on this important program. We believe your work to reduce individual bus noise levels is being reflected in the community.

Sincerely,



Fred Hansen
Director

FH:s
AS3290

MICHAEL C. KAYE
REGISTERED PROFESSIONAL ENGINEER

2166 N.W. FLANDERS STREET
PORTLAND, OREGON 97210
(503) 227-2888

RECEIVED
JUN 16 1986

June 10, 1986.

Noise Pollution Control

To: Tri-Met
From: Acoustic Consultant
Subject: First Year of DEQ Bus Noise Test Program

BACKGROUND

The nation's first self-administered systematic noise emission inspection and regulation program for transit motorbuses began here in Portland in June 1985 when the Tri-County Metropolitan Transportation District and the Oregon Environmental Quality Commission approved Intergovernmental Agreement ORS 190.110. This engineering report covers the first year of this program's results.

During the six months immediately preceding this new program, Tri-Met developed a practical stationary transit bus test method together with standards for each subfleet based on a 10% sample. A bus is parked in a suitable open space, usually a busyard, and, simulating a maximum pullaway from a bus stop, the engine is caused to stall at full throttle against the resistance of the torque converter. The sound level, in terms of A-weighted decibels, is measured opposite the engine on the louder side of the bus 25 feet from the bus centerline. It is not advisable to test during significant rainfall or strong winds.

The noise rating is compared to the applicable standard. If the bus passes, it is certified for compliance. If it does not, it is inspected for defects, appropriately repaired, and retested. If no known fault remains and the bus exceeds its standard by no more than 2 dBA, an exception may be issued by the Department of Environmental Quality so that it may be operated.

Each bus is to be certified once a year. The annual cycle ends on December 31st and a test record is submitted by the following March 1st. The program may then be reviewed and adjustments made.

The standards for the various subfleets were based on samples taken in the first half of 1985. More compliance testing was done during the remainder of 1985, but most of the tests were done this year. Tri-Met was not finished by the end of 1985. DEQ allowed an extension.

THE TRI-MET FLEET

Tri-Met has title to 601 buses ranging in age between 4 and 23 years. This fleet, as listed in Table 1, is composed of 14 distinct subfleets, each having its own combination of make, model, year of production, engine, and other factors affecting its characteristic noise emission. Each bus is assigned a number. The fleet is deployed to three substations, each having its own garage, busyard, and shop: Center Street, Powell, and Merlo.

Some buses have been so badly damaged that there is no plan to repair them and return them to active status. Others are so decrepit that they have been retired with no intention of using them in operations again. Thirty are in this inactive pool at the present. No certificate is needed for these buses and most of them have not been noise tested.

TABLE 1.
TRI-MET FLEET

<u>Subfleet</u>	<u>Series</u>	<u>Year & Make</u>	<u>Engine</u>	<u>Population</u>	<u>⁷Inactive</u>
15	500	1964 GMC ¹	DDAD ⁵ 6V-71	7	
18	500	1966 GMC	DDAD 6V-71	8	1
19	500, 600	1971 GMC	DDAD 8V-71	25	21
20	400, 600	1971 Flx ²	DDAD 6V-71	32	
21	300, 400	1972 Flx	DDAD 8V-71	134	5
22	400	1973 Flx	DDAD 8V-71	20	
23	100	1973 Flx	DDAD 8V-71	3	
26	100	1975 Flx	DDAD 8V-71	79	2
28	1000	1977 AMG ³	DDAD 8V-71	98	
29	1100	1963 Flx	DDAD 6V-71	19	
31	1200	1970 GMC	DDAD 6V-71	3	
32	200	1980 GMC	DDAD 6V-71	11	
33	700	1981 C-I ⁴	Cum ⁶ NHHTC-290	87	1
34	900	1982 GMC	DDAD 6V-92TA	75	
				<u>601</u>	<u>30</u>

¹ General Motors Corporation

² Flxible

³ American General

⁴ Crown-Ikarus

⁵ Detroit Diesel-Allison Division

⁶ Cummins Engine Company

⁷ "To be scrapped" plus "Retired"

STATUS

As of this date, with 2 exceptions, all 571 active buses have been processed to the point where they have either been qualified for certification or no fault causing excess noise emission can be found. The two still in process are:

<u>Bus</u>	<u>Subfleet</u>	<u>Domicile</u>	<u>Comments</u>
401	21	Merlo	Under repair in the body shop for many months. First test 6-10-86. Rating 88½ dBA, 1½ dBA in excess of standard. Being inspected. Any faults found will be corrected. Will be tested again in any case.
972	34	Powell	Still in the body shop for repair of extensive damage where it has been for many months. Never tested.

RESULTS

Table 2 gives a recapitulation of the first year's test program. Altogether, 666 tests were performed on 577 buses. Some were given as many as 4 tests as noise reductions were sought.

Failure Rates

1st test	1 out of 8
2nd test	1 out of 2
3rd test	3 out of 5
4th test	1 out of 5

Half the buses that failed their 2nd and 3rd tests were in subfleets 33 and 34. These are Tri-Met's newest buses. They are assigned the lower standards to meet. They are the only buses with turbochargers. The great majority failed by only ½ dBA. It is possible that their standards are based on an inadequate sample.

Table 3 shows how the number of buses in excess of standard has been reduced. If those in excess by only ½ dBA are not counted, the excessive buses have been reduced by nearly one-ninth.

Sixty-nine buses failed their first test. The worst case was a 20-year old GMC that was 6 dBA over its 87 dBA standard. It was found to have a badly ruptured exhaust pipe joint. When this was fixed, its rating reduced to 86½ dBA.

Figure 1 shows the distribution of the buses having no known defects. Each subfleet can be seen compared to its noise standard.

TABLE 2.
 DEQ NOISE TEST PROGRAM RESULTS 1985-86
 as of 6-10-86

Subfleet	Standard	1st Test	Failed	2nd Test	Failed	3rd Test	Failed	4th Test	Failed	¹ Total Tests	² Fixes	³ Fail-No Faults	In Progress	Qual Certificate	Reg Exception	Population
15	87	7	0	0	0	0	0	0	0	7	0	0	0	7	0	7
18	87	8	3	3	1	1	1	0	0	12	1	0	0	7	0	8
19	90	9	1	1	0	0	0	0	0	10	1	0	0	9	0	25
20	90	32	12	12	6	6	3	3	0	53	15	0	0	32	0	32
21	87	129	6	5	1	1	1	1	0	136	8	0	1	128	1	134
22	87	20	3	3	2	2	0	0	0	25	4	0	0	20	0	20
23	87	3	0	0	0	0	0	0	0	3	0	0	0	3	0	3
26	90	78	1	1	0	0	0	0	0	79	7	0	0	78	0	79
28	90	98	9	9	4	4	2	0	0	111	15	2	0	96	2	98
29	84	19	0	0	0	0	0	0	0	19	0	0	0	19	0	19
31	90	3	0	0	0	0	0	0	0	3	0	0	0	3	0	3
32	87	11	1	1	0	0	0	0	0	12	1	0	0	11	0	11
33	87	86	14	14	8	5	4	0	0	105	11	6	0	80	6	87
34	84	<u>74</u>	<u>21</u>	<u>15</u>	<u>10</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>91</u>	<u>6</u>	<u>16</u>	<u>1</u>	<u>58</u>	<u>17</u>	<u>75</u>
		577	71	64	32	20	12	5	1	666	69	24	2	551	26	601

¹ Counts only tests made in an effort to meet a noise standard.

² Counts fixes that made an improvement in noise rating.

³ At least one inspection and one retest was made before declaring failure and no fault.

TABLE 3.
BUSES IN EXCESS OF STANDARD

<u>Excess</u>	<u>First Test</u>	<u>After Processing</u>
$\frac{1}{2}$ dBA	26	19
1 dBA	16	2
$1\frac{1}{2}$ dBA	10	2
2 dBA	8	
$2\frac{1}{2}$ dBA	1	
3 dBA	3	
$3\frac{1}{2}$ dBA	1	1
4 dBA	2	
$4\frac{1}{2}$ dBA		
5 dBA		
$5\frac{1}{2}$ dBA	1	
6 dBA	$\frac{1}{69}$	$\frac{1}{24}$

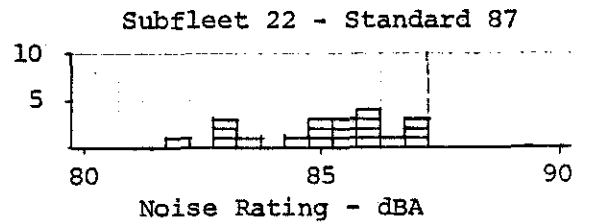
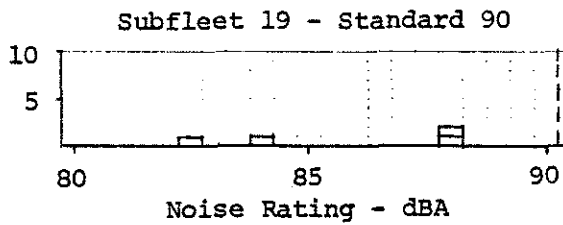
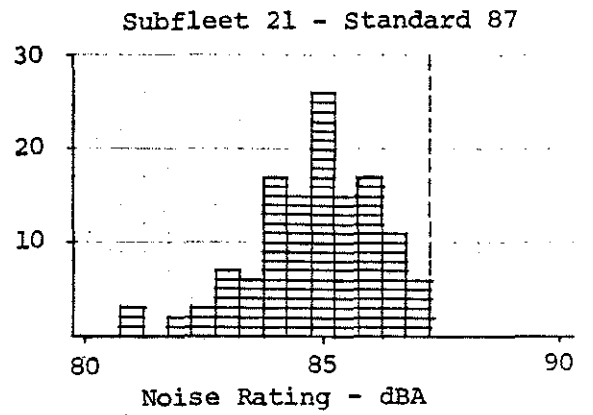
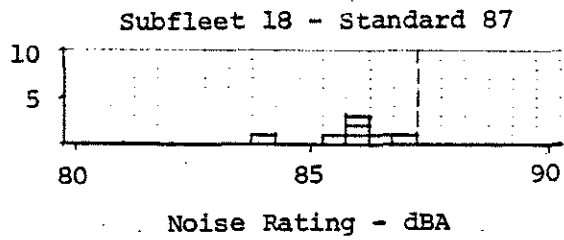
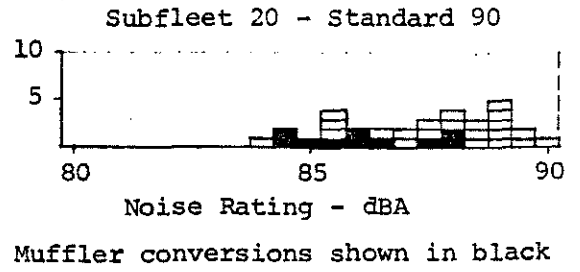
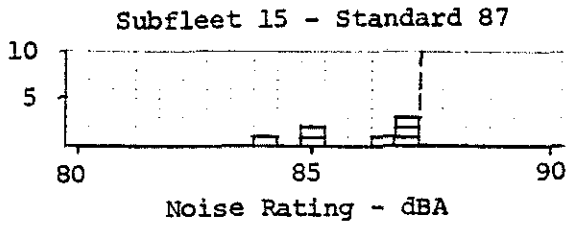


FIGURE 1.
 DISTRIBUTION OF NOISE RATINGS
 OF BUSES HAVING NO KNOWN DEFECT

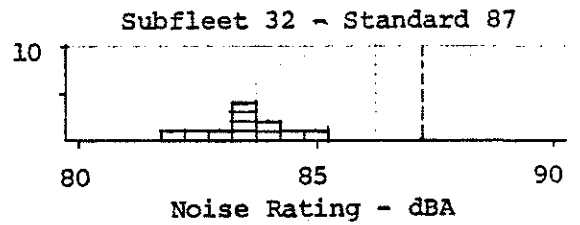
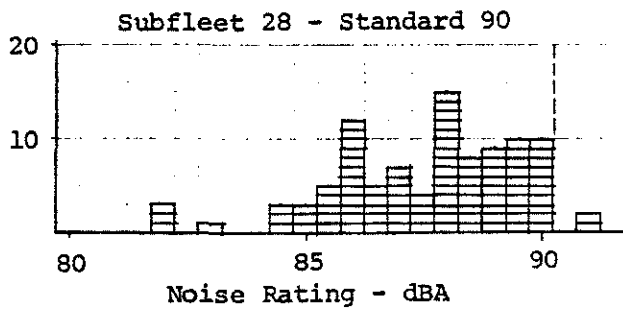
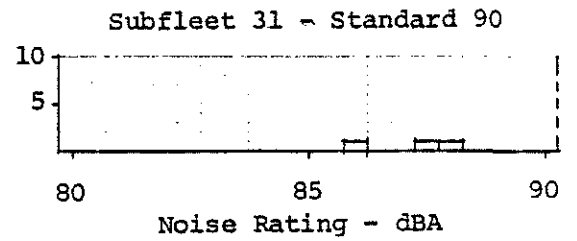
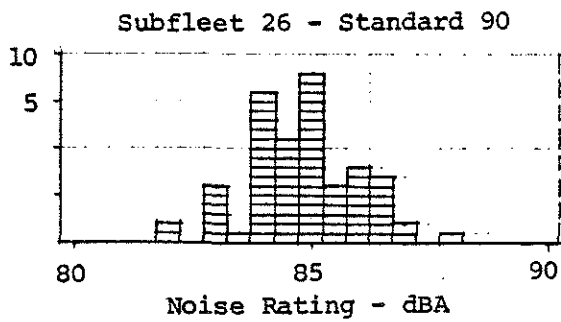
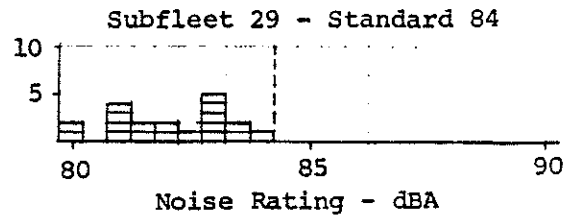
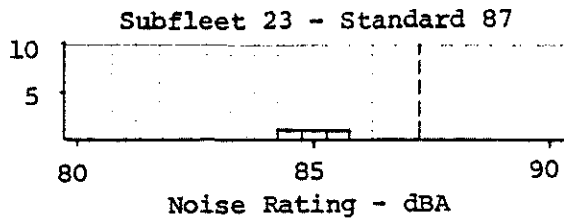


FIGURE 1.

Continued

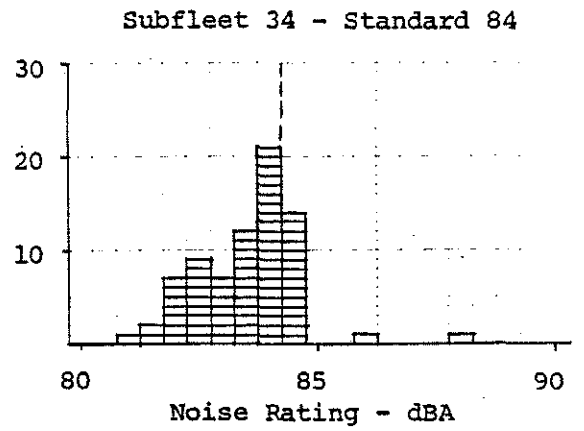
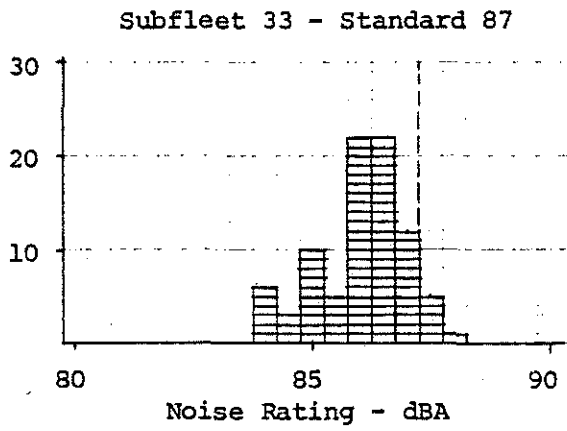


FIGURE 1.
Continued

FIXES

No one wants a bus noise control program that does nothing but collect numbers. The objective is to find noise-producing defects brought about by wear and tear or alteration...and get them fixed. As Tri-Met processed its way through this first year of program, it encountered many years of accumulated noise defects that had gone unattended because there was no systematic way to detect their presence. All but one case had to do with the engine exhaust system. The exception was when a plug was left out of the side of a freshly overhauled engine, allowing one cylinder to vent directly to the atmosphere.

Treatments During the DEQ Program

The fixes that were applied by Tri-Met during the first year of program are categorized as follows:

<u>Treatments</u>	<u>Occurrences</u>
Replaced exhaust pipe section(s)	12
Converted exhaust muffler	10
Tightened exhaust pipe joint clamp(s)	9
Replaced exhaust muffler	9
Repaired exhaust pipe	8
Replaced exhaust pipe joint clamp(s)	7
Unknown correction	6
Replaced exhaust flex tube	3
Replaced exhaust manifold	1
Repaired exhaust thermal blanket	1
Replaced engine block plug	1
	<u>67</u>

AMG Exhaust Flex Tube

First year statistics would have looked worse had it not been for Tri-Met's campaign to retrofit the nearly 100 buses of subfleet 28 with sections of flexible exhaust tubing. Already one of the inherently loudest subfleets with a 90 dBA standard, these 1977 AMG's were plagued with broken exhaust pipe joints. These faults added 5 dBA or more to the noise rating. The reason for the trouble was unusually stiff exhaust piping leading to the muffler, too stiff to accommodate the intermotion between the flexibly mounted engine and the underslung muffler. Tri-Met field tested flexible tube sections to relieve joint stress starting in the fall of 1984. By the time the DEQ noise test program reached subfleet 28, the retrofit campaign was nearly complete and the problem was under control. This is a case where Tri-Met had successfully made special efforts at noise control prior to the DEQ program and had done the bus manufacturer one better in the bargain.

Muffler Conversion for Subfleet 20

The noisiest single group of buses was found to be the 32-member subfleet 20. These are 1971 Flexibles powered by Detroit Diesel 6V-71 engines. Their noise standard is 90 dBA. Subfleet 20 always did have a reputation for being loud; something of a paradox when it is considered that their 6-cylinder engines are a size smaller than the newer and more prevalent 8V-71 engines. Eleven from subfleet 20 failed their first test by an average of 2 dBA. The worst was 3½ dBA over standard.

One of the basic concepts of the DEQ noise test program is that a transit operator's job is to maintain the noise emission integrity of buses in the as-manufactured condition. It is not up to Tri-Met to remanufacture their buses. But here was a group of 32 noisy buses, 15 years old and still in use, that always had been a problem.

The newest group of buses also having the 6V-71 engine was subfleet 32, composed of eleven 1980 GMC's. This group was generally known for their relatively low noise level. After DEQ noise program processing, subfleet 32's average rating was 83½ dBA. It was found that the 1980 GMC mufflers could be fitted to the 1971 Flexibles with relatively easy rework. One was tried. It succeeded. The bus noise rating dropped to 85 dBA. Tri-Met went on to do this muffler conversion on 9 other 1971 Flexibles that failed to meet their standard. The average reduction in their noise rating is over 6 dBA.

CONCLUSIONS

The cooperative Tri-Met/DEQ bus noise test program is a success for its first year.

The test method has proved to be both practical to perform and effective in revealing noise-producing defects.

Almost 70 individual fixes were applied, improving 1 bus out of every 10.

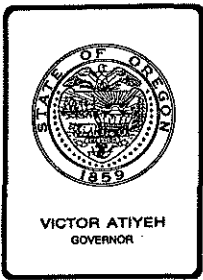
The loudest buses in the loudest subfleet were all made an average of 6 dBA quieter by means of an exhaust muffler conversion, a step taken by Tri-Met beyond the scope of the program.

Substantially all known defects producing excess noise are in the engine exhaust system.

Some adjustments to improve the program's ground rules are indicated.

Respectfully submitted,

Michael C. Kaye
Michael C. Kaye



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: Ron Householder, Vehicle Inspection Program

Subject: July 25, 1986 EQC Breakfast Agenda

Information Report: Review of Light Duty Vehicle Noise
Inspection Program

Background

On April 16, 1984, a petition for rulemaking was received from the Livable Streets Coalition, asking that Portland area motor vehicles be inspected for excessive noise as part of the current air emission inspection program. The Commission, at its May 18, 1984 meeting, accepted the petition and directed the Department to initiate rulemaking proceedings. Subsequently, two public hearings were held in Portland on August 15, 1984, to accept testimony on the petitioner's request and on an alternative developed by the Department. The Commission, at its November 2, 1984 meeting, adopted rules requiring noise testing of light duty vehicles in the Portland area vehicle inspection program. Noise testing was directed to begin on April 1, 1985. The Commission further directed the Department to seek necessary budget authority to conduct noise emission testing of motorcycles and to initiate development of noise inspection procedures and standards for heavy duty vehicles. Also the Department was requested to develop with Tri-Met, a proposed consent agreement that would ensure that all of Tri-Met's buses be maintained to acceptable noise emission levels.

Discussion

On April 1, 1985, noise testing began in the Portland area vehicle inspection program. During the first year of operation, 370,568 emission tests were conducted. In April, the overall noise failure rate was just under 1½%. Essentially no 1981 or newer model year vehicle failed, about 1% of the 1975-1980 model year vehicles failed. The initial failure rate for 1968-1974 models was 5%, and 7% for the pre-1968 model year grouping.

In March, 1986, after one year of noise testing, the overall noise failure rate had dropped to 0.85%. As at the program initiation, essentially no 1981 or newer model year vehicle failed. Also though, essentially no 1975-1980 model year vehicles failed either. Further, the failure rate for 1968-1974 vehicles dropped to 2% and to 3% for the pre-1968 model year grouping. Thus, a significant decline in the noise failure rate for vehicle age groups expected to have excessive noise problems has occurred during the first year of noise testing.

During development of the noise testing standards, it was anticipated that the initial noise failure rate would be approximately 5%. This projection was based upon 3 staff engineering studies involving 1,650 vehicle tests. Six test procedure and data analysis factors have been reviewed to determine if they could account for the difference in the projected 5% initial failure rate and the actual 1½% rate. They do not. The two final potential explanations for the failure rate discrepancy are that customers with noisy vehicles are either avoiding the test by illegal registration or they are repairing their noisy exhaust systems prior to testing. The DEQ public affairs staff has estimated that 60% of those taking the test in April, 1985 knew about the noise testing beforehand. Assuming all the informed people either pre-test repaired or avoided, the initial failure rate would drop from 5% to 2%. The staff will specifically review this aspect of test avoidance in the program biennial report.

The noise testing program has had some operational difficulties, but most are now resolved. Equipment maintenance has not been a major issue to date. Microphone cable twisting and tangling with the exhaust sample line continues to be a hassle. The validity of testing all vehicles when only 1% fail is also questioned. Alternative testing procedures and standards are being evaluated, but major changes do not appear warranted until new testing equipment is available.

As previously reported, the Legislature did not authorize funds for motorcycle noise testing. Motorcycles thus are not being noise tested as part of the registration renewal process. Further, as a result of implementing the Rogue Valley I/M program, the staff has not developed noise inspection procedures and standards for heavy-duty vehicles.

Summation

1. Light duty vehicle noise testing began in the Portland area vehicle inspection program on April 1, 1985.
2. The initial noise failure rate was 1½% as compared to the projected 5% rate.
3. The noise failure rate has declined to less than 1% after one year of noise testing operation.
4. No changes in noise standards or test procedures are currently projected. Acquisition of new emission testing and data system may provide for noise testing improvements.
5. Motorcycle noise testing is not required as legislative authorization was not recieved.
6. Due to implementation of the Rogue Valley I/M program, heavy duty vehicle noise standards and procedures have not been developed.



July 24, 1986

Environmental Quality Commission
P.O. Box 1760
Portland, Oregon 97207

13-2906-01

Subject: Agenda Item J, July 25, 1986 EQC Meeting

Gentlemen:

The following comments on Agenda Item J were prepared by Brown and Caldwell under a consulting services agreement with the City of Portland Bureau of Environmental Services.

The Environmental Quality Commission is considering a request by the City of Gresham for an exception to the EQC policy that requires growth and development to be accommodated within existing permitted loads. In a much broader sense, however, the Commission is considering policy relating to the discharge of increased waste loads to the Columbia River. This issue cannot be considered as a discrete issue related only to Gresham, because the same issue must be addressed as it relates to future planning for the City of Portland.

It is appropriate to begin this statement with a review of the context in which the present discharge requirements for Gresham were set. There is presently no policy for waste discharge to the Columbia River that is based on beneficial uses and assimilative capacity in the Columbia. Instead, discharge requirements for the Columbia River in the Portland area have been "piggybacked" on the policy for the Willamette River Basin. This policy requires 20 milligrams per liter (mg/l) of biochemical oxygen demand (BOD) and suspended solids in the summer and 30 mg/l in the winter.

This policy was not unreasonable, because the effluent quality is easily attainable with secondary treatment, and, with the Environmental Protection Agency paying 75 percent of plant costs, the policy did not cause undue economic hardship. Besides, everyone recognized that the Columbia has 10 to 15 times the flow in the Willamette, and it was perfectly obvious that a policy for the Willamette would be adequate for the Columbia without an analysis of the river's waste-receiving capacity.

Now, however, the policy established for Gresham on the basis of easy attainability is being discussed as an upper limit for mass emissions, never to be exceeded regardless of flow increases. This approach should not be adopted without consideration of beneficial uses, because the receiving capacity of the Columbia, based on protection of beneficial uses, has barely been touched. For example, the present total sewage flow from both Portland and Gresham, dispersed in the minimum day flow of the Columbia River, would be diluted more than 500 to 1. The only problem is that because the river has not been studied, we do not know what the reasonable upper limits for mass emissions are. The answer in this case is not to put a ceiling on mass emissions, but to define through investigation the levels of mass emissions that are acceptable. This approach is in basic accord with Alternative 4, recommended to the EQC by the Department of Environmental Quality (DEQ) in its report on Agenda Item J.

The DEQ further recommends that Alternative 4 be combined with one of the first three alternatives presented. These are:

1. Approve Gresham's request for a 50 percent waste load increase.
2. Approve approximately half of the requested increase.
3. Deny the request for increase.

The DEQ recommends Alternative 2, but the difference in contaminant levels in the receiving water between Alternative 2 and Alternative 1 is 100 times less than the level of detectability. Under these circumstances, it would appear reasonable to accept Alternative 1 and grant the City of Gresham's request.

Both Gresham and Portland must make major decisions regarding effluent discharge to the Columbia River before the results will be available from the investigations recommended under Alternative 4, but actual increases in mass emissions will be minor before the results are available. Until the results are available from Alternative 4, the Commission should permit both Gresham and Portland to proceed with planning based on the currently defined waste discharge policy of 20 mg/l for BOD and suspended solids in the summer and 30 mg/l in the winter. There are several valid reasons for this approach:

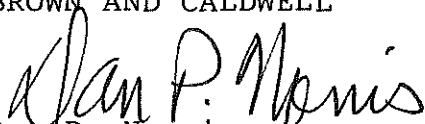
1. Waste discharge criteria for the Columbia River, when defined, are unlikely to be more stringent, and may well be less stringent, than present criteria.
2. It would be a waste of resources to build now to meet criteria that may be relaxed after a more thorough investigation.

3. With proper advance planning, it is always possible to add treatment units to meet future needs, but it is uneconomical to add these units in advance of documented need.
4. All of the evidence available today indicates that this approach will entail no risk at all to the beneficial uses of the Columbia River.

Both Portland and Gresham accepted their present waste discharge criteria without any justification based on beneficial uses of the receiving waters. Now both cities appear to be in danger of seeing these criteria, extrapolated from the Willamette River, translated into policy limits for mass emissions to the Columbia River. Now is the time to fill the gap in present policy and bring discharge requirements for the Columbia River in line with designated beneficial uses.

Respectfully submitted,

BROWN AND CALDWELL


Dan P. Norris
Executive Vice President

DPN:tab

cc: Mr. John Lang, Administrator, Portland Bureau of Environmental Services

NORTHWEST RESOURCE RECYCLING, INC.
1680 IRVING ROAD
EUGENE, OREGON 97402
(503) 461-2000

RECEIVED
JUL 19 1986

WESTLANE DISPOSAL
P.O. Box 1330
Florence, Oregon 97439

JULY 16, 1986

Dear Mr. Parker:

As you are aware, NORTHWEST RESOURCE RECYCLING, INC (NWRR) has been contacted by the Department of Environmental Quality regarding your recycling situation. I wish to repeat my previous offer to assist you to meet the recycling obligation.

- I. NWRR driver and truck would stop at your yard and pick up:
 - a. bundles of newspaper
 - b. cardboard
 - c. barrels of tin cans, flattened
 - d. barrels of glass, separated by color

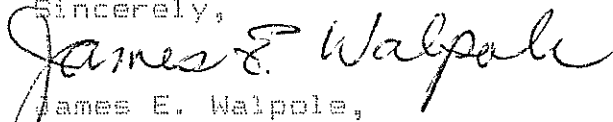
NWRR would pay to you \$5.00 per ton less than our prevailing door price to pick up the newspaper and cardboard. We would not purchase the tin cans and glass.

- II. You could bring your recyclables materials to our facility in Eugene. We would purchase the newspaper and cardboard for \$5.00 more than our door price. The tin cans and glass would be purchased for the prevailing door price.

NWRR is in Florence weekly to pick up newspaper and other recyclables from recycling institutions. We would propose to stop twice per month, on alternate Mondays to pick up your materials.

Looking forward to hearing from you.

Sincerely,


James E. Walpole,
President

copy: Mary Ann Fitzgerald
Lane County Solid Waste/parker

SIUSLAW SANITARY SERVICE, INC.

MIKE JOHNSON
P. O. BOX 1160
FLORENCE, OREGON 97439
(503) 997-8233

July 18, 1986

Hazardous & Solid Waste Division
Dept. of Environmental Quality

RECEIVED
JUL 23 1986

Marianna Fitzgerald
Dept. of Environ. Quality
P.O. Box 1760
Portland, OR 97207

RE: Request for Time Extension
Westlane Disposal

Dear Ms. Fitzgerald:

We sold our business on April 1, 1986, to Tom, Evelyn, Bob and Chris Fender, who are operating under the name of Siuslaw Disposal, Inc. We have been in the process of moving and on vacation, with Mike working in California, and are sorry for the delay in responding to your letter of June 17.

We wish that you would deny the request by Loren Parker of Westlane Disposal for an extension on his opportunity to recycle. His letter is filled with inaccuracies and distortions. The following is our response to his claims.

His situation is not unique in Oregon. There are other areas in the State with established haulers being attacked by new people wanting a "piece of the action". He just doesn't want to spend the money necessary to make recycling available to all of his customers. He has been picking up only cardboard since October, 1981. In fact he got a license from the City of Florence in order to come into our franchised area and get cardboard from our customers. Cardboard is a fairly easy commodity to pickup without a lot of labor. With him hauling a load of $1\frac{1}{2}$ tons per trip for 60 miles, we doubt that he makes much money on it. He is supposed to be paying his customers fair market value, which he established at \$.0005 per pound. But the City has not enforced it and we're sure he hasn't been paying them. Who's going to take the time to weight it? Enclosed is a copy of the letter from the City to him giving him a license. Whether he has been renewing yearly or not, we don't know.

We have never used the power of the franchise to compete unfairly in the unfranchised area. We did a cost analysis in 1984 and found our rates in line with our costs in each area. Our rates in the rural area were 20% higher than in the City. Everyone in each area are charged the established rates, there are no special deals. Enclosed is a letter to Dunes City outlining in detail his activities from August, 1980, to November, 1982, in trying to break our franchises. He is the one who has made life difficult, not us. He was finally successful in his efforts. In November, 1984, Dunes City residents voted by 21 votes to allow open competition beginning in September, 1987. In May, 1985, the residents of Florence, by 104 votes, also voted to allow a licensing program to go into effect at the end of the current franchise which expires on December 31, 1986.


Dept. of Environ. Quality
July 18, 1986
Page 2

We can't find the letter that Mr. Parker sent offering to "work with us in collecting recyclables and sharing the profits". He made no mention of helping to process the recyclables - where most of the expense is - or share in the expenses. After his previous activities, we found his offer laughable and did not respond. We never "turned him down flat". Enclosed is a cost analysis we did in 1983 after 17 months of operation to determine profitability. Subsequent operations would show similiar percentages. Until haulers are able to charge for picking up recyclables, they are going to operate at a loss.

Mr. Parker is not going to be in any better situation to offer recycling in 1987. He's going to have to offer lower rates than Siuslaw Disposal, Inc. to compete, which will mean always operating with less of a profit. He will find another excuse then for not being able to recycle. He has had two years to get his program implemented.

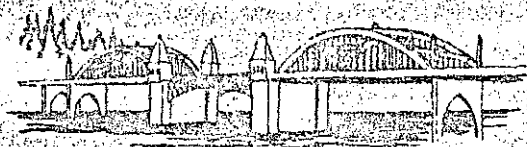
Please do not give Mr. Parker of Westlane Disposal an extension on the July 1, 1986, deadline to provide full recycling as required by SB 405.

Sincerely yours,



LORAIN JOHNSON

Encs.



"FOR YOUR
INFORMATION"

CITY OF FLORENCE

P. O. BOX 340

250 HIGHWAY 101 NORTH

PHONE 997-3436

FLORENCE, OREGON 97439

September 28, 1981

Office of: City Manager

Mr. Loren N. Parker
Westlane Disposal
85025 Highway 101
Florence, OR 97439

Dear Mr. Parker:

On September 22, 1981 the Florence City Council approved your business license as "Buyers of Salvagable Materials." Section 9-4-4-1 F. of the City Code permits the "Purchase of totally separated solid waste for fair market value."

When paid for, this license will grant you the authority to make such purchases within the City. It will not grant to you any authority to operate a solid waste collection system within the City.

You are reminded that the City Council has awarded the Siuslaw Sanitary Service an exclusive franchise for the collection of solid waste within the City of Florence. Section 9-4-4-3 of the City Code specifically prohibits anyone other than the franchise from providing such service or offering to provide such service within the City.

Your cooperating in this matter will be appreciated.

Very truly yours,

M.L. DEGERNES, JR.

MLD:jct

cc: City Attorney

Siuslaw Sanitary Service

P. O. Box 1160 Florence, Oregon
997-8233 97439

November 11, 1982

TO THE DUNES CITY COUNCIL:

For over two years now my name and the name of Siuslaw Sanitary Service, Inc. have been the victims of vicious attacks, degrading remarks and downright lies from Mr. Loren Parker of Westlane Disposal. Prior to this, I have tried to remain low key hoping that Mr. Parker would eventually realize the economic facts of the garbage business. Up to now he has done all the talking. I think now we need to give everyone all of the facts.

Mr. Parker started Westlane Disposal the summer of 1980. He immediately went after our rural commercial accounts by offering lower rates. He got a few accounts. A short time later he offered to buy out our Dunes City Franchise (Exhibit #1). Mr. Parker thought he'd have an easy time taking our accounts from us.

Mr. Parker recently told the Dunes City Council that he never deviates from his commercial rates. The TRUTH is Mr. Parker would offer a proposal to one of my customers. If they declined, he would come back with a lower quote. In many cases he would continue this practice of price cutting until he eventually got the account or was told to leave.

For example, (Exhibit #3) here's a letter dated 10/9/80 to one of our customers. He quotes a total rate of \$27.00 per month for a 1 $\frac{1}{2}$ -yard container picked up 4 times per month. He told the Council he charges \$34.00 per month for this same service . . . and he never deviates. I also call your attention to the last sentence in this letter, ". . . the above quotations are negotiable." This has been his practice since starting business: Cut my rate, if that doesn't work, cut some more and negotiate.

Few people realize the impact dump fees have on the garbage rates. Our dump fees amounted to nearly \$24,000.00 last year. This is money used to finance the landfills and Solid Waste Management Program in Lane County. This money comes from

those who generate solid waste, not from property taxes as had been the case for many years before July, 1980. Each time we dump our larger truck, it costs us \$68.00 or \$4.00 per compacted yard for the truck capacity. For Mr. Parker it costs \$80.00.

In October, 1980, it was called to my attention that Mr. Parker was dumping his truck in Douglas County, free, rather than Lane County, therefore depriving our county residents of needed revenue. I refer you to Exhibit #2, a letter from the Douglas County Commissioners to the Lane County Commissioners to correct this situation. According to the gatekeeper at the Douglas County Landfill in Reedsport, Mr. Parker dumped his truck at least twice per month during 1981. If this is true, that is a loss in revenue for Lane County in 1981 of nearly \$2,000.00. Gatekeepers were posted full time beginning January, 1982. Mr. Parker has been denied access since then. Mr. Parker also tried to dump in Lincoln County, but was also denied access.

In July, 1981, Mr. Parker offered to buy the Dunes City Franchise along with our rural route, (Exhibit #4) which I declined.

By the Fall of 1981 Mr. Parker had taken several of our major commercial rural accounts which as he himself stated to you, make up the backbone of his business. All along Mr. Parker had been offering special deals -- free cans, free service, free liners, cut rates, etc.

Last year at a time when the local Coast Guard Station was in jeopardy of being closed due to lack of funding, Mr. Parker asked to bid on the garbage service. Through ordinary informal bidding procedures, my company was awarded the contract. Unhappy with not getting the bid, he forced them into an expensive formal bidding process through North Bend. My company again received the contract.

In October, 1981, we started a recycling program. I advertised incentives to commercial accounts who generated large volumes of recyclable materials. I

contacted some of our former customers in person offering lower commercial rates if they separated and placed their recyclable for collection.

Mr. Parker stated to you that because of the pressure I was exerting, he was operating at a loss. He also told you that of the accounts I had offered the lower rates to, I had only obtained one. This is true, I only obtained one! This meant a loss of \$25.00 per month to him. Does it stand to reason that this loss is causing him to operate at a loss?

He neglected to tell the Council that the clients I contacted were required to segregate their recyclables for us, at time and expense to them, justifying the lower rates. I refer the Council to Exhibit #5, which is the account in question. I might also add at this time that all of our major cardboard suppliers are compensated for their materials either in exchange for service or in cash whether in or out of the franchised areas. It was from this action that Mr. Parker has fabricated this myth of Siuslaw Sanitary Service subsidizing price-cutting tactics in the unincorporated area. How can I subsidize when I have not had a rate increase since he has gone into business?

Next, I refer you to Exhibit #6. A letter from Mr. Parker offering to sell his equipment to me. Notice the date. It is a week after coming to Dunes City Council wanting you to initiate a referendum to cancel the franchise. You will notice that he states his price is firm to me. Next, I refer you to Exhibit #7, a letter in which less than a month later Mr. Parker offers to sell his truck to anyone for \$9,000.00 less than his price to me. Why should Mr. Parker ask \$9,000.00 more from me for his truck than anyone else?

I call your attention to Exhibit #8, the open letter to Dunes City residents in the Siuslaw News recently. Paragraph 1 states, "We, the users. . . ." None of the undersigned are or ever were users of our service in Dunes City. Paragraph 1 also states that Dunes City residents are paying higher rates than their neighbors in the unincorporated areas.

Our rates per month for residential customers are:

	<u>1 can/week</u>	<u>2 cans/week</u>
Dunes City and unincorporated area west of 7 mile post	\$ 5.85	\$ 9.60
Mapleton and unincorporated area east of 7 mile post	6.20	10.30

Basic commercial rates in all areas are the same. Commercial rates will vary depending upon equipment furnished, frequency of service, volume, ownership of equipment and, in some cases, volume of recyclables.

I might add that these same rates have been in effect since July 1, 1980, before Mr. Parker even went into business. I've already covered Mr. Parker's price cutting tactics so I won't go over that again. The letter further states that ". . . we are getting few or no breaks at all." Again, our rates have not raised in nearly 2½ years, while inflation has gone up over 20%.

As far as Dunes City getting few or no breaks at all, last year we initiated a major recycling program and offered it not just to Florence, but to all of Western Lane County. This we did at our own risk and with our own funds. In reality if everyone exercised good recycling habits, garbage collectors as such would be out of business. We offered the service just the same. We also chose not to use government grants and give-aways, which I detest as a taxpayer, but did it on our own instead. Refer to Exhibit #9, Portland paid \$150,000.00 for a recycling program for one year. Western Lane County residents are getting it free. Our recycling program represents obligations of nearly \$30,000.00. This gives Dunes City residents the opportunity to:

1. Reduce their monthly garbage bill by recycling,
2. Have their recyclables picked up at their door along with their garbage,
3. Drop their recyclables and/or their trash off at our yard on their way to Florence to shop.

Mr. Parker may claim to also recycle when in fact, he deals only in cardboard, much of which he takes improperly from within the City of Florence.

Cardboard is one commodity that has a close, easy market. If he is truly concerned about offering a service to the area residents, why doesn't he make the same commitment I have and offer a full recycling program rather than rake the cream off the top by taking only the cardboard? I recently had a merchant tell me he thought we were getting his cardboard when, in fact, Mr. Parker was entering his premises improperly and taking it ahead of our truck.

His open letter goes on to say that the present franchise holder would not lose his present customers. This statement is absolutely not true. As he has demonstrated in the County, our commercial accounts are the first ones he'd try to get. This is the backbone of any garbage business, as has been mentioned before. And in addition, he would cut his rates substantially below ours simply to increase his volume and hopefully drive us out of business, then he could increase his rates.

Paragraph 4 of the open letter states no logical justification for franchising an area this small. Is it logical to allow 2, 3, or more garbage trucks to clamor over Dunes City streets leapfrogging over each other for residential cans as we do now in the unincorporated areas? Why is it logical when one truck covers 30 miles and services 175 customers to split it up and have two trucks cover the same 30 miles and each service approximately 85-90 customers. Each truck would have the same expenses in labor, gasoline and repairs.

For example, Eugene is non-franchised. In some areas they have as many as five different garbage trucks servicing the same street. Their one can per week rate is \$6.00 per month, two cans per week is \$10.05 per month. Springfield is franchised. They have only one truck on a street. Their monthly rates for the same service is \$5.45 and \$9.15, respectively, each month. It's very plain and simple. One truck can do it cheaper than two or more on the same streets.

Franchising provides a viable base to work from in financing specialized

equipment and expanding service. An example is our recycling program. The franchise also guarantees garbage service. In a non-franchised situation, any collector has the option of quitting business any time.

In summary:

* Mr. Parker has, both to the Dunes City Council and the residents of Western Lane County, distorted facts and twisted figures to suit his needs and to discredit Siuslaw Sanitary Service, Inc.

* Mr. Parker has cheated the residents of Lane County by taking their garbage out of Lane County to avoid paying dump fees.

* Mr. Parker's proposals will only prove expensive to Dunes City, plus undermine the established rates, service and recycling program now offered.

* Mr. Parker is only picking up cardboard, while we are operating a full-scale recycling program.

* Mr. Parker states that he is more efficient than we are. We are currently servicing approximately 5 times as many customers as Mr. Parker and providing 3 full-time and 2 part-time jobs for our employees, plus our recycling program. We are considerably more efficient. If any inefficiency exists, it is from both companies duplicating routes in the unincorporated areas to service neighboring customers.

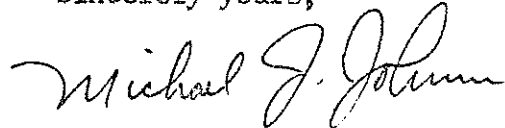
* Mr. Parker cannot exist on the ridiculously low rates he has established as he has admitted. He is now desperate and is trying anything to get into the franchised areas so he can take our commercial accounts and as many residential accounts as his financing will allow.

* When I started in the garbage business, I didn't shoot my way in. I bought, and am still paying for, three existing businesses.

Several Dunes City residents have endorsed his proposals and signed his petition, some just to get rid of him. But, I doubt that, if they knew the true

picture, they could condone these practices or his proposals. We hope these statements and other facts that I have will be requested of me prior to anyone passing judgment.

Sincerely yours,

A handwritten signature in cursive script that reads "Michael J. Johnson". The signature is written in dark ink and is positioned above the printed name.

MICHAEL J. JOHNSON

RECYCLING COST ANALYSIS

11/81 thru 3/83 (17 months)

RECYCLE SALES

Cardboard	46.9 tons @ 48.00-61.50	\$ 2,551.08	
Glass	28.22 tons @ 45.00	1,269.90	
Newspaper	51.08 tons @ 53.50-58.50	2,997.93	
Tin	<u>7.45 tons @ 57.50</u>	<u>428.38</u>	
	133.65 tons	7,242.29	
Backhaul Sales		<u>1,443.98</u>	
Total			\$ 8,686.27

EXPENSES - LABOR

Roy	.75 hr./day average = 195 hrs. 195 hrs. @ \$10.25	1,998.75	
Dave	1.00 hr./day average = 260 hrs. 260 hrs. @ \$10.50	2,730.00	
Mike	26.75 hrs @ \$10.50	280.88	
Bill	689 hrs @ \$ 4.83	<u>3,327.87</u>	
Total			\$ 8,337.50

EXPENSES - TRUCK

Rural truck	195 hrs. @ \$17.50	3,412.50	
City truck	260 hrs. @ \$17.50	4,550.00	
Cardboard tk.	182.75 hr @ \$17.50	3,198.13	
Kenworth, including 2 trailers (Insurance, fuel, repairs, tires)		<u>3,725.08</u>	
Total			<u>14,885.71</u>

Total Expenses 23,223.21

NET LOSS (\$14,536.94)

\$14,536.94 ÷ 17 months = \$ 855.11/month

Florence - 65% \$ 9,449.01 = \$ 555.83/month

Rural - 35% \$ 5,087.93 = \$ 299.29/month

I

SIUSLAW DISPOSAL, INC.

P.O. Box 130
Florence, Oregon 97439
503-997-8233

Environmental Quality Commission
Hearing Room A
State Capitol Building
Salem, Oregon

RE: Action L - Request for Extension of July 1, 1986
deadline for providing the opportunity to recycle
in Florence, Oregon.

I would like to address the request for a six month time extension by Loren Parker, Westlane Disposal, located in Florence, Oregon. Mr. Parker is the rural hauler, not the franchised hauler in Florence.

We are the new owners of the franchised company in Florence, having purchased Siuslaw Sanitary Service Inc. from Mike and Lorraine Johnson and changed the name to Siuslaw Disposal Inc. We took possession and began operation on April 1, 1986 and, though Mr. Parker's letter is dated June 10, 1986, he hasn't recognized any change of ownership in his letter.

Mr. Parker states in his letter that he contacted the competition and discussed a co-operative program to collect recyclables and was turned down flat. In reality, he has made no effort to contact us about recycling, or a co-operative program at any time between April 1st to the present time.

Siuslaw Sanitary informs us that Westlanes co-operative plan only included sharing in the profits, but did not include sharing expenses or costs involved. Mr. Parker states in his letter that he has been embroiled for six years with the franchise holder in Florence, so it's doubtful that the Johnsons (who were during that six years the Franchise holders) would have been on a Buddy System with Mr. Parker. The Johnsons purchased the garbage company with a Franchise, so paid money for it when they bought it, and in turn paid the city the franchise fee on an annual basis. Mr. Parker also states that May 21, 1985 he was finally successful - (under the guise of freedom of choice) - to get the franchise voted out of those two cities. That would seem like adequate reason to turn him down flat, as he says the Johnsons did. However, I repeat, we have been in ownership since April and have not been contacted about a co-operative program.

At Siuslaw Disposal, we are not only providing recycling to on-route customers, we have added a glass recycling program on Monday in addition to the Thursday we were already providing. We pick up glass and tin from many restaurants in the area and provide twice a week

service for cardboard.

We also provide a center at our business location for recyclables to residents in and about the Florence and Dune City area who are not our customers, but wish to take advantage of the opportunity to recycle, so we are actually providing service to the general public. This doesn't add great beauty or attractiveness to our grounds, but we have it well marked for each type of glass, tin, paper, and etc., and manage nicely. When we have enough to dispose of through the different agencies available to receive the recycling materials, we haul some things, the remaining materials are picked up by various companies.

We have designed boxes for the trucks and pick up the recyclables on-route. The last one we built makes it possible to pick up without going back to our business establishment to unload items before our regular service day is over. The approximate cost of the box being \$200.00. The amount of cost involved in preparation for recycling was approximately \$1000.00 for both trucks, and that would include what was already on the trucks before we took over if we had to replace them. We would hope if you do consider Mr. Parker's request, that you would ask for an itemized summary of costs since \$8000.00 sounds out of proportion in our estimation, considering the investment on both of our trucks.

Mr. Parker has been recycling cardboard since 1981 in the franchised area. Mrs. Johnson has enclosed a copy of the letter Mr. Parker received from the city at that time, allowing him that right. He provides a recycling program on a weekly basis, and has a special truck specifically used for cardboard pick-up.

We believe that if Mr. Parker really believes in the concept of recycling wholeheartedly as he states in his letter, that he would have taken the senate bill #405 seriously and been providing this service even before it went into effect on July 1, 1986. All the other "sanitary engineers" in the State of Oregon seemed to be able to make this preparation and transition and most were involved long before the effective deadline. If these several thousand haulers are able to make the transition, why not the rural hauler from Florence?

Since Mr. Parker has already received a 30 day extension of time by virtue of this request, and since he is already providing cardboard recycling, we believe he could find the resources to pick up recyclable material such as tin, glass, and etc. at a relatively inexpensive cost. It may not be as extensive as the "master plan" he refers to for the city in 1987, but certainly should be adequate for this time until he can begin his comprehensive on route pick up for 1987. We ask that you consider no more than ten additional days be allotted to him.

Mr. Parker's situation isn't unique. He is a garbage hauler (solid waste) in a rural area. With the increased revenue he's promising you he'll receive by January 1, 1987, "the light at the end of the tunnel", he will also increase his expenses. Unless there's some buried treasure in the cities of Florence and Dune City we are not aware of, he will still be a garbage hauler, with income and expenses,

and still have the same law to govern him to do on-route recycling sixmonths from now as he does today, July 25, 1986.

We request you deny his extension.

Respectfully submitted,

Evelyn Fender
Siuslaw Disposal Inc.
Florence Franchised Hauler

EF:gag

SSI

Oregon Sanitary Service Institute

4372 Liberty Rd. S., Salem, Oregon 97302 Phone 399-7784

Research
Standards
Service

July 25, 1986

Reply to: 2202 SE Lake Road
Milwaukie, OR 97222 (654-9533)

ENVIRONMENTAL QUALITY COMMISSION
Hearing Room A
State Capitol Building
Salem, OR

Re: Action Item L. - Request for Extension of July 1, 1986
Deadline for Providing the Opportunity to Recycle in Florence

The request for an extension to provide the Opportunity to Recycle in Florence does not come from the company providing the solid waste collection and recycling services to the residents of the City of Florence. It comes from Loren Parker of West Lane Disposal who has less than 100 customers in the urban growth area around Florence.

Siuslaw Disposal, Inc. is the company that provides solid waste collection and recycling services to the citizens of Florence. They request no extension of time to provide the Opportunity to Recycle in Florence because they are providing such opportunity and far exceeding the mandates of Senate Bill 405, the "Opportunity to Recycle Act."

Siuslaw Disposal, Inc. provides curbside recycling two times a week. In addition, they have a drop center at the company office at 85040 Hwy. 101 S., Florence, OR, that provides for collection of glass, tin, aluminum, cardboard and paper.

Siuslaw Disposal, Inc. has made the commitment of time and resources to provide the citizens of Florence with the Opportunity to Recycle, and they intend to continue that commitment. All solid waste collectors in Oregon knew for many months in advance of July 1, 1986 that this commitment was required of them, and there is no valid explanation for West Lane Disposal Co. not to be prepared to offer recycling services to his few customers within the urban growth area outside the City of Florence, except for a lack of commitment.

Siuslaw Disposal, Inc. is under new ownership now, with the owners being Tom and Evelyn Fender, and the managers being Robert and Christine Fender. The longrunning battles that Mr. Parker eluded to in his letter to the EQC when he applied for the extension were not with the Fenders. The Fenders have applied all their personal resources to Siuslaw Disposal Co. as a guarantee that excellent solid waste management, including the opportunity to recycle, will exist in Florence.

Sincerely,

EH:e

Copy: OSSI President
and Administrator

ESTLE HARLAN, Consultant for
OREGON SANITARY SERVICE INSTITUTE

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SIUSLAW SANITARY SERVICE, INC.

MIKE JOHNSON

P. O. BOX 1160
FLORENCE, OREGON 97439
(503) 997-8233

July 18, 1986

Marianna Fitzgerald
Dept. of Environ. Quality
P.O. Box 1760
Portland, OR 97207

RE: Request for Time Extension
Westlane Disposal

Dear Ms. Fitzgerald:

We sold our business on April 1, 1986, to Tom, Evelyn, Bob and Chris Fender, who are operating under the name of Siuslaw Disposal, Inc. We have been in the process of moving and on vacation, with Mike working in California, and are sorry for the delay in responding to your letter of June 17.

We wish that you would deny the request by Loren Parker of Westlane Disposal for an extension on his opportunity to recycle. His letter is filled with inaccuracies and distortions. The following is our response to his claims.

His situation is not unique in Oregon. There are other areas in the State with established haulers being attacked by new people wanting a "piece of the action". He just doesn't want to spend the money necessary to make recycling available to all of his customers. He has been picking up only cardboard since October, 1981. In fact he got a license from the City of Florence in order to come into our franchised area and get cardboard from our customers. Cardboard is a fairly easy commodity to pickup without a lot of labor. With him hauling a load of 1½ tons per trip for 60 miles, we doubt that he makes much money on it. He is supposed to be paying his customers fair market value, which he established at \$.0005 per pound. But the City has not enforced it and we're sure he hasn't been paying them. Who's going to take the time to weigh it? Enclosed is a copy of the letter from the City to him giving him a license. Whether he has been renewing yearly or not, we don't know.

We have never used the power of the franchise to compete unfairly in the unfranchised area. We did a cost analysis in 1984 and found our rates in line with our costs in each area. Our rates in the rural area were 20% higher than in the City. Everyone in each area are charged the established rates, there are no special deals. Enclosed is a letter to Dunes City outlining in detail his activities from August, 1980, to November, 1982, in trying to break our franchises. He is the one who has made life difficult, not us. He was finally successful in his efforts. In November, 1984, Dunes City residents voted by 21 votes to allow open competition beginning in September, 1987. In May, 1985, the residents of Florence, by 104 votes, also voted to allow a licensing program to go into effect at the end of the current franchise which expires on December 31, 1986.

Dept. of Environ. Quality

July 18, 1986

Page 2

We can't find the letter that Mr. Parker sent offering to "work with us in collecting recyclables and sharing the profits". He made no mention of helping to process the recyclables - where most of the expense is - or share in the expenses. After his previous activities, we found his offer laughable and did not respond. We never "turned him down flat". Enclosed is a cost analysis we did in 1983 after 17 months of operation to determine profitability. Subsequent operations would show similiar percentages. Until haulers are able to charge for picking up recyclables, they are going to operate at a loss.

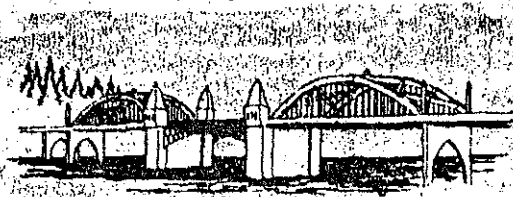
Mr. Parker is not going to be in any better situation to offer recycling in 1987. He's going to have to offer lower rates than Siuslaw Disposal, Inc. to compete, which will mean always operating with less of a profit. He will find another excuse then for not being able to recycle. He has had two years to get his program implemented.

Please do not give Mr. Parker of Westlane Disposal an extension on the July 1, 1986, deadline to provide full recycling as required by SB 405.

Sincerely yours,


LORAIN JOHNSON

Encs.



"FOR YOUR
INFORMATION"

CITY OF FLORENCE

P. O. BOX 340

250 HIGHWAY 101 NORTH

PHONE 997-3436

FLORENCE, OREGON 97439

September 28, 1981

Office of: City Manager

Mr. Loren N. Parker
Westlane Disposal
85025 Highway 101
Florence, OR 97439

Dear Mr. Parker:

On September 22, 1981 the Florence City Council approved your business license as "Buyers of Salvagable Materials." Section 9-4-4-1 F. of the City Code permits the "Purchase of totally separated solid waste for fair market value."

When paid for, this license will grant you the authority to make such purchases within the City. It will not grant to you any authority to operate a solid waste collection system within the City.

You are reminded that the City Council has awarded the Siuslaw Sanitary Service an exclusive franchise for the collection of solid waste within the City of Florence; Section 9-4-4-3 of the City Code specifically prohibits anyone other than the franchise from providing such service or offering to provide such service within the City.

Your cooperating in this matter will be appreciated.

Very truly yours,

M.L. DEGERNES, JR.

MLD:jct


cc: City Attorney

TILLAMOOK COUNTY ENVIRONMENTAL HEALTH
TELEPHONE 503-842-3409

MEMO

DATE: 22 JUL 86

TO: ENVIRONMENTAL QUALITY COMMISSION

FROM: DOUG MARSHALL, TILLAMOOK COUNTY ENVIRONMENTAL HEALTH 

RE: LOW PRESSURE BED SIZING IN BEACH SANDS
OAR 340-71-275(4)(d)

TILLAMOOK COUNTY IS REQUESTING A SIZE REDUCTION OF LOW PRESSURE (LP) BEDS PLACED IN BEACH SANDS. CUTTING THE CURRENT LP BED SIZING IN HALF WOULD BRING THE FLOOR AREA OF THESE BEDS INTO CONFORMANCE WITH THE FLOOR AREA OF TRENCHES PLACED IN SANDY SOILS. SINCE THE SIDEWALL AREA OF TRENCHES IS SOMEWHAT GREATER THAN THE SIDEWALL FOR A BED, WE ARE ASKING FOR A 25% REDUCTION IN SEEPAGE BED SIZING.

DEQ STAFF QUOTES A 1979 WISCONSIN STUDY OF SAND MOUND SYSTEMS THAT MAY, OR MAY NOT, APPLY TO OREGON LP BEDS IN COASTAL SANDS. STAFF ALSO USES DATA GATHERED FROM SEVEN OREGON COASTAL COUNTIES. IF WE SIMPLIFY THE DATA PRESENTED IN THE STAFF REPORT WE GET:

	<u>WISC STUDY</u>	<u>ORE BEACH SAND</u>
DESIGNED LOAD RATE (gpd)	0.5-0.6	0.75
MEDIA CONTENT	25% VERY COURSE, COURSE, MEDIUM SAND	75% MEDIUM SAND
	49% FINE, VERY FINE SAND	27% FINE SAND
	15% SILT, CLAY	
NUMBER INSTALLED	?*	308
FAILURES	?	1
FAILURE RATE	?	0.3%

* THE STAFF REPORT CONCLUDES THAT "MOUNDS THAT CONTAINED MEDIA THAT DID NOT MEET THESE SPECIFICATIONS (EXCESSIVE FINES) DID NOT PERFORM SATISFACTORY." IN OTHER WORDS MOUNDS WITH GREATER THAN 64% FINES FAILED. OUR COASTAL SANDS CONTAIN UP TO 27% SANDS.

THE DATA FOR LP BEDS IN OREGON BEACH SANDS COVERS A PERIOD OF 5 YEARS WITH A FAILURE RATE OF LESS THAN 1%. THERE ARE SEVERAL REASONS FOR THIS LOW RATE INCLUDING ACTUAL LOADING AT 1/2 THE DESIGN FLOW AND OCCASIONAL USE OF MANY OF THESE SYSTEMS (VACATION OR WEEK-END USAGE). IF LP BEDS ARE DOWN SIZED 25%, I WOULD ESTIMATE A FUTURE FAILURE RATE OF LESS THAN 5%, WHICH IS A VERY ACCEPTABLE RISK. DO NOT ACCEPT THE STAFF CONCLUSION THAT INSUFFICIENT EVIDENCE IS AVAILABLE FOR MAKING A DECISION. YOU HAVE THE INFORMATION TO JUSTIFY A SIZING REDUCTION FOR LP BEDS IN COASTAL SANDS.

ALLOWING REDUCED SIZED LP BEDS WILL NOT OPEN UP A LAND RUSH ON THE OREGON COAST. IT WILL ALLOW COASTAL COUNTY SANITARIANS TO APPROVE A LP BED PRIMARY SYSTEM, ON LOTS THAT CAN ONLY GET A SAND FILTER SYSTEM AT THE PRESENT TIME. UNDER CURRENT DEQ RULES A REPAIR AREA IS REQUIRED ON ALL LOTS, SO THE SAND FILTER CAN BE SAVED AS THE REPAIR SYSTEM, IF IT IS NEEDED. A SAND FILTER COSTS APPROXIMATELY \$5,000-10,000 WHILE A LP BED COSTS \$2500-3500, SO THE SAVINGS CAN BE SUBSTANTIAL AND CAN MEAN THE DIFFERENCE BETWEEN DEVELOPMENT OF THE LOT OR PLANTING A "FOR SALE" SIGN.

I URGE YOU TO ADOPT ALTERNATIVE 5 (NOT PRESENTED IN YOUR STAFF REPORT), WHICH IS TO APPROVE THE RULE AMENDMENTS ATTACHED AS EXHIBIT "A" WITH THE FOLLOWING MODIFICATION AT THE BOTTOM OF PAGE 33:

S = SIZE FACTOR. SEEPAGE BEDS SHALL USE A FACTOR OF
'150' SQUARE FEET.

FOR A THREE BEDROOM BEACH HOME THIS WOULD CREATE A 450 SQUARE FOOT LP BED (CURRENT RULES REQUIRE A 600 SQUARE FOOT BED). THIS REDUCTION CAN BE JUSTIFIED BY CURRENT SIZING CRITERIA BASED ON 75 gpd WASTE FLOWS WHEN ACTUAL FLOWS ARE CLOSER TO 35 gpd; A CURRENT FAILURE RATE OF LP BEDS ALONG THE COAST OF LESS THAN 1%; AND THE CURRENT SIZING DISCREPANCY IN THE RULES OF TRENCHES VERSUS BEDS.

THANK YOU FOR YOUR CONSIDERATION ON THIS MATTER.