

**OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS 09/07/1989**



**State of Oregon
Department of
Environmental
Quality**

This file is digitized in *color* using Optical Character Recognition (OCR) in a standard PDF format.

Standard PDF Creates PDF files to be printed to desktop printers or digital copiers, published on a CD, or sent to client as publishing proof. This set of options uses compression and downsampling to keep the file size down. However, it also embeds subsets of all (allowed) fonts used in the file, converts all colors to sRGB, and prints to a medium resolution. Window font subsets are not embedded by default. PDF files created with this settings file can be opened in Acrobat and Reader versions 6.0 and later.

**Blank Sheet Have Been Removed, which is the reason
for any discrepancies in the page numbers**

T E N T A T I V E A G E N D A

OREGON ENVIRONMENTAL QUALITY COMMISSION

WORK SESSION

September 7, 1989

Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon
Conference Room 4A

12:00 p.m. - Working lunch. There will be a viewing and discussion of the film "The Willamette: A River Restored"

NOTE: The purpose of the work session is to provide an opportunity for informal discussion of the following items. The Commission will not be making decisions at the work session.

- 1:00 p.m. - 1. Emission Exceedances - Discussion on Unifying Department/Source Requirements and Actions Upon Exceedance of Permit Conditions, Rules
- 1:45 p.m. - 2. Woodstove Certification Program - Proposed Modifications to Conform to New EPA Requirements

OREGON ENVIRONMENTAL QUALITY COMMISSION

R E G U L A R M E E T I N G

September 7, 1989

Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon
Conference Room 4A

2:30 p.m. - Consent Items

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

NOTE: Meeting continued from September 7, 1989.

OREGON ENVIRONMENTAL QUALITY COMMISSION

September 8, 1989

Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon
Conference Room 4A

8:30 a.m. - Action Items Continued

- J. Proposed New WTD Pulp Mill - Approval of New Discharge to the Columbia River Below Clatskanie
- K. Underground Storage Tanks - Proposed Adoption of Temporary Rules to Implement Program of Grants, Loan Guarantees and Interest Rate Subsidies to Deal With UST Problems

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 set time should arrive at the start of the meeting to avoid missing any item of interest.

The next Commission meeting will be Friday, October 20, 1989. There will be a short work session prior to this meeting on the afternoon of Thursday, October 19, 1989.

Copies of the staff reports on the agenda items are available by contacting the Director's Office of the Department of Environmental Quality, 811 S. W. Sixth Avenue, Portland, Oregon 97204, telephone 229-5395, or toll-free 1-800-452-4011. Please specify the agenda item letter when requesting.

Approved
Approved with Corrections _____
Corrections Made _____

MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EOC

ENVIRONMENTAL QUALITY COMMISSION

Minutes of the Special Telephone Conference Call

Friday, September 15, 1989

A special telephone conference call was convened at 7:45 a.m. on Friday, September 15, 1989. All Commission members were present by telephone connection. Fred Hansen, DEQ Director; Michael Huston, Assistant Attorney General; Stephanie Hallock, Hazardous and Solid Waste Division Administrator; Rich Reiter, Hazardous and Solid Waste Division, and other Department staff participated and were present in the DEQ offices.

The Commission considered Agenda Item K which was deferred from the September 8 regular meeting.

Agenda Item K: Underground Storage Tank Reimbursement Grant Program.

The purpose of this agenda item was to provide assistance in the form of reimbursement grants to property owners, tank owners or permittee for UST tightness testing and soil assessment of underground storage tank facilities that contain motor fuel.

The proposed temporary rule establishes the reimbursement grant portion of the legislation by reimbursing property owners, tank owners or permittees up to 50 percent of the costs, not to exceed \$3,000 for conducting tightness testing and soil assessment on underground storage tanks that contain an accumulation of motor fuel. The request for rule adoption to allow implementation of the loan guarantee and interest subsidy program will be brought before the Commission at a later meeting.

Recommendation: The Department recommended the Commission adopt the Findings of Need for adoption of a temporary rules (Attachment D), adopt the temporary rules (Attachments A, B and C), adopt the Statement of Need for Rules (Attachment E) and authorize hearings for the temporary rules (Attachment F).

The conference call discussions resulted in the following:

1. Maximum grants of \$3,000 will be available on a first-come, first-serve basis for any work performed after September 1, 1989. The Commission made a preliminary allocation of \$3,390,000 (\$2,901,000 for this biennium) to the grant program which will support 1,130 (967 this biennium) grants at the maximum amount of \$3,000. The Commission considered giving priority to older tanks or requiring a notice of intent to apply as other ways to distribute the available revenue. In the interest of time, the Commission went with the Department's recommendation of first-come, first-serve but expects equitable distribution of available revenue be revisited when brought forward for final rules in the next 180 days.
2. A tank owner, property owner or permittee is eligible to receive grant reimbursement, but only one grant can be received for any facility location. The tank owner, property owner and permittee must all sign a grant reimbursement application to avoid the Department having to arbitrate any disputes between these three parties. Persons involved with more than one facility are eligible for a grant at each facility location.
3. Soil assessments will be needed to be performed under the direction of a registered professional engineer or geologist. Tank tightness testing will need to be performed by a licensed service provider.
4. Results of the soil assessment and tank tightness testing and evidence of payment will need to be submitted prior to the Department making the reimbursement payment.

Action: It was **MOVED**, seconded and unanimously approved that the Department's recommendation be approved.

There was no further business so the meeting was adjourned.

Nikkila

Approved _____
Approved with Corrections _____
Corrections Made _____

MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

ENVIRONMENTAL QUALITY COMMISSION

Minutes of the One Hundred Ninety-Seventh Meeting,
July 21, 1989

Work Session
Thursday, July 20, 1989

Nendel's
Valencia Room
1550 N. W. Ninth
Corvallis, Oregon

Chairman Hutchison and Commissioners Brill, Castle and Wessinger attended the work session; Commissioner Sage was not able to attend the work session due to a Governor's Watershed Enhancement Board meeting held in Pendleton.

1. Discussion of Significant New Waste Discharge to Columbia River - Proposed WTD Pulp Mill; and
2. Halsey Pulp Mill Expansion - Discussion.

Department of Environmental Quality (Department/DEQ) staff presented an overview of pulp/paper technology to the Commission. The overview included the bleaching process which consists of oxygen delignification, chlorine dioxide substitution and dioxin formation and emission.

Chairman Hutchison asked Director Hansen to clarify the Department's and Commission's approval process. Director Hansen and staff described the different roles of the Commission in the discharge approval process and the Department's role in the permitting process.

Chairman Hutchison expressed concern that because of the gravity and complexity of the issues, it would be improvident for the Commission to proceed too rapidly on the discharge approval until they had more information and a better understanding of the issues. Chairman Hutchison invited WTD and representatives of citizens' groups in the audience to provide information and discussion of the issues.

Nina Bell, Northwest Environmental Advocates, urged that a full environmental impact statement (EIS) be conducted on all

issues; that because of the unanswered questions, the discharge approval should be taken off the agenda for Friday's meeting; that WTD consider producing unbleached pulp; and, that it would be improper for the Commission to proceed before the U. S. Environmental Protection Agency (EPA) sets a Total Maximum Daily Load (TMDL) for the river.

David Walseth, WTD Industries, explained WTD's process, possible ramifications of decisions the Commission might make and the market potential for unbleached pulp. Mr. Walseth indicated that a Commission delay until September would not be a problem but that a prolonged, indefinite delay would probably cause WTD to abandon the project.

3. **Field Trip - Pope & Talbot Pulp Mill, Halsey Oregon.**

Following lunch, the Commission and staff traveled to the Pope & Talbot Pulp Mill at Halsey. A packet of informational materials about the proposed Pope & Talbot Halsey mill expansion was provided. This information is made a part of the meeting record. William Frohnmayer, Walt Sinclair and Charles Warren provided introductions about Pope & Talbot and James River. Additionally, project scope and environmental impacts were discussed. The Commission and staff then toured the Pope & Talbot Kraft Mill and the James River Tissue Mill.

FORMAL MEETING

July 21, 1989

**LaSells Stewart Conference Center
Oregon State University Campus
875 S. W. 26th
Corvallis, Oregon**

Commission Members Present:

William Hutchison, Chairman
Emery Castle, Vice Chairman
Wallace Brill
Genevieve Pisarski Sage
William Wessigner

Department of Environmental Quality Staff Present:

Fred Hansen, Director
Michael Huston, Assistant Attorney General
Program Staff Members

Work Session and
EQC Meeting
Page 3
July 20 and 21, 1989

NOTE: Staff reports presented at this meeting, which contain the Department's recommendations, are on file in the Office of the Director, Department of Environmental Quality, 811 S. W. Sixth Avenue, Portland, Oregon 97204. Written material submitted at this meeting is made a part of this record and is on file at the above address.

Chairman Hutchison opened the meeting by announcing that the report from the Fish and Wildlife Youth Commission, which had been scheduled as part of the Public Forum, would not be presented due to the accidental death of one of the youth participants. The Youth Commission will be asked to present their report at a future meeting.

Pacific Northwest Hazardous Waste Advisory Council: Chairman Hutchison reported on the recent meeting of the Pacific Northwest Hazardous Waste Advisory Council in Anchorage, Alaska, on July 10 and 11, 1989. The Council adopted a 13-point program which seeks a 50 percent reduction in hazardous waste in five years and gave conditional approval of incineration capacity for hazardous waste for the region. In addition, they also visited the oil cleanup areas. The next meeting will be in Portland on November 28 and 29, 1989.

Governor's Watershed Enhancement Board: Commissioner Sage reported on the GWEB meeting in Pendleton on the previous day. Commissioner Sage indicated that GWEB had received their required budget and are developing a work plan for their strategic plan. The Board received a request from the Department of Agriculture (DOA) to coordinate a combined retreat with the Environmental Quality Commission retreat and DOA.

CONSENT ITEMS

Agenda Item A: Minutes of the July 20, 1989, work session and July 21, 1989, regular EQC meeting.

Commissioner Castle asked that the minutes be corrected as follows:

Agenda Item D, Page 8, Action:

Action: It was **MOVED** by Commissioner Sage and seconded by Commissioner Brill to issue Tax Credit Application T-2191 to Forrest Paints. Chairman Castle advised that he would not vote in favor of the motion. Since only three

Work Session and
EQC Meeting
Page 4
July 20 and 21, 1989

Commission members were present, this would mean failure of the motion. Commissioner Brill then MOVED to amend the motion to defer a decision until the July 21, 1989, EQC meeting. Commissioner Sage seconded the motion to amend and it was unanimously approved. The motion, as amended, was then unanimously approved. (The Forrest Paint application was deferred to the July 21, 1989, meeting.)

Bold lettering is revised wording.

Action: It was MOVED by Commissioner Castle, seconded by Commissioner Brill and unanimously passed to approve the minutes of the July 20, 1989, work session and July 21, 1989, regular EQC meeting as corrected.

Agenda Item B: Monthly Activity Reports for April and May, 1989

By consensus, the Commission accepted the report and the Director's recommendation that the monthly activity reports will no longer be an agenda item.

Agenda Item C: Civil Penalties Settlements.

The following proposed settlement agreement was presented for the Commission's consideration and approval:

No. WQ-NWR-89-08, George N. Lammi, dba/Lammi Sand and Rock Products

Commissioner Wessinger asked whether the company had paid the \$5,000 settlement amount. Tom Bispham, Administrator of the Regional Operations Division, replied that the Department was in receipt of the check but was awaiting Commission approval of the settlement before cashing it. Commissioner Sage inquired how much the pollution control work agreed to in the settlement agreement was going to cost. Mr. Bispham reported that the estimated costs are between \$10,000 and \$15,000 and that the company had already submitted a portion of the engineering plans.

Action: It was MOVED by Commissioner Wessinger, seconded by Commissioner Brill and passed unanimously that the settlement agreement be approved as recommended by the Director.

Agenda Item D: Tax Credits for Approval.

Recommendation:

1. The Department recommended that the following tax credit applications be approved:

T-2113	Oregon Steel Mills, Secondary containment system
T-2167	White Consolidated Industries, Two acoustical fan enclosures
T-2210	Precision Castparts Corp., Chemical contaminant facility
T-2459	Blue Sky Farm, Inc, Rears propane flamer
T-2609	Blue Sky Farm, Inc, John Deere 455 cover crop disk
T-2803	Leroy & Lowell Kropf, Rears propane flamer
T-2804	Leroy & Lowell Kropf, John Deere 4955 tractor and 2810 plow
T-2805	Leroy & Lowell Kropf, John Deere flail chopper

2. The Department recommended the following tax application be granted an extension of application filing:

T-2215	Entek Manufacturing, Inc., Carbon bed absorption system to collect trichloroethylene vapors
--------	---

3. The Department recommended the tax credit certificates issued for following tax credit applications be transferred:

T-1493	ESCO, 1980 fuller dust collector
T-1526	ESCO, 1982 V-process dust collector
T-1528	ESCO, 1982 slinger bay
T-1529	ESCO, 1982 draft hoods baghouse
T-1530	ESCO, 1982 rotoblast baghouse
T-1777	ESCO, 1984 tech center dust collector
T-1783	ESCO, 1985 plant 2 dust collector
T-1784	ESCO, 1985 plant 3 dust collector

4. The Department recommended the following tax application be denied:

T-2191	Forrest Paint, Groundwater monitoring wells
--------	---

Work Session and
EQC Meeting
Page 6
July 20 and 21, 1989

Action: It was **MOVED** by Commissioner Sage, seconded by Commissioner Castle, and unanimously passed to approve the Department recommendations on all tax credit applications except the Forrest Paint application.

The Commission then considered the Forrest Paint Application.

The Department recommended denial of T-2191, Forrest Paint, because the facility, which consisted of seven monitoring wells, was considered part of a cleanup of past unauthorized practices. Under current state statute, facilities associated with cleanup of unauthorized spills are not eligible for tax credit.

Scott Forrest, Forrest Paints, spoke to the Commission and reiterated that the wells were for detection not cleanup and that the Department had told Forrest Paint that the wells were eligible for tax credit before the law was changed in 1987. Mr. Forrest presented copies of laws and correspondence which are a part of this meeting record.

Michael Huston, Assistant Attorney General, said the role of the EQC was that of a fact finder. Mr. Huston stated that the question was whether the facility in this tax credit application is an eligible facility. Chairman Hutchison asked Mr. Huston what Mr. Forrest's recourse would be if his application was denied; Mr. Huston replied that Mr. Forrest could appeal to the Circuit Court.

Commissioner Sage stated that it was reasonable to separate these wells from other facilities used for cleanup. She said that wells can and will be used for releases. Roberta Young, Management Services Division, indicated that Sandra Anderson, hydrologist for the Environmental Cleanup Division, found that the wells were not required for detection. The wells were used for characterization and could be used for future detection.

Recommendation: The Department recommended the Commission deny Forrest Paint's application, T-2191, for tax credit certification since state law does not authorize tax credit for facilities associated with the cleanup of unauthorized releases which has been substantiated by staff findings.

Action: It was **MOVED** by Commissioner Brill and seconded by Commissioner Sage to issue tax credit application T-2191 to Forrest Paint. Chairman Hutchison, Commissioners Castle, Sage and Brill voted yes; Commissioner Wessinger voted no. It was passed four to one that the Department's recommendation be denied and that Forrest Paint be issued tax credit certification T-2191 because it was determined

Work Session and
EQC Meeting
Page 7
July 20 and 21, 1989

that the wells were used beyond cleanup activities for detection purposes.

Agenda Item E: Commission Member Reports.

Reports on the Pacific Northwest Hazardous Waste Advisory Council and the Governor's Watershed Enhancement Board were given at the beginning of the meeting.

Strategic Planning: Director Hansen announced that the EQC would be scheduling a strategic planning retreat for October. The retreat is scheduled for October 18 and 19, 1989, at a location yet to be arranged.

PUBLIC FORUM

Henry Lorenzen, recently announced Environmental Quality Commissioner, was introduced. Confirmation may be determined by August.

Milo Clauson, a resident of Corvallis, spoke to the Commission about the Evanite and Pulp & Talbot expansions. Mr. Clauson said he was concerned about the ethics of releasing materials into the watershed of the Willamette Valley, particularly suspended and dissolved solids. He thanked the technical staff of the Department for answering questions at the public hearings and indicated he would like to see this process continued.

Jack Churchill, representing Northwest Environmental Defense Center (NEDC), gave the Commission a report about the lawsuit against the Unified Sewerage Agency (USA). Mr. Churchill indicated that Judge Frye rejected NEDC's motion. NEDC is proceeding under federal statutes to obtain depositions and requested to be present as observers at any negotiations between USA and DEQ regarding settlement of violations to avoid public records requests.

HEARING AUTHORIZATIONS

Agenda Item F: New Source Performance Standards (NSPS) and New National Emission Standards for Hazardous Air Pollutants (NESHAPS) - Proposed Adoption of New Federal Rules.

The purpose of this agenda item was to authorize public hearings to amend standards of performance for new stationary sources (OAR 340-25-505 to -805) and to amend emission standards for

Work Session and
EQC Meeting
Page 8
July 20 and 21, 1989

procedural requirements for hazardous air contaminants (OAR 340-25-450 to -485).

The proposed standards are necessary to keep Department rules current with federal air regulations and to maintain delegation of authority to administer the rules. These proposed new rules affect only industries that build new facilities, reconstruct facilities or modify air pollution sources.

Recommendation: The Department recommended the Commission adopt Alternative 2, adoption of only those standards applicable to existing sources in Oregon or to sources which could locate in Oregon in the future.

Action: It was **MOVED** by Commissioner Wessinger, seconded by Commissioner Castle and unanimously passed that the Department's recommendation be approved.

Agenda Item G: Waste Tire Rules - Addition of Provisions Relating to Denial of Waste Tire Carrier Permits.

The purpose of this agenda item was to propose adoption of additional waste tire rules which include provisions relating to denial of waste tire carrier permits.

The additional provisions establish criteria to be applied by the DEQ when denying an application for a waste tire carrier permit. Further, the provisions establish criteria for suspension, revocation or refusal to renew a waste tire storage site permit or waste tire carrier permit.

Recommendation: The Department recommended the Commission adopt Alternative 1, authorization for the Department to hold a public hearing on the proposed rule revision.

Action: It was **MOVED** by Commissioner Castle, seconded by Commissioner Sage and unanimously passed that the Department's recommendation, as amended, be approved.

RULE ADOPTIONS

Agenda Item H: Leaking Underground Storage Tanks - Numeric Soil Cleanup Levels for Motor Fuel and Heating Oil.

The purpose of this agenda item was to reconsider adoption of proposed rules for leaking underground storage tanks. The rules were needed to augment previously adopted petroleum cleanup rules

Work Session and
EQC Meeting
Page 9
July 20 and 21, 1989

with rules aimed at facilitating the cleanup of minor releases of motor fuel and heating oil in soils.

In many cases where the size of a release is small and there does not appear to be a significant threat to the environment, completing a cleanup by means of the current rules may result in unnecessary added costs and delays. The proposed rules establish numeric soil cleanup standards for simple soil cleanups which are based on site-specific parameters. As such, the rules allow the regulated community to move forward quickly and efficiently with the cleanup of minor petroleum releases.

Director Hansen gave a brief overview of the proposed rules and pointed out that Lon Revall, manager of the UST Cleanup Section, and Michael Anderson, the author of the proposed rules, were present at the meeting to answer any of the Commission's questions.

Chairman Hutchison asked Mr. Anderson about the Advisory Committee's concerns since the staff report indicated that the lack of a quorum at two previous advisory committee meetings had prevented the Department from obtaining a consensus on the proposed rules. Mr. Anderson replied that the Department has had the Advisory Committee's support on the goal of the proposed rules, but that some members have expressed concerns that the cleanup levels are too stringent.

These concerns are complicated by the fact that Method 418.1, the analytical method for determining total petroleum hydrocarbons (TPH), is subject to interferences from natural organic materials. These interferences may, in some cases, prevent a site from meeting the lowest cleanup levels in the rules. The Department has been working with the EPA and staff from other states to develop a more appropriate method for the analysis of TPH. Rather than delay adoption of the rules until a better analytical method is established, the Department has allowed for potential interferences by increasing the proposed cleanup levels for gasoline by 30 parts per million (ppm).

Recommendation: The Department recommended the Commission adopt the proposed rules with the following stipulations:

1. That the Department review the effectiveness of the cleanup levels and return to the Commission at the end of 15 months to report on how well these levels appear to be working;
2. That if better and more appropriate standardized methods for analyzing gasoline contamination are available, the

Department may request adoption of these methods to replace Method 418.1; and

3. That request for adoption of better analytical methods may be accompanied by a request to change the gasoline levels in recognition of the fact that a new method may yield different results than Method 418.1.

Action: Chairman Hutchison proposed that the period of time specified in the first stipulation be changed from "at the end of 15 months" to "within 15 months" and requested that, if possible, the Department should not wait the entire 15 months if it has sufficient information to recommend changes at an earlier time.

It was **MOVED** by Commissioner Castle, seconded by Commissioner Brill and unanimously passed that the Department's recommendation be amended to include the Chairman's proposal and approved as amended.

Agenda Item I: Bear Creek - Establishment of Total Maximum Daily Loads.

The purpose of this agenda item was to request adoption of rules which will establish instream criteria for total phosphorus, ammonia nitrogen and biochemical oxygen demand (BOD) in Bear Creek, a tributary of the Rogue River.

Water quality standards are violated in Bear Creek basin for pH, dissolved oxygen (DO) and ammonia toxicity. The proposed criteria provide the basis for developing and allocating the TMDLs for nutrients and BOD in Bear Creek. The TMDLs are required to achieve DO, pH and ammonia toxicity standards. Achieving water quality standards is required to protect the recognized beneficial uses of fish and aquatic life, salmonid spawning and rearing, anadromous fish passage, fishing and aesthetic quality.

Commissioner Castle asked Director Hansen about the workload requirement that TMDLs had placed on the Department. Director Hansen replied that once the standards are in place, DEQ will be able to accomplish more. Also, he added, the standards will change how local communities operate and the workload should lessen. Commissioner Castle asked if other efforts in DEQ's water quality division were suffering. Neil Mullane, Water Quality Division, responded that this process reduces the ability of the Department to perform background analysis for other permit issuance. In addition, review of program plans causes some reduction in statewide non-point source efforts.

Work Session and
EQC Meeting
Page 11
July 20 and 21, 1989

Steven Hall, representing Ashland, advised the Commission that they generally support the Department recommendation. They believe there is a need to continue discussions on attenuation of nutrients. He also noted that their draft program plan has been submitted.

Recommendation: The Department recommended the Commission adopt the proposed rule amendments as presented in Attachment A of the staff report. These amendments establish 80 micrograms per liter ($\mu\text{g}/\text{l}$) as the summer limit for phosphorus, establish May through November as the summer low flow period, and retain the proposed five-year compliance schedule.

Action: It was **MOVED** by Commissioner Sage, seconded by Commissioner Brill and unanimously passed that the Department's recommendation be approved.

Agenda Item J: Tualatin Basin - Interim Stormwater Control Rules.

The purpose of this agenda item was to request adoption of proposed rules requiring control of stormwater discharges from new development in the Tualatin River Subbasin.

The proposed rules provide assurance that new development in the Tualatin River Subbasin is provided with facilities to control and reduce the level of pollutants discharged until local jurisdictions develop and implement program plans for controlling pollutants in urban runoff.

John Jackson, Unified Sewerage Agency of Washington County, described USA's efforts to expand its authority to also include storm water control as well as sewage treatment. He indicated that storm water quality is one of three issues facing the Washington County jurisdiction. They must also concern themselves with quantity issues and federal permitting requirements. Mr. Jackson indicated that all three issues would be addressed in the program plan being prepared by USA. Mr. Jackson indicated his support for the proposed rules.

Jack Churchill, Northwest Environmental Defense Center, offered an additional set of rules to deal with permanent storm water controls that should be considered in addition to the erosion control practices contained in DEQ's proposed rules. He read into the record a letter from Bob Burd of the U. S. Environmental Protection Agency (EPA) relating their support for permanent storm water quality control facilities. Mr. Churchill pointed out, however, that EPA's letter contained a point of caution. The letter stated that EPA recognized that some area-wide treatment

systems for permanent storm water quality control will be needed, but the best way of minimizing the size of these systems was to require developers to reduce runoff from their sites to the absolute minimum. Mr. Churchill agreed with EPA's point and recommended that any further development of storm water rules recognize this need. He also suggested that DEQ ask EPA to hold a workshop for the jurisdictions in the Tualatin and Oswego Lake subbasins on storm water quality control facilities.

Mr. Jackson indicated that he had seen Mr. Churchill's proposed rules, but had not had time to evaluate them. He indicated that if Mr. Churchill's proposal did reduce runoff contamination from the smaller developments, it would help in controlling storm water quality.

Randy Wooley, City of Tigard, supported the DEQ staff recommendation. He stated that ad hoc meetings between jurisdiction staff, DEQ staff and other interested parties had helped tremendously in putting the proposed rules together. He recommended that Mr. Churchill's proposal be referred to this same meeting process for evaluation by all parties concerned.

Mary Tobias, Tualatin Valley Economic Development Corporation, endorsed the staff recommendation. She also encouraged that, should Mr. Churchill's rules receive further consideration, they be brought back to the ad hoc group for review and evaluation. Ms. Tobias also indicated a concern about special storm water rules for a given subbasin forcing growth and development to other areas of the state or country.

Richard Raetz, Washington County drainage engineer, supported the DEQ proposed rules. He indicated that the Washington County Board of Commissioners was committed to dealing with storm water quality issues.

Lydia Taylor, Acting Administrator of the Water Quality Division, recommended that the Commission adopt DEQ's rules as proposed with one change to be suggested by Dick Nichols, Water Quality Division. She suggested that Mr. Churchill's proposed rules for permanent storm water quality control be reviewed by DEQ staff with the assistance of the ad hoc group that had already assisted on the proposed rules that addressed erosion control. Ms. Taylor also recommended that the Commission request DEQ to assure that associated storm water issues, such as quantity and federal permitting requirements, be considered in the review of Churchill's rules. This way the rules could become part of the program plan for urban runoff when the rules are brought back to the Commission for adoption.

Work Session and
EQC Meeting
Page 13
July 20 and 21, 1989

Ms. Taylor suggested that the Commission authorize the Department to go to hearing on Mr. Churchill's proposed rule once they had been reviewed and revised, if necessary, by the ad hoc group. The Department would attempt to bring the rules for permanent storm water quality control facilities back to the Commission in time that they could be implemented before the next construction season.

Mr. Nichols recommended that the November 1, 1989, date in the rules be changed to January 1, 1990. This would assure the jurisdictions sufficient time to adopt necessary ordinances to implement DEQ rules on erosion control.

Recommendation: The Department recommended that the Commission adopt Alternative 2 of the staff report. This alternative adopts rules in Attachment A which require that jurisdictions require new development to control erosion during construction.

Action: It was **MOVED** by Commissioner Wessinger, seconded by Commissioner Castle and unanimously passed that the Department's recommendation be approved with the November 1, 1989, date changed to January 1, 1990. The Commission also requested the Department to reevaluate alternative rules for permanent storm water quality control facilities using Mr. Churchill's proposal as a base for consideration and with the assistance of the ad hoc group.

ACTION ITEMS

Agenda Item K: Hazardous Waste Fee Rules - Adoption of Temporary Rule to Continue Existing Fee Schedule, and Authorization for Hearing for Adoption as a Permanent Rule.

The purpose of this agenda item was to request temporary adoption of hazardous waste fee rules and request authorization for public hearings for adoption as a permanent rule.

In order to avoid a revenue shortfall in the 1989-91 biennium, the hazardous waste program worked with the Hazardous Waste Advisory Committee and the Hazardous Waste Funding Committee to revise the base fee schedule. In cooperation with representatives of the regulated community, the DEQ proposed to amend the rules to maintain the 1988 fee structure. With the proposed rule amendment, the 1989 billing would be conducted under the same fee schedule as the 1988 billing. Without the amendment, fees would decrease to the base level.

Proposed adoption of the temporary rule amendment is needed to ensure a timely billing for 1989 at the higher fee rates, thereby reducing a projected biennial budget shortfall. The temporary rule can be adopted without a prior public hearing and is only in effect for 180 days. Authorization to conduct a public hearing was also requested in order to adopt the amendment as a final rule.

Al Arguedas presented testimony prepared by Morton Michelson, President of Cascade Steel Rolling Mills. Mr. Arguedas stated that Mr. Michelson was opposed to retaining the surcharge and, therefore, against passage of the amendment. Mr. Arguedas' statement indicated that because Cascade provides a market for the recycled scrap metal by using it as input material in their steel-making process and because they send their K061 waste material to a company who reclaims zinc and other metals from it, they should not be assessed fees equivalent to a company that uses raw materials as input and disposes of, rather than recycles, their hazardous waste.

Stephanie Hallock, Administrator of the Hazardous and Solid Waste Division, responded that the amendment before the Commission was a fiscal issue and did not address the policy issue of building an incentive for recycling into the fee schedule.

The Commission asked Hazardous and Solid Waste staff to work with the next Hazardous Waste Advisory Committee to develop a fee schedule that does encourage waste reduction and recycling.

Recommendation: The Department recommended the Commission approve Alternatives 1B and 2A. These alternatives adopt Attachment A (the 1988 fee schedule, with housekeeping amendments to reduce department costs) as a temporary rule, and authorize a hearing on adoption of these rules as permanent rules.

Action: It was **MOVED** by Commissioner Castle, seconded by Commissioner Sage and unanimously passed that the Department's recommendation be approved.

The Commission then considered agenda item M before proceeding to item L.

M. Underground Storage Tank Annual Permit Fee.

The purpose of this agenda item was to request continuation of the annual permit fee of \$25 per tank after July 1, 1989. The statute enacted in 1987 provided for a fee not to exceed \$25 prior to July 1, 1989, and a fee not to exceed \$20 after July 1, 1989. The

Work Session and
EQC Meeting
Page 15
July 20 and 21, 1989

rules enacted by the Commission were consistent with this legislative direction. The 1989 legislature amended the statute to provide for a maximum fee after July 1, 1989, of \$25. Continued collection of the \$25 fee requires amendment of the existing EQC rule.

The proposed temporary rule for underground storage tank annual permit fees amends the existing EQC rule to continue the \$25 fee that was in effect during the 1989 biennium after July 1, 1989.

Recommendation: The Department recommended the Commission adopt the findings of need for adoption of a temporary rule as presented in Attachment B of the staff report and adopt the temporary rule as presented in Attachment A of the staff report. The Department also recommended the Commission authorize the Department to proceed to hearing to adopt the rule amendment as a permanent rule.

Action: It was **MOVED** by Commissioner Wessinger, seconded by Commissioner Brill and unanimously passed that the Department's recommendation be approved.

Agenda Item L: Approval of Significant New Waste Discharge to the Columbia River - Proposed WTD Pulp Mill at Port Westward.

The purpose of this agenda item was to discuss discharge limits and compliance conditions for discharge of effluent to the Columbia River by the proposed WTD pulp mill at Port Westward.

Discussion in the staff report was centered around discharge of pulp mill wastewater, limits of conventional pollutants such as BOD, Total Suspended Solids (TSS), temperature, pH, fecal coliform and limits of dioxin. Other items discussed were color mixing zone, acute and chronic bioassay toxicity testing of effluent and monitoring and reporting requirements.

Recommendation: The Department recommended the Commission approve Alternative 2 in the staff report. This alternative would authorize a new discharge from a bleached kraft pulp mill to the Columbia River subject to a series of conditions.

Chairman Hutchison introduced the WTD proposal by noting that some discussion of the item had occurred the previous day at the work session and expressed his opinion that the Commission should consider the proposal but defer action until the September meeting. He asked the Commission to express their views to help clarify the issues and to provide guidance for the staff. Director

Work Session and
EQC Meeting
Page 16
July 20 and 21, 1989

Hansen asked that the Commission clearly understand and respond to the proposed discharge approval conditions.

Norma Grier, Northwest Coalition for Alternatives to Pesticides, noted that they had provided written comment to the Department and wanted a chlorine balance done on the proposed mill. She was concerned that the Commission might take action before the public comment period was closed (August 1, 1989) and that the summary of public comment presented to the Commission by staff was inadequate. Ms. Grier also urged that a full EIS be conducted and that WTD produce unbleached pulp. She regarded the Department's findings about the proposed mill relative to Department rules as illogical.

Cynthia Mackey, representing Northwest Environmental Defense Center and Northwest Environmental Advocates, expressed concern about the lack of information regarding the proposed mill and urged the Commission not to make a decision until more is known and a TMDL has been established. She noted that the public comment period is still open and urged that a cumulative effects study of toxics be conducted.

Chris Soter, Clatskanie property owner, expressed concern that the Commission does not have as much information as they need on the issue.

Chairman Hutchison questioned the staff about why the Department has focussed on dioxin (TCDD) and not included furans and other related toxics and about the feasibility of performing a chlorine balance on the proposed mill. Ms. Taylor and Jerry Turnbaugh, Water Quality Division, responded that the EQC has adopted a specific standard for TCDD and therefore has focussed on that standard. EPA has also been focussing on TCDD in its efforts. In addition, known control actions to reduce TCDD also reduce furans and other chlorinated organic compounds. With respect to a chlorine balance, the Department has only looked at what would be in the effluent. Additional information would be needed from the company to consider the total chlorine balance.

Commissioner Castle asked how a determination of appropriate chlorine dioxide substitution could be made without a chlorine balance and asked for clarification on the TMDL process. Staff responded that substituting chlorine dioxide for elemental chlorine in the process could be accomplished without knowing how much chlorine leaves the plant in product, air emissions, wastewater effluent, etc. Director Hansen described EPA's role in setting a TMDL and in coordinating dioxin reduction by existing mills.

Work Session and
EQC Meeting
Page 17
July 20 and 21, 1989

Commissioner Castle noted that the approval condition for establishing an approach to require existing mills to reduce dioxin output needed elaboration and better definition.

Chairman Hutchison expressed concern about the color discharge from the proposed mill and asked about regulatory alternatives for color. Director Hansen recalled the discussion at Thursday's work session regarding possible permit conditions and water quality standards as a means for regulating color.

Chairman Hutchison requested that the Department return in September with more information, that the color issue be explored, that a "reopener" be developed that would let the Department act as better dioxin control technology is developed, that the burden of proof be placed on WTD for maximum chlorine dioxide substitution, that agreement with EPA be reached for reducing dioxin from existing mills and that the discharge approval conditions be made as specific as possible.

Commissioner Castle urged that a general approach be taken on color regulation, rather than an individual permit approach. He also urged tightening the requirement for dioxin reduction by existing mills.

Commissioner Sage wanted more time to consider the proposal, that too many assumptions were being made and that the remedies are too vague and hypothetical.

The Commission stated that the discharge approval condition requiring WTD to participate in a development program for developing additional means for reducing dioxin was appropriate and recommended that some reporting or verification process be required to inform the Department of the results.

Action: The Commission took no formal action on this item. Their discussion was intended as direction to staff for consideration at the September meeting.

Other Business

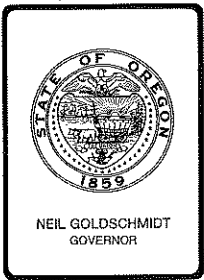
Nick Nikkila, Administrator of the Air Quality Division, spoke to the Commission about a letter from John Charles, Oregon Environmental Council (OEC). Mr. Charles wrote to the Department about the conflict he saw from the Department contracting with a lobbying organization (Oregon Seed Council (OSC)) to fulfill administrative or management functions that the agency is required to carry out on field burning. Mr. Charles stated that OEC supports the Department's decision to terminate parts of the DEQ-

Work Session and
EQC Meeting
Page 18
July 20 and 21, 1989

OSC contract and shift some administrative functions to the Department of Agriculture.

Mr. Nikkila indicated that the OSC contract will only include operation and maintenance of the communications network and coordination assistance between the Smoke Management Program and the Grass Seed Growers. The Department's Field Burning Office will perform communications relay to some of the North Valley Fire Districts, which was previously performed through a contract with OSC and DEQ. The Oregon Department of Agriculture's Smoke Management Office will contract directly with the field coordinators.

There was no further business and the meeting was adjourned at 1:15 p.m.



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

WORK SESSION
REQUEST FOR EQC DISCUSSION

Meeting Date: September 7, 1989
Agenda Item: 1
Division: Air Quality
Section: Planning & Development

SUBJECT:

Emission Exceedances - Discussion on improvements to rules regarding excess emissions of air contaminants, and the benefit in developing uniform regulations within the Department for dealing with all excess emissions.

PURPOSE:

To review and provide recommendations on Department's proposed improvements to its current Air Quality "Upset Condition" rules, in accordance with the Environmental Protection Agency's policy on excess emissions, and consider whether possible future revisions to upset regulations for other DEQ programs should be developed.

ACTION REQUESTED:

- Work Session Discussion
 General Program Background
 Potential Strategy, Policy, or Rules
 Agenda Item for Current Meeting
 Other: (specify)
- Authorize Rulemaking Hearing
 Adopt Rules
 Proposed Rules Attachment
 Rulemaking Statements Attachment
 Fiscal and Economic Impact Statement Attachment
 Public Notice Attachment
- Issue Contested Case Order
 Approve a Stipulated Order
 Enter an Order
 Proposed Order Attachment

Meeting Date: September 7, 1989
Agenda Item: 1
Page 2

<input type="checkbox"/>	Approve Department Recommendation	
<input type="checkbox"/>	Variance Request	Attachment <input type="checkbox"/>
<input type="checkbox"/>	Exception to Rule	Attachment <input type="checkbox"/>
<input type="checkbox"/>	Informational Report	Attachment <input type="checkbox"/>
<input type="checkbox"/>	Other: (specify)	

DESCRIPTION OF REQUESTED ACTION:

To provide recommendations on Department's proposed upset rule amendments regarding temporary excess emissions of air contaminants.

AUTHORITY/NEED FOR ACTION:

<input type="checkbox"/>	Required by Statute: _____	Attachment <input type="checkbox"/>
	Enactment Date: _____	
<input checked="" type="checkbox"/>	Statutory Authority: <u>ORS 468.280</u>	Attachment <input type="checkbox"/>
<input checked="" type="checkbox"/>	Amendment of	
	Existing Rule: <u>OAR 340-21-065 thru 075</u>	Attachment <input type="checkbox"/>
<input type="checkbox"/>	Implement Delegated Federal Program:	Attachment <input type="checkbox"/>
<input type="checkbox"/>	Other:	Attachment <input type="checkbox"/>
<input type="checkbox"/>	Time Constraints: (explain)	

DEVELOPMENTAL BACKGROUND:

<input type="checkbox"/>	Advisory Committee Report/Recommendation	Attachment <input type="checkbox"/>
<input type="checkbox"/>	Hearing Officer's Report/Recommendations	Attachment <input type="checkbox"/>
<input type="checkbox"/>	Response to Testimony/Comments	Attachment <input type="checkbox"/>
<input type="checkbox"/>	Prior EQC Agenda Items: (list)	Attachment <input type="checkbox"/>
<input type="checkbox"/>	Other Related Reports/Rules/Statutes:	Attachment <input type="checkbox"/>
<input checked="" type="checkbox"/>	Supplemental Background Information	Attachment <u>A</u>

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The Department's current air quality "upset rules" require industry to promptly report all air contaminant emissions in excess of applicable standards. However, these rules imply that if the owner/operator reports the upset to the Department and meets certain conditions, the upset is automatically considered not to be a violation of applicable standards.

As a result of federal court actions, state implementation plan rules must consider all excess emissions as potential violations of standards. Regulation must place the burden of proof on the source to demonstrate to the appropriate control agency whether

Meeting Date: September 7, 1989
Agenda Item: 1
Page 3

the period of excess emissions should be excused from further enforcement action as a result of an unavoidable condition. The source must demonstrate that prompt notification and remedial action occurred, that control equipment was properly maintained and operated, and that the excess emissions were not a recurring problem.

A similar approach must be taken for scheduled maintenance, in that the industry would have to show that the excess emissions could not have been avoided through better operation and maintenance practices. Justification would also be required in cases of emergency maintenance.

PROGRAM CONSIDERATIONS:

Amending the Department's air quality excess emission rules to be consistent with federal requirements and the Department's new enforcement policy could result in increased workload for staff and sources, depending on 1) the extent that written reports are required, 2) the procedure for issuance of a Notice of Noncompliance, 3) the requirements for proving that excess emissions were unavoidable, and 4) the process by which excess emissions are excused.

It is possible that the other proposed rule revisions discussed here, such as the inclusion of criteria to guide sources when reporting excess emissions, could be applicable to other DEQ programs and lead to a more uniform approach in dealing with all types of excess emissions. While Water and Hazardous/Solid Waste programs currently address all excess emissions as potential violations, there is little uniformity in current rule provisions which address excess emissions. Much of this may be due to the differences between air, water, and hazardous/solid waste excess emissions, in terms of the level of risk, pollution control equipment, and operation, which can favor separate approaches in dealing with this issue.

This rule amendment would represent a revision to the State Implementation Plan (SIP).

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. Provide criteria in rules which indicate when enforcement action may be taken by the Department, to guide sources when submitting information on the cause of the excess emissions. This approach would aid both Department staff and sources in determining whether excess emissions may be "excused". Such criteria would

Meeting Date: September 7, 1989

Agenda Item: 1

Page 4

include 1) immediate notification, 2) complete description of the nature of the excess emission, 3) description of remedial action, 4) demonstration that no negligence was involved, and 5) the event was not a recurring problem.

2. Issue a Notice of Noncompliance (NON) for every reported excess emission. Rather than this approach, the preferred way would be to review a written report submitted by the source prior to issuing a NON. Also, for the numerous minor excess emissions which do not warrant enforcement action, automatic issuance of an NON would add unnecessary workload and represent poor use of Department resources.
3. Allow excess emissions to be excused upon telephone notification, if warranted. This represents a streamlined approach in dealing with some reported cases, however, it does not allow for the full consideration of circumstances related to excess emissions that can be documented in a written report.
4. Require written documentation on all excess emissions, except allow written reports for low risk or minor excess emissions to be accumulated by source and submitted with annual permit reports at the discretion of regional staff. Submittal of all excess emission written reports immediately to the Department would create significant workload increases for staff and source alike. This approach would streamline the reporting process and allow continued flexibility in dealing with the higher risk excess emissions on a more immediate basis. This approach would also provide a documented record for all excess emissions which are reported.
5. For specific sources, on a case-by-case basis, identify a limit for excess emissions over which a source must install backup pollution control measures/equipment to minimize emissions or make a rule change permitting the excess emissions to occur as part of normal operations. This approach may be technically infeasible due to difficulty in specifying an appropriate or reasonable excess emission limit for each industry. It could also result in frequent rule changes for individual sources.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department agrees with EPA that the current provision which automatically excuses excess emissions should be changed to read that all excess emissions are subject to possible enforcement action, unless the source can demonstrate the emissions were unavoidable. The Department also agrees with the idea of adding criteria in the rules which would guide sources when reporting these events to the Department. Such criteria would indicate to sources information the Department would consider in determining when to issue a Notice of Noncompliance or other enforcement action. Also, the Department recommends written documentation for all excess emissions be submitted by sources, with consideration given to minor exceedances, to be submitted in a manner and time frame specified by regional staff.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The Department is not aware of any conflicts with any agencies or legislative policies.

ISSUES FOR COMMISSION TO RESOLVE:

The Commission needs to consider:

1. Should the existing rule language be amended to remove provisions which state that excess emissions are not a violation if reported, in order to conform to EPA's excess emissions policy? If not, EPA would have to disapprove this part of our State Implementation Plan and promulgate its own upset rules for Oregon.
2. Should excess emissions which are proven by the source to be unavoidable and not of a recurring nature be excused from enforcement action by the Department?
3. Should criteria be established in rule form that specifies what the Department will consider to be an unavoidable excess emission, to guide sources in their actions and reporting requirements, and to avoid being assessed penalties for upsets?
4. Should the Department have uniform excess emission rules/policies across all programs?

Meeting Date: September 7, 1989
Agenda Item: 1
Page 6

5. Should sources reporting minor upsets (determined by Department staff to be of low risk to the public and environment) be allowed to submit upset logs on a deferred reporting basis?
6. How frequently do excess emissions have to occur to require backup control or justify a rule change permanently authorizing the excess emissions?

INTENDED FOLLOWUP ACTIONS:

Draft a Request for Authorization to conduct a Public Hearing on Revisions to the Upset Condition Rules (amendments to OAR 340-21-065 through -075).

Approved:

Section: *John F. Kowal*

Division: *John F. Kowal*

Director: *John F. Kowal*

Report Prepared By: Brian R. Finneran

Phone: 229-6278

Date Prepared: August 9, 1989

BRF:r
PLAN\AR920 (8/89)

TEMPORARY EXCESS EMISSIONS

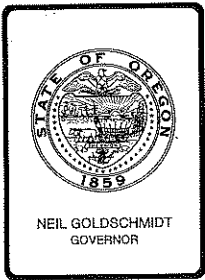
Temporary excess emissions, frequently referred to as "upset conditions", occur when an industry's air pollution control equipment malfunctions, fails, or is bypassed, resulting in air-contaminant emissions in excess of state standards or permit limits. In 1972 the EQC adopted rules which required industries to report excess emissions or upsets. These rules stated that if the owner/operators reported the upset and took appropriate action, the Department would not consider the upset to be a violation. They also required prompt notification to the Department, taking all practical steps to correct such conditions, and the cessation of operation within 48 hours unless specific authority is given by the Department to extend this time limit. For scheduled maintenance the rule required prior notice, and for lengthy excess emissions (greater than 48 hours), prior approval of a maintenance plan could be required.

As any one air pollution source is not that large of a contributor to an air shed, temporary excess emissions generally do not have the same potential environmental/health impact associated with water pollution, such as when sewage treatment plants are bypassed. Of the 500 or so air quality complaints that are received each year by the Department, many are associated with very short term excess emissions such as plugged wooddust cyclones, and bursts of black smoke from combustion sources such as wood fired powerboilers. Of the large sources in the state, pulp and paper mills account for about 5-6 upsets per month. These sources, as do some others in the state, have been required to operate continuous emission monitors and report results to the Department. Excess emissions in these cases are very readily known to the source as well as to the Department. In cases where excess emissions are occurring frequently and/or causing adverse environmental impact, the Department can require backup control systems to reduce or eliminate such occurrences in the future. Continuous emission monitoring can be required in sensitive areas such as Medford, where continuous monitoring is proposed to be expanded to major sources of PM₁₀. Such a requirement will aid in detecting and minimizing the occurrences of excess emissions in an air shed that needs every possible means of insuring that emissions are controlled to the highest level possible.

In the early 1980's, federal lawsuits regarding excess air emissions resulted in a court ruling that all excess emissions must be considered as violations subject to possible enforcement action. In addition, the court ruled that in cases where excess emissions were truly unavoidable, the violation could be excused from any enforcement action. These rulings lead EPA to ask several states, including Oregon, to revise their rules accordingly. EPA also advised states that while enforcement action could be determined on a case-by-case basis, state upset rules should specify the criteria to be used by the state for determining when excess emissions will be considered excusable in order to guide sources when submitting information on the cause of the excess emission. Such criteria would include:

1) immediate notification; 2) complete details of the equipment involved, the type of malfunction, and the estimated time in returning to normal operation; 3) description of remedial action; 4) demonstration that no negligence was involved in the incident; and 5) a reoccurring problem does not exist. A similar approach would be taken for start-up and shut-down annual scheduled maintenance, in that the industry would have to show that the excess emissions could not have been avoided through better operation and maintenance practices and they would have to provide an approvable written procedure that insures excess emissions are minimized to the extent practical. Justification would also be required in cases of emergency maintenance.

PLAN\AR917 (8/89)



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

WORK SESSION
REQUEST FOR EQC DISCUSSION

Meeting Date: September 7, 1989
Agenda Item: 2
Division: Air Quality
Section: Program Planning

SUBJECT:

Woodstove Certification Program: Proposed Modifications to Conform to New Environmental Protection Agency (EPA) Requirements.

PURPOSE:

Consider amendments to Oregon's Woodstove Certification Program in light of: 1) the Environmental Protection Agency implementing a similar National program; 2) certified stoves providing less emission reduction under in-home operating conditions than required by lab certification testing; and 3) failure of the 1989 legislature to give the Department of Environmental Quality (Department) any additional authority to regulate residential wood heating as a means of addressing very serious PM₁₀ air quality problems.

ACTION REQUESTED:

- Work Session Discussion
 ___ General Program Background
 Potential Strategy, Policy, or Rules
 ___ Agenda Item ___ for Current Meeting
 ___ Other: (specify)
- ___ Authorize Rulemaking Hearing
___ Adopt Rules
 Proposed Rules Attachment ___
 Rulemaking Statements Attachment ___
 Fiscal and Economic Impact Statement Attachment ___
 Public Notice Attachment ___
- ___ Issue a Contested Case Order
___ Approve a Stipulated Order
___ Enter an Order
 Proposed Order Attachment ___

Meeting Date: September 7, 1989
Agenda Item:
Page 2

Approve Department Recommendation
 Variance Request Attachment
 Exception to Rule Attachment
 Informational Report Attachment
 Other: (specify) Attachment

DESCRIPTION OF REQUESTED ACTION:

Advise the Department on future direction of its woodstove certification program with consideration of statutory requirements, duplication of efforts with EPA national certification program, and need to effectively reduce woodstove emissions in several areas of the state to address serious PM₁₀ air quality problems.

AUTHORITY/NEED FOR ACTION:

Required by Statute: _____ Attachment
Enactment Date: _____
 Statutory Authority: ORS 468.630 thru .655 Attachment
 Pursuant to Rule: OAR 340-21-100 thru-190 Attachment
 Pursuant to Federal Law/Rule: 40 CFR Part 60 Attachment
Subpart AAA
 Other: Attachment
 Time Constraints: (explain)

EPA's national woodstove certification program will become effective at Oregon retail outlets on July 1, 1990. At that time, woodstove retailers will face duplicative requirements and enforcement from Oregon's wood stove certification program.

Additionally, woodstoves are the predominate cause for several areas of the state to exceed the new Federal PM₁₀ ambient air quality standard. The state is deficient in submitting State Implementation Plan revisions for PM₁₀ control strategies to EPA by April, 1988 as required by the Clean Air Act because state or local enforceable measures are not in place to effectively reduce woodstove emissions within the 3 to 5 year time frame allowed by the Clean Air Act to reach attainment. The State and Federal Woodstove Certification Programs are expected to naturally take from 15 to 20 years to replace all existing woodstoves. Even within this time, needed PM₁₀ emission reduction from certified woodstoves to meet the PM₁₀ NAAQS will not be achieved based on poorer than expected in home emission performance. The state is vulnerable to Federal Sanctions of citizen suits under Clean Air Act provisions for failure to develop effective PM₁₀ control strategies. The 1989 Oregon Legislature failed to provide the Department with any new

Meeting Date: September 7, 1989
Agenda Item:
Page 3

authority, other than woodstove certification, to deal with residential woodstove emissions.

DEVELOPMENTAL BACKGROUND:

___ Advisory Committee Report/Recommendation	Attachment ___
___ Hearing Officer's Report/Recommendations	Attachment ___
___ Response to Testimony/Comments	Attachment ___
___ Prior EQC Agenda Items: (list)	Attachment ___
___ Other Related Reports/Rules/Statutes:	Attachment ___
___ Supplemental Background Information	Attachment ___

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

A 1983 Oregon statute directed the Department to require that all new woodstoves advertised for sale in the state be tested for emissions and efficiency, meet an EQC established emission standard when tested in the lab, and be labeled for emission and efficiency performance. When the requirements are met, a stove is certified by the Department to be sold in the state. This program, the first of its kind in the country, was considered to be an effective long-term, publicly accepted strategy to reduce residential woodstove smoke. The EQC established a woodstove emission standard in 1984 which required stoves sold after July 1, 1988 to demonstrate about a 70 percent particulate emission reduction, compared to traditional woodstove technology, in order to be certified. This reduction was about the reduction needed from woodheating smoke in the Medford area to meet the Federal Clean Air standards. This area of the state was the most heavily impacted area from residential woodsmoke known at that time.

The EPA subsequently adopted a national woodstove certification program patterned after Oregon's program. EPA's program which goes into effect at retail outlets on July 1, 1990, requires woodstoves to be tested and labeled for emissions (but not tested for efficiency at this time), and to ultimately demonstrate about a 75 percent emission reduction when tested in the lab. Accreditation of testing laboratories and other certification program administrative procedures are comparable to Oregon's program. The national woodstove trade association supported the EPA national certification program and was hopeful it would supplant the need for any state certification programs.

PROGRAM CONSIDERATIONS:

Oregon's woodstove certification program was the first major strategy promoted by the Department as a means of dealing with residential woodsmoke pollution. Other strategies have been promoted through local governments in order to meet emission reduction needs in the short time frame required by the Clean Air Act. These include public education, weatherization, curtailment, and wood seasoning. These strategies have not been successful as yet in achieving the needed woodstove emission reductions, principally because of major objections from the public and consequent reluctance of local government to impose any mandatory measures.

Efforts by the Department in the 1989 Oregon Legislature to obtain additional authority and financial incentives to effectively address residential woodsmoke problems failed. Therefore, the Department has to rely on voluntary local government actions at this point since it does not have any authority other than new stove certification to insure that woodstove smoke will be reduced as necessary to meet the states responsibility under the Clean Air Act. Effectiveness of this approach is questionable given past experiences.

Several field studies indicate that particulate emission reductions from certified stoves under actual in-home use average about 45-50 percent. Differences in lab certification test performance and in-home performance has been attributed to some extent to durability problems with certain stove designs. The Department, with the assistance of an EPA grant, conducted a study to determine and verify the maximum achievable emission reductions potential of the best existing woodstove technology (BEST). BEST technology was identified and units meeting this criteria were deployed in three homes in the Medford area last heating season. Emissions were measured throughout the heating season. Results indicated that in contrast to average in-home performance of certified stoves, BEST technology achieved an average 79 percent emission reduction. Also in contrast to average certified stove performance, BEST stove performance did not fluctuate much with a range in all data from 68 to 87 percent. Of most interest was the fact that performance in all three homes did not show any sign of degradation. In fact, performance improved with time, probably to some extent because of increased operator proficiency.

The Department believes that substantial additional gains in reducing wood smoke can be attained by promotion of BEST stove technology. The Department had proposed in its 1989 legislative woodstove Bill economic incentives (such as rebates) for the purchase of BEST stoves. The Department has

envisioned restricting oil overcharge money planned to be used in the Medford area for low income home woodstove upgrades, be channeled to BEST stoves or other low polluting heating systems such as gas and oil. Other possible BEST promotion actions considered include establishing a voluntary BEST certification program or even tightening of mandatory certification requirements to BEST technology.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. Retain existing certification program. This would result in a considerable amount of duplicate work being done by the Department, EPA, and manufactures of woodstoves who seek certification.
2. Recognize EPA's program as at least as stringent as Oregon's program and defer certification to EPA. This would be feasible and desirable for the particulate emission certification portion of the program, but would not meet the Oregon statutory directive of testing and labeling for efficiency. It is generally recognized that lower polluting stoves are more efficient stoves. Consumer surveys by the woodstove industry have indicated that consumers pay little attention to emission labeling information when making a purchase decision, but they are heavily swayed by efficiency labeling information. It is felt that efficiency testing and labeling has positively influenced the manufacture and sale of lowest polluting certified stoves.
3. Defer emission certification of woodstoves to EPA but retain Oregon efficiency labeling at least until EPA develops a comparable program (there is no set schedule for EPA action in this area). This alternative is reasonable and would save the Department about three-quarters of the effort it now expends certifying stoves. However, this alternative would not provide assurance that average in-home performance of certified woodstoves would ever approach the level of best existing stove technology. Furthermore, it would not provide any hope or assurance that Department directed programs would ever achieve the woodstove emission reductions needed in such critically polluted airsheds such as Medford and Klamath Falls.
4. Defer emission certification of woodstoves to EPA but retain Oregon efficiency labeling at least until EPA develops a comparable program, and promote the manufacture and sale of BEST woodstoves by either:

Meeting Date: September 7, 1989
Agenda Item:
Page 6

- a. Implementing a voluntary BEST stove certification program.
- b. Seeking restriction of any financial incentive stove replacement program to BEST stoves.

This alternative would provide some market based pressures that should result in some increased in-home performance of certified stoves.

5. Modify Oregon's woodstove certification program to require, in addition to EPA emission certification, Oregon certification to BEST criteria: a) in PM₁₀ nonattainment areas; or b) statewide.

The woodstove industry would be vehemently opposed to any additional state certification requirements and they have even opposed the concept of restricting financial incentives to a subset of EPA certified stoves. On the other hand, upgrading the current certification program is the only feasible tool available to the Department to effectively reduce residential wood smoke and to do so in a publicly accepted manner. Tighter certification requirements in nonattainment areas would raise the concern about bootlegging of stoves from other areas. More effective building permit programs might lessen this problem.

This alternative is the only one within the current authority of the Commission and Department that would provide reasonable assurance that severe air pollution problems created by woodheating in Oregon would be effectively addressed.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends that Oregon's emission certification program be deferred to the EPA program as a means of streamlining government administrative requirements. The Department should retain its current program for efficiency testing and labeling to meet statutory requirements and as a means of monitoring lowest emission technology. Additionally, some means of promoting the manufacture of BEST stoves should be pursued in order to effectively address the state's responsibility under Federal law to reduce wood smoke to meet Federal air quality standards. Tightening of Oregon's certification program would be the most effective method, but it would be subject to intense opposition from the woodstove industry. Commission guidance is sought on this critical issue in the Air Quality program.

Meeting Date: September 7, 1989
Agenda Item:
Page 7

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The proposed course of action would be consistent with legislative and agency policy to restore and maintain acceptable air quality.

ISSUES FOR COMMISSION TO RESOLVE:

1. Should Oregon's woodstove certification program be aligned to the extent possible within existing statutes with EPA's national certification program?
2. Should BEST woodstoves be promoted? If so, should it be through voluntary means or through changes in mandatory certification requirements?

INTENDED FOLLOWUP ACTIONS:

If the Commission concurs that some changes should be made in stove certification it would be the Department's intent to bring proposed rule amendments to the Commission for hearing authorization at its December meeting.

Approved:

Section: John F. Kowalczyk

Division: John F. Kowalczyk

Director: Neil Hansen

Report Prepared By: John F. Kowalczyk

Phone: 229-6459

Date Prepared: August 9, 1989

JFK:1
PLAN\AR919 (8/89)

Meeting Date: September 7, 1989
Agenda Item:
Page 7

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE
POLICY:

The proposed course of action would be consistent with legislative and agency policy to restore and maintain acceptable air quality.

ISSUES FOR COMMISSION TO RESOLVE:

1. Should Oregon's woodstove certification program be aligned to the extent possible within existing statutes with EPA's national certification program?
2. Should BEST woodstoves be promoted? If so, should it be through voluntary means or through changes in mandatory certification requirements?

INTENDED FOLLOWUP ACTIONS:

If the Commission concurs that some changes should be made in stove certification it would be the Department's intent to bring proposed rule amendments to the Commission for hearing authorization at its December meeting.

Approved:

Section: John F. Kowalczyk

Division: Don Goussard

Director: Carl Hansen

Report Prepared By: John F. Kowalczyk

Phone: 229-6459

Date Prepared: August 9, 1989

JFK:1
PLAN\AR919 (8/89)

Approved _____
Approved with Corrections _____
Corrections Made _____

MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EOC

ENVIRONMENTAL QUALITY COMMISSION

Minutes of the One Hundred Ninety-Seventh Meeting,
July 21, 1989

Work Session
Thursday, July 20, 1989

Nendel's
Valencia Room
1550 N. W. Ninth
Corvallis, Oregon

Chairman Hutchison and Commissioners Brill, Castle and Wessinger attended the work session; Commissioner Sage was not able to attend the work session due to a Governor's Watershed Enhancement Board meeting held in Pendleton.

1. Discussion of Significant New Waste Discharge to Columbia River - Proposed WTD Pulp Mill; and
2. Halsey Pulp Mill Expansion - Discussion.

Department of Environmental Quality (Department/DEQ) staff presented an overview of pulp/paper technology to the Commission. The overview included the bleaching process which consists of oxygen delignification, chlorine dioxide substitution and dioxin formation and emission.

Chairman Hutchison asked Director Hansen to clarify the Department's and Commission's approval process. Director Hansen and staff described the different roles of the Commission in the discharge approval process and the Department's role in the permitting process.

Chairman Hutchison expressed concern that because of the gravity and complexity of the issues, it would be improvident for the Commission to proceed too rapidly on the discharge approval until they had more information and a better understanding of the issues. Chairman Hutchison invited WTD and representatives of citizens' groups in the audience to provide information and discussion of the issues.

Nina Bell, Northwest Environmental Advocates, urged that a full environmental impact statement (EIS) be conducted on all

issues; that because of the unanswered questions, the discharge approval should be taken off the agenda for Friday's meeting; that WTD consider producing unbleached pulp; and, that it would be improper for the Commission to proceed before the U. S. Environmental Protection Agency (EPA) sets a Total Maximum Daily Load (TMDL) for the river.

David Walseth, WTD Industries, explained WTD's process, possible ramifications of decisions the Commission might make and the market potential for unbleached pulp. Mr. Walseth indicated that a Commission delay until September would not be a problem but that a prolonged, indefinite delay would probably cause WTD to abandon the project.

3. Field Trip - Pope & Talbot Pulp Mill, Halsey Oregon.

Following lunch, the Commission and staff traveled to the Pope & Talbot Pulp Mill at Halsey. A packet of informational materials about the proposed Pope & Talbot Halsey mill expansion was provided. This information is made a part of the meeting record. William Frohnmayer, Walt Sinclair and Charles Warren provided introductions about Pope & Talbot and James River. Additionally, project scope and environmental impacts were discussed. The Commission and staff then toured the Pope & Talbot Kraft Mill and the James River Tissue Mill.

FORMAL MEETING

July 21, 1989

LaSells Stewart Conference Center
Oregon State University Campus
875 S. W. 26th
Corvallis, Oregon

Commission Members Present:

William Hutchison, Chairman
Emery Castle, Vice Chairman
Wallace Brill
Genevieve Pisarski Sage
William Wessigner

Department of Environmental Quality Staff Present:

Fred Hansen, Director
Michael Huston, Assistant Attorney General
Program Staff Members

NOTE: Staff reports presented at this meeting, which contain the Department's recommendations, are on file in the Office of the Director, Department of Environmental Quality, 811 S. W. Sixth Avenue, Portland, Oregon 97204. Written material submitted at this meeting is made a part of this record and is on file at the above address.

Chairman Hutchison opened the meeting by announcing that the report from the Fish and Wildlife Youth Commission, which had been scheduled as part of the Public Forum, would not be presented due to the accidental death of one of the youth participants. The Youth Commission will be asked to present their report at a future meeting.

Pacific Northwest Hazardous Waste Advisory Council: Chairman Hutchison reported on the recent meeting of the Pacific Northwest Hazardous Waste Advisory Council in Anchorage, Alaska, on July 10 and 11, 1989. The Council adopted a 13-point program which seeks a 50 percent reduction in hazardous waste in five years and gave conditional approval of incineration capacity for hazardous waste for the region. In addition, they also visited the oil cleanup areas. The next meeting will be in Portland on November 28 and 29, 1989.

Governor's Watershed Enhancement Board: Commissioner Sage reported on the GWEB meeting in Pendleton on the previous day. Commissioner Sage indicated that GWEB had received their required budget and are developing a work plan for their strategic plan. The Board received a request from the Department of Agriculture (DOA) to coordinate a combined retreat with the Environmental Quality Commission retreat and DOA.

CONSENT ITEMS

Agenda Item A: Minutes of the ^{June 1,} ~~July 20,~~ 1989, work session and ~~July 21,~~ 1989, regular EQC meeting.

^{June 2,}
Commissioner Castle asked that the minutes be corrected as follows:

Agenda Item D, Page 8, Action:

Action: It was **MOVED** by Commissioner Sage and seconded by Commissioner Brill to issue Tax Credit Application T-2191 to Forrest Paints. Chairman Castle advised that he would not vote in favor of the motion. Since only three

Commission members were present, this would mean failure of the motion. Commissioner Brill then **MOVED** to amend the motion to defer a decision until the July 21, 1989, EQC meeting. Commissioner Sage seconded the motion to amend and it was unanimously approved. The motion, as amended, was then unanimously approved. (The Forrest Paint application was deferred to the July 21, 1989, meeting.)

Bold lettering is revised wording.

Action: It was **MOVED** by Commissioner Castle, seconded by Commissioner Brill and unanimously passed to approve the minutes of the July 20, 1989, work session and July 21, 1989, regular EQC meeting as corrected.

Agenda Item B: Monthly Activity Reports for April and May, 1989

By consensus, the Commission accepted the report and the Director's recommendation that the monthly activity reports will no longer be an agenda item.

Agenda Item C: Civil Penalties Settlements.

The following proposed settlement agreement was presented for the Commission's consideration and approval:

No. WQ-NWR-89-08, George N. Lammi, dba/Lammi Sand and Rock Products

Commissioner Wessinger asked whether the company had paid the \$5,000 settlement amount. Tom Bispham, Administrator of the Regional Operations Division, replied that the Department was in receipt of the check but was awaiting Commission approval of the settlement before cashing it. Commissioner Sage inquired how much the pollution control work agreed to in the settlement agreement was going to cost. Mr. Bispham reported that the estimated costs are between \$10,000 and \$15,000 and that the company had already submitted a portion of the engineering plans.

Action: It was **MOVED** by Commissioner Wessinger, seconded by Commissioner Brill and passed unanimously that the settlement agreement be approved as recommended by the Director.

Agenda Item D: Tax Credits for Approval.

Recommendation:

1. The Department recommended that the following tax credit applications be approved:

T-2113	Oregon Steel Mills, Secondary containment system
T-2167	White Consolidated Industries, Two acoustical fan enclosures
T-2210	Precision Castparts Corp., Chemical contaminant facility
T-2459	Blue Sky Farm, Inc, Rears propane flamer
T-2609	Blue Sky Farm, Inc, John Deere 455 cover crop disk
T-2803	Leroy & Lowell Kropf, Rears propane flamer
T-2804	Leroy & Lowell Kropf, John Deere 4955 tractor and 2810 plow
T-2805	Leroy & Lowell Kropf, John Deere flail chopper

2. The Department recommended the following tax application be granted an extension of application filing:

T-2215	Entek Manufacturing, Inc., Carbon bed absorption system to collect trichloroethylene vapors
--------	---

3. The Department recommended the tax credit certificates issued for following tax credit applications be transferred:

T-1493	ESCO, 1980 fuller dust collector
T-1526	ESCO, 1982 V-process dust collector
T-1528	ESCO, 1982 slinger bay
T-1529	ESCO, 1982 draft hoods baghouse
T-1530	ESCO, 1982 rotoblast baghouse
T-1777	ESCO, 1984 tech center dust collector
T-1783	ESCO, 1985 plant 2 dust collector
T-1784	ESCO, 1985 plant 3 dust collector

4. The Department recommended the following tax application be denied:

T-2191	Forrest Paint, Groundwater monitoring wells
--------	---

Work Session and
EQC Meeting
Page 6
July 20 and 21, 1989

Action: It was **MOVED** by Commissioner Sage, seconded by Commissioner Castle, and unanimously passed to approve the Department recommendations on all tax credit applications except the Forrest Paint application.

The Commission then considered the Forrest Paint Application.

The Department recommended denial of T-2191, Forrest Paint, because the facility, which consisted of seven monitoring wells, was considered part of a cleanup of past unauthorized practices. Under current state statute, facilities associated with cleanup of unauthorized spills are not eligible for tax credit.

Scott Forrest, Forrest Paints, spoke to the Commission and reiterated that the wells were for detection not cleanup and that the Department had told Forrest Paint that the wells were eligible for tax credit before the law was changed in 1987. Mr. Forrest presented copies of laws and correspondence which are a part of this meeting record.

Michael Huston, Assistant Attorney General, said the role of the EQC was that of a fact finder. Mr. Huston stated that the question was whether the facility in this tax credit application is an eligible facility. **Chairman Hutchison** asked Mr. Huston what Mr. Forrest's recourse would be if his application was denied; Mr. Huston replied that Mr. Forrest could appeal to the Circuit Court.

Commissioner Sage stated that it was reasonable to separate these wells from other facilities used for cleanup. She said that wells can and will be used for releases. **Roberta Young**, Management Services Division, indicated that **Sandra Anderson**, hydrologist for the Environmental Cleanup Division, found that the wells were not required for detection. The wells were used for characterization and could be used for future detection.

Recommendation: The Department recommended the Commission deny Forrest Paint's application, T-2191, for tax credit certification since state law does not authorize tax credit for facilities associated with the cleanup of unauthorized releases which has been substantiated by staff findings.

Action: It was **MOVED** by Commissioner Brill and seconded by Commissioner Sage to issue tax credit application T-2191 to Forrest Paint. Chairman Hutchison, Commissioners Castle, Sage and Brill voted yes; Commissioner Wessinger voted no. It was passed four to one that the Department's recommendation be denied and that Forrest Paint be issued tax credit certification T-2191 because it was determined

that the wells were used beyond cleanup activities for detection purposes.

Agenda Item E: Commission Member Reports.

Reports on the Pacific Northwest Hazardous Waste Advisory Council and the Governor's Watershed Enhancement Board were given at the beginning of the meeting.

Strategic Planning: Director Hansen announced that the EQC would be scheduling a strategic planning retreat for October. The retreat is scheduled for October 18 and 19, 1989, at a location yet to be arranged.

PUBLIC FORUM

Henry Lorenzen, recently announced Environmental Quality Commissioner, was introduced. Confirmation may be determined by August.

Milo Clauson, a resident of Corvallis, spoke to the Commission about the Evanite and Pulp & Talbot expansions. Mr. Clauson said he was concerned about the ethics of releasing materials into the watershed of the Willamette Valley, particularly suspended and dissolved solids. He thanked the technical staff of the Department for answering questions at the public hearings and indicated he would like to see this process continued.

Jack Churchill, representing Northwest Environmental Defense Center (NEDC), gave the Commission a report about the lawsuit against the Unified Sewerage Agency (USA). Mr. Churchill indicated that Judge Frye rejected NEDC's motion. NEDC is proceeding under federal statutes to obtain depositions and requested to be present as observers at any negotiations between USA and DEQ regarding settlement of violations to avoid public records requests.

HEARING AUTHORIZATIONS

Agenda Item F: New Source Performance Standards (NSPS) and New National Emission Standards for Hazardous Air Pollutants (NESHAPS) - Proposed Adoption of New Federal Rules.

The purpose of this agenda item was to authorize public hearings to amend standards of performance for new stationary sources (OAR 340-25-505 to -805) and to amend emission standards for

Work Session and
EQC Meeting
Page 8
July 20 and 21, 1989

procedural requirements for hazardous air contaminants (OAR 340-25-450 to -485).

The proposed standards are necessary to keep Department rules current with federal air regulations and to maintain delegation of authority to administer the rules. These proposed new rules affect only industries that build new facilities, reconstruct facilities or modify air pollution sources.

Recommendation: The Department recommended the Commission adopt Alternative 2, adoption of only those standards applicable to existing sources in Oregon or to sources which could locate in Oregon in the future.

Action: It was **MOVED** by Commissioner Wessinger, seconded by Commissioner Castle and unanimously passed that the Department's recommendation be approved.

Agenda Item G: Waste Tire Rules - Addition of Provisions Relating to Denial of Waste Tire Carrier Permits.

The purpose of this agenda item was to propose adoption of additional waste tire rules which include provisions relating to denial of waste tire carrier permits.

The additional provisions establish criteria to be applied by the DEQ when denying an application for a waste tire carrier permit. Further, the provisions establish criteria for suspension, revocation or refusal to renew a waste tire storage site permit or waste tire carrier permit.

Recommendation: The Department recommended the Commission adopt Alternative 1, authorization for the Department to hold a public hearing on the proposed rule revision.

Action: It was **MOVED** by Commissioner Castle, seconded by Commissioner Sage and unanimously passed that the Department's recommendation, as amended, be approved.

RULE ADOPTIONS

Agenda Item H: Leaking Underground Storage Tanks - Numeric Soil Cleanup Levels for Motor Fuel and Heating Oil.

The purpose of this agenda item was to reconsider adoption of proposed rules for leaking underground storage tanks. The rules were needed to augment previously adopted petroleum cleanup rules

with rules aimed at facilitating the cleanup of minor releases of motor fuel and heating oil in soils.

In many cases where the size of a release is small and there does not appear to be a significant threat to the environment, completing a cleanup by means of the current rules may result in unnecessary added costs and delays. The proposed rules establish numeric soil cleanup standards for simple soil cleanups which are based on site-specific parameters. As such, the rules allow the regulated community to move forward quickly and efficiently with the cleanup of minor petroleum releases.

Director Hansen gave a brief overview of the proposed rules and pointed out that Lon Revall, manager of the UST Cleanup Section, and Michael Anderson, the author of the proposed rules, were present at the meeting to answer any of the Commission's questions.

Chairman Hutchison asked Mr. Anderson about the Advisory Committee's concerns since the staff report indicated that the lack of a quorum at two previous advisory committee meetings had prevented the Department from obtaining a consensus on the proposed rules. Mr. Anderson replied that the Department has had the Advisory Committee's support on the goal of the proposed rules, but that some members have expressed concerns that the cleanup levels are too stringent.

These concerns are complicated by the fact that Method 418.1, the analytical method for determining total petroleum hydrocarbons (TPH), is subject to interferences from natural organic materials. These interferences may, in some cases, prevent a site from meeting the lowest cleanup levels in the rules. The Department has been working with the EPA and staff from other states to develop a more appropriate method for the analysis of TPH. Rather than delay adoption of the rules until a better analytical method is established, the Department has allowed for potential interferences by increasing the proposed cleanup levels for gasoline by 30 parts per million (ppm).

Recommendation: The Department recommended the Commission adopt the proposed rules with the following stipulations:

1. That the Department review the effectiveness of the cleanup levels and return to the Commission at the end of 15 months to report on how well these levels appear to be working;
2. That if better and more appropriate standardized methods for analyzing gasoline contamination are available, the

Department may request adoption of these methods to replace Method 418.1; and

3. That request for adoption of better analytical methods may be accompanied by a request to change the gasoline levels in recognition of the fact that a new method may yield different results than Method 418.1.

Action: Chairman Hutchison proposed that the period of time specified in the first stipulation be changed from "at the end of 15 months" to "within 15 months" and requested that, if possible, the Department should not wait the entire 15 months if it has sufficient information to recommend changes at an earlier time.

It was **MOVED** by Commissioner Castle, seconded by Commissioner Brill and unanimously passed that the Department's recommendation be amended to include the Chairman's proposal and approved as amended.

Agenda Item I: Bear Creek - Establishment of Total Maximum Daily Loads.

The purpose of this agenda item was to request adoption of rules which will establish instream criteria for total phosphorus, ammonia nitrogen and biochemical oxygen demand (BOD) in Bear Creek, a tributary of the Rogue River.

Water quality standards are violated in Bear Creek basin for pH, dissolved oxygen (DO) and ammonia toxicity. The proposed criteria provide the basis for developing and allocating the TMDLs for nutrients and BOD in Bear Creek. The TMDLs are required to achieve DO, pH and ammonia toxicity standards. Achieving water quality standards is required to protect the recognized beneficial uses of fish and aquatic life, salmonid spawning and rearing, anadromous fish passage, fishing and aesthetic quality.

Commissioner Castle asked Director Hansen about the workload requirement that TMDLs had placed on the Department. Director Hansen replied that once the standards are in place, DEQ will be able to accomplish more. Also, he added, the standards will change how local communities operate and the workload should lessen. Commissioner Castle asked if other efforts in DEQ's water quality division were suffering. Neil Mullane, Water Quality Division, responded that this process reduces the ability of the Department to perform background analysis for other permit issuance. In addition, review of program plans causes some reduction in statewide non-point source efforts.

Steven Hall, representing Ashland, advised the Commission that they generally support the Department recommendation. They believe there is a need to continue discussions on attenuation of nutrients. He also noted that their draft program plan has been submitted.

Recommendation: The Department recommended the Commission adopt the proposed rule amendments as presented in Attachment A of the staff report. These amendments establish 80 micrograms per liter ($\mu\text{g}/\text{l}$) as the summer limit for phosphorus, establish May through November as the summer low flow period, and retain the proposed five-year compliance schedule.

Action: It was **MOVED** by Commissioner Sage, seconded by Commissioner Brill and unanimously passed that the Department's recommendation be approved.

Agenda Item J: Tualatin Basin - Interim Stormwater Control Rules.

The purpose of this agenda item was to request adoption of proposed rules requiring control of stormwater discharges from new development in the Tualatin River Subbasin.

The proposed rules provide assurance that new development in the Tualatin River Subbasin is provided with facilities to control and reduce the level of pollutants discharged until local jurisdictions develop and implement program plans for controlling pollutants in urban runoff.

John Jackson, Unified Sewerage Agency of Washington County, described USA's efforts to expand its authority to also include storm water control as well as sewage treatment. He indicated that storm water quality is one of three issues facing the Washington County jurisdiction. They must also concern themselves with quantity issues and federal permitting requirements. Mr. Jackson indicated that all three issues would be addressed in the program plan being prepared by USA. Mr. Jackson indicated his support for the proposed rules.

Jack Churchill, Northwest Environmental Defense Center, offered an additional set of rules to deal with permanent storm water controls that should be considered in addition to the erosion control practices contained in DEQ's proposed rules. He read into the record a letter from Bob Burd of the U. S. Environmental Protection Agency (EPA) relating their support for permanent storm water quality control facilities. Mr. Churchill pointed out, however, that EPA's letter contained a point of caution. The letter stated that EPA recognized that some area-wide treatment

systems for permanent storm water quality control will be needed, but the best way of minimizing the size of these systems was to require developers to reduce runoff from their sites to the absolute minimum. Mr. Churchill agreed with EPA's point and recommended that any further development of storm water rules recognize this need. He also suggested that DEQ ask EPA to hold a workshop for the jurisdictions in the Tualatin and Oswego Lake subbasins on storm water quality control facilities.

Mr. Jackson indicated that he had seen Mr. Churchill's proposed rules, but had not had time to evaluate them. He indicated that if Mr. Churchill's proposal did reduce runoff contamination from the smaller developments, it would help in controlling storm water quality.

Randy Wooley, City of Tigard, supported the DEQ staff recommendation. He stated that ad hoc meetings between jurisdiction staff, DEQ staff and other interested parties had helped tremendously in putting the proposed rules together. He recommended that Mr. Churchill's proposal be referred to this same meeting process for evaluation by all parties concerned.

Mary Tobias, Tualatin Valley Economic Development Corporation, endorsed the staff recommendation. She also encouraged that, should Mr. Churchill's rules receive further consideration, they be brought back to the ad hoc group for review and evaluation. Ms. Tobias also indicated a concern about special storm water rules for a given subbasin forcing growth and development to other areas of the state or country.

Richard Raetz, Washington County drainage engineer, supported the DEQ proposed rules. He indicated that the Washington County Board of Commissioners was committed to dealing with storm water quality issues.

Lydia Taylor, Acting Administrator of the Water Quality Division, recommended that the Commission adopt DEQ's rules as proposed with one change to be suggested by Dick Nichols, Water Quality Division. She suggested that Mr. Churchill's proposed rules for permanent storm water quality control be reviewed by DEQ staff with the assistance of the ad hoc group that had already assisted on the proposed rules that addressed erosion control. Ms. Taylor also recommended that the Commission request DEQ to assure that associated storm water issues, such as quantity and federal permitting requirements, be considered in the review of Churchill's rules. This way the rules could become part of the program plan for urban runoff when the rules are brought back to the Commission for adoption.

Ms. Taylor suggested that the Commission authorize the Department to go to hearing on Mr. Churchill's proposed rule once they had been reviewed and revised, if necessary, by the ad hoc group. The Department would attempt to bring the rules for permanent storm water quality control facilities back to the Commission in time that they could be implemented before the next construction season.

Mr. Nichols recommended that the November 1, 1989, date in the rules be changed to January 1, 1990. This would assure the jurisdictions sufficient time to adopt necessary ordinances to implement DEQ rules on erosion control.

Recommendation: The Department recommended that the Commission adopt Alternative 2 of the staff report. This alternative adopts rules in Attachment A which require that jurisdictions require new development to control erosion during construction.

Action: It was **MOVED** by Commissioner Wessinger, seconded by Commissioner Castle and unanimously passed that the Department's recommendation be approved with the November 1, 1989, date changed to January 1, 1990. The Commission also requested the Department to reevaluate alternative rules for permanent storm water quality control facilities using Mr. Churchill's proposal as a base for consideration and with the assistance of the ad hoc group.

ACTION ITEMS

Agenda Item K: Hazardous Waste Fee Rules - Adoption of Temporary Rule to Continue Existing Fee Schedule, and Authorization for Hearing for Adoption as a Permanent Rule.

The purpose of this agenda item was to request temporary adoption of hazardous waste fee rules and request authorization for public hearings for adoption as a permanent rule.

In order to avoid a revenue shortfall in the 1989-91 biennium, the hazardous waste program worked with the Hazardous Waste Advisory Committee and the Hazardous Waste Funding Committee to revise the base fee schedule. In cooperation with representatives of the regulated community, the DEQ proposed to amend the rules to maintain the 1988 fee structure. With the proposed rule amendment, the 1989 billing would be conducted under the same fee schedule as the 1988 billing. Without the amendment, fees would decrease to the base level.

Proposed adoption of the temporary rule amendment is needed to ensure a timely billing for 1989 at the higher fee rates, thereby reducing a projected biennial budget shortfall. The temporary rule can be adopted without a prior public hearing and is only in effect for 180 days. Authorization to conduct a public hearing was also requested in order to adopt the amendment as a final rule.

Al Arguedas presented testimony prepared by Morton Michelson, President of Cascade Steel Rolling Mills. Mr. Arguedas stated that Mr. Michelson was opposed to retaining the surcharge and, therefore, against passage of the amendment. Mr. Arguedas' statement indicated that because Cascade provides a market for the recycled scrap metal by using it as input material in their steel-making process and because they send their K061 waste material to a company who reclaims zinc and other metals from it, they should not be assessed fees equivalent to a company that uses raw materials as input and disposes of, rather than recycles, their hazardous waste.

Stephanie Hallock, Administrator of the Hazardous and Solid Waste Division, responded that the amendment before the Commission was a fiscal issue and did not address the policy issue of building an incentive for recycling into the fee schedule.

The Commission asked Hazardous and Solid Waste staff to work with the next Hazardous Waste Advisory Committee to develop a fee schedule that does encourage waste reduction and recycling.

Recommendation: The Department recommended the Commission approve Alternatives 1B and 2A. These alternatives adopt Attachment A (the 1988 fee schedule, with housekeeping amendments to reduce department costs) as a temporary rule, and authorize a hearing on adoption of these rules as permanent rules.

Action: It was **MOVED** by Commissioner Castle, seconded by Commissioner Sage and unanimously passed that the Department's recommendation be approved.

The Commission then considered agenda item M before proceeding to item L.

M. Underground Storage Tank Annual Permit Fee.

The purpose of this agenda item was to request continuation of the annual permit fee of \$25 per tank after July 1, 1989. The statute enacted in 1987 provided for a fee not to exceed \$25 prior to July 1, 1989, and a fee not to exceed \$20 after July 1, 1989. The

Work Session and
EQC Meeting
Page 15
July 20 and 21, 1989

rules enacted by the Commission were consistent with this legislative direction. The 1989 legislature amended the statute to provide for a maximum fee after July 1, 1989, of \$25. Continued collection of the \$25 fee requires amendment of the existing EQC rule.

The proposed temporary rule for underground storage tank annual permit fees amends the existing EQC rule to continue the \$25 fee that was in effect during the 1989 biennium after July 1, 1989.

Recommendation: The Department recommended the Commission adopt the findings of need for adoption of a temporary rule as presented in Attachment B of the staff report and adopt the temporary rule as presented in Attachment A of the staff report. The Department also recommended the Commission authorize the Department to proceed to hearing to adopt the rule amendment as a permanent rule.

Action: It was **MOVED** by Commissioner Wessinger, seconded by Commissioner Brill and unanimously passed that the Department's recommendation be approved.

Agenda Item L: Approval of Significant New Waste Discharge to the Columbia River - Proposed WTD Pulp Mill at Port Westward.

The purpose of this agenda item was to discuss discharge limits and compliance conditions for discharge of effluent to the Columbia River by the proposed WTD pulp mill at Port Westward.

Discussion in the staff report was centered around discharge of pulp mill wastewater, limits of conventional pollutants such as BOD, Total Suspended Solids (TSS), temperature, pH, fecal coliform and limits of dioxin. Other items discussed were color mixing zone, acute and chronic bioassay toxicity testing of effluent and monitoring and reporting requirements.

Recommendation: The Department recommended the Commission approve Alternative 2 in the staff report. This alternative would authorize a new discharge from a bleached kraft pulp mill to the Columbia River subject to a series of conditions.

Chairman Hutchison introduced the WTD proposal by noting that some discussion of the item had occurred the previous day at the work session and expressed his opinion that the Commission should consider the proposal but defer action until the September meeting. He asked the Commission to express their views to help clarify the issues and to provide guidance for the staff. Director

Work Session and
EQC Meeting
Page 16
July 20 and 21, 1989

Hansen asked that the Commission clearly understand and respond to the proposed discharge approval conditions.

Norma Grier, Northwest Coalition for Alternatives to Pesticides, noted that they had provided written comment to the Department and wanted a chlorine balance done on the proposed mill. She was concerned that the Commission might take action before the public comment period was closed (August 1, 1989) and that the summary of public comment presented to the Commission by staff was inadequate. Ms. Grier also urged that a full EIS be conducted and that WTD produce unbleached pulp. She regarded the Department's findings about the proposed mill relative to Department rules as illogical.

Cynthia Mackey, representing Northwest Environmental Defense Center and Northwest Environmental Advocates, expressed concern about the lack of information regarding the proposed mill and urged the Commission not to make a decision until more is known and a TMDL has been established. She noted that the public comment period is still open and urged that a cumulative effects study of toxics be conducted.

Chris Soter, Clatskanie property owner, expressed concern that the Commission does not have as much information as they need on the issue.

Chairman Hutchison questioned the staff about why the Department has focussed on dioxin (TCDD) and not included furans and other related toxics and about the feasibility of performing a chlorine balance on the proposed mill. Ms. Taylor and Jerry Turnbaugh, Water Quality Division, responded that the EQC has adopted a specific standard for TCDD and therefore has focussed on that standard. EPA has also been focussing on TCDD in its efforts. In addition, known control actions to reduce TCDD also reduce furans and other chlorinated organic compounds. With respect to a chlorine balance, the Department has only looked at what would be in the effluent. Additional information would be needed from the company to consider the total chlorine balance.

Commissioner Castle asked how a determination of appropriate chlorine dioxide substitution could be made without a chlorine balance and asked for clarification on the TMDL process. Staff responded that substituting chlorine dioxide for elemental chlorine in the process could be accomplished without knowing how much chlorine leaves the plant in product, air emissions, wastewater effluent, etc. Director Hansen described EPA's role in setting a TMDL and in coordinating dioxin reduction by existing mills.

Work Session and
EQC Meeting
Page 17
July 20 and 21, 1989

Commissioner Castle noted that the approval condition for establishing an approach to require existing mills to reduce dioxin output needed elaboration and better definition.

Chairman Hutchison expressed concern about the color discharge from the proposed mill and asked about regulatory alternatives for color. Director Hansen recalled the discussion at Thursday's work session regarding possible permit conditions and water quality standards as a means for regulating color.

Chairman Hutchison requested that the Department return in September with more information, that the color issue be explored, that a "reopener" be developed that would let the Department act as better dioxin control technology is developed, that the burden of proof be placed on WTD for maximum chlorine dioxide substitution, that agreement with EPA be reached for reducing dioxin from existing mills and that the discharge approval conditions be made as specific as possible.

Commissioner Castle urged that a general approach be taken on color regulation, rather than an individual permit approach. He also urged tightening the requirement for dioxin reduction by existing mills.

Commissioner Sage wanted more time to consider the proposal, that too many assumptions were being made and that the remedies are too vague and hypothetical.

The Commission stated that the discharge approval condition requiring WTD to participate in a development program for developing additional means for reducing dioxin was appropriate and recommended that some reporting or verification process be required to inform the Department of the results.

Action: The Commission took no formal action on this item. Their discussion was intended as direction to staff for consideration at the September meeting.

Other Business

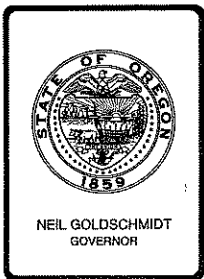
Nick Nikkila, Administrator of the Air Quality Division, spoke to the Commission about a letter from John Charles, Oregon Environmental Council (OEC). Mr. Charles wrote to the Department about the conflict he saw from the Department contracting with a lobbying organization (Oregon Seed Council (OSC)) to fulfill administrative or management functions that the agency is required to carry out on field burning. Mr. Charles stated that OEC supports the Department's decision to terminate parts of the DEQ-

Work Session and
EQC Meeting
Page 18
July 20 and 21, 1989

OSC contract and shift some administrative functions to the Department of Agriculture.

Mr. Nikkila indicated that the OSC contract will only include operation and maintenance of the communications network and coordination assistance between the Smoke Management Program and the Grass Seed Growers. The Department's Field Burning Office will perform communications relay to some of the North Valley Fire Districts, which was previously performed through a contract with OSC and DEQ. The Oregon Department of Agriculture's Smoke Management Office will contract directly with the field coordinators.

There was no further business and the meeting was adjourned at 1:15 p.m.



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item B, December 1, 1989, EQC Meeting
Proposed Civil Penalty Settlement Agreement

Background

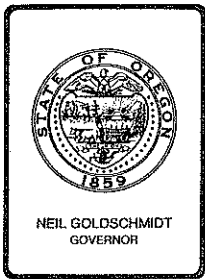
Oregon Revised Statute 468.130(3) provides that any civil penalty may be remitted or mitigated upon such terms and conditions as the Environmental Quality Commission considers proper and consistent with the public health and safety. The statute further provides that the Commission may by rule delegate to the Department, upon such conditions as deemed necessary, all or part of the authority to remit or mitigate civil penalties. Oregon Administrative Rule 340-12-047 authorizes the Director of the Department to seek to compromise or settle any unpaid civil penalty which the Director deems appropriate. Any compromise or settlement executed by the Director shall not be final until approved by the Commission.

The following proposed settlement agreements are attached for the Commission's consideration and approval:

	Page
Case Number OS-NWR-89-33, Verlin Blanchfield, dba/Blanchfield Septic Service.....	A-1
Case Number HW-ER-89-18 and HW-ER-89-43, Chem-Security Systems, Inc.....	B-1

Fred Hansen

H:\GB8231M



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

TO: Environmental Quality Commission DATE: December 1, 1989

FROM: Director

SUBJECT: Request for Approval of Settlement Agreement in Case No. OS-NWR-89-33, Verlin Blanchfield, dba/Blanchfield Septic Service

On April 6, 1989, the Department assessed Respondent a civil penalty of \$780 for installing two on-site sewage systems in Clackamas County without a permit. On April 21, 1989, Respondent sent the Department a letter requesting a contested case hearing and an informal settlement discussion.

On May 15, 1989, Mr. Blanchfield met with Department staff and Arnie Silver, Department's attorney, to discuss the violations cited in the civil penalty assessment. During this meeting, Mr. Blanchfield stated that he had only installed one of the two on-site systems. He said that he had subcontracted the New Era Road installation, in Oregon City, to a Melvin Kracheck, who had installed the system and then left the area.

After the meeting, Department staff talked to the witness who had said he observed Mr. Blanchfield installing the system on New Era Road. This witness, who had reported the information to Clackamas County in confidence, affirmed his earlier statement, but was unwilling to testify as a witness at a contested case hearing.

The Department then tried to get a statement of who had done the installation from Dennis or Pamela Pritchett, the owners of the New Era Road property. Numerous attempts to get such a statement, both by telephone and by letter, were unsuccessful.

In light of the difficulties in proving at a contested case hearing that Mr. Blanchfield had installed the New Era Road system, the Department believed it appropriate to consider settlement.

On August 18, 1989, the Department, through its attorney, offered to propose to mitigate the \$780 civil penalty to \$550. The \$550 included the original \$280 civil penalty for the admitted violation and a mitigation of the penalty for the New Era Road violation from \$500 to \$270. Respondent accepted this proposal, signed and returned the attached Stipulation and Final Order, and enclosed a check for \$275, half of the proposed mitigation amount.

Verlin Blanchfield
Case No. OS-NWR-89-33
December 1, 1989
Page 2

The civil penalty assessment action, settlement correspondence, and the proposed Stipulation and Final Order are attached for your review and consideration. I believe the circumstances of this case justify a mitigation of the penalty to \$550. I recommend Commission approval of the settlement proposal. If you agree, please sign and date Stipulation and Final Order No. OS-NWR-89-33.

Fred Hansen

Attachments
Larry Cwik:b
229-5728
October 16, 1989
GB9024

RECEIVED
SEP 26 1989

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY,	)	STIPULATION AND FINAL ORDER
OF THE STATE OF OREGON,	)	No. OS-NWR-89-33
	)	CLACKAMAS COUNTY
Department,)	
)	
v.)	
)	
VERLIN BLANCHFIELD,)	
DBA/BLANCHFIELD SEPTIC SERVICE,)	
)	
Respondent.)	

STIPULATION:

1. On April 6, 1989, the Department of Environmental Quality (Department) filed with the Environmental Quality Commission (Commission) a Notice of Assessment of Civil Penalty in Case No. OS-NWR-89-33, against Verlin Blanchfield, dba/Blanchfield Septic Service, (Respondent); assessing a \$780 civil penalty upon Respondent.

2. On April 21, 1989, the Respondent filed with the Department a request for a contested case hearing and a request for an informal discussion.

3. Representatives of Department and Respondent have reached agreement on terms for settlement of this matter.

4. Respondent stipulates that Department and the Commission have jurisdiction over the subject matter and the parties in this action and Respondent waives any right to contest this Stipulation and Final Order.

5. Respondent hereby waives a contested case hearing on case no. OS-NWR-89-33.

///

1 NOW THEREFORE, in consideration of the mutual covenants and agreements
2 of the parties hereto, it is stipulated and agreed that:

3 A. Respondent shall pay to Department the sum of five hundred and
4 fifty dollars (\$550) in partial satisfaction of the seven hundred and eighty
5 dollar (\$780) civil penalty assessed in the April 6, 1989 Notice of
6 Assessment of Civil Penalty. Respondent shall pay the five hundred and
7 fifty dollar (\$550) sum as follows: two hundred and seventy-five dollars
8 (\$275) upon signing and returning this Stipulation and Final Order to the
9 Department and two hundred and seventy-five dollars (\$275) within sixty (60)
10 days of the date the Commission signs this Order below. If the two hundred
11 and seventy-five dollars (\$275) is not paid in full within sixty (60) days
12 of Commission approval of this Order, Department shall initiate collection
13 action. Payment of the remaining two hundred and thirty dollars (\$230) of
14 the assessed penalty shall be suspended and waived upon the condition that
15 Respondent not violate any Oregon on-site sewage law or regulation or any
16 provision of this Order for a period of one year from the date of entry of
17 this Order. Should Respondent commit any such violation within the one-year
18 period, the suspended portion of the penalty, and any other unpaid portion
19 of the penalty, shall become due and payable immediately upon Respondent's
20 receipt of a written notice of such violation from the Department.

21 B. Finding that the Department and the Commission have satisfied all
22 the requirements of law, the mitigation herein is consistent with the public
23 health and safety and is in the public interest in accordance with ORS
24 468.130(3).

25 ///

26 ///

1 C. Nothing herein shall constitute a waiver of Department or
2 Commission authority to take any action to enforce this Order or in response
3 to future violations as provided by law.

4 RESPONDENT

5 Sept 19, 1989
6 Date

Verlin Blanchfield
Verlin Blanchfield,
dba\Blanchfield Septic Service

8 DEPARTMENT OF ENVIRONMENTAL QUALITY

9 12/1/89
10 Date

Fred Hansen
Fred Hansen
Director

12 FINAL ORDER

13 IT IS SO ORDERED:

14 ENVIRONMENTAL QUALITY COMMISSION

15 12-1-89
16 Date

William P. Hutchison, Jr.
William P. Hutchison, Jr., Chairman

17 12/1/89
18 Date

Wallace B. Brill, Member *Henry C. Cameron*

19 12-1-89
20 Date

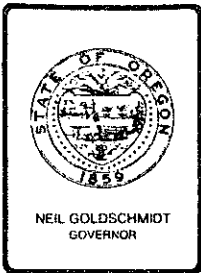
Emery N. Castle, Member

21 12/1/89
22 Date

Genevieve Pisarski Sage
Genevieve Pisarski Sage, Member

23 12/1/89
24 Date

William F. Wessinger
William Wessinger, Member



Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

September 28, 1989

Verlin Blanchfield
10959 S.E. 92nd Avenue
Portland, Oregon 97266

Re: Case No. OS-NWR-89-33

Dear Mr. Blanchfield:

The Department has received the Stipulation and Final Order that Arnie Silver had sent to you, which proposes to mitigate your \$780 civil penalty to \$550. We have also received your check for \$275 as partial payment of the proposed reduced penalty amount. The Order will be presented to the Environmental Quality Commission for its review and consideration at its December 1, 1989 meeting. We will be in contact with you after that time.

The remainder of the mitigated penalty, \$275, will be due within 60 days of the Commission's approval of the settlement.

Thank you for your cooperation.

Sincerely,

Tom Bishop
Van Kollias
Manager
Enforcement Section

VAK:ljc:cpr

cc: ~~EQC~~ Hearings Officer
Northwest Region, DEQ
On-Site Sewage Section, DEQ
Arnold Silver, Assistant Attorney General, DOJ

DAVE FROHNMAYER
ATTORNEY GENERAL



JAMES E. MOUNTAIN, JR.
DEPUTY ATTORNEY GENERAL

250
cc: ✓ Wesley Greenwood, Check Co.
~~_____~~
✓ Sewage Disposal, WQ
✓ NWR

DEPARTMENT OF JUSTICE

PORTLAND OFFICE
1515 SW 5th Avenue
Suite 410
Portland, OR 97201
Telephone: (503) 229-5725
FAX: (503) 229-5120

done
8-24
REGIONAL OPERATIONS DIVISION
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
AUG 22 1989

August 18, 1989

Verlin Blanchfield
10959 S.E. 92nd Avenue
Portland, Oregon 97266

Re: DEQ - Blanchfield

Dear Mr. Blanchfield:

Enclosed are two (2) copies of a Stipulation and Final Order settling the Department assessment of civil penalty against you. Please review the stipulation and, if satisfactory, return it to me together with your check in the sum of \$275.00.

Please note the following:

The assessed civil penalty of \$780.00 is reduced to \$550.00 conditioned upon

(1) your making an initial payment of \$275.00 and returning said payment with the signed Stipulation. (Make the check payable to the Department of Environmental Quality.)

(2) your paying to the Department the sum of \$275.00 within sixty (60) days of the date the Environmental Quality Commission signs the Order.

(3) your not violating any Oregon on-site sewage law or regulation or this Order for a period of one-year from the date of entry of the Order. If you commit any such violation within the one-year period, the balance of

the penalty (\$230.00) shall become due and payable.

Please call me if you have any questions

Sincerely,

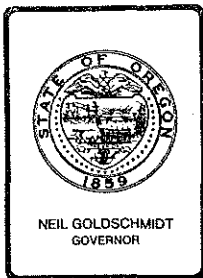


Arnold B. Silver
Assistant Attorney General

ABS:dh
Enclosures

cc: Larry Gwik
DEQ 

7992H



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

July 11, 1989

CERTIFIED MAIL - P 882 474 934

Verlin E. Blanchfield
10959 S.E. 92nd Avenue
Portland, OR 97266

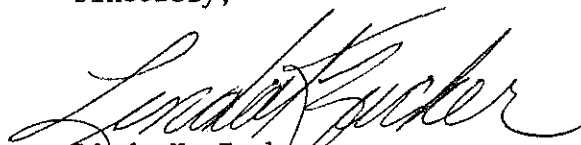
Re: DEQ v Verlin E. Blanchfield
Civil Penalty
OS-NWR-89-33

Your formal contested case hearing is scheduled as follows:

Date: August 16, 1989
Time: 9:30 a.m.
Place: Room 10A
DEQ offices
811 SW Sixth Avenue
Portland, OR 97204

If you complete a settlement before then, please tell me.

Sincerely,


Linda K. Zucker
Hearings Officer

LKZ:y
HY8678

cc: Arnold B. Silver, Assistant Attorney General, Portland
Enforcement Section, DEQ
Sewage Disposal Section, DEQ
Northwest Region, DEQ

Handwritten initials and arrow: *STAR* → *Lewik*



~~UAK~~
(FPI)
↓
LC

DEPARTMENT OF JUSTICE

PORTLAND OFFICE
1515 SW 5th Avenue
Suite 410
Portland, OR 97201
Telephone: (503) 229-5725
FAX: (503) 229-5120

July 3, 1989

REGIONAL OPERATIONS DIVISION
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
JUL 17 1989

Verlin Blanchfield
10959 S.E. 92nd Avenue
Portland, OR 97266

Re: Pritchett Property

Dear Mr. Blanchfield:

The Department of Environmental Quality has unsuccessfully attempted to contact the Pritchetts to confirm your contentions about the work performed on their system. The Pritchetts have not responded to Department inquiries. I suggest you have the Pritchetts contact Mr. Larry Cwik at 229-5728 to verify your contention. Without this confirmation, the Department will have to proceed on the facts it now has in its possession.

Sincerely,

Arnold B. Giver
Assistant Attorney General

ABS:aa
5283L-3/aa
cc: Larry Cwik

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: June 27, 1989

TO: Arnold Silver, Department of Justice

FROM: ^{ZC} Larry Cwik, via Van Kollias ^{VAK}
(x5728)

SUBJECT: Verlin Blanchfield Contested Case Hearing

As you know, Arnie, Verlin Blanchfield said in our 5/15/89 informal meeting that he did not do any work on the one system, on property owned by the Pritchetts, on New Era Road in Oregon City.

So, you sent a letter to Linda Zucker on 5/26/89 asking for a continuance of the case, pending an investigation into what Mr. Blanchfield said about that system. I called the Pritchett residence on 5/15, 5/16, and 5/22, and left messages for either Dennis or Pamela Pritchett to return my call. There was no response. I then sent an easy-to-complete, fill-in-the-blank, information request form to the Pritchetts on 6/7, along with a letter requesting that they please return it to us by 6/20, and enclosed a self-addressed stamped envelope. When there was no response to this, I called, and again left a message on 6/22 asking for them to return my call. To date, there has been no response whatsoever from the Pritchetts. So, we have been unable to find out if they agree with Blanchfield's version of who put in the system.

I believe it unlikely that the Pritchetts will respond, and recommend that you contact the Hearings Officer and request that she set a date for a contested case hearing for this case. Before doing so, you may want to call Orval Cade, the witness who saw Blanchfield doing septic work on the Pritchetts' property (please refer to my 6/7 memo to you regarding him), to ensure that he will testify as a witness at our hearing.

We should also inform Blanchfield that we have been unable to confirm what he alleged, and that we plan to introduce a witness who saw him on-site on the date in question. You want to ask him if he plans to request that the Pritchetts come to the hearing as witnesses, also.

Thank you for your help.

cc: Sherm Olson, On-Site Sewage Disposal Section
Northwest Region
Van Kollias/Tom Bispham
File



Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

June 7, 1989

Dennis and Pamela Pritchett
13201 New Era Road South
Oregon City, Oregon 97045

Re: Repair of Septic System

Dear Mr. and Mrs. Pritchett:

Attached, please find a copy of a letter dated May 26, 1989 from Arnold Silver to Environmental Quality Commission Hearings Officer Linda Zucker. This mentions a recent settlement meeting the Department had with Verlin Blanchfield concerning a penalty assessed Mr. Blanchfield for repair of your system without a permit.

As a result of this meeting, the Department is seeking to confirm who repaired your septic system last November. During this meeting Mr. Blanchfield said that he had a subcontractor repair your system. Is this true? If so, who was the party? Do you know their address? Do you have a receipt from the party, or a cancelled check, showing the name of the party that you paid?

I have been unable to reach you by telephone. Could you please take a couple minutes to fill in the blanks on the attached form, and sign and date it, and return it to the Department in the enclosed self-addressed stamped envelope? The Department would very much appreciate your help in this matter, and would also appreciate it if you could please return it to us by June 20, 1989.

Thank you for your assistance.

Sincerely,

Larry Cwik
Enforcement Section

Attachments

cc: On-Site Sewage Disposal Section, DEQ
Northwest Region, DEQ
Department of Justice
File

*6-22- called & left
message with man
answering phone, & left
phone number.*

A-12

PLEASE CHECK OR FILL IN EACH ITEM, AS APPROPRIATE:

1. The person who repaired our septic system at 13201 New Era Road South, Oregon City in November 1988 was _____
_____.
2. This person was with a septic tank service company: _____yes
_____no.
3. If the person was with a septic tank service company, the name of the company was _____.
4. The address of the septic system repair person is _____
_____.
5. We obtained a receipt or have a cancelled check for payment of the repair of the septic system in November 1988: _____yes
_____no.
6. Additional Information: _____

Name

Signature

Date

PLEASE SIGN, DATE, AND RETURN IN ENCLOSED ENVELOPE AFTER COMPLETING. THANK YOU FOR YOUR HELP.



DEPARTMENT OF JUSTICE

PORTLAND OFFICE
1515 SW 5th Avenue
Suite 410
Portland, OR 97201
Telephone: (503) 229-5725

May 26, 1989

HAND DELIVERED

Ms. Linda Zucker
Hearings Officer
Environmental Quality Commission
811 S.W. 6th Avenue
Portland, OR 97204

RE: DEQ v. Blanchfield

Dear Ms. Zucker:

At the recent settlement conference, Mr. Blanchfield offered information, which if accurate, may be in mitigation of the assessed penalty. Department staff has been attempting to locate Mr. Blanchfield's witness to corroborate the information. The witness, I am told, is a trucker and out of town a considerable amount of time.

I request you continue this case. I suggest a 30-day continuance. I am informed Department staff contacted Mr. Blanchfield and he is agreeable to a postponement of the hearing.

Sincerely,

Arnold B. Silver
Assistant Attorney General

ABS:aa

cc: Verlin Blanchfield
10959 S.E. 92nd Avenue
Portland, OR 97266

Larry Cwik, DEQ

REGIONAL OPERATIONS DIVISION
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
MAY 26 1989

cc: Sherman Olson, W2
Northwest Region
Done

10959 Southeast 92nd Avenue
Portland, OR 97266
April 21, 1989

Mr. Fred Hansen,
Director
State of Oregon Department of Environmental Quality
811 Southwest 6th Avenue
Portland, OR 97204

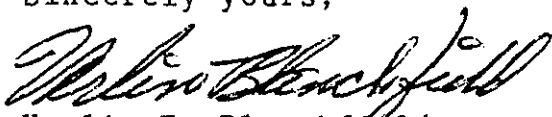
RE: Civil Penalty No. OS-NWR-89-33, Clackamas County; The
Department of Environmental Quality of the State of Oregon
-v- Verlin E. Blanchfield, DBA/ Blanchfield Septic Service

Dear Mr. Hansen:

As outlined in Section VI of the information received from your department dated April 6th, 1989, I wish to file petition for a formal contested case hearing in the above mentioned civil action.

I will look forward to hearing from you in the near future, as to set a time and date for this hearing.

Sincerely yours,


Verlin E. Blanchfield

Attachments: Answer to charges
Request for informal discussion

VEB:kmt

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
APR 26 1989
OFFICE OF THE DIRECTOR

10959 Southeast 92nd Avenue
Portland, OR 97266
April 21, 1989

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

APR 26 1989
H

OFFICE OF THE DIRECTOR

Mr. Fred Hansen
Director
State of Oregon Department of Environmental Quality
811 Southwest 6th Avenue
Portland, OR 97204

RE: Answer to charges requested in section VI, page 3, line
7 of Civil Penalty No. OS-NWR-89-33, Clackamas County; The
Department of Environmental Quality of the State of Oregon
-v- Verlin E. Blanchfield, DBA/ Blanchfield Septic Service

Dear Mr. Hansen:

This is a written response to the charges outlined in section II of the above mentioned civil penalty. In paragraph one, line 21, it is stated that I did not apply for and obtain a permit. Though I can not argue this point, I can site the reasons why this procedure was not followed. Since mid-year, 1988, I and other contractors working in Clackamas County have experienced numerous problems with inspectors representing the Clackamas County Building Services Department, in particular Mr. Wesley P. Greenwood. Mr. Greenwood's handling of on-site inspections has been bordering the lines of obsessive harassment of the contractors he has dealt with. I am not alone in this opinion of his behavior. Mr. Darrel Meing, a very respected contractor of many years in Clackamas County, and others have experienced similar problems in dealing with Mr. Greenwood. A statement by Mr. Meing, made in my behalf, is attached.

Mr. Greenwood's behavior continually creates impediment of the jobs, causing cost overruns and unnecessary delays. These overruns come at the expense of the contractor, since the jobs are secured by bid from the customer prior to the work being done. Case histories can be produced which exemplify this problem when standard procedures are followed.

As to the allegation made in Exhibit 1, Section entitled 'Magnitude', I have yet to see anything entered into evidence that indicates the septic tank was incorrectly installed, nor has anything been introduced that would indicate this septic tank poses an environmental hazard. I was also unable to locate any documentation as to the required corrections which I allegedly have not made. Therefore, I must deny these allegations, and will continue to do so until evidence is submitted to me to the contrary.

In Section II, paragraph 2, page 2, lines 1 and 2, I deny the allegation that a permit was not obtained. Exhibit 2, section 'C', clearly states that a permit was obtained, though it was obtained late. Again I site the reason for this delay as problems experienced with the Clackamas County Building Services Department and/or Mr. Wesley P. Greenwood, their representative.

I believe that in purchasing the permit I showed my intent to operate within the guidelines set forth by the DEQ while trying to avoid unnecessary delays which I had previously experienced on jobs performed in Clackamas County. I have also done my very best to cooperate with the officials from Clackamas County and your agency in both of these matters.

I thank you for taking the time to review this information, and will look forward to hearing from you as to the time and date of the afore requested hearing.

Very truly your,



Verlin E. Blanchfield

Attachments: copy of canceled check for permit
statement by Mr. Darrel Meing

VEB:kmt

RECEIVED

APR 26 1980

To whom it may concern,

OFFICE OF THE DIRECTOR

I have been asked to make a statement on behalf of Mr. Verlin E. Blanchfield, as to problems experienced by independent contractors in Clackamas County.

I have worked in Clackamas County for many years now, and have always maintained a good working relationship with it's representatives. However, in the past few months I am one of several contractors whom have experienced repeated problems with these officials. Their actions have caused job set-backs and delays which are both unfair and unjustified. Heading up the list of these officials is inspector Wesley P. Greenwood.

I have known Mr. Blanchfield for several years now, and I have yet to hear of any project he has worked on which did not meet or exceed the standards set by the Department of Environmental Quality. I believe that his track record will bare this out. It is my opinion that his actions were the result of the uncooperative treatment he received from the Clackamas County officials. I do not believe that his actions were predisposed of any criminal intent or malice, and feel that Clackamas County should bare partial responsibility in this unfortunate situation.

Though I can only speak for myself, I feel safe in saying that other contractors who operate in Clackamas County would testify in Mr. Blanchfield's defense as to the problems they've experienced. Should this action end up in a contested hearing, I will gladly do so. However, before that becomes necessary, it is my sincerest hope that you and Mr. Blanchfield will be able to reach an amicable rectification to this matter.

Thank you,

Donall J. May

20

10959 Southeast 92nd Avenue
Portland, OR 97266
April 21, 1989

Mr. Fred Hansen
Director
State of Oregon Department of Environmental Quality
811 Southwest 6th Avenue
Portland, OR 97204

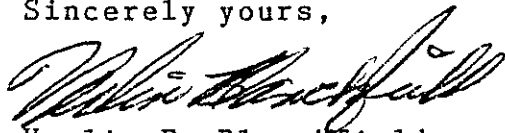
RE: Request for an informal discussion concerning Civil Penalty
No. OS-NWR-89-33, Clackamas County; The Department of
Environmental Quality of the State of Oregon -v- Verlin E.
Blanchfield, DBA/ Blanchfield Septic Service

Dear Mr. Hansen:

As outlined in Section VII of the information received from your
department dated April 6th, 1989, I wish to file petition for a
informal discussion in the above mentioned civil action.

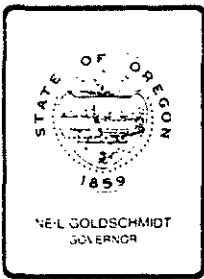
I will look forward to hearing from you in the near future, as to
set a time and date for this meeting.

Sincerely yours,


Verlin E. Blanchfield

VEB:kmt

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
APR 26 1989
kf
OFFICE OF THE DIRECTOR



Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

APR 6 1989

CERTIFIED MAIL NO. P 194 974 143

Verlin Blanchfield
10959 S.E. 92nd Avenue
Portland, OR 97266

Re: Notice of Assessment
of Civil Penalty
No. OS-NWR-89-33
Clackamas County

In October 1988, you repaired an on-site sewage disposal system on property at 13201 New Era Road, Oregon City. Then, in December 1988, you repaired another on-site system on property at 15561 S.E. Greenhills Court, Clackamas County. The Department's on-site sewage disposal rules prohibit any septic tank installation or repair without a valid permit. You did not have a permit for either job. The Clackamas County Department of Transportation and Development, Building Services Section, the authorized agent for issuing permits in Clackamas County did not issue permits for these systems.

In response to a letter Clackamas County sent you on December 29, 1988, you applied for a permit for the S.E. Greenhills Court system. The county then inspected the system, and you installed a riser, as suggested by the county. However, as of March 22nd, you still had not taken action to correct the violations at the New Era Road installation.

Installation of an on-site sewage system without first obtaining a permit is a Class I violation, considered a very serious violation of the Department's rules. Also, as a licensed installer, you should know that a permit is required for any septic repair or installation work. Consequently, in the enclosed notice, I have assessed you a civil penalty of \$500 for your October 1988 violation and \$280 for your December 1988 violation for a total penalty of \$780. A civil penalty of up to \$500 may be assessed for each day of each violation.

Your penalty is due and payable to the Department. Appeal procedures are outlined within the notice. If you fail to either pay or appeal the penalty within 20 days of receipt, a Default Order and Judgement will be entered against you.

If you wish to informally discuss any aspect of the enclosed notice or if you believe there are mitigating factors which the Department might not have considered in assessing the civil penalty, you may request an informal

Verlin Blanchfield

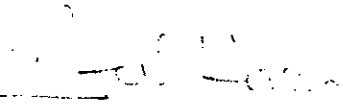
Page 2

discussion by attaching a request to your "Answer". A request to discuss the matter informally with Department will not waive your right to a contested case hearing.

The Department looks forward to your cooperation in complying with the Department's regulations in the future. However, if you have a further violation, you can expect an additional and larger civil penalty.

Copies of referenced rules are enclosed. If you have any questions, please contact Mr. Larry Cwik of the Department's Enforcement Section at 229-5728.

Sincerely,


Fred Hansen
Director

FH:lc:b

GB8342L

Enclosure(s)

cc: Sewage Disposal Section, DEQ

Northwest Region, DEQ

Oregon Department of Justice

Clackamas County Department of Transportation and Development

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY,	)	NOTICE OF ASSESSMENT
OF THE STATE OF OREGON,	)	OF CIVIL PENALTY
	)	No. OS-NWR-89-33
Department,	)	CLACKAMAS COUNTY
)	
v.)	
)	
VERLIN E. BLANCHFIELD,)	
DBA/BLANCHFIELD SEPTIC SERVICE,)	
)	
Respondent.)	

I. AUTHORITY

This notice is being sent to Respondent, Verlin E. Blanchfield, doing business as Blanchfield Septic Service, pursuant to Oregon Revised Statutes (ORS) 468.125 through 468.140, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340, Divisions 11 and 12.

II. VIOLATIONS

Class I Violations:

1. In or about October, 1988, Respondent repaired an on-site sewage disposal system or part thereof, through replacing a septic tank at 13201 New Era Road, Oregon City, Clackamas County, property otherwise described as Tax Lot 1603, Section 20, Township 3 South, Range 2 East, Willamette Meridian, Oregon, without first applying for and obtaining a permit, in violation of OAR 340-71-160(1) and ORS 454.655(1).

2. In or about December, 1988, Respondent repaired an on-site sewage disposal system or part thereof, through pumping out an existing septic tank and installing a replacement tank, at 15561 S.E. Greenhills Court, Clackamas County, property otherwise described as Tax Lot 1400, Section 36, Township 1

24

1 South, Range 2 East, Willamette Meridian, Oregon, without first applying for
2 and obtaining a permit, in violation of OAR 340-71-160(1) and ORS
3 454.655(1).

4 Class II Violations:

5 None cited.

6 Class III Violations:

7 None cited.

8 III. ASSESSMENT OF CIVIL PENALTIES

9 Pursuant to OAR 340-12-060(1)(d), the Director hereby imposes upon
10 Respondent a civil penalty of \$500 for violation 1 and \$280 for violation 2,
11 for a total civil penalty of \$780. The findings and determination of
12 Respondent's civil penalty pursuant to OAR 340-12-045 are attached and
13 incorporated as Exhibits 1 and 2.

14 IV. EXCEPTION TO ADVANCE NOTICE

15 Pursuant to OAR 340-12-040(3)(b)(C), this penalty is assessed without
16 advance notice because the violations cited in Section II above consist of
17 constructing sewage disposal systems without permits from the Department.

18 V. PAYMENT OF CIVIL PENALTY

19 This penalty is due and payable immediately upon receipt of this
20 notice. Respondent's check in the amount of \$780 should be made payable to
21 "State Treasurer, State of Oregon" and should be sent to the Director of the
22 Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland, OR
23 97204.

24 VI. OPPORTUNITY FOR CONTESTED CASE HEARING

25 Respondent has the right, if Respondent so requests, to have a formal
26 contested case hearing before the Environmental Quality Commission or its

1 hearing officer regarding the matters set out above pursuant to ORS Chapter
2 183, ORS 468.135(2) and (3), and OAR Chapter 340, Division 11 at which time
3 Respondent may be represented by an attorney and subpoena and cross-examine
4 witnesses. That request must be made in writing to the Director, must be
5 received by the Director within twenty (20) days from the date of mailing of
6 this notice (or if not mailed, the date of personal service), and must be
7 accompanied by a written "Answer" to the charges contained in this notice.
8 In the written "Answer," Respondent shall admit or deny each allegation of
9 fact contained in this notice and Respondent shall affirmatively allege any
10 and all affirmative claims or defenses to the assessment of this civil
11 penalty that Respondent may have and the reasoning in support thereof.
12 Except for good cause shown:

- 13 A. Factual matters not controverted shall be presumed admitted;
- 14 B. Failure to raise a claim or defense shall be presumed to be a
15 waiver of such claim or defense;
- 16 C. Evidence shall not be taken on any issue not raised in the notice
17 and the "Answer."

18 If Respondent fails to file a timely "Answer" or request for hearing
19 or fails to appear at a scheduled hearing, the Director on behalf of the
20 Environmental Quality Commission may issue a default order and judgment,
21 based upon a prima facie case made on the record, for the relief sought in
22 this notice. Following receipt of a request for hearing and an "Answer,"
23 Respondent will be notified of the date, time and place of the hearing.

24 ///
25 ///
26 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

VII. OPPORTUNITY FOR INFORMAL DISCUSSION

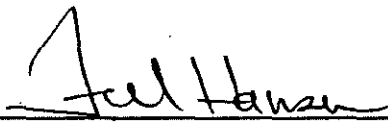
In addition to filing a request for a contested case hearing, Respondent may also request an informal discussion with the Department by attaching a written request to the hearing request and "Answer."

VIII. CONSEQUENCES OF ADDITIONAL VIOLATIONS

If the one or more violations set forth above in Section II continue, or if any similar violation occurs, the Department will impose an additional civil penalty upon the Respondent.

APR 6 1989

Date


Fred Hansen, Director
Department of Environmental Quality

77

EXHIBIT 1

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY
PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-12-045

VIOLATION NO: 1

CLASSIFICATION: The violation is a Class I violation pursuant to OAR 340-12-060(1)(b).

MAGNITUDE: The magnitude of the violation is major in that Respondent installed the septic tank incorrectly. As of March 22, 1989, Respondent had not made the required corrections.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(0.1 \times BP)(P+H+E+O+R+C)]$.

"BP" is the base penalty which is \$400 for a class I, major magnitude violation in the matrix listed in OAR 340-12-042(3).

"P" is Respondent's prior violation(s) and receives a value of 0, as the Respondent has no prior violations as defined in OAR 340-12-030(13).

"H" is the past history of Respondent in taking all feasible steps or procedures necessary to correct any prior violation and receives a value of 0, as the Respondent has no prior violations as defined in OAR 340-120-30(13).

"E" is the economic condition of Respondent and receives a value of 0, as the Department has insufficient information on which to base a finding.

"O" is whether or not the violation was a single occurrence or was repeated or continuous during the period of the violation and receives a value of 0 as it was a single occurrence.

"R" is the cause of the violation and receives a value of 6 as Respondent's act or omission was intentional. Respondent is in the business of installing and repairing septic systems and is licensed to do so. He has been licensed in this business for 3 years. This was not Respondent's first installation. Respondent is an experienced installer. As such, Respondent knows that permits are required for installation/repair work.

"C" is Respondent's cooperativeness in correcting the violation and receives a value of 0, as the Department has insufficient information on which to base a finding.

PENALTY CALCULATION:

Penalty - $BP + [(0.1 \times BP)(P+H+E+O+R+C)]$
- $\$400 + [(.1 \times 400)(0+0+0+0+6+0)]$
- $\$400 + [(40)(6)]$
- $\$400 + \240
- $\$640$

As the maximum penalty authorized by OAR 340-12-042(3) for on-site sewage violations is \$500, the civil penalty for this violation is \$500.

27

EXHIBIT 2

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY
PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-12-045

VIOLATION NO: 2

CLASSIFICATION: The violation is a Class I violation pursuant to OAR 340-12-060(1)(b).

MAGNITUDE: The magnitude of the violation is minor as the system installed was close to meeting the Department's requirements.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(.1 \times BP)(P+H+E+O+R+C)]$.

"BP" is the base penalty which is \$200 for a Class I magnitude violation in the matrix listed in OAR 340-12-042(3).

"P" is Respondent's prior violation(s) and receives a value of 0, as the Respondent has no prior violations as defined in OAR 340-12-030(13).

"H" is the past history of Respondent in taking all feasible steps or procedures necessary to correct any prior violation and receives a value of 0, as the Respondent has no prior violations as defined in OAR 340-12-030(13).

"E" is the economic condition of Respondent and receives a value of 0, as the Department has insufficient information on which to base a finding.

"O" is whether or not the violation was a single occurrence or was repeated or continuous during the period of the violation and receives a value of 0 as it was a single occurrence.

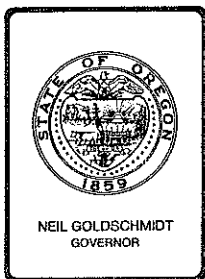
"R" is the cause of the violation and receives a value of 6 as Respondent's act or omission was intentional. Respondent is in the business of installing and repairing septic systems and is licensed to do so. He has been licensed in this business for three years. This was not Respondent's first installation. Respondent is an experienced installer. As such, Respondent knows that permits are required for installation/repair work.

"C" is Respondent's cooperativeness in correcting the violation and receives a value of -2 in that Respondent subsequently obtained a permit, uncovered the system for inspection by Clackamas County, and installed a riser that the county determined to be necessary.

PENALTY CALCULATION:

Penalty = $BP + [(.1 \times BP)(P+H+E+O+R+C)]$
= $\$200 + [(.1 \times 200)(0+0+0+0+6-2)]$
= $\$200 + [(20)(4)]$
= $\$200 + 80$
= $\$280$

30



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

TO: Environmental Quality Commission **DATE:** December 1, 1989

FROM: Director

SUBJECT: Request for Approval of Settlement Agreement in Case Numbers
HW-ER-89-18 and HW-ER-89-43, Chem-Security Systems, Inc.

Respondent, Chem-Security Systems, Inc., owns and operates a commercial hazardous waste treatment, storage, and disposal facility located in Gilliam County, Oregon. On February 10, 1989, the Department issued Respondent a Notice of Violation, Compliance Order, and Assessment of Civil Penalty (civil penalty total of \$19,400) for violations of hazardous waste regulations and conditions of Respondent's permit (Case No. HW-ER-89-18). On May 19, 1989, the Department issued Respondent a Notice of Violation, Compliance Order, and Assessment of Civil Penalty (civil penalty total of \$4,900) for violations of conditions of Respondent's permit (Case No. HW-ER-89-43). Respondent has complied with Compliance Order requirements for each of the two cases. The issues associated with the violations in the two actions are considered resolved.

On March 7, 1989, Respondent filed a request for hearing before the Environmental Quality Commission on Case No. HW-ER-89-18. On April 10, 1989 and July 17, 1989, Respondent met with the Department. Respondent presented new information that indicated that the civil penalty on one of the seven violations in the case should be recalculated (Case No. HW-ER-89-18 was issued prior to the Department's adoption of the revised Division 12, so civil penalties were calculated using Department guidance dated November, 1985). The proposed settlement includes a recalculation of the civil penalty for one of the seven violations. Also, Respondent claimed that because the action was issued prior to the Department's revision of Division 12, admittances should not be required as a condition of settlement.

On June 8, 1989, Respondent filed a request for hearing before the Environmental Quality Commission on Case No. HW-ER-89-43. On July 17, 1989, Respondent met with the Department. Respondent claimed that the prior

Chem-Security Systems, Inc.
Case Nos. HW-ER-89-18 and
HW-ER-89-43

Page 2

violations of Case No. HW-ER-88-79 (issued September 12, 1988) should not be used to aggravate the civil penalties because the action was issued prior to the Department's adoption of the revised Division 12 regulations. The proposed settlement includes a recalculation of civil penalties without using prior violations as an aggravating factor. Also, Respondent claimed that because the violations actually occurred prior to the Department's revision of Division 12, admittances should not be required as a condition of settlement.

Attached for Commission signatures is the Stipulation and Final Consent Order, which Respondent has signed. It requires Respondent to pay a \$14,050 civil penalty for Case No. HW-ER-89-18 and a \$3,500 civil penalty for Case No. HW-ER-89-43. In the Stipulation and Final Consent Order, Respondent denies the alleged violations in each of the cases and stipulates that alleged violations from Case Nos. HW-ER-88-79, HW-ER-89-18, and HW-ER-89-43 will not be used as prior violations in any other legal or administrative proceeding. Also attached are the following:

<u>Item</u>	<u>Page</u>
1. Memo summarizing the Department's rationale for settlement of the two cases.	B-13
2. Respondent's Answer and Request for Hearing, Case No. HW-ER-89-18.	B-22
3. Notice of Violation, Compliance Order, and Assessment of Civil Penalty, Case No. HW-ER-89-18.	B-35
4. Respondent's Answer and Request for Hearing, Case No. HW-ER-89-43.	B-64
5. Notice of Violation, Compliance Order, and Assessment of Civil Penalty, Case No. HW-ER-89-43.	B-73

Fred Hansen

Attachments
Paul Christiansen
229-5095
October 31, 1989
H:\GB9080



Chemical Waste Management, Inc.

4227 Technology Drive
Fremont, California 94538-6337
415/651-2964 Fax: 415/656-4926

RECEIVED
OCT 23 1989
DEPARTMENT OF JUSTICE
PORTLAND, OREGON

October 20, 1989

Mr. Larry Edelman, Assistant Attorney General
Justice Department
1515 SW Fifth Avenue, Suite 410
Portland, Oregon 97201

Dear Mr. Edelman:

Enclosed you will find the signed Stipulation and Final Consent Order Nos. HW-ER-88-79, HW-ER-89-18, and HW-ER-89-43. Chem-Security has agreed to the changes you requested in paragraph 6, making the sentence in said paragraph general rather than listing the specific ways the order cannot be used against Chem-Security because those specific ways are included in the general statement.

Please forward to me a copy of the fully executed and signed Stipulation and Final Consent Order once all parties have signed off.

Sincerely,

Raul A. Deju,
Vice President Chem-Security Systems, Inc.
Subsidiary of Chemical Waste Management, Inc.

RAD:gt
Enc.

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

3 DEPARTMENT OF ENVIRONMENTAL)
 QUALITY, OF THE STATE OF)
4 OREGON,) STIPULATION AND FINAL
) CONSENT ORDER
5 Petitioner,) Nos. HW-ER-88-79, HW-ER-89-18
) and HW-ER-89-43
6 v.)
)
7 CHEM-SECURITY SYSTEMS, INC.)
)
8 Respondent.)

9 1. The Department of Environmental Quality (DEQ) has
10 issued Notices of Violation, Compliance Orders, and Assessments
11 of Civil Penalty, Nos. HW-ER-89-43 and HW-ER-89-18, to Chem-Security
12 Systems, Inc. (Chem-Security) alleging certain violations of
13 Chem-Security's RCRA Permit Number ORD 089 452 353 at Chem-Security's
14 facility in Gilliam County, Oregon.

15 2. Chem-Security filed timely Answers and requested
16 contested case hearings.

17 3. DEQ and Chem-Security have had several meetings to
18 discuss the matters at issue at which Chem-Security presented
19 its defenses to the alleged violations and factors in elimination
20 or mitigation of the assessed penalties. The parties have
21 reached agreement on terms for settlement without adjudication,
22 subject to approval by the Environmental Quality Commission
23 (Commission).

24 ///

25 ///

26 ///

1 4. The DEQ has also issued Notice of Violation and Compliance
2 Order, No. HW-ER-88-79, to Chem-Security alleging certain violations
3 of Chem-Security's RCRA Permit Number ORD 089 452 353 at Chem-
4 Security's facility in Gilliam County, Oregon. Chem-Security
5 responded to HW-ER-88-79.

6 5. Only for purposes of this Stipulation and Final Consent
7 Order, Chem-Security stipulates that DEQ and the Commission
8 have jurisdiction over the subject matter and the parties in
9 this action, and Chem-Security waives any right to contest
10 this Stipulation and Final Consent Order. Chem-Security denies
11 the violations alleged by DEQ, and its consent to entry of
12 this Order shall not be construed as an admission by Chem-Security
13 of any findings or determinations of violation alleged.

14 6. This Stipulation and Final Consent Order shall not
15 be used or raised against Chem-Security in any other legal
16 or administrative proceeding.

17 NOW THEREFORE THE PARTIES AGREE TO THE FOLLOWING ORDER:

18 Within fourteen (14) days of entry of this Stipulation
19 and Final Consent Order and without admission of any violation
20 or fault, Chem-Security shall pay the sum of Fourteen Thousand
21 and Fifty (\$14,050.00) Dollars in full settlement of Case No.
22 HW-ER-89-43 and Three Thousand, Five Hundred (\$3,500.00) Dollars
23 in full settlement of Case No. HW-ER-89-18. Chem-Security's
24 check in the total amount of Seventeen Thousand Five Hundred
25 and Fifty (\$17,550.00) Dollars shall be payable to the State
26 ///

1 of Oregon and shall be mailed to:

2 Director of the Department
3 of Environmental Quality
4 811 S.W. 6th Avenue
Portland, OR 97204

5 Upon entry of this Stipulation and Final Consent Order,
6 Notice of Violation and Compliance Order No. HW-ER-88-79 shall
7 not be a prior violation for purposes of OAR Chapter 340, Division
8 12.

9 Chem-Security's obligations under this Stipulation and
10 Final Consent Order shall automatically terminate on DEQ's...

11 ///

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

1 receipt of Chem-Security's check for Seventeen Thousand Five
2 Hundred and Fifty (\$17,550.00) Dollars.

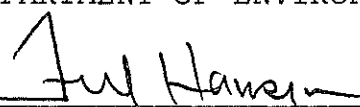
3 IT IS SO ORDERED.

4 RESPONDENT:

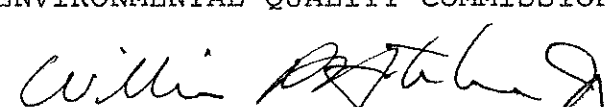
5
6 10-23-89
Date

By: 
CHEM-SECURITY SYSTEMS, INC.

7
8
9 12/1/89
Date

DEPARTMENT OF ENVIRONMENTAL QUALITY

FRED HANSEN, DIRECTOR

10
11
12 12-1-89
Date

ENVIRONMENTAL QUALITY COMMISSION

WILLIAM P. HUTCHISON, JR.
CHAIRMAN

13
14
15 12/1/89
Date


HENRY C. LORENZEN, MEMBER

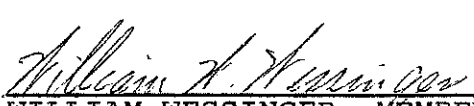
16
17 12/1/89
Date


EMERY N. CASTLE, MEMBER

18
19 12/1/89
Date


GENEVIEVE PISARSKI SAGE, MEMBER

20
21 12/1/89
Date


WILLIAM WESSINGER, MEMBER



Chemical Waste Management, Inc.

4227 Technology Drive
Fremont, California 94538-6337
415/651-2964 Fax: 415/656-4926

RECEIVED
OCT 23 1989
DEPARTMENT OF JUSTICE
PORTLAND, OREGON

October 20, 1989

Mr. Larry Edelman, Assistant Attorney General
Justice Department
1515 SW Fifth Avenue, Suite 410
Portland, Oregon 97201

Dear Mr. Edelman:

Enclosed you will find the signed Stipulation and Final Consent Order Nos. HW-ER-88-79, HW-ER-89-18, and HW-ER-89-43. Chem-Security has agreed to the changes you requested in paragraph 6, making the sentence in said paragraph general rather than listing the specific ways the order cannot be used against Chem-Security because those specific ways are included in the general statement.

Please forward to me a copy of the fully executed and signed Stipulation and Final Consent Order once all parties have signed off.

Sincerely,

Raul A. Deju,
Vice President Chem-Security Systems, Inc.
Subsidiary of Chemical Waste Management, Inc.

RAD:gt
Enc.

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

3 DEPARTMENT OF ENVIRONMENTAL)
4 QUALITY, OF THE STATE OF)
5 OREGON,) STIPULATION AND FINAL
6) CONSENT ORDER
7) Nos. HW-ER-88-79, HW-ER-89-18
8) and HW-ER-89-43
9)
10)
11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)

1 1. The Department of Environmental Quality (DEQ) has
2 issued Notices of Violation, Compliance Orders, and Assessments
3 of Civil Penalty, Nos. HW-ER-89-43 and HW-ER-89-18, to Chem-Security
4 Systems, Inc. (Chem-Security) alleging certain violations of
5 Chem-Security's RCRA Permit Number ORD 089 452 353 at Chem-Security's
6 facility in Gilliam County, Oregon.

7 2. Chem-Security filed timely Answers and requested
8 contested case hearings.

9 3. DEQ and Chem-Security have had several meetings to
10 discuss the matters at issue at which Chem-Security presented
11 its defenses to the alleged violations and factors in elimination
12 or mitigation of the assessed penalties. The parties have
13 reached agreement on terms for settlement without adjudication,
14 subject to approval by the Environmental Quality Commission
15 (Commission).

16 ///
17 ///
18 ///

9

1 4. The DEQ has also issued Notice of Violation and Compliance
2 Order, No. HW-ER-88-79, to Chem-Security alleging certain violations
3 of Chem-Security's RCRA Permit Number ORD 089 452 353 at Chem-
4 Security's facility in Gilliam County, Oregon. Chem-Security
5 responded to HW-ER-88-79.

6 5. Only for purposes of this Stipulation and Final Consent
7 Order, Chem-Security stipulates that DEQ and the Commission
8 have jurisdiction over the subject matter and the parties in
9 this action, and Chem-Security waives any right to contest
10 this Stipulation and Final Consent Order. Chem-Security denies
11 the violations alleged by DEQ, and its consent to entry of
12 this Order shall not be construed as an admission by Chem-Security
13 of any findings or determinations of violation alleged.

14 6. This Stipulation and Final Consent Order shall not
15 be used or raised against Chem-Security in any other legal
16 or administrative proceeding.

17 NOW THEREFORE THE PARTIES AGREE TO THE FOLLOWING ORDER:

18 Within fourteen (14) days of entry of this Stipulation
19 and Final Consent Order and without admission of any violation
20 or fault, Chem-Security shall pay the sum of Fourteen Thousand
21 and Fifty (\$14,050.00) Dollars in full settlement of Case No.
22 HW-ER-89-43 and Three Thousand, Five Hundred (\$3,500.00) Dollars
23 in full settlement of Case No. HW-ER-89-18. Chem-Security's
24 check in the total amount of Seventeen Thousand Five Hundred
25 and Fifty (\$17,550.00) Dollars shall be payable to the State
26 ///

1 of Oregon and shall be mailed to:

2 Director of the Department
3 of Environmental Quality
4 811 S.W. 6th Avenue
5 Portland, OR 97204

6 Upon entry of this Stipulation and Final Consent Order,
7 Notice of Violation and Compliance Order No. HW-ER-88-79 shall
8 not be a prior violation for purposes of OAR Chapter 340, Division
9 12.

10 Chem-Security's obligations under this Stipulation and
11 Final Consent Order shall automatically terminate on DEQ's

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

1 receipt of Chem-Security's check for Seventeen Thousand Five
2 Hundred and Fifty (\$17,550.00) Dollars.

3 IT IS SO ORDERED.

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

10-23-89
Date

Date

Date

Date

Date

Date

Date

RESPONDENT:

By: 
CHEM-SECURITY SYSTEMS, INC.

DEPARTMENT OF ENVIRONMENTAL QUALITY

FRED HANSEN, DIRECTOR

ENVIRONMENTAL QUALITY COMMISSION

WILLIAM P. HUTCHISON, JR.
CHAIRMAN

HENRY C. LORENZEN, MEMBER

EMERY N. CASTLE, MEMBER

GENEVIEVE PISARSKI SAGE, MEMBER

WILLIAM WESSINGER, MEMBER

Route Slip



Date 8/10/89

TO: Name	Division/Section	Initial	Date
1. BERT MCKNIGHT	HSW	RM	8/10
2. LARRY EOBELMAN	DOT	LE	8/10
3. STEPHANIE HALLOCK	HSW	AH	8/11
4. TOM BISPHAM	RO	UBS	8/14
5. FRED HANSEN	OD	AH	8/16

<input type="checkbox"/>	as requested	investigate	per conversation
<input checked="" type="checkbox"/>	approval	justify	prepare reply
<input type="checkbox"/>	comment	necessary action	return with more detail
<input type="checkbox"/>	confer	initial and return	review and circulate
<input type="checkbox"/>	for your information	note and file	signature

PLEASE RETURN TO PAUL CHRISTIANSEN: HSW

AFTER ROUTING.

FROM: Paul Christian Phone No. _____

Central Stores 97677

See Other Side

Recycled Paper

STATE OF OREGON

INTEROFFICE MEMO

DEPARTMENT OF ENVIRONMENTAL QUALITY

Date: August 10, 1989

To: Fred Hansen

From: Stephanie Hallock
Tom Bispham

Subject: Proposed Civil Penalty Settlement for:
DEQ vs. Chem-Security Systems, Inc.
Case Numbers HW-ER-89-18 and HW-ER-89-43

The above two cases involve civil penalties issued by the Department to CSSI for violations documented at CSSI's commercial hazardous waste disposal facility. Attachments 1 and 2 to this memo summarize the penalty settlement recommendations for the violations contained in each case. The recommendations were prepared by the Hazardous Waste Facilities Management Section with concurrence from the Attorney General's office.

In finalizing our settlement position the following information has been discussed:

Case Number HW-ER-89-18 involves civil penalties originally assessed at \$19,400 for seven violations (see Attachment 1). A settlement of \$14,050 is proposed. Representatives from the Department and the Attorney General's office met with CSSI on April 10, 1989 and discussed each of the violations. From the information presented by CSSI during that meeting, the Department revised its penalty assessment on Violations 4, 5, and 6. The settlement offer presented to CSSI was for a civil penalty of \$17,300 and did not require CSSI to admit any of the violations. On July 17, 1989 representatives from the Department and the Attorney General's office met with CSSI to finalize discussions concerning the settlement offer.

CSSI accepted the Department's offer with one exception. Regarding Violation 1, CSSI took the position that the violation did not come to fruition (see additional discussion in Attachment 1), a position which CSSI had not previously taken in the settlement discussions. To resolve our opposing positions regarding the violation, CSSI offered to pay half the \$6,500 civil penalty for Violation 1 (\$3,250).

The Department's position is that the violation did occur; however, we recognize that CSSI corrected the violation immediately upon discovery. Cooperation in correcting a violation is a legitimate mitigating factor. However, the Department also believes that had we not documented the violation it may not have been corrected, a consideration in setting the penalty for this violation but not an aggravating factor according to our statutes.

The penalties for this case were calculated under the old Division 12 enforcement policy. In comparing CSSI's settlement offer for Violation 1

Fred Hansen
August 10, 1989
Page 2

with the new enforcement policy, the penalty would have fallen between a Class I moderate (\$2,500 penalty) and a Class I major (\$5,000 penalty). CSSI's settlement offer of \$3,250 for Violation 1 would be consistent with the penalties under the Department's new enforcement policy, although it is less than the penalty assessed under the old policy (\$6,500).

We recommend accepting the \$3,250 settlement for Violation 1, which would result in a total penalty assessment of \$14,050 with no admission of violations. At some point we will need to go to the mat with CSSI on the issue of admission. We did not pursue admissions in this case because the action was brought under the old enforcement policy where admissions upon settlement were not specifically addressed. We have mixed feelings on mitigating the original \$6,500 penalty because we believe that we have definitive evidence that Violation 1 did occur. We realize that money is not the substantive issue with CSSI, admission is. Frankly, if we are not going to pursue the admission issue on the violations in this case, it is not worth the time and effort to battle over another \$3,250.

Case Number HW-ER-89-43 involves civil penalty assessments totalling \$4,900 for two violations (see Attachment 2). The penalties for these violations were calculated using the Department's current civil penalty assessment rules even though the violations occurred while the old policy was in effect. Representatives of the Department and the Attorney General's office met with CSSI on July 17, 1989 to discuss mitigating and aggravating factors that may or may not have been used in calculating the civil penalty. CSSI also presented their position on each of the violations.

CSSI objected to the Department using violations documented in a 1988 Notice of Violation and Compliance Order (NOVCO) to aggravate the civil penalty. CSSI responded to the 1988 NOVCO by denying the violations; however, because they cooperated with the Department by complying with the Order, CSSI did not pursue a Contested Case Hearing. CSSI's position is that had they known the violations in the NOVCO would affect civil penalties issued in the future, they would have requested a Contested Case Hearing to disprove the violations. CSSI also argued that admissions should not be required because these violations had occurred before the new policy was adopted.

Dismissing the 1988 prior violations (action taken under the old enforcement policy) as an aggravating factor is consistent with the intent of the new enforcement policy in that CSSI did not admit to the violations and the violations were not finalized through a Contested Case Hearing.

In evaluating a settlement offer for these violations, the Hazardous Waste Facilities Management Section, with the Attorney General's concurrence, recommends that the civil penalties be recalculated eliminating the 1988

Fred Hansen
August 10, 1989
Page 3

NOVCO violations as an aggravating factor. This would reduce the total civil penalty to \$3,500. We concur with this recommendation.

In evaluating CSSI's responses to each of the violations, no additional mitigating factors were presented which warrant further penalty reduction.

CSSI claims that there was confusion associated with these violations, primarily related to interpretation of CSSI's permit. Issues cited by CSSI as confusing include: interim status requirements changing upon permit issuance, uncertainty related to the permit appeal, confusion regarding the intent of correspondence between CSSI and the Department, and proper methods for segregation of hazardous waste (compatibility groups vs. a single class of hazardous characteristics). CSSI raised some good points which support their contention that making the transition from an interim status facility to a permitted facility was potentially confusing; however, their arguments are not acceptable for dismissing the violations or mitigating the civil penalties.

Because of the potential for misinterpretation associated with the initial implementation of CSSI's permit, it is recommended that admissions not be required as a condition of settlement. The violations occurred prior to adoption of the new Division 12 rules, so not requiring an admission is consistent with the old enforcement policy.

Summary - Case Numbers HW-ER-89-18 and HW-ER-89-43

CSSI has expressed an interest in concluding both of these cases under a single Stipulation and Final Agreement. We agree with this concept, and recommend settlement as follows:

We recommend that Case No. HW-ER-89-18 be settled as outlined in Attachment 1 for a total civil penalty of \$14,050. The settlement offer will not require CSSI to admit any of the violations in the case.

For Case No. HW-ER-89-43, we recommend that the civil penalty be \$3,500, and that CSSI not be required to admit the violations as a condition of settlement.

Our plan is to:

1. Obtain your approval.
2. Have Larry Edelman present the combined settlement to CSSI.

Fred Hansen
August 10, 1989
Page 4

3. If CSSI agrees to the terms of the settlement, a Stipulation and Final Agreement covering both cases will be drawn up for your signature.
4. If CSSI does not agree to settle, we would proceed with Contested Case procedures.

We will proceed as soon as we have your okay. If you would like to meet and discuss, let us know.

ATTACHMENT 1

RECOMMENDED SETTLEMENT

Case Number HW-ER-89-18
 DEQ vs. Chem-Security Systems, Inc.

SUMMARY

The violations documented in this case and rationale for the final recommendation are set forth in the following discussion. The penalty recommendations are summarized as follows:

<u>Violation</u>	<u>Original Penalty</u>	<u>DEQ Settlement Offer</u>	<u>CSSI Settlement Counteroffer</u>	<u>Recommendation</u>
1	\$6,500	\$6,500	\$3,250	\$3,250
2	\$6,000	\$6,000	No Change	\$6,000
3	\$2,600	\$2,600	No Change	\$2,600
4	\$2,600	\$1,300	No Change	\$1,300
5	\$900	\$500	No Change	\$500
6	\$800	\$400	No Change	\$400
7	<u>-0-</u>	<u>-0-</u>	No Change	<u>Drop</u>
Total	\$19,400	\$17,300		\$14,050

CSSI will not be required to admit any of the above violations in the Stipulation and Final Agreement. In some cases (i.e., Violations 1, 4, 5, 6, and 7), CSSI has provided new information that resulted in reconsideration of the original penalty.

DISCUSSION OF VIOLATIONS

VIOLATION 1 Failure to identify discrepancies in a load of incoming hazardous waste.

Original Penalty: \$6,500
 Original DEQ Settlement Offer: \$6,500
 CSSI Settlement Counteroffer: \$3,250

 Revised DEQ Recommendation: \$3,250

Mitigating Factors:

CSSI claims the violation did not come to fruition. The Department disagrees in that a CSSI employee had signed off accepting the hazardous waste and, after identification by the inspection team and a reinspection by a CSSI supervisor, CSSI agreed that the waste should have undergone additional analysis prior to acceptance. CSSI admits that it is not standard operating procedure for a supervisor to oversee operations. The discrepancies were identified and immediately corrected by following proper Permit procedures.

VIOLATIONS 2 -7 No change from original settlement offer.

ATTACHMENT 2

RECOMMENDED SETTLEMENT

Case Number HW-ER-89-43
DEQ vs. Chem-Security Systems, Inc.

SUMMARY

The violations documented in this case and rationale for the final settlement offer recommendation are set forth in the following discussion. The settlement offer recommendations are summarized as follows:

<u>Violation</u>	<u>Original Penalty</u>	<u>Recommendation</u>
1	\$3,500	\$2,500
2	<u>\$1,400</u>	<u>\$1,000</u>
Total	\$4,900	\$3,500

CSSI will not be required to admit any of the above violations in the Stipulation and Final Agreement.

DISCUSSION OF VIOLATIONS AND PENALTY RECOMMENDATIONS

VIOLATION 1 Failure to properly store containers of hazardous waste.

Original Penalty: \$3,500

Recommended DEQ Settlement Offer: \$2,500

VIOLATION 2 Failure to follow the groundwater monitoring plan.

Original Penalty: \$1,400

Recommended DEQ Settlement Offer: \$1,000

Mitigating Factors (applicable to both Violation 1 and Violation 2):

The original penalty calculation included two prior Class 2 violations. These violations occurred prior to the Department's adoption of the new

50

Division 12 enforcement regulations. CSSI has made an argument that violations documented prior to adoption of the new Division 12 rules where CSSI denied the violations in writing should not be used in calculations under the new rules. The recommended settlement offer is a recalculation of the penalty after removal of the prior violations as an aggravating factor.

SCHWABE, WILLIAMSON, WYATT, MOORE & ROBERTS
ATTORNEYS AT LAW

Pacwest Center, Suites 1600-1800
1211 S.W. Fifth Avenue
Portland, Oregon 97204-3795
(503) 222-9981

DONALD A. HAAGENSEN

CABLE ADDRESS "ROBCAL"
TELEX 4937535 SWK UI
TELECOPIER (503) 796-2900

March 7, 1989

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
MAR 07 1989

HAND-DELIVERY

Mr. Fred Hansen, Director
Oregon Department of Environmental Quality
811 SW Sixth Avenue, 8th Floor
Portland, Oregon 97207

OFFICE OF THE DIRECTOR

Re: Notice of Violation, Compliance Order, and
Assessment of Civil Penalty
Case No. HW-ER-89-18, ORD 089 452 353

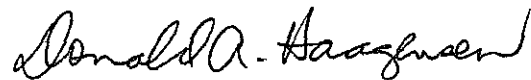
Dear Director Hansen:

Chem-Security Systems, Inc. received your cover letter and Notice of Violation, Compliance Order, and Assessment of Civil Penalty, Case No. HW-ER-89-18.

Chem-Security formally requests a contested case hearing on the matter. Enclosed for filing is an Answer and a Request for Hearing.

Chem-Security also accepts your offer to meet with Department representatives to discuss this matter informally prior to a formal hearing. If there is any additional information you need, we would be pleased to supply it. Please let me know when such a meeting can be set.

Very truly yours,



Donald A. Haagensen

DAH:dmm
Enclosure

cc: Mr. Charles E. Findley, Director
U.S. EPA, Seattle, WA

B-22

RECEIVED

MAR 07 1989

OFFICE OF THE DIRECTOR

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY, OF THE STATE OF OREGON	)	ANSWER TO NOTICE OF VIOLATION, COMPLIANCE ORDER, AND ASSESSMENT
Department,	)	OF CIVIL PENALTY AND REQUEST FOR HEARING
v.)	
CHEM-SECURITY SYSTEMS, INC.,	)	CASE NO. HW-ER-89-18
Respondent.	)	GILLIAM COUNTY

Respondent, Chem-Security Systems, Inc. ("CSSI") answers the Notice of Violation, Compliance Order and Assessment of Civil Penalties ("NOV") issued by the Oregon Department of Environmental Quality ("DEQ") as follows:

ANSWER

CSSI denies each and every finding of fact and conclusion of law in the NOV, Compliance Order and Assessment of Civil Penalty except those that are expressly admitted herein.

FINDINGS

1. CSSI admits paragraphs 1-6.
2. CSSI admits paragraph 7, except that USEPA has admitted

it does not have specific authority for condition I.B.

3. CSSI denies paragraph 8.

4. With respect to paragraph 9, CSSI admits that representatives of the department and EPA conducted a compliance inspection of CSSI's facility during the period September 26 through September 28, 1988. CSSI is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 9.

5. With respect to paragraph 10, CSSI admits that it received a waste shipment with the manifest (load number 96533) on September 26, 1988. CSSI is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 10.

6. With respect to paragraph 11, CSSI admits that it accepted hazardous waste (load numbers 93038 and 93169) assigned the EPA hazardous waste code K051 (API separator sludge) on June 1, 1988, and June 7, 1988. CSSI is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 11.

7. CSSI is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs

12-15.

8. CSSI admits, regarding paragraph 16, that the disposal location of hazardous waste (load number 96603) was recorded as section 14, quadrant IV of Cell 4 of landfill 13. CSSI is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 16.

DETERMINATION OF VIOLATIONS

CSSI denies the findings of fact and conclusions of law in Violations 1 through 7.

COMPLIANCE ORDER

1. CSSI is in full compliance with Oregon's hazardous waste laws and permit.
2. CSSI will answer paragraph 2 within the time allotted.
3. CSSI's answer to paragraphs 3 through 5 is provided in a separate document.

ASSESSMENT OF CIVIL PENALTY

CSSI admits that DEQ is imposing certain penalties upon CSSI.

CSSI also admits that DEQ has purported to set forth its penalty computation in Exhibit A to the NOV. Except as expressly admitted herein, CSSI denies each and every allegation of the Assessment of Civil Penalties.

OPPORTUNITY FOR HEARING

Respondent requests an opportunity for hearing.

CIVIL PENALTY CALCULATION (EXHIBIT A)

CSSI denies that any penalties should be assessed and also denies every violation. Because the rules do not require that Respondent answer the allegations in the civil penalty calculation, except to the extent they involve the economics and financial condition of the Respondent, CSSI does not answer any of the allegations contained in Exhibit A. To the extent that an answer might be required to Exhibit A, CSSI denies every allegation of fact and law concerning CSSI's operations at the site or actions taken by CSSI.

AFFIRMATIVE DEFENSES

CSSI hereby asserts the following as grounds for defense to one or more alleged violations:

1. The department has not stated a claim upon which relief can be granted or penalties assessed.

2. The department lacks jurisdiction to allege one or more of the violations.

3. The department does not have authority to issue a civil penalty as described in Exhibit A to the NOV. The penalties are arbitrary, capricious and unreasonable because the regulations upon which the alleged violations are based are vague and ambiguous and applied in an inconsistent manner; the alleged violations are de minimis; DEQ has not considered or has not adequately considered whether the alleged violations are of the gravity or magnitude permitting DEQ to impose such a penalty; DEQ has not considered CSSI's good faith efforts to comply with the applicable requirements; the alleged violations pose absolutely no risk or endangerment to human health or the environment; CSSI has realized no economic benefit from any of the violations alleged; the penalties are inconsistent with the penalty provisions in OAR Chapter 340, Division 12; the penalties are based on an unequal, arbitrary application of the penalty provisions in OAR Chapter 340, Division 12, which rules are themselves arbitrary and capricious.

4. The Compliance Order is unconstitutional insofar as it purports to be effective prior to the time that CSSI has had an

opportunity for a hearing.

5. The Compliance Order exceeds the authority of ORS Chapter 466 insofar as it purports to be effective prior to the conclusion of the administrative adjudicatory process requested by CSSI.

6. The Compliance Order is arbitrary, capricious, unreasonable and not justified and the statutory grounds upon which it is based are vague and ambiguous.

7. The department does not have authority to require, by way of a Compliance Order, the submittal of detailed reports on compliance.

8. At all relevant times CSSI has acted with due care, complied with statutory and regulatory requirements concerning the handling of hazardous waste applicable at the time, and otherwise conducted itself as a reasonable person under the circumstances.

9. One or more of the alleged violations is barred by laches.

10. The department is estopped or has waived its right to allege one or more of the alleged violations.

OTHER GROUNDS FOR DEFENSE AND FACTS NOW KNOWN TO BE AT ISSUE

Subject to the reservation set out below, and in addition to the responses set out above, CSSI hereby provides notice of the following facts currently known to it that it will place in issue and the circumstances which constitute grounds for defense:

1. With respect to alleged Violation 1, CSSI affirmatively alleges that it followed Section 2.2.2. of its WAP. Section 2.2.2. states "each load will be visually inspected during unloading. At that point, any areas of significantly different color, texture or wetness of the waste will be identified and those areas will be sampled or analyzed." The waste at issue was visually inspected during unloading. There were no areas of significantly different color, texture or wetness.

2. With respect to alleged Violation 2, CSSI affirmatively alleges that it complied with Section 4 of the WAP regarding the two loads at issue in that:

(a) Section 4 of the WAP requires that "the preacceptance evaluation is repeated when a generator notifies CSSI that the process generating the waste has changed (e.g. when the raw materials to the process have changed), if the technical or laboratory manager has reason to suspect that the waste is in non-conformance with the preacceptance documentation. . . , or once

every two years, whichever is less." (emphasis added) With regard to the loads at issue, the preacceptance evaluation had been done for this waste stream in accordance with the procedures in Section 4. This evaluation did not have to be repeated for the two loads at issue because the raw materials to the process generating the waste had not changed and two years had not elapsed.

(b) CSSI affirmatively alleges that the material had not been previously described as non-hazardous.

3. With respect to alleged Violation 4, CSSI admits that on September 26, 1988 one of its facility employees obtained a sample of waste from less than 1 foot. CSSI, however, affirmatively alleges that on September 26, 1988, CSSI followed all required sampling procedures for sampling the bulk shipment in that: A sample was obtained in compliance with the facility's WAP as the facility employee immediately returned to the bulk load, upon instruction of a site supervisor, and took a representative sample.

4. With regard to alleged Violation 5, CSSI affirmatively alleges that the generator regulation cited did not require that the containers be covered at the time alleged.

5. With regard to alleged Violation 7, CSSI affirmatively alleges that the permanent grid prepared pursuant to Condition VI.D.(5) was accurate.

Other Defenses and Facts At Issue In Penalty Calculation

1. CSSI affirmatively alleges that none of the alleged violations were as a result of negligence or intentional actions on the part of CSSI.

2. CSSI affirmatively alleges that there was no potential for harm to human health or the environment or to workers at the site from any of the alleged violations.

3.

(a) CSSI affirmatively alleges that it responded to the NOV and Compliance Order referenced in Exhibit B and specifically stated that its response did not in any way waive CSSI's right to raise defenses to the allegations in the NOV at a later time. CSSI also stated that the response was not intended as an admission by CSSI of any violation alleged in the NOV or that appropriate sections of the permit had been cited. CSSI affirmatively alleges that no penalty was assessed or paid as the NOV and Compliance Order were resolved. Thus, this is improperly referenced as a prior violation in Exhibit A.

(b) CSSI affirmatively alleges that Exhibit B contains no alleged violations related in any way to the present NOV.

4. CSSI affirmatively alleges that Exhibits C, D and E are

copies of Consent Agreements with EPA which contain language that each consent agreement shall not be construed as an admission of a violation of law and that it shall not be used in any other legal or administrative proceeding as evidence of a violation of law or as an admission against CSSI's interests. Thus, these are improperly used in Exhibit A and do not represent any evidence of past violations in the determination of the civil penalty.

* * *

This answer is made prior to completion of CSSI's preparation for hearing in this matter and prior to the conduct of any discovery. CSSI may, therefore, supplement the factual allegations and defenses set out in this Answer after further preparation, discovery and investigation and will make appropriate motion to do so if necessary. Based on CSSI's responses and defenses set out above, CSSI contends that CSSI is entitled to judgment in its favor as a matter of law. At the appropriate time, CSSI may file a proper motion to request that it be granted Judgment in its favor as a matter of law, that the NOV be dismissed in its entirety and the assessed penalties be revoked.

PRAYER

WHEREFORE, CSSI respectfully requests a decision:

1. Dismissing the NOV in its entirety and revoking the assessed penalties, and
2. Granting such other further relief as is just and proper.

Dated: March 7, 1988

CHEM-SECURITY SYSTEM, INC.

By: Donald A. Haagensen
Donald A. Haagensen

Attorney for Respondent,
Chem-Security Systems, Inc.

DONALD A. HAAGENSEN
SCHWABE, WILLIAMSON, WYATT,
MOORE & ROBERTS
SUITES 1600-1800
PACWEST CENTER
1211 S. W. FIFTH AVENUE
PORTLAND, OREGON 97204

ROGER C. ZEHNTNER
M. THERESE YASDICK
CHEMICAL WASTE MANAGEMENT, INC.
3003 BUTTERFIELD ROAD
OAK BROOK, ILLINOIS 60521

CERTIFICATE OF SERVICE

I am over the age of eighteen years and am not a party to the above-entitled action. My business address is 1211 S. W. Fifth Avenue, Portland, Oregon 97204.

I certify that, on March 7, 1989, I caused the original copy of the ANSWER TO THE NOTICE OF VIOLATION, COMPLIANCE ORDER AND ASSESSMENT OF CIVIL PENALTIES AND REQUEST FOR HEARING to be filed with the Director of the Oregon Department of Environmental Quality by hand delivering the original copy of such document in a sealed envelope.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 7, 1989, at Portland, Oregon.

Donald A. Haagen



Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

FEB 10 1989

CERTIFIED MAIL NO. P 888 189 983

Mr. Richard Zweig
Chem-Security Systems, Inc.
Star Route
Arlington, Oregon 97812-9709

Re: Notice of Violation, Compliance
Order, and Assessment of Civil
Penalty No. HW-ER-89-18
ORD089452353

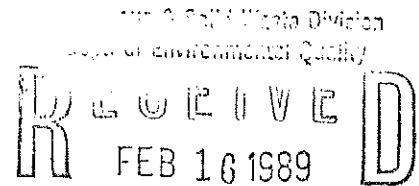
Dear Mr. Zweig:

Enclosed is a Notice of Violation, Compliance Order, and Assessment of Civil Penalty (Notice) relating to the September 26 - 28, 1988 inspection conducted by the Oregon Department of Environmental Quality (the Department) and the United States Environmental Protection Agency at the Chem-Security Systems, Inc. (CSSI) facility in Gilliam County, Oregon. The inspection was conducted to determine if CSSI was complying with Oregon's hazardous waste regulations and the conditions of RCRA Permit No. ORD089452353 (the Permit).

The violations identified from information gathered during the inspection include:

1. Failure to identify a discrepancy between the manifest description and an incoming shipment of hazardous waste.
2. Failure to follow required preacceptance procedures for new hazardous waste streams.
3. Failure to maintain a hazardous waste treatment unit as required by the Permit.
4. Failure to obtain a representative sample from an incoming shipment of hazardous waste.
5. Failure to keep containers of hazardous waste covered.
6. Failure to follow procedures required by the Permit when discharging liquid hazardous waste at an evaporation impoundment.
7. Failure to accurately record the disposal location of hazardous waste in a landfill.

Mr. Richard Zweig
Chem-Security Systems, Inc.
Page 2



A civil penalty of up to \$10,000 may be assessed for each day of each violation. A total penalty of \$19,400 has been set for the violations cited in the enclosed Notice. In determining the amount of the penalty aggravating and mitigating factors were considered. These factors are summarized in the Notice.

The penalty is due and payable to the Department. Appeal procedures are outlined in the "OPPORTUNITY FOR HEARING" section of the Notice. If you fail to either pay or appeal the penalty within 20 days from the date of mailing of this Notice, a Default Order and Judgement will be entered against you.

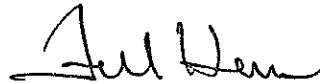
If you wish to discuss this matter, or if you believe there are mitigating factors which the Department might not have considered in assessing the civil penalty, you may request an informal discussion by attaching your request to your Answer. Your request to discuss the matter with the Department will not waive your right to a contested case hearing.

The Department looks forward to your cooperation and full compliance with Oregon's environmental regulations. We are prepared to answer any questions you may have regarding the rules or the applicability of specific regulations to your facility. We expect you to comply with the hazardous waste regulations and the conditions of the Permit at all times.

Please be informed that you are liable for additional civil penalties if you violate the Compliance Order or if you have additional violations of hazardous waste regulations or the Permit.

If you have any questions about this action, please contact Mr. Paul Christiansen of the Department's Hazardous Waste Section at (503) 229-5095.

Sincerely,



Fred Hansen
Director

FH:pc:b
ZB8206
Enclosures

cc USEPA, Region X
Oregon Department of Justice
Hazardous Waste Section, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY,) NOTICE OF VIOLATION, COMPLIANCE
OF THE STATE OF OREGON,) ORDER, AND ASSESSMENT OF CIVIL
Department,) PENALTY
v.) CASE NO. HW-ER-89-18
CHEM-SECURITY SYSTEMS, INC.,) GILLIAM COUNTY
Respondent.)

///

///

NOTICE

This Notice of Violation, Compliance Order, and Assessment of Civil Penalty (hereinafter "Notice") is issued by the Department of Environmental Quality (the Department) pursuant to Oregon Revised Statutes (ORS) Chapter 466 and Oregon Administrative Rules (OAR) Chapter 340, Divisions 11 and 12.

///

///

FINDINGS

1. Respondent owns and operates a facility located in Gilliam County, Oregon, the mailing address of which is as follows:

Chem-Security Systems, Inc.

Star Route

1 Arlington, Oregon 97812-9709

2 ///

3 2. Respondent is involved in the treatment, storage, and disposal of
4 hazardous waste as these terms are defined by Title 40 of the Code of
5 Federal Regulations (40 CFR) § 260.10 as adopted by OAR 340-100-002.

6 ///

7 3. Respondent operates a commercial facility that receives hazardous waste
8 generated off-site.

9 ///

10 4. The Department is the state agency primarily empowered to regulate the
11 treatment, storage, or disposal of hazardous waste in Oregon. The
12 Department was granted final authorization by the United States
13 Environmental Protection Agency (EPA) for enforcement and
14 implementation of the base Resource Conservation and Recovery Act
15 (RCRA) program in January, 1986.

16 ///

17 5. On March 11, 1988 RCRA Permit Number ORD089452353 (the Permit) was
18 issued to Respondent for the Storage, Treatment, and Disposal of
19 Hazardous Waste by EPA, the Department, and the Environmental Quality
20 Commission (EQC). The Permit was issued pursuant to ORS Chapter 466
21 and the hazardous waste regulations promulgated thereunder by the EQC
22 in Chapter 340 of the Oregon Administrative Rules, and pursuant to the
23 Solid Waste Disposal Act [42 U.S.C. §3251 et seq., (RCRA)] and the
24 Hazardous and Solid Waste Amendments of 1984 (HSWA) and regulations
25 promulgated thereunder by the EPA in Title 40 of the Code of Federal
26 Regulations.

27 ///

1 6. On March 31, 1988 Respondent filed a request for a contested case
2 hearing with the EQC regarding specific permit conditions imposed by
3 the Department and the EQC. Concurrently with the request to the EQC
4 for a hearing, Respondent filed with the EQC a petition for stay of the
5 entire Permit, or, in the alternative, for a stay of those permit
6 conditions for which Respondent requested a contested case hearing,
7 pending a ruling by EQC in the requested contested case. In a
8 Stipulated Order before the EQC dated May 16, 1988, the following
9 conditions of the Permit were stayed pending a final order by the EQC:

- 10 (a) I.B.
11 (b) II.J.(12)(b); II.J.(13)
12 (c) II.M.(5); II.M.(6)
13 (d) V.A.(4)(a); VI.B.(3)(c)
14 (e) VI.A.(2)(e); VI.B.(2)(e)
15 (f) VI.A.(6)
16 (g) VII.A.; VII.B.; Attachment 25
17 (h) VIII.C.(3)(a), (b), (c)
18 (i) IX.A.(1); IX.A.(2); IX.B.(7); IX.C.(2); IX.D.(1); IX.D.(5);
19 Plate 1; Table 2

20 As of the date of issuance of this Notice, no ruling has been made by
21 the EQC on the requested contested case.

22 ///

23 7. On April 13, 1988 Respondent filed a Petition for Review and Motion to
24 Reopen the Administrative Record with the EPA Administrator.
25 Respondent requested that the Administrator review the following
26 conditions of the Permit:

- 27 (a) I.B.

- 1 (b) II.J.(14)(b)
- 2 (c) II.M.(5); II.M.(6)
- 3 (d) V.A.(4)(a); VI.B.(3)(c)
- 4 (e) VI.A.(6)
- 5 (f) IX.A.(1); IX.A.(2); IX.B.(7), Plate 1; Table 2

6 As of the date of issuance of this Notice, no final determination on
7 the above conditions of the Permit has been made by the Administrator.

8 ///

9 8. Respondent's history of noncompliance with hazardous waste regulations
10 is summarized by the following cases:

- 11 (a) EPA Docket No. 1085-06-08-3008P
- 12 (b) EPA Docket No. 1085-12-16-3008
- 13 (c) EPA Docket No. 1087-05-14-3008(a)
- 14 (d) Department of Environmental Quality Case No. HW-ER-88-79

15 ///

16 9. Representatives of the Department and the EPA (the Inspection Team)
17 conducted a compliance inspection at Respondent's facility during the
18 period September 26 through September 28, 1988. The purpose of the
19 inspection was to determine Respondent's compliance with applicable
20 regulations and conditions of the Permit. Respondent's procedures and
21 records were inspected and observed. These matters were compared with
22 the Permit and applicable hazardous waste regulations to determine
23 whether there was any noncompliance by Respondent.

24 ///

25 10. On September 26, 1988 the Inspection Team observed that Respondent
26 failed to identify certain discrepancies between a manifest description
27 and hazardous waste received by Respondent. The hazardous waste

1 shipment in question was assigned the EPA hazardous waste code F006
2 (wastewater treatment sludge from electroplating operations) and was
3 accepted by Respondent for stabilization. The waste shipment contained
4 several small containers, a purple liquid, miscellaneous debris, and
5 aerosol cans that were not described on the Waste Profile for the waste
6 stream (Waste Profile D49599) or on the manifest (Load No. 96533)
7 accompanying the shipment.

8 ///

9 11. Upon review of copies of documents obtained by the Inspection Team
10 during the inspection and a monthly activity report for the month of
11 June, 1988 submitted by Respondent to the Department pursuant to
12 condition II.I.(6) of the Permit, it was determined by the Inspection
13 Team that on June 1, 1988 and June 7, 1988 Respondent disposed of two
14 shipments of hazardous waste without following preacceptance procedures
15 required for new waste streams. On these dates Respondent accepted
16 hazardous waste (Load Nos. 93038 and 93169) that had been assigned the
17 EPA hazardous waste code K051 (API separator sludge) and described as
18 conforming with Waste Profile D49597. Waste Profile D49597 describes a
19 waste assigned the state waste code X004 (nonhazardous industrial
20 waste).

21 ///

22 12. On September 26, 1988 the Inspection Team observed that Respondent
23 failed to maintain curb heights on the three concrete secondary
24 containment vaults of the Stabilization Unit at twelve inches above
25 grade. The curb heights for each of the three secondary containment
26 vaults were observed to be less than four inches at several locations,
27 including locations where the curb height was at grade. An

1 earthmoving vehicle was observed to drive on top of a concrete
2 secondary containment vault.

3 ///

4 13. On September 26, 1988 the Inspection Team observed that Respondent
5 failed to obtain a representative sample from a bulk shipment of
6 hazardous waste (Load No. 96542). The waste was assigned the state
7 hazardous waste code K088 (spent potliner from primary aluminum
8 reduction), was transported in a dump truck, and was sampled in
9 Respondent's load receiving area. Respondent's representative obtained
10 a single sample of the waste from a depth of less than one foot.

11 ///

12 14. On September 26, 1988 the Inspection Team observed that Respondent
13 failed to cover two containers of hazardous waste. One container was a
14 glass jug with a volume of approximately one gallon. This container
15 held liquid hazardous waste residue from incoming waste analysis and
16 was located under the laboratory fume hood. The second container was a
17 plastic can with a volume of approximately five gallons. The second
18 container held solid hazardous waste from laboratory bench
19 stabilization tests and was located adjacent to a workbench in the
20 laboratory.

21 ///

22 15. On September 28, 1988 the Inspection Team observed that Respondent
23 discharged two shipments of liquid hazardous waste (Load Nos. 96598 and
24 96599) at an evaporation impoundment from the top of the discharge
25 chute. The two hazardous waste shipments were assigned the EPA
26 hazardous waste code D002 (corrosivity characteristic). The outlet of
27 each discharge hose was placed on a concrete truck pad. The hazardous

1 waste liquid was allowed to flow for a length of approximately three
2 feet along the concrete apron and then for a length of approximately
3 twenty feet down the sideslope of the evaporation impoundment.

4 ///

5 16. On September 28, 1988 the Inspection Team observed that Respondent
6 failed to correctly record the disposal location of hazardous waste in
7 a landfill. The hazardous waste was assigned the EPA hazardous waste
8 code K061 (emission control dust/sludge from the primary production of
9 steel in electric furnaces). The disposal location of the hazardous
10 waste (Load No. 96603) was recorded as Section 14, Quadrant IV of Cell
11 4 of Landfill 13. Observation of the disposal location by Department,
12 EPA, and Respondent's personnel determined that the waste disposal
13 location was at the intersection of Sections 15 and 16 and Quadrants 1T
14 and 1U of Cell 4 of Landfill 13.

15 ///

16 ///

17 DETERMINATION OF VIOLATIONS

18 Based upon the above noted FINDINGS, Respondent has violated provisions of
19 Oregon hazardous waste laws and regulations applicable to the facility,
20 including those set forth and incorporated in RCRA Permit Number
21 ORD089452353. Specific violations include the following:

22 ///

23 1. VIOLATION 1

24 As set forth in paragraph 10 of the FINDINGS, Respondent violated
25 condition II.C.(1) of the Permit. Permit condition II.C.(1) requires
26 Respondent to follow the procedures of the Waste Analysis Plan,
27 included as Attachment 2 of the Permit. Section 2.2.2 of the Waste

1 Analysis Plan requires that each load of hazardous waste be visually
2 inspected during unloading. Any areas of significantly different
3 color, texture, or wetness of the waste are required to be identified,
4 sampled, and analyzed.

5 ///

6 2. VIOLATION 2 (Two Counts)

7 As set forth in paragraph 11 of the FINDINGS, Respondent violated
8 condition II.C.(1) of the Permit. Permit condition II.C.(1) requires
9 Respondent to follow the procedures of the Waste Analysis Plan,
10 included as Attachment 2 of the Permit. Section 4.0 of the Waste
11 Analysis Plan specifies preacceptance procedures for each new hazardous
12 waste stream that is a candidate for delivery to Respondent's facility.
13 Procedural requirements for new waste streams include:

- 14 (a) Waste Profile Sheet (provided by the generator).
15 (b) Representative Waste Sample (provided by the generator).
16 (c) Certificate of Representative Sample (provided by the
17 generator).
18 (d) Land Disposal Restrictions Questionnaire (completed by the
19 generator).
20 (e) Performance of "Mandatory Analyses" on representative sample
21 by Respondent.
22 (f) Determination by Respondent of waste stream acceptability.

23 In addition to the procedures required by the Waste Analysis Plan,
24 condition II.B.(2) of the Permit requires Respondent to inform the
25 generator in writing that Respondent has the appropriate permits for,
26 and will accept the waste that the generator is shipping. Count 1
27 relates to Load No. 93038. Count 2 relates to Load No. 93169.

1 ///

2 3. VIOLATION 3

3 As set forth in paragraph 12 of the FINDINGS, Respondent violated
4 condition IV.D.(1) of the Permit. Permit condition IV.D.(1) requires
5 that the Stabilization Unit be designed as described in Attachment 14
6 of the Permit. Section D.4.2 of Attachment 14 requires that the rim of
7 each stabilization bin be raised twelve inches above the surrounding
8 grade to prevent runoff from entering the tanks and to prevent a truck
9 or backhoe from accidentally entering the tanks.

10 ///

11 4. VIOLATION 4

12 As set forth in paragraph 13 of the FINDINGS, Respondent violated
13 condition II.C.(1) of the Permit. Permit condition II.C.(1) requires
14 Respondent to follow the procedures of the Waste Analysis Plan,
15 included as Attachment 2 of the Permit. Section 2.2.2 of the Waste
16 Analysis Plan requires that samples from incoming loads of hazardous
17 waste be taken from three locations; the front 1/3 area of the truck
18 load, the middle 1/3 area of the truck load, and the rear 1/3 area of
19 the truck load. Section 2.2.2 also requires that vertical composite
20 samples be obtained, or that samples be obtained at a minimum depth of
21 one foot in materials that cannot reasonably be sampled with standard
22 sampling equipment.

23 ///

24 5. VIOLATION 5 (Two Counts)

25 As set forth in paragraph 14 of the FINDINGS, Respondent violated 40
26 CFR § 262.34(c) as adopted by OAR 340-100-002. 40 CFR §
27 262.34(c)(1)(i) requires compliance with 40 CFR § 265.173(a), which

1 requires that containers in storage be closed except when necessary to
2 add or remove waste. Count 1 relates to the container of liquid
3 hazardous waste located under the laboratory fume hood. Count 2
4 relates to the container of solid hazardous waste located adjacent to a
5 laboratory workbench.

6 ///

7 6. VIOLATION 6 (Two Counts)

8 As set forth in paragraph 15 of the FINDINGS, Respondent violated
9 condition V.A.(6) of the Permit. Permit condition V.A.(6) requires
10 Respondent to operate all evaporation impoundments in the manner
11 specified in Attachment 17 of the permit. Section D.6.2.2 of
12 Attachment 17 requires that hazardous waste be discharged near or
13 beneath the liquid level of evaporation impoundments. Count 1 relates
14 to Load No. 96598. Count 2 relates to Load No. 96599.

15 ///

16 7. VIOLATION 7

17 As set forth in paragraph 16 of the FINDINGS, Respondent violated
18 condition VI.D.(5) of the Permit. Condition VI.D.(5) requires
19 Respondent to maintain a permanent accurate record of the three
20 dimensional location of each waste type, based on grid coordinates,
21 within the Landfill 13 unit. The record must contain the information
22 necessary to locate a specific waste.

23 ///

24 ///

25 COMPLIANCE ORDER

26 Based upon the foregoing FINDINGS and VIOLATIONS, Respondent is hereby
27 ORDERED to:

1 1. Immediately initiate actions necessary to come into full compliance
2 with Oregon's hazardous waste laws and the Permit.

3 ///

4 2. Provide to the Department in writing within thirty (30) days from the
5 date of mailing of this Notice (or if not mailed, the date of personal
6 service) personnel training records showing that all of Respondent's
7 personnel who are involved in hazardous waste stream preacceptance,
8 receiving, sampling, and disposal have received appropriate training as
9 required by condition II.F.(1) of the Permit.

10 ///

11 3. Notify the Department in writing within twenty (20) days from the date
12 of mailing of this Notice (or if not mailed, the date of personal
13 service) that Respondent has implemented a system whereby waste
14 disposal locations in the facility landfills can be accurately
15 recorded, as required by condition VI.B.(5) of the Permit, by personnel
16 working in the landfill as waste is placed in each landfill.

17 ///

18 4. Notify the Department in writing within twenty (20) days from the date
19 of mailing of this Notice (or if not mailed, the date of personal
20 service) that Respondent has implemented procedures for assuring that
21 waste discharged at evaporation impoundments is discharged at or near
22 the liquid level of the impoundment, in accordance with condition
23 V.A.(6) and Attachment 17 of the Permit.

24 ///

25 5. Notify the Department in writing within twenty (20) days from the date
26 of mailing of this Notice (or if not mailed, the date of personal
27 service) that Respondent has excavated around the Stabilization Unit

1 bins so that a minimum curb height of twelve inches above grade is
2 attained and maintained, in accordance with condition IV.D.(1) and
3 Attachment 14 of the Permit.

4 ///

5 ///

6 ASSESSMENT OF CIVIL PENALTY

7 Pursuant to OAR 340-12-068, the Director hereby imposes upon Respondent the
8 following civil penalty for each violation cited for a total of \$19,400 in
9 civil penalties:

10	<u>VIOLATION</u>	<u>CIVIL PENALTY</u>
11	1	\$6,500
12	2	Count 1 \$3,000
13		Count 2 \$3,000
14	3	\$2,600
15	4	\$2,600
16	5	Count 1 \$400
17		Count 2 \$500
18	6	Count 1 \$400
19		Count 2 \$400
20	7	- No Civil Penalty Assessed -

21 ///

22 Violations 1 through 6 above involve mitigating and aggravating factors
23 which support the assessment of a civil penalty larger than the minimum
24 established in the civil penalty schedule listed in OAR Chapter 340 Division
25 12. The mitigating and aggravating factors considered by the Director in
26 establishing the amount of the penalty are attached hereto and incorporated
27 herein by this reference as Exhibit A to this Notice.

1 Penalties are due and payable immediately upon receipt of this Notice.
2 Respondent's check in the amount of \$19,400 should be made payable to "State
3 Treasurer, State of Oregon" and should be sent to the Director of the
4 Department of Environmental Quality.

5 ///

6 OPPORTUNITY FOR HEARING

7 This Notice of Violation, Compliance Order, and Assessment of Civil Penalty
8 shall become final unless Respondent requests a hearing before the
9 Environmental Quality Commission pursuant to ORS 466.190, ORS 468.135(2) and
10 (3); and OAR Chapter 340, Division 11.

11 The request must be made in writing to the Director, must be received by the
12 Director within twenty (20) days from the date of mailing of this Notice (or
13 if not mailed, the date of personal service), and must be accompanied by a
14 written "Answer" to the allegations contained in this Notice. In the
15 written "Answer", Respondent shall admit or deny each allegation of fact
16 contained in this Notice and Respondent shall affirmatively allege any and
17 all affirmative claims or defenses to violations and assessment of any
18 civil penalty that Respondent may have and the reasoning in support thereof.

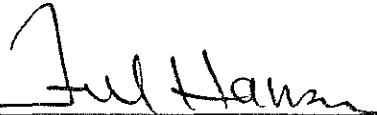
19 If Respondent fails to file a timely "Answer" or request for hearing or
20 fails to appear at a scheduled hearing, the Director on behalf of the
21 Environmental Quality Commission may issue a default order and judgement
22 based upon a prima facie case made on the record, for the relief sought in
23 this Notice. Following receipt of a request for hearing and an "Answer",
24 Respondent will be notified of the date, time, and place of the hearing.

25 If violations continue or recur or if Respondent fails to comply with the
26 Compliance Order, the Director may impose additional civil penalties.

27 ///

1 ///
2 ///
3 ///
4 ///

5 FEB 10 1989



6
7 Date

Fred Hansen, Director

8

Department of Environmental Quality

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

EXHIBIT A

CIVIL PENALTY: MITIGATING AND AGGRAVATING FACTORS
ORS 468.130(2) AND OAR 340-12-045(1)

RESPONDENT: Chem-Security Systems, Inc.

COUNTY: Gilliam

CASE NUMBER: HW-ER-89-18

VIOLATION 1

TYPE OF VIOLATION: Respondent failed to identify discrepancies between the manifest description and a hazardous waste shipment, in violation of condition II.C.(1) of the Permit.

PENALTY LIMITS: Minimum \$100 Maximum \$10,000
(each violation or day of violation)

1. Whether the Respondent has committed any prior violation of statutes, rules, orders, or permits pertaining to environmental quality or pollution control:

Respondent was issued a Notice of Violation and Compliance Order dated September 12, 1988 by the Department. In the Notice of Violation and Compliance Order Respondent had the opportunity to request a hearing before the Environmental Quality Commission. No hearing was requested by Respondent, so the Notice of Violation and Compliance Order became final 20 days after issuance. The Notice of Violation and Compliance Order is attached hereto as Exhibit B and incorporated herein by this reference.

None of the violations documented in Exhibit B involve failure to identify discrepancies between the manifest description and a hazardous waste shipment.

2. The past history of Respondent in taking all feasible steps or procedures necessary or appropriate to correct any violation:

Respondent followed procedures to correct the violations documented in Exhibit B.

3. The economic and financial condition of the Respondent:

The Department presumes that the economic and financial condition of Respondent would not preclude payment of a civil penalty in the amount assessed. At any subsequent hearing, Respondent has the burden of proof and the burden of coming forward with evidence regarding

Respondent's economic and financial condition, pursuant to OAR 340-12-045(3).

4. **The gravity and magnitude of the violation:**

The protocol for inspection of shipments of hazardous waste is intended to determine that the incoming hazardous waste matches the description on the accompanying manifest. Respondent's representative accepted the waste for stabilization, indicated that the shipment of waste did not contain any discrepancies, and indicated that he was in the process of preparing to stabilize the waste. Upon inspection of the hazardous waste by another of Respondent's representatives and the Inspection Team, it was determined that the waste did not conform with the manifest description.

The discrepancies in the waste included aerosol cans, containers with "Oxidizer" labels, and a container with a label indicating that any waste therein may not have been generated by the generator designated on the manifest. Stabilization of waste with unidentified hazardous constituents could potentially result in a safety risk to Respondent's personnel who may have been unaware of the contents of the waste load.

Respondent's failure to identify discrepancies between the manifest description and incoming hazardous waste creates the potential for illegal waste disposal to go undetected.

5. **Whether the violation was repeated or continuous:**

This violation was neither repeated nor continuous.

6. **Whether the cause of the violation was an unavoidable accident, or negligence, or an intentional act of the Respondent:**

This violation was a result of Respondent's negligence.

Because this was a violation of a condition of a Permit issued by the Environmental Quality Commission, Respondent knew or should have known the requirements of the Permit.

7. **Respondent's cooperativeness and efforts to correct the violation for which the penalty is to be assessed:**

After the determination was made that the hazardous waste did not conform with the manifest description, the waste load was rejected by Respondent and returned to the waste generator.

8. Any relevant rule of the Commission:

None other than cited.

SUMMARY:

I have considered the above factors in establishing the amount of Respondent's civil penalty.

The major aggravating factors are set forth in item 4 above.

There were no major mitigating factors. A minor mitigating factor is set forth in item 7 above.

VIOLATION 2

TYPE OF VIOLATION: Respondent disposed of two shipments (two counts) of hazardous waste without following required preacceptance procedures, in violation of condition II.C.(1) of the Permit.

PENALTY LIMITS: Minimum \$100 Maximum \$10,000
(each violation or day of violation)

1. Whether the Respondent has committed any prior violation of statutes, rules, orders, or permits pertaining to environmental quality or pollution control:

Respondent was issued a Notice of Violation and Compliance Order dated September 12, 1988 by the Department. In the Notice of Violation and Compliance Order Respondent had the opportunity to request a hearing before the Environmental Quality Commission. No hearing was requested by Respondent, so the Notice of Violation and Compliance Order became final 20 days after issuance. The Notice of Violation and Compliance Order is attached hereto as Exhibit B and incorporated herein by this reference.

None of the violations documented in Exhibit B involve failure to follow required preacceptance procedures.

2. The past history of Respondent in taking all feasible steps or procedures necessary or appropriate to correct any violation:

Respondent followed procedures to correct the violations documented in Exhibit B.

3. **The economic and financial condition of the Respondent:**

The Department presumes that the economic and financial condition of Respondent would not preclude payment of a civil penalty in the amount assessed. At any subsequent hearing, Respondent has the burden of proof and the burden of coming forward with evidence regarding Respondent's economic and financial condition, pursuant to OAR 340-12-045(3).

4. **The gravity and magnitude of the violation:**

The hazardous waste preacceptance procedures at Respondent's facility have two major purposes. The first purpose is to ensure that Respondent has knowledge of the properties of the hazardous waste received so that proper safety precautions and disposal technology are employed. The second purpose is to ensure that hazardous wastes received at the facility are treated, disposed, or otherwise managed in accordance with applicable state and federal hazardous waste regulations and conditions of the Permit.

The two hazardous waste shipments that were disposed without being subjected to preacceptance procedures consisted of listed hazardous waste, while the waste profile assigned to the two shipments describes a nonhazardous industrial waste.

5. **Whether the violation was repeated or continuous:**

This violation was neither repeated nor continuous.

6. **Whether the cause of the violation was an unavoidable accident, or negligence, or an intentional act of the Respondent:**

This violation was a negligent and/or intentional act of the Respondent.

Because this was a violation of a condition of a Permit issued by the Environmental Quality Commission, Respondent knew or should have known the requirements of the Permit.

In addition, prior violations have been cited wherein Respondent failed to follow hazardous waste preacceptance requirements. The enforcement documents pertaining to these violations are attached hereto as Exhibits C and D and incorporated herein by this reference.

Furthermore, correspondence from the hazardous waste generator to Respondent indicates that Respondent had prior knowledge that the two hazardous waste loads consisted of listed hazardous waste.

7. Respondent's cooperativeness and efforts to correct the violation for which the penalty is to be assessed:

Unknown.

8. Any relevant rule of the Commission:

None other than cited.

SUMMARY:

I have considered the above factors in establishing the amount of Respondent's civil penalty.

The major aggravating factors are set forth in items 4 and 6 above.

There were no major or minor mitigating factors.

VIOLATION 3

TYPE OF VIOLATION: Respondent failed to maintain the design of the Stabilization Unit as specified in the Permit, in violation of condition IV.D.(1) of the Permit.

PENALTY LIMITS: Minimum \$100 Maximum \$10,000
(each violation or day of violation)

1. Whether the Respondent has committed any prior violation of statutes, rules, orders, or permits pertaining to environmental quality or pollution control:

Respondent was issued a Notice of Violation and Compliance Order dated September 12, 1988 by the Department. In the Notice of Violation and Compliance Order Respondent had the opportunity to request a hearing before the Environmental Quality Commission. No hearing was requested by Respondent, so the Notice of Violation and Compliance Order became final 20 days after issuance. The Notice of Violation and Compliance Order is attached hereto as Exhibit B and incorporated herein by this reference.

None of the violations documented in Exhibit B involve failure to properly maintain the design of a hazardous waste management unit.

2. **The past history of Respondent in taking all feasible steps or procedures necessary or appropriate to correct any violation:**

Respondent followed procedures to correct the violations documented in Exhibit B.

3. **The economic and financial condition of the Respondent:**

The Department presumes that the economic and financial condition of Respondent would not preclude payment of a civil penalty in the amount assessed. At any subsequent hearing, Respondent has the burden of proof and the burden of coming forward with evidence regarding Respondent's economic and financial condition, pursuant to OAR 340-12-045(3).

4. **The gravity and magnitude of the violation:**

The one foot curb height requirement for the three Stabilization Unit bins has two purposes. The first is to prevent surface water runoff into the bins. The second is to prevent heavy equipment or vehicles from inadvertently entering the bins.

The curb height of the Stabilization Unit tanks was less than four inches at several locations, including locations where the curb height was near zero.

It was observed that a large dump truck drove onto the top of the concrete secondary containment vault of one of the bins. The concrete vault is designed to contain liquids. The ability of the concrete vault to withstand the weight of large earthmoving equipment was not demonstrated during the permit process.

5. **Whether the violation was repeated or continuous:**

This violation was neither repeated nor continuous.

6. **Whether the cause of the violation was an unavoidable accident, or negligence, or an intentional act of the Respondent:**

This violation was a result of Respondent's negligence.

Because this was a violation of a condition of a Permit issued by the Environmental Quality Commission, Respondent knew or should have known the requirements of the Permit.

7. Respondent's cooperativeness and efforts to correct the violation for which the penalty is to be assessed:

During an inspection by a Department representative on October 27, 1988 it was observed that Respondent had excavated around the Stabilization Unit bins; however, specific curb height measurements were not taken.

8. Any relevant rule of the Commission:

None other than cited.

SUMMARY:

I have considered the above factors in establishing the amount of Respondent's civil penalty.

The major aggravating factors are set forth in item 4 above.

There were no major or minor mitigating factors.

VIOLATION 4

TYPE OF VIOLATION: Respondent failed to obtain a representative sample from an incoming shipment of hazardous waste, in violation of condition II.C.(1) of the Permit.

PENALTY LIMITS: Minimum \$100 Maximum \$10,000
(each violation or day of violation)

1. Whether the Respondent has committed any prior violation of statutes, rules, orders, or permits pertaining to environmental quality or pollution control:

Respondent was issued a Notice of Violation and Compliance Order dated September 12, 1988 by the Department. In the Notice of Violation and Compliance Order Respondent had the opportunity to request a hearing before the Environmental Quality Commission. No hearing was requested by Respondent, so the Notice of Violation and Compliance Order became final 20 days after issuance. The Notice of Violation and Compliance Order is attached hereto as Exhibit B and incorporated herein by this reference.

None of the violations documented in Exhibit B involve failure to obtain a representative sample from an incoming shipment of hazardous waste.

2. The past history of Respondent in taking all feasible steps or procedures necessary or appropriate to correct any violation:

Respondent has followed procedures to correct violations documented in Exhibit B.

3. The economic and financial condition of the Respondent:

The Department presumes that the economic and financial condition of Respondent would not preclude payment of a civil penalty in the amount assessed. At any subsequent hearing, Respondent has the burden of proof and the burden of coming forward with evidence regarding Respondent's economic and financial condition, pursuant to OAR 340-12-045(3).

4. The gravity and magnitude of the violation:

Sampling of incoming hazardous waste loads is performed in order to determine that the waste conforms with the manifest description. Proper sampling assures that the waste matches the manifest description and provides the opportunity for Respondent to ensure that correct safety procedures and waste disposal or treatment technology are employed.

Respondent's failure to identify discrepancies between the manifest description and incoming hazardous waste creates the potential for illegal waste disposal to go undetected.

5. Whether the violation was repeated or continuous:

This violation was neither repeated nor continuous.

6. Whether the cause of the violation was an unavoidable accident, or negligence, or an intentional act of the Respondent:

This violation was a negligent and/or intentional act of the Respondent.

Because this was a violation of a condition of a Permit issued by the Environmental Quality Commission, Respondent knew or should have known the requirements of the Permit.

In addition, prior violations have been cited wherein Respondent failed to obtain a representative sample from an incoming shipment of hazardous waste. The enforcement documents pertaining to these violations are attached hereto as Exhibits C, D and E and incorporated herein by this reference.

7. Respondent's cooperativeness and efforts to correct the violation for which the penalty is to be assessed:

After the improper sampling of the hazardous waste shipment was identified to Respondent by the Inspection Team, Respondent recalled the waste shipment to the load sampling area of the facility and resampled the waste shipment.

8. Any relevant rule of the Commission:

None other than cited.

SUMMARY:

I have considered the above factors in establishing the amount of Respondent's civil penalty.

The major aggravating factors are set forth in items 4 and 6 above.

There were no major mitigating factors. A minor mitigating factor is set forth in item 7 above.

VIOLATION 5

TYPE OF VIOLATION: Respondent failed to keep hazardous waste containers covered (two counts), in violation of 40 CFR § 262.34(c) as adopted by OAR 340-100-002

PENALTY LIMITS: Minimum \$100 Maximum \$10,000
(each violation or day of violation)

1. Whether the Respondent has committed any prior violation of statutes, rules, orders, or permits pertaining to environmental quality or pollution control:

Respondent was issued a Notice of Violation and Compliance Order dated September 12, 1988 by the Department. In the Notice of Violation and Compliance Order Respondent had the opportunity to request a hearing before the Environmental Quality Commission. No hearing was requested by Respondent, so the Notice of Violation and Compliance Order became final 20 days after issuance. The Notice of Violation and Compliance Order is attached hereto as Exhibit B and incorporated herein by this reference.

Exhibit B contains a prior violation wherein Respondent failed to keep three containers of hazardous waste covered.

2. The past history of Respondent in taking all feasible steps or procedures necessary or appropriate to correct any violation:

Respondent has followed procedures to correct violations documented in Exhibit B.

3. The economic and financial condition of the Respondent:

The Department presumes that the economic and financial condition of Respondent would not preclude payment of a civil penalty in the amount assessed. At any subsequent hearing, Respondent has the burden of proof and the burden of coming forward with evidence regarding Respondent's economic and financial condition, pursuant to OAR 340-12-045(3).

4. The gravity and magnitude of the violation:

Uncovered containers constitute a threat of release of hazardous constituents to the environment, either via evaporation of the contents of the containers or via spillage from the container.

One uncovered container (Count 1) contained liquid hazardous waste and was located under the fume hood in Respondent's laboratory. The second uncovered container (Count 2) contained solid hazardous waste and was located on the floor adjacent to a bench used for laboratory work.

The container on the floor (Count 2) did not have a dedicated cover.

5. Whether the violation was repeated or continuous:

This violation was similar to the violation documented in Exhibit B.

6. Whether the cause of the violation was an unavoidable accident, or negligence, or an intentional act of the Respondent:

This violation was a negligent and/or intentional act by the Respondent.

Because Respondent has a prior violation involving failure to cover containers of hazardous waste, Respondent knew or should have known of the requirement to keep hazardous waste containers covered except when waste is being added to or removed from them.

7. Respondent's cooperativeness and efforts to correct the violation for which the penalty is to be assessed:

After the uncovered hazardous waste containers were identified to Respondent by the Inspection Team, Respondent covered the containers.

8. Any relevant rule of the Commission:

None other than cited.

SUMMARY:

I have considered the above factors in establishing the amount of Respondent's civil penalty.

The major aggravating factors are set forth in items 1, 4, 5, and 6 above.

There were no major mitigating factors. A minor mitigating factor is set forth in item 7 above.

VIOLATION 6

TYPE OF VIOLATION: Respondent failed to follow proper hazardous waste unloading procedures for two shipments of bulk liquid hazardous waste (two counts) at an evaporation impoundment, in violation of condition V.A.(6) of the Permit.

PENALTY LIMITS: Minimum \$100 Maximum \$10,000
(each violation or day of violation)

1. Whether the Respondent has committed any prior violation of statutes, rules, orders, or permits pertaining to environmental quality or pollution control:

Respondent was issued a Notice of Violation and Compliance Order dated September 12, 1988 by the Department. In the Notice of Violation and Compliance Order Respondent had the opportunity to request a hearing before the Environmental Quality Commission. No hearing was requested by Respondent, so the Notice of Violation and Compliance Order became final 20 days after issuance. The Notice of Violation and Compliance Order is attached hereto as Exhibit B and incorporated herein by this reference.

None of the violations documented in Exhibit B involve failure to properly discharge hazardous waste at an evaporation impoundment.

2. The past history of Respondent in taking all feasible steps or procedures necessary or appropriate to correct any violation:

Respondent followed procedures to correct the violations documented in Exhibit B.

3. The economic and financial condition of the Respondent:

The Department presumes that the economic and financial condition of Respondent would not preclude payment of a civil penalty in the amount assessed. At any subsequent hearing, Respondent has the burden of proof and the burden of coming forward with evidence regarding Respondent's economic and financial condition, pursuant to OAR 340-12-045(3).

4. The gravity and magnitude of the violation:

Hazardous waste unloading procedures at evaporation impoundments as required by the Permit are designed to minimize releases to the environment and protect personnel while they are engaged in disposal of hazardous waste. The discharge point of the hazardous waste was located approximately 20 feet from the liquid surface of the impoundment.

5. Whether the violation was repeated or continuous:

This violation was neither repeated nor continuous.

6. Whether the cause of the violation was an unavoidable accident, or negligence, or an intentional act of the Respondent:

This violation was result of Respondent's negligence.

Because this was a violation of a condition of a Permit issued by the Environmental Quality Commission, Respondent knew or should have known the requirements of the Permit.

7. Respondent's cooperativeness and efforts to correct the violation for which the penalty is to be assessed:

Unknown.

8. Any relevant rule of the Commission:

None other than cited.

SUMMARY:

I have considered the above factors in establishing the amount of Respondent's civil penalty.

The major aggravating factors are set forth in item 4 above.

There were no major or minor mitigating factors.

FEB 10 1989

Date



Fred Hansen, Director

SCHWABE, WILLIAMSON & WYATT
ATTORNEYS AT LAW
Pacwest Center, Suites 1600-1800
1211 S.W. Fifth Avenue
Portland, Oregon 97204-3795
(503) 222-9981

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
JUN 08 1989

OFFICE OF THE DIRECTOR

DONALD A. HAAGENSEN

June 8, 1989

TELEX 4937535 SWK UI
TELECOPIER (503) 796-2900

HAND-DELIVERY

Mr. Fred Hansen, Director
Oregon Department of Environmental Quality
811 SW Sixth Avenue, 8th Floor
Portland, OR 97207

Re: Notice of Violation, Compliance Order,
and Assessment of Civil Penalty
No. HW-ER-89-43, ORD 089 452 353

Dear Director Hansen:

Chem-Security Systems, Inc. received your cover letter
and Notice of Violation, Compliance Order, and Assessment of
Civil Penalty, Case No. HW-ER-89-43.

Chem-Security formally requests a contested case
hearing on the matter. Enclosed for filing is an Answer and
a Request for Hearing.

Chem-Security also accepts your offer to meet with
Department representatives to discuss this matter informally
prior to a formal hearing. If there is any additional information
you need for such a meeting, we would be pleased to supply
it. Please let me know when such a meeting can be set.

Very truly yours,



Donald A. Haagensen

DAH:maq

Enclosure

cc: Mr. Charles E. Findley, Director (w/encl.)
U.S. EPA, Seattle, WA "
L. Edelman "

B-64

Seattle, Washington 98171 • Schwabe, Williamson, Wyatt & Lenihan
U.S. Bank Building, Suite 900 • 1415 Fifth Avenue • (206) 621-9168

Washington, D.C. 20006 • Schwabe, Williamson & Wyatt
2000 Pennsylvania Avenue, N.W., Suite 8335 • (202) 785-5960

RECEIVED

JUN 08 1989

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
 OF THE STATE OF OREGON

1	DEPARTMENT OF ENVIRONMENTAL QUALITY,	)	ANSWER TO NOTICE OF
2	OF THE STATE OF OREGON,	)	VIOLATION, COMPLIANCE
3		)	ORDER, AND ASSESSMENT
4	Department,	)	OF CIVIL PENALTY AND
5		)	REQUEST FOR HEARING
6	v.)	
7	CHEM-SECURITY SYSTEMS, INC.,	)	CASE NO. HW-ER-89-43
8		)	GILLIAM COUNTY
9	Respondent.)	

Respondent, Chem-Security Systems, Inc. (CSSI) answers the Notice of Violation, Compliance Order and Assessment of Civil Penalty (NOV) issued by the Oregon Department of Environmental Quality (DEQ) as follows:

ANSWER

CSSI denies each and every finding of fact and conclusion of law in the NOV, except those that are expressly admitted herein.

I. FINDINGS

1. CSSI admits paragraphs 1-6.
2. CSSI admits paragraph 7, except that EPA has admitted it does not have specific authority for condition I.B.
3. CSSI denies paragraph 8.
4. With respect to paragraph 9, CSSI admits that a representative of the DEQ conducted an inspection of CSSI's facility on January 19, 1989. CSSI is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 9.

1 5. With respect to paragraph 10, CSSI admits that on
2 January 19, 1989, the following containers were located in
3 storage area S-9: seven containers labelled with EPA hazardous
4 waste code K001, eight containers labelled with Oregon hazardous
5 waste code X001, and six containers labelled with EPA hazardous
6 waste code D002. CSSI is without knowledge or information
7 sufficient to form a belief as to the truth of the remaining
8 allegations in paragraph 10.

9 6. With respect to paragraph 11, CSSI admits that it
10 performed a groundwater sampling event during the Spring of
11 1988 and that it submitted data from the sampling event to
12 DEQ. CSSI is without knowledge or information sufficient to
13 form a belief as to the truth of the remaining allegations
14 in paragraph 11.

15 7. CSSI denies paragraphs 12-15.

16 II. VIOLATIONS

17 CSSI denies the findings of fact and conclusions
18 of law in Violations 1 through 2.

19 III. COMPLIANCE ORDER

20 1. CSSI is in full compliance with Oregon's hazardous
21 waste laws and permit.

22 2. CSSI will answer paragraph 2 within the time allotted.

23 /////

24 /////

25 /////

26 /////

1 IV. ASSESSMENT OF CIVIL PENALTY

2 CSSI admits that DEQ is imposing certain penalties
3 on CSSI. CSSI also admits that DEQ has purported to set forth
4 its penalty computations in Exhibits A and B to the NOV. Except
5 as expressly admitted herein, CSSI denies each and every allegation
6 of the Assessment of Civil Penalty.

7 V. PAYMENT OF CIVIL PENALTY

8 CSSI denies that the penalty is now due and payable.

9 VI. OPPORTUNITY FOR CONTESTED CASE HEARING

10 CSSI requests a hearing to resolve the issues set
11 forth herein.

12 VII. OPPORTUNITY FOR INFORMAL DISCUSSION

13 CSSI requests an informal discussion with the DEQ.

14 CIVIL PENALTY CALCULATIONS (EXHIBITS A AND B)

15 CSSI denies that any penalties should be assessed
16 and also denies every violation. Because the rules do not
17 require that CSSI file an answer to the allegations in the
18 civil penalty calculation, CSSI does not answer any of the
19 allegations contained in Exhibits A and B. To the extent that
20 an answer might be required, CSSI denies every allegation of
21 fact and law concerning CSSI's operations at the site or actions
22 taken by CSSI.

23 AFFIRMATIVE DEFENSES

24 CSSI hereby asserts the following as grounds for
25 defense to one or more of the alleged violations:

26 /////

1 1. Prior to issuance of the NOV, DEQ issued a Notice
2 of Noncompliance to CSSI regarding the same violations alleged
3 in the NOV. CSSI responded to the Notice of Noncompliance
4 by letter dated April 24. CSSI's response fully answered and
5 resolved the violations alleged in the Notice of Noncompliance.

6 2. In its response to the Notice of Noncompliance, CSSI
7 requested a meeting with the DEQ if the DEQ determined, after
8 review of CSSI's response, that the violations alleged in the
9 Notice of Noncompliance were not resolved. DEQ did not respond.
10 Instead, the DEQ issued the NOV and in the NOV incorrectly
11 used CSSI's response to craft the alleged violations.

12 3. Certain of the actions taken by CSSI that form the
13 basis for the alleged violations were actions concurred in
14 and supported by DEQ.

15 4. CSSI has acted in compliance with Permit ORD 089 452353
16 at all relevant times.

17 5. The DEQ has not stated ultimate facts sufficient
18 to constitute a claim upon which relief can be granted or penalties
19 assessed.

20 6. The DEQ lacks jurisdiction to allege one or more
21 of the violations.

22 7. The DEQ does not have authority to issue civil penalties
23 as described in Exhibits A and B to the NOV. The penalties
24 are arbitrary, capricious, unlawful and unreasonable because
25 the rules on which the alleged violations are based are vague
26 and ambiguous and applied in an inconsistent manner; the alleged

1 violations are de minimis; DEQ has not adequately considered
2 whether the alleged violations are of the gravity or magnitude
3 permitting DEQ to impose such penalties; DEQ has not considered
4 CSSI's good faith efforts to comply with the applicable requirements;
5 the alleged violations pose absolutely no risk or endangerment
6 to human health or the environment; CSSI has realized no economic
7 benefit from any of the violations alleged; the penalties are
8 inconsistent with the penalty provisions in OAR Chapter 340,
9 Division 12; the penalty provisions in OAR Chapter 340, Division
10 12, on which the penalties are based are themselves unlawful
11 as applied to this NOV.

12 8. The Compliance Order in the NOV is unconstitutional
13 and a violation of ORS Chapter 466 insofar as it purports to
14 be effective prior to the time that CSSI has had an opportunity
15 for a hearing.

16 9. The Compliance Order is arbitrary, capricious, unlawful,
17 and unreasonable and the statutory grounds on which it is based
18 are vague and ambiguous.

19 10. The DEQ does not have authority to require, by way
20 of a Compliance Order, the submittal of detailed reports on
21 compliance.

22 11. Permit ORD 089 452 353 was not in effect at the time
23 of the alleged violations.

24 /////

25 /////

26 /////

1 12. At all relevant times CSSI has acted with due care,
2 complied with statutory and regulatory requirements concerning
3 the handling of hazardous waste applicable at the time, and
4 otherwise conducted itself as a reasonable person under the
5 circumstances.

6 13. The DEQ is estopped or has waived its right to allege
7 one or more of the alleged violations.

8 Additional Defenses and Facts At Issue in Penalty Calculations

9 1. CSSI alleges that there are no violations to form
10 the necessary basis for the penalty calculations.

11 2. CSSI alleges that there was no potential for harm
12 to human health or the environment from any of the alleged
13 violations.

14 3. CSSI alleges that none of the alleged violations
15 was a result of negligence by CSSI.

16 4. CSSI alleges that there are no prior violations relevant
17 to this NOV. Case No. HW-ER-88-79 is improperly referenced
18 in this NOV. CSSI alleges that it responded to the Notice
19 of Violation and Compliance Order in Case No. HW-ER-88-79 and
20 specifically stated that its response did not in any way waive
21 CSSI's right to raise defenses to the allegations at a later
22 time. CSSI also stated that the response was not intended
23 as an admission by CSSI of any violation alleged or that appropriate
24 sections of the permit had been cited. CSSI alleges that no
25 penalty was assessed or paid as the Notice of Violation and
26 Compliance Order were resolved and not finalized by default.

1 5. CSSI alleges that this NOV is governed by the provisions
2 of OAR Chapter 340, Division 12 as they existed prior to amendments
3 in 1989 that are used for the penalty calculations in the NOV.

4 6. CSSI alleges that it gained no economic benefit through
5 the alleged noncompliance.

6 7. CSSI alleges that one or more of the alleged violations
7 was a single occurrence.

8 8. CSSI alleges that one or more of the alleged violations
9 was an unavoidable accident.

10 9. CSSI alleges that it was cooperative in correcting
11 any alleged violations.

12 10. CSSI alleges that the penalty calculations are arbitrary,
13 capricious, unlawful and unreasonable because the DEQ has not
14 performed adequate investigation before assessing the penalties.

15 * * *

16 This answer is made prior to completion of CSSI's
17 preparation for hearing in this matter and prior to the conduct
18 of any discovery. CSSI may, therefore, supplement the factual
19 allegations and defenses set out in this Answer after further
20 preparation, discovery and investigation and will make appropriate
21 motion to do so if necessary. Based on CSSI's responses and
22 defenses set out above, CSSI contends that CSSI is entitled
23 to judgment in its favor as a matter of law. At the appropriate

24 /////

25 /////

26 /////

1 time, CSSI may file a proper motion to request that it be granted
2 Judgment in its favor as a matter of law, that the NOV be dismissed
3 in its entirety and the assessed penalties be revoked.

4 WHEREFORE, CSSI respectfully requests a decision:

5 1. Dismissing the NOV in its entirety and revoking the
6 assessed penalties, and

7 2. Granting such other further relief as is just and
8 proper.

9 Dated: June 8, 1989.

10 CHEM-SECURITY SYSTEMS, INC.

11
12 By: Donald A. Haagensen
13 Donald A. Haagensen
14 Of Attorneys for
Chem-Security Systems, Inc.

15 DONALD A. HAAGENSEN
16 SCHWABE, WILLIAMSON & WYATT
17 SUITES 1600-1900
18 PACWEST CENTER
19 1211 SW FIFTH AVENUE
20 PORTLAND, OR 97204

21 ROGER C. ZEHNTNER
22 M. THERESE YASDICK
23 CHEMICAL WASTE MANAGEMENT, INC.
24 3003 BUTTERFIELD ROAD
25 OAK BROOK, ILLINOIS 60521

26

B-72



Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

MAY 19 1989

CERTIFIED MAIL NO. P 888 190 067

Mr. Richard Zweig
Chem-Security Systems, Inc.
Star Route
Arlington, OR 97812-9709

Re: Notice of Violation, Compliance
Order, and Assessment of Civil
Penalty No. HW-ER-89-43
ORD089452353

Dear Mr. Zweig:

Enclosed is a Notice of Violation, Compliance Order, and Assessment of Civil Penalty (Notice) relating to violations documented at the Chem-Security Systems, Inc. (CSSI) facility in Gilliam County, Oregon. The violations were observed by the Department of Environmental Quality (the Department) during the January 19, 1989 inspection of the facility, and as a result of the Department's review of the spring, 1988 semi-annual groundwater sampling event, for which the complete data set was received by the Department in November, 1988. The violations documented include improper storage of hazardous waste and failure to follow the Groundwater Monitoring Plan.

A civil penalty of up to \$10,000 may be assessed for each day of each violation. In determining the amount of your penalty, I used the procedure set forth in OAR 340-12-045. I have set your penalty at a total of \$4,900 for the violations cited in the enclosed Notice. If the penalty is not paid or appealed within 20 days, a Default Order and Judgement will be entered against CSSI.

The Department expects full cooperation and compliance with Oregon's environmental regulations. We are prepared to assist you with questions regarding rule interpretation or the conditions of RCRA Permit No. ORD089452353 (the Permit).

Please be informed that CSSI is liable for additional civil penalties if the Compliance Order is violated, or if additional violations of the hazardous waste regulations or the conditions of the Permit occur.

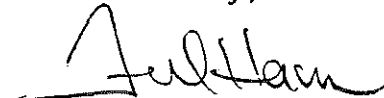
If you wish to discuss this matter, or if you believe there are mitigating factors which the Department might not have considered in assessing the civil penalty, you may request an informal discussion as part of your "Answer". Your request to discuss the matter with the Department does not waive CSSI's right to a contested case hearing.

B-73

Mr. Richard Zweig
Chem-Security Systems, Inc.
Page 2

If you have any questions about this action, please contact Mr. Paul Christiansen of the Department's Hazardous Waste Facilities Management Section at (503) 229-5095.

Sincerely,



Fred Hansen
Director

FH:pc:b
ZB8527

Enclosure(s)

cc: U.S. Environmental Protection Agency
Oregon Department of Justice
Hazardous Waste Facilities Management Section, DEQ
Western States Hazardous Waste Project

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3

4

5 DEPARTMENT OF ENVIRONMENTAL QUALITY,) NOTICE OF VIOLATION, COMPLIANCE

6 OF THE STATE OF OREGON,) ORDER, AND ASSESSMENT OF CIVIL

7 Department,) PENALTY

8)

9 v.) CASE NO. HW-ER-89-43

10)

11 CHEM-SECURITY SYSTEMS, INC.,) GILLIAM COUNTY

12 Respondent.)

13 ///

14 ///

15 This Notice of Violation, Compliance Order, and Assessment of Civil Penalty

16 (hereinafter "Notice") is issued by the Department of Environmental Quality

17 (the Department) pursuant to Oregon Revised Statutes (ORS) Chapter 466 and

18 Oregon Administrative Rules (OAR) Chapter 340, Divisions 11 and 12.

19 ///

20 ///

21 I. FINDINGS

22 1. Respondent owns and operates a facility located in Gilliam County,

23 Oregon, the mailing address of which is as follows:

24 Chem-Security Systems, Inc.

25 Star Route

26 Arlington, Oregon 97812-9709

27 ///

1 2. Respondent is involved in the treatment, storage, and disposal of
2 hazardous waste as these terms are defined by Title 40 of the Code of
3 Federal Regulations (40 CFR) § 260.10 as adopted by OAR 340-100-002.

4 ///

5 3. Respondent operates a commercial facility that receives hazardous waste
6 generated off-site.

7 ///

8 4. The Department is the state agency primarily empowered to regulate the
9 treatment, storage, or disposal of hazardous waste in Oregon. The
10 Department was granted final authorization by the United States
11 Environmental Protection Agency (EPA) for enforcement and
12 implementation of the base Resource Conservation and Recovery Act
13 (RCRA) program in January, 1986.

14 ///

15 5. On March 11, 1988 RCRA Permit Number ORD089452353 (the Permit) was
16 issued to Respondent for the Storage, Treatment, and Disposal of
17 Hazardous Waste by EPA, the Department, and the Environmental Quality
18 Commission (EQC). The Permit was issued pursuant to ORS Chapter 466
19 and the hazardous waste regulations promulgated thereunder by the EQC
20 in Chapter 340 of the Oregon Administrative Rules, and pursuant to the
21 Solid Waste Disposal Act [42 U.S.C. §3251 et seq., (RCRA)] and the
22 Hazardous and Solid Waste Amendments of 1984 (HSWA) and regulations
23 promulgated thereunder by the EPA in Title 40 of the Code of Federal
24 Regulations.

25 ///

26 6. On March 31, 1988 Respondent filed a request for a contested case
27 hearing with the EQC regarding specific permit conditions imposed by

1 the Department and the EQC. Concurrently with the request to the EQC
2 for a hearing, Respondent filed with the EQC a petition for stay of the
3 entire Permit, or, in the alternative, for a stay of those permit
4 conditions for which Respondent requested a contested case hearing,
5 pending a ruling by EQC in the requested contested case. In a
6 Stipulated Order before the EQC dated May 16, 1988, the following
7 conditions of the Permit were stayed pending a final order by the EQC:

- 8 (a) I.B.
- 9 (b) II.J.(12)(b); II.J.(13)
- 10 (c) II.M.(5); II.M.(6)
- 11 (d) V.A.(4)(a); VI.B.(3)(c)
- 12 (e) VI.A.(2)(e); VI.B.(2)(e)
- 13 (f) VI.A.(6)
- 14 (g) VII.A.; VII.B.; Attachment 25
- 15 (h) VIII.C.(3)(a), (b), (c)
- 16 (i) IX.A.(1); IX.A.(2); IX.B.(7); IX.C.(2); IX.D.(1); IX.D.(5);
17 Plate 1; Table 2

18 As of the date of issuance of this Notice, no ruling has been made by
19 the EQC on the requested contested case.

20 ///

21 7. On April 13, 1988 Respondent filed a Petition for Review and Motion to
22 Reopen the Administrative Record with the EPA Administrator.
23 Respondent requested that the Administrator review the following
24 conditions of the Permit:

- 25 (a) I.B.
- 26 (b) II.J.(14)(b)
- 27 (c) II.M.(5); II.M.(6)

B-77

1 (d) V.A.(4)(a); VI.B.(3)(c)

2 (e) VI.A.(6)

3 (f) IX.A.(1); IX.A.(2); IX.B.(7), Plate 1; Table 2

4 As of the date of issuance of this Notice, no final determination on
5 the above conditions of the Permit has been made by the Administrator.

6 ///

7 8. Respondent's history of noncompliance with hazardous waste regulations
8 is summarized by the following cases:

9 (a) EPA Docket No. 1085-06-08-3008P

10 (b) EPA Docket No. 1085-12-16-3008

11 (c) EPA Docket No. 1087-05-14-3008(a)

12 (d) Department of Environmental Quality Case No. HW-ER-88-79

13 (e) Department of Environmental Quality Case No. HW-ER-89-18

14 ///

15 9. A representative of the Department conducted a compliance inspection at
16 Respondent's facility on January 19, 1989. The purpose of the
17 inspection was to determine Respondent's compliance with hazardous
18 waste regulations and conditions of the Permit. Respondent's
19 procedures and records were inspected and observed. These matters were
20 compared with the Permit and applicable hazardous waste regulations to
21 determine whether there was any noncompliance by Respondent.

22 ///

23 10. During the above referenced inspection the Department representative
24 observed that Respondent stored containers of toxic hazardous waste in
25 a storage area designated for storage of caustic hazardous waste.

26 Seven containers holding hazardous waste assigned the EPA Hazardous

27 Waste Code K001 (bottom sediment sludge from the treatment of

1 wastewaters from wood preserving processes that use creosote and/or
2 pentachlorophenol) and eight containers holding hazardous waste
3 assigned the State Hazardous Waste Code X001 (a pesticide residue or
4 pesticide manufacturing residue that exhibits a 96-hour aquatic LC50 of
5 equal to or less than 250 milligrams per liter) were stored in the bay
6 designated for caustic waste in the S-9 container storage unit at
7 Respondent's facility. Seven containers of hazardous waste assigned
8 the EPA Hazardous Waste Code D002 (corrosivity characteristic) were
9 also observed in the caustic bay of S-9.

10 ///

11 11. As required by condition IX.D.(6) of the Permit, Respondent performed a
12 groundwater sampling event during the spring of 1988. Representatives
13 of the Department observed a portion of the groundwater sampling
14 activity. Data from the sampling event were submitted by Respondent to
15 the Department and were reviewed to determine Respondent's compliance
16 with hazardous waste regulations and conditions of the Permit.

17 ///

18 12. Based upon the above referenced observations and data review, it was
19 determined that Respondent deviated from groundwater sample collection,
20 handling, and analysis procedures specified in the Permit. Three
21 general areas of deviation were identified. These included filtering
22 of groundwater samples collected for total cyanide analysis, exceeding
23 sample holding times, and using improper analytical method detection
24 limits.

25 ///

26 13. Samples collected for total cyanide analysis from the following
27 groundwater monitoring wells were filtered:

1 A-2 3M-1a 3P-2 5L-2 5V-1,2
 2 C-2 3M-2 3R-2 5M-1
 3 R-2 3P-1 5L-1 5M-2

4 ///

5 14. Sample holding times were exceeded for the following groundwater
 6 samples:

			Maximum	Actual
	<u>Well</u>	<u>Sample Type</u>	<u>Holding Time</u>	<u>Holding Time</u>
7				
8				
9	R-2	Total Cyanide	14 days	16 days
10	3M-1a	Volatile Organic	14 days	27 days
11	3M-2	Volatile Organic	14 days	27 days
12	5L-1	Volatile Organic	14 days	28 days
13	5L-2	Volatile Organic	14 days	17 days
14	5M-2	Volatile Organic	14 days	59 days
15	5V-1,2	Volatile Organic	14 days	27 days

16 ///

17 15. Analytical method detection limits ranging from 16 to 100 micrograms
 18 per liter were used for the analysis of 27 volatile organic compounds
 19 in the groundwater sample collected from well 5M-2.

20 ///

21 ///

22 ///

23 II. VIOLATIONS

24 Based upon the above noted FINDINGS, Respondent has violated provisions of
 25 Oregon hazardous waste laws and regulations applicable to the facility,
 26 including those set forth and incorporated in RCRA Permit Number

27 ORD089452353. Specific violations include the following:

1 CLASS I VIOLATIONS

2 1. As set forth in paragraph 10 of the FINDINGS, Respondent violated
3 condition III.A.(3) of the Permit by storing toxic hazardous waste in
4 an area designated for storage of caustic hazardous waste. Permit
5 condition III.A.(3) requires Respondent to follow the procedures of
6 Attachment 12 to the Permit. Pages D.2-13 through D.2-17 of Attachment
7 12 discuss procedures used by Respondent to ensure that hazardous waste
8 in container storage areas is segregated by hazard classification.
9 The procedures described in Attachment 12 include protocol for analysis
10 of waste compatibility, labelling of containers according to hazard
11 class, physical segregation of wastes, and operation of the S-9
12 container storage unit. Respondent stored 15 containers of toxic
13 hazardous waste in an area designated for storage of caustic hazardous
14 waste, as set forth in paragraph 10 of the FINDINGS.

15 ///

16 2. As set forth in paragraphs 12 through 15 of the FINDINGS, Respondent
17 failed to follow the Groundwater Monitoring Plan included as
18 Attachment 10 to the Permit as required by Conditions IX.E. and IX.F.
19 of the Permit.

20 Condition IX.E. of the Permit requires Respondent to comply with
21 Attachment 10, Section 5 of the Permit, as modified. Attachment 10,
22 Section 5.3 specifies that cyanide samples will not be filtered.
23 Respondent filtered 13 groundwater samples collected for cyanide
24 analysis, as identified in paragraph 13 of the FINDINGS.

25 Attachment 10, Table 5-1 specifies that the holding time for
26 groundwater samples collected for either total cyanide analysis or
27 volatile organic analysis is fourteen (14) days. Respondent exceeded

1 the holding times for 7 groundwater samples, as identified in paragraph
2 14 of the FINDINGS.

3 Condition IX.F. of the Permit requires Respondent to comply with
4 Attachment 10, Section 7 of the Permit, as modified. Attachment 10,
5 Table 7-1 specifies analytical method detection limits for volatile
6 organic compounds. Detection limits, where specified in Table 7-1,
7 are all less than 10 micrograms per liter. Furthermore, condition
8 IX.F.(1) of the Permit specifies statistical monitoring criteria.
9 Condition IX.F.(1)(a) sets statistical monitoring criteria at 20
10 micrograms per liter for any single volatile organic compound.
11 Condition IX.F.(1)(b) sets statistical monitoring criteria at 10
12 micrograms per liter for four volatile organic compounds. As set forth
13 in paragraph 15 of the FINDINGS, analytical method detection limits
14 applied by Respondent to the volatile organic sample from groundwater
15 monitoring well 5M-2 were all higher than specified in Table 7-1 and
16 higher than the minimum concentration (10 micrograms per liter)
17 specified in the statistical monitoring criteria.

18 ///

19 CLASS II VIOLATIONS

20 None.

21 ///

22 ///

23 III. COMPLIANCE ORDER

24 Based upon the foregoing FINDINGS and VIOLATIONS, Respondent is hereby
25 ORDERED to:

- 26 1. Immediately initiate actions necessary to correct all of the above
27 cited violations and come into full compliance with Oregon's hazardous

B-82

1 waste laws and the Permit.

2 ///

3 2. Certify to the Department in writing within twenty (20) days from the
4 date of receipt of this Notice that Respondent has placed the
5 containers of toxic hazardous waste observed in the caustic section of
6 container storage unit S-9 on the January 19, 1989 inspection into a
7 storage area designated for toxic hazardous waste.

8 ///

9 ///

10 IV. ASSESSMENT OF CIVIL PENALTY

11 The Director imposes civil penalties for the following violations cited in
12 Section II:

13 VIOLATION

CIVIL PENALTY

14 1

\$3,500

15 2

\$1,400

16 Respondent's total civil penalty is \$4,900.

17 The findings and determination of Respondent's civil penalty pursuant to OAR
18 340-12-045 are attached and incorporated as Exhibits A and B.

19 ///

20 ///

21 V. PAYMENT OF CIVIL PENALTY

22 The penalty is now due and payable. Respondent's check or money order in
23 the amount of \$4,900 should be made payable to "State Treasurer, State of
24 Oregon" and sent to the Director of the Department of Environmental Quality,
25 811 S.W. Sixth Avenue, Portland, Oregon 97204.

26 ///

27 ///

1 VI. OPPORTUNITY FOR CONTESTED CASE HEARING

2 This Notice of Violation, Compliance Order, and Assessment of Civil Penalty
3 shall become final unless, within 20 days of issuance, Respondent requests a
4 hearing before the Environmental Quality Commission pursuant to ORS 466.190,
5 ORS 468.135(2) and (3); and OAR Chapter 340, Division 11. The request must
6 be made in writing to the Director, must be received by the Director within
7 twenty (20) days from the date of mailing of this Notice (or if not mailed,
8 the date of personal service), and must be accompanied by a written "Answer"
9 to the allegations contained in this Notice. In the written "Answer",
10 Respondent shall admit or deny each allegation of fact contained in this
11 Notice and Respondent shall affirmatively allege any and all affirmative
12 claims or defenses to violations and assessment of any civil penalty that
13 Respondent may have and the reasoning in support thereof.

14 Except for good cause shown:

- 15 1. Factual matters not controverted shall be presumed admitted.
- 16 2. Failure to raise a claim or defense shall be presumed to be a
17 waiver of such claim or defense.
- 18 3. New matters alleged in the Answer shall be presumed to be denied
19 unless admitted in subsequent pleading or stipulation by the
20 Department or Commission.

21 If Respondent fails to file a timely "Answer" or request for hearing or
22 fails to appear at a scheduled hearing, the Director on behalf of the
23 Environmental Quality Commission may issue a default order and judgement
24 based upon a prima facie case made on the record, for the relief sought in
25 this Notice. Following receipt of a request for hearing and an "Answer",
26 Respondent will be notified of the date, time, and place of the hearing.

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

///

VII. OPPORTUNITY FOR INFORMAL DISCUSSION

In addition to filing a request for a contested case hearing, Respondent may also request an informal discussion with the Department by attaching a written request to the hearing request and "Answer".

///

///

VIII. CONSEQUENCES OF ADDITIONAL VIOLATIONS

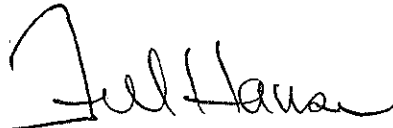
If any violation cited in Section II for which a penalty is assessed continues, or if any similar violation occurs, the Director may impose additional civil penalties upon the Respondent.

///

///

///

MAY 19 1989



Date

Fred Hansen, Director

Department of Environmental Quality

EXHIBIT A

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY
PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-12-045

VIOLATION NO: 1

Respondent stored toxic hazardous waste in an area designated for storage of caustic hazardous waste, in violation of condition III.A.(3) of the Permit.

CLASSIFICATION: The violation is listed as a Class One violation in OAR 340-12-068(1)(z).

MAGNITUDE: The magnitude of the violation is MODERATE.

Of the twenty-three (23) containers stored in the bay designated for storage of caustic waste at container storage unit S-9 at Respondent's facility, fifteen (15) held toxic hazardous waste.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(0.1 \times BP)(P+H+E+O+R+C)]$

"BP" is the base penalty which is \$2,500 for a Class One - MODERATE magnitude violation in the matrix listed in OAR 340-12-042(1).

"P" is Respondent's prior violations and receives a value of 4.

In Case No. HW-ER-88-79 Respondent was cited for two Class Two violations that were unrelated to this violation. The violations cited in Case No. HW-ER-88-79 were finalized by default when Respondent did not file an Answer to the enforcement action.

"H" is the past history of Respondent in taking all feasible steps or procedures necessary to correct any prior violation and receives a value of -2.

Respondent has taken all feasible steps to correct prior violations.

"E" is the economic condition of Respondent and receives a value of 0.

There is insufficient information on which to base a finding.

"O" is whether or not the violation was a single occurrence or was repeated or continuous during the period of the violation and receives a value of 0.

The violation was a single occurrence.

"R" is the cause of the violation and receives a value of 2.

After the containers of toxic hazardous waste were stored in the area designated for storage of caustic waste, Respondent was negligent by failing to detect and correct the improper storage.

Respondent's daily inspection report completed on the day that the container storage unit was inspected by the Department representative requires a check for "proper placement and marking of containers" and "improper storage". This inspection report indicated that the container storage unit was "acceptable".

"C" is Respondent's cooperativeness in correcting the violation and receives a value of 0.

There is insufficient information on which to base a finding.

PENALTY CALCULATION:

$$\begin{aligned} \text{Penalty} &= \text{BP} + [(0.1 \times \text{BP})(\text{P} + \text{H} + \text{E} + \text{O} + \text{R} + \text{C})] \\ &= \$2,500 + [(0.1 \times \$2,500)(4 + 2 + 0 + 0 + 2 + 0)] \\ &= \$3,500 \end{aligned}$$

EXHIBIT B

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY
PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-12-045

VIOLATION NO: 2

Respondent failed to comply with the Groundwater Monitoring Plan included as Attachment 10 to the Permit, in violation of Conditions IX.E. and IX.F. of the Permit.

CLASSIFICATION: The violation is listed as a Class One violation in OAR 340-12-068(1)(z).

MAGNITUDE: The magnitude of the violation is MINOR.

Three general areas of noncompliance were identified, including two with multiple counts. These areas included exceeding sample holding times (7 samples), improper sample collection (13 samples), and using improper analytical method detection limits (1 sample, 27 compounds).

Respondent did not re-sample the affected groundwater monitoring wells.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(0.1 \times BP)(P+H+E+O+R+C)]$

"BP" is the base penalty which is \$1,000 for a Class One - MINOR magnitude violation in the matrix listed in OAR 340-12-042(1).

"P" is Respondent's prior violations and receives a value of 4.

In Case No. HW-ER-88-79 Respondent was cited for two Class Two violations that were unrelated to this violation. The violations cited in Case No. HW-ER-88-79 were finalized by default when Respondent did not file an Answer to the enforcement action.

"H" is the past history of Respondent in taking all feasible steps or procedures necessary to correct any prior violation and receives a value of -2.

Respondent has taken all feasible steps to correct prior violations.

"E" is the economic condition of Respondent and receives a value of 0.

There is insufficient information on which to base a finding.

"O" is whether or not the violation was a single occurrence or was repeated or continuous during the period of the violation and receives a value of 2.

The violation involves repeated occurrences of exceeding sample holding times (7 occurrences) and improper sample collection (13 occurrences).

The improper analytical method detection limits, although used on a single sample analysis, were applied to 27 volatile organic compounds.

"R" is the cause of the violation and receives a value of 0.

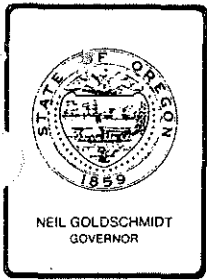
There is insufficient information on which to base a finding.

"C" is Respondent's cooperativeness in correcting the violation and receives a value of 0.

There is insufficient information on which to base a finding.

PENALTY CALCULATION:

$$\begin{aligned} \text{Penalty} &= \text{BP} + [(0.1 \times \text{BP})(\text{P} + \text{H} + \text{E} + \text{O} + \text{R} + \text{C})] \\ &= \$1,000 + [(0.1 \times \$1,000)(4 + 2 + 0 + 2 + 0 + 0)] \\ &= \$1,400 \end{aligned}$$



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item B, September 7-8, 1989, EQC Meeting
Proposed Civil Penalty Settlement Agreements

Background

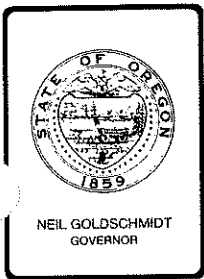
Oregon Revised Statute 468.130(3) provides that any civil penalty may be remitted or mitigated upon such terms and conditions as the Environmental Quality Commission considers proper and consistent with the public health and safety. The statute further provides that the Commission may by rule delegate to the Department, upon such conditions as deemed necessary, all or part of the authority to remit or mitigate civil penalties. Oregon Administrative Rule 340-12-047 authorizes the Director of the Department to seek to compromise or settle any unpaid civil penalty which the Director deems appropriate. Any compromise or settlement executed by the Director shall not be final until approved by the Commission.

The following proposed settlement agreements are attached for the Commission's consideration and approval:

	Page
Case Numbers WQ-WVR-88-73A & B, Arie Jongeneel dba/A.J. Dairy.....	A-1
Case Number AQOB-CR-89-10, Marvin Mix dba/Marvin Gardens	B-1
Case Number HW-WVR-89-02, Safety-Kleen Corp. (Springfield Facility)...	C-1

Fred Hansen

GB8231M



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

TO: Environmental Quality Commission **DATE:** September 8, 1989
FROM: Director
SUBJECT: Request for Approval of Settlement Agreement in Case No. WQ-WVR-88-73 A & B, Arie Jongeneel, dba/ A.J. Dairy

Respondent, Arie Jongeneel, doing business as A.J. Dairy, owns and operates a dairy in Mt. Angel, Oregon. A.J. Dairy, Inc., holds a Water Pollution Control Facility General Permit for a Confined Animal Feeding Operation (CAFO). The dairy's facility ID number is 103339. Bocksler and Butte creeks, waters of the state, run through or adjacent to Respondent's property.

On September 8, 1988, the Department assessed a \$2,500 civil penalty against Respondent for discharging manure and manure contaminated waste water from Respondent's CAFO facility into Bocksler Creek in violation of his general permit and Oregon Water Quality law. The Department also issued a Department Order requiring Respondent to eliminate all discharges to waters of the state, to repair or construct animal waste holding facilities which would prevent such discharges, and to balance his herd size with the acreage available for land irrigation of animal waste. On September 30, 1988, Respondent filed a request for a hearing with the Commission's hearing officer and asking for a meeting to discuss possible settlement.

On November 22, 1988, the Department met with Respondent and representatives from the Oregon Department of Agriculture. Respondent acknowledged that the farm had animal waste management problems. Respondent disagreed with several findings in the order as factually incorrect. Respondent also felt that any requirement restricting his herd size was beyond the Department's authority. Respondent informed the Department that Respondent had already fulfilled many of the Order's substantive requirements. Respondent agreed to enter into a stipulated order with the Department requiring Respondent to complete necessary repairs to and construction of his animal waste management facilities in exchange for a settlement of the penalty.

In March, 1989, the Department received information concerning additional discharges to waters of the state from Respondent's farm. These discharges were discussed with Respondent. Respondent informed the Department that the discharges were the result of an unusually cold winter and an extremely wet spring, circumstances beyond Respondent's control.

Respondent and the Department have reached the following settlement agreement. Respondent admits the violation which resulted in the civil penalty, agrees to pay \$1,250 of the penalty, to repair and/or construct his

animal waste management system in accordance with plans approved by the Department by October 1, 1989, and to eliminate all interim discharges to Bocksler and Butte creeks. The Department agrees to ask the Commission to suspend the remaining \$1,250 of the civil penalty provided that Respondent have no Class One violations for a period of one year from the date of the order.

Respondent has accepted the offer and signed the attached Stipulation and Final Order. I believe Respondent's willingness to finally resolve his pollution control problems justifies the suspension of \$1,250 of the penalty and that such a suspension is protective of public health and the environment. Should Respondent have any Class One violations in the next year, the suspended portion of the penalty may be reinstated.

The civil penalty assessment action, settlement correspondence, and the proposed Stipulation and Final Order are attached for your review and consideration.

I believe the settlement is satisfactory and recommend its approval. If you agree, please sign and date Stipulation and Final Order No. WQ-WVR-88-73B.

Fred Hansen

Attachments
Yone C. McNally
229-5152
July 31, 1989

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL)
QUALITY, OF THE STATE OF)
OREGON,)
)
Petitioner,) STIPULATION AND FINAL ORDER
) No. WQ-WVR-88-73B
v.) Marion County
)
)
ARIE JONGENEEL,)
)
Respondent.)

1. On September 8, 1988, the DEQ issued a Notice of Assessment of Civil Penalty and a Department Order, Case Nos. WQ-WVR-88-73A and B, requiring Respondent to inter alia: pay a \$2,500 civil penalty, eliminate the discharge of animal waste to waters of the state, submit plans for animal waste control facilities, and construct approved control facilities.

2. On September 30, 1988, Respondent filed a timely Answer and requested a contested case hearing on Case Nos. WQ-WVR-88-73A and B.

3. On November 19, 1988, DEQ and Respondent met to discuss settlement of the contested case hearing.

4. On April 6, 1989, DEQ received information from the Oregon Department of Agriculture that it had documented further discharges of animal waste from Respondent's facilities in December, 1988, and on January 30, March 13 and March 31, 1989.

5. On April 11, 1989, representatives of Respondent and DEQ discussed the causes of the discharges described in

///

Paragraph 4. Respondent indicated that causes included extraordinarily cold weather in January, an unusually wet spring, and mechanical failures.

6. Respondent and DEQ now wish to settle the contested cases.

7. Respondent stipulates that DEQ and the Commission have jurisdiction over the subject matter and the parties in this action, and Respondent waives any right to contest this Stipulation and Final Order.

8. Respondent hereby waives a contested case hearing on Case Nos. WQ-WVR-88-73A and B.

9. Respondent admits the violation alleged in paragraph III of DEQ's Notice of Assessment of Civil Penalty No. WQ-WVR-88-73A.

NOW, THEREFORE, the parties agree to entry of the following Final Order:

A. The Environmental Quality Commission shall suspend and waive \$1,250 of the assessed civil penalty, provided that Respondent have no stipulated or adjudicated Class I violations of Oregon water pollution control laws or violations of this Stipulation and Final Order, for one year from the date of entry of the Order. Respondent shall pay the remaining \$1,250 of the assessed penalty upon signing of this Stipulation and Final Order.

///

///

2 - STIPULATION AND FINAL ORDER
DEQ v. Jongeneel - (6943H/aa/

B. By October 1, 1989, Respondent shall complete all necessary repairs to, and construction of, Respondent's dairy waste management system according to operation and maintenance plans prepared by the Soil Conservation Service or a private consultant, and as approved by DEQ where DEQ approval is required.

C. Respondent shall immediately eliminate all interim direct and indirect discharges to Bochsler and Butte creeks.

D. Unless there are mitigating factors as defined in OAR 340-12-045, Respondent shall pay the following stipulated penalties in addition to the \$1,250 suspended portion of the penalty for any stipulated or adjudicated documented discharge from Respondent's facility of pollutants to surface waters of the state during the term of this Order.

- a. \$250 for the first occurrence of any discharge;
- b. \$500 for the second occurrence of any discharge;
- c. \$1,500 per day for any subsequent discharges.

DEQ shall notify Respondent of any such discharges through an appropriate Notice of Violation; subject to Respondent's right to contest the occurrence of the violation in a contested case proceeding. Respondent expressly waives any five (5) day advance notice under ORS 468.125.

E. In addition to the stipulated penalties under Paragraph D., the DEQ reserves the right to enter future orders requiring additional action, or assessment of civil penalties against Respondent for any violations, including violations of

this Stipulation and Final Order, or to seek any available remedy for failure by Respondent to comply with requirements of this Stipulation and Final Order, as necessary to assure compliance with all applicable water quality laws and regulations. Such remedies might include, but are not limited to, injunctive relief. This Stipulation and Final Order shall, however, relieve Respondent from all civil liability for all violations specifically referenced herein.

F. If any event occurs that is beyond Respondent's reasonable control and that causes or may cause a delay or deviation in performance of the requirements of this Stipulation and Final Order, Respondent shall promptly notify the DEQ verbally of the cause of the delay or deviation and its anticipated duration, the measures that have been or will be taken to prevent or minimize the delay or deviation, and the timetable by which Respondent proposes to carry out such measures. Respondent shall confirm in writing this information within five (5) working days of verbal notification. It is Respondent's responsibility in the written notification to demonstrate to the DEQ's satisfaction that the delay or deviation has been or will be caused by circumstances beyond the control and despite due diligence of Respondent. If Respondent so demonstrates, the DEQ shall extend times of performance of related activities under the Stipulation and Final Order as appropriate. Circumstances or events beyond Respondent's control include but are not limited to acts of

nature, unforeseen strikes, work stoppages, fires, explosion, riot, sabotage, or war or where government action is required or any delay for which a government agency is responsible. . Increased cost of performance or changed business or economic circumstances, shall not be considered circumstances beyond Respondent's control.

G. The terms of this Stipulation and Final Order may be amended by the mutual agreement of the DEQ and Respondent.

H. Respondent acknowledges that it has actual notice of the contents and requirements of the Stipulation and Final Order and that failure to fulfill any of the requirements hereof would constitute a violation of this Stipulation and Final Order.

7-31-84
Date

RESPONDENT
Arie Jongeneel

DEPARTMENT OF ENVIRONMENTAL QUALITY

Date

FRED HANSEN, DIRECTOR

FINAL ORDER

IT IS SO ORDERED:

ENVIRONMENTAL QUALITY COMMISSION

Date
///
///
///

William P. Hutchison, Jr.
Chairman

Date

Wallace B. Brill, Member

Date

Emery N. Castle, Member

Date

Genevieve Pisarski Sage, Member

Date

William Wessinger, Member

DONALD M. KELLEY
PHILIP T. KELLEY
LAWRENCE A. CASTLE

KELLEY & KELLEY

Attorneys and Counsellors
110 NORTH SECOND STREET
SILVERTON, OREGON 97381

August 1, 1989

RECEIVED
AUG 2 1989
AREA CODE 503
TELEPHONE 873-8671

DEPARTMENT OF JUSTICE
PORTLAND, OREGON

Larry Edelman
Assistant Attorney General
1515 SW 5th Ave., Ste. 410
Portland, OR 97201

RE: Notice of Assessment WQ-WVR-88-73A;
Department Order: WQ-WVR-88-73B

Dear Larry:

I have enclosed an executed copy of the stipulation and final order which you supplied to me. I have also enclosed Mr. Jongeneel's check in the sum of \$1,250.00.

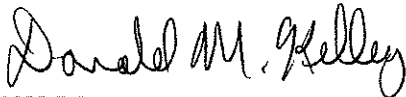
Mr. Jongeneel has told me that he is still waiting for some of the permits from the State of Oregon before he can begin his construction. He plans to begin as soon as he has the permits.

Once the order is fully executed, please send me a copy showing all of the signatures.

If you have any questions, please call me.

Yours truly,

KELLEY & KELLEY



DONALD M. KELLEY

sp
Enclosure
cc: Arie Jongeneel



DEPARTMENT OF JUSTICE

PORTLAND OFFICE
1515 SW 5th Avenue
Suite 410
Portland, OR 97201
Telephone: (503) 229-5725
FAX: (503) 229-5120

July 13, 1989

REGIONAL OPERATIONS DIVISION
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
JUL 17 1989

Don Kelley Esq.
Kelley & Kelley
110 North Second Street
Silverton, OR 97381

Re: Notice of Assessment of
Civil Penalty WQ-WVR-88-73A;
Department Order:
WQ-WVR-88-73B

Dear Don:

Please find enclosed a revised proposed stipulation and final order to resolve the above referenced matters. If this is acceptable, please have your client sign and return the original to me. The settlement is still subject to final approval by the Environmental Quality Commission.

If you have any questions, please call me.

Sincerely,

Larry Edelman
Assistant Attorney General

LE:aa
#6964H

cc: ~~Yone McNally~~
Department of
Environmental Quality
811 S.W. 6th
Portland, OR 97204

DONALD M. KELLEY
PHILIP T. KELLEY
LAWRENCE A. CASTLE

KELLEY & KELLEY

Attorneys and Counselors
110 NORTH SECOND STREET
SILVERTON, OREGON 97381

AREA CODE 503
TELEPHONE 873-8671

December 15, 1988

Larry Edelman
Assistant Attorney General
Department of Justice
1515 SW 5th Ave.,
Suite 410
Portland, OR 97201

RECEIVED

DEC 19 1988

DEPARTMENT OF JUSTICE
PORTLAND, OREGON

Re: DEQ v. Arie Jongeneel
WQ-WVR-88-73

Dear Larry:

Enclosed please find four (4) copies of Mr. Jongeneel's diagrams of the as built lagoon, sump pumps and tiles, including both the existing tiles and pre-existing tiles.

Mr. Jongeneel has monitored the sump pump which intercepts potential silage seepage at fifty (50) gallons per hour. However, he informed me that this week there was virtually no flow at all.

Also, as you can see from the drawings, the existing lagoon has been measured at 400 feet by 200 feet by 21 feet. These measurements are of the inside of the lagoon at the top of the lagoon. The slope is a 2 1/2 to 1 slope.

I believe that this complies with the requests that were made at our meeting.

If you have any further questions, please feel free to contact me.

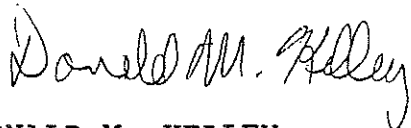
As I told you on the telephone, it does not appear that any significant steps can be taken until spring. On the other hand, we currently have a hearing scheduled for January 20, 1989 at 9:00 a.m. Hopefully, we can resolve this matter by agreement prior to the hearing.

Page 2
Larry Edelman
December 15, 1988

Also enclosed is a copy of my letter to Linda Zucker,
hearings officer, advising her that I have a conflict with
the January 20th hearing date.

Yours truly,

KELLEY & KELLEY

A handwritten signature in cursive script that reads "Donald M. Kelley". The signature is written in dark ink and is positioned above the typed name.

DONALD M. KELLEY

jm
Enclosures

cc: Arie Jongeneel

COOP/DEQ AGENCY POSITION ON
A.J. DAIRY - ARIE JONGENEEL

NAME	POSITION TITLE	PHONE #
Phil Ward	ASST. ADM. SOIL & WATER	378-3810
Melvin Hedding	Exec. Asst. to Dir.	378-4665
George C. Stubbart	Adm. soil & water	378-3810
Yone McNally	DEQ	229-5152
Kent Ashbaker	DEQ	229-5325
Van Kollias	DEQ	229-6232
Larry Edelman	DOT	229-5725
Arie Jongeneel	Dairy farmer	634-2632
Don Kelly	Atty for Jongeneel	873-8671
Peter Jurus	O. Dairy Ass.	466-5449
Guy Wosten	CEU Extension Service	588-5301
Van Kollias	DEQ	229-6232
Larry Edelman	DOT	229-5725
Alan J. Yause	DEQ	378-3810

DONALD M. KELLEY
PHILIP T. KELLEY
LAWRENCE A. CASTLE

KELLEY & KELLEY
Attorneys and Counsellors
110 NORTH SECOND STREET
SILVERTON, OREGON 97381

REGIONAL OPERATIONS DIVISION
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT 4 1988

AREA CODE 503
TELEPHONE 873-8671

September 30, 1988

Department of Environmental Quality
Attn.: Fred Hansen, Director
811 SW Sixth Ave.
Portland, Oregon 97204-1390

RETURN RECEIPT REQUESTED

RE: Notice of Assessment of a Civil Penalty
WQ-WVR-88-73A and
Department Order WQ-WVR-88-73B, Marion County

Dear Mr. Hansen:

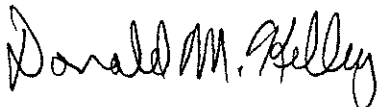
Enclosed please find an answer to both the above referenced Notice and Department order. Mr. Jongeneel requests a formal contested case hearing in both matters.

However, it is the hope of Mr. Jongeneel that such a hearing will not be necessary. I have already been in touch with Van Kollias concerning this matter and it was agreed that Mr. Jongeneel would file the answers and request for formal hearings in order to protect his time limit. In the meantime, we are hopeful that we can meet with a representative of the Department in an attempt to resolve this matter on a more positive and cooperative basis. Therefore, it is hoped that no hearing will be scheduled immediately or until the parties have had an opportunity to reach an agreement.

I will await your response concerning this matter. If you have any questions, or if there is anything else that you would like from Mr. Jongeneel, please feel free to contact me.

Yours truly,

KELLEY & KELLEY



DONALD M. KELLEY

da
Enclosure

cc: Arie Jongeneel

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT 3 1988

OFFICE OF THE DIRECTOR

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY)
OF THE STATE OF OREGON,)
Department)
v.)
ARIE JONGENEEL,)
dba, A.J. DAIRY, INC.,)
Respondent.)

No. WQ-WVR-88-73B

ANSWER TO DEPARTMENT ORDER

COMES NOW the Respondent herein and admits, denies and alleges as follows:

1.

Respondent owns or operates a dairy in Mt. Angel, Marion County, Oregon on the property described as 16153 Marquam Road.

2.

A.J. Dairy, Inc. has been dissolved by act of the shareholders and is no longer active. The dissolution took place in or about January, 1988.

3.

Respondent currently maintains a herd of approximately 750 cows and 600 holstein heifers.

4.

Respondent admits Paragraph I-B.

5.

Respondent denies Paragraphs D, E, G, H, I, J, K and L of Paragraph I.

KELLEY & KELLEY

Attorneys and Counsellors
110 NORTH SECOND STREET
SILVERTON, OREGON 97381

6.

Respondent has no information concerning the allegations in Paragraph I-F, and therefore denies the allegation of said paragraph. Paragraph I-F is irrelevant.

7.

Respondent's waste water control facilities include, but are not limited to, an animal waste holding pond, a solid separator, one reception pit, two pumps and a sump pump and pipe to return waste from the underground tile to the waste holding pond.

8.

In addition to the concrete tile, Respondent employs plastic drainage pipe underground.

9.

There are no documented cases of prior violations.

10.

There is no relationship between the size of Respondent's acreage and herd to any alleged discharge.

11.

There is no direct or indirect discharge of animal waste from Respondent's operation to the waters of the state.

12

Prior to the issuance of the subject Department Order, Respondent had designed and installed a sump pump and pit for the purpose of pumping water from the underground drainage system to the manure storage pond for reirrigation.

KELLEY & KELLEY

Attorneys and Counsellors

110 NORTH SECOND STREET

SILVERTON, OREGON 97381

AREA CODE 503

TELEPHONE 873-8671

13.

1 Respondent's herd is an appropriate size for the acres
2 available for land application of animal waste.

14.

3
4 Respondent is currently working with the Soil Conservation
5 Service which is drawing up plans to rework the catch basin and
6 storm water collection system adjacent to the reception pit on
7 the north end of the buildings. Said plans will be made
8 available to the Department when they are available to the
9 Respondent.

15.

10
11 There is not and has not been any contaminated surface water
12 run off from Respondent's property. There is no irrigation of
13 Respondent's land within fifty (50) feet of state waters.

16.

14
15 Respondent is taking steps to install a drain line from the
16 silage bunker to the reception pit.

17
18 17.

19 As soon as the plans are available from the Soil
20 Conservation Service, Respondent will submit plans to the
21 Department insuring that there are no hydraulic connections
22 between field tiles and holding ponds and that there are no
23 direct connections between high pressure irrigation lines and
24 sub-surface tile lines.

25
18.

KELLEY & KELLEY

Attorneys and Counsellors

110 NORTH SECOND STREET
SILVERTON, OREGON 97381
AREA CODE 503
TELEPHONE 873-8671

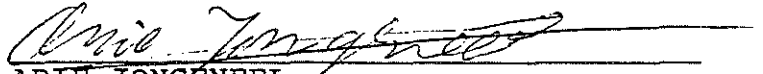
A-17

1 Respondent will take all reasonable steps to assure complete
2 construction of all approved plans within a reasonable time after
3 said plans are available from the Soil Conservation Service.
4 Respondent will file with the Department an operation and
5 maintenance plan for the completed facilities as called for in
6 Paragraph II-E.

7 19.

8 Respondent hereby requests a formal contested case hearing
9 before the Environmental Quality Commission or its hearings
10 officer regarding the matter set out and the subject department
11 order.

12 DATED this 30 day of Sept., 1988.

13 
14 ARIE JONGENEEL

KELLEY & KELLEY

Attorneys and Counselors
110 NORTH SECOND STREET
SILVERTON, OREGON 97381
AREA CODE 503
TELEPHONE 873-8671

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY)
OF THE STATE OF OREGON,)
Department)
v.)
ARIE JONGENEEL,)
dba, A.J. DAIRY, INC.,)
Respondent.)

No. WQ-WVR-88-73B

ANSWER TO NOTICE OF ASSESSMENT OF CIVIL PENALTY

COMES NOW the Respondent and admits, denies and alleges as follows:

1.

Arie Jongeneel operates a dairy in the State of Oregon. A.J. Dairy, Inc. is a dissolved corporation since January, 1988.

2.

Respondent admits Paragraph II.

3.

Respondent admits that he owns and operates a dairy farm at 16153 Marquam Road, Mt. Angel, Marion County, Oregon.

4.

Except as expressly admitted herein, Respondent denies the remainder of the allegations in the subject Notice and the document entitled Civil Penalty: Mitigating and Aggravating Factors and each and every allegation thereof.

5.

There have been no prior documented violations in connection

Page

1 - ANSWER TO NOTICE OF ASSESSMENT OF CIVIL PENALTY

KELLEY & KELLEY

Attorneys and Counselors

110 NORTH SECOND STREET
SILVERTON, OREGON 97381

AREA CODE 503
TELEPHONE 873-8671

A-19

1 with this operation. Respondent does not have any information
2 regarding any prior complaints to the ODA or the nature of said
3 complaints, if any.

4 6.

5 The rate of discharge alleged in Civil Penalty: Mitigating
6 and Aggravating Factors Paragraph No. 4 greatly exceeds the total
7 rate of application possible on Respondent's property with
8 Respondent's current equipment.

9 7.

10 Respondent's herd size does not exceed Respondent's land
11 capacity to assimilate the waste produced.

12 8.

13 Prior to the investigation referred to in this notice,
14 Respondent had made plans to install a sump pump to remove water
15 from his underground drainage tile system to the waste water
16 treatment facilities on his property. Prior to the issuance of
17 this notice, Respondent had completed said installation.

18 9.

19 Respondent operates a clean, wholesome dairy operation with
20 the latest equipment available. Respondent completed the
21 installation of gutters, downspouts and outlet tiles to eliminate
22 roof runoff water from the cattle holding area in the summer of
23 1987 with his own funds instead of using federal cost sharing.

24 10.

25 Respondent recently improved his lagoon and increased its

KELLEY & KELLEY

Attorneys and Counsellors

110 NORTH SECOND STREET
SILVERTON, OREGON 97381

AREA CODE 503
TELEPHONE 873-8671

A-20

1 size at a cost to him of approximately \$10,000.00 which was paid
2 for with his own funds.

3 11.

4 Respondent installed a two (2) pump system to pump manure
5 from the manure collection pits to the lagoon in order to guard
6 against accidental discharge in the event of the failure of one
7 pump. This was accomplished to add to Respondent's own cost.

8 12.

9 The ground on Respondent's property is among the best
10 drained ground in the area. Respondent was named Marion County
11 Soil and Water Conservation Districts outstanding cooperator in
12 1979 for his conservation projects.

13 13.

14 Respondent hereby requests a formal contested case hearing
15 before the Environmental Quality Commission or its hearings
16 officer regarding the matter set out and the subject department
17 order.

18 DATED this 30 day of September, 1988.

19
20 
21 ARIE JONGENEEL

KELLEY & KELLEY

Attorneys and Counsellors
110 NORTH SECOND STREET
SILVERTON, OREGON 97381
AREA CODE 503
TELEPHONE 873-8671

A-21



Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

Certified Mail No. P 132 861 274

Arie Jongeneel
dba/ A.J. Dairy, Inc.
16153 Marquam Road
Mt. Angel, OR 97367

SEP 8 1988

RE: Notice of Assessment of a Civil
Penalty
WQ-WVR-88-73A
Department Order
WQ-WVR-88-73B
Marion County

On July 19, 1988, Gary Messer of the Department's Willamette Valley Region office and Alan Youse of the Oregon Department of Agriculture (ODA) investigated a complaint that animal waste from your dairy was discharging into Bocksler Creek, a creek from which neighboring farms draw water for crop irrigation. When they arrived at your dairy, they observed a twelve inch concrete tile discharging animal waste in the headwaters of Bocksler Creek. A significant number of bloodworms, an indicator of low levels of dissolved oxygen, were noted at the discharge point. Samples taken of the creek at that time showed a fecal coliform count of over 600,000 colonies per 100 milliliters. Water quality standards only permit a maximum of 400 colonies per 100 milliliters.

ODA has been receiving complaints about discharges from your dairy for several years. Neighboring farms are concerned about the affects contaminated irrigation water could have on their crops. Officials from ODA, the U.S. Department of Agriculture and Marion County have all offered suggestions as to how you might better manage your animal waste. To date, you have been unresponsive to almost all suggestions. As such, discharges and complaints continue.

Saturating your fields with an amount of manure greater than your available land can assimilate not only results in environmental damage to the creek and your neighbors, but also to your property and crops. Thus a comprehensive and adequate animal waste control and disposal system is a necessity for your operations. As the owner and operator, it is your responsibility to assure that your operation does not adversely affect the environment.

Because of the continuing nature of the damage caused by your lack of an adequate disposal and storage system, I have enclosed two formal documents requiring your attention. The first is a Notice of Civil Penalty Assessment in which I have assessed a \$2,500 civil penalty against you for the July 19 discharge. The affect of the discharge on Bocksler Creek and your lack of an adequate manure storage and disposal system were significant factors in determining the amount of your penalty. Penalties for violations of

Arie Jongeneel
Page 2

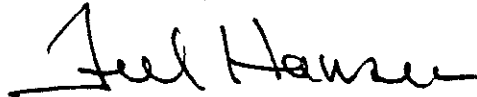
Oregon's water quality laws range from \$50 to \$10,000 for each day of each violation.

The second notice is a Department Order. The Order requires you to eliminate all discharges of animal waste to public waters, to balance your herd size with the amount of land available for land application, and to modify your animal waste treatment facilities so as to adequately handle the volume of waste produced by your operation. The Order also replaces your general permit, which you are currently not complying with, until such time as you achieve consistent compliance with water quality and confined feeding and holding operation standards. Failure to meet the requirements of this Order could result in the assessment of further civil penalties.

The penalty is due and payable. Please send payment to the address on the letterhead. Appeal procedures are outlined in Paragraph VII of the Civil Penalty Assessment and Paragraph III of the Order. If you do not pay the penalty or request a hearing for the penalty or order within 20 days, a Default Order and Judgment will be filed against you and the Department Order will become final and enforceable.

It is unfortunate that this type of action is necessary. However, I hope this will emphasize to you the importance of compliance with Oregon's environmental laws. I have enclosed a copy of Oregon's water quality statute for your information. If you have any questions concerning this action, please contact Ms. Yone C. McNally of the Department's Enforcement Section in Portland. She may be reached through the Department's toll-free call-back number, 1-800-452-4011, or directly at 229-5152. I look forward to your future cooperation.

Sincerely,



Fred Hansen,
Director

Enclosures

cc: Willamette Valley Region, DEQ
Water Quality Division, DEQ
Department of Justice
Robert Buchanan, Oregon Department of Agriculture
Alan Youse, Oregon Department of Agriculture
United States Department of Agriculture
United State Environmental Protection Agency
Marion County Soil and Water Conservation District

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

1			
2			
3	DEPARTMENT OF ENVIRONMENTAL QUALITY,	)	NOTICE OF ASSESSMENT
4	OF THE STATE OF OREGON,	)	OF CIVIL PENALTY
		)	No. WQ-WVR-88-73A
5	Department,	)	MARION COUNTY
)	
6	v.)	
)	
7)	
8	ARIE JONGENEEL,)	
	DBA/A.J. DAIRY, INC.)	
)	
9	Respondent.)	

I

This notice is given to Respondent, Arie Jongeneel, doing business as A.J. Dairy, Inc., a dissolved and inactive corporation since January, 1988, pursuant to Oregon Revised Statutes (ORS) 468.125 through 468.140, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340, Division 11 and 12.

II

On or about July 27, 1987, the Department of Environmental Quality (Department) issued Water Pollution Control Facility General Permit (Permit) to Respondent. The Permit authorized Respondent to construct, install, modify or operate a wastewater collection, treatment, control and disposal system in conformance with state law. The Permit expires on July 31, 1992. At all material times herein, the Permit was and is now in effect.

III

Respondent owns or operates a dairy farm at 16153 Marquam Road, Mt. Angel, Marion County, Oregon. On or about July 19, 1988, Respondent violated ORS 468.720(1)(a) and (2) and Condition 1 of the Permit in that

1 Respondent caused or allowed pollution of waters of the state or placed or
2 caused to be placed waste (sewage), specifically animal waste, in a location
3 where the waste was likely to escape or be carried into waters of the state,
4 specifically Bocksler Creek, by any means in that Respondent caused or
5 allowed animal waste to be discharged directly to waters of the state.

6 IV

7 The Director hereby imposes upon the Respondent a civil penalty of
8 \$2,500 for the one or more violations alleged in Paragraph IV.

9 V

10 The one or more violations alleged in Paragraph IV involve aggravating
11 factors which support the assessment of a civil penalty larger than the
12 minimum civil penalty which may be assessed pursuant to the schedule of
13 civil penalties contained in OAR 340-12-055(2)(b). The mitigating and
14 aggravating factors considered by the Director in establishing the amount
15 of the penalty are attached hereto and incorporated herein by this
16 reference.

17 VI

18 This penalty is due and payable immediately upon receipt of this
19 notice. Respondent's check or money order in the amount of \$2,500 should be
20 made payable to "State Treasurer, State of Oregon" and should be sent to the
21 Director of the Department of Environmental Quality.

22 VII

23 Respondent has the right, if Respondent so requests, to have a formal
24 contested case hearing before the Environmental Quality Commission or its
25 hearing officer regarding the matters set out above pursuant to ORS Chapter
26 183, ORS 468.135(2) and (3), and OAR Chapter 340, Division 11 at which time

1 Respondent may be represented by an attorney and subpoena and cross-
2 examine witnesses. That request must be made in writing to the Director,
3 must be received by the Director within twenty (20) days from the date of
4 mailing of this notice (or if not mailed, the date of personal service),
5 and must be accompanied by a written "Answer" to the charges contained in
6 this notice. In the written "Answer," Respondent shall admit or deny each
7 allegation of fact contained in this notice. Respondent shall
8 affirmatively allege any and all affirmative claims or defenses to the
9 assessment of this civil penalty that Respondent may have and the reasoning
10 in support thereof. Except for good cause shown:

11 A. Factual matters not controverted shall be presumed admitted;

12 B. Failure to raise a claim or defense shall be presumed to be a
13 waiver of such claim or defense;

14 C. Evidence shall not be taken on any issue not raised in the notice
15 and the "Answer."

16 If Respondent fails to file a timely "Answer" or request for hearing
17 or fails to appear at a scheduled hearing, the Director on behalf of the
18 Environmental Quality Commission may issue a default order and judgment,
19 based upon a prima facie case made on the record, for the relief sought in
20 this notice. Following receipt of a request for hearing and an "Answer,"
21 Respondent will be notified of the date, time and place of the hearing.

22 ///

23 ///

24 ///

25 ///

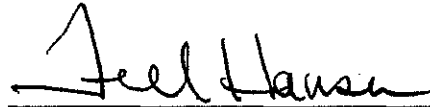
26 ///

VIII

If the one or more violations set forth in Paragraph III continue, or if any similar violation occurs, the Director will impose an additional civil penalty upon the Respondent.

SEP 8 1988

Date



Fred Hansen, Director
Department of Environmental Quality

Certified Mail P 132 861 273

CIVIL PENALTY: MITIGATING AND AGGRAVATING FACTORS
(ORS 468.130(2) and (OAR 340-12-045(1))

RESPONDENT: Arie Jongeneel dba/A.J. Dairy, Inc.

COUNTY: Marion

CASE NUMBER: WQ-WVR-88-73A

TYPE OF VIOLATION: Placement of waste into waters of the state or at a location where such waste is likely to escape into waters of the state in violation of ORS 468.720(1)(a) and (2) and a Water Pollution Control Facility Permit Condition.

PENALTY LIMITS: Minimum \$50 Maximum \$10,000
(each violation or day of violation)

1. Prior violations:

None documented.

2. History of Respondent in taking all feasible steps or procedures necessary or appropriate to correct any violation:

The Oregon Department of Agriculture (ODA) has received complaints concerning Respondent's animal waste management practices since at least 1983. ODA has corresponded with Respondent concerning the complaints on several occasions. In 1987, Respondent informed U.S. Department of Agriculture of plans to install gutters, downspouts and outlet tiles to eliminate roof run-off water from the cattle holding area. Respondent was approved for federal cost sharing for implementation of these plans. The cost sharing arrangement was cancelled in June, 1987, as the completion date for the plans had passed.

3. The economic and financial condition of the Respondent:

Unknown; considered neutral.

4. The gravity and magnitude of the violation:

ODA received complaints concerning animal waste discharges from Respondent's dairy during 1983 and 1984 and from 1987 to the present. Complainants allege Respondent is discharging waste into a roadside ditch which discharges into Bocksler Creek. Water from the creek is used for irrigation downstream from Respondent's dairy. Complainants allege that the manure contamination may result in their crops being rejected.

On July 19, 1988, investigators from ODA and the Department observed animal waste from Respondent's dairy discharging into the headwaters of Bocksler Creek at a rate of approximately 1 to 2 cubic feet per second.

Investigators noted a strong silage odor. Bloodworms, an indicator of low levels of dissolved oxygen, were evident at this location. Lab samples were taken at two locations for analysis. Lab analysis indicated that the fecal coliform count at both locations was over 600,000 colonies per 100 milliliters. The analysis also showed total suspended solids to be 5,800 milligrams per liter (mg/l) at the tile discharge sample point and to be 23,000 mg/l at the culvert discharge sample point. The biochemical oxygen demand was 240 mg/l at the tile discharge point and 3,000 mg/l at the culvert discharge point.

5. Whether the violation was repeated or continuous:

The violation occurred on one day. Complaints received by ODA indicate that discharges may have occurred in the past.

6. Whether the cause of the violation was an unavoidable accident, or negligence or an intentional act of the Respondent:

Negligent or intentional in that Respondent's herd size was expanded beyond his land's capacity to assimilate the waste produced.

7. Respondent's cooperativeness and efforts to correct the violation:

Respondent explained to investigators that his main problem was the result of oversaturating his land during land application of the waste. Respondent told investigators that he was planning to install a sump pump at the Marquam Road discharge point to prevent the discharge.

8. Any relevant rule of the Commission:

OAR 340-41-445(1) - Control of waste and activities to maintain coliform bacteria concentrations at the lowest possible levels.

OAR 340-41-445(2)(e)(B) - Fecal coliform not to exceed 400 organisms per 100 milliliters.

OAR 340-41-445(2)(f) - Bacterial pollution or other conditions deleterious ... livestock watering, irrigation, ... or other injurious activities to public health shall not be allowed.

OAR 340-41-445(2)(j) - Formation of appreciable bottom or sludge deposits not allowed.

OAR 340-41-445(2)(k) - Objectionable discoloration, scum, not allowed.

OAR 340-41-445(1) - Aesthetic conditions offensive to the human senses of sight, taste, smell or touch not allowed.

OAR 340-51-015 - Plans for expansion of existing waste facilities for confined feeding and holding operations must be approved prior to start of construction.

OAR 340-51-020 - Construction, operation and maintenance requirements for confined feeding and holding operations.

9. Any other relevant factor:

None.

I have considered the above factors in establishing the amount of Respondent's civil penalty. The major aggravating factors were the severity of the environmental affects of the manure on the stream, the inadequacy of Respondent's current waste management system to properly handle the quantity of animal waste produced and the length of time over which the violation has occurred.

SEP 8 1988

Date



Fred Hansen
Director

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY,
OF THE STATE OF OREGON

DEPARTMENT ORDER
No. WQ-WVR-88-73B
YAMHILL COUNTY

Department,

v.

ARIE JONGENEEL,
dba/A.J. Dairy, Inc.

Respondent.

Based upon the prima facia case made on the record before me:

I

Pursuant to Oregon Revised Statutes (ORS) Chapters 183 and 468, and Oregon Administrative Rules Chapters 340, Division 11, the Department makes the following findings:

A. Respondent, Arie Jongeneel, doing business as A.J. Dairy, Inc., owns or operates a dairy in Mount Angel, Marion County, Oregon on property described as 16153 Marquam Road. Respondent currently maintains a herd of approximately 1,300 Holstein heifers.

B. On or about November 11, 1987, a Water Pollution Control Facility General Permit (Permit) for a Confined Feeding and Holding Operation was issued to A.J. Dairy, Inc., an Oregon Corporation. The dairy's Facility I.D. Number is 103339.

C. In or about January, 1988, A.J. Dairy, Inc., went through shareholder dissolution and the corporation became inactive.

///

///

1 D. The dairy generates waste water consisting of manure washed down
2 from barn and milking parlors, silage pit drainage, livestock drinking water
3 overflow and precipitation runoff contaminated with manure.

4 E. Respondent's wastewater control facilities consist of an animal
5 waste holding pond, a solid separator, two reception pits and two pumps.
6 Respondent has over 500 feet of concrete tile underground. Overflow from
7 land application, the holding pond and reception pits discharge into the
8 tile which discharges into Bocksler Creek at Marquam Road.

9 F. The Oregon Department of Agriculture (ODA) has received complaints
10 concerning the discharge of manure from Respondent's dairy in 1983 and 1984,
11 and from 1987 until the present.

12 G. On or about July 19, 1988, investigators from ODA and the
13 Department responded to a complaint filed on July 14, 1988, that Respondent
14 was discharging manure into Bocksler Creek. Investigators observed a
15 twelve inch concrete tile from Respondent's dairy discharging contaminated
16 waste water into the headwaters of Bocksler Creek. The Department and ODA
17 took samples of the discharge and the creek. Investigators discussed the
18 discharge with Respondent. Respondent stated that the discharge resulted
19 from manure infiltrating into underground field tiles on fields that have
20 been irrigated with manure. Respondent stated that when land application
21 stops, the discharge stops.

22 H. On or about August 17, 1988, the Department received lab analysis
23 of the above samples. The samples indicate a fecal coliform count of over
24 600,000 colonies per 100 milliliters, total suspended solids of 5,800 and
25 23,000 milligrams per liter (mg/L) and biochemical oxygen demand of 240 and
26 3,000 mg/L.

1 I. Respondent has inadequate acreage to effectively perform land
2 application of manure produced by the dairy. The discharges described in
3 Paragraph G. above are the result of Respondent oversaturating his land with
4 more manure during land application than the land can handle.

5 J. Respondent is responsible for the discharge described in Paragraph
6 G. above. As such, Respondent has violated ORS 468.720(1)(a) and (2) and
7 Condition 1 of the Permit in that Respondent caused or allowed waste,
8 specifically manure, to enter Bocksler Creek, waters of the state, or placed
9 waste in a location where it is likely to escape into waters of the state by
10 any means.

11 K. Respondent has not designed, operated or maintained adequate waste
12 control facilities for Respondent's confined feeding and holding operation,
13 pursuant to OAR 340-51-015 and OAR 340-51-020.

14 L. If Respondent continues to operate the dairy without designing,
15 constructing, maintaining and operating adequate waste control facilities,
16 Respondent will continue to place manure in a location where the manure or
17 contaminated drainage from the manure will be carried into waters of the
18 state causing pollution thereof.

19 II

20 Based upon the findings, it is hereby ordered that:

21 A. Respondent shall immediately eliminate all direct and indirect
22 discharges of animal waste to waters of the state. Respondent shall verify
23 to the Department in writing with ten (10) days of the effective date of
24 this order that the discharges have been eliminated.

25 ///

26 ///

1. B. Respondent shall implement interim control measures as follows:
- 2 1. By September 15, 1988, Respondent shall submit to the
3 Department for approval plans for a proposed sump pump and pit at
4 Marquam Road; and
- 5 2. By October 1, 1988, Respondent shall complete construction of
6 the sump pump and pit at Marquam Road and pump all contaminated
7 flows into the manure storage pond for reirrigation.
- 8 C. By October 15, 1988, Respondent shall submit to the Department for
9 approval plans for the following:
- 10 1. Balancing of the herd size with suitable acres available for
11 land application of animal waste;
- 12 2. Reworking of the catch basin and storm water collection
13 system adjacent to the reception pit on the north end of the
14 buildings;
- 15 3. Eliminating contaminated surface water runoff;
- 16 4. Containing subsurface tile line discharges associated with
17 his land application irrigation system; and
- 18 5. Installing a drain line from the silage bunker to the
19 reception pit.
- 20 D. The above plans shall ensure that:
- 21 1. There are no hydraulic connections between the field tiles
22 and holdings ponds; and
- 23 2. There are not connections with high pressure irrigation lines
24 and subsurface tile lines.

25 ///

26 ///

1 E. By December 15, 1988, Respondent shall complete construction of
2 all approved plans and shall file with the Department an operation and
3 maintenance plan for the completed facilities. The operation and
4 maintenance plan shall describe how Respondent intends to prevent the escape
5 of animal waste from his operation to waters of the state.

6 F. By March 1, 1989, Respondent shall balance his herd size with
7 suitable acres available for land application of animal waste in accordance
8 with the plan referred to in Paragraph II.B..

9 III

10 Respondent has the right, if Respondent so requests, to have a formal
11 contested case hearing before the Environmental Quality Commission or its
12 Hearing Officer regarding the matters set out above pursuant to ORS
13 454.635(3)-(5), ORS Chapter 183, and OAR Chapter 340, Division 11, at which
14 time the Respondent may be represented by an attorney and subpoena and
15 cross-examine witnesses. That request must be made in writing to the
16 Director and must be received by the Director within twenty (20) days from
17 the date of mailing of this and Order (or if not mailed, the date of
18 personal service) and must include a written "Answer" to the charges
19 contained in this and Order. In the written "Answer", Respondent shall
20 admit or deny each allegation of fact contained in this Department Order,
21 and Respondent shall affirmatively allege any and all affirmative claims or
22 defenses to the Order that Respondent may have and the reasoning in support
23 thereof. Except for good cause shown:

24 A. Factual matters not controverted shall be presumed admitted;

25 B. Failure to raise a claim or defense shall be presumed to be a
26 waiver of such claim or defense:

1 C. Evidence shall not be taken on any issue not raised in the Notice
2 and Order, or in the "Answer."

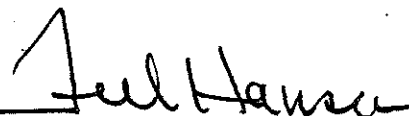
3 Following receipt of a request for hearing and an "Answer," Respondent
4 will be notified of the date, time, and place of the hearing.

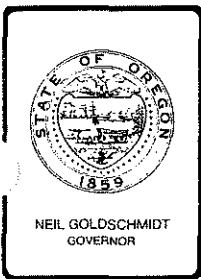
5 IV

6 If Respondent fails to file a timely "Answer" or request for hearing,
7 the Order contained in Paragraph II above shall become final and
8 enforceable Order of the Environmental Quality Commission automatically by
9 operation of law without any further action or proceeding. If the Order
10 becomes final by operation of law, the right to judicial review, if any, is
11 outlined within ORS 183.480.

12
13 SEP 8 1988

14 Date


15 Fred Hansen
16 Director



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

TO: Environmental Quality Commission DATE: September 8, 1989

FROM: Director

SUBJECT: Request for Approval of Settlement Agreement in Case No. AQOB-CR-89-10, Marvin Mix dba/Marvin's Gardens

On May 3, 1989, the Department assessed Respondent a civil penalty of \$800 for open burning a pile of land clearing debris, pine branches and wooden boards in Bend. On May 8, 1989, Respondent sent the Department a letter requesting a contested case hearing and informal settlement discussion.

Larry Cwik of the Department's Enforcement Section held an informal discussion of the violation with Mr. Mix by telephone on June 5, 1989. This was followed by a telephone conference between Larry Edelman, the Department's Attorney; Linda Zucker, the Commission's Hearings Officer; and Mr. Mix, the Respondent; on June 23, 1989. Following these discussions, the Department offered to mitigate the penalty to \$600 on July 5, 1989, based on the understanding that the violation was negligent and not intentional. In response, Respondent signed and returned the attached Stipulation and Final Order and enclosed a check for \$600.

I believe that the circumstances of Respondent's violation were such that Respondent's violation was not intentional but rather negligent and that these circumstances justify the mitigation of the penalty to \$600.

The civil penalty assessment action, settlement correspondence, and the proposed Stipulation and Final Order are attached for your review and consideration.

I recommend Commission approval of this settlement proposal. If you agree, please sign and date Stipulation and Final Order No. AQOB-CR-89-10.

Fred Hansen

Attachments
Larry Cwik:b
229-5728
July 28, 1989
GB8766

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

3 DEPARTMENT OF ENVIRONMENTAL)
4 QUALITY, OF THE STATE OF)
5 OREGON,)
6 Petitioner,) STIPULATION AND FINAL ORDER
7) No. AQOB-CR-89-10
8) Deschutes County
9 v.)
10)
11 MARVIN MIX, dba)
12 MARVIN'S GARDENS,)
13)
14 Respondent.)

10 1. On May 3, 1988, the DEQ issued a Notice of Assessment
11 of Civil Penalty to Respondent assessing an \$800.00 civil
12 penalty for open burning of demolition waste in violation of
13 OAR 340-23-055(4).

14 2. Respondent filed a timely Answer and requested a
15 contested case hearing.

16 3. On June 23, 1987, DEQ and Respondent discussed
17 settlement of the contested case hearing.

18 4. Respondent and DEQ now wish to settle the contested
19 case.

20 5. Respondent stipulates that DEQ and the Commission
21 have jurisdiction over the subject matter and the parties in
22 this action, and Respondent waives any right to contest this
23 Stipulation and Final Order.

24 6. Respondent hereby waives a contested case hearing on
25 Case No. AQOB-CR-89-10.

26 / / /

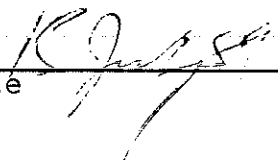
1 9. Respondent admits the violation alleged in DEQ's
2 Notice of Assessment of Civil Penalty, but denies that the
3 violation was intentional.

4 NOW, THEREFORE, the parties agree to entry of the
5 following Final Order:


6 A. Subject to approval by the Environmental Quality
7 Commission, the civil penalty shall be mitigated to \$600.00
8 payable upon signing of this Stipulation and Final Order.

9 B. DEQ reserves the right to enter future orders or
10 assessment of civil penalties against Respondent for any
11 subsequent violations of DEQ's open burning regulations.

12 C. Respondent acknowledges that it has actual notice of
13 the contents and requirements of this Stipulation and Final
14 Order and that failure to fulfill any of the requirements
15 hereof would constitute a violation of this Stipulation and
16 Final Order.

17
18 _____
19 Date 

RESPONDENT

MARVIN MIX 

20
21
22 _____
Date

DEPARTMENT OF ENVIRONMENTAL QUALITY

FRED HANSEN, DIRECTOR

23 FINAL ORDER

24 IT IS SO ORDERED:

25 ENVIRONMENTAL QUALITY COMMISSION
26 _____
Date William P. Hutchison, Jr.
 Chairman



DEPARTMENT OF JUSTICE

PORTLAND OFFICE
1515 SW 5th Avenue
Suite 410
Portland, OR 97201
Telephone: (503) 229-5725
FAX: (503) 229-5120

REGIONAL OPERATIONS DIVISION
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
JUL 11 1989

July 5, 1989

Marvin Mix
dba Marvin's Gardens
2155 N.E. 6th Street
Bend, OR 97701

Re: DEQ v. Marvin Mix
No. AQOB-CR-89-10

Dear Mr. Mix:

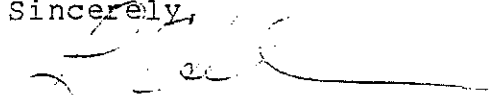
After our conference call of June 23, 1989, I conveyed to the Department of Environmental Quality (DEQ) your offer to settle the above-referenced open burning matter by paying a civil penalty of \$500.00. I informed the DEQ that your position is that the violation was not intentional.

DEQ believes the violation was at least negligent as evidenced by the photographs showing a large quantity of boards being burned on your property at the time of the alleged violation. Negligence is an aggravating factor under DEQ's civil penalty rules and results in an additional \$100.00 penalty assessment above the base penalty amount. OAR 340-12-042(E). DEQ, therefore, will approve a settlement of \$600.00, and, if you accept, will recommend approval of such a settlement to the Environmental Quality Commission.

Enclosed is a proposed Stipulation and Final Order. If it is acceptable to you, please sign it and return to me within 7 days of receipt. If these settlement terms are not acceptable to you, DEQ will proceed to hearing.

Thank you for your cooperation.

Sincerely,


Larry Edelman
Assistant Attorney General

LE:aa #5281L
Enclosure

cc: Tom Bispham, Division Administrator
DEQ Regional Operations
Larry Cwik w/o enc

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: June 5, 1989

TO: File, Marvin Mix, dba Marvin's Gardens

FROM: ^{LC} Larry Cwik, Enforcement

SUBJECT: Informal Discussion of Case with Marvin Mix

After first discussing Marvin Mix's appeal in this case with ^{Van Kollias and} Larry Edelman, DOJ, I talked with Marvin Mix by telephone this morning. I explained that this was his informal opportunity to explain what happened, and to give additional information, beyond what was in his Answer, prior to a contested case hearing.

Concerning the March 1989 violation, he said that he only asked Leroy Fasset to burn the lumber to help the environment, through using it as kindling to help the brush burn with less smoke. I said we had slides showing a great quantity of boards with only a little brush, and it was difficult to see that the boards were only for kindling. He said he was doing what he thought was best for the environment. The brush he burned consisted of diseased trees from Mix's property and two trees from the SAIF building in Bend.

I asked if he called the fire department to ask about burning the boards. He replied no, he had not; he has burned there for 30 years, and he has never called to check on any burning, he said. He also mentioned that he had moved to that property from another location outside Bend's city limits, and maybe that caused a change in the rules that governed his burning. He said he was not aware of the Department's open burning rules when he burned.

He also said that the burn was on Farm Credit Protection Association property and that the tax lot cited in the notice was not correct.

Mix also expressed frustration that Fred Brown, CR, had seemed to him to convey an indifference to Mix's claims that information in Fred's 3/27/89 Notice of Noncompliance (NON) was incorrect when Mix called and talked to Fred. He inferred that Fred was not interested in understanding the facts as Mix perceived them, and that we would just wait and see what happened with the case.

Concerning his 1988 open burning, Mix at first denied that he had talked to anyone at the fire department about the burn. He said the burn was on another property. Someone else had done it. He mentioned Clearwater Environmental Growers as the responsible party; he did not have the name of the person there who had done

Memo to: File, Marvin Mix, dba Marvin's Gardens
June 5, 1989
Page 2

it. He said a neighbor came over and said he had just been cited for burning (Mix was not sure if it was the police or the fire department which cited his neighbor). I said that our information from the fire department was that one of their staff had talked to Mix that day about open burning. Mix then said that he had an open burn on the same day, but that it was just pine needles. He said that he had talked to the fire department about the burn by phone. I then said that our information was that the fire department staff was out at the site on the day of the burn and that Mix and he talked then and there. Mix then said that he had talked to someone who had come by about his burn, but he did not know if it was someone from the fire department. That person had told him that burning plastic was prohibited. Mix responded that he was only burning pine needles, and the person left. My impression was that Mix seemed to change his story as he went along, as I offered new information.

He said he has never burned plastics. He has used a dump box for all his plastic pots, etc. It costs \$35/haul, and is picked up once or twice a week. He said that he had not known of the Department's open burning rules prior to Fred's 3/27/89 NON.

Regarding his 1982 open burning, for which he was sent a Notice of Violation, he said that he recalls that it resulted from a broken fuel line, which then ignited. I said that the Notice mentioned that wood scraps and plastic were burned. He said this was incorrect. He said he does not recall receiving the Notice of Violation.

Mix said that he will not open burn anymore. He has recently sold his land where he had been burning.

I asked if he had any additional information that he wanted to present for consideration for mitigating his penalty. Specifically, I asked if he had any information on cooperativeness in correcting the violation, or if his financial condition would make it difficult for him to pay the penalty. On cooperativeness, he said that he could meet at the site and show the remnants of the old open burns on a neighboring property, where polyvinyl chloride plastic pipe melt remained. On economic condition, Mix said that he was struggling to pay bills. I mentioned that he could submit financial information for us to consider, including tax returns. He said that he did not have anything that would stand up, and so he would not be submitting anything.

He said that he was reluctant to pay the penalty, because we had made errors, and that he wanted to make his point by appealing. I said that we would be meeting on July 6th for a contested case hearing, unless we could confirm his information about the burns.

Memo to: File, Marvin Mix, dba Marvin's Gardens
June 5, 1989
Page 3

with the fire department, which differed from the information that they had already provided to us.

He said he hoped we could avoid the need to have a hearing, and asked that we let him know RE the scheduled hearing, one way or another. I said that I would.

cc: Larry Edelman, Assistant Attorney General, Dept. of Justice
Central Region, DEQ
Air Quality Division, DEQ
Van Kollias
Tim Crescenzi, Bend Fire Dept.

Marvin's Gardens



Marvin
Mix Co.

J. May, '89

Hearing Officer
Environmental Quality Commission
811 SW 6th Ave.
Portland, Oregon 97204

Notice # AQOB-CR-89-1
Deschutes Co.

Request for a contested case hearing + request
for an informal discussion of the hearing request + answer +

Class 2 Violation:

I wasn't burning "Demolition Waste" or
"Land clearing Debris"

Mr. Fred Brown of the DEQ made incorrect
assumptions + suppositions on his 22 March 89
site visit + reports.

I started a fire by burning beetle killed
Pine trees, limbs + needle debris (this is the recommended
Landscaping • Sprinkler Systems • Nursery • Maintenance



Marvin
Mix Co.

Beetle Control Measure of our county agents) & prunings from the Juniper trees along my drive & in my yard. (I cut the lower limbs off for better viewing & easier mowing - the scores are feasible for inspection if you need.)

The green juniper smoked & wasn't burning too well, so, I told Leroy Fasseh, who was burning dry bench lumber in his fireplace, to add some of the "kindling" to my fire to aid combustion. This heated the fire & stopped the smoke from the green prunings from my yard.

This is not "land clearing debris" or "demolition waste" in my fire & what Leroy F. added helped the burn & the environment!



**Marvin
Mix Co.**

Page 3

Your facts & information on previous notices is incorrect & I believe irresponsible!

Your 1988 Fire Dept. reports of burning plastic was made on the adjoining property to the west of my land. This land belonged to the Farm Credit Services Co (P.C.A.) and their renter was the person sited for burning plastics. the instruction etc. that you aledgeto was with someone else.

Sincerely,
Marvin D Mix



Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

MAY 3 1989

CERTIFIED MAIL P 194 974 148

Marvin Mix
dba/Marvin's Gardens
2155 N.E. Sixth Street
Bend, OR 97701

Re: Notice of Civil Penalty Assessment
Case No. AQOB-CR-89-10
Deschutes County

On March 22, 1989, Mr. Fred Brown of the Department's Central Region investigated open burning on the open lot adjacent to 2155 N.E. Sixth Street, Bend. Mr. Brown observed a burning pile of land clearing debris, pine branches and wooden boards, approximately 2' high by 6' to 8' long. The Department understands that you started the fire by burning the land clearing debris, demolition waste, and then Mr. Leroy Fasset added the boards to the burn, at your request. Mr. Fasset had asked you if a permit was needed to open burn the boards, and you told him no. The boards had been shelving in greenhouses at your site and were demolition waste, as they were removed in preparation for demolition of the greenhouses.

The Department sent you a Notice of Violation for open burning at your site in 1982. That Notice informed you that the Department's rules prohibited the open burning of construction or demolition debris within three miles of the city limits of Bend, unless you first obtain a permit from the Department. In 1988, the Bend Fire Department responded to a complaint of open burning of plastic at your site and informed you of the regulations. You should know the Department's open burning rules, as you were informed of them on these two prior occasions.

Your open burning of demolition debris within three miles of the city limits of Bend on March 22, 1989 violated the Department's rules and is subject to a civil penalty. Your violation is a Class II violation and is subject to a civil penalty for each day of each violation.

In the enclosed notice, I have assessed you a civil penalty of \$800 for your violation. Civil penalties are determined pursuant to Oregon Administrative Rule (OAR) 340-12-045. The Department's findings and civil penalty determination are attached to the Notice as Exhibit 1. A copy of our civil penalty rules is also enclosed.

The penalty is due and payable. Appeal procedures are outlined within Section VI of the Notice. If you fail to either pay or appeal the penalty within twenty (20) days, a Default Order and Judgment will be entered against you.

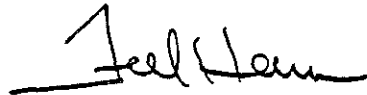
Marvin Mix
dba/Marvin's Gardens
Page 2

If you wish to discuss this matter, or if you believe there are mitigating factors which the Department might not have considered in assessing the civil penalty, you may request an informal discussion by attaching your request to your appeal. Your request to discuss this matter with the Department will not waive your right to a contested case hearing.

I look forward to your cooperation and efforts to comply with the open burning rules in the future. However, if a similar violation does occur, it may well result in the assessment of a larger penalty.

If you have any questions about this action, please contact Mr. Larry Cwik with the Department's Enforcement Section in Portland at 229-5728 or toll-free at 1-800-425-4011.

Sincerely,



Fred Hansen
Director

FH:lc:b
GB8446L
Enclosures

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

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY) NOTICE OF ASSESSMENT
OF THE STATE OF OREGON,) OF CIVIL PENALTY
) No. AQOB-CR-89-10
Department,) DESCHUTES COUNTY
v.)
MARVIN MIX,)
DBA/MARVIN'S GARDENS,)
Respondent.)

I. AUTHORITY

This notice is issued to Respondent, Marvin Mix, doing business as Marvin's Gardens, by the Department of Environmental Quality (Department) pursuant to Oregon Revised Statutes (ORS) 468.125 through 468.140, ORS Chapters 183 and 466, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 11 and 12.

II. VIOLATIONS

CLASS I VIOLATIONS:

None cited.

CLASS II VIOLATIONS:

1. On or about March 22, 1989, Respondent violated OAR 340-23-055(4) in that Respondent open burned demolition waste, land clearing debris and wood from a greenhouse, on property Respondent controlled adjacent to 2155 N.E. Sixth Street, Bend, Deschutes County, property otherwise described as Tax Lot 700, Section 28B, Township 17 South, Range 12 East, Willamette Meridian, Oregon.

CLASS III VIOLATIONS:

None cited.

1 III. ASSESSMENT OF CIVIL PENALTIES

2 The Director imposes a civil penalty of \$800 upon Respondent for the
3 violation cited in Section II above. The findings and determination of
4 Respondent's civil penalty pursuant to OAR 340-12-045 are attached and
5 incorporated as Exhibit No. 1.

6 IV. EXCEPTION TO ADVANCE NOTICE

7 The penalties are being imposed without advance notice pursuant to OAR
8 340-12-040(3)(b)(D) as the air contamination source would not normally be in
9 existence for five days.

10 V. PAYMENT OF CIVIL PENALTY

11 The total penalty is now due and payable. Respondent's check or money
12 order in the amount of \$800 should be made payable to "State Treasurer,
13 State of Oregon" and sent to the Business Office, Department of
14 Environmental Quality, 811 S.W. Sixth Avenue, Portland, Oregon 97204.

15 VI. OPPORTUNITY FOR CONTESTED CASE HEARING

16 Respondent has the right, if Respondent so requests, to have a formal
17 contested case hearing before the Environmental Quality Commission or its
18 hearing officer regarding the matters set out above pursuant to ORS Chapter
19 183, ORS 468.135(2) and (3), and OAR Chapter 340, Division 11 at which time
20 Respondent may be represented by an attorney and subpoena and cross-examine
21 witnesses. That request must be made in writing to the Director, must be
22 received by the Commission's hearings officer within twenty (20) days from
23 the date of mailing of this Notice (or if not mailed, the date of personal
24 service), and must be accompanied by a written "Answer" to the charges
25 contained in this Notice. In the written "Answer," Respondent shall admit
26 or deny each allegation of fact contained in this Notice and Respondent

1 shall affirmatively allege any and all affirmative claims or defenses to the
2 assessment of this civil penalty that Respondent may have and the reasoning
3 in support thereof. Except for good cause shown:

4 1. Factual matters not controverted shall be presumed admitted;

5 2. Failure to raise a claim or defense shall be presumed to be a
6 waiver of such claim or defense;

7 3. New matters alleged in the "Answer" shall be presumed to be denied
8 unless admitted in subsequent pleading or stipulation by the Department or
9 Commission.

10 Send the request for hearing and "Answer" to the: Hearings Officer,
11 Environmental Quality Commission, 811 S.W. Sixth Avenue, Portland, Oregon
12 97204. Following receipt of a request for hearing and an "Answer,"
13 Respondent will be notified of the date, time and place of the hearing.

14 If Respondent fails to file a timely "Answer" or request for hearing,
15 the Director on behalf of the Commission may issue a default order and
16 judgment, based upon a prima facie case made on the record, for the relief
17 sought in this Notice.

18 Failure to appear at a scheduled hearing or meet a required deadline
19 may result in a dismissal of the contested case.

20 VII. OPPORTUNITY FOR INFORMAL DISCUSSION

21 In addition to filing a request for a contested case hearing,
22 Respondent may also request an informal discussion with the Department by
23 attaching a written request to the hearing request and "Answer".

24 ///

25 ///

26 ///

VIII. CONSEQUENCES OF ADDITIONAL VIOLATIONS

If any violation cited in Section II continues, or if any similar violation occurs, the Director may impose additional civil penalties upon the Respondent.

MAY 3 1989

Date

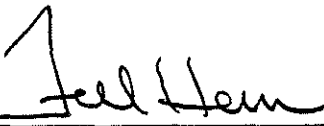

Fred Hansen, Director

EXHIBIT 1

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY
PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-12-045

VIOLATION NO: 1 (open burning of demolition waste in the city of Bend)

CLASSIFICATION: The violation is a Class II violation pursuant to OAR 340-12-050(2)(e).

MAGNITUDE: The magnitude of the violation is minor as the burning pile was approximately 2' high by 6-8' long and there is no evidence that smoke from Respondent's open burning caused an environmental impact.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(.1 \times BP)(P+H+E+O+R+C)]$.

"BP" is the base penalty which is \$500 for a Class II, minor magnitude violation in the matrix listed in OAR 340-12-042(1).

"P" is Respondent's prior violation(s) and receives a value of 0 as the Respondent has no prior violations as defined in OAR 340-12-030(13).

"H" is the past history of Respondent in taking all feasible steps or procedures necessary to correct any prior violation and receives a value of 0 as Respondent has no prior violations as defined in OAR 340-12-030(13).

"E" is the economic condition of Respondent and receives a value of 0 as the Department has insufficient information on which to base a finding.

"O" is whether or not the violation was a single occurrence or was repeated or continuous during the period of the violation and receives a value of 0 as this was a single occurrence.

"R" is the cause of the violation and receives a value of 6 as Respondent's open burning was intentional. The Department sent a Notice of Violation to Respondent in 1982 for open burning. This informed Respondent that the Department's rules prohibited the burning of demolition waste within three miles of the city limits of Bend without a permit. In 1988, the Bend Fire Department responded to open burning at Respondent's site and also explained the Department's open burning requirements. Respondent knew or should have known of the Department's open burning requirements and what was necessary to comply with them.

"C" is Respondent's cooperativeness in correcting the violation and receives a value of 0 as the Department has insufficient information on which to base a finding.

PENALTY CALCULATION:

Penalty = $BP + [(.1 \times BP)(P+H+E+O+R+C)]$
= \$500 + $[(.1 \times 500)(0+0+0+0+6+0)]$
= \$500 + $[(50)(6)]$
= \$500 + \$300
= \$800



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Fred Hansen, Director

Subject: Proposed Settlement Agreement
DEQ v. Safety-Kleen Corp. (Springfield Facility)
Case No. HW-WVR-89-02

On January 30, 1989, the Department assessed a \$11,800 civil penalty against Safety-Kleen Corp. (Respondent) for several violations of the Department's hazardous waste management regulations. On February 15, 1989, Respondent contested the civil penalty.

In subsequent discussions, attorneys for the Department and Respondent have negotiated the proposed settlement agreement set forth in the attached Stipulation and Final Order. Under terms of the proposed settlement agreement, Respondent agrees to pay a \$7,750 civil penalty and admit some of the cited violations. The Department agrees to dismiss some of the violations. Other cited violations are settled as disputed claims, without admission of violation.

The civil penalty notice, answer, and settlement correspondence are also attached for your review.

The proposed settlement agreement is protective of public health and the environment, and I recommend Commission approval. If you agree, please sign and date the Stipulation and Final Order.

Fred Hansen

Attachment
Larry M. Schurr
229-6932
August 8, 1989

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL)	
QUALITY, OF THE STATE OF)	
OREGON,	)	No. HW-WVR-89-02
)	
Department	)	STIPULATION AND
	)	FINAL ORDER
v.)	
)	
SAFETY-KLEEN CORP.,)	
)	
Respondent.)	

1. On January 30, 1989, the Department of Environmental Quality (Department) issued a Compliance Order and assessed a Civil Penalty in Case No. HW-WVR-89-02 against Safety-Kleen Corporation regarding its Springfield, Oregon hazardous waste management facility.

2. On February 13, 1989, Respondent requested a contested case hearing in the matter.

3. The parties have since met to discuss the alleged violations. Respondent presented several factors in mitigation of the assessed penalty.

4. The parties now wish to compromise and settle the matter.

NOW THEREFORE, it is stipulated and agreed that:

I

Respondent admits the violations alleged by the Department in paragraphs 1, 2, 7, 8, 12 and 14 of the Determination of Violations cited in the January 30, 1989 Notice of Violation, Compliance Order and Assessment of Civil Penalty. (NOTICE) The

Department dismisses the violations alleged in paragraphs 4, 5, 10, 11, 13 and 15 of the Notice. Respondent makes no admission with respect to the remaining violations alleged.

II.

Subject to approval by the Commission, the parties agree to a \$7,750 civil penalty payable by Respondent upon entry of this Order by the Commission. Payment shall be made to "State Treasurer, State of Oregon" and shall be sent to the Director of the Department of Environmental Quality, 811 S.W. 6th Avenue, Portland, Oregon 97204.

III.

Nothing herein shall constitute a waiver of DEQ or Commission authority to take any actions in response to future or continuing violations by Safety-Kleen Corporation, however, payment of the penalty provided herein shall relieve Safety-Kleen of all civil liability under Oregon hazardous waste laws for all violations specifically alleged in the January 30, 1989 enforcement action.

IV.

The Department hereby waives its claim to interest on the penalty from the date of Notice through the date which the order is signed below.

V.

The Commission finds that the Department and Commission have satisfied all the requirements of law and the mitigation

/ / /

2 - STIPULATION AND FINAL ORDER
(LE:aa 6221H)

herein is consistent with public health and safety and is in the public interest.

RESPONDENT

SAFETY-KLEEN CORPORATION

7/17/89
Date

SCOTT E. FORE
(Name SCOTT E. FORE)
(Title VICE PRESIDENT)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Date

Fred Hansen, Director

///

///

///

///

///

///

///

///

///

///

///

///

///

///

3 - STIPULATION AND FINAL ORDER
(LE:aa 6221H)

FINAL ORDER

IT IS SO ORDERED:

ENVIRONMENTAL QUALITY COMMISSION

Date William P. Hutchison, Jr., Chairman

Date Wallace B. Brill, Member

Date Emery N. Castle, Member

Date Genevieve Pisarski Sage, Member

Date William Wessigner, Member

aa/6221H

LMS

LAW OFFICES OF

EISENHOWER, CARLSON, NEWLANDS, REHA, HENRIOT & QUINN

JAMES F. HENRIOT
H. EUGENE QUINN
RONALD A. ROBERTS
S. ALAN WEAVER
RICHARD D. TURNER
RICHARD A. JESSUP
MICHAEL R. THORP
DONALD L. ANDERSON
JAMES M. HUSHAGEN
KATHRYN J. NELSON

1201 PACIFIC AVE.
FIRST INTERSTATE PLAZA — SUITE 1200
TACOMA, WASHINGTON 98402
(206) 572-4500
FAX (206) 272-5732

600 UNIVERSITY ST.
2501 ONE UNION SQUARE
SEATTLE, WASHINGTON 98101
(206) 382-1830

ROBERT G. CASEY
TERRENCE J. DONAHUE
CHARLES K. DOUTHWAITE
MARK J. DYNAN
BARBARA K. HEADLEY
GREGORY J. MURPHY
JACQUELYN M. AUFDERHEIDE
REBECCA D. CRAIG
RICHARD D. WALL
KERRY E. MANN
OF COUNSEL
C. JOHN NEWLANDS

PLEASE REPLY TO TACOMA OFFICE

June 1, 1989

Mr. Larry Edelman
1515 S.W. 5th Ave.
Suite 410
Portland, Oregon 97201

Re: Department of Environmental Quality v. Safety-Kleen Corporation No. HW-WVR-89-02

Dear Mr. Edelman:

This note is to confirm that you offered, on behalf of the Oregon Department of Environmental Quality, a settlement of the above-referenced matter.

This note is to inform that you the offer is accepted. The Department, as I understand it, will forward a simple stipulation to me as Safety-Kleen's attorney to complete settlement. We will review that stipulation and if it is acceptable, have it executed by Safety-Kleen.

As I understand it, the terms of the settlement are as follows. The stipulation should reflect these terms.

<u>Violation</u>	<u>Settlement</u>
1. Security	\$ 100.00*
2. Inspection Records	900.00*
3. Training	200.00
4. Signs	-0-
5. Communication Device	-0-
6. Overfill Alarm	1,900.00
7. Contingency Plan	150.00*
8. Amended Contingency Plan	100.00*
9. Operating Record	500.00
10. Financial Assurance Letter	-0-
11. Container Storage	-0-

Mr. Larry Edelman
June 1, 1989
Page - 2 -

12. Container Storage Record	100.00*
13. Incompatible Waste Storage	-0-
14. Tank Assessment	3,800.00*
15. Tank Inspection Records	<u>-0-</u>
TOTAL	<u>\$7,750.00</u>

The items with an asterisk must be admitted by Safety-Kleen to complete settlement. The violations where zero is identified as settlement will be dropped.

I assume the hearing for June 6, 1989 can be cancelled. I have notified the hearing officer of the settlement.

Very truly yours,



Charles K. Douthwaite

CKD:tbs

cc: Mr. Brett McKnight
Hazardous Waste Facility
Section Manager
Oregon Department of Environmental
Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204-1390

Mr. Larry Schurr
Enforcement Section
Oregon Department of
Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204-1390

Mr. Jim Vilendre
Inspector
Oregon Department of
Environmental Quality
811 S.W. Sixth Avenue
Portland, OR 97204-1930

Mr. Larry Edelman
June 1, 1989
Page - 3 -

Mr. Richard Peoples
Environmental Manager/
Services Center
Safety-Kleen Corporation
777 Big Timber Road
Elgin, Illinois 60120

Mr. Robert P. Wachsmuth
Environmental Engineer
Safety-Kleen Corporation
2750 Thompson Creek Road
Pomona, California 91767

Mr. Henry Chock
Branch Manager
Safety-Kleen Corporation
550 Shelly Street
Springfield, Oregon 97477

3762e

VAK → LMS
✓cc L. Edelman

LAW OFFICES OF

EISENHOWER, CARLSON, NEWLANDS, REHA, HENRIOT & QUINN

JAMES F. HENRIOT
H. EUGENE QUINN
RONALD A. ROBERTS
S. ALAN WEAVER
RICHARD D. TURNER
RICHARD A. JESSUP
MICHAEL R. THORP
DONALD L. ANDERSON
JAMES M. HUSHAGEN
KATHRYN J. NELSON

1201 PACIFIC AVE.
FIRST INTERSTATE PLAZA — SUITE 1200
TACOMA, WASHINGTON 98402
(206) 572-4500
FAX (206) 272-5732

600 UNIVERSITY ST.
2501 ONE UNION SQUARE
SEATTLE, WASHINGTON 98101
(206) 382-1830

ROBERT G. CASEY
TERRENCE J. DONAHUE
CHARLES K. DOUTHWAITE
MARK J. DYNAN
BARBARA K. HEADLEY
GREGORY J. MURPHY
JACQUELYN M. AUFDERHEIDE
REBECCA D. CRAIG
RICHARD D. WALL
KERRY E. MANN

OF COUNSEL
C. JOHN NEWLANDS

PLEASE REPLY TO TACOMA OFFICE



March 30, 1989

Mr. Brett McKnight
Hazardous Waste Facility
Section Manager
Oregon Department of Environmental
Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204-1390

Mr. Larry Schurr
Enforcement Section
Oregon Department of
Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204-1390

REGIONAL OPERATIONS DIVISION
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
APR 3 1989

Re: Department of Environmental Quality v.
Safety-Kleen Corporation, No. HW-WVR-89-02

Gentlemen:

This letter is written to confirm the terms of settlement proposed orally during our meeting in Portland, March 10, 1989. I understand from a letter received by Safety-Kleen recently that DEQ is expecting written confirmation of Safety-Kleen's settlement offer.

Safety-Kleen offers to pay by way of penalties the amounts set forth below. If closure can be reached on the amount of penalty then we expect that an Administrative Order could be negotiated without particular delay. I am informed by Mr. Robert Wachsmuth, Safety-Kleen's Environmental Engineer, that Mr. Wachsmuth expects to meet the April 3 deadline for submittal of documents and data agreed to be provided during our March 10 meeting.

Mr. Brett McKnight
Mr. Larry Schurr
March 30, 1989
Page Two

The format of this offer is to list the violations, the amount of penalty proposed by DEQ, Safety-Kleen's proposal, and where there is a difference between the two proposed amounts, to provide a very short summary of Safety-Kleen's position.

Safety-Kleen offers to pay, in settlement of this matter, the following proposed amounts below:

<u>Violation</u>	<u>DEQ</u>	<u>Safety-Kleen</u>
1. Security	\$400	\$100

Rationale: \$100 is the minimum penalty allowed under OAR 340-12-068(3). Steps had been taken to improve security after DEQ's April 1988 inspection. Safety-Kleen's Branch Manager has not encountered any problems with unauthorized entry which could result from weak security.

2. Inspection Records	\$900	\$900
-----------------------	-------	-------

3. Training/Training Records	\$400	\$100
---------------------------------	-------	-------

Rationale: Safety-Kleen has provided training for personnel. Training records were available during DEQ's December 1988 inspection and were provided March 10 during our meeting. Starting January 1, 1989, Safety-Kleen provides enhanced training beyond what DEQ regulations require. \$100 is the minimum amount of penalty for this type of violation.

4. Signs	\$0	\$0
----------	-----	-----

5. Communication Device	\$100	\$0
-------------------------	-------	-----

Mr. Brett McKnight
Mr. Larry Schurr
March 30, 1989
Page Three

<u>Violation</u>	<u>DEQ</u>	<u>Safety-Kleen</u>
<u>Rationale:</u>	EPA's regulations permit voice communication of hazards. Safety-Kleen's Springfield facility is small. The company contends voice communication could effectively warn of problems.	
6. Overfill Alarm	\$3,800	\$1,000
<u>Rationale:</u>	An operating procedure, i.e., regular dipstick measurement of the tanks, has been in place and has prevented tank overfill problems. An operable tank overfill alarm has been installed. Safety-Kleen contends DEQ's regulations do not clearly require an overfill alarm as long as an operating procedure is in place to prevent overfill. \$1,000 is offered as a compromise to settle a disputed matter.	
7. Contingency Plan	\$150	\$150
8. Amended Contingency Plan	\$100	\$100
9. Operating Record	\$900	\$0
<u>Rationale:</u>	An operating record complying with DEQ's regulations was in place. Mr. Wachsmuth will supply the components of the company's operating record for three dates selected during the March 10 meeting.	
10. Financial Test Letter	\$100	\$0
<u>Rationale:</u>	No violation occurred. The Chief Financial Officer's letter contained the appropriate language for assurance of closure. A certificate of insurance was provided to document protection against third party liability.	

Mr. Brett McKnight
Mr. Larry Schurr
March 30, 1989
Page Four

<u>Violation</u>	<u>DEQ</u>	<u>Safety-Kleen</u>
11. Container Inspection Records	\$0	\$0
12. Container Storage	\$100	\$100
13. Incompatible Waste Storage	\$150	\$0

Rationale: Mr. Wachsmuth will supply data to show no incompatible wastes were stored at the Springfield facility.

14. Tank Assessment	\$3,800	\$3,800
15. Tank Inspection Records	\$900	\$0

Rationale: This violation appears the same as No. 2. Safety-Kleen has agreed to pay \$900 in settlement of violation No. 2 and does not believe an additional payment here should be required.

TOTALS:	<u>\$11,800</u>	<u>\$6,250</u>
---------	-----------------	----------------

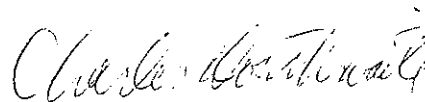
Safety-Kleen does not admit any violation or waive any right to contest these violations at a hearing before the Oregon Environmental Quality Commission by making this offer of settlement. Safety-Kleen does urge DEQ to accept this offer. While a number of violations are alleged, none of them, in the company's view, is of a magnitude to threaten public health or the environment. We believe settlement,

Mr. Brett McKnight
Mr. Larry Schurr
March 30, 1989
Page Five

based on compromise, is the best approach for Safety-Kleen and
for the State of Oregon.

We hope to hear from you.

Very truly yours,



Charles K. Douthwaite

CKD:sjb
3600e

cc: Mr. Jim Vilendre
Inspector
Oregon Department of
Environmental Quality
811 S.W. Sixth Avenue
Portland, OR 97204-1390

Mr. Richard Peoples
Environmental Manager/
Services Center
Safety-Kleen Corporation
777 Big Timber Road
Elgin, IL 60120

Mr. Robert P. Wachsmuth
Environmental Engineer
Safety-Kleen Corporation
2750 Thompson Creek Road
Pomona, CA 91767

Mr. Henry Chock
Branch Manager
Safety-Kleen Corporation
550 Shelly Street
Springfield, OR 97477



February 27, 1989
RPW 89-177

Mr. Fred Hansen
Director
Hazardous Waste Section
Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, OR 97204-1590

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
MAR 03 1989
OFFICE OF THE DIRECTOR

RE: Notice of Violation
ORD 000712067, Springfield, OR
Inspection April 4, 1988 and December 9, 1988

Dear Mr. Hansen:

The purpose of this letter is to respond in writing to the matters set forth in your report of January 30, 1989. Our response is a good faith effort to resolve your agency's concerns. It is our intention and expectation that nothing in this letter shall be construed as an admission or used against the Company in any administrative or judicial proceeding. The Company expressly reserves any and all defenses it might have to the matters set forth in your letter and does not intend to waive any of these defenses by making this response.

The following is submitted in response to your inspection of April 4, 1988, and December 9, 1988:

1. In response to the December 9, 1988, inspection the north gate will be repaired within 30 days. Photographs and copy of the work order will be submitted to certify compliance.
2. The branch manager will search again for past facility inspection records. If after exhausted search is undertaken and records are not found, he will submit a certification letter stating that records do not exist. This will be given to you in the March 10, 1989, meeting.
3. Up-to-date training records and any former employee training records will be submitted to you at the March 10, 1989, meeting by Henry Chock, Branch Manager.
4. The "No Smoking" sign violation was resolved in the December 9, 1988, inspection.

Mr. Fred Hansen
Page 2
February 27, 1989

5. A telephone has been installed in the drum storage area. Photographs and certification of compliance will be submitted to you at March 10, 1989, meeting.
6. A new overflow alarm system which can be tested will be installed as soon as possible. We will have a schedule of compliance to submit to you by the March 10, 1989. Photographs and a copy of the work order will be submitted to you to certify compliance.
- 7a. We will submit to you March 10, 1989, the certified mail receipts to show that we have sent the contingency plan to the local police, fire department and hospital. We are sending follow-up letters to ask for their consent in being the primary response organization for our facility.
- 7b. A revised emergency equipment list will be submitted to you March 10, 1989.
8. Henry Chock, Branch Manager, will submit his changed phone number and address to the police, fire department and hospital before the March 10, 1989, meeting. Copies of this letter will be given to you at that time.
9. A copy of the daily facility inspection record and facility operating log will be submitted to you March 10, 1989.
10. A new financial test for closure assurance will be submitted to DEQ by April 1, 1989.
11. The facility inspection records showing inspections of container storage areas was resolved at December 9, 1988, inspection.
12. The ignitable wastes will be stored as far away from the property line as possible. We will transport ignitable wastes off-site once per week. We need to discuss our options in the March 10, 1989, meeting.
13. We do not have ^{incompatible} incomplete wastes stored on site. The Immersion Cleaner is not a corrosive hazardous waste. We will submit data to substantiate this claim at the March 10, 1989, meeting.
14. The tank assessment report will be submitted to you at the March 10, 1989, meeting.

Mr. Fred Hansen
Page 3
February 27, 1989

15. The underground storage tanks were tank tested in 1988. A copy of the results will be submitted to you on March 10, 1989. The facility inspection records show inspection of tank area. We will be testing alarm system daily. The tank readings are reviewed to see if any large leakage would have occurred.

If you have any further questions, please contact me at (714) 593-3985.

Sincerely,



Robert P. Wachsmuth
Environmental Engineer
Western Region

RPW:rg

cc R. Peoples
C. Douthwaite
7-054-01

LAW OFFICES OF

EISENHOWER, CARLSON, NEWLANDS, REHA, HENRIOT & QUINN

JAMES F. HENRIOT
H. EUGENE QUINN
RONALD A. ROBERTS
S. ALAN WEAVER
RICHARD D. TURNER
RICHARD A. JESSUP
MICHAEL R. THORP
DONALD L. ANDERSON
JAMES M. HUSHAGEN
KATHRYN J. NELSON

1201 PACIFIC AVE.
FIRST INTERSTATE PLAZA — SUITE 1200
TACOMA, WASHINGTON 98402
(206) 572-4500
FAX (206) 272-5732

600 UNIVERSITY ST.
2501 ONE UNION SQUARE
SEATTLE, WASHINGTON 98101
(206) 382-1830

ROBERT G. CASEY
TERRENCE J. DONAHUE
CHARLES K. DOUTHWAITE
MARK J. DYNA
BARBARA K. HEADLEY
GREGORY J. MURPHY
JACQUELYN M. AUFDERHEIDE
REBECCA D. CRAIG
RICHARD D. WALL
KERRY E. MANN
OF COUNSEL
C. JOHN NEWLANDS

PLEASE REPLY TO TACOMA OFFICE

February 13, 1989

Hazardous & Solid Waste Division
Dept. of Environmental Quality

RECEIVED
FEB 15 1989

Mr. Fred Hansen
Director
Department of Environmental Quality
State of Oregon
811 S.W. Sixth Avenue
Portland, Oregon 97204-1390

Re: Department of Environmental Quality v.
Safety-Kleen Corporation, No. HW-WVR-89-02

Dear Mr. Hansen:

This firm represents Safety-Kleen Corporation. This letter is written as Safety-Kleen's initial response to the Notice of Violation, Compliance Order, Assessment of Penalties and related materials attached to your January 30, 1989 letter to Safety-Kleen.

Receipt of your January 30 letter and Notice of Violation, Compliance Order and Assessment of Civil Penalties is acknowledged.

We have taken the opportunity offered in your January 30 letter and contacted Mr. Jim Vilendre by telephone to discuss this matter. We made two requests of Mr. Vilendre. By this letter to you we make those requests of the Department of Environmental Quality.

First, we request pursuant to ORS 466.090(2) that we be provided with a copy of department inspector's checklist, report, any photographs, or related documents prepared with respect to the Department's April 4, 1988 inspection of Safety-Kleen's facility in Springfield, Oregon. We make the same request with respect to the Department's December 9, 1988

Report sent 2-15-89 JV

Mr. Fred Hansen
February 13, 1989
Page Two

follow-up inspection of Safety-Kleen's facility at Springfield, Oregon.

We will pay a reasonable fee to have the documents requested copied and forwarded to this office. We would appreciate it, to expedite delivery, if the Department's record officer would call and give us the amount of any copying fee (to be followed up with a written statement) so that we may dispatch a check in the correct amount as soon as possible.

We trust that these documents can be received soon. I am informed, to date, that Safety-Kleen received no formal, final copy of any result of the April 4 or December 9, 1988 inspections until the Notice of Violation, Compliance Order and Assessment of Civil Penalties were received.

Second, we would appreciate an opportunity to discuss the Department's findings informally. We proposed that Safety-Kleen meet in the Department's offices in Portland with the inspector, his supervisor, a representative of the Department's enforcement section and others as are necessary, on March 10, 1989. I am informed that the Department is agreeable to a meeting on that date. We agreed to meet at 9:30 a.m. in the Department's offices in Portland. I expect that Mr. R. P. Wachsmuth, Safety-Kleen's Environmental Engineer for the western region, Mr. Henry Chock, Safety-Kleen's Branch Manager for its Springfield facility, and I will attend for Safety-Kleen. We will plan to be prepared to address the Department's determinations individually, to present Safety-Kleen's view as best we are able at the time, and if appropriate, identify Safety-Kleen's progress toward compliance or compliant status. We should have enough time, assuming the documents we requested can be received, to have a good preliminary response to the Department's determinations.

While Safety-Kleen intends to meet with the Department's staff regarding this matter, and while Safety-Kleen will attempt to work with staff to reach a compliance status to the Department's satisfaction and to resolve the penalty matter amicably, Safety-Kleen does not waive any right to a hearing or to contest any statement or finding of the Department. An

Mr. Fred Hansen
February 13, 1989
Page Three

answer and request for hearing before the Oregon Environmental Quality Commission have been filed with your office. If you have any questions, please call me at (206) 572-4500.

Very truly yours,


Charles K. Douthwaite

CKD:sjb
3487e

cc: Mr. Robert P. Wachsmuth
Environmental Engineer
Safety-Kleen Corporation
2750 Thompson Creek Road
Pomona, California 91767

Mr. Richard Peoples
Environmental Manager/
Services Center
Safety-Kleen Corporation
777 Big Timber Road
Elgin, Illinois 60120

Mr. Henry Chock
Branch Manager
Safety-Kleen Corporation
550 Shelly Street
Springfield, Oregon 97477

Mr. Jim Vilendre
Department of Environmental
Quality
State of Oregon
811 S.W. Sixth Avenue
Portland, Oregon 97204-1390

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY,)
OF THE STATE OF OREGON,)
)
Department,) ANSWER
)
vs.)
)
SAFETY-KLEEN CORP.,)
a Wisconsin corporation,)
)
Respondent.)
_____)

In answer to "Notice of Violation, Compliance Order, and Assessment of Civil Penalty, No. HW-WVR-89-02 Lane County ORD 000712067" Safety-Kleen pleads as follows. Safety-Kleen reserves the right to amend or supplement this answer as additional information is obtained by Safety-Kleen.

1. With respect to paragraph 1. under "Findings" Safety-Kleen admits the allegations in that paragraph.

2. With respect to paragraph 2. under "Findings" Safety-Kleen admits the allegations in that paragraph.

3. With respect to paragraphs 1. through 15. under "Determination of Violations" Safety-Kleen is not in the possession of sufficient information to admit or deny the allegations in those paragraphs and, therefore, denies the same.

4. Safety-Kleen was not provided with a final written report of the Department of Environmental Quality's Findings and

Determination of Violations until January 31, 1989 with the service of the above-referenced Notice of Violation on Safety-Kleen's representative in Oregon. The Determination of Violations covers numerous, detailed and complex issues. Safety-Kleen is investigating the determinations alleged by the Department of Environmental Quality. Safety-Kleen has requested the Department of Environmental Quality inspector's checklist, reports, photos and attachments thereto. Safety-Kleen has been advised that those documents, which have not heretofore been available to Safety-Kleen in final form, amount to 200 pages of documents. Safety-Kleen has not had adequate time to review those documents.

Safety-Kleen will plead further when more data is obtained.

Safety-Kleen has arranged to meet with representatives of the Department of Environmental Quality in the Department's offices on March 10, 1989. Safety-Kleen expects to provide a written and oral response to the Department on that date and before. Safety-Kleen will attempt to settle the Department's Determination of Violations and the Department's assessment of penalty if possible. Safety-Kleen does not waive any right to notice or to a hearing before the Environmental Quality Commission.

EISENHOWER, CARLSON, NEWLANDS,
REHA, HENRIOT & QUINN

By: Charles K. Douthwaite
Charles K. Douthwaite
of Attorneys for Respondent
Safety-Kleen Corporation

Dated: 2/10/89

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY,)
OF THE STATE OF OREGON,)
)
Department,) APPLICATION FOR HEARING
)
vs.)
)
SAFETY-KLEEN CORP.,)
a Wisconsin corporation,)
)
Respondent.)
_____)

Safety-Kleen Corporation, Respondent, applies to the Environmental Quality Commission of the State of Oregon for a hearing on "Notice of Violation, Compliance Order, and Assessment of Civil Penalty, No. HW-WVR-89-02 Lane County ORD 000712067." A copy of the referenced Notice of Violation is attached.

This request is made pursuant to ORS 466.190 and OAR 137-03-001 through 137-03-093, as supplemented and modified by OAR Ch. 340, Division 11.

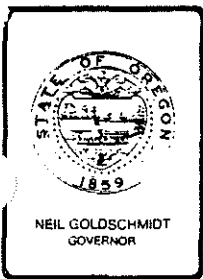
Safety-Kleen Corporation shall be represented in this matter by Charles K. Douthwaite of EISENHOWER, CARLSON, NEULANDS, REHA, HENRIOT & QUINN, 1200 First Interstate Plaza, Tacoma, Washington 98402. Safety-Kleen requests that the Commission serve all papers and notices related to this proceeding on its counsel and upon Safety-Kleen's Environmental Engineer for the western

region, Mr. Robert P. Wachsmuth, at Safety-Kleen Corporation,
2750 Thompson Creek Road, Pomona, California 91767.

EISENHOWER, CARLSON, NEWLANDS,
REHA, HENRIOT & QUINN

By: Charles K. Douthwaite
Charles K. Douthwaite
of Attorneys for Respondent
Safety-Kleen Corporation

Dated: 2/10/89



Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

CERTIFIED MAIL NO. P 132 861 257

Safety-Kleen Corp.
c/o CT Corporation System
800 Pacific Building
Portland, OR 97204

JAN 30 1989

Re: Notice of Violation, Compliance
Order, and Assessment of Civil
Penalty
No. HW-WVR-89-02
Lane County
ORD 000712067

Investigators from this Department and the Environmental Protection Agency inspected your Springfield, Oregon facility on April 4, 1988. The Department conducted a follow-up inspection on December 9, 1988. During those inspections several hazardous waste management violations were found, including violations of General Facility Standards, and requirements pertaining to Preparedness and Prevention, Contingency Plan and Emergency Procedures, Recordkeeping, Container Management, and Tank Systems.

The enclosed Notice of Violation, Compliance Order and Assessment of Civil Penalty is sent in response to those violations. In the Notice, the Department has assessed \$11,800 in civil penalties against Safety-Kleen Corp.; and the Department has issued a Compliance Order which establishes a schedule for Safety-Kleen Corp. to correct all violations.

A civil penalty of up to \$10,000 may be assessed for each day of each violation. In determining the amounts of the penalties, aggravating and mitigating factors were considered. Please be aware that Safety-Kleen Corp. is liable for additional civil penalties if it violates the Compliance Order or has any future violations of the hazardous waste regulations.

The total penalty is due and payable to the Department. Appeal procedures are outlined within the enclosed Notice. If Safety-Kleen Corp. fails to either pay or appeal the penalty within 20 days of receipt, a Default Order and Judgment will be entered. If you wish to informally discuss any aspect of the enclosed Notice, or if you believe there are mitigating factors which the Department might not have considered in assessing the civil penalty, you may request an informal discussion by attaching a request to your Answer. A request to discuss the matter informally with the Department will not waive the right to a contested case hearing.

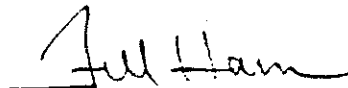
Safety-Kleen Corp.
Case No. HW-WVR-89-01
Page 2

During the follow-up inspection of your facility on December 9, 1988, the Department noted that the two sign violations (cited as violations 1B and 4) were corrected, and that Safety-Kleen Corp. was making required container inspections and recording the results in a log. Safety-Kleen's personnel training, contingency plan, and operating record (including an internal waste tracking system) still need improvement. Other violations continued unchanged from the April 4, 1988 inspection. Those violations included failure to repair a tank overfill alarm, and failure to comply with tank assessment requirements.

The Department looks forward to your cooperation and full compliance with Oregon's environmental regulations. We are prepared to assist you with questions you may have regarding the applicability of specific regulations to your facility. We expect you to comply with the hazardous waste regulations at all times.

If you have any questions, please contact Larry M. Schurr of the Department's Enforcement Section at 229-6932, or Jim Vilendre of the Hazardous Waste Section at 229-5549. You may reach either person at our toll-free call-back number, 1-800-452-4011.

Sincerely,



Fred Hansen
Director

FH:ls:b
GB7981L

Enclosure(s)

cc: Hazardous Waste Section, DEQ
Willamette Valley Region, DEQ
U.S. Environmental Protection Agency
Oregon Department of Justice

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

3	DEPARTMENT OF ENVIRONMENTAL QUALITY, OF THE STATE OF OREGON,	)	NOTICE OF VIOLATION, COMPLIANCE ORDER, AND
4		)	ASSESSMENT OF CIVIL PENALTY
5	Department,	)	NO. HW-WVR-89-02
6	v.	)	LANE COUNTY
7	SAFETY-KLEEN CORP., a Wisconsin corporation,	)	ORD 000712067
8	Respondent.)	

9 This Notice of Violation, Compliance Order and Assessment of Civil
10 Penalty is issued by the Department of Environmental Quality (DEQ) pursuant
11 to Oregon Revised statutes (ORS) 466.190, 466.880, 468.130; and Oregon
12 Administrative Rules (OAR) Chapter 340, Divisions 11 and 12.

FINDINGS

14 1. Respondent Safety-Kleen Corp. owns and operates, under interim
15 status, a hazardous waste management facility (Respondent's Facility)
16 located in Springfield, Oregon. Respondent has been assigned EPA
17 identification no. 003712067.

18 2. A Representative of DEQ conducted a compliance inspection at
19 Respondent's Facility on April 4, 1988.

DETERMINATION OF VIOLATIONS

21 Based upon the above noted inspection, Respondent has violated
22 provisions of Oregon's hazardous waste laws and regulations applicable to
23 Respondent's Facility as set forth and incorporated in OAR 340-100-002.
24 Specific violations include the following:

25 1. Respondent violated the general hazardous waste management
26 facility security requirements set forth in 40 CFR 265.14 as follows:

1 A. Respondent failed to provide monitoring or surveillance,
2 and/or otherwise failed to adequately control entry to the active portion of
3 Respondent's Facility as required by 40 CFR 265.14(b). Specifically, the
4 north gate of Respondent's Facility was not locked, and a hinge on the south
5 gate of Respondent's Facility was broken.

6 B. Respondent failed to post a warning sign or signs on the east
7 side of Respondent's Facility as required by 40 CFR 265.14(c).

8 2. Respondent violated the hazardous waste management facility
9 inspection requirements set forth in 40 CFR 265.15 in that Respondent failed
10 to record inspections in an inspection log and keep inspection records at
11 Respondent's Facility for at least 3 years from the date of the inspection
12 as is required by 40 CFR 265.15(d).

13 3. Respondent violated the hazardous waste management facility
14 personnel training requirements set forth in 40 CFR 265.16 as follows:

15 A. Respondent failed to provide facility personnel with training
16 within 6 months after the date of their employment or assignment to
17 Respondent's Facility, as required by 40 CFR 265.16(a) and (b); and with an
18 annual review as required by 40 CFR 265.16(c).

19 B. Respondent failed to maintain training documents and records
20 at Respondent's Facility as required by 40 CFR 265.16(d) including training
21 records for former employees.

22 4. Respondent violated the hazardous waste management facility
23 requirements for managing ignitable, reactive, or incompatible waste set
24 forth in 40 CFR 265.17, in that Respondent failed to conspicuously place "No
25 Smoking" signs in areas of Respondent's Facility where ignitable and
26 reactive hazardous wastes were stored.

1 5. Respondent violated the hazardous waste management facility
2 equipment requirements set forth in 40 CFR 265.32 in that Respondent failed
3 to equip the hazardous waste storage room at Respondent's Facility with an
4 emergency communication device as set forth in 40 CFR 265.32(b).

5 6. Respondent violated the hazardous waste management facility
6 testing and equipment maintenance requirements set forth in 40 CFR 265.33 in
7 that Respondent failed to maintain the overfill alarm on Respondent's
8 underground hazardous waste storage tank as necessary to assure proper
9 operation in time of emergency.

10 7. Respondent violated hazardous waste management facility
11 contingency plan requirements set forth in 40 CFR 265.52 as follows:

12 A. Respondent's contingency plan failed to describe arrangements
13 agreed to by local emergency response organizations as required by 40 CFR
14 265.52(c).

15 B. Respondent's contingency plan failed to include a list of all
16 emergency equipment detailing the location of the equipment, and a brief
17 description of equipment capabilities as required by 40 CFR 265.52(e).

18 8. Respondent violated 40 CFR 265.53(b) in that after amending
19 Respondent's emergency coordinator list, Respondent failed to submit copies
20 of Respondent's revised contingency plan to all emergency response
21 organizations that may be called upon to provide emergency services.

22 9. Respondent violated 40 CFR 265.73(a) in that Respondent failed to
23 keep a written operating record at Respondent's Facility.

24 10. Respondent violated the hazardous waste management facility
25 liability requirements set forth in 40 CFR 265.147 in that the letter
26 submitted by Respondent's chief financial officer to demonstrate passage of

1 the financial test did not meet the requirements in 40 CFR 265.147(f)(3)(i)
2 in that the letter was not worded as specified in 40 CFR 264.151(g) as
3 amended by OAR 340-104-151.

4 11. Respondent violated the hazardous waste management facility
5 container inspection requirements set forth in 40 CFR 265.174 in that
6 Respondent failed to inspect areas where containers are stored at least
7 weekly, looking for leaks and for deterioration caused by corrosion or other
8 factors.

9 12. Respondent violated the special requirements for containers of
10 ignitable or reactive hazardous waste set forth in 40 CFR 265.176 in that
11 Respondent stored ignitable or reactive hazardous waste less than 50 feet
12 from a property line of Respondent's Facility.

13 13. Respondent violated the special requirements for containers of
14 incompatible hazardous waste set forth in 40 CFR 265.177(c) in that
15 Respondent stored incompatible, ignitable and reactive waste only three (3)
16 feet apart without separating those incompatible wastes by means of a dike,
17 berm, wall, or other device.

18 14. Respondent violated the requirements for assessing existing tank
19 system integrity set forth in 40 CFR 265.191 in that Respondent failed to
20 determine if Respondent's underground hazardous waste storage tank was
21 leaking or was unfit for use.

22 15. Respondent violated the tank system inspection requirements set
23 forth in 40 CFR 265.195(a) in that Respondent failed to inspect
24 Respondent's underground hazardous waste storage tank at least once each
25 operating day.

26 ///

1 COMPLIANCE ORDER

2 Based upon the foregoing FINDINGS AND VIOLATIONS, Respondent is hereby
3 ORDERED TO:

- 4 1. Immediately initiate actions necessary to come into full
5 compliance with Oregon's hazardous waste laws.
- 6 2. Notify the Department in writing within fifteen (15) days of
7 receipt of this Order how Respondent intends to correct each
8 violation and comply with this Order.
- 9 3. Correct all violations within ninety (90) days of receipt of this
10 Order, and certify to the Department in writing when all
11 violations have been corrected.

12 ASSESSMENT OF CIVIL PENALTY

13 Pursuant to OAR 340-12-068, the Director hereby imposes upon the
14 Respondent civil penalties of \$3,800 each for violations 6 and 14; \$900 each
15 for violations 2, 9, and 15; \$400 each for violations 1 and 3; \$150 each for
16 violations 7 and 13; \$100 each for violations 5, 8, 10 and 12; and no
17 penalty for violations 4 and 11; for a total of \$11,800 in civil penalties.
18 Mitigating and aggravating factors considered by the Director in
19 establishing the amount of the penalties are attached hereto and
20 incorporated herein by this reference.

21 The penalties are due and payable immediately upon receipt of this
22 notice. Respondent's check in the amount of \$11,800 should be made payable
23 to "State Treasurer, State of Oregon" and should be sent to the Director of
24 the Department of Environmental Quality.

25 ///

26 ///

1 OPPORTUNITY FOR HEARING

2 This Notice of Violation, Compliance Order and Assessment of Civil
3 Penalty shall become final unless, within 20 days of issuance, Respondent
4 requests a hearing before the Environmental Quality Commission pursuant to
5 ORS 466.190, ORS 468.135(2) and (3); and OAR Chapter 340, Division 11.

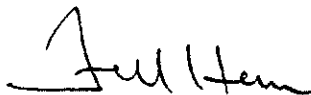
6 The request must be made in writing to the Director, must be received
7 by the Director within twenty (20) days from the date of mailing of this
8 notice (or if not mailed, the date of personal service), and must be
9 accompanied by a written "Answer" to the allegations contained in this
10 notice. In the written "Answer", Respondent shall admit or deny each
11 allegation of fact contained in this notice and Respondent shall
12 affirmatively allege any and all affirmative claims or defenses to
13 violations and assessment of any civil penalty that Respondent may have and
14 the reasoning in support thereof.

15 If Respondent fails to file a timely "Answer" or request for hearing or
16 fails to appear at a scheduled hearing, the Director on behalf of the
17 Environmental Quality Commission may issue a default order and judgment
18 based upon a prima facie case made on the record, for the relief sought in
19 this notice. Following receipt of a request for hearing and an "Answer",
20 Respondent will be notified of the date, time and place of the hearing.

21 If violations continue or recur or if Respondent fails to comply with
22 the Compliance Order, the Director may impose additional civil penalties.

23 JAN 30 1989

24 Date



25 Fred Hansen, Director
Department of Environmental Quality

26 Certified Mail No. P 132 861 257

CIVIL PENALTY: MITIGATING AND AGGRAVATING FACTORS
(ORS 468.130(2) and (OAR 340-12-045(1)))

RESPONDENT: Safety-Kleen Corp.
Springfield, Oregon Facility
ORD 000712067

COUNTY: Lane

CASE NUMBER: HW-WVR-89-02

TYPE OF VIOLATION: Numerous hazardous waste violations

PENALTY LIMITS: Minimum \$100 Maximum \$10,000
(each violation or day of violation)

1. **Whether the Respondent has committed any prior violation of statutes, rules, orders or permits pertaining to environmental quality or pollution control:**

On March 12, 1986, the Department found numerous hazardous waste violations at Respondent's Springfield, Oregon facility. However, at this time, the Department cannot confirm that Respondent was notified of those violations. Therefore, the Department considers this factor as neutral in calculating the amounts of the penalties.

2. **The past history of Respondent in taking all feasible steps or procedures necessary or appropriate to correct any violation:**

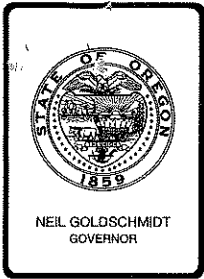
Considered neutral - insufficient information.

3. **The economic and financial condition of the Respondent:**

The Department presumes that the economic and financial condition of Respondent would not preclude payment of a civil penalty in the amount assessed. At any subsequent hearing, Respondent has the burden of proof and the burden of coming forward with evidence regarding Respondent's economic and financial condition, pursuant to OAR 340-12-045(3). Respondent gained an economic benefit from its violations; particularly violations 6 and 14, in that Respondent avoided the expense of repairing Respondent's tank overflow alarm, and the expense of conducting an underground storage tank assessment. Respondent also avoided the expense of training employees and conducting inspections.

4. **The gravity and magnitude of the violation:**

Violations 6 and 14 presented at least a moderate potential for harm by increasing the likelihood of an undetected release of hazardous waste into the environment. Individually, the other violations presented only minor potentials for harm. However, the Department believes that



Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

DATE: August 28, 1989

TO: Environmental Quality Commission

FROM: Roberta Young, MSD *ly*

SUBJECT: Tax Credit Staff Report for September EQC Meeting Agenda

The Pollution Control Tax Credit Staff Report is not included in this agenda packet due to pending advice from legal counsel on an application. The report will be mailed under separate cover later this week.

Please accept my apology for the inconvenience.

REQUEST FOR EQC ACTION

Meeting Date: September 7, 1989
Agenda Item: D
Division: Management Services
Section: Administration

SUBJECT:

Pollution Control Tax Credits.

PURPOSE:

Approve Pollution Control Tax Credit Applications.

ACTION REQUESTED:

- Work Session Discussion
 - General Program Background
 - Potential Strategy, Policy, or Rules
 - Agenda Item for Current Meeting
 - Other: (specify)

- Authorize Rulemaking Hearing
- Adopt Rules
 - Proposed Rules Attachment
 - Rulemaking Statements Attachment
 - Fiscal and Economic Impact Statement Attachment
 - Public Notice Attachment

- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
 - Proposed Order Attachment

- Approve Department Recommendation
 - Variance Request Attachment
 - Exception to Rule Attachment
 - Informational Report Attachment
 - Other: (specify) Attachment A
 - Tax Credit Applications.

Meeting Date: September 7, 1989
Agenda Item: D
Page 2

DESCRIPTION OF REQUESTED ACTION:

1. Issue Tax Credit Certificate for Pollution Control Facilities:

T-2079	Pennwalt Corporation	Surface Condenser; Containment System
T-2175	Boise Cascade Corporation	Gas Fume Incineration Control System
T-2475	Pacific Coatings, Inc.	Odor Emission Equipment
T-2491	Blue Mt. Forest Products	Wood Waste Energy Recovery Facility
T-2509	Georgia Pacific Corporation	Smelt Dissolving Tank Vent Scrubber
T-2797	Malpass Farms	Metal Clad Straw Storage Shed

AUTHORITY/NEED FOR ACTION:

Required by Statute: ORS 468.150-468.190 Attachment
 Enactment Date: _____
 Statutory Authority: _____ Attachment
 Pursuant to Rule: _____ Attachment
 Pursuant to Federal Law/Rule: _____ Attachment
 Other: Attachment
 Time Constraints: (explain)

DEVELOPMENTAL BACKGROUND:

Advisory Committee Report/Recommendation Attachment
 Hearing Officer's Report/Recommendations Attachment
 Response to Testimony/Comments Attachment
 Prior EQC Agenda Items: (list) Attachment
 Other Related Reports/Rules/Statutes: Attachment
 Supplemental Background Information Attachment

The pollution control program has been in effect since 1968 to provide credits for installation of pollution control equipment. The Statute requires Environmental Quality Commission approval of the amount certified for pollution control.

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

None.

PROGRAM CONSIDERATIONS:

None.

3

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

None.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

1. The Department recommends the Environmental Quality Commission approve T-2079, T-2175, T-2475, T-2509, T-2797 in that they comply with the Pollution Control Tax Program's requirements and regulations.
2. The Department recommends the Environmental Quality Commission approve T-2491.

This application involves a request for tax credit for an energy recovery facility which was an eligible facility until September 27, 1987. The applicant initiated the tax credit process in 1984 and would have completed it prior to September 27, 1987 if not for the direction provided by the Department. The Department's action misled the applicant into believing that approval would have been possible at a future time beyond the date of facility completion.

While the Department certainly had no intent to mislead the applicant, the Department's conduct appears to have inadvertently had that result.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

Yes. Note - Pollution Tax Credit Totals:

Proposed September 8, 1989 Totals

Air Quality	\$ 590,311
Water Quality	730,164
Hazardous/Solid Waste	5,842,431
Noise	-0-
	<hr/>
	\$ 7,162,906

1989 Calendar Year Totals Through July 21, 1989

Air Quality	\$ 1,224,992
Water Quality	6,299,358
Hazardous/Solid Waste	19,500
Noise	62,320
	<hr/>
	\$ 7,606,170

Meeting Date: September 7, 1989
Agenda Item: D
Page 4

ISSUES FOR COMMISSION TO RESOLVE:

See Department discussion in T-2491 Review Report for Blue Mountain.

INTENDED FOLLOWUP ACTIONS:

Notify applicants of Environmental Quality Commission actions.

Approved:

Section:

Roberta Young

Division:

Judith L. Hatten

Director:

David George for Fred Hansen

Report Prepared By: Roberta Young

Phone: 229-6408

Date Prepared: 9/5/89

RYoung:y
MY8819
September 5, 1989

TABLE OF CONTENTS

	<u>Page</u>
T-2079	5
T-2175	9
T-2475	13
T-2509	17
TC-2797	21
T-2491	25

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

1. Applicant

Pennwalt Corporation
Inorganic Chemicals Division
P.O. Box 4102
Portland, OR 97208

The applicant owns and operates an electrochemical plant which produces chlorine, hydrochloric acid, sodium chlorate and ammonia in Portland, Oregon.

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

2. Description of Facility

The claimed pollution control facility includes concrete pads and curbs, sumps, pumps and tanks to control chlorate spills and return the materials to the process. A new surface condenser was installed to eliminate carryover of contaminants to the sewer, which occasionally occurred from the old barometric condenser.

Claimed Facility Cost: \$730,164.31

The elements of the facility and eligible costs are:

Wiring and Associated Labor	\$ 71,691.19
Surface Condenser	47,932.61
Curbs, Trenches, Sumps, Pads, Labor	145,561.62
Piping and Labor	281,272.43
Pumps and Installation	22,245.60
Treatment Tank and Agitator	44,839.63
Filters	9,284.54
Instrumentation and Labor	54,686.58
Support Structures	52,650.11
Total	\$730,164.31

Accountant's Certification was provided.

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

- a. The request for preliminary certification was filed April 17, 1986, less than 30 days before construction commenced on May 6, 1986. However, according to the process provided in OAR 340-16-015(1)(b) the application was reviewed by DEQ staff and the applicant was notified that the application was complete and that construction could commence.
- b. The request for preliminary certification was approved before application for final certification was made.
- c. Construction of the facility was substantially completed on June 30, 1987 and the application for final certification was found to be complete on April 18, 1989, within two years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Department of Environmental Quality.

Before installation of the facility, process chemical spills and contaminated evaporator water from the chlorate plant were collected and discharged to the Willamette River under an NPDES permit. The new facility collects and returns spilled process chemicals and contaminated evaporator water to the process for reuse, thus eliminating their discharge.

Pennwalt's NPDES permit discharge limits on chromium were lowered in July 1, 1987. Minor losses of chromium that were acceptable under the old permit were no longer allowed under the new permit and the plant experienced difficulty meeting the new limits. The new facility was built to contain chromium losses and bring Pennwalt into compliance with the new permit limits.

Pennwalt has exceeded their chromium permit limits nine times since the chlorate facility was installed. Four of these exceedences were related to the chlorate facility but Pennwalt determined the causes and made corrections to eliminate future exceedences.

Except for the four identified exceedences, which appear to have been one-time events resulting from unanticipated causes, the facility seems to have functioned as was intended.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

Spilled process chemicals are recycled back into the process which saves an estimated \$33,000 per year. Annual operating costs, however, are estimated at \$33,700 so there is a net negative annual cash flow and the ROI is zero.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

Additional treatment of the discharge to remove process chemical contamination was considered by Pennwalt as an alternative to elimination of the discharge by constructing the new facility. Pennwalt decided this alternative was impractical since the concentration of the significant contaminant (chromium) required to comply with the new permit limitation would be in the low parts-per-billion range. This is too low for effective and economical treatment.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

Process-chemical savings and operating costs were included in the ROI calculation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

Application No. T-2079
August 9, 1989
Page 4

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for final tax credit certification in that the principal purpose of the facility is to prevent a substantial quantity of water pollution and accomplishes this purpose by the elimination of industrial waste as defined in ORS 468.700.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$730,164.31 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2079.

Jerry E. Turnbaugh:hs
IW\WH3394
(503) 229-5374
May 3, 1989

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Boise Cascade Corporation
Paper Group
1300 Kaster Road
St. Helens, Oregon 97051

The applicant owns and operates a bleached Kraft pulp and paper mill at St. Helens, Oregon.

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

2. Description of Facility

Fume incinerator

Claimed Facility Cost: \$142,816
(Accountant's Certification was provided).

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

- a. The request for preliminary certification was filed September 12, 1986 more than 30 days before installation commenced on January 6, 1987.
- b. The request for preliminary certification was approved before application for final certification was made.
- c. Installation of the facility was substantially completed on August 3, 1987 and the application for final certification was found to be complete on August 3, 1989 within 2 years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the principle purpose of the facility is to comply with a requirement imposed by the Department to reduce air pollution.

The facility, a fume incinerator, was required to provide an alternative combustion source to incinerate non-condensable gases (TRS) that are normally destroyed in the lime kiln. Whenever the lime kiln was not functioning the gases were diverted to a second

lime kiln after it was up to operating temperature. This resulted in venting of gases to the atmosphere for periods exceeding 24-hours, which is unacceptable.

The fume incinerator has been inspected by Department personnel and has been found to be operating in compliance with Department regulations and permit conditions limiting venting to periods not exceeding one hour.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity.

The percent allocable determined by using this factor would be 100%.

- 2) The estimated annual percent return on the investment in the facility.

There is no return on investment in the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The only alternative was rebuilding the standby lime kiln which would not be cost effective.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control as determined by using this factor or these factors is 100%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for final tax credit certification in that:

The principal purpose of the facility is to comply with a requirement imposed by the Department to reduce air pollution.

- c. The facility complies with DEQ statutes and rules, and permit conditions.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$142,816 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2175.

WJF:r
PO\AR990
(503) 229-5749
8/11/89

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Pacific Coatings, Inc.
8400 SE 26th Place
Portland, OR 97202

The applicant owns and operates a contract painting shop (job-shop) to paint long rod like aluminum extrusions in Portland, Oregon.

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

2. Description of Facility

The facility as described in the application results in changes to exhaust air flow patterns to control odorous emissions. Before the changes, air exhausted at many points with no exhaust collection system. Also, the drying oven, before and after the changes, does not have an oven exhaust stack per se. Exhaust air is now collected and routed to the extrusion pre-washer where smoke and odors are "scrubbed" by water sprays before being exhausted out the pre-washer exhaust stack.

The facility includes:

- a.
 - i. Fabrication of a cool down zone where the extrusions exit the drying oven. This zone collects the solvent vapors still being given off by the hot extrusions and the air exhausting from the oven.
 - ii. A 20 inch diameter duct from the oven cool down zone to another duct which routes the cool down zone exhaust to the pre-washer by way of the moisture dry off oven.
 - iii. A larger replacement fan motor at the moisture dry off oven to route the increased air flow over to the pre-washer.
- b. A drying oven recirculation duct which draws recirculation air from a hood over the oven entrance. This is a 30 inch diameter insulated duct.
- c. Fabrication of a low temperature flash off area enclosure which is located between where the extrusions are spray painted and where the extrusions enter the drying oven. The drying oven recirculation hood draws air from one end of this enclosure.
- d. An air curtain across the combined extrusion entrance - exit from the moisture dry off oven. The exhaust from the moisture dry off oven was originally routed to the extrusion pre-washer. (The air

curtain allows the extrusions to enter and exit the oven while preventing oven air from exhausting through the opening.)

Claimed Facility Cost: \$56,209
(Accountant's Certification was provided).

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

- a. The request for preliminary certification was filed 4-28-88, less than 30 days before construction commenced on 5-1-88. However, according to the process provided in OAR 340-16-015(1)(b), the application was reviewed by DEQ staff and the applicant was notified that the application was complete and that construction could commence.
- b. The request for preliminary certification was approved before application for final certification was made.
- c. Construction of the facility was substantially completed on 1-31-89 and the application for final certification was found to be complete on 7-7-89 within 2 years of substantial completion of the facility.

4. Evaluation of Application

The Department has received odor complaints against this paint shop since 1984. The applicant received a Notice of Assessment of Civil Penalty, assessing a \$500 penalty on June 24, 1987, for emitting odors on April 21, 1987, in such a manner as to contribute to a condition of air pollution, in violation of Oregon Administrative Rule (OAR) 340-28-090. The applicant had and continues to try to control odorous emissions by paint re-formulation. The SRH Associates, Inc., consultant, prepared an Odor Control Feasibility Study on February 5, 1988. The Department approved the proposed changes on May 3, 1988. The original paint shop design did not facilitate controlling odorous emissions due to multiple emission points. By routing the emissions through the water sprays in the pre-washer, odorous emissions are reduced due to vapor condensation onto the water spray.

The Department informed the applicant by letter on April 3, 1989, that acceptance of the tax credit application is contingent upon achieving and maintaining compliance with Department rules and statutes. There have been no odor violations documented by the Department since the claimed facility was installed.

- a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Department to control air pollution. The requirement is to comply with the Department's letter of June 24, 1987.
- b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no cost advantage from the claimed facilities. The annual percent return on the investment is zero.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

An afterburner could have been installed to incinerate the odorous vapors. The \$500,000 or more installation cost and high annual operating cost would put the applicant out of business since prices could not be raised to recover the capital investment. A carbon adsorption system would also be costly and these systems are difficult to design to work well with a mixture of solvents like in this application.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There is no savings from the facility.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 100%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for final tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the Department to control Air pollution.
- c. The facility complies with Commission orders.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$56,209 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2475.

Ray Potts:r
PO\AR612
(503) 229-6093
7/10/89

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Georgia-Pacific Corporation
Toledo Paper Division
PO Box 580
Toledo, Oregon 97391

The applicant owns and operates an unbleached pulp mill at Toledo, Oregon.

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

2. Description of Facility

Smelt Dissolving Tank Vent Scrubber

Claimed Facility Cost: \$319,541.00
(Accountant's Certification was provided).

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

- a. The request for preliminary certification was filed June 20, 1988 more than 30 days before installation commenced on September 6, 1988.
- b. The request for preliminary certification was approved before application for final certification was made.
- c. Installation of the facility was substantially completed on September 23, 1988 and the application for final certification was found to be complete on May 1, 1989, within 2 years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Department in the applicant's Air Contaminant Discharge Permit. The facility replaces an existing undersized scrubber on the no. 1 smelt dissolving tank vent which was installed prior to the regulations. The existing scrubber was never certified for tax credit.

The facility has been inspected and has been found to be operating in compliance with permit conditions and existing regulations. Test data indicate emission reductions of from 307 lbs/day to 74 lbs/day, which is a 76% reduction.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

A portion of the waste product is converted into a salable or usable commodity consisting of sodium sulfate (saltcake). The annual value of the saltcake collected is less than the operating cost of the facility.

The percent allocable determined by using this factor would be 100%.

- 2) The estimated annual percent return on the investment in the facility.

There is no return on the investment in the facility because operating costs exceed the value of the saltcake collected.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The only viable alternative is a venturi scrubber system which was considered too expensive.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The replaced scrubber was sold as scrap. This resulted in \$175 income. This amount is negligible and would not affect the percent allocable.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control as determined by using this factor or these factors is 100%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for final tax credit certification in that:

The principal purpose of the facility is to comply with a requirement imposed by the Department, to reduce air pollution.

- c. The facility complies with DEQ statutes and rules, and permit conditions.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$319,541.00 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2509.

WJF:r
PO\AR979
(503) 229-5749
8/11/89

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

David C. Malpass
Malpass Farms
32255 Bowers Drive
Harrisburg, OR 97446

The applicant owns and operates a grass seed farm operation in Harrisburg, Oregon.

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

2. Description of Claimed Facility

The facility described in this application is a 124 x 144 x 22' clear height, metal clad straw storage shed, located at 21320 N. Coburg Road, Harrisburg, Oregon. The land and buildings are owned by the applicant.

Claimed facility cost: \$71,745
(Accountant's Certification was provided.)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility has met all statutory deadlines in that:

- a. The request for preliminary certification was filed March 13, 1989 more than 30 days before construction commenced on April 15, 1989.
- b. The request for preliminary certification was approved before application for final certification was made.
- c. Construction of the facility was substantially completed on June 8, 1989, and the application for final certification was found to be complete on July 24, 1989, within two years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the sole purpose of the facility is to reduce a substantial quantity of air pollution.

This reduction is accomplished by reduction of air contaminants, defined in ORS 468.275, and the facility's qualification as a "pollution control facility", defined in OAR 340-16-025(1). The facility also meets the definition provided in OAR 340-16-025 (2) (f) (A): "Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning."

- b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

1. The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility promotes the conversion of a waste product (straw) into a salable commodity by providing straw storage.

2. The estimated annual percent return on the investment in the facility.

There is no return on investment for this facility as it generates no gross annual income.

3. The alternative methods, equipment and costs for achieving the same pollution control objective.

The method chosen is an accepted method for reduction of air pollution. The method is one of the least costly most effective methods of reducing air contaminants.

4. Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There is an increase in costs of \$7.00 per ton of straw to rake, bale and transport as a result of the construction of the facility.

5. Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of air pollution.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 100%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for final tax credit certification in that the sole purpose of the facility is to reduce a substantial quantity of air pollution and accomplishes this purpose by the reduction of air contaminants, as defined in ORS 468.275.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$71,745, with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application Number TC-2797.

J. Britton:ka
(503) 686-7837
July 24, 1989

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Blue Mt. Forest Products, Inc.
P.O. Box 1559
Pendleton, Or 97801-1559

The applicant owns and operates a sawmill and steam boiler/electrical generating plant at Long Creek, Oregon.

Application was made for tax credit for the steam boiler/electrical generating plant as a solid waste utilization facility.

2. Description of Facility

The claimed facility is a steam boiler/electrical generating complex. The primary components are a 70,000 pound per hour (PPH) wood-fired Kipper Sons steam boiler and steam turbine-generator unit. Associated equipment and costs include: the fuel handling, storage and retrieval facilities, buildings and structures; power line construction; a multi-clone and wet scrubber system for air pollution control, and interest on capital during construction.

Claimed Facility Cost: \$5,842,431.00
(Accountant's Certification was provided).
Of the claimed facility cost, \$139,678 is attributed to air pollution control devices.

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility has met statutory deadlines in that:

- a. The request for preliminary certification for the power plant facility was filed on August 13, 1984 more than 30 days before construction commenced in March 1985. The request for preliminary certification for the wet scrubber, a retrofit air pollution control system for the power plant, was filed on May 22, 1988.
- b. The request for preliminary certification was approved before application for final certification was made.

The facility has not met a statutory requirement in that:

- c. Construction of the facility was substantially completed on January 31, 1987 and the application for final certification was found to be complete on August 10, 1989 which was not within 2 years of substantial completion of the facility.

4. Evaluation of Application

- a. Blue Mt. Forest Products, Inc. constructed a steam boiler/electrical generating complex on their sawmill site at Long Creek, Oregon. The facility uses wood waste to fire the steam boiler. Some of the generated electricity is used at the sawmill and the bulk of it is sold under contract to Oregon Trail Electrical Cooperative, a public utility.

Wood fuel for the facility consists of mill residues from the on-site sawmill, the company's Rieth sawmill (at Pendleton), and purchases from several other wood product manufacturing operations within a reasonable haul distance. The applicant claimed the facility would consume 49,758 bone dry tons of wood waste annually. Company records show that about 46.5 percent of the 154,671 bone dry tons of fuel utilized in the boilers since its initial operation in 1986 comes from purchases outside the company.

Prior to construction of the power plant, Blue Mt. Forest Products disposed or utilized the wood residues in various ways. The application states that most waste wood residues were landfilled (the company had no permitted industrial solid waste sites). Some wood residues were sold to Boise Cascade pulp and paper mill at Wallula, Washington, on a requested basis. Part of the wood waste from the Long Creek mill was disposed of by spreading on local farm land.

The company reported the facility completion date as January 31, 1987. However, the Department did not consider the project complete because the boiler exhaust could not meet the air quality particulate emission standards with the existing pollution control equipment. Subsequently, the company modified the air emission control system by installing a full sized wet scrubber after the existing multiclone. With the new system the facility demonstrated compliance with emission standards by a particulate source test conducted on December 15, 1988.

The total power house/electrical generating complex is eligible because the sole purpose of the facility is to reduce a substantial quantity of solid waste. The reduction is accomplished by the use of an energy recovery process.

A costs breakdown for the power plant complex is as follows:

Boiler plant with ancillaries	\$2,043,258
Wet particulate scrubber system	53,388
Buildings and structures	10,655
Fuel handling, storage and retrieval	1,062,326
Turbine generator facility	2,144,255
Power line construction	350,494
Interest on capital during construction	<u>178,055</u>
	\$5,842,431

Of the above total cost, the following breakdown is for the air pollution control system:

Multiclone	\$50,000
Multiclone installation	8,790
Sly wet scrubber	53,388
Scrubber installation	25,000
Opacity meter	<u>2,500</u>
	\$139,678

It should be noted that the air pollution equipment installation costs are best estimates by the company as they did not have complete job breakdowns for the multiclone and scrubber installations. The department believes that these are in the range of reasonable costs associated with these types of air emission control equipment.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The powerhouse/electrical generation complex converts approximately 49,758 bone dry tons of wood residue into 33,355,645 kWh of electrical energy annually.

The air pollution control system does not recover or convert waste products into a salable or usable commodity. The ash and cinders material collected by the facility is disposed of in a landfill.

- 2) The estimated annual percent return on the investment in the facility:

The projected gross annual income for the first five years of operation is \$14,204,825. The operating expenses for this same period is estimated at \$11,199,471 (including cost of the wood residue used as fuel) for a total cash flow of \$3,005,354. The calculated annual return on investment is 9.72%. Using the ROI and the reference annual percent return on investment (RROI) of 16.1%, applicable for year 1987, the portion of the actual costs properly allocable to pollution control is 42.3%.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant noted that they embarked on a program to review options for the disposal or use of wood residues from the Long Creek mill. Their conclusion was that to assure that no landfilling of these wastes would be necessary, a steam plant should be constructed on site to utilize all waste wood residues produced in the manufacturing operations. No environmental impact or cost analysis of landfilling was made. No details of other disposal methods such as sales to others or farm land enhancement was evaluated.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The company estimates an annual average savings in avoided waste disposal costs at \$29,436 and an annual average savings from not having to purchase electrical power from the public utility at \$164,535 for a total annual savings of \$193,971. These savings are considered in calculating the annual return on investment above.

Considering only the air pollution equipment the following analysis is made. There is no savings from operating the air pollution control system. The cost of maintaining and operating the air pollution equipment is estimated by the company to be \$14,000 annually.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution. The actual cost of the facility properly allocable to pollution control as determined by using these factors is 42.3%.

- c. Tax Credit Application 2491, submitted by Blue Mountain Forest Products, presents some unusual aspects which warrant Commission discussion.

This is a situation where the applicant received preliminary approval in 1985 and did not submit a final application until July, 1989. In the meanwhile, the tax credit laws were amended to exclude from eligibility energy recovery facilities, which pertain to this application.

Throughout the application process, the Air Quality Division worked with the company on the air related devices. The applicant did not gain knowledge of the change of law in 1987 which made energy recovery facilities ineligible. The applicant did not file for final certification within the required two year period after substantial completion, and, did not seek an extension from the Commission. Under the program's rules the Commission may provide an extension for filing a final application of one year provided the applicant requests the extension before the two years are up.

Legal Counsel has advised that the Commission may approve Blue Mountain's request for tax credit certification as if the application had been submitted prior to the 1987 amendment of the tax credit law if it finds that: (See Attachment A.)

- 1) The applicant would have applied for final certification if not for direction from staff, and, that staff's advice and direction served to mislead the applicant into believing that a later application would be timely.

Department's Evaluation:

- a. Blue Mountain's preliminary application was processed by the Air Quality Division. The division granted preliminary certification for the facility with the belief that its action applied only for the air devices. Normally, power plants with necessary pollution control devices are treated as solid wastes facilities and processed by the Solid Waste Division.
- b. Quality staff has no record, but believes there was a conversation with the applicant in regards to filing the final application. However, staff believes the advice

would have been that as stated by the applicant. Staff would have directed the application to be filed when adequate air emission control equipment was in place and in compliance. However, staff did have authority to allow an application to be filed if the company was close to compliance, which was the case at that time. An application could also have been processed for Commission review at the request of the applicant.

- c. The facility was substantially completed January 31, 1987, according to the applicant's Notice of Construction Completion form which was signed May 19, 1988. In accordance with program rules, the applicant would have had until January 31, 1989 to file a final application. Staff did not recommend or process the application in a manner that would have ensured Commission approval or denial before the new amendments became effective September 27, 1987.
- d. If applicant or staff had been aware of the proposed legislation, it would have been evident that Commission action may have been necessary prior to the change in law. If the Solid Waste Division had been involved this information would likely have been known and conveyed to the applicant.
- e. The Commission has the authority to certify facilities under a single certificate if they constitute an operational unit. The staff processes certain facilities under this provision; incinerator facilities had been processed in this manner but within the Solid Waste Division.

Staff could have processed the steam generator separate from the air devices. The steam generator could have been considered by the Commission if an application had been filed when the applicant inquired about the filing in January. Without the air devices which were not in compliance at the time, the incinerator would have been eligible for certification. It would have been possible for this to occur before the changes in law became effective.

- f. The applicant has stated in the submitted affidavits that an application for final tax credit would have been submitted if not for the contrary direction from staff. (See Attachment B.)

The Department concludes that the applicant was misled because of the manner in which the application was processed. Although the Department is under no legal obligation to inform the public of proposed or new laws, it is the Department's position that under the circumstances of this case, its actions resulted in part in a missed opportunity for timely Commission consideration of the application.

- 2) The facility would otherwise have qualified for a final certificate.

Department's Evaluation:

- a) In the case of energy recovery facilities, which were eligible for tax credit until late 1987, it was the Department's procedure to treat these facilities and related pollution control devices as an operational unit. Thus, they were processed under a single application and issued a single certificate. This, however, is an option for the Department not a requirement.

If staff had directed the applicant to provide separate applications for the two facilities, which would have necessitated resubmittal, it is likely the steam generator would have been certified as a separate facility.

The Department concludes that the facility, with available knowledge at this time, would likely have qualified for certification. It is not possible to state this with certainty because a final application was not prepared at the time. Based on the existing final application, which was received July 10, 1989, the facility is eligible with 42.3% of the facility's cost allocable to pollution control.

- 3) Legal counsel further recommends that the Commission determines whether the applicant would have been eligible for an extension of time to file a final application. Final application should have been filed prior to January 31, 1989 and was not received by DEQ until July 10, 1989. The statute allows an extension if there are "circumstances beyond the control of the applicant that would make a timely filing unreasonable." ORS 468.165 (6)

The Department concludes that staff's direction in this case constituted such circumstances and, therefore that an extension was possible.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for final tax credit certification in that the sole purpose of the facility is to reduce solid waste. This reduction is accomplished by the use of a resource recovery process.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 42.3 %.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$5,842,431.00 with 42.3% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2491.

DN:y
MY8808
(503) 229-6480
September 5, 1989

DAVE FROHNMAYER
ATTORNEY GENERAL

JAMES E. MOUNTAIN, JR.
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE

PORTLAND OFFICE
1515 SW 5th Avenue
Suite 410
Portland, OR 97201
Telephones: (503) 229-5725
FAX: (503) 229-5120

ATTACHMENT A

August 30, 1989

Fred Hansen, Director
Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204

Re: Pollution Control Tax Credits
DOJ File No. 340-410-P0112-89

Dear Mr. Hansen:

The 1987 legislature amended the pollution control tax credit statutes to eliminate tax credit eligibility for energy recovery facilities. You ask whether, despite this amendment, the Environmental Quality Commission (EQC) may grant a tax credit certificate for an energy recovery facility under the following circumstances:

- (1) the facility was previously granted a preliminary certificate;
- (2) the facility, or at least the portion of the facility for which a tax credit is sought, was constructed and operational before the 1987 amendment became effective;
- (3) the owner of the facility inquired about obtaining a final certificate before the 1987 amendment became effective but was advised by the Department of Environmental Quality (DEQ) to delay application; and
- (4) the facility otherwise complied with all applicable statutes and rules for certification of pollution control tax facilities.

Fred Hansen, Director
August 30, 1989
Page Two

For the reasons discussed below, we conclude that under these limited circumstances the EQC may grant a final certificate for the energy recovery facility.

Analysis

Since 1967, the State of Oregon has provided some form of tax credit for pollution control facilities. 1967 Or Laws, ch 592. The statutes governing such tax credits have proven fertile ground for legislative debate and amendment. In the last 15 years, the legislature has adopted at least nine acts altering these statutes in some respect. 1974 ss Or Laws, ch 37, § 1; 1975 Or Laws, ch 496; 1977 Or Laws, ch 795; 1979 Or Laws, ch 531, ch 802; 1981 Or Laws, ch 359, ch 408; 1983 Or Laws, ch 637; 1987 Or Laws, ch 596. A vexing problem for DEQ, our office, and affected citizens has been how to apply these rather frequent legislative changes to pollution control facilities that have been in various stages of construction and government approval. Your present question requires us to revisit this problem, with particular reference to statutory changes enacted by the 1987 legislature.

It appears to have been the 1987 legislature's intent to eliminate tax credit eligibility for energy recovery facilities.¹ These are facilities that burn or otherwise convert solid waste into energy. This intent was manifest in statutory amendments that became effective September 27, 1987. 1987 Or Laws, ch 596.

¹The hesitancy in this statement relates to the somewhat curious manner in which the legislature executed this change. In the definition of "pollution control facility", the legislature deleted language referring to the recovery of "energy resources" and inserted language which speaks only to "material" recovery. 1987 Or Laws, ch 596, § 4. The legislature neglected, however, to change a later portion of the statute that speaks to "burning" and "use of materials for their heat content or other forms of energy." ORS 468.165. We assume that the one amendment, even standing alone, was sufficient to accomplish the legislature's apparent purpose. Furthermore, the 1989 legislature has rectified the oversight by eliminating the remaining, contradictory language. 1989 Or Laws, ch _____, (EB 2178). In any case, this issue is not determinative of the immediate question at hand.

Fred Hansen, Director
August 30, 1989
Page Three

We pause, briefly, to identify the role of the EQC in this tax credit process. The EQC is charged with determining whether a facility for which a tax credit is sought is a pollution control facility within the meaning of the statute. ORS 468.155. The EQC also decides how much of the actual costs of the facility is allocable to pollution control. ORS 468.170(1). These decisions are the foundation upon which the taxpayer and the Department of Revenue later determine how large a tax credit may be sought. See ORS 307.405, 316.097, 317.116.

The means by which the EQC makes these decisions is called certification. E.g., ORS 468.165. Since 1973, the certification process has included two steps -- preliminary and final. 1973 Or Laws, ch 831, § 3. A preliminary certificate must generally be sought before construction of the facility, and it is a prerequisite to a final certificate.² ORS 468.175-.180. An application for a final certificate must generally be submitted within two years of substantial completion of construction of the facility. ORS 468.165(6).

According to the facts you have provided us, the case at hand involves an energy recovery facility that was granted a preliminary certificate on February 11, 1985. In addition, construction on the facility was substantially completed by January 1987, which comfortably predated the 1987 amendment eliminating tax credit eligibility for energy recovery facilities. For reasons that we will explore later, however, an application for a final tax credit was not sought until July 1989, well after the 1987 amendment took effect.

If these facts stood alone, the case would probably hinge on the question whether the EQC must apply the law at the time of final certification, even when a facility was preliminarily certified and constructed under the prior law. Recently, we have verbally advised the EQC that the answer to this question is probably yes. We quickly concede, however, that this question is complex, and our answer somewhat uncertain. As a general legal proposition, statutes are not to be applied retroactively, especially when to do so would change prior

²The 1989 legislature repealed the requirement for a preliminary certificate, effective October 3, 1989. 1989 Or Laws, ch ____ (HB 2178).

Fred Hansen, Director
August 30, 1989
Page Four

legal rights and responsibilities, unless there is clear legislative direction to the contrary. See, e.g., Promme v. Fred Meyer, Inc., 306 Or 558, 761 P2d 515 (1988); Held v. Product Manufacturing, 286 Or 67, 592 P2d 1005 (1979). It is not entirely clear, however, that this issue actually involves retroactive application of a statute. The matter may be retroactive with respect to construction of a facility, but it is not retroactive with respect to the EQC's final certification, which has yet to be issued. Even more importantly, when the legislature has not wanted new tax credit laws applied to preliminarily certified and constructed facilities, it has said so quite clearly and specifically. E.g., 1983 Or Laws, ch 637, § 8 ("Nothing in this act shall affect the computation of the tax credit amount or exemption for a facility that has been certified or that has received preliminary certification and on which construction has been completed" before the effective date of the act.) In the past, when our office has advised EQC not to apply changes in the tax credit statutes, it has been on the basis of such an express grandfather clause. See, e.g., Letter dated December 22, 1983 from Robert L. Easkins, Assistant Attorney General, to Michael J. Downs, Acting Director, DEQ. When the 1987 legislature amended the tax credit statutes, it included no such clause.³

Fortunately, it is unnecessary to resolve this question at this time, because we think there may be special facts in the present case which independently determine the outcome. You tell us that in the present case the applicant informed DEQ that the facility was constructed and also inquired about securing a final certificate well in advance of the 1987 amendment. DEQ advised the applicant not to submit an application for a final certificate at that time, because an

³It should be noted that our office recently advised the Department of Revenue that the 1987 tax credit amendments should not be applied to alter previously established tax credit eligibility with respect to beneficial interests in a pollution control facility. Letter dated October 20, 1988 from Elizabeth S. Stockdale, Assistant Attorney General, to Don McNeal, Department of Revenue. The reasoning in that letter is arguably analogous to the case at hand, but the facts are different. Most notably, the facility involved in that letter had been constructed and had already received a final certificate from the EQC.

Fred Hansen, Director
August 30, 1989
Page Five

air pollution control system for the facility could not at that time meet DEQ standards. In apparent reliance on this advice, the applicant postponed seeking a final certificate for both the air pollution control system and the energy recovery facility itself.

This course of action was probably not compelled by the statute. To the contrary, the statute and rules make it quite clear that any portion of a facility related to pollution control can be separately certified. ORS 468.165(1), 468.170, 468.190; OAR 340-16-025(4). Thus, it may be that the applicant could have proceeded to secure a final certificate for the energy recovery facility, even though the related air pollution control facility was not fully in compliance. Indeed, it appears that but for DEQ's advice, the applicant would have done so.

These facts may provide a sufficient basis for applicant's assertion that the 1987 amendment should not be applied to its application for a final certificate. Under the doctrine of equitable estoppel, when a governmental agency has engaged in misleading conduct so as to deprive a person of benefits for which the person was otherwise eligible, the agency may later be prevented from denying those benefits. See, e.g., State v. Claypool, 145 Or 615, 28 P2d 882 (1934); State ex rel School Dist. 13 v. Columbia County, 66 Or App 237, 674 P2d 608 (1983), rev den 296 Or 829 (1984); Thrift v. Adult and Family Service Division, 58 Or App 13, 646 P2d 1358 (1982). In at least two instances, the Oregon courts have applied the doctrine in the context of tax benefits. Pilgrim Turkey Packer v. Department of Rev., 261 Or 305, 493 P2d 1372 (1973); Johnson v. Tax Comm'n, 248 Or 460, 435 P2d 302 (1967).

The application of equitable estoppel depends heavily upon the facts of a particular case. The limited facts available to us in this case do not enable us to pass final judgment on this question. Furthermore, the factual questions raised in this case are more appropriately answered by the EQC, at least in the first instance. We note two areas that warrant careful examination by the EQC. First, the EQC must determine whether the applicant would have applied for the final certificate, but for the contrary directions of DEQ. More specifically, the EQC must determine whether DEQ's conduct actually served to mislead the applicant into believing that a later application would be timely. Second, the EQC must determine whether the applicant

Fred Hansen, Director
August 30, 1989
Page Six

would otherwise have fully qualified for a final certificate.⁴ Only if these questions are answered in the affirmative can the EQC now grant the certificate.

Again, we emphasize the limits of the doctrine of equitable estoppel. The doctrine would not apply to cases in which DEQ merely acquiesced in a late application, nor would it apply simply because DEQ failed to advise applicants of a change in the law.

We also do not lend much credence to the applicant's argument that it acquired a vested right to the tax credit certification. With rare exception, and particularly with respect to tax benefits, the legislature can take away what it has given.

There is one remaining issue. ORS 468.165(6) requires that an application for a final certificate be submitted "within two years of substantial completion of construction of the facility." It is doubtful that the EQC can ignore this requirement, even in a case giving rise to equitable estoppel. We note, however, that the EQC may grant an extension of time to file an application "for circumstances beyond the control of the applicant that would make a timely filing unreasonable." ORS 468.165(6). The facts you have provided suggest that the energy recovery facility may have been substantially complete in January 1987, over two years ago. If that is the case, the EQC must also determine whether the applicant is eligible for an extension of time within the terms of the statute.

Conclusion

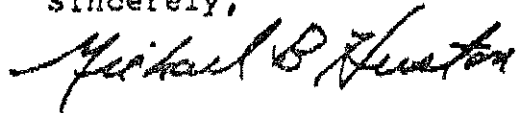
For these reasons, we conclude that, subject to the factual determinations discussed above, the EQC may treat the

⁴The second question may require the EQC to examine the relationship between the energy recovery facility and air pollution control facility. If the air pollution control facility was essential to and inseparable from the energy recovery, there would have been no obligation for the agency to consider separate tax credit certificates. We do not think that the agency is obligated to certify a facility that, while controlling pollution in one respect, causes pollution in another respect. See ORS 468.170(4)(a).

Fred Hansen, Director
August 30, 1989
Page Seven

application for a final tax credit certification as if the application had been received before the 1987 amendment of the statute.

Sincerely,



Michael B. Huston
Assistant Attorney General

MBH:aa
0127Y

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

In the Matter of the	)	No. <u>T-2491</u>
Application of BLUE MT.)	
MT. FOREST PRODUCTS, INC.	)	BLUE MT. FOREST PRODUCTS,
for Certification of	)	INC.'S MEMORANDUM IN
Pollution Control Facility	)	SUPPORT OF APPLICATION FOR
for Tax Relief Purposes.	)	FINAL TAX CREDIT
	)	CERTIFICATION

I. STANDARD BY WHICH APPLICATION JUDGED

It is the point of this memorandum that the application for final certification should be judged by the Environmental Quality Commission based upon the laws in effect at the time of preliminary approval, construction, operation and when Blue Mt. Forest Products, Inc. could have made final application except for advice of the Department of Environmental Quality.

II. FACTS

As stated succinctly in an "Overview" as produced by the Department of Environmental Quality on Page 1, Section I:

The State of Oregon, through legislation originally adopted in 1967 seeks to encourage the construction * * of facilities to * * * reduce * * * solid waste * * by providing tax relief for persons who do so.

The officers and directors of Blue Mt. Forest Products, Inc. were aware of this encouragement and inducement and would not have entered into the project without counting on the economic benefits offered by the policy of the State of Oregon.

In 1984 there existed a problem of disposing of solid wood waste. The construction of the power plant solved this problem.

1 All of the activity in creating the Blue Mt. Forest
2 Products, Inc. power plant occurred more than one year prior to
3 the 1987 changes in the pollution control tax credit law.
4 Application for construction and preliminary approval of tax
5 credits was applied for August, 1984, with approval being
6 received February, 1985. Construction began shortly after
7 approval and was completed by April, 1986. Commercial opera-
8 tion date for the power plant was May 21, 1986, and the plant
9 has been in continual commercial operation since October, 1986.

10 In 1986, after the power plant, including the air dis-
11 charge equipment, had been constructed and was operational,
12 Roger Knobel, Controller of Blue Mt. Forest Products, Inc.
13 called the Department of Environmental Quality to inquire about
14 making application for final approval. The department advised
15 Mr. Knobel that Blue Mt. Forest Products, Inc. was not eligible
16 for final application. It advised Mr. Knobel to wait until the
17 completion of air testing. Mr. Knobel did that, and during the
18 wait the law changed in 1987, resulting possibly in a conten-
19 tion that the power plant is now ineligible.

20 Blue Mt. Forest Products, Inc. had relied heavily upon the
21 Department of Environmental Quality for its advice on the laws
22 controlling the construction of, operation of and tax credits
23 for the pollution control facility. The department had kept
24 Blue Mt. Forest Products, Inc. advised about changes in the
25 law. Moreover, being charged with interpreting the statutes,
26 it had promulgated regulations and forms and was the authority

1 in applying the law.

2 III. THE PREAPPROVAL, CONSTRUCTION AND OPERATION OF THE PLANT
3 MUST BE DETERMINED BY THE LAW IN EFFECT DURING THE
4 PREAPPROVAL, CONSTRUCTION AND OPERATION AND NOT AT THE
5 TIME OF THE FINAL APPLICATION

6 A. Vested Rights - Statutes May Not be Retroactively
7 Applied

8 Blue Mt. Forest Products, Inc. has a vested right which
9 cannot be taken away by the retroactive application of a law.
10 Since Blue Mt. Forest Products, Inc. obtained prior approval,
11 performed over \$5,000,000 in construction and went into
12 continuous commercial operation prior to the 1987 changes, it
13 acquired vested or substantial right. *Roberts, et al v. State*
14 *Tax Com.*, 229 Or 609, 368 P2d 342 (1962). In such a case,
15 statutes and regulations which do not address retroactive
16 application are not to be applied retroactively where such
17 construction would impair existing rights, create new obliga-
18 tions or impose additional duties with respect to past transac-
19 tions. *Derenco v. Benjamin Franklin Federal Savings and Loan*,
20 281 Or 533, 539 at f.n. 7, 577 P2d 477 (1978). It does not
21 matter that the rights are vested or are merely substantial
22 rights under the law. *Joseph v. Lowery*, 261 Or 545, 550-553,
23 495 P2d 273 (1972); *Held v. Product Manufacturing Co., et al*,
24 286 Or 67, 71, 592 P2d 1005 (1979).

25 ////////////////

26 ////////////////

1 B. The Rights of Blue Mt. Forest Products, Inc. are
2 Grandfathered

3 1. Preliminary Approval

4 The rights of Blue Mt. Forest Products, Inc. are grand-
5 fathered because of the application for and approval of
6 construction and preliminary approval of tax credits. The
7 statutory scheme set forth in ORS 468.175 sets forth a pro-
8 cedure to preapprove the construction and tax credits. Since
9 Blue Mt. Forest Products, Inc.'s pollution control facility was
10 constructed exactly in accordance with the preliminary ap-
11 proval, its rights are grandfathered.

12 The department's regulation, OAR 340-16-015(2)(c), does
13 not dictate otherwise. Although the department is given the
14 authority to enact regulations to carry the law into effect, it
15 has no power to amend or change the legislation. Hence, the
16 regulation must refer to final proof of the compliance with all
17 conditions and not the fact that tax credits would be denied
18 for other reasons. If it means the latter, it is beyond the
19 legislation and outside the scope of the department's
20 authority.

21 2. Two Years After Substantial Completion

22 Blue Mt. Forest Products, Inc.'s rights are also grand-
23 fathered for two years following substantial completion of
24 construction. ORS 468.165(6); OAR 340-16-010(13).

25 ////////////////

26 ////////////////

1 3. Construction Prior to December 31, 1988

2 The rights of Blue Mt. Forest Products, Inc. are grand-
3 fathered because construction began prior to December 31, 1988.
4 ORS 468.170(4)(c); OAR 340-16-010(13).

5 C. Estoppel

6 The Department of Environmental Quality ought not to
7 contend that the 1987 changes apply. It advised Blue Mt.
8 Forest Products, Inc. that it was not eligible to make applica-
9 tion in 1986. Blue Mt. Forest Products, Inc. relied upon the
10 expertise of the department and delayed its application. Blue
11 Mt. Forest Products, Inc. could have applied in spite of the
12 department's advice. It could have sought certification of the
13 entire project. This is permitted at any time after substan-
14 tial completion of construction. Testing is not a part of the
15 standard for making application. ORS 468.165(1); OAR 340-16-
16 025(4). Blue Mt. Forest Products, Inc. had the right to make
17 application for certification of only the power plant leaving
18 out the air discharge equipment. ORS 468.165(1); OAR 340-16-
19 025(4). In fact, the commission is required to certify each
20 facility separately. ORS 468.170(1); 468.190(1); OAR 340-16-
21 020(b); OAR 340-16-25(4); and OAR 340-16-30(2) and (2)E. Also
22 see ORS 468.170(4)(c) which implies the facilities must be
23 approved separately when it permits the department the option
24 of treating the facilities as one.

25 ////////////////

26 ////////////////

1 IV. CONCLUSION

2 Blue Mt. Forest Products, Inc. has a right to have its
3 final application determined under the law existing at the time
4 of the preapproval, construction and operation. A party's
5 vested or substantial rights may not be denied by the retroac-
6 tive application of a new law. Blue Mt. Forest Products, Inc.
7 began construction before December 31, 1988, and made applica-
8 tion within two years of substantial completion. Its rights
9 are grandfathered. In any event, it would be unconscionable
10 for the Department of Environmental Quality or the Environmen-
11 tal Quality Commission to apply a later law when, on account of
12 its own actions, Blue Mt. Forest Products, Inc. was delayed in
13 making final application and receiving certification under the
14 prior law.

15 DATED this _____ day of August, 1989.

16 Respectfully submitted,

17 MAUTZ HALLMAN
18 Attorneys for Blue Mt. Forest
19 Products, Inc.

20 By: _____
21 Robert T. Mautz
22 OSB No. 64069
23 Trial Attorney
24
25
26

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

3 In the Matter of the) No. T-2491
4 Application of BLUE MT.))
5 MT. FOREST PRODUCTS, INC.) AFFIDAVIT OF BRUCE A.
6 for Certification of) MALCOM, PRESIDENT, BLUE
7 Pollution Control Facility) MT. FOREST PRODUCTS, INC.
8 for Tax Relief Purposes.))

9 STATE OF OREGON,)
10) ss.
11 County of Umatilla)

12 I, BRUCE A. MALCOM, being first duly sworn, depose and
13 say:

14 In 1984 there existed a problem of disposing of the solid
15 waste produced by lumber mills. Since the elimination of
16 wigwam burners in the late 1970's, all of the mills in the Long
17 Creek-John Day area were having a problem disposing of wood
18 waste. At times Boise Cascade would purchase sawdust and bark.
19 When Boise Cascade did not purchase that solid wood waste, it
20 was disposed of in farmer's fields and other places when
21 permission was granted.

22 At the time the pollution control project was conceived by
23 Blue Mt. Products, Inc., the policy of the State of Oregon to
24 encourage such projects by the use of tax credits played a
25 crucial part. Conceiving the project required many feasibility
26 studies by Blue Mt. Forest Products, Inc. and also by Arthur
27 Anderson Co. All of these feasibility studies included the
28 assumption that \$1,500,000 of credits would be received over a
29 ten-year period. It is doubtful that Blue Mt. Forest Products,

B-7

1 Inc. would have proceeded without the tax credits.

2 As a result of planning on receiving state tax credits,
3 Blue Mt. Forest Products, Inc. did not apply for a SELP loan.
4 It obtained traditional financing through The Oregon Bank,
5 Pendleton Branch. Besides Blue Mt. Forest Products, Inc., The
6 Oregon Bank also relied upon the tax credits to approve the
7 loan.

8 Blue Mt. Forest Products, Inc. relied upon the statutes
9 requiring preliminary approval of the plans and of construc-
10 tion. After sending the plans to the Department of Environmen-
11 tal Quality, review by the Department of Environmental Quality
12 and approval of those plans for construction and for tax
13 credits, Blue Mt. Forest Products, Inc. and The Oregon Bank
14 relied upon the preliminary approval as assurance that if the
15 construction plans were followed exactly and the pollution
16 control facility was created as approved, the tax credits would
17 be certified. I was aware of the language indicating that
18 preliminary approval did not guarantee final approval, but
19 assumed that meant that final approval would be conditioned
20 upon proof that the plant was constructed in accordance with
21 the preliminary approval conditions and would work. It never
22 occurred to me that anyone would claim that that wording meant
23 the preliminary approval meant nothing and that even though the
24 money had been borrowed and the plant fully constructed and

25 ////////////////

26 ////////////////

1 operational in accordance with the preapproval, that then tax
2 credits could still be denied for a reason not related to
3 construction or operation.

4 Blue Mt. Forest Products, Inc. has relied upon the
5 Department of Environmental Quality for expertise in advising
6 it on compliance with the law. The department has interpreted
7 the statutes and promulgated rules and advised Blue Mt. Forest
8 Products, Inc. of the requirements it would have to meet. In
9 addition, it undertook to advise Blue Mt. Forest Products, Inc.
10 on changes in the law. In 1986 the Environmental Protection
11 Agency increased its air emission standards retroactive to
12 June 18, 1984. The Department of Environmental Quality was
13 aware that Blue Mt. Forest Products, Inc. might have a chance
14 to be grandfathered and worked with it to obtain its grand-
15 father rights. Because of the department's expertise in this
16 field, Blue Mt. Forest Products, Inc. assumed that everything
17 the department advised it was correct and that it would advise
18 Blue Mt. Forest Products, Inc. of any changes in the law.

19 The department never advised Blue Mt. Forest Products,
20 Inc. that the 1987 legislature changed the law to eliminate its
21 power plant as a pollution control device or that delaying its
22 application for final approval would make it ineligible for the
23 tax credits. The sheet that was provided to Blue Mt. Forest
24 Products, Inc. is attached as an exhibit to this affidavit and
25 was felt by Blue Mt. Forest Products, Inc. to have no applica-
26 tion to its plant which had been in operation for several

1 months before the 1987 legislature met and for a year before
2 the 1987 legislation became effective.

3 Bruce A. Malcom
4 Bruce A. Malcom

5 SUBSCRIBED AND SWORN to before me this 10th day of
6 August, 1989.

7 Rebecca Matella
8 Notary Public for Oregon
9 My Commission expires: 3/13/90

EXHIBIT

1987 AMENDMENTS TO POLLUTION CONTROL FACILITIES
TAX CREDIT LAW

Effective October 9, 1987.

HB 2023 provides the following changes to the tax credit laws:

1. Garbage burners are eliminated from eligibility for pollution control tax credits. Amends ORS 468.155(1)(b)(D).
2. Property used for clean up of emergency spills or unauthorized releases is no longer eligible. Rules will be adopted by the EQC to further define this statutory amendment. Adds ORS 468.155(2)(f).
3. Changes statute so that if the EQC does not take action on a final tax credit application within 120 days of the filing of the application, the application is not automatically rejected. (ORS 468.170(2))
4. Sunsets the pollution control tax credit program on December 31, 1990. To be eligible for tax credits, a facility must be completed before December 31, 1990. Amends ORS 468.170(4)(c).
5. Authorizes reinstatement of tax credits which are revoked by the EQC due to failure to substantially control pollution. Reinstatement occurs if the EQC finds the facility has been brought into compliance. Adds ORS 468.185(5).
6. Continues maximum allowable tax credit of 50 percent of the certified cost of facilities begun before June 30, 1989. For facilities begun after June 30, 1989 and completed before December 31, 1990, the maximum allowable tax credit is 25 percent of the certified cost. Amends ORS 316.097(2)(a) and (b); 317.116(2)(a) and (b).
7. Eliminates ability to sell tax credits issued for resource recovery facilities. Allows the owner, lessee or lessor to claim the tax credit for a materials recovery (recycling) facility. Amends ORS 316.097(4)(a)(C); 317.116(4)(a)(C).
8. Reduces the number of years that non-profit and charitable organizations are eligible for tax credit from 20 to 10 years for facilities commenced after June 30, 1989 and completed before December 31, 1990. Amends ORS 307.405(3)(a) and (b).

MP874

5 - EXHIBIT TO AFFIDAVIT OF BRUCE A. MALCOM, PRESIDENT,
BLUE MT. FOREST PRODUCTS, INC.

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

3 In the Matter of the) No. _____
4 Application of BLUE MT.)
5 MT. FOREST PRODUCTS, INC.) AFFIDAVIT OF ROGER
6 for Certification of) KNOBEL, CONTROLLER, BLUE
7 Pollution Control Facility) MT. FOREST PRODUCTS, INC.
8 for Tax Relief Purposes.)

9 STATE OF OREGON,)
10) ss.
11 County of Umatilla)


12 I, ROGER KNOBEL, being first duly sworn, depose and say:

13 I am the Controller of Blue Mt. Forest Products, Inc.
14 Upon completion of construction of the power plant and the air
15 contamination discharge control devices in 1986, I contacted
16 the Department of Environmental Quality to determine if
17 application for final approval could or should be submitted. I
18 was advised that Blue Mt. Forest Products, Inc. would not be
19 eligible to make application for final certification until the
20 air quality discharge requirements had been complied with by
21 the successful completion of testing. As a result of that
22 advice from the Department of Environmental Quality, upon which
23 I relied, Blue Mt. Forest Products, Inc. did not make any
24 application either for final certification of the whole plant
25 or for final certification of part of the plant until after the
26 effective date of the 1987 laws.

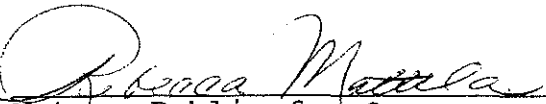
 If I had been advised that application could have been
made because substantial completion of construction had
occurred, I would have made application. If I had been advised

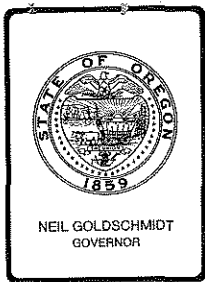
1 that Blue Mt. Forest Products, Inc. had the right to submit an
2 application for a portion of the project such as the power
3 plant, without including the air discharge devices, I would
4 have made application for that portion. Certainly, if I had
5 been advised that delay in filing an application would cause
6 the power plant to become ineligible for certification after it
7 had been built and was operational, the application would have
8 been filed.

9 Under this set of circumstances, I feel it would be unjust
10 for the department to claim that Blue Mt. Forest Products,
11 Inc.'s pollution control facility should be judged by a law
12 that took effect a year after the plant was constructed and
13 operational and a year after Blue Mt. Forest Products, Inc. had
14 asked for the advice of the Department of Environmental Quality
15 on making final application.

16 
17 Roger Knobel

18 SUBSCRIBED AND SWORN to before me this 10th day of
19 August, 1989.

20 
21 Notary Public for Oregon
22 My Commission expires: 3/13/92



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

REQUEST FOR EQC ACTION

Meeting Date: September 8, 1989
Agenda Item: E
Division: Air Quality
Section: Program Planning

SUBJECT:

Industrial PM₁₀ Rules for Medford-Ashland and Grants Pass.

PURPOSE:

To consider adoption of new industrial rules that were taken to public hearings in January 1989.

ACTION REQUESTED:

- Work Session Discussion
 - General Program Background
 - Potential Strategy, Policy, or Rules
 - Agenda Item ___ for Current Meeting
 - Other: (specify)

- Authorize Rulemaking Hearing
- Adopt Rules
 - Proposed Rules Attachment A
 - Rulemaking Statements Attachment B
 - Fiscal and Economic Impact Statement Attachment B
 - Public Notice Attachment C

- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
 - Proposed Order Attachment ___

- Approve Department Recommendation
 - Variance Request Attachment ___
 - Exception to Rule Attachment ___
 - Informational Report Attachment ___
 - Other: (specify) Attachment ___

DESCRIPTION OF REQUESTED ACTION:

The proposed industrial rules for control of PM₁₀ (particulate matter ten microns or smaller) would:

1. Require more effective controls for plywood veneer driers and large wood-fired boilers in the Medford-Ashland and Grants Pass areas;
2. Increase the particulate emission offset ratio, requiring 1.3 (instead of 1.0) pounds of reduction in existing emissions for every one pound of new emissions in the Medford-Ashland area; and
3. Require additional source testing and continuous emissions monitoring in the Medford-Ashland and Grants Pass areas.

AUTHORITY/NEED FOR ACTION:

- | | |
|--|------------------|
| <input type="checkbox"/> Required by Statute: _____ | Attachment _____ |
| Enactment Date: _____ | |
| <input checked="" type="checkbox"/> Statutory Authority: <u>ORS 468.020, 468.280</u> | Attachment _____ |
| <u>468.295, and 468.305</u> | Attachment _____ |
| <input type="checkbox"/> Pursuant to Rule: _____ | Attachment _____ |
| <input checked="" type="checkbox"/> Pursuant to Federal Law/Rule: <u>Clean Air Act</u> | Attachment _____ |
| <u>and EPA Ambient PM₁₀ Air Quality Standards</u> | |
| <input type="checkbox"/> Other: _____ | Attachment _____ |
| <input checked="" type="checkbox"/> Time Constraints: | |

The U.S. Environmental Protection Agency (EPA), under the provisions of the Clean Air Act, has required the Department of Environmental Quality (Department/DEQ) to submit State Implementation Plan (SIP) revisions for the Medford-Ashland and Grants Pass areas. The proposed industrial rules are key components of the PM₁₀ control strategies for these areas. Completion of the overall control strategies have been delayed due to the failure of the Department's woodstove bill to pass the Oregon Legislature. Draft control strategies may be completed by December 1989 depending on EPA clarification of its requirements, commitments that can be obtained from local governments, and possible Clean Air Act amendments.

DEVELOPMENTAL BACKGROUND:

- | | |
|--|---------------------|
| <input type="checkbox"/> Advisory Committee Report/Recommendation | Attachment _____ |
| <input checked="" type="checkbox"/> Hearing Officer's Report/Recommendations | Attachment <u>D</u> |
| <input checked="" type="checkbox"/> Response to Testimony/Comments | Attachment <u>E</u> |

- X Prior EQC Agenda Items:
 November 4, 1988, EQC Agenda Item H Attachment F
 ___ Other Related Reports/Rules/Statutes: Attachment ___
 ___ Supplemental Background Information Attachment ___

Existing PM₁₀ Levels. The design values (or baseline PM₁₀ concentrations during 1984-87) in micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) are summarized in the table below.

<u>Group I Area</u>	<u>Approximate Design Value ($\mu\text{g}/\text{m}^3$)</u>	
	<u>Annual</u>	<u>Peak Day</u>
Medford-White City	55-65	260-370
Grants Pass	45-55	180-220
(Standard)	(50)	(150)

Emission Inventories. Residential woodsmoke from stoves and fireplaces, soil and road dust, and the wood products industry are the major PM₁₀ source categories within the Medford-Ashland Air Quality Maintenance Area and Grants Pass Urban Growth Area as summarized in the following table. Soil and road dust is not of as much health concern as woodsmoke or industry emissions and is generally more difficult to control.

<u>Source Category</u>	<u>Percent of PM₁₀ Emission Inventory</u>			
	<u>Annual PM₁₀</u>		<u>Worst Day PM₁₀</u>	
	<u>MA*</u>	<u>GP*</u>	<u>MA*</u>	<u>GP*</u>
Residential woodsmoke	41	34	65	53
Wood products industry	21	34	13	21
Soil and road dust	24	19	14	16
Motor vehicle exhaust	7	12	4	8
Other	<u>7</u>	<u>1</u>	<u>4</u>	<u>2</u>
TOTAL	100	100	100	100

* MA = Medford-Ashland, GP = Grants Pass.

In Medford, the worst day PM₁₀ concentrations must be reduced by about 50% to meet the daily PM₁₀ health standard; annual average PM₁₀ concentrations must be reduced by about 20% to meet the annual standard. The Jackson County Woodburning Task Force targeted reductions in residential woodsmoke emissions of 70-75% on worst days, and 50-60% annual average, in order to meet the PM₁₀ health standards. The Department has targeted an additional 20% reduction in industrial emissions (on worst days and annual average) which would be accomplished by the proposed industrial rules.

Meeting Date: September 7, 1989
Agenda Item:
Page 4

In Grants Pass, the worst day PM₁₀ concentrations must be reduced by about 20% to meet the daily PM₁₀ health standard; the Grants Pass area marginally meets the annual average PM₁₀ standard. The Department has targeted a 56% reduction in industrial emissions (on worst days and annual average) which would be accomplished by the proposed industrial rules. The industrial reduction is greater in Grants Pass than in Medford-Ashland since many industrial controls were required in Medford-Ashland during 1978-83 that were not required in other areas of Oregon. The industrial reductions, combined with a 10-20% reduction in residential woodburning emissions, should be adequate to meet the PM₁₀ standards in Grants Pass.

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The testimony from public hearings in Medford and Grants Pass in January 1989 is summarized in Attachments D and E. Most of the testimony was generally in favor of the proposed new industrial rules but two of the specific proposals were much debated: (1) The more restrictive offset requirements; and (2) The increased source testing and continuous emission monitoring requirements.

Regarding offsets, many commentors recommended even more restrictive offset requirements than proposed, but some commentors recommended no change from the current rules (less restrictive than proposed). Regarding monitoring, many supported more detailed monitoring requirements and shorter installation schedules than proposed, while some cautioned that equipment is not currently available for some monitoring applications and the proposed installation schedules are generally too short.

Most commentors stressed the need to control all PM₁₀ sources, not just the industrial sources that are the subject of the proposed rules. Industrial representatives reviewed past pollution control efforts of the wood products industry and indicated the willingness of industry to do its part in the overall PM₁₀ control effort.

PROGRAM CONSIDERATIONS:

The industrial PM₁₀ reductions resulting from the proposed rules will not be enough to meet the ambient air quality standards in the PM₁₀ problem areas; substantial reductions in residential woodburning emissions, and possibly other emission sources, will also be needed.

A comprehensive residential woodburning bill, Senate Bill 422, that would have provided the framework and financial incentives for woodstove emission reductions failed to pass the 1989 Oregon Legislature. The residential components of the PM₁₀ control strategy continue to be largely dependent on the cooperation of local governments and the adoption of local ordinances; the residential components will be brought to the Commission when the necessary coordination and negotiation with local governments are completed.

On August 17, 1989, the Medford City Council directed city staff to draft an ordinance to curtail the use of woodstoves and fireplaces during stagnant air conditions. Implementation is expected by November 1, 1989. The Department is encouraged by Medford's leadership to effectively address the residential woodburning emissions. Medford staff intend to coordinate the draft ordinance with the other local governments in Jackson County.

Clean Air Act amendments, expected later this year or next year, may also affect the scope and schedule of PM₁₀ control strategies.

There is little further PM₁₀ control, beyond that contained in the proposed rules, that could reasonably be applied to industry. Therefore, delaying action until the complete strategy is in place may significantly delay potential progress in reducing PM₁₀ levels in the communities.

In addition to the costs to industry (equipment, installation, operation, and maintenance), the proposed industrial rules will also require substantial Department resources to implement. Southwest Region and Air Quality Division staff will be involved with plan reviews, negotiations of site-specific continuous monitoring installations, permit modifications to incorporate the new requirements, field inspections, monitoring report reviews, and source-test reviews and followup.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. Adopt the new industrial rules as proposed (with clarifications and minor corrections recommended in public hearing testimony) by the Department.
2. Adopt the new rules with more stringent requirements than proposed based on public hearing testimony:

- a. establish a moratorium on the use of offsets in the Medford-Ashland area until attainment of the PM₁₀ standards (essentially a growth moratorium on new industrial sources);
 - b. increase the offset ratio to 1.3:1 state-wide, not just in the Medford-Ashland area as proposed;
 - c. incorporate additional details on the specific types of continuous emission monitoring and data reporting into the rules;
 - d. shorten the implementation schedule for continuous emission monitoring;
 - e. require all large wood-fired boilers in the Medford-Ashland AQMA to meet the new emission standards by a certain date, rather than upon powerhouse modernization or expansion; and/or
 - f. include correspondingly tighter opacity limits for the new boiler and veneer drier emission standards.
3. Adopt the new rules with less stringent requirements than proposed based on public hearing testimony:
 - a. keep the existing 1:1 offset ratio and net air quality benefit requirement rather than the proposed 1.3:1 offset ratio;
 - b. modify the offset ratio to 1.2:1 (and keep the net air quality benefit requirement), rather than the proposed 1.3:1 offset ratio; and/or
 - c. extend the implementation schedule for continuous emission monitoring.
 4. Postpone adoption and/or retain existing rules.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends the adoption of the proposed rules with clarifications and minor revisions recommended in the public hearing and with modifications 2c, 2d, 2e, 2f, and 3b:

- 2c. incorporate additional details on the specific types of continuous emission monitoring and data reporting into the rules;

Meeting Date: September 7, 1989

Agenda Item:

Page 7

- 2d. shorten the implementation schedule (in cases of straightforward monitoring applications) for continuous emission monitoring;
- 2e. require all large wood-fired boilers in the Medford-Ashland AQMA to meet the new emission standards by a certain date, or upon powerhouse modernization or expansion, whichever occurs first;
- 2f. include correspondingly tighter opacity limits for the new boiler and veneer drier emission standards unless a permittee can demonstrate by source test that the emission standards can be met at higher opacities; and
- 3b. modify the offset ratio to 1.2:1 (and keep the net air quality benefit requirement), rather than the proposed 1.3:1 offset ratio.

The rationale for these modifications is discussed in some detail in the public hearing issues/responses in Attachment E and summarized here:

- 2c. Additional details on the minimum types of continuous emission monitoring and data reporting are incorporated into the rules as requested by hearing testimony in order to clarify the intent of these requirements. The Department will establish a continuous emission monitoring working group to address case-specific monitoring needs. See Issues 22, 27 and 30 in Attachment E and the proposed changes to OAR 340-30-050 in Attachment A.
- 2d. The installation and operation of some continuous emission monitoring systems should be straightforward and can be implemented in a shorter timeframe than initially proposed by the Department. See Issue 27 in Attachment E and the proposed changes to OAR 340-30-050 in Attachment A.
- 2e. There is no guarantee that the expected boiler modernization projects will occur within a known time period. In order to insure that the boiler emission reductions will contribute to the overall PM₁₀ control plan, the Department has modified the proposal to require all large wood-fired boilers in the Medford-Ashland AQMA to meet the new emission standards within the next five years, or upon powerhouse modernization or expansion, whichever occurs first. This is proposed as a balance between: (1) a time frame short enough to be eligible for tax credits and consistent with the PM₁₀

deadlines under consideration in Congress; and (2) a time frame long enough to allow integration with other plant modernization schedules and thus better cost-effectiveness. See Issue 15 in Attachment E and the proposed changes to OAR 340-30-046 in Attachment A.

- 2f. The most recent source testing results and visible emission observations indicate that correspondingly tighter opacity limits are appropriate for the new boiler and veneer drier emission standards. The Department has included a provision for adjustment of visible opacity limits if a permittee can demonstrate by source test that the emission standards can be met at higher opacities. See Issues 16 and 21 in Attachment E and the proposed changes to OAR 340-30-015 and -020 in Attachment A.
- 3b. An offset ratio of 1:1 or more with a net air quality benefit requirement is consistent with EPA requirements for new source review. The EPA Emission Trading Policy Statement finalized in December 1986, which is primarily a policy for existing-source bubbles, requires a reduction of 20 percent (that is, an offset ratio of 1.2:1) from baseline emissions for emission trades involving existing-source bubbles in nonattainment areas. In order to be consistent with this national policy, even though not required by EPA for new sources, the Department has modified the proposal to require an offset ratio of 1.2:1 which is more restrictive than the existing 1:1 requirement but slightly less restrictive than the 1.3:1 initial proposal. See Issues 36 and 37 in Attachment E and the proposed changes to OAR 340-30-110 in Attachment A.

The Department believes that the modified proposal is a reasonable and effective package of industrial control measures that will be an important part of the overall PM₁₀ control strategies for the Medford-Ashland and Grants Pass areas.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The proposed rules are consistent with the Department's proposed strategy for controlling industrial PM₁₀ emissions, as part of the State Implementation Plan, without unduly interfering with economic development. The Department is not aware of any conflicts between the proposed rules and agency or legislative policies.

ISSUES FOR COMMISSION TO RESOLVE:

1. Should the new industrial rules be adopted and implemented before the adoption of commitments to insure adequate reductions in residential woodburning emissions? Or should the adoption of the new Medford-Ashland industrial rules be postponed until residential woodburning commitments are adopted by local governments?

Substantial reductions in both industrial and residential PM₁₀ emissions will be needed to meet the ambient air quality standards for PM₁₀ in the Medford-Ashland area. Most of the particulate reductions over the last decade have been the result of tighter industrial requirements for the Medford-Ashland area.

Reasonable additional industrial control measures are proposed that would further reduce particulate emissions even if residential woodburning control measures are delayed and PM₁₀ health standards are not met on schedule.

2. Should an industrial growth moratorium be imposed or should the industrial offset requirements be more restrictive?

The major problem with the existing particulate strategy (for total suspended particulate, or TSP) was not related to industry but rather the failure to implement residential woodburning control measures (curtailment of woodstoves and fireplaces during pollution episodes, and weatherization of woodheated homes).

The modified proposal for a 1.2:1 offset ratio will better insure that the net air quality benefit requirement is met for offset transfers in the Medford-Ashland area.

INTENDED FOLLOWUP ACTIONS:

1. The Department will incorporate any new industrial requirements into the specific air contaminant discharge permits for each affected source.
2. For continuous emission monitoring systems (CEMS), the Department will form a CEMS working group including representatives of the affected industries, DEQ/LRAPA, monitoring equipment vendors, and/or source-testing consultants. The purpose of the group will be to

Meeting Date: September 7, 1989
Agenda Item:
Page 10

identify the most useful and appropriate CEMS for existing sources not already addressed in the EPA CEMS requirements for new sources.

3. Depending on progress to develop local woodburning ordinances, the Department expects to draft the overall PM₁₀ control plans by the end of 1989. In order to be approvable by EPA, the PM₁₀ control plans must include the local ordinances, state industrial rules, and other commitments necessary to meet PM₁₀ standards. If the draft plan is approvable by EPA, the Department intends to request the Environmental Quality Commission to authorize public hearings on the overall PM₁₀ control plans, probably in early 1990.

Approved:

Section:

Division:

Director:

John F. Handley
Mr. Householder
Jul Ham

Report Prepared By: Merlyn L. Hough

Phone: 229-6446

Date Prepared: August 23, 1989

MLH:r
PLAN\AR939 (8/23/89)

identify the most useful and appropriate CEMS for existing sources not already addressed in the EPA CEMS requirements for new sources.

3. Depending on progress to develop local woodburning ordinances, the Department expects to draft the overall PM₁₀ control plans by the end of 1989. In order to be approvable by EPA, the PM₁₀ control plans must include the local ordinances, state industrial rules, and other commitments necessary to meet PM₁₀ standards. If the draft plan is approvable by EPA, the Department intends to request the Environmental Quality Commission to authorize public hearings on the overall PM₁₀ control plans, probably in early 1990.

Approved:

Section:

Division:

Director:

John F. Koudy
W. Gouschler
Bill Ham

Report Prepared By: Merlyn L. Hough

Phone: 229-6446

Date Prepared: August 23, 1989

MLH:r
PLAN\AR939 (8/23/89)

DIVISION 30

SPECIFIC AIR POLLUTION
CONTROL RULES FOR THE
MEDFORD-ASHLAND AIR QUALITY
MAINTENANCE AREA
AND THE
GRANTS PASS URBAN GROWTH AREA

Purposes and Application

340-30-005 The rules in this division shall apply in the Medford-Ashland Air Quality Maintenance Area (AQMA) and the Grants Pass Urban Growth Area (Area). The purpose of these rules is to deal specifically with the unique air quality control needs of the Medford-Ashland AQMA and the Grants Pass Area. These rules shall apply in addition to all other rules of the Environmental Quality Commission. The adoption of these rules shall not, in any way, affect the applicability in the Medford-Ashland AQMA and the Grants Pass Area of all other rules of the Environmental Quality Commission and the latter shall remain in full force and effect, except as expressly provided otherwise. In cases of apparent conflict, the most stringent rule shall apply.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 4-1978, f. & ef. 4-7-78

[Definitions]

340-30-010 ~~As used in these rules, and unless otherwise required by context:~~

(1) ~~"Medford-Ashland Air Quality Maintenance Area" is defined as beginning at a point approximately one mile NE of the town of Eagle Point, Jackson County, Oregon, at the NE corner of Section 36, T35S, R1W; thence south along the Willamette Meridian to the SE corner of Section 25, T37S, R1W; thence SE along a line to the SE corner of Section 9, T39S, R2E; thence SSE to the corner of Section 22, T39S, R2E; thence south to the SE corner of Section 27, T39S, R2E; thence SW to the SE corner of Section 33, T39S, R2E; thence NW to the NW corner of Section 36, T39S, R1E; thence west to the SW corner of Section 26, T39S, T1E; thence west to the SW corner of Section 12, T#(S, R1W; thence NW along a line to the SW corner of Section 20, T38S, R1W; thence west to the SW corner of Section 24, T38S, R2W; thence NW along a line to the SW corner of Section 4, T38S, R2W; thence west to the SW corner of Section 5, T38S, R2W; thence NW along a line to the SW corner of Section 31, T37S, R2W; thence north along a line to the Rogue River; thence north and east along the Rogue River to the north boundary of Section 32, T35S, R1W; thence east along a line to the point of beginning.~~

(2) ~~"Charcoal Producing Plant" means an industrial operation which uses the destructive distillation of wood to obtain the fixed carbon in the wood.~~

(3) ~~"Air Conveying System" means an air moving device, such~~

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

as a fan or blower, associated ductwork, and a cyclone or other collection device, the purpose of which is to move material from one point to another by entrainment in a moving airstream.

(4) "Particulate Matter" means any matter, except uncombined water, which exists as a liquid or solid at standard conditions.

(5) "Standard Conditions" means a temperature of 60 degrees Fahrenheit (15.6 degrees Celsius) and a pressure of 14.7 pounds per square inch absolute (1.03 kilograms per square centimeter).

(6) "Wood Waste Boiler" means equipment which uses indirect heat transfer from the products of combustion of wood waste to provide heat or power.

(7) "Veneer Dryer" means equipment in which veneer is dried.

(8) "Wigwam Waste Burner" means a burner which consists of a single combustion chamber, has the general features of a truncated cone, and is used for the incineration of wastes.

(9) "Collection Efficiency" means the overall performance of the air cleaning device in terms of ratio of weight of material collected to total weight of input to the collector.

(10) "Domestic Waste" means combustible household waste, other than wet garbage, such as paper, cardboard, leaves, yard clippings, wood, or similar materials generated in a dwelling housing four (4) families or less, or on the real property on which the dwelling is situated.

(11) "Open Burning" means burning conducted in such a manner that combustion air and combustion products may not be effectively controlled including, but not limited to, burning conducted in open outdoor fires, burn barrels, and backyard incinerators.

(12) "Dry Standard Cubic Foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions.

(13) "Criteria Pollutants" means Particulate Matter, Sulfur Oxides, Nonmethane Hydrocarbons, Nitrogen Oxides, or Carbon Monoxide, or any other criteria pollutant established by the U.S. Environmental Protection Agency.

(14) "Facility" means an identifiable piece of process equipment. A stationary source may be comprised of one or more pollutant-emitting facilities.

(15) "Lowest Achievable Emission Rate" or "LAER" means, for any source, that rate of emission which is the most stringent emission limitation which is achieved in practice or can reasonably be expected to occur in practice by such class or category of source taking into consideration the pollutant which must be controlled. This term applied to a modified source means that lowest achievable emission rate for that portion of the source which is modified. LAER shall be construed as nothing less stringent than new source performance standards.

(16) "Modified Source" means any physical change in, or change in the method of, operation of a stationary source which increases the potential emission of criteria pollutants over permitted limits, including those pollutants not previously emitted.

(a) A physical change shall not include routine maintenance;

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

repair, and replacement; --

(b) A change in the method of operation, unless limited by previous permit conditions, shall not include:

(A) An increase in the production rate, if such increase does not exceed the operating design capacity of the sources;

(B) Use of an alternative fuel or raw material, if prior to December 21, 1976, the source was capable of accommodating such fuel or material; or

(C) Change in ownership of a source.

(17) "New Source" means any source not previously existing or permitted in the Medford-Ashland Air Quality maintenance Area on the effective date of these rules.

(18) "Offset" means the reduction of the same or similar air contaminant emissions by the source;

(a) Through in-plant controls, change in process, partial or total shut-down of one or more facilities or by otherwise reducing criteria pollutants; or

(b) By securing from another source or, through rule or permit action by DEQ, in an irrevocable form, a reduction in emissions similar to that provided in subsection (a) of this section.

(19) "Source" means any structure, building, facility, equipment, installation or operation, or combination thereof, which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person, or by persons under common control.

(20) "Volatile Organic Compound", (VOC), means any compound of carbon that has a vapor pressure greater than 0.1 mm of Hg at [standard conditions (temperature)] -20 °C, [pressure 760 mm of Hg]. - Excluded from the category of Volatile Organic Compound are carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and those compounds which the U.S. Environmental Protection Agency classifies as being of negligible photochemical reactivity which are methane, ethane, methylchloroform, and trichlorotrifluoroethane.

(21) "Department" means Department of Environmental Quality.

(22) "Emission" means a release into the outdoor atmosphere of air contaminants.

(23) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.

(24) "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

(25) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background.

(26) "Fugitive emissions" means dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof not easily given to measurement, collection and treatment by conventional pollution control methods.

(27) "Hardboard" means a flat panel made from wood that has

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

been reduced to basic wood fibers and bonded by adhesive properties under pressure:

(28) - "Particleboard" means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binders:

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 1-1978, f. & ef. 4-7-78; DEQ 9-1979, f. & ef. 5-3-79;
DEQ 3-1980, f. & ef. 1-28-80; DEQ 14-1981, f. & ef. 5-6-81

Definitions

340-30-011 As used in these rules, and unless otherwise required by context:

(1) "Air Conveying System" means an air moving device, such as a fan or blower, associated ductwork, and a cyclone or other collection device, the purpose of which is to move material from one point to another by entrainment in a moving airstream.

(2) "Average Operating Opacity" means the average of the opacity determinations using EPA Method 9 on two or more days with a minimum of 48 opacity readings taken at 15-second intervals on each day.

(3) "Charcoal Producing Plant" means an industrial operation which uses the destructive distillation of wood to obtain the fixed carbon in the wood.

(4) "Collection Efficiency" means the overall performance of the air cleaning device in terms of ratio of weight of material collected to total weight of input to the collector.

(5) "Criteria Pollutants" means Particulate Matter, Sulfur Oxides, Nonmethane Hydrocarbons, Nitrogen Oxides, or Carbon Monoxide, or any other criteria pollutant established by the U.S. Environmental Protection Agency.

(6) "Department" means Department of Environmental Quality.

(7) "Design Criteria" means the numerical as well as verbal description of the basis of design, including but not necessarily limited to design flow rates, temperatures, humidities, contaminant descriptions in terms of types and chemical species, mass emission rates, concentrations, and specification of desired results in terms of final emission rates and concentrations, and scopes of vendor supplies and owner-supplied equipment and utilities.

(8) "Design Opacity" means the opacity for which the veneer drying emission control system is designed that is consistent with the average operating opacity during normal operation of the proposed pollution control equipment or operating procedures on similar veneer dryers operating under similar process conditions.

(9) "Domestic Waste" means combustible household waste, other than wet garbage, such as paper, cardboard, leaves, yard clippings, wood, or similar materials generated in a dwelling housing four (4) families or less, or on the real property on which the dwelling is situated.

(10) "Dry Standard Cubic Foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions.

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

(11) "Emission" means a release into the outdoor atmosphere of air contaminants.

(12) "EPA Method 9" means the method for Visual Determination of the Opacity of Emissions From Stationary Sources as promulgated by the U.S. Environmental Protection Agency in Title 40 of the Code of Federal Regulations, Part 60, Appendix A, Method 9.

(13) "Facility" means an identifiable piece of process equipment. A stationary source may be comprised of one or more pollutant-emitting facilities.

(14) "Fuel Moisture Content By Weight Greater Than 20 Percent" means bark, hogged wood waste, or other wood with a moisture content of more than 20 percent by weight on a wet basis as used for fuel in the normal operation of a wood-fired veneer dryer.

(15) "Fuel Moisture Content By Weight Less Than 20 Percent" means pulverized ply trim, sanderdust, or other wood with a moisture content of 20 percent or less by weight on a wet basis as used for fuel in the normal operation of a wood-fired veneer dryer.

(16) "Fugitive Emissions" means dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof not easily given to measurement, collection and treatment by conventional pollution control methods.

(17) "General Arrangement", in the context of the compliance schedule requirements in section 340-32-045(2), means drawings or reproductions which show as a minimum the size and location of the control equipment on a source plot plan, the location of equipment served by the emission-control system, and the location, diameter, and elevation above grade of the ultimate point of discharging contaminants to the atmosphere.

(18) "Grants Pass Urban Growth Area" means the area within the Grants Pass Urban Growth Boundary as shown on the Plan and Zoning Maps for the City of Grants Pass as of 1 February 1988.

(19) "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

(20) "Lowest Achievable Emission Rate" or "LAER" means, for any source, that rate of emission which is the most stringent emission limit which is achieved in practice or can reasonably be expected to occur in practice by such class or category of source taking into consideration the pollutant which must be controlled. This term applied to a modified source means that lowest achievable emission rate for that portion of the source which is modified. LAER shall be construed as nothing less stringent than new source performance standards.

(21) "Maximum Opacity" means the opacity as determined by EPA Method 9.

(22) "Medford-Ashland Air Quality Maintenance Area" is defined as beginning at a point approximately one mile NE of the town of Eagle Point, Jackson County, Oregon, at the NE corner of Section 36, T35S, R1W; thence south along the Willamette Meridian to the SE corner of Section 25, T37S, R1W; thence SE along a line to the SE corner of Section 9, T39S, R2E; thence SSE to the corner of Section 22, T39S, R2E; thence south to the SE corner of Section 27, T39S, R2E; thence SW to the SE corner of Section 33, T39S, R2E; thence NW to the NW corner of Section 36, T39S, R1E; thence west to the SW

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

corner of Section 26, T39S, T1E; thence west to the SW corner of Section 12, T#(S, R1W; thence NW along a line to the SW corner of Section 20, T38S, R1W; thence west to the SW corner of Section 24, T38S, R2W; thence NW along a line to the SW corner of Section 4, T38S, R2W; thence west to the SW corner of Section 5, T38S, R2W; thence NW along a line to the SW corner of Section 31, T37S, R2W; thence north along a line to the Rogue River, thence north and east along the Rogue River to the north boundary of Section 32, T35S, R1W; thence east along a line to the point of beginning.

(23) "Modified Source" means any physical change in, or change in the method of, operation of a stationary source which increases the potential emission of criteria pollutants over permitted limits, including those pollutants not previously emitted.

(a) A physical change shall not include routine maintenance, repair, and replacement

(b) A change in the method of operation, unless limited by previous permit conditions, shall not include:

(A) An increase in the production rate, if such increase does not exceed the operating design capacity of the sources;

(B) Use of an alternative fuel or raw material, if prior to December 21, 1976, the source was capable of accommodating such fuel or material; or

(C) Change in ownership of a source.

(24) "New Source" means any source not previously existing or having an Air Contaminant Discharge Permit on the effective date of these rules.

(25) "Offset" means the reduction of the same or similar air contaminant emissions by the source;

(a) Through in-plant controls, change in process, partial or total shut-down of one or more facilities or by otherwise reducing criteria pollutants; or

(b) By securing from another source, through rule or permit action by DEQ, in an irrevocable form, a reduction in emissions similar to that provided in subsection (a) of this section.

(26) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background.

(27) "Open Burning" means burning conducted in such a manner that combustion air and combustion products may not be effectively controlled including, but not limited to, burning conducted in open outdoor fires, burn barrels, and backyard incinerators.

(28) "Particleboard" means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binders.

(29) "Particulate Matter" means any matter, except uncombined water, which exists as a liquid or solid at standard conditions.

(30) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.

(31) "Rebuilt Boiler" means a physical change after April 29, 1988, to a wood-waste boiler or its air-contaminant emission control system which is not considered a "modified source" and for which the fixed, depreciable capital cost of added or replacement components equals or exceeds fifty

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

percent of the fixed depreciable cost of a new component which has the same productive capacity.

(32) "Source" means any structure, building, facility, equipment, installation or operation, or combination thereof, which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person, or by persons under common control.

(33) "Standard Conditions" means a temperature of 60 degrees Fahrenheit (15.6 degrees Celsius) and a pressure of 14.7 pounds per square inch absolute (1.03 Kilograms per square centimeter).

(34) "Veneer" means a single flat panel of wood not exceeding 1/4 inch thickness formed by slicing or peeling from a log.

(35) "Veneer Dryer" means equipment in which veneer is dried.

(36) "Wood-fired Veneer Dryer" means a veneer dryer which is directly heated by the products of combustion of wood fuel in addition to or exclusive of steam or natural gas or propane combustion.

(37) "Wigwam Waste Burner" means a burner which consists of a single combustion chamber, has the general features of a truncated cone, and is used for the incineration of wastes.

(38) "Wood Waste Boiler" means equipment which uses indirect heat transfer from the products of combustion of wood waste to provide heat or power.

Wood Waste Boilers

340-30-015 (1) No person shall cause or permit the emission of particulate matter from any wood waste boiler with a heat input greater than 35 million BTU/hr in excess of 0.050 grain per dry standard cubic foot (1.4 grams per cubic meter) of exhaust gas, corrected to 12 percent carbon dioxide.

(2) No person owning or controlling any wood waste boiler with a heat input greater than 35 million BTU/hour shall cause or permit the emission of any air contaminant into the atmosphere for a period or periods aggregating more than 3 minutes in any one hour equal to or greater than ~~{20}~~ 10 percent opacity, unless the permittee demonstrates by source test that the emission limit in paragraph (1) of this section can be achieved at higher visible emissions.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ -1978. f. & ef. 4-7-78; DEQ 29-1980. f. & ef. 10-29-80;
DEQ 14-1986, f. & ef. 6-20-86

(3) No person shall cause or permit the emission of particulate matter from any ~~{rebuilt}~~ boiler with a heat input greater than 35 million Btu/hour unless the ~~{rebuilt}~~ boiler has been equipped with emission control equipment which:

~~{(a) continuously and routinely limits emission of particulate matter to 0.030 grains per standard dry cubic foot, corrected to 12% CO₂};~~

~~{(b) is designed to limit};~~ (a) limits emissions to LAER; and

~~{(c) is capable of limiting};~~ (b) limits visible emissions such that their opacity does not exceed ~~{10%}~~ 5% for more than an aggregate of 3

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

minutes in any one hour, unless the permittee demonstrates by source test that emissions can be limited to LAER at higher visible emissions.

(c) For purposes of OAR 340-20-265(3) and 340-20-310(b), the boiler mass emission limits shall be based on particulate matter emissions of 0.030 grains per standard dry cubic foot, corrected to 12% CO₂.

Veneer Dryer Emission Limitations

340-30-020 (1) No person shall operate any veneer dryer such that visible air contaminants emitted from any dryer stack or emission point exceed:

(a) A design opacity of ~~{10%}~~ 5%;

(b) An average operating opacity of ~~{10%}~~ 5%; and

(c) A maximum opacity of ~~{15%}~~ 10%, unless the permittee demonstrates by source test that the emission limits in (1)(d) through (g) can be achieved at higher visible emissions than specified in (1)(a) through (c). Where the presence of uncombined water is the only reason for the failure to meet the above requirements, said requirements shall not apply.

(d) 0.30 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct natural gas or propane fired veneer dryers;

(e) 0.30 pounds per 1,000 square feet of veneer dried (3/8" basis) for steam heated veneer dryers;

(f) 0.40 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct wood fired veneer dryers using fuel which has a moisture content by weight less than 20%;

(g) 0.45 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct wood fired veneer dryers using fuel which has a moisture content by weight greater than 20%;

(h) In addition to paragraphs (1)(f) and (g) of this section, 0.20 pounds per 1,000 pounds of steam generated.

~~{The heat source for direct wood fired veneer dryers is exempted from rule 340-21-030.}~~

(2) No person shall operate a veneer dryer unless:

(a) The owner or operator has submitted a program and time schedule for installing an emission control system which has been approved in writing by the Department as being capable of complying with subsections (1)(a), (b) and (c).

(b) The veneer dryer is equipped with an emission control system which has been approved in writing by the Department and is capable of complying with subsections (1)(b) and (c), or

(c) The owner or operator has demonstrated and the Department has agreed in writing that the dryer is capable of being operated and is operated in continuous compliance with subsections (1)(b) and (c).

(3) Each veneer dryer shall be maintained and operated at all times such that air contaminant generating processes and all contaminant control equipment shall be at full efficiency and effectiveness so that the emission of air contaminants is kept at the lowest practicable levels.

(4) No person shall willfully cause or permit the installation or use of any means, such as dilution, which, without resulting in a reduction in

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

the total amount of air contaminants emitted, conceals an emission which would otherwise violate this rule.

(5) Where effective measures are not taken to minimize fugitive emissions, the Department may require that the equipment or structures in which processing, handling and storage are done, be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air.

(6) Compliance with the visible emission limits in section (1) of this rule shall be determined in accordance with the Department's Method 9 on file with the Department as of November 16, 1979.

Stat. Auth.: ORS Ch 468

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 3-1980 f. & ef. 1-28-80;
Repealed by DEQ 10-1985, f. & ef. 8-8-85

Air Conveying Systems (Medford-Ashland AQMA Only)

340-30-025 All air conveying systems emitting greater than 10 tons per year of particulate matter to the atmosphere at the time of adoption of these rules shall, with the prior written approval of the Department, be equipped with a control system with collection efficiency of at least 98.5 percent.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ -1978, f. & ef. 4-7-78

Wood Particle Dryers at Particleboard Plants

340-30-030 No person shall cause or permit the total emission of particulate matter from all wood particle dryers at a particleboard plant site to exceed 0.40 pounds per 1,000 square feet of board produced by the plant on a 3/4" basis of finished product equivalent.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 14-1981, f. & ef. 5-6-81;
DEQ 14-1986, f. & ef. 6-20-86

Hardboard Manufacturing Plants

340-30-031 No person shall cause or permit the total emissions of particulate matter from all facilities at a hardboard plant to exceed 0.25 pounds per 1,000 square feet of hardboard produced on a 1/8" basis of finished product equivalent.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 14-1981, f. & ef. 5-6-81; DEQ 14-1986, f. & ef. 6-20-86

Wigwam Waste Burners

340-30-035 No person owning or controlling any wigwam burner shall cause or permit the operation of the wigwam burner.

Stat. Auth.: ORS Ch. 468

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 29-1980, f. & ef. 10-29-80

Charcoal Producing Plants

340-30-040 (1) No person shall cause or permit the emission of particulate matter from charcoal producing plant sources including, but not limited to, charcoal furnaces, heat recovery boilers, and wood dryers using any portion of the charcoal furnace off-gases as a heat source, in excess of a total from all sources within the plant site of 10.0 pounds per ton of char[coal] produced (5.0 grams per Kilogram of char[coal] produced).

(2) Emissions from char storage, briquette making, boilers not using charcoal furnace off-gases, and fugitive sources are excluded in determining compliance with section (1).

(3) Charcoal producing plants as described in section (1) of this rule shall be exempt from the limitations of 340-21-030(1) and (2) and 340-21-040 which concern particulate emission concentrations and process weight.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 14-1986, f. & ef. 6-20-86

Control of Fugitive Emissions (Medford-Ashland AOMA Only)

340-30-043 (1) Large sawmills, all plywood mills and veneer manufacturing plants, particleboard and hardboard plants, charcoal manufacturing plants, stationary asphalt plants and stationary rock crushers shall prepare and implement site-specific plans for the control of fugitive emissions. (The air contaminant sources listed are described in OAR 340-20-155, Table 1, paragraphs 10a, 14a, 14b, 15, 17, 18, 29, 34a and 42a, respectively.)

(2) Fugitive emission control plans shall identify reasonable measures to prevent particulate matter from becoming airborne. Such reasonable measures shall include, but not be limited to the following:

(a) Scheduled application of asphalt, oil, water, or other suitable chemicals on unpaved roads, log storage or sorting yards, materials stockpiles, and other surfaces which can create airborne dust;

(b) Full or partial enclosure of materials stockpiled in cases where application of oil, water, or chemicals are not sufficient to prevent particulate matter from becoming airborne;

(c) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials;

(d) Adequate containment during sandblasting or other similar operations;

(e) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne; and

(f) Procedures for the prompt removal from paved streets of earth or other material which does or may become airborne.

(3) Fugitive emission control plans shall be prepared and implemented in accordance with the schedule outline in OAR 340-30-045.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 6-1983, f. & ef. 4-18-83

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

Requirement for Operation and Maintenance Plans (Medford-Ashland AQMA Only)

340-30-044 (1) Operation and Maintenance Plans shall be prepared by all holders of Air Contaminant Discharge permits except minimal source permits and special letter permits. All sources subject to regular permit requirements shall be subject to operation and maintenance requirements.

(2) The purposes of the operation and maintenance plans are to:

(a) Reduce the number of upsets and breakdown in particulate control equipment;

(b) Reduce the duration of upsets and downtimes; and

(c) Improve the efficiency of control equipment during normal operations.

(3) The operation and maintenance plans should consider, but not be limited to, the following:

(a) Personnel training in operation and maintenance;

(b) Preventative maintenance procedures, schedule and records;

(c) Logging of the occurrence and duration of all upsets, breakdowns and malfunctions which result in excessive emissions;

(d) Routine follow-up evaluation upsets to identify the cause of the problem and changes needed to prevent a recurrence;

(e) Periodic source testing of pollution control units as required by air contaminant discharge permits;

(f) Inspection of internal wear points of pollution control equipment during scheduled shutdowns; and

(g) Inventory of key spare parts.

(4) The operation and maintenance plan shall be prepared and implemented in accordance with the schedule outlined in OAR 340-30-045.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 6-1983, f. & ef. 4-18-83

Compliance Schedules

~~340-30-045 [Sources affected by these rules Sections 340-30-025 through 340-30-040 shall comply with each increment of progress as soon as practicable but in no case later than the dates listed in Table I.]~~

Stat. Auth. ORS Ch. 468

Hist. DEQ 4-1978 f. & ef. 4-7-78; DEQ 27-1980 f. & ef. 10-29-80; DEQ 14-1981, f. & ef. 5-6-81; DEQ 6-1983, f. & ef. 4-18-83

Emission-Limits Compliance Schedules

340-30-046 (1) Compliance with the emission limits for wood-waste boilers in the Grants Pass area and veneer dryers established in sections OAR 340-30-015(1) and (2) and OAR 340-30-020 shall be provided according to the following schedules:

(a) Within three months of the effective date of these rules, submit Design Criteria for emission control systems for Department review and approval:

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

(b) Within three months of receiving the Department's approval of the Design Criteria, submit a General Arrangement and copies of purchase orders for the emission-control devices;

(c) Within two months of placing purchase orders for emission-control devices, submit vendor drawings as approved for construction of the emission-control devices and specifications of other major equipment in the emission-control system (such as fans, scrubber-medium recirculation and make up systems) in sufficient detail to demonstrate that the requirements of the Design Criteria will be satisfied;

(d) Within one year of receiving the Department's approval of Design Criteria, complete construction;

(e) Within fifteen months of receiving the Department's approval of Design Criteria, demonstrate compliance.

(2) Compliance with the emission limits for wood-waste boilers in section 340-30-015(3) shall be provided according to OAR 340-30-067 or the following schedule, whichever occurs first:

(a) By no later than September 1, 1993, submit Design Criteria for emission control systems for Department review and approval;

(b) Within three months of receiving the Department's approval of the Design Criteria, submit a General Arrangement and copies of purchase orders for the emission-control devices;

(c) Within two months of placing purchase orders for emission-control devices, submit vendor drawings as approved for construction of the emission-control devices and specifications of other major equipment in the emission-control system (such as fans, scrubber-medium recirculation and make up systems) in sufficient detail to demonstrate that the requirements of the Design Criteria will be satisfied;

(d) Within one year of receiving the Department's approval of Design Criteria, complete construction;

(e) Within fifteen months of receiving the Department's approval of Design Criteria, demonstrate compliance.

Continuous Monitoring

340-30-050 (1) The Department ~~{may}~~ will require the installation and operation of ~~{instruments-and-recorders}~~ instrumentation for measuring and recording emissions and/or the parameters which affect the emission of air contaminants from ~~{sources-covered-by-these-rules}~~ wood-waste fired boilers, veneer dryers, fiber dryers, and particle{board} dryers to ensure that the sources and the air pollution control equipment are operated at all times at their full efficiency and effectiveness so that the emission of air contaminants is kept at the lowest practicable level. The ~~{instruments-and-recorders}~~ instrumentation shall be periodically calibrated. The method and frequency of calibration shall be approved in writing by the Department. Continuous monitoring equipment and operation shall be in accordance with continuous emission monitoring systems guidance provided by the Department and shall be consistent, where applicable, with the EPA performance specifications and quality assurance procedures outlined in 40 CFR 60, Appendices B and F, and the Quality Assurance Handbook for Air Pollution Measurement Systems, Volume III. The recorded information shall be kept for

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

a period of at least one year and shall be made available to the Department upon request. The selection, installation, and use of the instrumentation shall be done according to the following schedule:

(a) Within ~~one year~~ six months from the effective date of these rules, the persons responsible for the affected facilities shall submit to the Department a plan for process and/or emission monitoring. The Department's primary criterion for review and approval of the plans will be the ability of proposed instrumentation to demonstrate continuous compliance with these regulations.

(b) Within one year from the Department's approval of the plan(s), the persons responsible for the affected facilities shall purchase, install, place in operation the instrumentation as approved, ~~and~~ verify that it is capable of demonstrating continuously the compliance status of the affected facilities~~[-], and~~

~~[(c) Within two years of the Department's approval of the plan(s), the persons responsible for the affected facilities shall] commence continuous monitoring and reporting results to the Department, at a frequency and in a form agreed upon by the Department and the responsible persons.~~

(c) The implementation date in paragraph (1)(b) of this section can be extended up to one year, subject to Department approval, if justified by the persons responsible for the affected facilities based on unavailability of suitable equipment or other problems.

(2) At a minimum, the monitoring plan submitted under paragraph (1)(a) of this section shall include:

(a) Continuous monitoring and monthly reporting of carbon monoxide concentration, oxygen concentration, and steam production rate for any wood-waste fired boiler;

(b) Continuous monitoring and monthly reporting of pressure drop, scrubber water pressure, and scrubber water flow for any wood-waste fired boiler, veneer dryer, particle dryer, or fiber dryer using a wet scrubber as pollution control equipment;

(c) Continuous monitoring and monthly reporting of opacity for any wood-waste fired boiler not controlled by a wet scrubber; and

(d) Continuous availability by electronic means to the Department of the emission and performance data specified in paragraphs (2)(a) through (c) of this section for any wood-waste fired boiler subject to the emission requirements of OAR 340-30-015.

Source Testing

340-30-055 (1) The person responsible for the following sources of particulate emissions shall make or have made tests to determine the type, quantity, quality, and duration of emissions, and/or process parameters affecting emissions, in conformance with test methods on file with the Department at the following frequencies: ~~{Source Test Frequencies:}~~

(a) Wood Waste Boilers with heat input greater than 35 million Btu/hr.
-- Once every year;

(b) Veneer Dryers -- Once every year ~~{until January 1, 1983}~~, during 1991, 1992, and 1993 and once every 3 years thereafter;

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

(c) Wood Particle Dryers at Hardboard and Particleboard Plants -- Once every year;

(d) Charcoal Producing Plants -- Once every year.

(2) Source testing shall begin at these frequencies within 90 days of the date by which compliance is to be achieved for each individual emission source.

(3) These source testing requirements shall remain in effect unless waived in writing by the Department because of adequate demonstration that the source is consistently operating at lowest practicable levels, or that continuous emission monitoring systems are producing equivalent information.

(4) Source tests on wood waste boilers shall not be performed during periods of soot blowing, grate cleaning, or other abnormal operating conditions [~~which may result in temporary excursions from normal~~]. The steam production rate during the source test shall be considered the maximum permittee's steaming rate for the boiler.

(5) Source tests shall be performed within 90 days of the startup of air pollution control systems.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 14-1986, f. & ef. 6-20-86

Total Plant Site Emissions

340-30-060 [DEQ 4-1978, f. & ef. 4-7-78;
Repealed by DEQ 25-1981, f. & ef. 9-8-81]

New Sources

340-30-065 New sources shall be required to comply with rules 340-30-015(3) and 340-30-020 through 340-30-[040] 110 immediately upon initiation of operation.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 4-1978, f. & ef. 4-7-78

Rebuilt Sources

340-30-067 Rebuilt sources shall immediately comply with the requirements of 340-30-015(3) except that in the Grants Pass Urban Growth Area this provision will apply to sources that are rebuilt after they have complied with 340-30-015(1).

Open Burning [~~Medford-Ashland-AQMA-Only~~]

340-30-070 No open burning of domestic waste shall be initiated on any day or any time when the Department advises fire permit issuing agencies that open burning is not allowed because of adverse meteorological or air quality conditions.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 4-1978, f. & ef. 4-7-78

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

Emission Offsets

340-30-110 [DEQ 9-1979, f. & ef. 5-3-79;
Repealed by DEQ 25-1981, f. & ef. 9-8-81]

In the Medford-Ashland AQMA, emission offsets required in accordance with OAR 340-20-240 for new or modified sources shall provide reductions in emissions equal to ~~{1.3}~~ 1.2 times the emission increase from the new or modified sources.

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

I-

TABLE - I
(340-30-045)
COMPLIANCE - SCHEDULE

<u>Division</u> 340-30 <u>Rule --</u>	<u>Submit</u> Plans to the Dept.	<u>Place</u> Purchase Orders --	<u>--Begin</u> <u>Construction</u>	<u>Complete</u> <u>Construction</u>	<u>Demonstrate</u> <u>Compliance</u>
-015 Woodwaste Boilers	1/1/79	3/1/79	--6/1/79	--11/1/79	--1/1/80
-020 Veneer Dryers	1/1/79	3/1/79	--5/1/79	--11/1/79	--1/1/80
-025 Air- Conveying Systems	3/15/80	5/15/80	--9/1/80	--12/1/80	--1/1/81
-030 Particle Dryers	7/30/81	1/1/82	--5/1/82	---1/1/83	-6/30/83
-035 Wigwam Burners	1/1/79	3/1/79	--6/1/79	--11/1/79	--1/1/80
-040 Charcoal Producing Plants	1/1/80	3/1/80	--9/1/80	---7/1/81	--1/1/82
-043 Fugitive Emissions Control	10/1/83				--6/1/84
-044 Operation and Maintenance]	10/1/83				--6/1/84

MLH:r
PLAN\AR960

RULEMAKING STATEMENTS FOR
PROPOSED AMENDMENTS TO INDUSTRIAL RULES
FOR THE MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA
AND THE GRANTS PASS AND KLAMATH FALLS URBAN GROWTH AREAS

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(7), this statement provides information on the intended action to amend a rule.

(1) Legal Authority

This proposal amends Oregon Administrative Rules (OAR) 340, Divisions 20 and 30. It is proposed under authority of Oregon Revised Statutes (ORS) Chapter 468, including ORS 468.015, 468.020, 468.280, 468.285, 468.295, and 468.305.

(2) Need for these Rules

The U.S. Environmental Protection Agency adopted revisions to the national ambient air quality standards effective July 31, 1988, which replaced the Total Suspended Particulate (TSP) standards with standards for particulate of 10 microns characteristic diameter and under (PM₁₀) per cubic meter (ug/m³).

The states are required to assure attainment and maintenance of EPA's ambient standards. To that end, the states develop strategies for control of appropriate sources of the contaminants which are targeted by the ambient standards. The rules for which this Request for Authorization for Hearing is being made are the Department's strategy for controlling industrial PM₁₀ emissions in the Medford-Ashland AQMA and Grants Pass Areas.

(3) Principal Documents Relied Upon

OAR 340, Division 30, Special Rules for the Medford-Ashland Air Quality Maintenance Area

Informational Report: New Federal Ambient Air Quality Standard for Particulate Matter (PM₁₀) and its Effects on Oregon's Air Quality Program. (Presented as Agenda Item D, January 22, 1988, EQC Meeting)

All documents referenced may be inspected at the Department of Environmental Quality, 811 SW 6th Ave., Portland, OR, during normal business hours.

LAND USE CONSISTENCY STATEMENT

The proposed rule changes appear to affect land use as defined in the Department's coordination program with DLCD, but appear to be consistent with the Statewide Planning Goals.

With regard to Goal 6, (air, water, and land resources quality), the proposed changes are designed to enhance and preserve air quality in the State and are considered consistent with the goal. The proposed rule changes do not appear to conflict with the other Goals.

Public comment on any land use issue involved is welcome and may be submitted in the same fashion as indicated for other testimony on these rules.

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

The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any appropriate conflicts brought to our attention by local, state, or federal authorities.

FISCAL AND ECONOMIC IMPACT STATEMENT

Adopting these rules would compel the installation of equipment on veneer dryers for which the installed capital costs would be about \$2 million dollars in the Medford-Ashland AQMA and about \$1.5 million in the Grants Pass Area. Operating costs for the new equipment would not be greatly different from similar costs for existing equipment, based on noting that the energy consumption of new equipment would be very close to the energy consumption of existing equipment. Maintenance costs would rise about 30% over present rates.

The estimated costs of emission controls for boilers is presented below. The estimates are based on one new scrubber at each of four sites in Grants Pass, required upon adoption of the proposed rule, and ultimately 15 electrostatic precipitators (ESP's) in both Medford-Ashland AQMA and Grants Pass Area. On that basis, the costs would be:

Grants Pass immediate: \$1 million

Grants Pass and Medford-Ashland ultimate: \$5-10 million

Since the Department does not have complete information on possible replacement or overhaul schedules for the existing boilers, it is not possible to accurately estimate the effects of inflation or for discounting future expenditures to a net present value. Therefore, cost data must be regarded as "order of magnitude", and only useful for indicating an idea of possible future costs to the industry.

The requirements for continuous emission monitoring would include developing methods or applications of existing equipment, source testing to verify and calibrate the continuous equipment, and continuing costs of reporting. Those costs are estimated as:

Develop new methods and equipment:	\$200,000
Implement results of development:	\$300,000
	<hr/>
Total cost of using new methods:	\$500,000

Use existing process instrumentation:	\$100,000
Implement results of development:	\$100,000
	<hr/>
Total costs of adapting existing methods:	\$200,000

Costs of reporting results to the Department could be on the order of \$15-20,000 per year for hand-prepared reports, the same magnitude for Department personnel time to review the reports. Using electronic means of data collection and transfer, in a form electronically readable, could reduce the costs to industry and the Department considerably.

MLH:r
PLAN\AR946 (8/89)

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Proposed Amendments to Industrial Rules for PM₁₀ Emission Control in the Medford-Ashland Air Quality Maintenance Area and Grants Pass Urban Growth Areas

Hearing Date: January 10 and 12, 1989
Comments Due: January 16, 1989

- WHO IS AFFECTED:** Residents of Jackson and Josephine Counties and the industries in those counties.
- WHAT IS PROPOSED:** The Department of Environmental Quality is proposing to amend OAR 340, Division 30, Rules for the Medford-Ashland Air Quality Maintenance Area. The proposed changes would extend the application to the Grants Pass Urban Growth Area, and impose new limits on emissions of PM₁₀ from veneer driers and wood-fired boilers, require that additional monitoring be done to continuously verify that emission-control equipment is functioning properly, and modify the emission offset requirements for the Medford-Ashland area.
- WHAT ARE THE HIGHLIGHTS:**
1. Wood-fired boilers in Grants Pass would be limited the same as in the Medford-Ashland area, and wood-fired boilers in both areas would be limited to lowest achievable emission rates when rebuilt or replaced.
 2. Plywood plants in the Medford-Ashland and Grants Pass areas would be required to reduce veneer drier emissions.
 3. In both areas, additional continuous emission monitoring equipment would be required.
 4. The particulate emission offset ratio would be increased for the Medford-Ashland area, requiring 1.3 pounds of reduction for every pound of new emissions.
- HOW TO COMMENT:** Copies of the complete proposed rule package may be obtained from the Air Quality Division in Portland (811 SW Sixth Avenue) or from the regional office nearest you. For further information, contact Merlyn Hough at (503) 229-6446.
- Public hearings are scheduled on January 10, 1989 at 7:00 p.m. in the Jackson County Courthouse Auditorium, 10 South Oakdale, Medford; and on January 12, 1989 at 7:00 p.m. in the Grants Pass City Council Chambers, 101 NW A Street, Grants Pass.
- Oral and written comments will be accepted at the public hearing. Written comments may be sent to DEQ, but must be received by no later than January 23, 1989.
- 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. If amendments are adopted, they would be submitted to the U.S. Environmental Protection Agency as revisions to the State Clean Air Act Implementation Plan. The Commission's deliberation would come during a regularly scheduled meeting after the public hearing.

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



811 S.W. 6th Avenue
Portland, OR 97204

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 1-800-452-1011.

Memo to: Environmental Quality Commission
August 9, 1989
Page 2

Major Issues

There were several common themes in the testimony:

First, many people stressed the importance of reducing all PM₁₀ (ie, particulate matter ten microns or smaller) sources, not just the industrial sources; other sources such as woodstoves and fireplaces, open burning, slash burning, and fugitive dust also need to be controlled.

Second, many people stressed the health concerns associated with the PM₁₀ concentrations measured in the Medford area.

Third, industry representatives indicated that the wood products companies are willing to do their part to reduce PM₁₀ emissions (but industrial reductions alone will not solve the problem).

Fourth, industry representatives voiced severe concerns about the proposed increase in emission offset ratio for new or expanding industries. Other industry concerns included the time schedules for installing continuous emission monitors, the lack of suitable instruments for monitoring wet stacks, the increased pollution control costs and its effects on competitiveness with industry in other areas.

Fifth, many people recommended more stringent industrial requirements than proposed by the Department, including shorter and more definite schedules to install new control equipment, tighter limits on visible emissions, more detailed continuous emission monitoring requirements, more frequent and extensive source testing, and a moratorium on the use of emission offsets by new or expanding industries (or an increased offset ratio required statewide).

And finally, the petition signed by 395 people indicated concern about the economic impact of the proposed rules on the wood products industry in the Grants Pass area.

The major issues raised in testimony have been summarized in a separate document that includes the Department's responses.

MEDFORD AND GRANTS PASS HEARING TESTIMONY

No.	Written	Name	Affiliation	Primary Position		
				Favor	Oppose	Neither
1.	A	Gregory Miller	SOTIA	X		
2.		Larry Gill	Medco			X
3.	B	Wallace Skyrman	American Lung Association	X		
4.		Leon Ellson	City of Central Point	X		
5.	C	Michael Kloor		X		
6.	D	Myra Irwin	Rogue Group Sierra Club	X		
7.		Diane Meyer		X		
8.	E	Vera Morrell	Coalition to Improve AQ	X		
9.	F	Robert Palzer, PhD	Coalition to Improve AQ	X		
10.		Carol Doty		X		
11.	G	Joe Eckhardt, MD		X		
12.	H	Garrett Andrew, MD	Boise Cascade Corp.	X		
13.	I	Henry Rust	Timber Products Co.		X	
14.		Vern Crawford		X		
15.	J	D. Wayne Linn, PhD		X		
16.	K	Patricia Kuhn		X		
17.		Andy Storment	Timber Products Co.		X	
18.	L	Arlene Mills	Ashland League of W.V.	X		
19.		Bill Petrocine	Vet. Admin. Dom.	X		
20.	M	Kathy Gordon	League of W.V. of Rogue V.	X		
21.		John Harmon				X
22.	N	Brad Prior	Jackson Co. Planning Dept.	X		
23.		Virginia Cotton		X		
24.		Cynthia Lord		X		
25.	O	Jeff Golden	Jackson Co. Commissioner	X		
26.		Gary Clarida		X		
27.		Bob Carl		X		
28.		Christopher Bratt	Headwaters	X		
29.		Gary Shaff		X		
30.		S.V. Bates		X		
31.		Harvey Caine		X		
32.		Stuart Foster			X	
33.		Bruce Donelson				X
34.	P	Ilse & John Nicholson		X		
35.	Q	Kris & Lark Bowerman		X		
36.	R	Eileen Adee		X		
37.	S	Beth Peterson		X		
38.	T	Russell Ramo		X		
39.	U	Brad Carrier		X		
40.	V	Jacki Rovin		X		
41.	W	Erland, Susan & Bengt Anderson		X		
42.	X	Linda Owen		X		
43.	Y	John Taylor		X		
44.	Z	Stephen Boyd		X		

Memo to: Environmental Quality Commission
 August 9, 1989
 Page 4

<u>No.</u>	<u>Written</u>	<u>Name</u>	<u>Affiliation</u>	<u>Primary Position</u>		
				<u>Favor</u>	<u>Oppose</u>	<u>Neither</u>
45.	AA	Julie Bollman, R.N.		X		
46.	AB	Robert S. Forrest		X		
47.	AC	Mary Meeusen		X		
48.	AD	Katya Blisenbach		X		
49.	AE	M.E. Foster, Jr.		X		
50.	AF	Colette Gardiner		X		
51.	AG	R.C. Parker		X		
52.	AH	Jack Van Syoc		X		
53.	AI	Lance Bisaccia		X		
54.	AJ	Dan & Claudia Beausoliel		X		
55.	AK	Caryn Jacobson		X		
56.	AL	Robert L. Harvey		X		
57.	AM	Richard B. Jensen		X		
58.	AN	Leon Schwartzberg Jr., PhD		X		
59.	AO	F.M. & Rosalie Gibbs		X		
60.	AP	Otis D. Swisher		X		
61.	AQ	Sarah Cribb		X		
62.	AR	Diana Dexter		X		
63.	AS	Marcus G. Smith		X		
64.	AT	Susan Duquette		X		
65.	AU	Cindy Harper		X		
66.	AV	Marc E. Prevost		X		
67.	AW	George B. Hutchinson		X		
68.	AX	David S. Kircher	EPA, Region 10	X		
69.	AY	Dan Kellogg	Sierra Club	X		
70.		Steve Doob				X
71.		Steven Kefalianos				X
72.		James McGinnis		X		
73.		Julie Kay Norman	Headwaters			X
74.	AZ	Jim Coward	395 petitioners			X
75.	BA	Paul H. Wyntergreen	Coalition to Improve AQ	X		

MLH:r
 PLAN\AR947 (8/89)

RESPONSE TO TESTIMONY RECEIVED AT THE MEDFORD AND GRANTS PASS
PUBLIC HEARINGS ON PROPOSED CHANGES TO INDUSTRIAL RULES

The major issues identified in the public hearing testimony are summarized and discussed in this report. The issues are grouped into the following categories: Airshed Overview, Industrial versus Non-Industrial Requirements, Boiler Limits, Veneer Drier Limits, Monitoring and Enforcement, Offset Requirements, and Miscellaneous.

AIRSHED OVERVIEW:

Issue No. 1: PM₁₀ pollution is a major health concern. PM₁₀ emissions from combustion sources such as industrial boilers or residential woodburning are of special concern. It should be recognized that the costs of industrial or residential pollution control should result in substantial health benefits. These expected health benefits may be greater than the pollution control costs.

Response: The Department concurs. The PM₁₀ ambient air quality standards are based on a thorough evaluation of health effects by the U.S. Environmental Protection Agency (EPA) and the Clean Air Scientific Advisory Committee (CASAC). CASAC is a panel of eleven nationally recognized non-EPA experts that review health effects information and recommends appropriate air quality standards to the EPA Administrator. Combustion emissions are of special health concern because the smoke particles are small enough to be easily inhaled and lodged in the lungs. Health benefits of controls are difficult to accurately quantify as dollar values but the efforts to date indicate that they may be substantial.

Issue No. 2: Medford has the highest summer PM₁₀ levels (August average during 1984-88) in Oregon.

Response: This is not correct. The Medford August average PM₁₀ level is higher than Grants Pass, Eugene or Klamath Falls. But other monitoring sites in Oregon, some of which do not exceed either the daily or annual PM₁₀ standards, consistently record as high or higher August PM₁₀ levels than the 46 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) August average at the Jackson County Courthouse in Medford.

For example, the August PM₁₀ average at the Portland Transcon monitoring site was 55 $\mu\text{g}/\text{m}^3$ in 1987 and 42 $\mu\text{g}/\text{m}^3$ in 1988, and in Pendleton was 48 $\mu\text{g}/\text{m}^3$ in 1987 and 46 $\mu\text{g}/\text{m}^3$ in 1988; neither of these sites violates the annual average (50 $\mu\text{g}/\text{m}^3$) or 24-hour (150 $\mu\text{g}/\text{m}^3$) PM₁₀ standards. The corresponding August PM₁₀ average at the Jackson County Courthouse was 46 $\mu\text{g}/\text{m}^3$ in 1987 and 42 $\mu\text{g}/\text{m}^3$ in 1988. All of these results are based on the PM₁₀ high-volume samplers.

Issue No. 3: Summer PM₁₀ levels provide a true indication of the basic health of an airshed. If the summer PM₁₀ level exceeds the annual standard on a monthly basis, it follows that PM₁₀ levels for the remainder of the year will be correspondingly worse.

Response: This is misleading. The Klamath Falls area has some of the lower August average PM₁₀ levels in Oregon but has the highest annual average PM₁₀ and the highest 24-hour PM₁₀ in Oregon. The Portland Transcon and the Pendleton sites meet both the annual and 24-hour PM₁₀ standards even though they experience much higher August average PM₁₀ levels than Klamath Falls.

August is not the month with the lowest PM₁₀ levels. Other months have better ventilation and/or lower dust impacts. For example, at the Courthouse in Medford during the 1984-86 baseline period, five months had lower average PM₁₀ than August and only six months had a higher average. Even at the background site in Sams Valley, only four months had higher average PM₁₀ levels than August and one of those higher months was July. In fact, the August average PM₁₀ level was higher than the annual average PM₁₀ at the background site. Over half of the PM₁₀ measured at the background site during August was geologic dust (soil dust, road dust, construction dust, etc.).

Issue No. 4: It is the annual average exceedance of PM₁₀ standards that is of greatest concern in Medford since the daily standard was exceeded at the Courthouse in Medford only 1.3 percent of the days during 1984-88 while the annual average standard was exceeded 100 percent of the time (each of the five years).

Response: This is misleading and apparently based on a misunderstanding of the PM₁₀ standards.

First, it is important that PM₁₀ concentrations be reduced to meet both the 24-hour PM₁₀ standard (150 $\mu\text{g}/\text{m}^3$) and the annual average PM₁₀ standard (50 $\mu\text{g}/\text{m}^3$) in order to protect public health.

It is difficult to compare the relative health concern of the violations of the 24-hour standard to violations of the annual average standard in Medford since the PM₁₀ health impacts involve both the frequency/duration of the exposure and the magnitude of the exposure. But the short-term and long-term epidemiological studies indicate that health effects are more likely at the 24-hour PM₁₀ concentrations measured in Medford than at the annual average concentrations measured in Medford.

For example, short-term epidemiological studies summarized by EPA in the July 1, 1987, Federal Register indicated that health effects were possible at 24-hour PM₁₀ concentrations of 140-350 $\mu\text{g}/\text{m}^3$; worst day concentrations in Medford are near the top of this range. Long-term epidemiological studies indicated that health effects were possible at annual average PM₁₀ concentrations of 40-90 $\mu\text{g}/\text{m}^3$; the 1984-88 annual average concentration of about 60 $\mu\text{g}/\text{m}^3$ in Medford is in the middle of this range.

Second, the 1.3 percent is incorrectly calculated as the number of exceedance filters collected during 1984-88 divided by the number of days in 1984-88. Filters were not collected on all days so the number of exceedance filters should have been divided by the number of days that valid filters were collected (500 valid filters during 1984-88). The corrected estimate is 5.2 percent (about 19 days per year) which agrees very closely with the 20 days per year estimated from the combined results of all particulate monitoring (hourly nephelometer, hourly automated particulate monitor, and the various filter methods).

Third, the violations of the $50 \mu\text{g}/\text{m}^3$ annual average PM_{10} standard in Medford are caused primarily by high days during November through February. For example, during the 1984-86 baseline period at the Courthouse in Medford, the average PM_{10} (using the PM_{10} high-volume samplers) for the other eight months of the year averaged $43 \mu\text{g}/\text{m}^3$; the November through February average was $106 \mu\text{g}/\text{m}^3$. All of the exceedances of the $150 \mu\text{g}/\text{m}^3$ 24-hour PM_{10} standard in 1984-86 occurred during November through February. The worst days during 1984-86 were over $300 \mu\text{g}/\text{m}^3$ (ie, 100 percent above the 24-hour standard). Therefore, a substantial reduction in PM_{10} during November through February will help meet both the 24-hour and the annual PM_{10} standards.

Issue No. 5: A 45 percent reduction of all controllable sources will be required to meet the annual PM_{10} standard. It would be most equitable to reduce all such sources by a comparable amount, rather than calling for only 21 percent from industrial sources and greater amounts from sources such as woodstoves.

Response: The 45 percent reduction estimate is apparently based on a misunderstanding of the health basis of the annual average PM_{10} standard. The annual average PM_{10} standard is intended to be compared to the measured PM_{10} level for an area averaged over a period of three years or more; it is not intended to be compared to the worst year on record. For example, the average PM_{10} measured at the Courthouse in Medford during 1984-88 was $60 \mu\text{g}/\text{m}^3$ and the worst annual average during this five-year period was $74 \mu\text{g}/\text{m}^3$ in 1985; the $50 \mu\text{g}/\text{m}^3$ standard should be compared to the $60 \mu\text{g}/\text{m}^3$ annual average during 1984-88, not the $74 \mu\text{g}/\text{m}^3$ annual average measured in the worst year.

Regarding comparable percent reductions, it should be recognized that industrial pollution controls were primarily responsible for the particulate emission reductions and the improvements in ambient particulate levels from 1977 to present. Industrial particulate emissions were reduced by 70 percent between 1979 and 1986. Residential woodburning emissions were targeted for a 40 percent reduction but the actual reduction was about 10 percent during 1979-86. The combination of the 1979-86 industrial reductions and the proposed additional 20 percent industrial reductions represents an equal or greater percent reduction in industrial emissions than the percent residential reductions (70-75 percent on worst days and 50-60 percent annual average) recommended by the Jackson County Woodburning Task Force.

Issue No. 6: Carbon monoxide air pollution appears to have been overlooked in the development of the proposed PM₁₀ control strategy. The Medford-Ashland area is also in non-compliance for carbon monoxide. The carbon monoxide non-attainment area boundaries should be enlarged to correspond with the particulate area.

Response: The carbon monoxide nonattainment area boundaries were initially recommended by the Jackson County City/County Air Quality Liaison Committee and the Jackson County Department of Planning and Development in the "Analysis of Transportation Control Measures" dated July 1980. The boundaries were based on: (1) streets with the potential to violate CO health standards as identified by emissions modeling performed by the Oregon Department of Transportation in 1978-79; and (2) areawide monitoring of ambient CO concentrations by DEQ in December 1978 and January 1979. The July 1980 analysis identified motor vehicles on the heavily trafficked roadways and at the more congested intersections as the dominant contributor to the problem CO levels.

The boundaries were reevaluated in the "Medford Area Transportation Study (MATS)" dated March 1981. The southern boundaries of the CO nonattainment area were refined somewhat based on areawide CO monitoring in December 1979 and January 1980 by Earthmetrics Incorporated, but the northern boundaries remained the same.

The CO nonattainment area boundaries were adopted following public hearing by Jackson County as part of the CO control strategy in August 1982 and adopted by the Environmental Quality Commission as part of the State Implementation Plan in October 1982.

Ambient CO levels in Medford have been reduced dramatically over the last decade as a result of better pollution control equipment on newer cars, traffic signal and flow improvements, and the motor vehicle inspection and maintenance program. The number of exceedances of the CO health standard has decreased from 207 exceedances in 1977 to only 3 days in 1988. The CO concentrations (daily 8-hour maximums) have been reduced in downtown Medford: on worst days, from 21.8 parts per million (ppm) in 1977 down to 12.2 ppm in 1988, a 44 percent improvement; on average, from 9.9 ppm in 1977 to 4.0 ppm in 1988, a 60 percent improvement. As a result of these improvements, the CO problem area has been reduced to a few congested intersections within the CO nonattainment area.

These improvements in ambient CO air quality are consistent with the reductions in motor vehicle emissions over this time period. This 12-year trend further confirms that motor vehicles have been the dominant contributor to the CO problem; residential woodburning is a distant second most important contributor to the CO problem; industry is a distant third.

In summary, the CO nonattainment boundaries were established in an open process based on an objective evaluation of both CO modeling and monitoring information and were consistent with the recommendation of

the local citizen advisory committee. The dramatic improvements in measured CO over the last decade verify that motor vehicles have been the dominant contributor to the problem and indicate that the CO problem area is now only a small area within the original nonattainment boundaries.

Issue No. 7: Ozone air pollution appears to have been overlooked in the development of the proposed PM₁₀ control strategy. The Medford-Ashland area is precariously close to non-compliance for ozone, for which oxides of nitrogen and volatile organic compounds are precursors. The growth limit of 2000 tons for volatile organic compounds should be eliminated to prevent potential ozone violations.

Response: This is apparently based on a misinterpretation of the ozone standard. The Department disagrees that the Medford-Ashland area is precariously close to non-compliance for ozone. The EPA and Oregon ozone standard is 0.12 parts per million (ppm). The Medford-Ashland area violated this standard during the 1970s but has consistently met this standard during the 1980s.

Compliance with the 0.12 ppm ozone standard is based on the fourth highest day in a three-year period; in Medford-Ashland over the last six-years (1983-88) this ozone level has ranged from 0.09 to 0.10 ppm. Ozone levels in Medford-Ashland would have to increase by 20 percent or more to violate the EPA and Oregon ozone standards.

The ozone level can occasionally (up to an average of once per year) go above the 0.12 ppm level without threatening a violation of the ozone standard. For example, ozone levels in the Eugene area, which has also been in compliance with the ozone standard during the 1980s, occasionally reach 0.13 ppm (8/7/81) or even 0.15 ppm (9/1/88). The highest ozone level in Medford during the 1980s was 0.12 ppm (9/1/88).

Ozone levels are expected to decrease in future years as a result of better pollution control equipment on new cars and trucks, the Rogue Valley motor vehicle inspection and maintenance program started in 1986, and gasoline volatility limits adopted by EPA and Oregon in 1989.

The growth margin for volatile organic compounds (VOC) is the amount that VOC emissions could be increased without causing a violation of the ozone health standard. The ozone maintenance plan for the Medford-Ashland area was adopted following public hearing by the Environmental Quality Commission in January 1985 and approved by EPA in June 1986. The VOC growth cushion identified in the ozone maintenance plan for the Medford-Ashland area in 1987 and subsequent years was about 1,535 tons per year (2,000 tons per year per day, minus allocations of 465 tons per year for growth and development). The 1,535 tons per year VOC growth cushion represents about 18 percent of the Medford-Ashland VOC emission inventory during 1983-86.

INDUSTRIAL VERSUS NON-INDUSTRIAL REQUIREMENTS:

Issue No. 8: All of the other PM₁₀ sources, especially residential woodburning, need to be addressed in addition to industrial sources in the overall PM₁₀ control strategy.

Response: The Department concurs. Emission reductions from non-industrial PM₁₀ sources will be essential for meeting PM₁₀ standards in the Medford-Ashland, Klamath Falls and Eugene-Springfield areas and possibly in the Grants Pass and La Grande areas.

Residential woodburning has been the subject of much deliberation with citizen advisory committees, local governments, and the state legislature; the success or failure of the PM₁₀ control strategies will largely depend on what can be done to effectively reduce smoke from woodstoves and fireplaces. The voluntary woodburning curtailment programs in southern Oregon (portions of Jackson and Klamath Counties) reduced woodstove and fireplace use by 25-30 percent on worst pollution days during 1988-89, but greater reductions are needed to meet PM₁₀ standards (about 70 percent curtailment needed in Medford and 90 percent in Klamath Falls on worst days). Senate Bill 422, which would have provided the framework and financial incentives for woodsmoke reductions, was considered but not passed by the 1989 Oregon Legislature. The Department is working with local governments to develop the necessary residential woodsmoke control programs.

Fugitive dust and open burning requirements were part of the Medford-Ashland particulate control strategy (for total suspended particulate) adopted in 1982-83; the local governments in Jackson County are currently re-evaluating these requirements.

Issue No. 9: New industrial rules should be enacted immediately, regardless of the timetable required to enact additional measures that may be needed to reduce non-industrial emissions sufficiently to meet the overall target.

Response: The Department concurs. Industrial PM₁₀ emission reductions, even if not adequate by themselves to meet the ambient PM₁₀ health standards, will still result in more healthful air quality than without the industrial reductions. It is critical that substantial progress also be made to reduce non-industrial PM₁₀ emissions in the near future, but delays in reducing the non-industrial control measures should not be reason for delaying the industrial requirements. The proposed industrial controls will provide most of the PM₁₀ reduction needed to meet PM₁₀ standards in Grants Pass.

Issue No. 10: Implementation of the new industrial control rules should be delayed to coincide with the schedule for non-industrial (residential woodburning, fugitive dust) control requirements.

Response: The Department disagrees. See the response to the preceding issue. The Department recognizes that most of the particulate reductions over the last decade have been due to industrial controls and that residential woodsmoke reductions are critical to the success of the PM₁₀ control strategy. But further

industrial emission reductions are a significant part of the overall strategy and should be implemented as soon as possible regardless of whether or not delays occur in other strategy elements.

Issue No. 11: Tax credits will not be available to offset a portion of the industrial costs since the tax credit program is scheduled for termination in 1990.

Response: Although the tax credit program had been scheduled for termination in 1990, the 1989 Oregon Legislature extended the program through December 1, 1995.

Issue No. 12: If mandatory red day restrictions are applied to woodstoves, then mandatory red day restrictions should also be applied to industrial sources. This may be accomplished by dual fueling capability and requiring those sources to switch to natural gas during those periods.

Response: EPA does not allow the intermittent control of industrial sources to be used to demonstrate that a State Implementation Plan is adequate to meet standards. The proposed industrial rules require 70-85 percent control of veneer drier and large wood-fired boiler emissions on all days of the year, not just the 20-25 red days per year.

Issue No. 13: Open burning should be banned in Grants Pass during the same adverse meteorological or air quality conditions as in Medford-Ashland.

Response: Fire districts in the Grants Pass area have started requiring residents to call DEQ prior to open burning. The most critical months to limit open burning in order to help avoid exceedances of the PM₁₀ health standards are November through February. The proposed Senate Bill 422 would have banned open burning in PM₁₀ problem areas during this four-month period each year. Local governments in Jackson County are considering a four-month or more open burning ban. The Department intends to work with local governments and fire districts in Josephine County to consider similar open burning restrictions for the Grants Pass area.

Issue No. 14: The Department should insist that local governments standardize and enforce regulations on outdoor burning.

Response: The Department recognizes that local governments and fire districts are partners in air pollution control and that reductions in open burning emissions can help make progress toward meeting PM₁₀ health standards. The Department is an advocate for increasing the attention of local governments and fire districts to air quality related concerns. But each of the local governments and fire districts has the ultimate authority for allocating its limited resources among its various responsibilities. In some cases it will be other air pollution control activities (traffic flow management, winter sanding cleanup, woodburning curtailment, etc.) by local governments that compete for resources with increased open burning surveillance and

enforcement. If there are serious discrepancies between open burning programs, the Department could adopt rules that are consistent.

BOILER LIMITS:

Issue No. 15: All mills should be required to meet the proposed emission standards for large wood-fired boilers by a given date instead of upon powerhouse modernization or other boiler modification. (Some testimony recommended July 1, 1990.) All major wood-fired boilers should be equipped with lowest achievable emission rate (LAER) controls for particulate when the present controls reach the end of their economic life based on the amortization of their state pollution tax credits.

Response: New air pollution controls are generally more cost-effective if coordinated with the construction of other major facilities. This cost-effectiveness rationale was the basis for the Department's initial proposal for implementation of tighter emission limits on large wood-fired boilers upon the modification of these boilers or their pollution control equipment. Two of the three major powerhouse facilities (including five of the six large boilers) in north Medford were scheduled for modernization and expansion in the near future.

However, there is no guarantee that these expected modifications, and the proposed boiler emission reductions, will occur within a known time period. Therefore, the Department has revised the proposal to include an outside deadline of December 31, 1994, for the lowest achievable emission rate (LAER) on large wood-fired boilers in the Medford-Ashland area (eight boilers at five plants in Medford and White City would be affected) and Grants Pass area (one boiler affected). This schedule would still be within the time period that tax credits have been authorized by the Oregon Legislature, but long enough to better allow integration with other plant modernization schedules.

Issue No. 16: The visible opacity limits for large wood-fired boilers should be amended to reflect the lower emission standards. The opacity standard for all existing wood-fired boilers that must meet the 0.05 grains per dry standard cubic foot (gr/dscf) emission limit should be revised to the more accurate 5 percent (rather than 20 percent) opacity level. (Other testimony recommended a 10 percent opacity limit for 0.05 gr/dscf limited boilers.) Sources limited to a more stringent emission limit should be subjected to a proportionally tighter opacity standard.

Response: Current rules limit visible emissions from boilers with an 0.05 gr/dscf emission concentration to no more than 20 percent opacity. This is consistent with the 20 percent opacity limits in the EPA New Source Performance Standards for new wood-fired boilers with an equivalent emission concentration. The Department has included or proposed 10 percent opacity limits in a few recent permit renewals on 0.05 gr/dscf boilers based on the actual visible emissions during source testing. The State of Washington Department of Ecology has done likewise. Source tests on boilers in Oregon, Washington, and California that are required to provide the lowest achievable emission

rate (LAER) consistently indicate visible emissions of less than 5 percent at 0.01 to 0.03 gr/dscf. Therefore, the Department has modified the proposal to limit visible emissions to 10 percent for 0.05 gr/dscf boilers and 5 percent for LAER-equipped boilers unless the permittee can demonstrate through source testing that the gr/dscf emission limits can be met with higher visible emissions.

Issue No. 17: Language changes are needed in the proposed boiler emission limitations to insure enforceability and EPA approvability.

Response: The Department has reviewed the results of additional recent source testing of LAER-equipped wood-fired boilers. Based on this review, the Department has confirmed that LAER-equipped boilers should be limited to an emission concentration of 0.015 gr/dscf. The 0.015 gr/dscf emission concentration (or lower, if new facilities constructed in the future demonstrate that a lower level is appropriate for LAER) will be required of facilities installing LAER on boilers. The plant site emission limit in the proposal is based on a 0.03 gr/dscf equivalent emission concentration in order to insure the projected 40 percent emission reduction, but still allow the powerhouse expansions and modernizations such as proposed by the two facilities in north Medford.

Issue No. 18: If there is justification for a wood-fired boiler emission limit that exceeds LAER, it need not exceed 0.025 gr/dscf (rather than the proposed 0.03 gr/dscf) based upon precedent set by the Medco permit.

Response: The Medco permit actually includes a 0.015 gr/dscf limit based on the LAER review discussed in the response to the preceding issue.

Issue No. 19: If there is an expansion of boiler output, limits should be placed on all major air contaminants to within close proximity to their prior levels.

Response: The Department believes that this issue is already adequately addressed in the existing rules. The procedures for evaluating other major air contaminants are outlined in the New Source Review Rules (OAR 340, Division 20). If the emissions of any major air contaminant are greater than the specified significant emission rate then best available control technology (BACT) or lowest achievable emission rate (LAER) is required, as well as dispersion modeling to determine the impact on ambient concentrations of the contaminant. In order to be approved, the modeling must be done according to specified procedures and demonstrate that the new source will not: (1) cause a violation of ambient air quality standards; (2) exceed any PSD (prevention of significant deterioration) increment; or (3) have a significant impact on any area that is non-attainment for that contaminant.

veneER DRIER LIMITS:

Issue No. 20: Additional terms in the proposed veneer drier rule need to be defined to insure enforceability and EPA approvability. Language changes are needed in the proposed wood-fired veneer drier rule to clarify that the combustion emissions from wood-fired veneer drier systems not used in the veneer drier(s) are subject to the existing emission limit for wood-fired boilers.

Response: The Department concurs. Definitions of "average opacity" and "maximum opacity" have been added to the proposal with specific reference to the EPA method for determining visible emissions (Method 9 in 40 CFR 60, Appendix A). Additional details have been added for determining the moisture of fuel for wood-fired veneer driers. Clarification has been added for the emission limits applicable to the combustion emissions from wood-fired veneer driers.

Issue No. 21: Veneer driers equipped with the proposed new controls should be required to meet a visual opacity standard of 5 percent, except during the periodic washdown cycle.

Response: Observations by Department staff indicate that visible emissions from veneer driers operating below the proposed mass emission rates (0.30 to 0.45 pounds per thousand square feet of veneer dried, 3/8 inch basis) are generally in the 0 to 10 percent range. These Department observations suggest that visible emission limits of 5 percent average and 10 percent maximum are achievable. However, industry representatives have indicated that consistent compliance with visible emission limits of less than 10 percent average and 15 percent maximum would be very questionable. Therefore, the Department has revised the proposal to limit visible emissions from veneer driers to 5 percent average and 10 percent maximum unless the permittee can demonstrate by source testing that the mass emission rate can be met with higher visible emissions.

MONITORING AND ENFORCEMENT:

Issue No. 22: Additional details on continuous emission monitoring systems (CEMS) regarding calibration, etc. should be specified in the rules.

Response: CEMS calibration and operation requirements are considerably more complex and detailed than appropriate for adoption as Oregon Administrative Rules (OAR). It is the Department's intent that the CEMS requirements be consistent, where applicable, with the EPA performance specifications and quality assurance procedures outlined in 40 CFR 60, Appendices B and F, and the Quality Assurance Handbook for Air Pollution Measurement Systems, Volume III (the current version is dated June 1, 1986). The Department is in the process of completing a continuous emission monitoring manual that is based on the 40 CFR 60 requirements and the Handbook guidelines.

CEMS applications on wet stacks (wet scrubber controlled sources) are not as straight forward as on dry stacks. Most of the major industrial PM₁₀ sources in the Medford-Ashland area are controlled by wet scrubbers. On dry stacks, continuous opacity monitors can be used to

estimate particulate emissions. On wet stacks, surrogate methods must be used. These surrogate methods, when applied to large new wet stack sources in other states, have included some combination of pressure drop across the scrubber, scrubber water flow and/or pressure, and stack gas temperature. The Department intends to require these surrogate methods in the Medford-Ashland and Grants Pass areas unless better methods are identified.

Issue No. 23: Additional details on corrective action to be taken during periods of excessive emissions should be specified in the rules.

Response: The corrective action to be taken upon malfunction of equipment (ie, emission sources or air pollution control equipment) is outlined in OAR 340-21-075. The person responsible is required to: (1) notify the Department within one hour, or as soon as is reasonably possible, giving all pertinent facts including the estimated duration of the breakdown; (2) take appropriate action to correct the problem conditions with all practicable speed; (3) cease operation within 48 hours if the malfunction is not corrected within that time unless an extension is authorized by the Director; (4) cease operation immediately if the malfunction occurs during an air pollution alert, warning or emergency, or if the malfunction is deemed by the Director to present an endangerment to health; and (5) notify the Department when the malfunction or breakdown has been corrected.

Issue No. 24: Additional details on continuous emission monitoring systems (CEMS) regarding violation definitions, penalty provisions, etc. should be specified in the rules.

Response: Violation definitions and penalty provisions are included in the Department's Enforcement Procedure and Civil Penalties (OAR 340-12-026 to -080).

Issue No. 25: Uniform compliance, monitoring and enforcement standards are needed on all boilers and veneer driers.

Response: One of the four stated goals of the Department's Enforcement Procedure and Civil Penalties (OAR 340-12-026) is to ensure an appropriate and consistent statewide enforcement program. The emission standards and continuous emission monitoring requirements are generally more restrictive for: (1) new or recently modified sources; (2) large sources which can be more cost-effectively controlled than smaller sources; and (3) sources located in air pollution problem areas or located near Class I national park or wilderness areas.

The certain date requirements discussed under the boiler limits would provide more uniform control requirements for all large wood-fired boilers in the Medford-Ashland area.

Issue No. 26: Source testing and continuous monitoring should be required for each major pollutant from wood-fired boilers and veneer driers in order to establish a realistic emission inventory, establish reasonable permit levels, provide enforcement of permitted emission levels, and develop a plan for control.

Response: The Department's proposal would require additional source testing and continuous monitoring. Source testing provides comprehensive emission data over a short time period; continuous monitoring information provides less comprehensive emission data over a longer time period.

The most important wood-fired boiler pollutants for continuous monitoring in the Medford area are opacity and carbon monoxide; the opacity is an indicator of relative particulate emissions and the carbon monoxide is an indicator of combustion efficiency as well as carbon monoxide emissions. However, the wet scrubbers on most of the large wood-fired boilers prevent continuous opacity monitoring and necessitate surrogate monitoring of scrubber parameters. Continuous opacity monitoring is possible on the large wood-fired boilers without wet scrubbers and the waste heat boiler at the charcoal plant.

The periodic boiler source testing is required by the Department to include particulate matter, carbon monoxide, carbon dioxide, and oxides of nitrogen.

The most important parameter for routinely evaluating particulate emissions from veneer driers, particle driers and fiber driers is opacity; the opacity is an indicator of relative particulate emissions. However, the wet scrubbers on almost all of the veneer driers and all of the particle and fiber driers prevent the use of continuous opacity monitoring and necessitate surrogate monitoring of scrubber parameters. The periodic drier source testing under the proposal would include particulate matter and opacity.

Issue No. 27: Continuous emission monitoring should be required of all sources within one year. Boiler monitoring should test for particulate, oxides of nitrogen, carbon monoxide, and volatile organic compounds. Veneer driers should be monitored for particulate and possibly volatile organic compounds.

Response: Some types of continuous monitors are straightforward and can be installed within a year. The proposed rules have been modified to require shorter time frames for these continuous monitors. Up to a one-year extension is provided for more unusual monitoring requirements.

The most useful continuous emission monitoring systems for boilers are opacity (or surrogates) and carbon monoxide. These measurements would best identify excessive particulate or carbon monoxide emissions or poor combustion conditions. Periodic boiler source testing for oxides of nitrogen (NO_x) is useful for emission inventory purposes. The Department is requiring more extensive NO_x monitoring in recent boiler

permits in order to determine if continuous NOx monitoring is useful or necessary.

A good method has not yet been identified for measuring volatile organic compound (VOC) emissions from boilers or veneer driers. Total hydrocarbons (THC) testing is sometimes done but the results reported as THC include some compounds that are not VOC and does not include other compounds that are VOC. THC monitors are difficult and burdensome to operate and cannot be left unattended for extended periods. EPA is currently evaluating VOC surrogate monitoring methods (hot and cold THC monitors) on incinerators. Carbon monoxide appears to be a more sensitive and reliable indicator of proper combustion and a good indicator of relative THC levels.

Issue No. 28: The goal for continuous instrumental monitoring should be to determine compliance with permit conditions on a continuous basis and to provide a meaningful database on industrial emissions, not merely "to allay public concerns that the control systems are in continuous use" as proposed.

Response: The proposed continuous emission monitoring requirements were not intended to merely allay public concerns. As indicated in the staff report for the proposed rules, "the goal is to be able to better and more frequently verify that emission control equipment is operated continuously at maximum efficiency. Continuous monitoring could also indicate when repairs or adjustments are needed, facilitating maintaining the efficiency of the equipment." If the continuous monitoring requirements also allay public concerns, that is a desirable added benefit.

Issue No. 29: Permitted emission levels for all pollutants should be written in terms of an hourly rate, both for continuous monitoring and source-testing purposes to provide a meaningful basis for enforcement.

Response: The air contaminant discharge permits issued by the Department for wood-fired boilers generally include both hourly (pounds per hour) and annual (tons per year) emission limits for particulate matter, carbon monoxide, oxides of nitrogen, and volatile organic compounds (VOC). The boiler opacity requirement allows no more than three minutes in any hour to exceed the opacity limit. Short-term and long-term emission limits are included to be consistent with the short-term and annual ambient standards.

Compliance with all of these parameters, with the possible exception of VOC discussed earlier, can be checked during periodic source testing. Continuous carbon monoxide monitoring can be used to check compliance with the carbon monoxide limits and indicate combustion efficiency (which is an indication of relative particulate and VOC emissions) on a continuous basis. Continuous opacity monitoring on dry stacks can be used to check compliance with the opacity limits and indicate relative particulate emissions on a continuous basis. On wet stacks, scrubber parameters can be used to indicate relative particulate emissions. Compliance with opacity limits can also be visually checked on wet or

dry stacks by inspection throughout the year during daylight conditions.

Issue No. 30: Continuous emissions monitoring data should require an electronic means of data collection and transfer to DEQ in an electronically readable format. This should trigger a computerized mechanism that alerts the permittee or DEQ that immediate corrective action is warranted whenever hourly permit levels are exceeded.

Response: It is important that the permittee be immediately alerted to any excessive emissions. This is commonly accomplished by visual and/or audible alarms.

In extreme cases, air pollution agencies have considered real-time continuous reporting of the continuous emission monitoring data. For example, the New Jersey Bureau of Air Pollution Control is establishing a computerized system for continuously reporting, over dedicated telephone lines, the emissions from hazardous waste incinerators and municipal waste incinerators. One of the major costs is \$1,000 per month per facility for the dedicated telephone lines.

The Department has considerable experience with the electronic transfer of ambient air quality data over telephone lines using a periodic dial-up system. For example, the Medford ambient carbon monoxide, ozone and nephelometer data is transferred over telephone lines at least twice daily to the DEQ Laboratory and Air Quality Division in Portland.

The periodic telephone transfer of industrial continuous monitoring data should be relatively straightforward. A data logger with modem (compatible with the Department's system) and a telephone line would be required. Dedicated telephone lines would not be required. It is the Department's intent to require telephone access to at least the major combustion sources (large wood-fired boilers) and possible other sources in the future.

The most important feedback from continuous monitoring, however, is directly to the industry person(s) responsible for continuous compliance of the source and able to immediately take action to correct any problems.

Issue No. 31: If permit conditions are exceeded, corrective action should be required at the first sign of noncompliance, not after a prolonged violation. Each day of exceedance should constitute a separate violation subject to a penalty of sufficient magnitude to encourage compliance.

Response: The Department concurs. This is addressed in the Department's rules for malfunction of equipment (OAR 340-21-075) and enforcement procedure and penalties (OAR 340-12-026 to -080) discussed earlier.

Issue No. 32: All veneer driers should be source tested annually for at least three years in a row, and more frequently if they are not in compliance. The testing should be done while the most highly emitting material is being processed.

Response: The Department concurs with the annual source test requirement for three years in a row and has clarified this in the proposal.

Regarding the species of veneer dried during source testing, the Department requires that the mix of species be representative of typical conditions in order to determine compliance with the annual plant site emission limit. For example, a plant with a combined veneer drying system of five veneer driers that on an annual basis dried 40 percent white fir veneer and 60 percent Douglas fir veneer would be required to operate two driers on white fir and three driers on Douglas fir during the source test. The source is required to meet the opacity limits at all times during the year.

Issue No. 33: If a source is not tested at maximum capacity, then the source should be limited, in expressly stated form, to the production level at which it successfully passed the test.

Response: The Department concurs. Small adjustments are occasionally needed and allowed in the production rate, due to normal production fluctuations, if the source test indicates compliance by some margin with the applicable emission standard.

Issue No. 34: Enforcement procedures need to be clearly stated either in the general conditions of a permit, or in a cover letter sent to existing permit holders that supplements the permit.

Response: The enforcement procedures and civil penalties rules (OAR 340-12-026 to -080) are available to permittees. The Department believes that it is most important that the permit focus on what performance and control is expected and required of the permittee, not what could happen if the permittee fails to do so.

Issue No. 35: For all sources, if a test is failed, it should constitute a violation subject to an immediate penalty. In addition, there should be a requirement for more frequent testing, such as at quarterly intervals until a regular pattern of compliance is established.

Response: If a test is failed, the permittee is required to correct the problem and re-test to demonstrate compliance. The permittee is subject to enforcement action and penalties for the violation period. The Department believes that the increased continuous emission monitoring requirements are a better method of determining a regular pattern of compliance than quarterly source testing.

OFFSET REQUIREMENTS:

Issue No. 36: The offset rules should not be changed from the existing 1:1 ratio and net air quality benefit requirements.

Response: The major benefit of an increased offset ratio is a better assurance that a proposed offset will result in a net air quality benefit throughout the airshed. Very few offset transfers have occurred in the Medford-Ashland area and an increase in the offset ratio would tend to further suppress offset transfers. The Department believes that a ratio greater than 1:1 is prudent to insure net air quality benefit.

An offset ratio of 1:1 or more with a net air quality benefit requirement is consistent with EPA requirements for new source review. The EPA Emission Trading Policy Statement finalized in December 1986, which is primarily a policy for existing-source bubbles, requires a reduction of 20 percent (that is, an offset ratio of 1.2:1) from baseline emissions for emission trades involving existing-source bubbles in nonattainment areas. In order to be consistent with this national policy, even though not required by EPA for new sources, the Department has modified the proposal to require an offset ratio of 1.2:1 which is more restrictive than the existing 1:1 requirement but slightly less restrictive than the 1.3:1 initial proposal.

Issue No. 37: The transfer or accumulation of offsets should be suspended until the annual standard has been met for two consecutive years.

Response: This would essentially be a growth moratorium on new or expanded industrial sources.

Offsets are allowed by EPA under the Clean Air Act in order to allow economic development during the period that an area is progressing toward attainment of air quality standards.

The Department does not support a suspension of offset transfers for the following reasons: (1) it could prevent modernization or replacement of existing facilities that would otherwise result in a net air quality benefit; (2) it would be punitive to industries that have generally fulfilled their pollution control requirements under the 1978 and 1983 Medford-Ashland particulate control strategies, even though residential woodburning control commitments of the 1983 strategy were not fulfilled; and (3) it would interfere with economic development in the Medford-Ashland area.

Issue No. 38: The proposed more restrictive offset requirements should be implemented state-wide.

Response: The Department will evaluate the usefulness and necessity of a statewide increase in the offset ratio and discuss this with the Commission at a future work session.

Issue No. 39: The significant emission rate (ie, the emission rate that triggers offset requirements) for PM₁₀ in the Medford-Ashland area should be reduced to three tons per year from the current five tons per year rate.

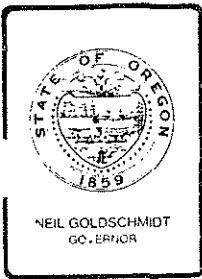
Response: The TSP and PM₁₀ significant emission rate for the Medford-Ashland and Klamath Falls areas is five tons per year which is less than the EPA significant emission rates of 25 tons per year for TSP and 15 tons per year for PM₁₀. The Department believes that the PM₁₀ significant emission rate of five tons per year is low enough to prevent significant PM₁₀ impacts.

MISCELLANEOUS:

Issue No. 40: Language changes are needed to clarify the existing charcoal manufacturing rule.

Response: The Department concurs. The charcoal manufacturing rule has been revised to clarify that the particulate emission limit is 10 pounds per ton of char produced, not 10 pounds per ton of charcoal briquets produced.

MLH:r
PLAN\AR938 (8/23/89)



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

REQUEST FOR COMMISSION ACTION

Agenda Item H, November 4, 1988, EQC Meeting

Request for Authorization to Conduct Public Hearings on New Industrial Rules for PM₁₀ Emission Control in the Medford-Ashland AQMA and Grants Pass and Klamath Falls Urban Growth Areas (Amendments to OAR 340, Divisions 20 and 30).

SUMMATION

A combination of new control requirements and strategies must be adopted to meet new standards for PM₁₀ in the Medford-Ashland, Grants Pass, and Klamath Falls areas.

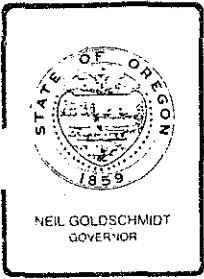
Reasonable industrial control strategies will not be sufficient to achieve standards compliance in the three areas. Substantial reductions in residential woodburning emissions, and possibly other emission sources, will also be needed. The residential components of the PM₁₀ control strategy will be brought to the Commission when the necessary coordination and negotiation with local governments are completed.

Industrial control rules have been drafted to: (1) Require more effective controls for plywood veneer driers and large wood-fired boilers in the Medford-Ashland and Grants Pass areas ; (2) Increase the particulate emission offset ratio to 1.3 pounds of reduction in existing emissions for every one pound of new emissions, in the Medford-Ashland area; (3) Require additional source-testing and continuous emissions monitoring in the Medford-Ashland and Grants Pass areas; and (4) Reduce the significant emission rate for new or modified industrial sources to five tons per year (from 15 tons per year) in the Klamath Falls area.

Action now on industrial rules will provide the wood products industries with firm PM₁₀ targets in their current planning for pollution control and plant modernization.

DIRECTOR'S RECOMMENDATION

It is recommended that the Commission authorize public hearings to take testimony on the proposed amendments to Specific Air Pollution Control Rules for the Medford-Ashland Air Quality Maintenance Area, OAR 340, Division 30, and the definition of Significant Emission Rate for the Klamath Falls area, OAR 340-20-225(22).



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director *Jed*

Subject: Agenda Item H, November 4, 1988, EQC Meeting

Request for Authorization to Conduct Public Hearings on New Industrial Rules for PM₁₀ Emission Control in the Medford-Ashland AQMA and Grants Pass and Klamath Falls Urban Growth Areas (Amendments to OAR 340, Divisions 20 and 30).

BACKGROUND

The U.S. Environmental Protection Agency (EPA) adopted major revisions to the national ambient air quality standards for particulate matter in July 1987. This action deleted the federal total suspended particulate (TSP) standards and replaced them with new standards for particulate less than ten micrometers in diameter (PM₁₀). These new standards are considered to be more protective of public health.

The new PM₁₀ standards triggered several changes to Oregon's air pollution control program. Some of these changes were adopted by the Commission at the April 29, 1988, EQC meeting. These included: (1) Adoption of Oregon PM₁₀ ambient air quality standards; (2) Amendments to the emergency action plan; (3) Amendments to the new source review rules; (4) Amendments to the prevention of significant deterioration rules; and (5) Commitments to monitor PM₁₀ and determine if there are or will be PM₁₀ problems in Group II areas (areas with moderate probability of violating the PM₁₀ standards).

The sixth and the most critical PM₁₀ addition to the Oregon air pollution control program is the adoption of control strategies for Group I areas (areas with high probability of violating the PM₁₀ standards). These strategies were required by federal rules to also be adopted by the end of April 1988. Additional time beyond April 1988 has been needed to develop the necessary consensus and public support for controversial woodheating control strategies. The Department is currently coordinating and negotiating these PM₁₀ control strategies with local governments and has advised EPA that the strategies are expected within 12 months after the April 1988 due date. Other western states have had similar problems meeting the April 1988 requirement.

The Department has drafted rules that would require better air pollution control of particulate emissions by wood products industries in the Medford-Ashland, Grants Pass and Klamath Falls areas. These new rules would be an important part of the PM₁₀ control strategies for these areas.

Even though the overall control strategies have not yet been completed, the draft industrial rules which have been under consideration since October 1987 are being proposed now in order to provide the wood products industries with firm PM₁₀ targets in their planning for pollution control and plant modernization. At least two facilities are currently planning major boiler projects; the draft rules for modifications of large wood-fired boilers would be retroactive to the date the strategies were due to EPA and the date the EQC adopted the ambient PM₁₀ standards and PM₁₀ new source review requirements (April 29, 1988). The retroactive date is necessary to insure that the new boiler projects are designed to meet the proposed emission limits and that these emission reductions will contribute to the PM₁₀ control strategy.

The Commission has the authority to adopt specific regulations for classes of sources in specific areas under ORS 468.015, 468.020, 468.295, and 468.305.

ALTERNATIVES AND EVALUATION

Overview of PM₁₀ Control Program

The Oregon PM₁₀ control program was the subject of reports to the Commission at the January 22, 1988, EQC meeting and the April 28, 1988, Medford Town Hall meeting. The highlights of these reports are outlined in Attachment A. The existing PM₁₀ levels and emission inventories in the following paragraphs provide perspective on the relative severity and sources of the PM₁₀ problems in Oregon.

Existing PM₁₀ Levels. The design values (or baseline PM₁₀ concentrations during 1984-87) have been estimated for each of the Group I areas and are summarized in the table below.

<u>Group I Area</u>	<u>Approximate Design Value (g/m³)</u>	
	<u>Annual</u>	<u>Peak Day</u>
Klamath Falls	60-90	600 or more
Medford-White City	55-65	260-370
Grants Pass	45-55	180-220
Eugene-Springfield	35-45	200-240
(Standard)	(50)	(150)

Emission Inventories. Residential woodsmoke from stoves and fireplaces, soil and road dust, and the wood products industry are the major PM₁₀ source categories within the Medford-Ashland Air Quality Maintenance Area (MA), Grants Pass Urban Growth Boundary (GP), and Klamath Falls Urban Growth Boundary (KF) as summarized in the following table. Soil and road dust is not of as much health concern as woodsmoke or industry emissions and is generally more difficult to control.

<u>Source Category</u>	<u>Percent of PM₁₀ Emission Inventory</u>					
	<u>Annual PM₁₀</u>			<u>Worst Day PM₁₀</u>		
	<u>MA*</u>	<u>GP*</u>	<u>KF*</u>	<u>MA*</u>	<u>GP*</u>	<u>KF*</u>
Residential woodsmoke	41	34	64	65	53	83
Wood products industry	21	34	7	13	21	4
Soil and road dust	24	19	12	14	16	9
Motor vehicle exhaust	7	12	6	4	8	3
Other	<u>7</u>	<u>1</u>	<u>11</u>	<u>4</u>	<u>2</u>	<u>1</u>
TOTAL	100	100	100	100	100	100

* MA = Medford-Ashland, GP = Grants Pass, KF = Klamath Falls.

Earlier this year, Dr. Robert Palzer presented a draft report to the Jackson County Commissioners that questioned the Department's estimates of relative contributions of residential and industrial sources to the PM₁₀ problem in the Medford area. Specifically, Dr. Palzer estimated that industry contributes twice as much as residential woodsmoke to the annual PM₁₀ concentrations and that industry contributes a similar amount as residential woodsmoke to winter PM₁₀ concentrations. The Department staff has reviewed Dr. Palzer's work and re-analyzed the Medford air quality data and is convinced that the Department and the independent consultants involved in the Medford airshed studies have identified the source contributions with reasonable accuracy. If the industry PM₁₀ emissions are greater than calculated by the Department then the emission reductions credited to proposed industrial control measures will be even greater than presented later in this report.

Proposed Industrial Control Measures

The Department has evaluated potential industrial air pollution control measures for the PM₁₀ problem areas. The major elements in this evaluation process were: (1) Calculation of airshed emissions from various residential, industrial and transportation source categories; (2) Identification of the significant industrial source categories; (3) Evaluation of the best available control technology and lowest achievable emission rates for these source categories; (4) Consideration of the environmental benefits and economic costs of the control technology alternatives; and (5) Selection of the proposed industrial control measures.

The selection of proposed industrial control measures were driven by the magnitude of the PM₁₀ problems and the industrial contribution to those problems in each of the areas. The guiding principles included: (1) Prevention of exacerbation of existing PM₁₀ problems by new industry; (2) Reductions of existing industrial emissions that would be adequate, when combined with reasonable residential woodsmoke reductions, to meet PM₁₀ health standards; (3) Optimum continuous performance and reliability of existing and new pollution control equipment; (4) Maximum cost-effectiveness (within the constraints of the first three guiding principles).

Consistent with these principles, the Department has drafted rules that would require better air pollution control of particulate emissions by wood products industries in the Medford-Ashland and Grants Pass areas. These new rules would be an important part of the PM₁₀ control strategies for these areas. The Department has also drafted a revised rule that would require stricter review and emission offset requirements for new industrial emission sources in the Klamath Falls area.

Specifically, the draft industrial rules would: (1) Require more effective controls for plywood veneer driers and large wood-fired boilers in the Medford-Ashland and Grants Pass areas (the new boiler requirements would apply to industries with boilers or boiler pollution control equipment modified after EQC adoption of the ambient PM₁₀ standards and PM₁₀ new source review requirements on April 29, 1988; (2) Increase the particulate emission offset ratio, requiring 1.3 pounds of reduction in existing emissions for every one pound of new emissions, in the Medford-Ashland area; (3) Require additional source-testing and continuous emissions monitoring in the Medford-Ashland and Grants Pass areas; and (4) Reduce the significant emission rate that triggers the need for emission offsets for new or modified industrial sources to five tons per year (from 15 tons per year) in the Klamath Falls area effective April 29, 1988. The proposed rules would not preclude the further control of less significant industrial source categories in the future.

The existing OAR 340, Division 30 has the framework needed for PM₁₀ industrial rules for Medford-Ashland and Grants Pass, with the bulk of the special definitions already there, the appropriate categories of sources covered, and provisions in place for compliance schedules and monitoring requirements. The proposed rule for the Klamath Falls area would be a revision to OAR 340-20-225(22). The proposed rules are included as Attachment F and are summarized in Attachment C.

Veneer Driers and Wood-fired Boilers. The largest industrial source categories in the Medford and Grants Pass areas are the plywood veneer driers and wood-fired boilers. The veneer driers and large wood-fired boilers (greater than 35 million Btu per hour heat input) were selected for additional controls. Presently, the particulate emissions from these sources are:

<u>Urban Area and Industry Source Category</u>	<u>PM₁₀ Tons/Year</u>
Medford-Ashland AQMA:	
Veneer Driers	271
Large Wood-fired Boilers	257
Total AQMA Industrial PM ₁₀ Emissions	889
Grants Pass Area:	
Veneer Driers	190
Large Wood-fired Boilers	151
Total Area Industrial PM ₁₀ Emissions	386

Technology has been developed in recent years that has moved the range of practical controls for veneer driers from 0.5-1.5 pounds per thousand square feet of veneer dried (lb/Msf) to 0.2-0.45 lb/Msf. The range reflects the method of heating the driers (indirect steam heated driers, direct wood-fired, or direct gas-fired). The proposed rule would limit veneer drier emissions to 0.3-0.45 lb/Msf, depending on the method of heating the driers.

Technology is also available to further reduce wood-fired boiler emissions. The wood-fired boilers in Grants Pass currently meet an emission standard of 0.2 grains per standard dry cubic foot (gr/sdcf); in Medford-Ashland, large boilers meet 0.050 gr/sdcf and small boilers meet 0.2 gr/sdcf. Existing boilers in Grants Pass can meet their present limits with a combination of careful maintenance of the boilers and mechanical collectors such as multiclones.

Adopting a limit of 0.050 gr/sdcf for large boilers in Grants Pass (the present limit in Medford-Ashland AQMA) would require the installation of Best Available Control Technology (BACT) which indicates effective technology of relatively modest cost; for wood-fired boilers, this is currently considered to be scrubbers. Adopting a limit of 0.030 gr/sdcf for large boilers in Medford-Ashland and/or Grants Pass would require the installation of Lowest Achievable Emission Rate (LAER), which is the best demonstrated technology regardless of cost; for wood-fired boilers, this is currently considered to be electrostatic precipitators.

The reductions in emissions from setting limits at the rates that could be supported by the technologies described above would be:

<u>Urban Area and Industry Control Measure</u>	<u>PM₁₀ Emissions in Tons/Year</u>		
	<u>Before</u>	<u>After</u>	<u>Reduction</u>
Medford-Ashland AQMA:			
Veneer Driers at 0.3-0.45 lb/Msf *	271	169	102 (38%)
Wood-fired Boilers at 0.030 gr/sdcf *	257	173	84 (33%)
Total AQMA Industrial PM ₁₀ Emissions *	889	703	186 (21%)
Grants Pass Area:			
Veneer Driers at 0.3-0.45 lb/Msf *	190	84	106 (56%)
Wood-fired Boilers at 0.050 gr/sdcf *	151	41	110 (73%)
Wood-fired Boilers at 0.030 gr/sdcf	151	24	127 (84%)
Total Industrial at 0.050 gr/sdcf *	386	170	216 (56%)
Total Industrial at 0.030 gr/sdcf	386	153	233 (60%)

* Proposed by the Department

The proposed reductions would require a minimum of 70% control of veneer drier emissions and 75% control of large wood-fired boiler emissions in the Medford-Ashland and Grants Pass areas. Upon rebuilding, the minimum control efficiency would increase to 85% control of boiler emissions. These industrial reductions of 70-85% would occur throughout the year as well as on the peak PM₁₀ days. For comparison, the residential woodsmoke reductions targeted by the citizen advisory committees in these two areas are 40-75% on peak PM₁₀ days and 4-25% as an annual average.

None of the boilers or boiler pollution control equipment in the Medford-Ashland and Grants Pass areas have been rebuilt during 1988 but at least two facilities are currently planning major boiler projects. The draft rules for modifications of large wood-fired boilers would be retroactive to the date of EQC adoption of the ambient PM₁₀ standards and PM₁₀ new source review requirements (April 29, 1988) in order to insure that the new boiler projects are designed to meet the proposed emission limits, even if construction was scheduled to begin prior to final adoption of the proposed rules. If retroactive action is not taken, the potential emission reductions achieved by these projects could be lost to the airshed improvement strategy by being "banked" as emission offset credits.

The population of affected industrial sources is comprised of thirty veneer driers and ten waste wood boilers in the Medford-Ashland AQMA, at a total of eleven industrial sites, and ten veneer driers and eight boilers in Grants Pass at four industrial sites. About a dozen veneer driers in the Medford area already comply with the proposed standards.

The Department has estimated the costs of controls to provide compliance with the proposed rule. The costs are based on installing new control devices on all driers which either do not have devices presently or which would replace existing devices with new ones. The total installed costs for both areas would be about \$3.5 million. The cost/benefit would be about \$15,000 per ton of additional particulate collected per year (\$/T/y) in Medford and about \$7000/T/y in Grants Pass. At many sites, existing scrubbers that would be replaced are about ten years old, which is the

useful economic life claimed for them on tax credit applications when they were installed. A good case could be made that the cost figures given above should be discounted by the cost of replacing existing scrubbers and the cost of compliance with the proposed regulations only be the differential costs between replacing existing scrubbers with identical models and the costs of replacing them with superior emission controls. On that basis, the extra costs incurred by compliance with the proposed regulations would be about \$2 million, and the cost/benefit ratio would be about \$10,000/T/y in Medford and \$5,000/T/y in Grants Pass. The additional costs of maintenance and operation should be about \$100-200,000 per year for both areas.

The costs of controlling boiler emissions to 0.050 gr/sdcf in Grants Pass would be on the order of \$500,000. The ultimate cost in the two areas for replacing controls capable of meeting 0.030 gr/sdcf in order to comply with LAER, would be on the order of \$5-\$10 million, depending on whether the controls sufficient for the 0.050 gr/sdcf limit were replaced while they still had most of their useful life left or the replacement came at the end of their useful life.

Industrial Emission Offset Ratio. Public comments in recent years on a Department new source permit action in the Medford area indicate that the present emission offset ratio at 1:1 should be increased to insure demonstrating a net ambient air quality benefit from such actions. A ratio of 1.3 pounds of offset per pound of new emissions is proposed. This ratio is the same as is used in the State of Washington, so its use in Oregon should not put Oregon industry at a major competitive disadvantage.

Continuous Emission Monitoring Requirements. The existing continuous emission requirement is written in terms of "The Department may require..." equipment to monitor emissions or the parameters which affect emissions. The proposed rule would be more specific, requiring that monitoring be done, but would preserve the option of monitoring emission or process parameters. The goal is to be able to better and more frequently verify that emission control equipment is operated continuously at maximum efficiency. Continuous monitoring could also indicate when repairs or adjustments are needed, facilitating maintaining the efficiency of the equipment.

Significant Emission Rate for New Industry in Klamath Falls. The term "significant emission rate" refers to the size of new or modified industrial emission sources that must be more closely evaluated under the new source review procedures (OAR 340-20-220 to -276). The PM₁₀ significant emission rate that triggers the need for emission offsets for all PM₁₀ nonattainment areas except the Medford-Ashland area is fifteen tons per year; the significant emission rate in the Medford-Ashland area is five tons per year because of the severity of the airshed problem. A new industrial source with PM₁₀ emissions of 15 tons per year would be equivalent to the annual emissions of about 100 woodstove-heated homes in the Klamath Falls area. The Department proposes to change the significant rate for the Klamath Falls area to five tons per year effective April 29, 1988, in order to prevent exacerbation of the already severe PM₁₀ problem there. This would affect one pending industry modification and future new or modified industrial sources.

Industry Concerns

The Department has met several times with wood products industries in southern Oregon over the last year regarding additional industrial control requirements. The major industry concerns and the Department responses are summarized in Attachment B. The wood products industries have concerns (regarding costs, competitive disadvantages, etc.) with each of the proposed control measures but the major concerns appear to be: (1) Opposition to the increase in offset ratio for the Medford-Ashland area; and (2) The need for substantial reductions in residential woodburning emissions as soon as possible in order to meet the PM₁₀ health standards.

Alternatives

Major alternatives that the Commission could consider include: (1) Waiting to propose additional industrial rules until the Department and local governments have proposed residential woodburning strategies; (2) Requiring LAER boiler limits (ie, 0.030 gr/sdcf) in Medford-Ashland and Grants Pass by a specified date (eg, 3-5 years) instead of upon future modification of the boilers; (3) Applying the increased offset ratio in none or all of the PM₁₀ problem areas instead of just the proposed Medford-Ashland AQMA; (4) Requiring additional industrial controls in the Klamath Falls area; and (5) Retaining the 15 ton per year significant PM₁₀ emission rate (the rate at which offsets are required) for the Klamath Falls area.

Arguments can be made for each of these alternatives. The Department did not propose these alternatives primarily because all of the proposed rules appear to be justifiably needed and reasonably cost-effective. The listed alternative deletions or additions would tend to be less in balance with the needs for the following reasons:

- (1) The technology is available to proceed with industrial controls as the first significant steps in the PM₁₀ control strategy for the Medford-Ashland and Grants Pass areas. It is clear, however, that substantial reductions will be needed in residential woodburning emissions to meet PM₁₀ health standards in each of these areas. Since some industries are currently updating their pollution control and plant modernization plans, it is important to give them firm PM₁₀ targets for their emission controls. The emission reductions could be lost to the PM₁₀ control strategies, or industry would have to provide additional controls later at greater expense, if industry moves ahead with control plans prior to adoption of the new rules.
- (2) It is generally more cost-effective to require pollution control upgrade upon boiler or control equipment modification than by a specified date.

- (3) The offset ratio increase would provide some additional assurance of net air quality benefit in each case of offset transfer. This increase was requested by a local government and a number of residents in the Medford-Ashland area. Based on the relatively small number of offset transfers in past years, an increased offset ratio is not a critical component of the control strategies for all of the PM₁₀ problem areas.
- (4) The Klamath Falls PM₁₀ data collected thus far indicates that residential woodsmoke is the dominant source of PM₁₀ in the problem area of Klamath Falls.
- (5) The five ton per year significant PM₁₀ emission rate for the Klamath Falls area would make it identical to the Medford area. The lower rate is based on the severity of the existing PM₁₀ problem and is intended to protect against future exacerbation by any new industry locating near the severe PM₁₀ problem area.

DIRECTOR'S RECOMMENDATION

It is recommended that the Commission authorize public hearings to take testimony on the proposed amendments to Specific Air Pollution Control Rules for the Medford-Ashland Air Quality Maintenance Area, OAR 340, Division 30, and the definition of Significant Emission Rate for the Klamath Falls area, OAR 340-20-225(22).

Fred Hansen

Attachments:

- A. Overview of PM₁₀ Control Program in Oregon.
- B. Industry Concerns and Department Responses.
- C. Summary of Proposed Rule Revisions.
- D. Rulemaking, Land Use and Economic Impact Statements.
- E. Draft Public Hearing Notice.
- F. Draft Rule Revisions (OAR 340, Divisions 20 and 30).

Merlyn L. Hough:mlh
229-6446
October 19, 1988
AP1631

Attachment A

OVERVIEW OF PM₁₀ CONTROL PROGRAM IN OREGON

Grouping of Areas. The EPA regulations for implementing the PM₁₀ standards classify all areas of the country into one of the following three groups.

1. Problem areas (called Group I areas) are those areas with a high probability of violating the new PM₁₀ standards. Four areas of Oregon have been identified as Group I PM₁₀ problem areas: Medford-White City, Eugene-Springfield, Klamath Falls, and Grants Pass.
2. Questionable areas (called Group II areas) are those areas with a moderate probability of violating the PM₁₀ standards. Four areas of Oregon are Group II areas: Bend, Oakridge, La Grande, and Portland.
3. Other areas (called Group III areas) are those areas with a high probability of meeting the standards. The remainder of Oregon, other than the four Group I areas and four Group II areas identified above, is considered in Group III.

Coordination. The Lane Regional Air Pollution Authority (LRAPA) will address the Group I and II areas in Lane County (Eugene-Springfield and Oakridge, respectively). The Department will address the other three Group I areas (all in southern Oregon: Medford-White City, Klamath Falls and Grants Pass) and the other three Group II areas (Bend, La Grande and Portland).

Causes of the Problems. The particulate problems are caused by the combination of poor ventilation, especially during the fall and winter months, and particulate emissions from various sources, primarily residential woodsmoke from stoves and fireplaces and, in some instances, wood products industry emissions. A national study of weather patterns by EPA in 1972 indicated that the interior valleys of southwest Oregon had among the poorest atmospheric ventilation in the country.

The poor ventilation, resulting in high air pollution potential, is caused by the meteorology (low wind speeds and frequent temperature inversions) and topography (mountain valleys) of the area. Lowest PM₁₀ levels generally occur from April through September and peak levels occur in December and January.

Existing PM₁₀ Levels. The design values (or baseline PM₁₀ levels during 1984-87) have been estimated for each of the Group I areas and are summarized in the table below. These design values are considered approximate since EPA only recently adopted specific PM₁₀ reference methods and the size of the PM₁₀ data record (number of monitoring sites, frequency of sampling, months or years of record) varies between areas.

<u>Group I Area</u>	<u>Approximate Design Value (ug/m³)</u>	
	<u>Annual</u>	<u>Peak Day</u>
Klamath Falls	60-90	600 or more
Medford-White City	55-65	260-370
Grants Pass	45-55	180-220
Eugene-Springfield	35-45	200-240
(Standard)	(50)	(150)

Improvements Needed. The daily standard will be the more difficult to achieve in the Oregon problem areas. In the Group I areas, worst day PM₁₀ levels must be reduced by 25-75% in order to meet the daily PM₁₀ standard and annual average PM₁₀ levels must be reduced 0-30% to meet the annual standard.

Advisory Committees. The Department and LRAPA have met with, or are currently meeting with, advisory committees in each of the Group I areas. The recommended strategies will include a combination, in most cases, of residential control measures (primarily involving reduction of woodsmoke from stoves and fireplaces) and industrial control measures (primarily involving the wood products industries). These combinations of control measures will require local ordinances, state rules, and interagency commitments.

Controversial Residential Woodburning Control Measures. Some of the measures will be controversial. For example, the Jackson County (including the Medford-White City Group I area) Woodburning Task Force and the original Klamath Falls Air Quality Task Force recommended mandatory curtailment of woodstove and fireplace use (with limited exemptions) during air stagnation periods, expanded public education, clean air utility rates, and financial incentives for replacing woodstoves with cleaner burning units. The Grants Pass and the new Klamath Falls advisory committees have recommended similar strategies except with voluntary, not mandatory, curtailment programs. Some of these strategies require public hearings by local government, and adoption of local ordinances, prior to the EQC public hearings for incorporating the control strategies into the SIP. Jackson County is coordinating a proposed action plan (Attachment 1) with the cities of Medford and Central Point; this proposed action plan includes the recommendations of the Jackson County Woodburning Task Force except that it proposes a voluntary, not mandatory, curtailment program and proposes to re-evaluate the success of the program each spring.

Major Concerns. There are two major concerns with the PM₁₀ control strategies. First, these strategies will not be adopted and submitted to EPA by May 1, 1988, as required. Other states and local communities in the Pacific Northwest are experiencing similar problems meeting the May 1, 1988, requirement. Additional time is needed to develop the necessary consensus and public support for controversial woodheating control strategies.

Second, EPA indicates it will have difficulty approving voluntary curtailment programs as part of the control strategy. All three of the southern Oregon curtailment plans currently are moving toward voluntary, not mandatory, programs. Of the three southern Oregon areas, Grants Pass is the most justifiable for a voluntary curtailment program since the PM₁₀ problem

is less severe than in Klamath Falls or Medford-White City with only a few days per year in marginal violation of the PM₁₀ standards.

Emission Inventories. Residential woodsmoke from stoves and fireplaces, soil and road dust, and the wood products industry are the major PM₁₀ source categories within the Medford-Ashland Air Quality Maintenance Area (MA), Grants Pass Urban Growth Boundary (GP), and Klamath Falls Urban Growth Boundary (KF) as summarized in the following table. Soil and road dust is not of as much health concern as woodsmoke or industry emissions and is generally more difficult to control.

<u>Source Category</u>	<u>Percent of PM₁₀ Emission Inventory</u>					
	<u>Annual PM₁₀</u>			<u>Worst Day PM₁₀</u>		
	<u>MA</u>	<u>GP</u>	<u>KF</u>	<u>MA</u>	<u>GP</u>	<u>KF</u>
Residential woodsmoke	41	34	64	65	53	83
Wood products industry	21	34	7	13	21	4
Soil and road dust	24	19	12	14	16	9
Motor vehicle exhaust	7	12	6	4	8	3
Other	<u>7</u>	<u>1</u>	<u>11</u>	<u>4</u>	<u>2</u>	<u>1</u>
TOTAL	100	100	100	100	100	100

MLH:mlh
 229-6446
 DEQ Air Quality Division
 10/6/88
 AP1631.2

Attachment B

INDUSTRY CONCERNS AND DEPARTMENT RESPONSES

Industry, primarily through its trade association Southern Oregon Timber Industries Association (SOTIA), and also individually, has commented on provisions of the rules at various stages in their development. The industry comments and the Department responses are as follows:

1. Industry: Applicability to only Medford-Ashland AQMA and to Grants Pass Area is unfair, and puts already tightly-regulated installations at a competitive disadvantage.

Department: Limiting these rules to the two areas does mean an extra cost burden for facilities in these areas to bear, which would affect their competitive position. However, imposing the same limits state-wide to all PM₁₀-problem areas, regardless of the amount of industrial contribution to ambient problems, would amount to "control for control's sake", which would be perceived as at least equally unfair by other affected industries. In addition, a state-wide rule would limit the flexibility of DEQ, local agencies, and citizens' committees to design strategies closely related to actual, local problems.

2. Industry: Requiring rebuilt boilers and their emission control systems to meet a limit of 0.030 gr/SDCF while designed to LAER would discourage owner/operators from upgrading equipment and would do no more in any case than existing rules for sources in non-attainment areas.

Department: New or modified sources in non-attainment areas must install LAER under current rules if they increase emissions over significance rates. The wisdom certainly can be questioned in an airshed with a severe problem of allowing control system replacement with the same technology when there is no net change in emissions when available new state-of-the-art technology can provide further emission control. In the proposed rule, the obligation to provide LAER upon rebuilding boilers or their emission control systems would apply regardless of whether there were any changes in emission rates. This is more stringent than existing rules, since other sources in other non-attainment areas would have the leeway afforded by a significance cushion of 5 T/y before being required to install LAER controls. If an emission control system fails to provide compliance and has deteriorated to the extent that minor repairs and adjustments cannot bring it back to adequate performance, then this provision would force replacement with better equipment. Any reduction in emissions from controlling to less than 0.030 gr/SDCF would be available to the owner/operator for internal offsets (i.e., on the same site) at a 1:1 offset ratio, and for transfer to other sites at 1.3:1. If a boiler, limited by inherent efficiency or size, can no longer supply the steam demands of a given site, the owner/operator makes an economic balance whether living with the constraint is a better investment than rebuilding or replacing the equipment. A requirement for LAER certainly would be an element of that balance, although it may not be the major factor.

If there were no continuous improvement in emission controls, presumably there would come a time when the areas became non-attainment, and limits on growth as well as another round of industrial controls - imposed whether or not boilers and emission controls were slated for replacement - would be imposed.

3. Industry: Requiring an offset ratio of 1.3:1 imposes an additional economic burden, and would further discourage voluntary reductions in emission rates by reducing the value of those reductions.

Department: The 1.3:1 offset ratio would not affect internal trades, although it would devalue a voluntary reduction as a sellable external offset by about the 30% difference between 1:1 and 1.3:1. The larger offset ratio would decrease the disadvantage of control technology which was more efficient but also more expensive, by affecting the balance between buying more control and buying offsets, that is, the marginal costs of emission reductions. The Department was motivated to propose this change by a desire to be responsive to public comments made during hearings on Biomass One (a new steam-electric generation facility), to the effect that the public and local government were not satisfied with offsets at 1:1.

The total strategy, involving woodstoves and industry, would provide compliance, but with no margin for error or growth. To allow for growth, there must be continuous improvement in emission controls. The requirement for a ratio of 1.3:1 would be a part of the mechanism for insuring that continued growth will be possible and feasible.

4. Industry: Requiring continuous monitoring and reporting is premature, because of a lack of demonstrated systems for monitoring the emissions typical of veneer dryers. Even if monitoring equipment were available, the data should merely be held for a year, available on request, with no requirement, and consequent burden of time and expense, for its transmission to the Department.

Department: Equipment for continuously monitoring particulate emissions from veneer dryers is not available. That is the reason for only requiring that the monitoring be able to verify continuous functioning of the emission control equipment, which could be done by monitoring its process parameters. The Department disagrees with holding the data rather than reporting it periodically. If data are reported, someone on each mill staff will be responsible for their accuracy, and would make an effort to ensure that the data are accurate, and if the data indicate an operating problem, review the operation to determine the cause. Periodic reporting would also insure, to the public, that someone in the Department would review the performance of the emission control equipment. If the data merely sit in storage, the tendency will be to ignore them, for the Department to lose track of how well the equipment is maintained and is performing. The mechanics of data transmission, on paper or by an electronic medium, are not important by themselves, and the Department would be very willing to work with industry to minimize the burden of reporting.

Attachment C

SUMMARY OF PROPOSED INDUSTRIAL RULE REVISIONS

Only the sections of the existing rule OAR 340-20 for which proposed amendments have been drafted are described here:

Section 005, Purpose and Applicability, extends the scope of the rule to the Grants Pass Urban Growth Area.

Section 010, Definitions, adds some definitions to the existing set. Specifically, the Grants Pass Area is defined, and "rebuilt boilers" are defined to state the extent of rebuilding that would trigger LAER even in the absence of an increase in emissions. When the regulation is codified, the definition set will be recast into alphabetical order.

Section 015, Wood Waste Boilers, sets an emission limit at 0.050 gr/SDCF for Grants Pass as is the case presently in Medford-Ashland, then goes further to require that a rebuilt boiler must be equipped with emission controls capable of LAER.

Section 020, Veneer Dryers, sets emission limits for veneer dryer exhausts, with different limits according to methods of heating the dryers. The limits are:

0.30 lb/Msf for direct heated dryers using gaseous fuels and those heated indirectly with steam.

0.40 lb/Msf for direct-heated dryers, fueled with wood of moisture content less than 20%.

0.45 lb/Msf for direct heated dryers, fueled with wood of moisture content more than 20%.

When the combustion gases from a boiler are used for direct heating a dryer, 0.20 lb particulate per 1000 pounds of steam generated is added to the limit for the dryer emission.

Section 020 (6), which required that the emission control equipment installed "can be practicably upgraded" is deleted as the proposed rule is requiring the upgrade now.

Section 045, Emission-Limits Compliance Schedules, would require that compliance proposals be submitted within three months of the effective date of the regulations, and that compliance be demonstrated within 15 months of the Department's approving the compliance proposal.

Section 050, Continuous Monitoring, requires that continuous monitoring equipment be installed which is capable of verifying that emission control equipment is continuously providing compliance with the emission limits. The purposes, as have been discussed above, are to ensure that the emission-control systems are continuously operated, and that their efficiency is

maintained. Continuous monitoring should allay public concerns that the control systems are in continuous use.

The compliance schedule is as follows:

Within one year of the effective date of the regulation, owners/operators would submit a plan for emission and/or process monitoring, allowing time for selecting and testing equipment and methods. The Department's review and approval would be based on a showing that the proposed equipment and methods would be capable of verifying continuous compliance.

Within one year of approval of the plan, the owner/operators would place the instrumentation in operation and verify its functioning.

Within two years of approval of the plan, continuous monitoring and periodic reporting would begin.

The schedule allows for the lack of "off the shelf" equipment capable of measuring and monitoring veneer dryer emissions. Either the industry will have to develop ways to monitor emissions, in cooperation with vendors, or verify that available process monitoring equipment (pressure drop recorders or other means of measuring energy consumption by the emission control devices, for example) can be used to verify compliance.

Section 065, New Sources, would require new sources to comply with the emission limits upon start up. New boilers would have to comply with LAER upon start up.

Section 067, Rebuilt Boilers, makes it explicit that boilers or their controls rebuilt to comply with the 0.050 gr limit, such as those in Grants Pass, need only comply with that limit and need not comply with LAER unless they are rebuilt at some subsequent time.

Section 080, Emission Offsets, would require that offsets required under OAR 340-20-240 (offsets for new or modified sources) must be provided at a ratio of 1.3 pounds of offset per pound of new emission.

AP1631.4

Attachment D

RULEMAKING STATEMENTS FOR
PROPOSED AMENDMENTS TO INDUSTRIAL RULES
FOR THE MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA
AND THE GRANTS PASS AND KLAMATH FALLS URBAN GROWTH AREAS

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(7), this statement provides information on the intended action to amend a rule.

(1) Legal Authority

This proposal amends Oregon Administrative Rules (OAR) 340, Divisions 20 and 30. It is proposed under authority of Oregon Revised Statutes (ORS) Chapter 468, including ORS 468.015, 468.020, 468.280, 468.285, 468.295, and 468.305.

(2) Need for these Rules

The U.S. Environmental Protection Agency adopted revisions to the national ambient air quality standards effective July 31, 1988, which replaced the Total Suspended Particulate (TSP) standards with standards for particulate of 10 microns characteristic diameter and under (PM_{10}) per cubic meter (g/m^3).

The states are required to assure attainment and maintenance of EPA's ambient standards. To that end, the states develop strategies for control of appropriate sources of the contaminants which are targeted by the ambient standards. The rules for which this Request for Authorization for Hearing is being made are the Department's strategy for controlling industrial PM_{10} emissions in the Medford-Ashland AQMA and Grants Pass Areas.

(3) Principal Documents Relied Upon

OAR 340, Division 30, Special Rules for the Medford-Ashland Air Quality Maintenance Area

Informational Report: New Federal Ambient Air Quality Standard for Particulate Matter (PM_{10}) and its Effects on Oregon's Air Quality Program. (Presented as Agenda Item D, January 22, 1988, EQC Meeting)

All documents referenced may be inspected at the Department of Environmental Quality, 811 SW 6th Ave., Portland, Ore, during normal business hours.

LAND USE CONSISTENCY STATEMENT

The proposed rule changes appear to affect land use as defined in the Department's coordination program with DLCD, but appear to be consistent with the Statewide Planning Goals.

With regard to Goal 6, (air, water, and land resources quality), the proposed changes are designed to enhance and preserve air quality in the State and are considered consistent with the goal. The proposed rule changes do not appear to conflict with the other Goals.

Public comment on any land use issue involved is welcome and may be submitted in the same fashion as indicated for other testimony on these rules.

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

The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any appropriate conflicts brought to our attention by local, state, or federal authorities.

FISCAL AND ECONOMIC IMPACT STATEMENT

Adopting these rules would compel the installation of equipment on veneer dryers for which the installed capital costs would be about \$2 million dollars in the Medford-Ashland AQMA and about \$1.5 million in the Grants Pass Area. Operating costs for the new equipment would not be greatly different from similar costs for existing equipment, based on noting that the energy consumption of new equipment would be very close to the energy consumption of existing equipment. Maintenance costs would rise about 30% over present rates.

The estimated costs of emission controls for boilers is presented below. The estimates are based on one new scrubber at each of four sites in Grants Pass, required upon adoption of the proposed rule, and ultimately 15 electrostatic precipitators (ESP's) in both Medford-Ashland AQMA and Grants Pass Area. On that basis, the costs would be:

Grants Pass immediate: \$1 million

Grants Pass and Medford-Ashland ultimate: \$5-10 million

Since the Department does not have complete information on possible replacement or overhaul schedules for the existing boilers, it is not possible to accurately estimate the effects of inflation or for discounting future expenditures to a net present value. Therefore, those cost data must be regarded as "order of magnitude", and only useful for indicating an idea of possible future costs to the industry.

The requirements for continuous emission monitoring would include developing methods or applications of existing equipment, source testing to verify and calibrate the continuous equipment, and continuing costs of reporting. Those costs are estimated as:

Develop new methods and equipment:	\$200,000
Implement results of development:	\$300,000
	<hr/>
Total cost of using new methods:	\$500,000
Use existing process instrumentation:	\$100,000
Implement results of development:	\$100,000
	<hr/>
Total costs of adapting existing methods:	\$200,000

Costs of reporting results to the Department could be on the order of \$15-20,000 per year for hand-prepared reports, the same magnitude for Department personnel time to review the reports. Using electronic means of data collection and transfer, in a form electronically readable, could reduce the costs to industry and the Department considerably.

AP1631.5

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Proposed Amendments to New Industrial Rules for Medford-Ashland Air Quality Maintenance Area and Grants Pass and Klamath Falls Urban Growth Areas

Hearing Date:

Comments Due:

**WHO IS
AFFECTED:**

Residents of Jackson, Josephine and Klamath Counties, and the industries in those counties.

**WHAT IS
PROPOSED:**

The Department of Environmental Quality is proposing to amend OAR 340, Division 30, Rules for the Medford-Ashland Air Quality Maintenance Area. The proposed changes would extend the application to the Grants Pass Urban Growth Area, and impose new limits on emissions of PM₁₀ from veneer driers and wood-fired boilers, require that additional monitoring be done to continuously verify that emission-control equipment is functioning properly, and modify the emission offset requirements for the Medford-Ashland and Klamath Falls areas.

**WHAT ARE THE
HIGHLIGHTS:**

1. Wood-fired boilers in Grants Pass would be limited the same as in the Medford-Ashland area, and wood-fired boilers in both areas would be limited to lowest achievable emission rates when rebuilt or replaced.
2. Plywood plants in the Medford-Ashland and Grants Pass areas would be required to reduce veneer drier emissions.
3. In both areas, additional continuous emission monitoring equipment would be required.
4. The particulate emission offset ratio would be increased for the Medford-Ashland area, requiring 1.3 pounds of reduction for every pound of new emissions.
5. The particulate emission rate that triggers the need for emission offsets would be reduced to five tons per year for the Klamath Falls area (the same as for the Medford area).

HOW TO COMMENT:

Copies of the complete proposed rule package may be obtained from the Air Quality Division in Portland (811 SW Sixth Avenue) or from the regional office nearest you. For further information, contact Merlyn Hough at (503) 229-6446.



811 S.W. 6th Avenue
Portland, OR 97204

11/1/86

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. If amendments are adopted, they would be submitted to the U.S. Environmental Protection Agency as revisions to the State Clean Air Act Implementation Plan. The Commission's deliberation would come during a regularly scheduled meeting after the public hearing.

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

AD3790 (10/88)

Attachment F

PROPOSED RULE REVISIONS

Definitions

OAR 340-20-225(22) Table 1:

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

OAR 340-20-225(22) Table 2:

Significant Emission Rates for the Nonattainment Portions of the Medford-Ashland Air Quality Maintenance Area and the Klamath Falls Urban Growth Area.

<u>Air Contaminant</u>	<u>Emission Rate</u>					
	<u>Annual</u>		<u>Day</u>		<u>Hour</u>	
	<u>Kilograms</u>	<u>(tons)</u>	<u>Kilograms</u>	<u>(lbs)</u>	<u>Kilograms</u>	<u>(lbs)</u>
Particulate Matter** (TSP or PM ₁₀)	4,500	(5.0)	23	(50.0)	4.6	(10.0)

Note: ** For the Klamath Falls Urban Growth Area, the Significant Emission Rates for particulate matter apply to all new or modified sources for which permits have not been issued prior to April 29, 1988.

OAR 340, Division 30

Proposed revisions are indicated on the following pages.

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 30

SPECIFIC AIR POLLUTION
CONTROL RULES FOR THE
MEDFORD - ASHLAND AIR QUALITY
MAINTENANCE AREA
AND THE
GRANTS PASS URBAN GROWTH AREA

Purposes and Application

340-30-005 The rules in this division shall apply in the Medford-Ashland Air Quality Maintenance Area (AQMA) and the Grants Pass Urban Growth Area (Area). The purpose of these rules is to deal specifically with the unique air quality control needs of the Medford-Ashland AQMA and the Grants Pass Area. These rules shall apply in addition to all other rules of the Environmental Quality Commission. The adoption of these rules shall not, in any way, affect the applicability in the Medford-Ashland AQMA and the Grants Pass Area of all other rules of the Environmental Quality Commission and the latter shall remain in full force and effect, except as expressly provided otherwise. In cases of apparent conflict, the most stringent rule shall apply.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 4-1978, f. & ef. 4-7-78

[Definitions]

340-30-010 ~~As used in these rules, and unless otherwise required by context:~~

(1) ~~"Medford-Ashland Air Quality Maintenance Area" is defined as beginning at a point approximately one mile NE of the town of Eagle Point, Jackson County, Oregon, at the NE corner of Section 36, T35S, R1W; thence south along the Willamette Meridian to the SE corner of Section 25, T37S, R1W; thence SE along a line to the SE corner of Section 9, T39S, R2E; thence SSE to the corner of Section 22, T39S, R2E; thence south to the SE corner of Section 27, T39S, R2E; thence SW to the SE corner of Section 33, T39S, R2E; thence NW to the NW corner of Section 36, T39S, R1E; thence west to the SW corner of Section 26, T39S, T1E; thence west to the SW corner of Section 12, T#(S, R1W; thence NW along a line to the SW corner of Section 20, T38S, R1W; thence west to the SW corner of Section 24, T38S, R2W; thence NW along a line to the SW corner of Section 4, T38S, R2W; thence west to the SW corner of Section 5, T38S, R2W; thence NW along a line to the SW corner of Section 31, T37S, R2W; thence north along a line to the Rogue River, thence north and east along the Rogue River to the north boundary of Section 32, T35S, R1W; thence east along a line to the point of beginning.~~

(2) ~~"Charcoal Producing Plant" means an industrial operation which uses the destructive distillation of wood to obtain the fixed carbon in the wood.~~

(3) ~~"Air Conveying System" means an air moving device, such as a fan or blower, associated ductwork, and a cyclone or other collection device, the purpose of which is to move material from one point to another by entrainment in a moving airstream.~~

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

(4) - "Particulate Matter" means any matter, except uncombined water, which exists as a liquid or solid at standard conditions;

(5) - "Standard Conditions" means a temperature of 60 degrees Fahrenheit (15.6 degrees Celsius) and a pressure of 14.7 pounds per square inch absolute (1.03 kilograms per square centimeter);

(6) - "Wood Waste Boiler" means equipment which uses indirect heat transfer from the products of combustion of wood waste to provide heat or power;

(7) - "Veneer Dryer" means equipment in which veneer is dried;

(8) - "Wigwam Waste Burner" means a burner which consists of a single combustion chamber, has the general features of a truncated cone, and is used for the incineration of wastes;

(9) - "Collection Efficiency" means the overall performance of the air cleaning device in terms of ratio of weight of material collected to total weight of input to the collector;

(10) - "Domestic Waste" means combustible household waste, other than wet garbage, such as paper, cardboard, leaves, yard clippings, wood, or similar materials generated in a dwelling housing four (4) families or less, or on the real property on which the dwelling is situated;

(11) - "Open Burning" means burning conducted in such a manner that combustion air and combustion products may not be effectively controlled including, but not limited to, burning conducted in open outdoor fires, burn barrels, and backyard incinerators;

(12) - "Dry Standard Cubic Foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions;

(13) - "Criteria Pollutants" means Particulate Matter, Sulfur Oxides, Nonmethane Hydrocarbons, Nitrogen Oxides, or Carbon Monoxide, or any other criteria pollutant established by the U.S. Environmental Protection Agency;

(14) - "Facility" means an identifiable piece of process equipment. A stationary source may be comprised of one or more pollutant-emitting facilities;

(15) - "Lowest Achievable Emission Rate" or "LAER" means, for any source, that rate of emission which is the most stringent emission limitation which is achieved in practice or can reasonably be expected to occur in practice by such class or category of source taking into consideration the pollutant which must be controlled. This term applied to a modified source means that lowest achievable emission rate for that portion of the source which is modified. LAER shall be construed as nothing less stringent than new source performance standards;

(16) - "Modified Source" means any physical change in, or change in the method of, operation of a stationary source which increases the potential emission of criteria pollutants over permitted limits, including those pollutants not previously emitted-

(a) A physical change shall not include routine maintenance, repair, and replacement. --

(b) A change in the method of operation, unless limited by previous permit conditions, shall not include:

(A) An increase in the production rate, if such increase does not exceed the operating design capacity of the sources;

(B) Use of an alternative fuel or raw material, if prior to

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

December 21, 1976, the source was capable of accommodating such fuel or material; or

(G) Change in ownership of a source.

(17) "New Source" means any source not previously existing or permitted in the Medford-Ashland Air Quality maintenance Area on the effective date of these rules.

(18) "Offset" means the reduction of the same or similar air contaminant emissions by the source;

(a) Through in-plant controls, change in process, partial or total shut-down of one or more facilities or by otherwise reducing criteria pollutants; or

(b) By securing from another source or, through rule or permit action by DEQ, in an irrevocable form, a reduction in emissions similar to that provided in subsection (a) of this section.

(19) "Source" means any structure, building, facility, equipment, installation or operation, or combination thereof, which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person, or by persons under common control.

(20) "Volatile Organic Compound"; -(VOG); means any compound of carbon that has a vapor pressure greater than 0.1 mm of Hg at [standard conditions (temperature)] -20 °C, - [pressure 760 mm of Hg].

Excluded from the category of Volatile Organic Compound are carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and those compounds which the U.S. Environmental Protection Agency classifies as being of negligible photochemical reactivity which are methane, ethane, methylehloroform, and trichlorotrifluoroethane.

(21) "Department" means Department of Environmental Quality.

(22) "Emission" means a release into the outdoor atmosphere of air contaminants.

(23) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.

(24) "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

(25) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background.

(26) "Fugitive emissions" means dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof not easily given to measurement, collection and treatment by conventional pollution control methods.

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

(27) - "Hardboard" - means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

(28) - "Particleboard" - means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binders.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 1-1978, f. & ef. 4-7-78; DEQ 9-1979, f. & ef. 5-3-79;
DEQ 3-1980, f. & ef. 1-28-80; DEQ 14-1981, f. & ef. 5-6-81

Definitions

340-32-011 As used in these rules, and unless otherwise required by context:

(1) "Air Conveying System" means an air moving device, such as a fan or blower, associated ductwork, and a cyclone or other collection device, the purpose of which is to move material from one point to another by entrainment in a moving airstream.

(2) "Charcoal Producing Plant" means an industrial operation which uses the destructive distillation of wood to obtain the fixed carbon in the wood.

(3) "Collection Efficiency" means the overall performance of the air cleaning device in terms of ratio of weight of material collected to total weight of input to the collector.

(4) "Criteria Pollutants" means Particulate Matter, Sulfur Oxides, Nonmethane Hydrocarbons, Nitrogen Oxides, or Carbon Monoxide, or any other criteria pollutant established by the U.S. Environmental Protection Agency.

(5) "Department" means Department of Environmental Quality.

(6) "Design Criteria" means the numerical as well as verbal description of the basis of design, including but not necessarily limited to design flow rates, temperatures, humidities, contaminant descriptions in terms of types and chemical species, mass emission rates, concentrations, and specification of desired results in terms of final emission rates and concentrations, and scopes of vendor supplies and owner-supplied equipment and utilities.

(7) "Domestic Waste" means combustible household waste, other than wet garbage, such as paper, cardboard, leaves, yard clippings, wood, or similar materials generated in a dwelling housing four (4) families or less, or on the real property on which the dwelling is situated.

(8) "Dry Standard Cubic Foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions.

(9) "Emission" means a release into the outdoor atmosphere of air contaminants.

(10) "Facility" means an identifiable piece of process equipment. A stationary source may be comprised of one or more pollutant-emitting facilities.

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

(11) "Fugitive Emissions" means dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof not easily given to measurement, collection and treatment by conventional pollution control methods.

(12) "General Arrangement", in the context of the compliance schedule requirements in section 340-32-045(2), means drawings or reproductions which show as a minimum the size and location of the control equipment on a source plot plan, the location of equipment served by the emission-control system, and the location, diameter, and elevation above grade of the ultimate point of discharging contaminants to the atmosphere.

(13) "Grants Pass Urban Growth Area" means the area within the Grants Pass Urban Growth Boundary as shown on the Plan and Zoning Maps for the City of Grants Pass as of 1 February 1988.

(14) "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

(15) "Lowest Achievable Emission Rate" or "LAER" means, for any source, that rate of emission which is the most stringent emission limit which is achieved in practice or can reasonably be expected to occur in practice by such class or category of source taking into consideration the pollutant which must be controlled. This term applied to a modified source means that lowest achievable emission rate for that portion of the source which is modified. LAER shall be construed as nothing less stringent than new source performance standards.

(16) "Medford-Ashland Air Quality Maintenance Area" is defined as beginning at a point approximately one mile NE of the town of Eagle Point, Jackson County, Oregon, at the NE corner of Section 36, T35S, R1W; thence south along the Willamette Meridian to the SE corner of Section 25, T37S, R1W; thence SE along a line to the SE corner of Section 9, T39S, R2E; thence SSE to the corner of Section 22, T39S, R2E; thence south to the SE corner of Section 27, T39S, R2E; thence SW to the SE corner of Section 33, T39S, R2E; thence NW to the NW corner of Section 36, T39S, R1E; thence west to the SW corner of Section 26, T39S, T1E; thence west to the SW corner of Section 12, T#(S, R1W; thence NW along a line to the SW corner of Section 20, T38S, R1W; thence west to the SW corner of Section 24, T38S, R2W; thence NW along a line to the SW corner of Section 4, T38S, R2W; thence west to the SW corner of Section 5, T38S, R2W; thence NW along a line to the SW corner of Section 31, T37S, R2W; thence north along a line to the Rogue River, thence north and east along the Rogue River to the north boundary of Section 32, T35S, R1W; thence east along a line to the point of beginning.

(17) "Modified Source" means any physical change in, or change in the method of, operation of a stationary source which increases the potential emission of criteria pollutants over permitted limits, including those pollutants not previously emitted.

(a) A physical change shall not include routine maintenance, repair, and replacement.

(b) A change in the method of operation, unless limited by previous permit conditions, shall not include:

(A) An increase in the production rate, if such increase does not exceed the operating design capacity of the sources;

(B) Use of an alternative fuel or raw material, if prior to December 21, 1976, the source was capable of accommodating such fuel or material; or

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

(C) Change in ownership of a source.

(18) "New Source" means any source not previously existing or having an Air Contaminant Discharge Permit on the effective date of these rules.

(19) "Offset" means the reduction of the same or similar air contaminant emissions by the source;

(a) Through in-plant controls, change in process, partial or total shut-down of one or more facilities or by otherwise reducing criteria pollutants; or

(b) By securing from another source or, through rule or permit action by DEQ, in an irrevocable form, a reduction in emissions similar to that provided in subsection (a) of this section.

(20) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background.

(21) "Open Burning" means burning conducted in such a manner that combustion air and combustion products may not be effectively controlled including, but not limited to, burning conducted in open outdoor fires, burn barrels, and backyard incinerators.

(22) "Particleboard" means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binders.

(23) "Particulate Matter" means any matter, except uncombined water, which exists as a liquid or solid at standard conditions.

(24) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.

(25) "Rebuilt Boiler" means a physical change after April 29, 1988, to a wood-waste boiler or its air-contaminant emission control system which is not considered a "modified source" and for which the fixed, depreciable capital cost of added or replacement components equals or exceeds fifty percent of the fixed depreciable cost of a new component which has the same productive capacity.

(26) "Source" means any structure, building, facility, equipment, installation or operation, or combination thereof, which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person, or by persons under common control.

(27) "Standard Conditions" means a temperature of 60 degrees Fahrenheit (15.6 degrees Celsius) and a pressure of 14.7 pounds per square inch absolute (1.03 Kilograms per square centimeter).

(28) "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

(29) "Veneer Dryer" means equipment in which veneer is dried.

(30) "Wigwam Waste Burner" means a burner which consists of a single combustion chamber, has the general features of a truncated cone, and is used for the incineration of wastes.

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

(31) "Wood Waste Boiler" means equipment which uses indirect heat transfer from the products of combustion of wood waste to provide heat or power.

Wood Waste Boilers

340-30-015 (1) No person shall cause or permit the emission of particulate matter from any wood waste boiler with a heat input greater than 35 million BTU/hr in excess of 0.050 grain per dry standard cubic foot (1.4 grams per cubic meter) of exhaust gas, corrected to 12 percent carbon dioxide, ~~{as-an-annual-average}~~.

(2) No person owning or controlling any wood waste boiler with a heat input greater than 35 million BTU/hour shall cause or permit the emission of any air contaminant into the atmosphere for a period or periods aggregating more than 3 minutes in any one hour equal to or greater than 20 percent opacity.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ -1978. f. & ef. 4-7-78; DEQ 29-1980. f. & ef. 10-29-80

(3) No person shall cause or permit the emission of particulate matter from any rebuilt boiler with a heat input greater than 35 million Btu/hour unless the rebuilt boiler has been equipped with emission control equipment which:

(a) continuously and routinely limits emission of particulate matter to 0.030 grains per standard dry cubic foot, corrected to 12% CO₂.

(b) is designed to limit emissions to LAER.

(c) is capable of limiting visible emissions such that their opacity does not exceed 10% for more than an aggregate of 3 minutes in any one hour.

Veneer Dryer Emission Limitations

340-30-020 (1) No person shall operate any veneer dryer such that visible air contaminants emitted from any dryer stack or emission point exceed:

(a) A design opacity of 10%,

(b) An average operating opacity of 10%, and

(c) A maximum opacity of ~~{20%}~~ 15%.

Where the presence of uncombined water is the only reason for the failure to meet the above requirements, said requirements shall not apply.

(d) 0.30 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct natural gas or propane fired veneer dryers;

(e) 0.30 pounds per 1,000 square feet of veneer dried (3/8" basis) for steam heated veneer dryers;

(f) 0.40 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct wood fired veneer dryers using fuel which has a moisture content by weight less than 20%;

(g) 0.45 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct wood fired veneer dryers using fuel which has a moisture content by weight greater than 20%;

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

(h) In addition to paragraphs (3)(c) and (d) of this section, 0.20 pounds per 1,000 pounds of steam generated.

The heat source for direct wood fired veneer dryers is exempted from rule 340-21-030.

(2) No person shall operate a veneer dryer unless:

(a) The owner or operator has submitted a program and time schedule for installing an emission control system which has been approved in writing by the Department as being capable of complying with subsections (1)(a), (b) and (c).

(b) The veneer dryer is equipped with an emission control system which has been approved in writing by the Department and is capable of complying with subsections (1)(b) and (c), or

(c) The owner or operator has demonstrated and the Department has agreed in writing that the dryer is capable of being operated and is operated in continuous compliance with subsections (1)(b) and (c).

(3) Each veneer dryer shall be maintained and operated at all times such that air contaminant generating processes and all contaminant control equipment shall be at full efficiency and effectiveness so that the emission of air contaminants is kept at the lowest practicable levels.

(4) No person shall willfully cause or permit the installation or use of any means, such as dilution, which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission which would otherwise violate this rule.

(5) Where effective measures are not taken to minimize fugitive emissions, the Department may require that the equipment or structures in which processing, handling and storage are done, be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air.

~~[(6) --Air-pollution-control-equipment-installed-to-meet-the-opacity requirements-of-section-(1)-of-this-rule-shall-be-designed-such-that-the particulate-collection-efficiency-can-be-practicably-upgraded.]~~

(6) [(7)] Compliance with the visible emission limits in section (1) of this rule shall be determined in accordance with the Department's Method 9 on file with the Department as of November 16, 1979.

Stat. Auth.: ORS Ch 468

Hist.: DEQ -1978. f. & ef. 4-7-78; DEQ 3-1980 f. & ef. 1-28-80

Air Conveying Systems (Medford-Ashland AQMA Only)

340-30-025 All air conveying systems emitting greater than 10 tons per year of particulate matter to the atmosphere at the time of adoption of these rules shall, with the prior written approval of the Department, be equipped with a control system with collection efficiency of at least 98.5 percent.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ -1978. f. & ef. 4-7-78

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

Wood Particle Dryers at Particleboard Plants

340-30-030 No person shall cause or permit the total emission of particulate matter from all wood particle dryers at a particleboard plant site to exceed 0.40 pounds per 1,000 square feet of board produced by the plant on a 3/4" basis of finished product equivalent [~~as-an-annual-average~~].

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 14-1981, f. & ef. 5-6-81

Hardboard Manufacturing Plants

340-30-031 No person shall cause or permit the total emissions of particulate matter from all facilities at a hardboard plant to exceed 0.25 pounds per 1,000 square feet of hardboard produced on a 1/8" basis of finished product equivalent [~~as-an-annual-average~~].

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 14-1981, f. & ef. 5-6-81

Wigwam Waste Burners

340-30-035 No person owning or controlling any wigwam burner shall cause or permit the operation of the wigwam burner.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 4-1978, f. & ef. 4-7-78; DEQ 29-1980, f. & ef. 10-29-80

Charcoal Producing Plants

340-30-040 (1) No person shall cause or permit the emission of particulate matter from charcoal producing plant sources including, but not limited to, charcoal furnaces, heat recovery boilers, and wood dryers using any portion of the charcoal furnace off-gases as a heat source, in excess of a total from all sources within the plant site of 10.0 pounds per ton of charcoal produced (5.0 grams per Kilogram of charcoal produced) [~~as-an-annual-average~~].

(2) Emissions from char storage, briquette making, boilers not using charcoal furnace off-gases, and fugitive sources are excluded in determining compliance with section (1).

(3) Charcoal producing plants as described in section (1) of this rule shall be exempt from the limitations of 340-21-030(1) and (2) and 340-21-040 which concern particulate emission concentrations and process weight.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 4-1978, f. & ef. 4-7-78

Control of Fugitive Emissions (Medford-Ashland AQMA Only)

340-30-043 (1) Large sawmills, all plywood mills and veneer manufacturing plants, particleboard and hardboard plants, charcoal manufacturing plants, stationary asphalt plants and stationary rock crushers shall prepare and implement site-specific plans for the control of fugitive emissions. (The air contaminant sources listed are described in OAR 340-20-155, Table 1, paragraphs 10a, 14a, 14b, 15, 17, 18, 29, 34a and 42a, respectively.)

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

(2) Fugitive emission control plans shall identify reasonable measures to prevent particulate matter from becoming airborne. Such reasonable measures shall include, but not be limited to the following:

(a) Scheduled application of asphalt, oil, water, or other suitable chemicals on unpaved roads, log storage or sorting yards, materials stockpiles, and other surfaces which can create airborne dust;

(b) Full or partial enclosure of materials stockpiled in cases where application of oil, water, or chemicals are not sufficient to prevent particulate matter from becoming airborne;

(c) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials;

(d) Adequate containment during sandblasting or other similar operations;

(e) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne; and

(f) Procedures for the prompt removal from paved streets of earth or other material which does or may become airborne.

(3) Fugitive emission control plans shall be prepared and implemented in accordance with the schedule outline in OAR 340-30-045.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 6-1983, f. & ef. 4-18-83

Requirement for Operation and Maintenance Plans (Medford-Ashland AQMA Only)

340-30-044 (1) Operation and Maintenance Plans shall be prepared by all holders of Air Contaminant Discharge permits except minimal source permits and special letter permits. All sources subject to regular permit requirements shall be subject to operation and maintenance requirements.

(2) The purposes of the operation and maintenance plans are to:

(a) Reduce the number of upsets and breakdown in particulate control equipment;

(b) Reduce the duration of upsets and downtimes; and

(c) Improve the efficiency of control equipment during normal operations.

(3) The operation and maintenance plans should consider, but not be limited to, the following:

(a) Personnel training in operation and maintenance;

(b) Preventative maintenance procedures, schedule and records;

(c) Logging of the occurrence and duration of all upsets, breakdowns and malfunctions which result in excessive emissions;

(d) Routine follow-up evaluation upsets to identify the cause of the problem and changes needed to prevent a recurrence;

(e) Periodic source testing of pollution control units as required by air contaminant discharge permits;

(f) Inspection of internal wear points of pollution control equipment during scheduled shutdowns; and

(g) Inventory of key spare parts.

(4) The operation and maintenance plan shall be prepared and implemented in accordance with the schedule outlined in OAR 340-30-045.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 6-1983, f. & ef. 4-18-83

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

Compliance Schedules

340-30-045 Sources affected by ~~[these rules]~~ Sections 340-30-025 through 340-30-040 shall comply with each increment of progress as soon as practicable but in no case later than the dates listed in Table I.

Stat. Auth. ORS Ch. 468

Hist. DEQ 4-1978 f. & ef. 4-7-78; DEQ 27-1980 f. & ef. 10-29-80; DEQ 14-1981, f. & ef. 5-6-81; DEQ 6-1983, f. & ef. 4-18-83

Emission-Limits Compliance Schedules

340-30-046 Compliance with the emission limits for wood-waste boilers and veneer dryers established in sections 340-30-015 and 340--30-020 shall be provided according to the following schedules:

(1) Within three months of the effective date of these rules, submit Design Criteria for emission control systems for Department review and approval;

(2) Within three months of receiving the Department's approval of the Design Criteria, submit a General Arrangement and copies of purchase orders for the emission-control devices;

(3) Within two months of placing purchase orders for emission-control devices, submit vendor drawings as approved for construction of the emission-control devices and specifications of other major equipment in the emission-control system (such as fans, scrubber-medium recirculation and make up systems) in sufficient detail to demonstrate that the requirements of the Design Criteria will be satisfied;

(4) Within one year of receiving the Department's approval of Design Criteria, complete construction;

(5) Within fifteen months of receiving the Department's approval of Design Criteria, demonstrate compliance.

Continuous Monitoring

340-30-050 The Department ~~[may]~~ will require the installation and operation of ~~[instruments and recorders]~~ instrumentation for measuring and recording emissions and/or the parameters which affect the emission of air contaminants from ~~[sources covered by these rules]~~ wood-waste fired boilers, veneer dryers, and particleboard dryers to ensure that the sources and the air pollution control equipment are operated at all times at their full efficiency and effectiveness so that the emission of air contaminants is kept at the lowest practicable level. The ~~[instruments and recorders]~~ instrumentation shall be periodically calibrated. The method and frequency of calibration shall be approved in writing by the Department. The recorded information shall be kept for a period of at least one year and shall be made available to the Department upon request. The selection, installation, and use of the instrumentation shall be done according to the following schedule:

(a) Within one year from the effective date of these rules, the persons responsible for the affected facilities shall submit to the Department a plan for process and or emission monitoring. The Department's primary criterion for review and approval of the plans will be the ability of proposed instrumentation to demonstrate continuous compliance with these regulations.

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

(b) Within one year from the Department's approval of the plan(s), the persons responsible for the affected facilities shall purchase, install, place in operation the instrumentation as approved, and verify that it is capable of demonstrating continuously the compliance status of the affected facilities.

(c) Within two years of the Department's approval of the plan(s), the persons responsible for the affected facilities shall commence continuous monitoring and reporting results to the Department, at a frequency and in a form agreed upon by the Department and the responsible persons.

Source Testing

340-30-055 (1) The person responsible for the following sources of particulate emissions shall make or have made tests to determine the type, quantity, quality, and duration of emissions, and/or process parameters affecting emissions, in conformance with test methods on file with the Department at the following frequencies: {Source-Test-Frequencies:}

(a) Wood Waste Boilers with heat input greater than 35 million Btu/hr. -- Once every year;[*]

(b) Veneer Dryers -- Once every year until January 1, [1983], 1991 and once every 3 years thereafter;

(c) Wood Particle Dryers at Hardboard and Particleboard Plants -- Once every year;

(d) Charcoal Producing Plants -- Once every year. [*]

~~{*NOTE: -- If this test exceeds the annual emission limitation then three (3) additional tests shall be required at three (3) month intervals with all four (4) tests being averaged to determine compliance with the annual standard. -- No single test shall be greater than twice the annual average emission limitation for that source.}~~

(2) Source testing shall begin at these frequencies within 90 days of the date by which compliance is to be achieved for each individual emission source.

(3) These source testing requirements shall remain in effect unless waived in writing by the Department because of adequate demonstration that the source is consistently operating at lowest practicable levels, [or that continuous emission monitoring systems are producing equivalent information.]

(4) Source tests on wood waste boilers shall not be performed during periods of soot blowing, grate cleaning, or other operating conditions which may result in temporary excursions from normal. The steam production rate during the source test shall be considered the maximum permittee's steaming rate for the boiler.

(5) Source tests shall be performed within 90 days of the startup of air pollution control systems.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 4-1978, f. & ef. 4-7-78

Total Plant Site Emissions

340-30-060 [DEQ 4-1978, f. & ef. 4-7-78;

Repealed by DEQ 25-1981, f. & ef. 9-8-81]

New Sources

340-30-065 New sources shall be required to comply with rules

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

340-30-015(3) and 340-30-020 through 340-30-~~040~~ 110 immediately upon initiation of operation.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 4-1978, f. & ef. 4-7-78

Rebuilt Sources

340-30-067 Rebuilt sources shall immediately comply with the requirements of 340-30-015(3) except that in the Grants Pass Urban Growth Area this provision will apply to sources that are rebuilt after they have complied with 340-30-015(1)

Open Burning (Medford-Ashland AQMA Only)

340-30-070 No open burning of domestic waste shall be initiated on any day or any time when the Department advises fire permit issuing agencies that open burning is not allowed because of adverse meteorological or air quality conditions.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 4-1978, f. & ef. 4-7-78

Emission Offsets

340-30-110 [DEQ 9-1979, f. & ef. 5-3-79;
Repealed by DEQ 25-1981, f. & ef. 9-8-81]

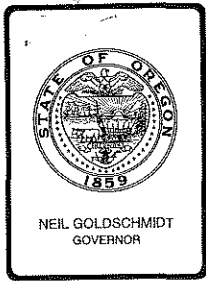
In the Medford-Ashland AQMA, emission offsets required in accordance with OAR 340-20-240 for new or modified sources shall provide reductions in emissions equal to 1.3 times the emission increase from the new or modified sources.

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 30 - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE I
(340-30-045)
COMPLIANCE SCHEDULE

<u>Division 340-30 Rule</u>	<u>Submit Plans to the Dept.</u>	<u>Place Purchase Orders</u>	<u>Begin Construction</u>	<u>Complete Construction</u>	<u>Demonstrate Compliance</u>
-015 Woodwaste Boilers	1/1/79	3/1/79	6/1/79	11/1/79	1/1/80
-020 Veneer Dryers	{1/1/79} <u>7/1/89</u>	{3/1/79} <u>9/1/89</u>	-[5/1/79] <u>12/1/89</u>	{11/1/79} <u>5/1/90</u>	{1/1/80} <u>7/1/90</u>
-025 Air Conveying Systems	3/15/80	5/15/80	9/1/80	12/1/80	1/1/81
-030 Particle Dryers	7/30/81	1/1/82	5/1/82	1/1/83	6/30/83
-035 Wigwam Burners	1/1/79	3/1/79	6/1/79	11/1/79	1/1/80
-040 Charcoal Producing Plants	1/1/80	3/1/80	9/1/80	7/1/81	1/1/82
-043 Fugitive Emissions Control	10/1/83				6/1/84
-044 Operation and Maintenance	10/1/83				6/1/84

AP1631.6



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

REQUEST FOR EQC ACTION

Meeting Date: September 7, 1989
Agenda Item: E (Addendum)
Division: Air Quality
Section: Program Planning

SUBJECT:

Industrial PM₁₀ Rules for Medford-Ashland and Grants Pass.

PURPOSE:

Additional wording clarifications requested by the U.S. Environmental Protection Agency (EPA) to ensure enforceability and EPA approvability.

DESCRIPTION OF REQUESTED ACTION:

Delete the bracketed language and add the underlined language to the proposed rules in Attachment A of Agenda Item E as follows:

340-30-011

(2) "Average Operating Opacity" means the average of the opacity determinations using EPA Method 9 on ~~two or more~~ three days with a minimum of 48 opacity readings taken at 15-second intervals on each day; a violation of the average operating opacity limitation is judged to have occurred if the average opacity on each of the three days is greater than the specified average operating opacity limitation.

(14) "Fuel Moisture Content By Weight Greater Than 20 Percent" means bark, hogged wood waste, or other wood with an average moisture content of more than 20 percent by weight on a wet basis as used for fuel in the normal operation of a wood-fired veneer dryer as measured during compliance source testing.

(15) "Fuel Moisture Content By Weight Less Than 20 Percent" means pulverized ply trim, sanderdust, or other wood with an average moisture content of 20 percent or less by weight on a wet basis as used for fuel in the normal operation of a wood-fired veneer dryer as measured during compliance source testing.

(20) "Lowest Achievable Emission Rate" or "LAER" is defined by section 340-20-220(13) [~~means, for any source, that rate of emission which is the most stringent emission limit which is achieved in practice or can reasonably be expected to occur in practice by such class or category of source taking into consideration the pollutant which must be controlled. This term applied to a modified source means that lowest achievable emission rate for that portion of the source which is modified. LAER shall be construed as nothing less stringent than new source performance standards~~].

(21) "Maximum Opacity" means the opacity as determined by EPA Method 9 (average of 24 consecutive observations).

340-30-015

(2) No person owning or controlling any wood waste boiler with a heat input greater than 35 million BTU/hour shall cause or permit the emission of any air contaminant into the atmosphere for a period or periods aggregating more than 3 minutes in any one hour equal to or greater than 10 percent opacity, unless the permittee demonstrates by source test that the emission limit in paragraph (1) of this section can be achieved at higher visible emissions in which case emissions shall not exceed the visible air contaminant limitations of section 340-21-015(2).

(3)(b) limits visible emissions such that their opacity does not exceed 5% for more than an aggregate of 3 minutes in any one hour, unless the permittee demonstrates by source test that emissions can be limited to LAER at higher visible emissions in which case emissions shall not exceed the visible air contaminant limitations of section 340-30-015(2).

340-30-020

(1)(c) A maximum opacity of 10%, unless the permittee demonstrates by source test that the emission limits in (1)(d) through (g) can be achieved at higher visible emissions than specified in (1)(a) through (c) in which case the emissions shall not exceed the visible air contaminant limitations of section 340-25-315(1)(b).

Meeting Date: September 7, 1989
Agenda Item: E (Addendum)
Page 3

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends that the changes recommended by EPA be adopted as part of the proposed rules in Attachment A of Agenda Item E. The changes are primarily for clarification and are consistent with the Department's intent in the proposed rules.

Approved:

Section:

John Kowalzyk

Division:

Wick Fiddis

Director:

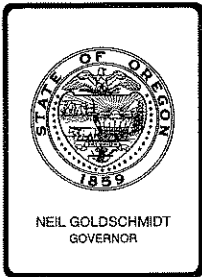
Leil Hansen

Report Prepared By: Merlyn Hough

Phone: 229-6446

Date Prepared: September 7, 1989

MLH:r
PLAN\AR939.1
(9/7/89)



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

REQUEST FOR EQC ACTION

Meeting Date: September 7, 1989

Agenda Item: F

Division: Water Quality

Section: Construction Grants

SUBJECT: Temporary Rule to establish interest rate for the 89-91 biennium and change method by which rate is set for the Sewer Safety Net Program (Assessment Deferral Loan Program).

PURPOSE: Establish interest rates for safety net loans.

ACTION REQUESTED:

- Work Session Discussion
 - General Program Background
 - Potential Strategy, Policy, or Rules
 - Agenda Item ___ for Current Meeting
 - Other
- Authorize Rulemaking Hearing
- Adopt Rules (Temporary)
 - Proposed Rules (Temporary) Attachment A
 - Rulemaking Statements Attachment G
 - Fiscal and Economic Impact Statement Attachment G
 - Public Notice Attachment F
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
 - Proposed Order Attachment ___
- Approve Department Recommendation
 - ___ Variance Request Attachment ___
 - ___ Exception to Rule Attachment ___
 - ___ Informational Report Attachment ___
 - ___ Other Attachment ___

DESCRIPTION OF REQUESTED ACTION:

Adopt a temporary rule which establishes a fixed interest rate of five percent per year for safety net loans until

Meeting Date: September 7, 1989
Agenda Item: F
Page 2

changed by Commission action. When this program was established last biennium, rules were adopted fixing the interest rate at five percent per year. The rules also specified that this rate would end as of June 30, 1989 at which time the Commission would have to re-establish the rate for the next biennium.

Authority the Department to hold a public hearing to adopt a permanent rule.

AUTHORITY/NEED FOR ACTION:

<input type="checkbox"/> Required by Statute: _____	Attachment _____
Enactment Date: _____	
<input checked="" type="checkbox"/> Statutory Authority: <u>ORS 468.970 to 468.983</u>	Attachment <u>B</u>
<input checked="" type="checkbox"/> Pursuant to Rule: <u>OAR 340-81-110</u>	Attachment <u>A</u>
<input type="checkbox"/> Pursuant to Federal Law/Rule: _____	Attachment _____

Other:
Findings Justifying Temporary Rule Adoption Attachment D

Time Constraints: The Department requests the Commission to adopt a temporary rule establishing the safety net interest rate so the Department can review applicants' proposed loan programs and prepare a staff report for the October 20, 1989 EQC meeting (see Attachment D). The Cities of Portland and Gresham are pressing to begin implementation of this biennium's program this fall. They cannot do so until an interest rate has been established, and would have to change their programs if the interest rate charged was changed from the current five percent rate.

The urgent need for adoption of the temporary rule was contributed to by the lack of a permanent Section Manager and the press of other business.

DEVELOPMENTAL BACKGROUND:

<input type="checkbox"/> Advisory Committee Report/Recommendation	Attachment _____
<input type="checkbox"/> Hearing Officer's Report/Recommendations	Attachment _____
<input type="checkbox"/> Response to Testimony/Comments	Attachment _____
<input type="checkbox"/> Prior EQC Agenda Items	Attachment _____
<input checked="" type="checkbox"/> Other Related Reports/Rules/Statutes: ORS 183.335 (5)	Attachment <u>E</u>
<input checked="" type="checkbox"/> Supplemental Background Information	Attachment <u>C</u>

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The Safety Net Program was created by the Oregon Legislature to assist low income people in paying sewer assessments

mandated by certain specified governmental orders. The primary reason for this proposed rule change is to provide for continuity and consistency in program administration by the Department and the communities participating in the Safety Net Program.

Communities borrow money from the State at an interest rate established by the Commission through its rule making authority. They, in turn, lend the money to private property owners who could not otherwise afford the cost of connecting to the sewer. Participating communities must be able to demonstrate to the Department that their loan program will assure repayment of the loan to the Department at the established interest rate.

When the initial program rules were adopted, they were intended to provide the Commission with the flexibility needed to maintain program resources at a reasonable level. Unfortunately, the way that the Department proposed to obtain that flexibility has led to unintended uncertainty. The five percent rate established by the Commission as reasonable in the original rules ended with the last day of the biennium (June 30, 1989). No rate exists for the program until one is established by the Commission.

Portland, Gresham and Eugene have established safety net loan programs. By establishing an interest rate which the Commission does not have to re-establish biennially, these jurisdictions would not be subject to changing their programs each biennium to accommodate new interest rates.

PROGRAM CONSIDERATIONS:

The concern for maintaining the "buying power" of the program through periodic adjustment to the interest rate charged is still valid. However, it can be better addressed through an exception process. That is, instead of having the rate die with the end of each biennium, it would be better to establish a rate that would continue biennium to biennium until changed by the Commission through a rule making process with notice, hearing and the opportunity for affected parties to comment.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

- A. Continue to establish the program interest rate each biennium. Several rate models were considered, as follows:

Meeting Date: September 7, 1989
Agenda Item: F
Page 4

1. Re-establish a five percent fixed interest rate for FY 89-91;
 2. Charge no interest;
 3. Charge some other fixed interest rate; or
 4. Charge a floating or adjustable interest rate tied to an index that would serve as a proxy for inflation.
- B. Establish an interest rate, based on one of the rate models discussed above in A, which would continue in effect without being re-established each biennium by the Commission.
- C. Take no action on a temporary rule and follow the rulemaking procedures for adoption of a permanent rule.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends that the method by which the rate is set be changed, but that the interest rate be kept the same as it was last biennium. The Department and Commission considered all of the rate alternatives when the original program rules were adopted. Public input was received and consensus reached that a five percent interest rate represented a good balance between the need for affordability by low income people and the need of the Department to compensate for program "buying power" lost to inflation.

Conditions related to the selection of the appropriate rate do not appear to have changed significantly in the past two years. As such, a change in rate does not appear to be needed at this time. Further, improvement in the predictability and administration of the program can be achieved by permanently establishing the rate (until the Commission decides it needs to be changed).

The Department recommends adoption of the findings in Attachment D which justify the need for a temporary rule.

The Department recommends that the Commission provide authorization for the Department to hold a public hearing on the rule so that a permanent rule can be adopted at the October 20, 1989 EQC meeting.

Meeting Date: September 7, 1989
Agenda Item: F
Page 5

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE
POLICY:

Maintaining an interest rate below conventional interest rates is consistent with the statutory intent of providing financial assistance to low income private property owners. A five percent interest rate was previously found by the Commission to be consistent with the statutory intent of capitalizing a revolving loan fund.

ISSUES FOR COMMISSION TO RESOLVE:

1. What should the safety net interest rate be?
2. Should the Commission approve the interest rate each biennium?

INTENDED FOLLOWUP ACTIONS:

1. Hold public hearing and prepare staff report recommending adoption of permanent rules at the October 20, 1989, EQC meeting.
2. Review applications for 1989-91 safety net funding and prepare a staff report requesting Commission approval or denial of applications at the October 20, EQC meeting.

Approved:

Section:

Division:

Director:

M. H. Jones
Lydia Taylor
Jul Hansen

Report Prepared By: Maggie Conley

Phone: 229-5257

Date Prepared: August 16, 1989

(MFC:kjc)
CG\WJ2127
August 23, 1989

Meeting Date: September 7, 1989
Agenda Item: F
Page 5

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

Maintaining an interest rate below conventional interest rates is consistent with the statutory intent of providing financial assistance to low income private property owners. A five percent interest rate was previously found by the Commission to be consistent with the statutory intent of capitalizing a revolving loan fund.

ISSUES FOR COMMISSION TO RESOLVE:

1. What should the safety net interest rate be?
2. Should the Commission approve the interest rate each biennium?

INTENDED FOLLOWUP ACTIONS:

1. Hold public hearing and prepare staff report recommending adoption of permanent rules at the October 20, 1989, EQC meeting.
2. Review applications for 1989-91 safety net funding and prepare a staff report requesting Commission approval or denial of applications at the October 20, EQC meeting.

Approved:

Section:

Division:

Director:

Walter K. Jones
Lydia Taylor
Jul Hansen

Report Prepared By: Maggie Conley

Phone: 229-5257

Date Prepared: August 16, 1989

(MFC:kjc)
CG\WJ2127
August 23, 1989

OREGON ADMINISTRATIVE RULES

Chapter 340, Division 81 - Department of Environmental Quality

Assessment Deferral Loan Program Revolving Fund

340-81-110 Purpose. The Department will establish and administer an Assessment Deferral Loan Program Revolving Fund for the purpose of providing assistance to property owners who will experience extreme financial hardship from payment of sewer assessments. Assessment deferrals will be made available to qualifying property owners from approved assessment deferral loan program administered by public agencies.

(1) Loans from the Assessment Deferral Loan Program Revolving Fund may be made to provide funds for assessment deferral loan programs administered by public agencies that meet all of the following conditions:

(a) The public agency is required by federal grant agreement or by an order issued by the Commission or the Oregon Health Division to construct a sewage collection system, and sewer assessments or charges in lieu of assessments levied against some benefitted properties will subject property owners to extreme financial hardship;

- (b) The public agency has adopted an assessment deferral loan program and the Commission has approved the program; and
 - (c) The sewage collection system meets the requirement of section 2 Article XI-H of the Oregon Constitution regarding eligibility of pollution control bond funds.
- (2) Any public agency requesting funding for its assessment deferral loan program from the Assessment deferral Loan Program Revolving Fund shall submit a proposed program and application to the Department on a form provided by the Department. Applications for loans and the proposed program shall be submitted by the following dates:
- (a) By no later than February 1, 1988 for loans to be issued in the 1987-89 biennium;
 - (b) The subsequent bienniums, by no later than February 1 of odd numbered years preceding the biennium.
- (3) Any public agency administering funds from the Assessment Deferral Loan Program Revolving Fund shall have an assessment deferral loan program approved by the Department.
- (a) The proposed program submitted to the Department shall contain the following:

- (A) The number of sewer connections to be made as required by grant agreement or State order;
- (B) An analysis of the income level and cost of sewer assessments for affected property owners;
- (C) A description of how the public agency intends to allocate loan funds among potentially eligible property owners, including the following:
 - (i) Eligibility criteria;
 - (ii) Basis of choosing the eligibility criteria;
 - (iii) How funds will be distributed for assessment deferrals among eligible property owners.
- (D) A schedule for construction of collector sewers;
- (E) A description of how the public agency intends to administer the assessment deferral program, including placing liens on property, repayment procedures, and accounting and record keeping procedures;

- (F) Assurance that the public was afforded adequate opportunity for comment on the proposed program, and that public comments were considered prior to adoption of the proposed program by the public agency; and
 - (G) A resolution that the public agency has adopted the program.
- (b) The Department shall review proposed programs submitted by public agencies within 30 days of receipt. The Department shall use the following criteria in reviewing submitted programs:
- (A) The degree to which the public agency and it's proposed program will meet the intent of the Assessment Deferral Loan Program revolving Fund as specified in Section (1)(a) of this rule; and
 - (B) Whether the required sewers will be constructed and made available to affected property owners within the biennium for which funds are being requested.
- (c) The Department shall submit to the Commission recommendations for approval or disapproval of all submitted applications and proposed assessment deferral loan programs.

(4) All public agencies meeting the requirements of OAR 340-81-110(1) shall receive an allocation of up to the amount of funds available based on the following criteria:

(a) The number of sewer connections to be made, as described in the approved program;

(b) The percentage of households within the area described in the program that are at or below 200 percent of the federal poverty level as published by the U.S. Bureau of Census.

(c) The allocation of available funds for qualifying public agencies shall be determined as follows:

(A) Calculate the number of connections to low income households for each public agency:

(total number of) (% of households in project)
(sewer connections) X (area where household income)
(in project area) (is at or below 200 percent of)
(the federal poverty level.)

= number of connections to low income households

(B) Add the total number of connections to low income households for all qualifying public agencies;

(C) Calculate a percentage of the total sewer connections to low income households for each qualifying agency divide (A) above by (B) above);

(D) Multiply the percentage calculated in (C) above by the total funds available.

(5) Within 60 days of Commission approval of the application and allocation of loan funds, the Department shall offer the public agency funds from the Assessment Deferral Loan Program Revolving fund through a loan agreement that includes terms and conditions that:

(a) Require the public agency to secure the loan with assessment deferral loan program financing liens;

(b) Require the public agency to maintain adequate records and follow accepted accounting procedures;

(c) Contain a repayment program and schedule for the loan principal and simple annual interest. The interest rate shall be 5% [for the 1987-1989 biennium, and shall be set by the Commission , by rule-making procedures for each subsequent biennium prior to allocation of available funds];

(d) Require an annual status report from the public agency on the assessment deferral loan program; and

(e) Conform with the terms and conditions listed in OAR
340-81-046.

(f) Other conditions as deemed appropriate by the Commission.

**ASSESSMENT DEFERRAL LOAN
PROGRAM**

468.970 Definitions for ORS 468.970 to 468.983. As used in ORS 468.970 to 468.983:

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

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

(3) "Extreme financial hardship" has the meaning given within the assessment deferral programs adopted by public agencies and approved by the Department of Environmental Quality.

(4) "Public agency" means any state agency, incorporated city, county, sanitary authority, county service district, sanitary district, metropolitan service district or other special district authorized to construct water pollution control facilities.

(5) "Treatment works" means a sewage collection system. [1987 c.695 §1]

Note: 468.970 to 468.983 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 468 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

468.973 Policy. It is declared to be the policy of this state:

(1) To provide assistance to property owners who will experience extreme financial hardship resulting from payment of assessed costs for the construction of treatment works required by a federal grant agreement or an order issued by a state commission or agency.

(2) To provide assistance through an interest-loan program to defer all or part of property assessments.

(3) To capitalize an assessment deferral loan program with moneys available in the Pollution Control Fund, available federal funds or available local funds. [1987 c.695 §2]

Note: See note under 468.970.

468.975 Assessment Deferral Loan Program Revolving Fund; uses; sources. (1) There is established the Assessment Deferral Loan Program Revolving Fund separate and dis-

tinct from the General Fund in the State Treasury. The moneys in the Assessment Deferral Loan Program Revolving Fund are appropriated continuously to the Department of Environmental Quality to be used for the purposes described in ORS 468.977.

(2) The Assessment Deferral Loan Program Revolving Fund may be capitalized from any one or a combination of the following sources of funds in an amount sufficient to fund assessment deferral loan programs provided for in ORS 468.977:

(a) From the Water Pollution Control Revolving Fund.

(b) From capitalization grants or loans from the Pollution Control Fund.

(3) In addition to those funds used to capitalize the Assessment Deferral Loan Program Revolving Fund, the fund shall consist of:

(a) Any other revenues derived from gifts, grants or bequests pledged to the state for the purpose of providing financial assistance to water pollution control projects;

(b) All repayments of money borrowed from the fund;

(c) All interest payments made by borrowers from the fund;

(d) Any other fee or charge levied in conjunction with administration of the fund; and

(e) Any available local funds.

(4) The State Treasurer may invest and reinvest moneys in the Assessment Deferral Loan Program Revolving Fund in the manner provided by law. All earnings from such investment and reinvestment shall be credited to the Assessment Deferral Loan Program Revolving Fund. [1987 c.695 §§3, 11]

Note: See note under 468.970.

468.977 Conditions for program; administrative expenses; priority; report.

(1) The Department of Environmental Quality shall use the moneys in the Assessment Deferral Loan Program Revolving Fund to provide funds for assessment deferral loan programs administered by public agencies that meet all of the following conditions:

(a) The program demonstrates that assessments or charges in lieu of assessments levied against benefited properties for construction of treatment works required by a federal grant agreement or by an order issued by a state commission or agency will subject property owners to extreme financial hardship.

(b) The governing body has adopted a program and the department has approved the program.

(c) The treatment works meets the requirements of section 2, Article XI-H of the Oregon Constitution concerning eligibility of pollution control bond funds.

(2) The department also may use the moneys in the Assessment Deferral Loan Program Revolving Fund to pay the expenses of the department in administering the Assessment Deferral Loan Program Revolving Fund and to repay capitalization loans.

(3) In administering the Assessment Deferral Loan Program Revolving Fund, the department shall:

(a) Allocate funds to public agencies for assessment deferral loan programs in accordance with a priority list adopted by the Environmental Quality Commission.

(b) Use accounting, audit and fiscal procedures that conform to generally accepted government accounting standards.

(c) Prepare any reports required by the Federal Government as a condition to the award of federal capitalization grants.

(4) The Department of Environmental Quality shall submit an informational report to the Joint Committee on Ways and Means or, if during the interim between sessions of the Legislative Assembly, to the Emergency Board before awarding the first loan from the Assessment Deferral Loan Program Revolving Fund. The report shall describe the assessment deferral loan program and set forth in detail the operating procedures of the program. [1987 c.695 §§4, 5, 8]

Note: See note under 468.970.

468.980 Application for loan; terms and conditions. Any public agency desiring funding of its assessment deferral loan program from the Assessment Deferral Loan Program Revolving Fund may borrow from the Assessment Deferral Loan Program Revolving Fund in accordance with the procedures contained in ORS 468.220 and 468.970 to 468.983. The public agency shall submit an application to the department on a form provided by the department. After final approval of the application, the department shall offer the public agency funds from the Assessment Deferral Loan Program Revolving Fund through a loan agreement with terms and conditions that:

(1) Require the public agency to repay the loan with interest according to a repayment schedule corresponding to provisions governing repayment of deferred assessments by property owners as defined in the public agency's adopted assessment deferral loan program;

(2) Require the public agency to secure the loan with an assessment deferral loan program financing lien as described in ORS 468.983; and

(3) Limit the funds of the public agency that are obligated to repay the loan to proceeds from repayment of deferred assessments by property owners participating in the assessment deferral loan program adopted by the public agency. [1987 c.695 §6]

Note: See note under 468.970.

468.983 Lien against assessed property; docket; enforcement. (1) Any public agency that pays all or part of a property owner's assessment pursuant to the public agency's adopted assessment deferral loan program shall have a lien against the assessed property for the amount of the public agency's payment and interest thereon as specified in the public agency's assessment deferral loan program.

(2) The public agency's auditor, clerk or other officer shall maintain a docket describing all payments of assessments made by the public agency pursuant to its adopted assessment deferral loan program. The liens created by such payments shall attach to each property for which payment is made at the time the payment is entered in this docket. The liens recorded on this docket shall have the same priority as a lien on the bond lien docket maintained pursuant to ORS 223.230. A lien shall be discharged upon repayment to the public agency of all outstanding principal and interest in accordance with the requirements of the public agency's adopted assessment deferral loan program.

(3) The lien may be enforced by the public agency as provided by ORS 223.505 to 223.650. The lien shall be delinquent if not paid according to the requirements of the public agency's adopted assessment deferral loan program. [1987 c.695 §7]

Note: See note under 468.970.

ASSESSMENT DEFERRAL LOAN PROGRAM

BACKGROUND INFORMATION

The 1987 Oregon Legislature passed ORS 468.970 to 468.983, which directed the Department to set up the Assessment Deferral Loan Program Revolving Fund. This fund, also known as the Safety Net Loan Fund, is to be used for the purpose of "providing assistance to property owners who will experience extreme financial hardship resulting from payment of assessed costs for the construction of treatment works required by a federal grant agreement or an order issued by a state commission or agency". Loans from this fund are available to any qualifying public agency in the State for this purpose.

Sewer assessments vary, but are typically in the range of \$2000 to \$4000 and may be more depending on the size of the property being served. These assessments are made, by the public agency providing the sewers, and are the property owners' share of the cost of the new neighborhood collector sewers. In addition, property owners pay a connection fee of up to \$1,500 for their share of existing pump stations, larger interceptor sewers, and the sewage treatment plant. Property owners are also required to pay for any plumbing changes and private conveyance lines from the structure to the property line, which can add another \$1,000 or more to the cost of connecting to public sewers.

Under this program, public agencies are able to apply to the Department for a loan and in turn use this funding to provide loans to individual property owners. The loans to property owners are for the assessed costs of the collector sewers, and are secured by liens against the property being sewerred.

In December 1987, the Environmental Quality Commission adopted rules to implement the loan program (OAR 340-81-110). This rule includes requirements for jurisdictions to follow in developing assessment deferral loan programs; a method for DEQ to use in allocating available loan funds to applying jurisdictions; and the interest rate on the loan funds.

During the 1987-89 biennium, the fund was capitalized with \$300,000 from the Pollution Control Bond Fund. Assessment deferral loan programs for the 1987-89 biennium were approved for Portland and Gresham for the Mid-Multnomah County area and Eugene for the River Road/Santa Clara area. The Mid-Multnomah County area is required, under an EQC order issued pursuant to ORS 454.305, to connect to sewers due to the threat to drinking water. The programs for Portland and Gresham cover the entire Mid-Multnomah County area required to be sewerred by the EQC order, including the unincorporated area in Multnomah County. The River Road/Santa Clara area is required, under a federal grant agreement, to connect to sewers due to the threat to groundwater.

During the 1989-91 biennium, the Department is authorized to loan up to \$950,000 from the general fund. Applications for assessment deferral loan funding during the 1989-91 biennium have been received from the same jurisdictions. The Department will review these applications and submit a staff report for EQC action on these applications at the October 20, 1989 EQC meeting.

Findings Justifying Adoption of a Temporary Rule

The following findings regarding the development of temporary rules are intended to comply with the requirements of ORS 183.335 (5) (see Attachment E).

1. Failure to act promptly will result in serious prejudice to the public interest -

The Cities of Portland and Gresham have applied for safety net funding this biennium and have applicants who will soon be ready to receive loans. OAR 340-81-110 (1) (b) prevents the Department from loaning 1989-91 safety net funds to jurisdictions until the Commission has approved their applications for funding. The Department plans to prepare a staff report for the October 20 EQC meeting which reviews applications for safety net funding during the 1989-91 biennium. This staff report will include a review of applicants' proposed loan programs and their ability to repay the Department at the established interest rate. Before this review can be performed, the interest rate at which the funds will be loaned must be established.

The Department, therefore, finds that it is necessary to adopt a temporary rule establishing the safety net interest rate in order to prevent prejudice to individuals needing assessment deferral loans.

2. Statutory authority --

The legal authority for the proposed rules is included in ORS 468.970 to 468.983, which establishes the Assessment Deferral Loan Program, and ORS 468.020, which allows the Commission to adopt rules necessary in performing the functions vested by law in the Commission.

3. Statement of need for the rule --

OAR 340-81-110 (5) requires the Commission to set the interest rate each biennium prior to allocation of available funds.

183.335 STATE EXECUTIVE DEPARTMENT AND ORGANIZATION

(b) The agency shall include with the notice of intended action given under subsection (1) of this section:

(A) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

(B) A statement of the need for the rule and a statement of how the rule is intended to meet the need;

(C) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection. The list may be abbreviated if necessary, and if so abbreviated there shall be identified the location of a complete list; and

(D) A statement of fiscal impact identifying state agencies, units of local government and the public which may be economically affected by the adoption, amendment or repeal of the rule and an estimate of that economic impact on state agencies, units of local government and the public. In considering the economic effect of the proposed action on the public, the agency shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance effect on small businesses affected.

(c) The Secretary of State may omit the information submitted under paragraph (b) of this subsection from publication in the bulletin referred to in ORS 183.360.

(3) When an agency proposes to adopt, amend or repeal a rule, it shall give interested persons reasonable opportunity to submit data or views. Opportunity for oral hearing shall be granted upon request received from 10 persons or from an association having not less than 10 members within 15 days after agency notice. An agency holding a hearing upon a request made under this subsection is not required to give additional notice of the hearing in the bulletin referred to in ORS 183.360 if the agency gives notice in compliance with its rules of practice and procedure other than a requirement that notice be given in the bulletin. The agency shall consider fully any written or oral submission.

(4) Upon request of an interested person received within 15 days after agency notice pursuant to subsection (1) of this section, the agency shall postpone the date of its intended action no less than 10 nor more than 90 days in order to allow the requesting person an opportunity to submit data, views or arguments concerning the

proposed action. Nothing in this subsection shall preclude an agency from adopting a temporary rule pursuant to subsection (5) of this section.

(5) Notwithstanding subsections (1) to (4) of this section, an agency may adopt, amend or suspend a rule without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, if the agency prepares:

(a) A statement of its findings that its failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned and the specific reasons for its findings of prejudice;

(b) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

(c) A statement of the need for the rule and a statement of how the rule is intended to meet the need; and

(d) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection.

(6)(a) A rule adopted, amended or suspended under subsection (5) of this section is temporary and may be effective for a period of not longer than 180 days. The adoption of a rule under this subsection does not preclude the subsequent adoption of an identical rule under subsections (1) to (4) of this section.

(b) A rule temporarily suspended shall regain effectiveness upon expiration of the temporary period of suspension unless the rule is repealed under subsections (1) to (4) of this section.

(7) Any person may request in writing that an agency mail to the person copies of its notices of intended action given pursuant to subsection (1) of this section. Upon receipt of any request the agency shall acknowledge the request, establish a mailing list and maintain a record of all mailings made pursuant to the request. Agencies may establish procedures for establishing and maintaining the mailing lists current and, by rule, establish fees necessary to defray the costs of mailings and maintenance of the lists.

(8) This section does not apply to rules establishing an effective date for a previously effective rule or establishing a period during which a provision of a previously effective rule will apply.

(9) This section does not apply to ORS 279.025 to 279.031 and 279.210 to 279.990 relating to public contracts and purchasing.

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Date Prepared: August 24, 1989

Comments Due: October 2, 1989

- WHO IS AFFECTED:** Adoption of the rule amendment will affect jurisdictions with safety net loan programs and property owners eligible for safety net loans. Safety net loan programs may be funded by the state in jurisdictions where a specified governmental order requires sewer connections. Low income property owners may be eligible for a loan to pay for their sewer assessment if they live in one of these jurisdictions.
- WHAT IS PROPOSED:** The DEQ proposes to amend OAR 340, Division 81, to establish a fixed interest rate of 5% for safety net loans to eligible jurisdictions.
- WHAT ARE THE HIGHLIGHTS:** Amendment of the rules would establish the interest rate at 5% for safety net loans and eliminate the requirement for the Environmental Quality Commission to establish a new the interest rate each biennium.
- HOW TO COMMENT:** Copies of the proposed rules can be obtained from:
- Cynthia Nelson
Department of Environmental Quality
Water Quality Division
811 S.W. Sixth Avenue
Portland, OR 97204-1334
Telephone: 229-5705
- Written comments should be sent to the same address by October 2, 1989. Verbal comments may be given during the public hearing scheduled as follows:
- October 2, 1989 at 10:30 a.m.
Room 10A - 10th Floor
Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, OR
- WHAT IS THE NEXT STEP:** After the public hearing, the Environmental Quality Commission may adopt rules identical to those proposed, modify the rules or decline to act. The Commission's deliberations should come on October 19 or 20, 1989, as part of the agenda of the regularly scheduled Commission meeting.



811 S.W. 6th Avenue
Portland, OR 97204

11/1/86

CG\WJ2178

F-1

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.

Agenda Item F, September 7, 1989, EQC Meeting

Statement of Need for Rulemaking

Pursuant to ORS 183.335(7), this statement provides information on the Environmental Quality Commission's intended action to adopt a rule amendment.

1. Legal Authority

ORS 468.970 through 468.983 authorizes establishment of the Safety Net (Assessment Deferral) Loan Revolving Fund. ORS 468.020 authorizes the Commission to adopt rules as necessary and proper to perform functions vested by law in the Commission.

2. Need for the Rule

The Safety Net (Assessment Deferral) Loan Fund rule amendments are needed to establish an interest rate for the loan program and to eliminate the need for the Environmental Quality Commission to establish a new interest rate each biennium. This will provide for greater consistency and continuity in program administration.

3. Principal Documents Relied Upon

- a. ORS 468.970 through 468.983.
- b. OAR, Chapter 340, Division 81, Rules for Assessment Deferral Loan Revolving Fund
- c. EQC Staff Report (Agenda Item K), December 11, 1987, EQC Meeting.

Land Use Consistency

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

Fiscal and Economic Impact Analysis:

The fiscal and economic impact of the proposed rule amendment will be minimal.

Who is directly impact and where is the impact?

The direct fiscal and economic impact is on public agencies with safety net programs and on property owners who borrow from these programs.

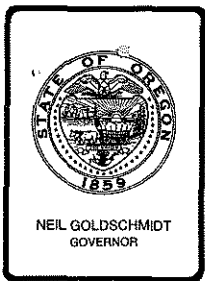
Public agencies which establish safety net loan programs with funds borrowed from the Department must repay these funds at five percent interest. Portland, Gresham and Eugene established safety net programs last biennium and applied to receive more safety net funds this biennium. These agencies must charge at least five percent interest on loans to property owners in order to ensure a repayment stream for the loan and interest it owes the Department. The property owners who borrow safety net funds, therefore, are also impacted. However, since the interest rate last biennium was also five percent there will be no new impacts.

Establishment of an interest rate which is not subject to change each biennium should have a beneficial impact on public agencies administering safety net programs. These agencies will not have to change their programs each biennium to reflect new interest rates. The result will be a savings of staff time which could otherwise be necessary to amend their programs biennially.

Who is indirectly impact and where is the impact?

The Department and future safety net borrowers are indirectly impacted by the establishment of a fixed five percent interest rate. This interest rate should somewhat approximate the rate of inflation and provide protection for the future "buying power" of the program. If the rate of inflation rises, this interest rate would need to be adjusted accordingly.

CG\WJ2179



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

REQUEST FOR EQC ACTION

Meeting Date: September 7, 1989
Agenda Item: G
Division: HSW
Section: Solid Waste

SUBJECT:

Bacona Road Site - Termination of Landfill Siting Process

PURPOSE:

Conclude the Department of Environmental Quality's responsibilities under Chapter 679, Oregon Laws 1985 to study and establish a disposal site to serve the Portland metropolitan area. Development of the regional disposal sites in Gilliam and Morrow Counties has accomplished the purposes of Chapter 679, and has made the Bacona Road site unnecessary.

ACTION REQUESTED:

- Work Session Discussion
 - General Program Background
 - Potential Strategy, Policy, or Rules
 - Agenda Item ___ for Current Meeting
 - Other: (specify)

- Authorize Rulemaking Hearing
- Adopt Rules
 - Proposed Rules Attachment ___
 - Rulemaking Statements Attachment ___
 - Fiscal and Economic Impact Statement Attachment ___
 - Public Notice Attachment ___

- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
 - Proposed Order Attachment ___

Meeting Date: September 7, 1989
Agenda Item: G
Page 2

<input checked="" type="checkbox"/> Approve Department Recommendation	
___ Variance Request	Attachment ___
___ Exception to Rule	Attachment ___
___ Informational Report	Attachment ___
<input checked="" type="checkbox"/> Other: (specify)	Attachment ___

Rescind the June 1987 order to establish the Bacona Road site.

DESCRIPTION OF REQUESTED ACTION:

In 1985 the Oregon legislature passed Senate Bill 662, which gave the Commission the authority and responsibility to order the establishment of a solid waste disposal site to serve the Portland metropolitan area. In June of 1987, the Commission ordered the establishment of the Bacona Road site, a 700-acre landfill site in Washington County that was one of three finalist sites identified during the Department's landfill siting process.

This order was subject to a contested case hearing, held in July of 1987. The hearings officer, Judge Edward Howell, recommended to the Commission in September 1987 that three issues be resolved or given further study before the order is made final: 1) landslide potential, 2) groundwater characterization, and 3) leachate treatment options.

Further work on landslide potential was authorized by the Department in the fall of 1987. In May of 1988, however, the Metropolitan Service District (Metro) signed a contract with Oregon Waste Systems, Inc., to dispose of metro-area garbage at the regional landfill in Gilliam County over a 20-year period. Metro advised the Commission at that time that it was no longer interested in development of the Bacona Road site. Since that time, the Department has issued a solid waste disposal permit for the regional landfill in Gilliam County and for another proposed regional landfill in Morrow County. Construction on the Gilliam County site is underway and due to be completed by the fall of 1989.

The 1987 Oregon legislature required that the 1987 EQC Order not be allowed to expire until after July 1, 1989. This action was taken to ensure that Metro's choice of the eastern Oregon disposal option was being implemented on schedule, and to allow any necessary action by the 1989 Legislature.

It is the Department's opinion that the Bacona Road site is no longer needed and should be dropped from further consideration by having the Environmental Quality Commission rescind its order for the establishment of the Bacona Road

Meeting Date: September 7, 1989
Agenda Item: G
Page 4

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The Portland metropolitan area produces half of the state's municipal solid waste. In 1985, the metropolitan area faced the prospect of the St. Johns landfill closing with no immediate replacement. The situation was considered an impending crisis by the state legislature, which gave DEQ "super-siting" authority to establish a new disposal site. With the construction of the Oregon Waste Systems landfill in Gilliam County, and a signed contract with Metro to provide landfill capacity for at least the next 20 years, the Bacona Road site appears to be no longer needed, at least for the foreseeable future, as a site for disposal of the region's municipal solid waste.

The Metro Council has submitted a request to the Department that the Bacona Road site be withdrawn from future consideration, and has stated its intention not to develop or use the site. Metro staff have also indicated that Bacona Road would not be considered as a potential limited purpose landfill to take asbestos or construction debris.

The Bacona Road site is approximately 700 acres of cutover timber land, privately held by six different ownerships. No residences are included on the site. One residence, however, is immediately adjacent to the site and six residences are located within one-half mile of the site. Public testimony from some of these residents indicated a concern for the value of their property given the "cloud" of potential development of a landfill nearby.

PROGRAM CONSIDERATIONS:

If the order to establish the Bacona Road site is rescinded, the Department should proceed to properly abandon the 17 groundwater monitoring wells at the site. The Department estimates that this will cost up to \$20,000. The funds for this purpose have already been collected. In addition, all other monies collected by Metro and submitted to the Department for the purpose of implementing Oregon laws Chapter 679, which now totals \$350,000, should be refunded to Metro.

If the Commission decides not to rescind the order, additional work and expense will be involved. If the Department proceeds with establishment of the site, under the authority given by Chapter 679, Oregon Laws 1985, further technical work will be required to address the three issues identified by the contested case hearings officer. This work

Meeting Date: September 7, 1989
Agenda Item: G
Page 5

would involve taking readings on the inclinometers installed at the site in fall of 1987, a more complete slope stability analysis, further groundwater characterization, and further development of leachate treatment plans. In addition, this new information would be subject to a resumed contested case hearing, and there would be expenses related to preparation and conducting of the hearing. It is estimated that the additional expense of siting would be \$250,000 to \$400,000, requiring Metro to resume collection of the \$1 per ton at Metro disposal facilities to pay for these costs.

Assuming the Commission finalized the order to establish the Bacona Road site, the site would need to be purchased. The purchase price for the site is estimated at \$3.8 million, which would also require Metro to resume collection of the \$1 per ton at Metro disposal facilities.

In addition, proceeding with establishment of the Bacona Road site would likely lead to legal action by opponents of the site, involving additional undetermined expenses for the Department.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. Rescind the June 1987 EQC order, permanently abandon the existing wells at the site, and refund any surplus funds to Metro.
2. Continue site investigation work at the Bacona Road site, reconvene the contested case hearing, finalize the 1987 EQC order, and proceed with establishment of the Bacona Road site.
3. Take inclinometer readings at the site to determine whether slopes at the site are sufficiently stable to construct a landfill at the site. If slopes are confirmed to be stable, proceed with acquisition of the site but not with construction at this time. Hold the site as a contingency for the metro region, in case additional disposal capacity is needed.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends Alternative 1: Rescind the June 1987 order and permanently abandon the site. This alternative will bring the Department's and Commission's

Meeting Date: September 7, 1989
Agenda Item: G
Page 6

involvement in the siting of a disposal site to a close and will provide more certainty to residents living near the Bacona Road site. It is also the least costly alternative.

Alternative 2 would involve considerable public expense for a disposal site that is not likely to be needed and which Metro indicates it has no intention of constructing or using.

Alternative 3 would provide additional information about the site at a minimal expense (\$15,000 for four inclinometer readings). The inclinometer readings would indicate if and how much earth movement has occurred since the inclinometers were installed in November 1987. However, even if there has been little or no earth movement, an additional \$145,000 to \$300,000 would be required to complete a full slope stability analysis. Because of this additional expense, and the apparent lack of need for the site, Alternative 3 is not recommended.

The recommended alternative involves some risk. If, at some point in the future, development of a landfill at the Bacona Road site becomes desirable or necessary, rescinding the order and abandonment of the site will make that future development much more expensive and difficult. However, given Metro's desire to export waste to eastern Oregon, their 20-year contract with Oregon Waste Systems, and the existence of the Morrow County site as a back-up, the risks involved in Alternative 1 appear to be minimal.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The purpose of Chapter 679, Oregon Laws 1985 has been fulfilled with the signing of a 20-year contract between Metro and Oregon Waste Systems, and construction of the landfill in Gilliam County. The 1987 Legislature amended Chapter 679, Oregon Laws 1985 to require the EQC to wait until July 1, 1989, before rescinding the order to establish a disposal site. That date has now passed.

ISSUES FOR COMMISSION TO RESOLVE:

1. What is the likelihood that the Bacona Road site will ever be a significant part of the solid waste management system for the Portland metropolitan area?

Meeting Date: September 7, 1989
Agenda Item: G
Page 7

2. Is the risk that the Bacona Road site may one day be needed worth the extra public expense of keeping the site a viable option?

INTENDED FOLLOWUP ACTIONS:

The Department will officially notify Metro of the Commission's action to rescind the 1987 order, and will instruct the Department's contractor to properly abandon the wells.

Approved:

Section:

Steve Greenwood

Division:

Stephanie Hallock

Director:

Paul Hansen

Report Prepared By: Steve Greenwood

Phone: 229-5782

Date Prepared: August 17, 1989

Greenwood:k
SW\SK2186
August 18, 1989

person or local government unit for the cost of abatement. [1987 c.706 §15]

Note: See note under 459.705.

459.785 Commission authority to adopt rules. In accordance with the applicable provisions of ORS 183.310 to 183.550, the commission shall adopt rules necessary to carry out the provisions of ORS 459.705 to 459.790. [1987 c.706 §16]

Note: See note under 459.705.

459.790 Exceptions to ORS 459.705 to 459.785. The provisions of ORS 459.705 to 459.785 do not apply to tires from:

(1) Any device moved exclusively by human power.

(2) Any device used exclusively upon stationary rails or tracks.

(3) A motorcycle.

(4) An all-terrain vehicle.

(5) Any device used exclusively for farming purposes, except a farm truck. [1987 c.706 §18]

Note: See note under 459.705.

ESTABLISHMENT OF SOLID WASTE DISPOSAL SITE WITHIN CLACKAMAS, MULTNOMAH AND WASHINGTON COUNTIES

Note: Sections 1 to 10, chapter 679, Oregon Laws 1985, provide:

Sec. 1. Sections 2 to 9 of this Act are added to and made a part of ORS 459.005 to 459.385. [1985 c.679 §1]

Sec. 2. (1) The Legislative Assembly finds that the siting and establishment of a disposal site for the disposal of solid waste within or for Clackamas, Multnomah and Washington Counties is necessary to protect the health, safety and welfare of the residents of those counties.

(2) It is the intent of the Legislative Assembly that the Environmental Quality Commission and Department of Environmental Quality, in locating and establishing a disposal site within Clackamas, Multnomah and Washington Counties give due consideration to:

(a) Except as provided in subsections (3) and (4) of section 5 of this 1985 Act, the state-wide planning goals adopted under ORS 197.005 to 197.430 and the acknowledged comprehensive plans and land use regulations of affected counties.

(b) Information received during consultation with local governments.

(c) Information received from public comment and hearings.

(d) Any other factors the commission or department considers relevant. [1985 c.679 §2]

Sec. 3. (1) The Department of Environmental Quality shall conduct a study, including a survey of possible and appropriate sites, to determine the preferred and appropriate

disposal sites for disposal of solid waste within or for Clackamas, Multnomah and Washington Counties.

(2) The study required under this section shall be completed not later than July 1, 1986. Upon completion of the study, the department shall recommend to the commission preferred locations for disposal sites within or for Clackamas, Multnomah and Washington Counties. The department may recommend a location for a disposal site that is outside those three counties, but only if the city or county that has jurisdiction over the site approves the site and the method of solid waste disposal recommended for the site. The recommendation of preferred locations for disposal sites under this subsection shall be made not later than January 1, 1987.

(3) The department shall investigate, evaluate, review and process any permit application for landfills and associated transfer stations proposed to receive solid waste from Multnomah, Clackamas and Washington Counties. [1985 c.679 §3; 1987 c.876 §19]

Note: Section 3, chapter 679, Oregon Laws 1985, is repealed July 1, 1989. See section 22, chapter 876, Oregon Laws 1987.

Sec. 4. (1) Subject to subsections (3) and (4) of section 5 of this 1985 Act, the Environmental Quality Commission may locate and order the establishment of a disposal site under this 1985 Act in any area, including an area of forest land designated for protection under the state-wide planning goals, in which the commission finds that the following conditions exist:

(a) The disposal site will comply with applicable state statutes, rules of the commission and applicable federal regulations;

(b) The size of the disposal site is sufficiently large to allow buffering for mitigation of any adverse effects by natural or artificial barriers;

(c) Projected traffic will not significantly contribute to dangerous intersections or traffic congestion, considering road design capacities, existing and projected traffic counts, speed limits and number of turning points;

(d) Facilities necessary to serve the disposal site can be available or planned for the area; and

(e) The proposed disposal site is designed and operated to the extent practicable so as to mitigate conflicts with surrounding uses. Such conflicts with surrounding uses may include, but are not limited to:

(A) Visual appearance, including lighting and surrounding property.

(B) Site screening.

(C) Odors.

(D) Safety and security risks.

(E) Noise levels.

(F) Dust and other air pollution.

(G) Bird and vector problems.

(H) Damage to fish and wildlife habitats.

(2) When appropriate, the conditions listed in this section may be satisfied by a written agreement between the Department of Environmental Quality and the appropriate government agency under which the agency agrees to provide

facilities as necessary to prevent impermissible conflict with surrounding uses. If such an agreement is relied on to satisfy any approval criteria, a condition shall be imposed to guarantee the performance of the actions specified. [1985 c.679 §4]

Sec. 5. (1) The commission, not later than July 1, 1987, shall issue an order directing the Department of Environmental Quality to establish a disposal site under chapter 679, Oregon Laws 1985, within Clackamas, Multnomah or Washington County or, subject to subsection (2) of section 3 of chapter 679, Oregon Laws 1985, within another county.

(2) In selecting a disposal site under this section, the commission shall review the study conducted under section 3 of chapter 679, Oregon Laws 1985, and the locations for disposal sites recommended by the department under section 3 of chapter 679, Oregon Laws 1985.

(3)(a) When findings are issued by the department under subsection (4) of this section, the commission in selecting a disposal site under chapter 679, Oregon Laws 1985, must comply with the state-wide planning goals adopted under ORS 197.005 to 197.430 and with the acknowledged comprehensive plan and land use regulations of the local government unit with jurisdiction over the area in which the disposal site is located.

(b) However, when findings are not issued under subsection (4) of this section, the standards established by section 4 of chapter 679, Oregon Laws 1985, take precedence over provisions in the comprehensive plan or land use regulations of the affected local government unit, and the commission may select a disposal site in accordance with those standards instead of, and without regard to, any provisions for locating and establishing disposal sites that are contained in the comprehensive plan or land use regulations of the affected local government unit. Any provision in a comprehensive plan or land use regulation that prevents the location and establishment of a disposal site that can be located and established under the standards set forth in section 4 of chapter 679, Oregon Laws 1985, shall not apply to the selection of a disposal site under chapter 679, Oregon Laws 1985.

(4) The department, not later than July 1, 1986, may determine whether the acknowledged comprehensive plans and land use regulations of the counties in which possible disposal sites being considered by the department are situated contain standards for determining the location of land disposal sites that are identical to or consistent with the standards specified in section 4 of chapter 679, Oregon Laws 1985. If the standards contained in the comprehensive plan and land use regulations of a county are identical to or consistent with the standards specified in section 4 of chapter 679, Oregon Laws 1985, the department may issue written findings to that effect and shall submit the findings to the commission.

(5) When selecting a disposal site under chapter 679, Oregon Laws 1987, the commission may attach limitations or conditions to the development, operation or maintenance of the disposal site, including but not limited to, setbacks, screening and landscaping, off-street parking and loading, access, performance bonds, noise or illumination controls, structure height and location limits, construction standards and periods of operation.

(6) If the Environmental Quality Commission directs the Department of Environmental Quality to establish or complete the establishment of a disposal site under this section,

the department shall establish the site subject only to the approval of the commission. Notwithstanding any other provision of chapter 679, Oregon Laws 1985 or any city, county or other local government charter or ordinance to the contrary, the Department of Environmental Quality may establish a disposal site under this section without obtaining any license, permit, franchise or other form of approval from a local government unit.

(7) The department shall identify conflicts with surrounding uses for any disposal site established under chapter 679, Oregon Laws 1985, and, to the extent practicable, shall mitigate or require the operator of the site to mitigate those conflicts.

(8) Notwithstanding any other provision of law, any order of the Environmental Quality Commission requiring the Department of Environmental Quality to establish a disposal site at the location selected by the commission under this section shall not expire before July 1, 1989. [1985 c.679 §5; 1987 c.876 §20]

Sec. 6. (1) Notwithstanding ORS 183.400, 183.482, 183.484 and 197.325, exclusive jurisdiction for review of any decision made by the Environmental Quality Commission under this 1985 Act relating to the establishment or siting of a disposal site, any order to the Department of Environmental Quality to establish or complete such a site or any findings made by the department under section 5 of this 1985 Act is conferred upon the Supreme Court.

(2) Proceedings for review shall be instituted when any person adversely affected or aggrieved by the order of the commission files a petition with the Supreme Court. The petition shall be filed within 30 days following the date on which the order upon which the petition is based is served. The petition shall state the nature of the order or decision the petitioner desires reviewed and shall, by supporting affidavit, state the facts showing how the petitioner is adversely affected or aggrieved. Copies of the petition shall be served by registered or certified mail upon the commission. Within 30 days after service of the petition, the commission shall transmit to the Supreme Court the original or a certified copy of the entire record of the proceeding under review. Review under this section shall be confined to the record, and the court shall not substitute its judgment for that of the commission as to any issue of fact or agency discretion. Upon review, the Supreme Court may affirm, reverse or remand the order of the commission if the court finds that the order is not supported by substantial evidence in the record or is unconstitutional. Proceedings for review under this section shall be given priority over all other matters before the Supreme Court.

(3) Notwithstanding ORS 197.350, jurisdiction for judicial review of a final order of the Land Use Board of Appeals issued in any proceeding arising under this 1985 Act is conferred upon the Supreme Court. The procedure for judicial review of a final order under this subsection shall be as provided in subsection (2) of this section. [1985 c.679 §6]

Sec. 7. (1) Subject to policy direction by the commission in carrying out sections 3 and 5 of this 1985 Act, the department may:

(a) By mutual agreement, return all or part of the responsibility for development of the site to a local government unit, or contract with a local government unit to establish the site.

(b) To the extent necessary, acquire by purchase, gift, grant or exercise of the power of eminent domain, real and personal property or any interest therein, including the property of public corporations or local government.

(c) Lease and dispose of real or personal property.

(d) At reasonable times and after reasonable notice, enter upon land to perform necessary surveys or tests.

(e) Acquire, modify, expand or build landfill or resource recovery site facilities.

(f) Subject to any limitations in ORS 468.195 to 468.260, use money from the Pollution Control Fund created in ORS 468.215 for the purposes of carrying out section 5 of this 1985 Act.

(g) Enter into contracts or other agreements with any local government unit or private person for the purposes stated in ORS 459.065 (1).

(h) Accept gifts, donations or contributions from any source to carry out the provisions of sections 3 and 5 of this 1985 Act.

(i) Establish a system of fees or user charges to reimburse the department for costs incurred under this 1985 Act and to allow repayment of moneys borrowed from the Pollution Control Fund.

(2) The metropolitan service district shall have the responsibility for the operation of the disposal sites established under this 1985 Act. [1985 c.679 §7]

Sec. 8. (1) The metropolitan service district organized under ORS chapter 268 shall prepare a solid waste reduction program. Such program shall provide for:

(a) A commitment by the district to substantially reduce the volume of solid waste that would otherwise be disposed of in land disposal sites through techniques including, but not limited to, rate structures, source reduction, recycling, reuse and resource recovery;

(b) A timetable for implementing each portion of the solid waste reduction program;

(c) Energy efficient, cost-effective approaches for solid waste reduction that are legally, technically and economically feasible and that carry out the public policy described in ORS 459.015 (2); and

(d) Procedures commensurate with the type and volume of solid waste generated within the district.

(2) Not later than January 1, 1986, the metropolitan service district shall submit its solid waste reduction program to the Environmental Quality Commission for review and approval. The commission shall approve the program if the commission finds that:

(a) The proposed program presents effective and appropriate methods for reducing dependence on land disposal sites for disposal of solid wastes;

(b) The proposed program will substantially reduce the amount of solid waste that must be disposed of in land disposal sites;

(c) At least a part of the proposed program can be implemented immediately; and

(d) The proposed program is legally, technically and economically feasible under current conditions.

(3) After review of the solid waste reduction program, if the commission does not approve the program as submitted, the commission shall allow the metropolitan service district not more than 90 days in which to modify the program to meet the commission's objections.

(4) Notwithstanding ORS 268.310 (2) and 268.317, if the commission does not approve the solid waste reduction program submitted by the metropolitan service district after any period allowed for modification under subsection (3) of this section, all the duties, functions and powers of the metropolitan service district relating to solid waste disposal are imposed upon, transferred to and vested in the Department of Environmental Quality and no part of such duties, functions and powers shall remain in the metropolitan service district. The transfer of duties, functions and powers to the department under this section shall take effect on July 1, 1986. Notwithstanding such transfer of duties, functions and powers, the lawfully adopted ordinances and other rules of the district in effect on July 1, 1986, shall continue in effect until lawfully superseded or repealed by rules of the commission.

(5) If the solid waste reduction program is approved by the commission, a copy of the program shall be submitted to the Sixty-fourth Legislative Assembly not later than February 1, 1987. [1985 c.679 §8]

Sec. 9. (1) The metropolitan service district shall apportion an amount of the service or user charges collected for solid waste disposal at each general purpose landfill within or for the district and dedicate and use the moneys obtained for rehabilitation and enhancement of the area in and around the landfill from which the fees have been collected. That portion of the service and user charges set aside by the district for the purposes of this subsection shall be 50 cents for each ton of solid waste.

(2) The metropolitan service district, commencing on the effective date of this 1985 Act [July 13, 1985], shall apportion an amount of the service or user charges collected for solid waste disposal and shall transfer the moneys obtained to the Department of Environmental Quality. That portion of the service and user charges set aside by the district for the purposes of this subsection shall be \$.1 for each ton of solid waste. Moneys transferred to the department under this section shall be paid into the Land Disposal Mitigation Account in the General Fund of the State Treasury, which is hereby established. All moneys in the account are continuously appropriated to the department and shall be used for carrying out the department's functions and duties under this 1985 Act. The department shall keep a record of all moneys deposited in the account. The record shall indicate by cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged. Apportionment of moneys under this subsection shall cease when the department is reimbursed for all costs incurred by it under this 1985 Act.

(3) The metropolitan service district shall adjust the amount of the service and user charges collected by the district for solid waste disposal to reflect the loss of those duties and functions relating to solid waste disposal that are transferred to the commission and department under this 1985 Act. Moneys no longer necessary for such duties and functions shall be expended to implement the solid waste reduction program submitted under section 8 of this 1985 Act. The metropolitan service district shall submit a statement of

proposed adjustments and changes in expenditures under this subsection to the department for review. [1985 c.679 §9]

Sec. 10. ORS 459.049 does not apply to a disposal site established under this Act other than for the purposes of ORS 215.213 (1)(i). [1985 c.679 §10]

Note: Section 21, chapter 876, Oregon Laws 1987, provides:

Sec. 21. (1) The Department of Environmental Quality shall study the management of solid waste throughout the state. The study shall include:

(a) A review of the capacity of all domestic solid waste disposal sites and the need for locating new sites;

(b) The identification of significant regional solid waste disposal problem areas; and

(c) A survey of local governments to determine their willingness to participate in regional solid waste management planning.

(2) Not later than December 15, 1988, the Director of the Department of Environmental Quality shall make the results of the study required under subsection (1) of this section available to the President of the Senate and the Speaker of the House of Representatives of the Sixty-fourth Legislative Assembly, who shall refer the results of the study to the appropriate legislative committee. [1987 c.876 §21]

BEVERAGE CONTAINERS

459.810 Definitions for ORS 459.810 to 459.890. As used in ORS 459.810 to 459.890 and 459.992 (3) and (4), unless the context requires otherwise:

(1) "Beverage" means beer or other malt beverages and mineral waters, soda water and similar carbonated soft drinks in liquid form and intended for human consumption.

(2) "Beverage container" means the individual, separate, sealed glass, metal or plastic bottle, can, jar, or carton containing a beverage.

(3) "Commission" means the Oregon Liquor Control Commission.

(4) "Consumer" means every person who purchases a beverage in a beverage container for use or consumption.

(5) "Dealer" means every person in this state who engages in the sale of beverages in beverage containers to a consumer, or means a redemption center certified under ORS 459.880.

(6) "Distributor" means every person who engages in the sale of beverages in beverage containers to a dealer in this state including any manufacturer who engages in such sales.

(7) "In this state" means within the exterior limits of the State of Oregon and includes all territory within these limits owned by or ceded to the United States of America.

(8) "Manufacturer" means every person bottling, canning or otherwise filling beverage containers for sale to distributors or dealers.

(9) "Place of business of a dealer" means the location at which a dealer sells or offers for sale beverages in beverage containers to consumers.

(10) "Use or consumption" includes the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale or the keeping or retention of a beverage for the purposes of sale. [1971 c.745 §1]

459.820 Refund value required. (1) Except as provided in subsection (2) of this section, every beverage container sold or offered for sale in this state shall have a refund value of not less than five cents.

(2) Every beverage container certified as provided in ORS 459.860, sold or offered for sale in this state, shall have a refund value of not less than two cents. [1971 c.745 §2]

459.830 Practices required of dealers and distributors. Except as provided in ORS 459.840:

(1) A dealer shall not refuse to accept from any person any empty beverage containers of the kind, size and brand sold by the dealer, or refuse to pay to that person the refund value of a beverage container as established by ORS 459.820.

(2) A distributor shall not refuse to accept from a dealer any empty beverage containers of the kind, size and brand sold by the distributor, or refuse to pay the dealer the refund value of a beverage container as established by ORS 459.820. [1971 c.745 §3; 1973 c.758 §1]

459.840 When dealer or distributor authorized to refuse to accept or pay refund in certain cases; notice. (1) A dealer may refuse to accept from any person, and a distributor may refuse to accept from a dealer any empty beverage container which does not state thereon a refund value as established by ORS 459.820.

(2) A dealer may refuse to accept and to pay the refund value of empty beverage containers if the place of business of the dealer and the kind and brand of empty beverage containers are included in an order of the commission approving a redemption center under ORS 459.880.

(3) A dealer may refuse to accept and to pay the refund value of any beverage container visibly containing or contaminated by a substance other than water, residue of the original contents or ordinary dust.

BACONA ROAD

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

In the Matter of the Establishment)
of a Solid Waste Disposal Site to) ORDER
Serve Clackamas, Multnomah and)
Washington Counties.)
))
))

1. Introduction

The Legislative Assembly charged the Environmental Quality Commission (EQC) and Department of Environmental Quality (DEQ) with the responsibility for locating and establishing a solid waste disposal site to serve the Clackamas, Multnomah and Washington tri-county area. Oregon Laws 1985, Chapter 679 (the Act). The Act requires EQC to issue its order not later than July 1, 1987, directing DEQ to establish the disposal site.

DEQ and its prime consultant, the firm of CH2M Hill have prepared a report entitled the Final Feasibility Study Report for the Bacona Road landfill site (the "Feasibility Study"). The Feasibility Study is comprised of six sections and Appendices A through H.

The sections address introductory materials (Section 1), the existing environment at the Bacona Road site (Section 2), the conceptual site plan for development of a landfill at the Bacona Road site (Section 3), the Neighborhood Protection Plan (NPP) for the Bacona Road site (Section 4), the cost estimate for development of the Bacona Road site (Section 5) and references (Section 6). The appendices contain the technical information, assumptions, DEQ ratings and other information supporting the six narrative sections of the Feasibility Study.

///

2. Conditions

a. The findings of fact and conclusions of EQC, including all exhibits thereto, attached to this order are hereby incorporated into this order.

b. The Feasibility Study for the Bacona Road site, including all appendices is hereby adopted as findings and conclusions of EQC, and by this reference incorporated into this order.

c. The environmental protection features of the design criteria set forth on page 3-3 of the Feasibility Study are hereby adopted by the EQC and shall be incorporated into the facility design and required by the DEQ as a condition of issuance of the solid waste disposal permit.

d. The requirements of the NPP (Section 4 of the Feasibility Study) are hereby adopted by EQC. All of the measures designed to eliminate or minimize adverse effects of the development and operation of a solid waste disposal facility at Bacona Road, contained in the NPP, shall be incorporated into the design and operation of the facility, except that measures may be replaced with alternative measures which provide a standard of protection or mitigation which is equal to or greater than the measure replaced. DEQ shall require implementation of the NPP as a condition of issuance of the solid waste disposal permit.

e. All NPP measures which specify operational standards or methods shall be required conditions of the solid waste disposal permit issued by DEQ.

///

///

///

///

///

f. DEQ or any local government unit under contract with DEQ to establish the disposal site pursuant to Section 7(1)(a) of the Act, shall obtain all state and federal permits necessary to establishment, development and operation of the disposal facility, and comply with all applicable state and federal laws and regulations.

g. The St. Johns Landfill will reach capacity and be closed between 1989 and 1991. The impending closure of St. Johns Landfill and the resulting need to site and establish a new disposal site within or for Clackamas, Multnomah or Washington Counties led to enactment of the Act. The EQC has, pursuant to the Act, selected the Bacona Road site. However, if the Metropolitan Services District (MSD) decides, in exercising its authority under ORS 268.317 and 268.318, that the Bacona Road site is not necessary to protect the health, safety, and welfare of the tri-county area upon closure of the St. Johns Landfill and if the MSD enters into binding agreements for the disposal of all of the solid waste of the district at disposal sites other than Bacona Road for a period of not less than twenty (20) years, then all authority for DEQ to establish a disposal site under this order shall expire.

h. The EQC shall not order the establishment of a disposal site at Ramsey Lake under the Act.


3. Order

Based upon the above-referenced findings and conclusions of EQC, and subject to the conditions set forth above, the Environmental Quality Commission for the State of Oregon hereby orders the Department of Environmental Quality to establish a solid waste disposal facility at the Bacona Road site.

///

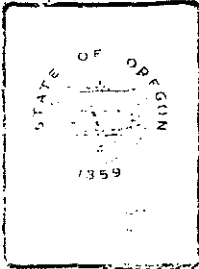
///

DATED this 19th day of June 1987.



Fred Hansen for the
Environmental Quality Commission

NOTICE: Interested parties may seek EQC review of this order by contested case. Petitions for review must be filed with the Environmental Quality Commission or or before June 26, 1987. Petitions must contain the information required by Oregon Administrative Rule 137-03-005(3) (copies of this and other applicable procedural rules may be obtained from the Department of Environmental Quality, telephone (503 229-5731). If no contested case is requested, this Order shall become final on June 29, 1987. Judicial review of this order is governed by Oregon Laws 1985, Chapter 679, Section 6.



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5969

DEPARTMENT OF ENVIRONMENTAL QUALITY

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Informational Report: Hearings Officer's Proposed Findings and Conclusions and Interim Order, and DEQ's Recommendation Regarding Establishment of a Landfill Site at Bacona Road

OFFICE OF THE DIRECTOR

BACKGROUND

This report has been prepared at the Director's initiative to:

- (1) Provide the Environmental Quality Commission (EQC) with background for review of the Hearings Officer's Proposed Findings and Conclusions as well as written arguments and exceptions filed by parties to the contested case hearing;
- (2) Inform the Commission of their options in response to the Hearings Officer's Findings and Conclusions; and
- (3) Outline the Department's recommendation that:
 - (a) exception be taken with the Proposed Findings which conclude that insufficient information exists to make a determination on whether landslide potential and groundwater conditions will allow compliance with provisions of 1985 Oregon Laws, Chapter 679 (chapter 679); and
 - (b) additional study of leachate treatment and disposal be undertaken and the contested case hearing be continued on this topic.

In response to the imminent solid waste disposal crisis posed by the anticipated closure of the St. Johns landfill, the 1985 legislature passed SB 662 directing the EQC and the Department of Environmental Quality (DEQ) to site a new disposal facility to serve the Portland Metropolitan area. Over the last 20 months this mandate has been carried out through an extensive site identification, evaluation and selection process.

In response to the legislature's requirement that the EQC order establishment of a site by July 1, 1987, the Commission, on June 19, approved an order, subject to a contested case hearing, directing establishment of the Bacona Road site as a regional landfill. The question before the contested case proceeding was whether sufficient evidence exists to demonstrate that selection of the Bacona Road site complies with the ORS chapter 679. The primary requirements of the law are found in Section 4, which provides:

"SECTION 4. (1) Subject to subsections (3) and (4) of section 5 of this act, the Environmental Quality Commission may locate and order the establishment of a disposal site under this 1985 act in any area, including an area of forest land designated for protection under the state-wide planning goals, in which the commission finds that the following conditions exist:

- (a) The disposal site will comply with applicable state statutes, rules of the commission and applicable federal regulations;
- (b) The size of the site is sufficiently large to allow buffering for mitigation of any adverse effects by natural or artificial barriers;
- (c) Proposed traffic will not significantly contribute to dangerous intersections or traffic congestion, considering road design capacities, existing and projected traffic counts, speed limits and number of turning points;
- (d) Facilities necessary to serve the disposal site can be available or planned for the area: and
- (e) The proposed disposal site is designed and operated to the extent practicable so as to mitigate conflicts with surrounding uses. Such conflicts with surrounding uses may include, but are not limited to:
 - (A) Visual appearance, including lighting and surrounding property.
 - (B) Site screening.
 - (C) Odors.
 - (D) Safety and security risks.
 - (E) Noise levels.
 - (F) Dust and other pollution.
 - (G) Bird and vector problems.
 - (H) Damage to fish and wildlife habitats."

The contested case hearing was conducted by Judge Edward Howell from July 13 through July 30, 1987. On September 3, 1987, Judge Howell issued proposed Findings and Conclusions and an interim proposed Order.

In summary, the Judge found sufficient evidence existed to demonstrate compliance with chapter 679 in all but three areas contested during the hearing, including noise, fire protection, wetlands, the City of Banks water supply, the proposed Hamill Observatory, hazardous waste, air quality, and traffic. It was his determination, however, that insufficient information exists in the record to determine statutory compliance in three areas: potential landslides, groundwater, and leachate treatment and disposal. The Hearings Officer's Findings and Conclusions recommend continuation of the contested case hearing until additional information can be acquired in these areas.

Additionally, the Hearings Officer suggested the following conditions be placed on final site development:

- (1) A fire protection plan be developed and implemented;
- (2) A luminary light be installed at the intersection of Highways 47 and 26; and
- (3) Noise mitigation actions included in the existing Neighborhood Protection Plan be made mandatory.

Rules of procedure give all parties to the contested case hearing until September 21, 1987, to file written exceptions and arguments to the Hearings Officer's Findings and Conclusions and Interim Order. At its October 2nd meeting, the EQC will be asked to review these documents and give direction to the Department regarding further action.

The DEQ's written exceptions and argument to the Hearings Officer's Findings, Conclusions and Interim Order are filed with this Informational Report.

EQC OPTIONS

In light of the Hearings Officer's proposed Findings and Conclusions, that in three areas insufficient information is available to determine compliance with the applicable legal standards of chapter 679, the Commission is presented with three options which allow continued consideration of the Bacona Road site.

Option One. Taking exception to the Hearings Officer's conclusions. If the Commission judges that sufficient information exists to demonstrate compliance with applicable provisions of chapter 679, in the areas of landslide potential, groundwater, and leachate treatment and disposal, the Commission could:

- (1) Close the contested case hearing;
- (2) Direct the Department to prepare findings to this effect; and
- (3) Order establishment of the Bacona Road site. (See Potential Additions to the Final Order)

Option Two. Accepting the Hearings Officer's Findings with Exceptions. If the Commission judges that sufficient information exists to demonstrate compliance with chapter 679 in one or two, but not all three of the areas named, the Commission, by motion, could direct the Department to:

- (1) Investigate further the area(s) where insufficient information is noted; and
- (2) Continue the contested case hearing process until further information is developed in this area(s). (See Potential Additions to the Final Order)

Option Three. Accepting the Hearings Officer's Findings and Conclusions without exception. If the Commission judges that insufficient information is available to determine compliance with chapter 679 - in the areas of landslide potential, groundwater, and leachate treatment and disposal, the Commission could, by motion, direct the Department to:

- (1) Investigate further issues related to landslide potential, groundwater and leachate treatment and disposal; and
- (2) Continue the contested case hearing process on new findings developed in these areas. (See Potential Additions to the Final Order)

Should the Commission select Option Three, results of the continued contested case hearing could be available in September 1988. Testing to gather additional information on landslide characterization must occur during the winter - wet weather months, and would be complete in May 1988.

As part of either Option Two or Option Three, the contested case hearing would have to be continued, and the Attorney General's Model Rules should be kept in effect for this purpose. The Commission initially adopted the model rules by a temporary rule that will expire in late November. The model rules can be kept in effect by a simple motion of the commission, because under ORS 183.341, agencies do not have to go through rulemaking procedures to adopt the Attorney General's model rules.

It is recognized that opposing parties to the contested case may recommend other options ranging from making findings of insufficient information in areas other than groundwater, landslide potential and leachate, to termination of consideration of this site for failure to demonstrate compliance with chapter 679. It is the Department's judgement that sufficient information for a positive finding exists in all areas except leachate treatment and disposal and that continued consideration of the Bacon Road site under chapter 679 is appropriate.

RECOMMENDATION

It is recommended that the Commission approve a motion to:

- (1) Affirm the existence of sufficient information to demonstrate compliance with chapter 679, in areas of landslide potential and groundwater;
- (2) Direct the Department to generate additional information on the availability of facilities to properly treat and dispose of leachate generated by the Bacon Road landfill;
- (3) Continue the contested case hearing to consider the sufficiency of additional information generated on leachate treatment and disposal; (Option Two)
- (4) Direct the Department to include the Hearings Officer's recommendations for fire protection, highway lighting, and noise mitigation, in the Neighborhood Protection Plan; and
- (5) Adopt Attachment A, which would keep in effect the Attorney General's Model Rules for purposes of the continued contested case hearing.

DISCUSSION OF RECOMMENDATION

It is the Department's opinion that a landfill at Bacona Road, as proposed, will comply with all provisions of chapter 679. Regulations specific to groundwater essentially require that introduction of any landfill substance into an underground drinking water source or aquifer shall not result in violation of applicable drinking water quality standards or the beneficial use of an aquifer. The Department's determination of compliance, as detailed in the attached Exceptions Document, is based on a clear understanding of the natural characteristics of the site and the capabilities of properly engineered facilities and site construction.

Evidence to support this conclusion was generated as part of a study of the hydrogeologic characteristics of the site that included extensive geologic mapping, shallow and deep groundwater aquifer analysis, evaluation of soil permeability, and groundwater volume and flow direction analysis - often conducted in the most sensitive areas of the site from a groundwater perspective.

Sufficiency of Groundwater Information

Per the attached exceptions document, it was determined that a strong groundwater discharge condition exists onsite with predominant flow to the Denny Creek Drainage. This condition coupled with lower permeability materials generally throughout the site, and the existence of only one downgradient groundwater user within one mile from the site, present good natural conditions for groundwater protection. Because fracture systems and high permeability materials were also discovered, the site design was enhanced to include a sophisticated leachate leak prevention system. This system includes a double composite liner, and a leachate detection, collection and removal system. This system was found by the Hearings Officer to be the best design available to protect groundwater. Department investigations revealed no evidence of faulting onsite. It is acknowledged that additional groundwater characterization must occur prior to final site design to properly locate future groundwater monitoring wells and ensure safe excavation and construction of the landfill. This information is not necessary for the Commission to conclude that the site meets the statutory requirements of chapter 679, or other applicable laws, to order the establishment of the Bacona Road site.

Sufficiency of Information Regarding Landslide Potential

The Department further believes that sufficient evidence exists to confirm that a landfill at Bacona Road can be developed and its natural groundwater protection characteristics and engineered systems preserved without interference from landsliding. As detailed in the attached Exceptions Document, a distinction is required between deep-seated landslides which can threaten the feasibility of a site, and shallow, localized landslides which only impact the design and construction techniques at a site. Geologic analysis, including deep coring and inclinometer testing, revealed no evidence or indication of major active landslides in the area. Shallow slide areas identified do not present an unsolvable problem for landfill operation or the integrity of technological onsite systems. If the foundation and actual construction is conducted properly, the proposed design of the site will have the effect of stabilizing shallow ground movement.

Leachate Treatment and Disposal Information

The Department believes that sufficient information is available to support a finding that leachate treatment and disposal facilities necessary to serve the site can be available or planned for the area. However, due to a Final Feasibility Study Report error, and the subsequent identification of a new recommended alternative for pretreatment - described only orally during the contested case hearing process, the Department believes additional study to confirm this information is warranted to make a clear finding relative to chapter 679. Concerns raised regarding whether the Unified Sewage Agency would choose to accept properly pretreated leachate, also need to be addressed.

Per the Hearings Officer's proposal, it is recommended that this matter be the subject of a continued contested case hearing. Staff anticipates that additional leachate treatment and disposal analysis, including the following, would be sufficient to address these outstanding concerns:

- (1) Additional calculations, including sensitivity analysis, of anticipated leachate volumes.
- (2) Further analysis of anticipated leachate constituents.
- (3) Detailed review and analysis of leachate treatment and disposal alternatives including POTW and onsite disposal including:
 - (a) examination of constituent removal effectiveness under varying treatment conditions & leachate constituencies;
 - (b) documentation of system use and effectiveness at other industrial operations;
 - (c) ability of system to treat varying volumes and types of leachate to meet disposal requirements of POTW's;
 - (d) description of treatment byproducts and their disposal requirements;
 - (e) assessment of system treatment efficiencies given receipt of different leachate volumes over landfill life; and
 - (f) cost estimates.

This additional work could be completed by the end of November and a contested case hearing conducted during December 1987 or January 1988. Given this schedule, a final Hearings Officer's recommendation could be made to the Commission in February or March 1988. At that time, a Final EQC Order could be approved directing establishment of the site, with any appropriate conditions.

Potential Additions to the Final Order

Predevelopment Investigations

In selecting Option One or Option Two, the Commission may wish to be assured that additional work in areas of concern to the Hearings Officer will be completed prior to site development. During the hearing the Department noted that much of the additional information sought by the Hearings Officer will be developed as a matter of prudent engineering practice in the final phases of design over the life of the project. It is the Department's judgement that this work actually relates more to the

specifics of detailed construction planning to assure effective and safe excavation and construction of the landfill, than assessment of overall site feasibility and evidence of compliance with the provisions of chapter 679. Assurance that this work will be completed could be accomplished by including a provision in the Final Order that conditions site permitting and development upon successful completion of a specific predevelopment scope of work. The Department anticipates that a scope of work could be written requiring: further characterization of site stability/potential for landslide movement and identification of appropriate remedial measures; and isolation of groundwater divides and additional testing to determine the appropriate location of future groundwater monitoring wells.

SM1265

OAR 340, Division 11, Title - Procedures for Conduct of Contested Case on Order of Environmental Quality Commission selecting a land fill disposal site under authority of 1985 Oregon Laws, chapter 679.

340-11-141. Rules/Applicability. (a) The Environmental Quality Commission hereby adopts the Attorney General's Model Rules numbered OAR 137-03-001 through 137-03-093 and OAR 137-04-010 (Model Rules) for application to any contested case conducted by or for the commission on its order selecting a landfill disposal site pursuant to 1985 Oregon Laws, chapter 679.

(b) The Model Rules shall only apply to the contested case (or cases) described in subsection 340-11-141(a). The commission's rules for conduct of contested cases, OAR 340-11-097 through 340-11-140, shall continue to apply in all other cases. These rules shall become effective upon filing of the adopted rule with the Secretary of State.

DGE:tlal32/052287rule3.2

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF NOTIFYING THE	)	RESOLUTION NO. 88-865
OREGON ENVIRONMENTAL QUALITY)	
COMMISSION THAT THE BACONA ROAD	)	Introduced by Rena Cusma
SITE IS NOT NEEDED	)	Executive Officer

WHEREAS, The Council of the Metropolitan Service District has authorized the Executive Officer, on behalf of the agency, to enter into a 20-year contractual agreement with Oregon Waste Systems, Inc. for a solid waste disposal site and services; and

WHEREAS, Upon implementation of this 20-year agreement, there will be a binding 20-year agreement for a general purpose landfill for disposal of solid waste from the Portland metropolitan region by January 1, 1990; and

WHEREAS, During the term of this agreement the use of the proposed Bacona Road landfill is not necessary to protect the health, safety and welfare of the tri-county area upon closure of the St. Johns Landfill; and

WHEREAS, The interim order entered by the Oregon Environmental Quality Commission in "the matter of the establishment of a solid waste disposal site to serve Clackamas, Multnomah and Washington counties" pursuant to Chapter 679 Oregon Laws 1985 provides that in the event Metro finds that the Bacona Road site is not needed then all authority for the Department of Environmental Quality to establish a site under the order shall expire; and

WHEREAS, Section 20, Chapter 876 Oregon Laws 1987 provides that any order of the Environmental Quality Commission establishing

a landfill pursuant to Chapter 679 Oregon Laws 1985 shall not expire before July 1, 1989; now, therefore,

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District finds that upon execution of the 20-year agreement with Oregon Waste Systems, Inc. for an out-of-region landfill, authorized by Council Resolution No. 88-864, the proposed Bacona Road landfill is not necessary to protect the health, safety and welfare of the tri-county area upon closure of the St. Johns Landfill.

2. The Executive Officer, upon execution of the 20-year agreement with Oregon Waste Systems, Inc., is hereby authorized and requested to transmit a copy of this Resolution No. 88-865, Resolution No. 88-864, and the agreement with Oregon Waste Systems, Inc., to the Oregon Environmental Quality Commission in order to accomplish the expiration of the Department of Environmental Quality's authority to establish the Bacona Road landfill subject to the provisions of Section 20, Chapter 876 Oregon Laws 1987.

ADOPTED by the Council of the Metropolitan Service District this 28th day of April, 1988.



Mike Ragsdale, Presiding Officer

JM/gl
8942C/531
02/10/88



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Agenda Item No. 8.1

Date: April 20, 1988

Meeting Date April 28, 1988

To: Metro Council

From: Councillor Gary Hansen
Chair, Council Solid Waste Committee

Regarding: SOLID WASTE COMMITTEE REPORT ON APRIL 28, 1988
COUNCIL MEETING AGENDA ITEM

Agenda Item No. 8.1

Consideration of Resolution No. 88-865,
for the Purpose of Notifying the Oregon
Environmental Quality Commission that
the Bacona Road Site is Not Needed

Committee Recommendation

The Solid Waste Committee recommends Council adoption of Resolution No. 88-865.

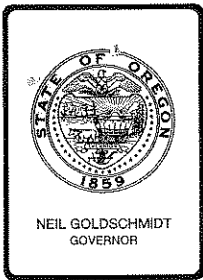
Discussion

This item was on the February 18, 1988, Committee agenda but was not discussed except in executive session (legal aspects).

On March 1, 1988, the Committee held a public hearing on Resolution No. 88-865. Only one individual testified. The individual supported the Arlington site and was opposed to Bacona Road. It was suggested that DEQ designate an eastern Oregon site. The Committee decided to defer any action on Resolution No. 88-865 until action was taken on Resolution No. 88-864 (landfill contract with Oregon Waste Systems).

The resolution was discussed again briefly at the March 15, 1988, Committee meeting. The Committee voted three to one to recommend Council approval of Resolution No. 88-865 upon securing a general purpose landfill. Voting aye: DeJardin, Gardner and Hansen. Voting no: Van Bergen. The Committee specified that the resolution not be on the Council agenda until a landfill was secured.

RB:amn



Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

REQUEST FOR EQC ACTION

Meeting Date: 9/7-8/89
Agenda Item: H
Division: HSW
Section: SW/WTP

SUBJECT:

Waste Tire Pile Cleanup - Use of Funds for Cleanup of the
Larry Waliser Site

PURPOSE:

The purpose is to allow use of funds from the Waste Tire
Recycling Account to expedite cleanup of approximately 20,000
waste tires at a permitted site.

ACTION REQUESTED:

- Work Session Discussion
 - General Program Background
 - Potential Strategy, Policy, or Rules
 - Agenda Item ___ for Current Meeting
 - Other: (specify)

- Authorize Rulemaking Hearing
- Adopt Rules
 - Proposed Rules Attachment ___
 - Rulemaking Statements Attachment ___
 - Fiscal and Economic Impact Statement Attachment ___
 - Public Notice Attachment ___

- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
 - Proposed Order Attachment ___

- Approve Department Recommendation
 - Variance Request Attachment ___
 - Exception to Rule Attachment ___
 - Informational Report Attachment ___
 - Other: (specify) Attachment ___

Meeting Date: 9/7-8/89
Agenda Item: H
Page 8

Approved:

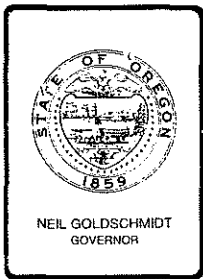
Section: She Greenwood
Division: Stephanie Kulloch
Director: Jill Hansen

Report Prepared By: Deanna Mueller-Crispin
and Bradford D. Price

Phone: 229-5808, 229-6792

Date Prepared: August 23, 1989

dmc
egcwalis.1
8/23/89



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

REQUEST FOR EQC ACTION

Meeting Date: 9/7-8/89
Agenda Item: H
Division: HSW
Section: SW/WTP

SUBJECT:

Waste Tire Pile Cleanup - Use of Funds for Cleanup of the Larry Waliser Site

PURPOSE:

The purpose is to allow use of funds from the Waste Tire Recycling Account to expedite cleanup of approximately 20,000 waste tires at a permitted site.

ACTION REQUESTED:

- Work Session Discussion
 - General Program Background
 - Potential Strategy, Policy, or Rules
 - Agenda Item for Current Meeting
 - Other: (specify)

- Authorize Rulemaking Hearing
- Adopt Rules
 - Proposed Rules Attachment
 - Rulemaking Statements Attachment
 - Fiscal and Economic Impact Statement Attachment
 - Public Notice Attachment

- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
 - Proposed Order Attachment

- Approve Department Recommendation
 - Variance Request Attachment
 - Exception to Rule Attachment
 - Informational Report Attachment
 - Other: (specify) Attachment

Allow Waste Tire Recycling Account cleanup funds to be made available to partially pay for immediate cleanup of approximately 20,000 waste tires from Larry Waliser's permitted waste tire storage site, pursuant to OAR 340-62-160(1), subject to verification of 1988 income through submittal of additional information from the permittee.

DESCRIPTION OF REQUESTED ACTION:

The Waste Tire Recycling Account is funded by a \$1 fee on new replacement tires. The purpose of the account is to enhance the market for waste tires by giving a subsidy for their reuse, and to help clean up waste tire piles.

The statute requires the Environmental Quality Commission to make a finding before the Department may use funds to assist a permittee in removing tires. The Commission must find that special circumstances allow for use of the funds, or that strict compliance with a tire removal date set by the Department would result in "substantial curtailment or closing of the permittee's business or operation or the bankruptcy of the permittee." (ORS 459.780 (2)(b) and OAR 340-62-150)

Mr. Waliser collected waste tires over time in conjunction with his tire retreading business. He is partially retired. His tire business did not show a profit in 1986 and 1987, but he estimates a profit of \$9,069 in 1988. Mr. Waliser requested financial assistance in a letter dated December 2, 1988 (Attachment F) to remove the waste tires from his site, saying he does not have sufficient resources to remove these tires as quickly as required by the Department. He has also stated that he could devote a few thousand dollars a year to tire cleanup. It is estimated that the cost of tire removal will be approximately \$30,000. It would take several years to remove the tires at the rate Mr. Waliser can afford.

The Department's rule (OAR 340-62-155) specifies in part that:

1. The Department shall base its recommendations on use of cleanup funds on potential degree of environmental risk created by the tire pile. The following special circumstances shall serve as criteria in determining the degree of environmental risk. The criteria, listed in priority order, include but are not limited to:
 - a. Susceptibility of the tire pile to fire...

- b. Other characteristics of the site contributing to environmental risk, including susceptibility to mosquito infestation.
2. In determining the degree of environmental risk involved in the two criteria above, the Department shall consider:
 - a. Size of the tire pile...[and]
 - b. How close the tire pile is to population centers...

The Waste Tire Program developed a point system to quantify the environmental risk created by each waste tire site. Mr. Waliser's site ranks moderately high in environmental risk, based on the Waste Tire Program point system (34 out of a potential 94 points, or fifth among permittees who have indicated they will request financial help). A tire fire at his site could substantially impact the air quality of LaGrande and Island City, and pyrolytic oil flows could potentially enter surface or ground waters of the state.

The rule (OAR 340-62-155 (3)) further states that:

Financial hardship on the part of the permittee shall be an additional criterion in the Department's determination. Financial hardship means that strict compliance with OAR 340-62-005 through 340-62-045 would result in substantial curtailment or closing of the permittee's business or operation, or the bankruptcy of the permittee...

The Department has developed guidelines (Attachment D) for determining whether the required outlay would result in financial hardship for the permittee. The guidelines suggest percentages of eligible costs which the Department would pay based on: the applicant's financial hardship (60% of the cost), having a permitted site (10%), having a "cooperative" applicant (10%), and if the site had tires dumped on it unbeknownst to the property owner (10%).

Applying the guidelines (based on estimated income for 1988), Mr. Waliser's site would qualify for assistance from the Waste Tire Recycling Account of a total of 80% of the cost of the cleanup, plus \$500. The \$500 is added to cover the cost of his out-of-pocket waste tire storage site permit fees. (See Attachment E) If the cleanup costs \$30,000, the assistance given would be \$24,500. Since Mr. Waliser does

Meeting Date: 9/7-8/89
Agenda Item: H
Page 4

not have cash on hand for his portion of the costs, the Department is proposing to pay the entire cost of the cleanup up-front, and have Mr. Waliser sign a stipulation and consent agreement for repayment of his share over time.

AUTHORITY/NEED FOR ACTION:

<input checked="" type="checkbox"/> Required by Statute: <u>459.780</u>	Attachment <u>A</u>
Enactment Date: <u>1987</u>	
<input type="checkbox"/> Statutory Authority: _____	Attachment _____
<input checked="" type="checkbox"/> Pursuant to Rule: <u>OAR 340-62-150 to -160</u>	Attachment <u>B</u>
<input type="checkbox"/> Pursuant to Federal Law/Rule: _____	Attachment _____
<input type="checkbox"/> Other: _____	Attachment _____
<input type="checkbox"/> Time Constraints: _____	

The permit allows the permittee until June 1, 1990 to remove the waste tires. It is environmentally desirable, however, to have the permittee remove the tires as quickly as possible.

DEVELOPMENTAL BACKGROUND:

<input checked="" type="checkbox"/> Advisory Committee Report/Recommendation	Attachment <u>C</u>
<input type="checkbox"/> Hearing Officer's Report/Recommendations	Attachment _____
<input type="checkbox"/> Response to Testimony/Comments	Attachment _____
<input type="checkbox"/> Prior EQC Agenda Items: (list)	Attachment _____
<input type="checkbox"/> Other Related Reports/Rules/Statutes: _____	Attachment _____
<input checked="" type="checkbox"/> Supplemental Background Information	Attachment _____
- Guidelines, Financial Assistance	Attachment <u>D</u>
- Analysis: How Permittee Fits Guidelines	Attachment <u>E</u>
- Letter from Larry Waliser	Attachment <u>F</u>

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The Waste Tire Advisory Committee helped develop the guidelines for determining the amount of financial assistance available to a given applicant. The guidelines address individuals, sole proprietorships and partnerships. Some permittees are corporations or municipalities, for which guidelines will need to be developed.

This is the first waste tire storage site permittee that has requested and qualifies for financial assistance. There are

nearly 20 permitted waste tire storage sites, and at least 10 are expected to request financial assistance. Some sites rank higher in environmental risk than Mr. Waliser's, but have not yet submitted complete financial information and cleanup plans to the Department. The Department expects to recommend use of cleanup funds on a first-come, first-serve basis.

PROGRAM CONSIDERATIONS:

The Department developed guidelines to ensure equitable evaluation of a permittee's ability to pay for cleanup without causing "substantial curtailment" of the permittee's business or operation. The financial guidelines are based on Multnomah County's "safety net" sewer program. The criteria for assistance are a household income below 80% of the HUD median area income, and \$20,000 in assets. A permittee must spend his or her own funds up to the threshold; the Department will partially assist with expenses above the threshold.

Additional financial assistance is offered to applicants who cooperate with the Department in finding a solution to their tire pile problem, and to individuals with sites where tires have been dumped without their knowledge.

The program currently has about \$1.5 million available for reimbursement to users of waste tires, and for site cleanup. By June 30, 1990, the Department estimates that this figure will increase to \$2.1 million. Thus, we anticipate having adequate funds to meet permittees' requests for financial assistance to remove tires.

Mr. Waliser has submitted copies of tax returns and financial statements for 1985 through 1987. He has requested from the Internal Revenue Service an extension until October 15 to file his 1988 tax return, so we do not have his 1988 return. Based on average income from 1985 through 1987, and on his estimated income for 1988, Mr. Waliser qualifies for assistance. The Department wants to wait until we receive verification of his 1988 income before authorizing this assistance. However, we would like to clean up the tires quickly (this season if possible) to eliminate their potential environmental risk. For that reason we are requesting authorization now for the financial assistance so the tires can be removed as soon as we receive income verification for 1988.

As required by rule, the permittee has submitted to the Department a waste tire removal plan describing the proposed action, time schedule and cost estimate.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. Removal of the tires over a 5-year or longer period by the permittee without financial assistance from the Waste Tire Recycling Account.
2. Removal of the tires by June 1, 1990 or earlier with assistance from the Waste Tire Recycling Account, basing assistance on the existing rule and Department guidelines, but conditioned on verification of income through 1988 tax returns or equivalent.
3. Postponement of this request for financial assistance until early in 1990, when guidelines could be developed for all categories of permittee (including corporations and municipalities) and their essentials adopted as rules.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

Alternative 2. This is the first permitted site that has submitted required materials to qualify for financial assistance. We recommend proceeding immediately with financial assistance for the following reasons:

1. The site is located close to populated areas (Island City, LaGrande); a tire fire would negatively impact their air quality, and resulting pyrolytic oils could also enter surface and ground waters.
2. The statute gives us the legal authority to provide the assistance.
3. The permittee's financial situation (subject to verification for 1988) meets the statutory requirement, as interpreted by Department guidelines, that strict compliance with the Department's cleanup schedule would cause substantial curtailment or closing of the permittee's business or the bankruptcy of the permittee.
4. The Waste Tire Advisory Committee has approved guidelines for use of the funds.

Meeting Date: 9/7-8/89

Agenda Item: H

Page 7

5. Budget is not an issue; the Waste Tire Recycling Account has an adequate fund balance. Use of funds now would fulfill a legislative intent to clean up tire piles as quickly as possible.
6. This is a relatively small and inexpensive situation. It can be used as a test case for our ground rules for future use of permittee cleanup funds.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The permittee meets statutory and regulatory criteria for receiving financial assistance to clean up the waste tires. The action would follow agency policy and legislative intent in getting the site cleaned of tires as quickly as possible, thus eliminating the potential environmental problems associated with tire piles.

ISSUES FOR COMMISSION TO RESOLVE:

Should the guidelines for financial assistance be put in rule form? (The Attorney General has advised the Department that financial assistance can be given based on the statute.)

INTENDED FOLLOWUP ACTIONS:

The Department will receive verification of 1988 income from Mr. Waliser.

If that information confirms his estimated income, the Department will notify Mr. Waliser to proceed with the cleanup, and will prepare a repayment agreement with Mr. Waliser. If it does not, the Department will adjust or disapprove the financial assistance accordingly.

Mr. Waliser will arrange for cleanup; the Department will inspect and approve the cleanup operation, and then issue a check for the cleanup.

Additional guidelines for financially assisting permittees who are corporations and municipalities will be developed. Guidelines will be adopted as rules, if so indicated by the Commission.

Meeting Date: 9/7-8/89
Agenda Item: H
Page 8

Approved:

Section: She Greenwood

Division: Stephanie Okuloch

Director: Leif Hansen

Report Prepared By: Deanna Mueller-Crispin
and Bradford D. Price

Phone: 229-5808, 229-6792

Date Prepared: August 23, 1989

dmc
eqcwalis.1
8/23/89

SOLID WASTE CONTROL

459.780

may apply for a reimbursement of part of the cost of such use.

(3) Any costs reimbursed under this section shall not exceed the amount in the Waste Tire Recycling Account. If applications for reimbursement during a period specified by the commission exceed the amount in the account, the commission shall prorate the amount of all reimbursements.

(4) The intent of the partial reimbursement of costs under this section is to promote the use of waste tires by enhancing markets for waste tires or chips or similar materials. The commission shall limit or eliminate reimbursements if the commission finds they are not necessary to promote the use of waste tires.

(5) The commission shall adopt rules to carry out the provisions of this section. The rules shall:

(a) Govern the types of energy recovery or other appropriate uses eligible for reimbursement including but not limited to recycling other than retreading, or use for artificial fishing reefs;

(b) Establish the procedure for applying for a reimbursement; and

(c) Establish the amount of reimbursement. [1987 c.706 §13]

Note: See note under 459.705.

459.775 Waste tire recycling account; use of funds. The Waste Tire Recycling Account is established in the State Treasury, separate and distinct from the General Fund. All moneys received by the Department of Revenue under ORS 459.504 to 459.619 shall be deposited to the credit of the account. Moneys in the account are appropriated continuously to the Department of Environmental Quality to be used:

(1) For expenses in cleaning up waste tire piles as provided in ORS 459.780;

(2) To reimburse persons for the costs of using waste tires or chips or similar materials; and

(3) For expenses incurred by the Department of Environmental Quality in carrying out the provisions of sections ORS 459.710, 459.715 and 459.770 to 459.790. [1987 c.706 §14]

Note: See note under 459.705.

459.780 Tire removal or processing plan; financial assistance; department abatement. (1) The department, as a condition of a waste tire storage site permit issued under ORS 459.715 to 459.760, may require the permittee to remove or process the waste tires according to a plan approved by the department.

(2) The department may use moneys from the Waste Tire Recycling Account to assist a permittee in removing or processing the waste tires. Moneys may be used only after the commission finds that:

(a) Special circumstances make such assistance appropriate; or

(b) Strict compliance with the provisions of ORS 459.705 to 459.790 would result in substantial curtailment or closing of the permittee's business or operation or the bankruptcy of the permittee.

(3) The department may use subsections (4) to (7) of this section if:

(a) A person fails to apply for or obtain a waste tire storage site permit under ORS 459.715 to 459.760; or

(b) A permittee fails to meet the conditions of such permit.

(4) The department may abate any danger or nuisance created by waste tires by removing or processing the tires. Before taking any action to abate the danger or nuisance, the department shall give any persons having the care, custody or control of the waste tires, or owning the property upon which the tires are located, notice of the department's intentions and order the person to abate the danger or nuisance in a manner approved by the department. Any order issued by the department under this subsection shall be subject to appeal to the commission and judicial review of a final order under the applicable provisions of ORS 183.310 to 183.550.

(5) If a person fails to take action as required under subsection (4) of this section within the time specified the director may abate the danger or nuisance. The order issued under subsection (4) of this section may include entering the property where the danger or nuisance is located, taking the tires into public custody and providing for their processing or removal.

(6) The department may request the Attorney General to bring an action to recover any reasonable and necessary expenses incurred by the department for abatement costs, including administrative and legal expenses. The department's certification of expenses shall be prima facie evidence that the expenses are reasonable and necessary.

(7) Nothing in ORS 459.705 to 459.790 shall affect the right of any person or local government unit to abate a danger or nuisance or to recover for damages to real property or personal injury related to the transportation, storage or disposal of waste tires. The department may reimburse a

Use of Waste Tire Site Cleanup Funds

340-62-150 (1) The Department may use cleanup funds in the Waste Tire Recycling Account to:

(a) Partially pay to remove or process waste tires from a permitted waste tire storage site, if the Commission finds that such use is appropriate pursuant to OAR 340-62-160.

(b) Pay for abating a danger or nuisance created by a waste tire pile, subject to cost recovery by the attorney general pursuant to OAR 340-62-165.

(c) Partially reimburse a local government unit for the cost it incurred in abating a waste tire danger or nuisance.

(2) Priority in use of cleanup funds shall go to sites ranking high in criteria making them an environmental risk, pursuant to OAR 340-62-155.

(3) For the Department to reimburse a local government for waste tire danger or nuisance abatement, the following must happen:

(a) The Department must determine that the site ranks high in priority criteria for use of cleanup funds, OAR 340-62-155.

(b) The local government and the Department must have an agreement on how the waste tires shall be properly disposed of.

Criteria for Use of Funds to Clean Up Permitted Waste Tire Sites

340-62-155 (1) The Department shall base its recommendations on use of cleanup funds on potential degree of environmental risk created by the tire pile. The following special circumstances shall serve as criteria in determining the degree of environmental risk. The criteria, listed in priority order, include but are not limited to:

(a) Susceptibility of the tire pile to fire. In this, the Department shall consider:

(A) The characteristics of the pile that might make it susceptible to fire, such as how the tires are stored (height and bulk of piles), the absence of fire lanes, lack of emergency equipment, presence of easily combustible materials, and lack of site access control;

(B) How a fire would impact the local air quality; and

(C) How close the pile is to natural resources or property owned by third persons that would be affected by a fire at the tire pile.

(b) Other characteristics of the site contributing to environmental risk, including susceptibility to mosquito infestation.

(2) In determining the degree of environmental risk involved in the two criteria above, the Department shall consider:

(a) Size of the tire pile (number of waste tires).

(b) How close the tire pile is to population centers. The Department shall especially consider the population density within five miles of the pile, and location of any particularly susceptible populations such as hospitals.

(3) Financial hardship, on the part of the permittee shall be an additional criterion in the Department's determination. Financial hardship means that strict compliance with OAR 340-62-005 through 340-62-045 would result in substantial curtailment or closing of the permittee's business or operation, or the bankruptcy of the permittee. The burden of proof of such financial hardship is on the permittee.

Procedure for Use of Cleanup Funds for a Permitted Waste Tire Storage Site

340-62-160. (1) The Department may recommend to the Commission that cleanup funds be made available to partially pay for cleanup of a permitted waste tire storage site, if all of the following are met:

(a) The site ranks high in the criteria making it an environmental risk, pursuant to OAR 340-62-155.

(b) The permittee submits to the Department a compliance plan to remove or process the waste tires. The plan shall include:

(A) A detailed description of the permittee's proposed actions;

(B) A time schedule for the removal and or processing, including interim dates by when part of the tires will be removed or processed.

(C) An estimate of the net cost of removing or processing the waste tires using the most cost-effective alternative. This estimate must be documented.

(c) The plan receives approval from the Department.

(2) A permittee claiming financial hardship under OAR 340-62-155 (3) must document such claim through submittal of the permittee's state and federal tax returns for the past three years, business statement of net worth, and similar materials. If the permittee is a business, the income and net worth of other business enterprises in which the principals of the permittee's business have a legal interest must also be submitted.

(3) If the Commission finds that use of cleanup funds is appropriate, the Department shall agree to pay part of the Department-approved costs incurred by the permittee to remove or process the waste tires. Final payment shall be withheld until the Department's final inspection and confirmation that the tires have been removed or processed pursuant to the compliance plan.



Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

August 16, 1989

William P. Hutchison, Jr., Chairman
Environmental Quality Commission
Department of Environmental Quality
811 S.W. 6th Avenue
Portland, OR 97204

Re: Financial Assistance
Guidelines

Dear Mr. Hutchison:

The Waste Tire Advisory Committee has at two previous meetings assisted Department staff in developing guidelines to determine the amount of financial assistance which should be given to a waste tire site permittee requesting help in cleaning up tires. The guidelines are to be used by the Department in recommending to the Commission use of funds from the Waste Tire Recycling Account for tire pile cleanup.

Today the Committee adopted a position formally supporting use of the attached guidelines.

Sincerely,

Dave Phillips, Chairperson
Waste Tire Advisory Committee

dmc
Enclosure

WASTE TIRE PROGRAM
USE OF CLEANUP FUNDS

POLICIES AND PROCEDURES

Incorporating recommendations made
by the Waste Tire Advisory Committee
at their April 19, 1989 meeting

DEPARTMENT OF ENVIRONMENTAL QUALITY

Contact Person: Deanna Mueller-Crispin
Waste Tire Program Coordinator
229-5808

I. Purpose

Help persons comply with the waste tire program statute while avoiding "substantial curtailment or closing" of the person's business, and avoiding bankruptcy of the person or business.

II. Program Summary

This program may partially reimburse waste tire storage site permittees for costs incurred in waste tire removal. It also provides funds to contract to abate (clean up) unpermitted tire piles, subject to cost recovery from the responsible person. It may partially reimburse the tire removal costs incurred by a local government in abating a waste tire pile.

III. Eligibility Criteria

a. In General. The law provides that cleanup funds may be used to assist in removing or processing waste tires from a permittee's site if strict compliance with the waste tire law would:

- Result in substantial curtailment or closing of a waste tire permittee's business or operation; or
- Result in the bankruptcy of the permittee.

b. The "Applicant" must be the permittee holding a waste tire storage site permit from the Department.

c. For Individuals. DEQ will assume that waste tire removal would result in "substantial curtailment" of the individual's "operation", or in his/her bankruptcy, and thus financial assistance would be provided, if costs of such removal would:

- Result in the reduction of the individual's gross household income to below 80 percent of the area median income (as determined by HUD); and/or
- Result in the reduction of the net household assets (excluding the primary residence, its contents, and one car) to below \$20,000.

c. For Sole Proprietorships & Partnerships. DEQ will assume that waste tire removal would result in "substantial curtailment or closing" of the business's operation, or in its bankruptcy, and thus financial assistance would be provided, if costs of such removal would:

- Result in the reduction of the gross household income (including all sources of income) of the owner(s) or officers to below 80 percent of the area median income (for sole proprietorships and partnerships only, based on "net income" to the owners from the business excluding depreciation); and/or

- Result in the reduction of the assets of the business to below \$20,000 (excluding basic assets of building, equipment and inventory. Cash, investments, stock, real property and accounts receivable will be decreased by any outstanding liabilities [loans, wages payable to others than owner(s), and accounts payable]).

- Partners in a partnership will be held accountable for tire cleanup costs ("paydown" requirement) in proportion to their partnership share in the business.

d. Corporations. Corporations will be subject to a different analysis, perhaps to EPA "ability to pay" criteria.

e. Municipalities. The Department intends to develop different criteria for municipalities which would specify under what special circumstances they would be eligible for financial assistance in waste tire removal.

Summary:

<u>Class:</u>	<u>Income Threshold</u>	<u>Asset Threshold</u>
Individuals	gross household: 80% median	household \$20,000 (excl. homestead & family car)
Sole proprietor, partnership	modified gross (<u>net</u> from bus.) household: 80% med.	business \$20,000 (excl. building, equip. & invent'y)
Corporation	(to be determined)	(to be determined)
Municipalities	(to be determined)	(to be determined)

IV. Definitions

- a. Gross Income: Before tax income for the preceding 12 months from all sources of all occupants of the household unless verified as a paying boarder, including but not limited to wages, commissions, bonus, overtime, Social Security and retirement benefits, Veteran's benefits, public assistance, child support and alimony, interest and dividends, rental or boarder rent income, support from a non-member of the household, unemployment compensation and disability payments, net profits from sole or joint proprietorship or home businesses, and the living expenses portion of student grants for those students residing in the home for the 12 months preceding the date of application.

An exception to the prior 12 month rule is allowed if the applicant or co-applicant is 65 or over and has retired during the prior 12 month period. In these cases, income is from the date of retirement and projected forward 12 months. If this information is not available, the Department shall use the best and most recent information available, including averaging income from the most recent three years of tax returns.

- b. Allowable Deductions to Gross Income: All non-reimbursed medical, dental, optical expenses, including nursing home costs, home nursing costs; child support and alimony.
- c. Net Assets: Resources that can be liquidated or used as collateral for a private loan in order to fund waste tire removal, such as: real property, stocks and bonds, savings accounts, credit union shares, cash on hand, vehicles, equipment, less the principal balance of outstanding loans, excluding the mortgage(s) on the primary residence. Value of real property should be county assessor's appraisal; for the cleanup/abatement site, value should be the property's value with tires removed.
- d. 80 Percent of Area Median Income: The current level of 80 percent of the median income of the county or SMSA in which the applicant lives, as determined annually by the U.S. Department of Housing and Urban Development (HUD). Income is based on household size.
- e. Household Members: All persons, regardless of relationship or age, who are considered dependents of the applicant as defined by the Internal Revenue Service. Those persons not determined to be dependents but who reside permanently in the household may be counted. Under these circumstances their gross annual income from all sources will be added to that of the applicant.

V. Application Process

1. DEQ assigns points to all sites on our list for cleanup or abatement funds. Sites with highest number of points are acted upon first. (Points are based on "Cleanup/Abatement of Waste Tire Piles Point System" paper, 12/28/88)
2. For permitted sites:
 - a. Permittee fills out application form for financial assistance. Application includes detailed description of proposed tire removal actions, time schedule, cleanup bids, etc. Application requires three years of Federal and State income tax returns.
 - b. DEQ approves plan (or returns to permittee for changes). DEQ determines amount of cleanup funds site would be allowed.
 - c. Staff prepares staff report to EQC for approval of determined amount of cleanup funds.
 - d. Permittee cleans up site; DEQ verifies cleanup; DEQ issues voucher for agreed-on amount.

VI. Amount of Financial Help to be Given

1. No financial help shall be given unless the applicant meets the "financial hardship" criteria.
2. The applicant is required to first contribute his or her own funds to the tire cleanup up to the point at which household income (on an annual basis) and/or net assets would be reduced below the thresholds listed under III, Eligibility Criteria.
3. On the remaining cost of the cleanup, the Department's contribution will be based on the following criteria:

<u>Criteria</u>	<u>% Cost to be Forgiven</u>
a. Financial hardship	60%
b. Permitted site	10% (+ permit fees, bond) (or max. \$1000 ¹)
c. "Cooperative"	10% (or max. \$1000 ¹)

¹Waste Tire Advisory Committee recommendation.

d. Unknowingly dumped on 10% (or max. \$1000¹)

Maximum assistance: 90% (+ permit fees, bond,
but not to exceed 100%)

4. Applicant's own in-kind contribution (such as labor) to the cleanup of his site may be considered by DEQ as part of applicant's required cost contribution. However, previous costs incurred by a permittee in removing tires from his site before January 1, 1989, or costs incurred by the owner of an abatement site before the effective date of the Order of Abatement, should not be considered part of the permittee's own "financial contribution."
5. No individual may receive financial assistance to clean up waste tires more than once under this program.

guidelin.per

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: August 23, 1989

TO: Financial Assistance File

FROM: Deanna Mueller-Crispin

SUBJECT: Review of Larry Waliser's Application for Financial Assistance to Remove Waste Tires

Situation

Larry Waliser is a waste tire storage permittee who has requested financial assistance from the Department to remove about 20,000 waste tires from his property. The site ranks moderately high in "environmental risk" criteria under the Department's point system, making it potentially eligible to receive financial assistance. Mr. Waliser has turned in three years of Federal and State tax returns, along with balance sheets for those same years (1985-1987). His 1988 income tax return has not yet been prepared. Mr. Waliser also submitted estimated income and expenses for 1988 for his tire business. Site cleanup is expected to cost about \$30,000.

Mr. Waliser is the sole proprietor of a business, Larry's Tires, and there are two persons in his household (himself and his wife). His wife also operates a beauty salon business.

Guidelines

The Department has developed guidelines to recommend to the Commission the amount of financial assistance an otherwise eligible site should receive from the Waste Tire Recycling Account.

For a sole proprietorship, the financial test is the following: cost of the cleanup would cause the applicant's gross household income to fall below 80% of the area median income (as determined by HUD), and/or would reduce the company's net assets to below \$20,000.

Excluded from net assets are: residence; one family car; the business' building, equipment and inventory. Net income to the applicant from the business is to be considered (excluding

Memo to: Financial Assistance File
August 23, 1989
Page 2

depreciation). Other household income is to be gross income. Unreimbursed medical costs may be deducted.

Discussion

Mr. Waliser has not at this time completed his 1988 income tax returns; he applied on August 15, 1989 for an additional extension of time (until October 15) to file with the Internal Revenue Service, due to family illness. At our request, Mr. Waliser submitted an unaudited summary of his tire shop's 1988 business operations, showing an operating profit of \$9,069. He did not submit 1988 information for his wife, Barbara's, business. During an August 22 telephone call, Barbara Waliser estimated her shop had made a profit of about \$7,500 in 1989. Mr. Waliser's tax preparer had received no information on the Walisers' 1988 business operations as of August 18, 1989. While our guidelines call for using the applicant's income for the prior 12-month period, they also allow for using the best and most current information available, including income-averaging for the most recent three years of tax returns. In this case, the results given by income-averaging from the three years of tax information submitted is very similar to Mr. Waliser's estimated 1988 income.

Net assets can only be determined from a financial statement or balance sheet. A balance sheet for 1987 was submitted, but information is not yet available for 1988. I questioned Mr. Waliser on August 2 about his 1988 financial situation. He noted a number of things had changed since 1987; he said three of the five listed vehicles (listed value: \$42,000) had been sold. His 1987 balance sheet showed real estate valued at \$45,000. This would not be exempt from the "net asset" calculation in the guidelines. However, Mr. Waliser said that the real estate included several lots, all of which had been deeded to his children (except for a 2-acre lot of indeterminate value on which his tire shop is located). He stated that the amount of "notes payable" had now been reduced to \$45,000 from the \$83,400 noted on his 1987 balance sheet. These factors make the information on fixed assets from his 1987 balance sheet inaccurate and not usable.

Mr. Waliser said that his current assets (cash on hand, accounts receivable, securities, etc.), will be substantially the same in 1988 as in 1987. The following analysis assumes that Mr. Waliser's fixed liabilities cancel out his fixed assets, and the analysis of his assets is limited to current (1987) assets and current liabilities.

Analysis

1. Gross household income.

(From tax returns:)	<u>87</u>	<u>86</u>	<u>85</u>
Business net profit (plus depreciation)	3,927	<3,477>	34,504
Wages	500	6,400	8,750
Interest	109	37	115
Dividends	51	43	21
Tax refunds	1,718		575
Capital gains	4		34
Pensions	2,944	429	5,349
Rents, royalties		<3,998>	2
Subtotal	<u>9,253</u>	<566>	<u>49,350</u>
Less medical exp.	<1,951>	<5,185>	<1,915>
Adjusted gross income	7,302	<5,751>	47,435

Average income, last 3 years: \$16,329

(From applicants' estimates for 1988:)

Tire business profit	\$9,069
Beauty shop profit	<u>7,500</u>

Est. 1988 business income \$16,569

While this estimated 1988 business income does not include incidental income, it also does not include deductions for medical expenses.

2. Net assets (1987)

Assets		Liabilities	
Cash in bank	1,136	Accounts payable	31,142
Accounts receivable	9,991	Payroll deduct.	<u>943</u>
Securities	<u>1,000</u>	Total	32,085
Total	<u>12,127</u>		

Net Assets: \$<19,958>

Conclusions

HUD's 80% of median household income for a two-person family in Union County is \$18,150. Mr. Waliser's average household income for the 1985-1987 period was \$16,329, and his estimate of income from his businesses in 1988 was slightly more (\$16,569). Both amounts are under the HUD threshold.

Excluding the buildings and land associated with his business, and his residence, Mr. Waliser's balance sheet shows negative net assets in 1987.

Under the Department's guidelines, using either average income or estimated 1988 business income, Mr. Waliser is eligible for financial assistance with tire removal based on financial hardship. The Department believes there is a strong likelihood that Mr. Waliser's real income and assets in 1988 will be very similar to the above numbers, and will qualify him for financial assistance. My recommendation is to proceed with a request for EQC approval of the amount of financial assistance determined below, but conditioned the assistance on receiving verification from Mr. Waliser of 1988 income and asset amounts through income tax returns or the equivalent.

Amount of Financial Assistance Recommended

The financial assistance guidelines apply to Mr. Waliser's case in the following manner:

Applicant: 2-person household in Union Co.

HUD income threshold: \$18,150

Annual gross household income (3-yr. ave): \$16,329
(or est. 1988 business income: \$16,569)

Household assets: \$<19,958>

Estimated cost of tire cleanup: \$30,000

Required applicant contribution to reach "financial hardship":

	<u>Applic.</u>	<u>Threshold</u>		
Income:	\$16,329	- \$18,150 (80% of median)	=	- 0 -
Assets:	\$<19,958>	- \$20,000	=	- 0 -

Cost eligible for DEQ assistance: \$30,000 - 0 = \$ 30,000

Memo to: Financial Assistance File
August 23, 1989
Page 5

DEQ contribution: to base of \$30,000

a. Financial hardship: 60%	= \$18,000
b. Permitted site: 10% (or max. \$1,000 ¹)	= 3,000
permit fees (\$500)	= 500
c. "Cooperative" 10% (or max. \$1,000 ¹)	= 3,000
d. Unknowingly dumped on (no)	= 0
Total:	<u> \$24,500</u>

Summary:

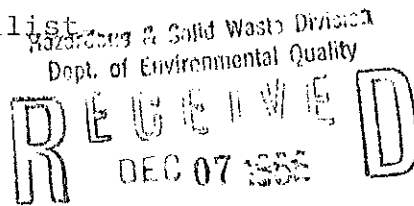
Total est. cleanup cost:	\$30,000
DEQ contribution	24,500
Applicant contribution	5,500

walrev.mem

¹Advisory Committee recommendation.

December 2, 1988

Mr. Bradford D. Price, Waste Tire Specialist,
 department of Environmental Quality
 Hazardous & Solid Waste Division
 Solid Waste Section
 811 S.W. 6th Avenue
 Portland, Oregon 97204



RE: Removal of Tire Casings

Dear Mr. Price,

I am writing requesting assistance to make it possible to comply with the DEQ ruling to remove the tire casings from the property where Larry's Tire Service is located north of Island City, near La Grande, Oregon.

There is 20 years accumulation of tires there. We are making an effort to remove the tires by hauling them to the dump. The charge is .35 for each passenger tire and \$3.00 for each truck tire. It will not always be possible to take them to the dump as they will refuse them in the future. The cost to do this is prohibitive at the rates they are charging. The estimated number of tires is approximately 17,000. The DEQ representative concurred with this. The projected cost of removal is beyond our capability.

I am the owner of Larry's Tire Service and still hold a mortgage on the property. I am 65 years old and planning to retire in a short while. I need to pay off the mortgage and am working at getting it payed off before I retire. I have cut back on my work hours as it is not as easy to work the long hours as it was a few years ago. I will definitely be retired before the 5 year deadline to have the tires removed.

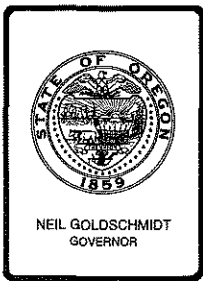
I cannot afford to remove these tires on my property without becoming financially bankrupt. My business has shown a loss for 1986-87 and so far, this year. There is no money for this expense.

It is my understanding that there is money available for assistance to those businesses that cannot afford to comply with the DEQ ruling. I would appreciate an application for such financial assistance. I have submitted a Stage II permit.

Your consideration to this request will be greatly appreciated.

Yours truly,
Lawrence E. Waliser

Larry Waliser
 Owner of Larry's Tire Service
 Rt. 1 Box 1675
 La Grande, Oregon 97850
 Phone: 963-3842



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

REQUEST FOR EQC ACTION

Meeting Date: 9/7-8/89
Agenda Item: I
Division: HSW
Section: SW-WTP

SUBJECT:

Waste Tire Pile Storage - Variance from Storage Standards for Molalla Discount Tire

PURPOSE:

Grant a variance to the fire lane requirement for this permitted waste tire storage site.

ACTION REQUESTED:

- Work Session Discussion
 - General Program Background
 - Potential Strategy, Policy, or Rules
 - Agenda Item for Current Meeting
 - Other: (specify)

- Authorize Rulemaking Hearing
- Adopt Rules
 - Proposed Rules Attachment
 - Rulemaking Statements Attachment
 - Fiscal and Economic Impact Statement Attachment
 - Public Notice Attachment

- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
 - Proposed Order Attachment

- Approve Department Recommendation
 - Variance Request Attachment A
 - Exception to Rule Attachment
 - Informational Report Attachment
 - Other: (specify) Attachment

Meeting Date: 9/7-8/89
Agenda Item: I
Page 2

DESCRIPTION OF REQUESTED ACTION:

Request approval to reduce the 50 foot fire lane to 18 feet along the north perimeter of Tire Disposal Co., Inc.'s waste tire pile.

AUTHORITY/NEED FOR ACTION:

- Required by Statute: _____ Attachment _____
 Enactment Date: _____
 Statutory Authority: ORS 459.705 - 459.790 Attachment _____
 Pursuant to Rule: OAR 340-62-035(8) Attachment B
 Pursuant to Federal Law/Rule: _____ Attachment _____
 Other: Attachment _____
 Time Constraints: (explain)

If the variance request is not approved by the Commission, the permittee will be required to comply with the 50-foot fire lane requirement by December 1, 1989. The fire lane requirement will create an unnecessary hardship on the permittee.

DEVELOPMENTAL BACKGROUND:

- Advisory Committee Report/Recommendation Attachment _____
 Hearing Officer's Report/Recommendations Attachment _____
 Response to Testimony/Comments Attachment _____
 Prior EQC Agenda Items: (list) Attachment _____
 Other Related Reports/Rules/Statutes: Attachment _____
 Supplemental Background Information Attachment _____

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The site is a retail tire store also selling used tires, situated on approximately five acres. It is in an agricultural area, located about three miles north of Molalla (population: 3,000). The nearest neighboring house is located to the west about 800 feet away; on the other side the nearest residence is about a quarter of a mile. The site has a 5.5 foot fence on the east and west sides. There is a creek on the north side of the property, about 60 feet away from the tires.

Meeting Date: 9/7-8/89
Agenda Item: I
Page 3

Approval of the variance request will not affect the community. The Department does not expect the variance to cause a fire hazard.

PROGRAM CONSIDERATIONS:

Through the waste tire storage site standards in the Oregon Administrative Rules, the Department has placed restrictions on tire pile dimensions and has required that each tire pile have a 50-foot fire lane around its perimeter. In general, a waste tire storage site will have large numbers of tires of no market value stored in one or more piles until they can be processed or disposed.

The number of waste tires stored at the site is limited to 3,000 by DEQ storage site permit condition. Clackamas County limits the waste tires stored at the site to 2,500 recappable casings and 500 junk tires.

The permittee, Tire Disposal Co., Inc. (combined permit # WTSII13.A), currently stores about 2,500 recappable casings (which have a definite market value) and 500 scrap tires at the site. All of these tires fall under the definition of "waste tires." Storage covers a large area in order to facilitate sorting of recappable casings and ready access to specific casings ordered by a retreader. Because the permittee actually has a use for the majority of the "waste tires," the storage of these tires cannot be in piles; it would be too difficult to retrieve specific casings for sale.

Because the tires are spread over a large area, the permittee does not have space along the northern perimeter of the pile for a 50-foot fire lane.

OAR 340-62-035 states in part, "The Commission may by specific variance waive certain requirements of these technical and operational standards when circumstances of the waste tire storage site location, operating procedures, and fire control protection indicate that the purpose and intent of these rules can be achieved without strict adherence to all of the requirements."

Stored in a single pile in order to create the 50-foot fire lane, the recappable casings would be harder to access, and pile storage actually presents more of a fire danger than the present dispersed arrangement does.

Meeting Date: 9/7-8/89
Agenda Item: I
Page 4

The most effective means of tire fire control is the ability of fire fighters to isolate the fire by breaking up the pile. A tire fire in the sorting yard as presently operated could be more quickly controlled than a fire that starts in a single pile of 3,000 tires.

This variance from the rules cannot be handled through a "permit compliance schedule;" the permittee needs a permanent exemption from the standard in order to operate. Other sites with requests to vary from storage standards are phasing out (closing), and can be handled via permit. The Department intends to modify the "Variance" section in the next rule revision so that variances will not be required to go through the Commission. The rules will have been revised before anyone again requests a variance from storage standards.

The expiration date of the permit is March 1, 1992. The variance will need to be requested again with the new permit application.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. The Department could strictly enforce the fire lane requirement.
2. The Commission could grant the variance. Fire danger would actually be less, and permittee would be able continue the sorting operation necessary to the business.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

Department recommends Alternative 2 for the following reasons:

1. The permittee has equipment on-site that can be used to break up and isolate any potential tire fire.
2. A tire fire in the sorting yard as presently operated would be more quickly isolated and controlled than would a tire fire in a single pile of 3,000 tires.
3. The formation of pyrolytic oils (through incomplete combustion of tires) would be less of a problem, because the tires are not stored in piles.

Meeting Date: 9/7-8/89
Agenda Item: I
Page 5

4. The reduction of the fire lane to 18 feet will not affect fire access; the permittee can access all parts of the sorting yard now with a truck and 47-foot trailer.
5. The strict imposition of the fire lane requirement would work a hardship on the operations of the permittee, who needs to be able to sort and access the recappable casings.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The Department needs to be able to work with an individual site to be able to meet the needs specific to that site and yet ensure that environmental concerns such as fire protection are not compromised.

ISSUES FOR COMMISSION TO RESOLVE:

Is it appropriate to modify the rules so that these types of variances no longer require Commission approval?

INTENDED FOLLOWUP ACTIONS:

The Department will send a letter to the permittee stating that the variance has been granted.

Site visits will be conducted to verify that adequate fire access is being maintained by the permittee.

Approved:

Section:

Eric Greenwood

Division:

Stephanie Hallock

Director:

Jul Hansen

Report Prepared By: Anne Cox

Phone: 229-6912

Date Prepared: August 1, 1989

Anne Cox:k
WT\SK2150
August 8, 1989



Tire Disposal, Inc.

14377 S. Macksburg Rd.

Molalla, OR 97038

Phone: 829-8322 — 829-9625 — 632-7252

Member of Solid Waste Division

Dept. of Environmental Quality

REVIEWED
JUL 10 1989

July 7th 1989

Dear Ann Cox,

This letter is pertaining to the regulations that have been imposed on us regarding the 50' fire lane. We feel that is an excessive number of feet. After all a county road I believe is only 20'

We propose it should be 15 to 18' having adequate room for a vehicle to get around the entire area if there were to be a fire. As you know the tire piles are very small with plenty of room between them to easily drive around. The truck with a 47' trailer could do it so can a fire truck.

We also have 2 cats, a boom truck and a dump truck that are on the site in case of fire. A year around creek to pump out of.

The tires will be 60' feet away from the creek at the closest point.

Sincerely,
Tire Disposal Co Inc
DBA
Molalla Discount Tire
By
Kathy Hutchinson

subject to appeal to the Commission and judicial review under ORS 183.310 to 183.550.

(340-62-030 revised and effective 4/24/89)

Standards for Waste Tire Storage Sites

340-62-035 (1) All permitted waste tire storage sites must comply with the technical and operational standards in this part.

(2) The holder of a "first-stage" waste tire storage permit shall comply with the technical and operational standards in this part if the site receives any waste tires after the effective date of these rules.

(3) A waste tire storage site shall not be constructed or operated in a wetland, waterway, floodway, 25-year floodplain, or any area where it may be subjected to submersion in water.

(4) Operation. A waste tire storage site shall be operated in compliance with the following standards:

(a) An outdoor waste tire pile shall have no greater than the following maximum dimensions:

(A) Width: 50 feet.

(B) Area: 15,000 square feet.

(C) Height: 6 feet.

(b) A 50-foot fire lane shall be placed around the perimeter of each waste tire pile. Access to the fire lane for emergency vehicles must be unobstructed at all times.

(c) Waste tires to be stored for one month or longer shall be ricked, unless the Department waives this requirement.

(d) The permittee shall operate and maintain the site in a manner which controls mosquitoes and rodents if the site is likely to become a public nuisance or health hazard and is close to residential areas.

(e) A sign shall be posted at the entrance of the storage site stating operating hours, cost of disposal and site rules if the site receives tires from persons other than the operator of the site.

(f) No operations involving the use of open flames or blow torches shall be conducted within 25 feet of a waste tire pile.

(g) An approach and access road to the waste tire storage site shall be maintained passable for any vehicle at all times. Access to the site shall be controlled through the use of fences, gates, or other means of controlling access.

(h) If required by the Department, the site shall be screened from public view.

(i) An attendant shall be present at all times the waste tire storage site is open for business, if the site receives tires from persons other than the operator of the site.

(j) The site shall be bermed or given other adequate protection if necessary to keep any liquid runoff from potential tire fires from entering waterways.

(k) If pyrolytic oil is released at the waste tire storage site, the permittee shall remove contaminated soil in accordance with applicable rules governing the removal, transportation and disposal of the material.

(5) Waste tires stored indoors shall be stored under conditions that meet those in The Standard for Storage of Rubber Tires, NFPA 231D-1986 edition, adopted by the National Fire Protection Association, San Diego, California.

(6) The Department may approve exceptions to the preceding technical and operational standards for a company processing waste tires if:

(a) The average time of storage for a waste tire on that site is one month or less; and

(b) The Department and the local fire authority are satisfied that the permittee has sufficient fire suppression equipment and/or materials on site to extinguish any potential tire fire within an acceptable length of time.

(7) Tire-derived products subject to regulation under OAR 340-62-015 (3) shall be subject to standards in this rule except that piles of such products may be up to 12 feet high if approved by local fire officials.

(8) A permittee may petition the Commission to grant a variance to the technical and operational standards in this part for a waste tire storage site in existence on or before January 1, 1988. The Commission may by specific written variance waive certain requirements of these technical and operational standards when circumstances of the waste tire storage site location, operating procedures, and fire control protection indicate that the purpose and intent of these rules can be achieved without strict adherence to all of the requirements.

(340-62-035 revised and effective 4/24/89)

Closure

340-62-040 (1) The owner or operator of a waste tire storage site shall cease to accept waste tires and shall immediately close the site in compliance with any special closure conditions established in the permit and these rules, if:

(a) The owner or operator declares the site closed;

(b) The storage permit expires or is revoked and renewal of the permit is not applied for, or is denied;

(c) A Commission order to cease operations is issued; or

(d) A permit compliance schedule specifies closure is to begin.

(2) The owner or operator of a waste tire storage site may be required by the Department to submit to the Department a closure plan with the permit application.

(3) The closure plan shall include:

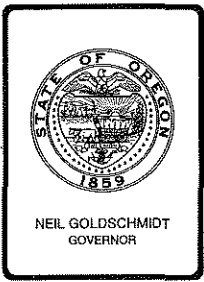
(a) When or under what circumstances the site will close, including any phase-in of the closure;

(b) How all waste tires and tire-derived products will be removed from the site or otherwise properly disposed of upon closure;

(c) A schedule for the applicable closure procedures, including the time period for completing the closure procedures.

(d) A plan for site rehabilitation, if deemed necessary by the Department.

8




Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

MEMORANDUM

TO: Environmental Quality Commission DATE: August 29, 1989

FROM: Fred Hansen, Director 

SUBJECT: Proposed Port Westward Pulp Mill

The attached report is respectfully submitted to the Commission as an addendum to the July 21 staff report. This is Agenda Item J on the Commission's September 8th meeting.

The report has been prepared in response to the Commission's request for more information and analysis concerning the proposed Port Westward Pulp Company wastewater discharge.

IW\WJ2180

Addendum to July 21, 1989
Environmental Quality Commission Staff Report

Agenda Item L--Proposed WTD Pulp Mill

BACKGROUND

The Commission reviewed pulp mill technology at its work session on Thursday, July 20, 1989, and received information on the Pope & Talbot, Inc. Halsey mill expansion project and the new Port Westward Pulp Company (WTD Industries, Inc.) mill proposed for construction near Clatskanie, Oregon.

At its regular meeting on Friday, July 21, 1989, the Commission continued discussion of the proposed Port Westward mill wastewater discharge and reviewed the decision alternatives presented in the staff report. The Commission deferred a decision on whether or not to approve the discharge until its September 8, 1989 meeting.

A copy of the July 21 staff report is attached (Attachment A).

The Commission requested more information and definition from the Department on the proposed Port Westward discharge, especially regarding the recommended conditions that were part of the Department's Decision Alternative 2 in the July 21 Commission staff report.

This report addresses the Commission's request for more information concerning the conditions under which the proposed Port Westward wastewater discharge might be approved. A revised draft discharge permit is attached (Attachment B).

DECISION ALTERNATIVE 2 CONDITIONS OF JULY 21 STAFF REPORT

Actions Taken on Conditions 2e,2f

Condition 2e would require development of an approach to require existing bleached kraft pulp mills in Oregon to install state of the art production and pollution control technology to reduce present discharges of TCDD (2,3,7,8-Tetrachloro-dibenzo-p-dioxin) to the greatest extent practicable and eventually, to a level to meet water quality standards.

Condition 2f would require Environmental Protection Agency (EPA) approval of the overall control strategy for the existing mills and the proposed Port Westward mill.

Portions of the Columbia River have been declared water quality limited with respect to TCDD by the Department and Washington's Department of Ecology. TCDD has been found in fish tissue in the river and it has been estimated by dilution calculation that the eight existing bleaching pulp mills on the Columbia and Willamette Rivers are already discharging enough TCDD to exceed

Addendum to July 21, 1989
Environmental Quality Commission Staff Report

Agenda Item L--Proposed WTD Pulp Mill

BACKGROUND

The Commission reviewed pulp mill technology at its work session on Thursday, July 20, 1989, and received information on the Pope & Talbot, Inc. Halsey mill expansion project and the new Port Westward Pulp Company (WTD Industries, Inc.) mill proposed for construction near Clatskanie, Oregon.

At its regular meeting on Friday, July 21, 1989, the Commission continued discussion of the proposed Port Westward mill wastewater discharge and reviewed the decision alternatives presented in the staff report. The Commission deferred a decision on whether or not to approve the discharge until its September 8, 1989 meeting.

A copy of the July 21 staff report is attached (Attachment A).

The Commission requested more information and definition from the Department on the proposed Port Westward discharge, especially regarding the recommended conditions that were part of the Department's Decision Alternative 2 in the July 21 Commission staff report.

This report addresses the Commission's request for more information concerning the conditions under which the proposed Port Westward wastewater discharge might be approved. A revised draft discharge permit is attached (Attachment B).

DECISION ALTERNATIVE 2 CONDITIONS OF JULY 21 STAFF REPORT

Actions Taken on Conditions 2e,2f

Condition 2e would require development of an approach to require existing bleached kraft pulp mills in Oregon to install state of the art production and pollution control technology to reduce present discharges of TCDD (2,3,7,8-Tetrachloro-dibenzo-p-dioxin) to the greatest extent practicable and eventually, to a level to meet water quality standards.

Condition 2f would require Environmental Protection Agency (EPA) approval of the overall control strategy for the existing mills and the proposed Port Westward mill.

Portions of the Columbia River have been declared water quality limited with respect to TCDD by the Department and Washington's Department of Ecology. TCDD has been found in fish tissue in the river and it has been estimated by dilution calculation that the eight existing bleaching pulp mills on the Columbia and Willamette Rivers are already discharging enough TCDD to exceed

the Oregon water quality standard of 0.013 ppq (parts per quadrillion) in the Columbia River.

The Department has conferred with EPA Region X on the TCDD issue and Lydia Taylor, Acting Water Quality Administrator, has summarized the actions in a letter to Robert Burd, Director, Water Division, EPA Region X. (See Attachment C).

In summary, the Department understands that Region X:

1. Will determine whether the Columbia River would meet the water quality standard for TCDD if the existing mills implemented effective individual dioxin control strategies and whether there would be enough additional capacity for the proposed Port Westward mill.
2. Expects to develop a Columbia River "Total Daily Maximum Load" (TMDL) for TCDD and they will determine wasteload allocations (WLAs) for the proposed Port Westward mill and the existing mills.
3. Expects Oregon and Washington to have their mills use equally effective strategies to reduce TCDD discharge. Oregon will be responsible only for implementation of the TCDD control strategies in Oregon mills.
4. Will develop an estimated time schedule to accomplish items 1 and 2.
5. Would be willing to consider a proposed permit for the Port Westward discharge to the Columbia River if a strategy is developed or in place to bring the stream into compliance. No commitment was made regarding the specific conditions of the permit.

EPA Region X has indicated that they plan to address the above requests in three phases. Phase 1 actions (estimated completion by January, 1990) would consist of a preliminary TCDD wasteload analysis of the Columbia River and an estimated time schedule for the entire TMDL/WLA process. Phase 2 actions (estimated completion by December, 1991) would consist of identification of appropriate chlororganic indicator chemicals to be measured, data collection and completion of final individual control strategies (ICSSs) for the reduction of TCDD by the existing mills. Phase 3 actions (estimated completion by June 4, 1993) would include establishment of TCDD TMDL/WLAs for the Columbia River (which may also be affected by the expected EPA draft Best Available Technology (BAT) technology based dioxin effluent guidelines for pulp mills, due in November, 1992).

The Clean Water Act deadline for bringing water quality limited streams into compliance with water quality standards is June 4, 1992 if EPA approves the states' ICSSs for controlling the limiting pollutant(s) or June 4, 1993 if EPA supervises the ICSSs.

The Department has done a preliminary TCDD analysis with the assistance of EPA Region X to estimate whether there would be enough TCDD capacity in the Columbia River for the proposed Port Westward mill (Attachment D).

The analysis addresses only TCDD (does not include other toxic chlororganics) and assumes the pulp mills discharging to the Columbia River are the only TCDD sources.

Two scenarios are significant:

Scenario I -- Limit Existing Oregon Mills to 10 ppq TCDD Concentration in Their Bleach Plant Flows and Limit Washington Mills and Idaho Mills to 10 ppq TCDD Concentration in Their Total Plant Flows.

The ICSs submitted by Washington differ from those submitted by Oregon (See Attachment E). Washington proposes "non-detectability" (10 ppq) in their total plant flows while the Department has proposed "non-detectability" in the bleach plant flows for Oregon mills. The Oregon limit would be stricter than the Washington limit because bleach plant flowrates are less than the total plant flowrates (8-63 percent of the total plant flowrate, depending on type of mill). Thus, because of the difference between bleach plant and total plant flowrates, the same discharge concentration of 10 ppq for both Washington and Oregon would result in less TCDD being discharged by the Oregon mills.

The TCDD water quality standard of 0.013 ppq would be exceeded in the Columbia River under this scenario. The total TCDD load discharged to the river from the existing mills would be 10.3 mg/day, or 166 percent of the theoretical river capacity (assuming median flowrate) of 6.2 mg/day.

Scenario III -- Limit All Existing and Proposed Mills to 10 ppq TCDD Concentration in Their Bleach Plant Flows

Limiting the existing and proposed Oregon, Washington and Idaho mills to a TCDD concentration of 10 ppq in their bleach plant flows would provide TCDD river capacity for all the mills including the Pope & Talbot proposed expansion at Halsey and the proposed Port Westward mill at Clatskanie.

The analysis, under the assumptions of this scenario, shows that the total TCDD load to the river would be 3.6 mg/day, or approximately 58 percent of the theoretical river capacity.

Actions Taken on Conditions 2a, 2b

Conditions 2a and 2b require WTD Industries, Inc. (WTD) to use state of the art production and pollution control technology with a goal of 100-percent substitution of chlorine by chlorine dioxide.

Formation of TCDD in pulp mills is thought to result primarily from the use of elemental chlorine in the delignification and bleaching process. Significant processing features that are thought to minimize TCDD formation in a chlorine based bleaching pulp mill include extended cooking and oxygen

delignification, chlorine dioxide substitution for elemental chlorine and oxygen/alkaline extraction.

WTD has provided an engineering analysis (done by their process design consultant) of the proposed Port Westward processing methods to the Department. The report is intended to demonstrate that Port Westward will use "Highest and Best Practicable" control technology to minimize formation of TCDD and other chlororganic compounds.

The report includes a chlorine mass balance showing how much chlorine is used in the mill and where it goes. The amount of chlororganic compounds (measured as "adsorbable organic halides", "AOX") expected to be discharged will also be estimated.

The Department has added a discharge limit to the proposed Port Westward permit for TCDD, based on a total plant effluent concentration of 2 ppq (parts per quadrillion). The limit is expressed as a mass limit (pounds of TCDD discharged per day). A 2 ppq discharge in total plant effluent equates to an approximate 3.2 ppq discharge in the bleach plant effluent.

The 2 ppq TCDD discharge limit is less than the current analytic detectability of TCDD and therefore amounts to a limit of "none detectable". As a point of reference, at a concentration of 2 ppq, enough dilution is available in the allowed mixing zone to meet the 0.013 ppq water quality standard at the mixing zone boundary, assuming there is no background level of TCDD in the river water.

A TCDD limit of "none detectable" at the effluent from the bleach plant, as determined with the EPA/Paper Industry analytical method, is still included in the permit.

In addition to limiting TCDD, a discharge limit has also been included in the permit for adsorbable organic halides (AOX) of 4.0 lb per air dried short ton (2.0 kg per metric ton) of pulp produced. The Department feels that an AOX limit of 4.0 lb per air dried short ton of pulp is achievable and represents "best practices" control of TCDD since it can be expected that the same chemical processes that produce AOX also produce TCDD. The advantage of including AOX as a parameter is that AOX can be measured whereas TCDD, at the concentration level of concern, is below the detectability limit.

Actions Taken on Condition 2c

Condition 2c would require WTD to provide whatever processing features might be required to meet their TCDD wasteload allocation, within three years after the TMDL/WLA is set.

It is recognized that both process control technology and regulatory policy regarding TCDD are changing rapidly. There is a concern that by the time the Port Westward mill is constructed and a TMDL is set for the Columbia River, the installed process control technology may not be adequate to meet

the TMDL without addition of new technology or modification of the existing processes.

WTD has agreed to a permit condition to install such further equipment or make such further modifications as may be necessary to meet its wasteload allocation within three years after EPA has established a TMDL for TCDD for the Columbia River and allocated the load to the individual sources (Attachment F).

Actions Taken on Condition 2d

Condition 2d would require WTD to conduct or support a research and development program aimed at understanding and reducing TCDD and chlororganic compound formation in pulp mills.

Some research on dioxins has been done but much more is required. The pulp and paper industry is keenly aware of the need for basic information to evaluate and understand the dioxin problem and have been conducting research programs applicable to all bleaching mills.

WTD has agreed to support national dioxin research efforts by the industry (Attachment F).

OTHER CONSIDERATIONS

Color Standard

The Commission raised the issue of control over color in Port Westward's (and others') wastewater discharges.

Oregon presently has a "narrative" water quality standard regarding discharge of color:

OAR 340-41-205(2) No wastes shall be discharged and no activities shall be conducted which either alone or in combination with other wastes or activities will cause violation of the following standards in the waters of the North Coast - Lower Columbia River Basin:

OAR 340-41-205(2)(k) Objectionable discoloration, scum, oily sleek or floating solids, or coating of aquatic life with oil films shall not be allowed.

OAR 340-41-205(2)(l) Aesthetic conditions offensive to the human senses of sight, taste, smell, or touch shall not be allowed.

This standard is subjective and therefore difficult to interpret. Tighter regulation of color could probably be achieved by setting a numeric standard for color, perhaps analogous to the present standard for turbidity:

OAR 340-41-205(2) (See above for the preamble to this rule)

OAR 340-41-205(2)(c) Turbidity (Jackson Turbidity Units, JTU):
No more than a 10 percent cumulative increase in natural stream turbidities shall be allowed, as measured relative to a control point immediately upstream of the turbidity causing activity...

The Planning Section of the Water Quality Division is currently reviewing river basin water quality standards. This review is required every three years by the Federal Clean Water Act and will include reconsideration of the color standard. The Department will return to the Commission with a color standard proposal when the review is completed.

Color control can also be achieved on a case by case basis by means of compliance conditions in individual permits. The issue of color was addressed in Port Westward's present proposed permit by limiting the zone of visible color (defined as a color increase of 10 color units above river background) to a 1000 foot circle in the river. This restriction is, in effect, a numeric standard for color discharge, specific to this proposed permit.

The Commission, however, expressed its preference for a general, rather than an individual permit approach to color limitation.

Permit rules adopted by the Commission give the Department the general authority to reopen and modify permits in response to changes in standards or other situations that warrant a permit change. "Reopener" clauses can be included in permits to anticipate or emphasize foreseeable changes. The Port Westward proposed permit includes a reopener for color in anticipation of a change in the standard.

WTD Baseline Study of TCDD in the River

The Department will include a requirement in the permit for WTD to conduct a "baseline" study of TCDD in river sediments and fish tissue taken from the vicinity of its proposed outfall. The object of the study would be to provide a baseline against which to compare future measurements of TCDD to detect potential TCDD buildup in that portion of the Columbia River. WTD has acknowledged the necessity for this study and has proposed a study plan to the Department for approval.

Effect of Other Agency Approvals

The Department has reviewed the means by which it can respond to changes in the Port Westward project caused by other permitting agencies in the course of their approval process. The question is whether the Commission should delay its approval of the proposed discharge until all other approvals and approval processes (e.g. an Environmental Impact Statement) are complete.

Numerous permits and approvals are required for a new source like WTD. Land use and environmental permits are frequently the most significant and are usually pursued early by a new project. The Department has often moved forward with the permit process even though other agency approvals were

pending and has relied upon its plan review authority as a means of avoiding unnecessary delay to applicants. The Department is frequently asked to delay approval of a permit or the making of a decision pending other approvals, but has not usually done so.

Submittal of plans and specifications for construction of wastewater disposal facilities for review by the Department are required by ORS 468.742 and Commission Rules:

OAR 340-52-015 "...all plans and specifications along with other data submitted for a proposed construction, installation or modification project involving disposal systems, treatment works, ...shall first be submitted to the Department for review. No construction, installation or modification shall be commenced until the plans and specifications submitted to the Department are approved..."

If the design features of the Port Westward project were to be changed in response to the requirements of other agencies, WTD is required to inform the Department of the changes and submit updated plans for approval.

The Department is satisfied that it has the authority through its plans and specifications review process to continue to require a high level of environmental protection regardless of any changes that might be required of Port Westward by other agencies subsequent to approval of the discharge by the Commission.

PUBLIC TESTIMONY

The public hearing on Port Westward's proposed permit was held in Clatskanie, Oregon on July 6, 1989. The hearing was well attended by residents and representatives of environmental activist groups, the pulp and paper industry and local governments.

Estimated attendance was approximately 180 persons; 29 people presented oral testimony. The 30 day comment period was extended an additional three weeks to August 1 to allow for added comment. As of August 17, 125 people have submitted oral or written comment on the proposed mill.

Summary of Testimony

An attempt has been made to summarize the main concerns of the testimony relative to the proposed discharge and present sample portions of comment rather than present all the testimony verbatim.

Concern Area 1--Emission of Toxic Substances

Much of the public comment concerned toxic substance emission from the proposed mill.

Many individuals who testified on this issue wanted assurance, if not a guarantee, that they and the environment would be safe from toxic effects of the proposed mill emissions. Some sought detailed assurances regarding the safety of every emitted substance on virtually every living thing (themselves, fish, wildlife, plants, etc.) as a requirement for allowing the mill to be constructed. They felt that unless these assurances could be provided, the appropriate thing to do would be to prevent discharge of toxic substances, especially chlororganics, by not allowing the mill to be constructed or by prohibiting chlorine bleaching. Some also felt that once a mill was constructed, it would be too late to adequately regulate toxic emissions, especially if they exceeded allowable limits.

Several voiced the expectation that the Department should conduct compliance testing of mill emissions rather than trust self-monitoring and reporting by the discharger.

Many, both proponents and opponents of the mill, saw the Department as their ultimate protector from toxic substances. Proponents generally qualified their support of the proposed mill and its assumed economic benefits by calling on the Department to take a firm "watchdog" approach to ensuring that the mill would be safe. Opponents demanded specific assurances of safety by the Department, although they often expressed skepticism as to the Department's ability or willingness to accept or fulfill this responsibility.

A number of people took the position that no additional dioxin discharge should be granted until a comprehensive study of dioxin in the Columbia River has been accomplished and waste load allocations have been made.

The validity of the state's water quality standard for TCDD and the assumptions on which it is based was challenged as was the applicability of a TCDD discharge limit of "non-detectability".

Requests were made for more information on the quantity and toxicity of emitted substances and for further study, specifically in the form of a "full" environmental impact study.

One individual commented on the risk of emergency spill or upset at the mill.

Example comments, quoted as written, are:

- o "...you and you alone were put in office to safe guard our health."
L. Pereira.
- o "In addition, the DEQ should commence work immediately to restrict and ultimately halt all emissions of dioxin from existing mills on the Columbia River. No further pulp mills should be allowed on the Columbia River until the dioxin emission problem is resolved." Ann C. Davis
- o "Parts of the Columbia River have been listed by the DEQ and Dept. of Ecology on the toxic hot spot list -- for excessive quantities of

dioxins....Levels of this poison are already unacceptably high in our area due to the high concentration of mills on the river. It is absurd that the DEQ would even consider such a proposal -- if indeed their job is to protect the environment." Jammie Axon

- o "Until Boise [WTD ?] eliminates the bleaching process use of chlorine and therefore the dioxins, no permit for any toxic-emitting industry should ever be considered." Bonnie Hill.
- o Another mill will endanger Columbia River fish--put the mill somewhere else where they will make unbleached pulp--oral comment by Donald Riswick, Columbia River Fishermans Protective Union
- o "It [the proposal] is a short-sighted plan that will unreasonably burden sensitive fish and wildlife species..." These defects could be substantially cured by permit restrictions requiring non-chlorine based technology..." Audubon Society of Portland.
- o "Cumulative impacts of all these mills on water quality, fish and wildlife, recreation, commercial and sport fishing industries, etc. should be considered before additional wastewater discharges are permitted." State of Washington, Department of Wildlife
- o "This report [permit evaluation report]...is inadequate to be used as a basis for granting a permit for the proposed plant. It is based on far too many unsubstantiated claims by the applicant, vague assumptions, and lack of verifiable information about the environmental characteristics of the local area and the extended areas that would also be affected." Chris Soter
- o "NEDC requests that DEQ develop reliable water quality data before irreversibly committing Oregon to a discharge of 14.4 million gallons per day into the Lower Columbia. An NPDES permit should not be issued...until DEQ has sufficient data available to make affirmative findings that this project will not adversely affect the water quality in the Lower Columbia." "Issuance of an NPDES permit based on the prospect that future technology may bring the Lower Columbia River into compliance is absurd and irresponsible." Northwest Environmental Defense Center
- o "The U.S. Army Corps of Engineers must be required to prepare a complete and comprehensive environmental impact statement which addresses the impact of effluents including dioxin on salmon." Oregon Salmon Commission
- o "...it is appropriate for the DEQ to consider requirements that all new pulp mills use technology that produces and discharges no dioxins." US Fish and Wildlife Service
- o "The proposed permit does not adequately monitor chlorophenolics. As described in the permit, chlorophenolics would be lumped under the category of 'adsorbable' organic halides..." "A modelling study to determine the actual dilution of effluent constituents and

associated impacts to aquatic organisms should be performed using worst case conditions." National Marine Fisheries Service

- o "With this new mill, Oregon has the opportunity, not only to show that non-chlorine pulp manufacturing can be done, but to be an environmental leader by producing a product -- namely unbleached pulp -- that will be a boon to the environment." Northwest Environmental Advocates
- o "Dioxin accumulation, if found in Columbia river fish is not likely to be due to industrial discharges but rather to forest and other wood fire synthesis and contamination thereby of insects, especially flying insects which may then be ingested on the streams and on the ocean...Objections to constructing a modern paper mill having the latest pollution abatement technology cannot be based nor related to poly-chlorinated dioxins in wastewater." Bryant L. Adams, Ph.D.
- o "DEQ's application of the Water Quality Standard for 2,3,7,8-TCDD of 0.013 ppq, corresponding to a risk level of one-in-a-million, is inappropriate without (A) consideration of the flexibility to address this pollutant within an appropriate range of risks, (B) independent review on the scientific merits of such a value and (C) an opportunity for performance of scientific studies to demonstrate a lack of adverse effect." "DEQ's imposition of waste discharge limitations of "none detectable" when read in light of the current level of analytical detectability, raises substantial question whether a facility can document compliance and whether the limitation changes along with the level of analytical detectability." Northwest Pulp & Paper Association
- o "It is inappropriate to base a proposed dioxin discharge limitation on EPA's .013 parts per quadrillion ("ppq") water quality criterion. While we understand the DEQ believes it has adopted this criterion as part of its water quality standards, the latest and best science clearly indicates that the key parameters used in the calculation of the EPA criterion are either outdated or wrong." Boise Cascade Corporation

Concern Area 2--Public Comment Process

A number of people felt that the public had not been properly notified of the comment period, and that the comment process was inadequate. Requests were made for additional hearings, broader advertising and mailings of notices, an extension of the comment period and more question and answer interaction by DEQ with the public.

Washington residents expressed concern that they were not being included in the process even though they would be affected by the proposed mill.

Example comments, quoted as written, are:

- o "The Northwest Coalition for Alternatives to Pesticides requests that the public comment period...be extended until October 15 if the Oregon Department of Environmental Quality (DEQ) rapidly provides sufficient information on which the public may base its comments. A date later than October 15 is requested if such information is not quickly forthcoming." Northwest Coalition for Alternatives to Pesticides
- o "Our principal concern is that there has not been enough time and information available to adequately evaluate the potential environmental impact of the proposed facility." Northwest Environmental Advocates
- o "As Washington residents who would be impacted equally or, more likely, greater than anyone by this proposal, we take issue with the fact that we have been ignored in this decision-making process." Rick Thompson
- o "I...was disappointed when questions and concerns offered by those attending the meeting were not addressed by D.E.Q. or P.W.P staff. I have strong feelings that all concerns expressed by property owners and users of land effected by the proposed pulp mill must be addressed openly." Andrew R. Kiser

Concern Area 3--The Approval Process

Concern was raised that the mill approval process was being rushed through too fast and was being driven by political considerations rather than environmental considerations.

Example comments, quoted as written, are:

- o "The addition of a new chlorine-based pulp mill into Oregon...is not an addition to be rushed through the Oregon permitting process, regardless of the degree of solicitousness paid this proposal by Governor Goldschmidt. (Some governors solicit nuclear waste dumps; others solicit dioxin-producing pulp mills.)" Northwest Coalition for Alternatives to Pesticides
- o "There is no reason to rush this permit unless the DEQ is trying to assist WTD Industries in avoiding compliance with new rules governing the dumping of dioxin and other chlorinated organic compounds into the Columbia River. If that is the case, the DEQ should explain to a trusting public that its job is not to protect environmental quality but to aid in its destruction. I repeat, there is no rush; the Corps of Engineers' permitting process will take at the very least many months. Why is the DEQ in such a hurry?" Northwest Environmental Advocates

Concern Area 4--Economic Development and Environmental Protection

A number of people supported the concept that economic development was necessary and that it could be accomplished without adverse environmental effect.

Example comments, quoted as written, are:

- o "I am a landowner at Port Westward... And we are all for WTD to build there mill. You see we have been here since 1960 and we have see Clatskanie grow as James River has a big factor to that. We do not get a bad smell or do we see bad water up there. We fish Sports and up by James River is a nice whole for Sturgon which we have caught. We also relize things will need to be done to perctect the waters but we believe it all be done proper." Darlene and Dan Honeycutt
- o "We want development and jobs on the Lower Columbia. But we want clean development respectful of the earth and those who live and work nearby the industries. We want present industry to clean up now rather than paying yearly fines in lieu of action with little consideration of the environment and people's health." Carol Carver
- o "Here on this north coast of Oregon we've become used to our lot and this company holds the promise of letting us continue to live as we always have, but with a little frosting on our cake. Port Westward Pulp can employ many people from our area and its locating here will make a significant contribution to our tax base." M. Lillich
- o "We believe that environmental protection and economic development can occur together." Clatskanie Rural Fire Protection District
- o "The Clatskanie Chief newspaper strongly supports the planned construction of WTD Industries' Port Westward Pulp Mill. We believe it to be a fine example of how modern technology has made it possible for an industry to be both economically beneficial and environmentally safe." The Clatskanie Chief
- o "Exporting wood chips or pulp is only a sophisticated way of exporting our logs. Basically you are still exporting our jobs in either case. Making wood chips or pulp can not be considered labor intensive occupations. On the other hand, a paper mill would be an economic benefit to the community, and yet, with no higher a pollution level." Fred Korhonen
- o The Port of St. Helens supports the mill for its economic benefits and believes that it will not adversely affect the environment-- summary of oral comment by Eric Dahlgren, Port of St. Helens
- o "We encourage DEQ to be a strong regulator and also to enable sensible development." Clatskanie City Council

Concern Area 5--Color Discharge and Algae Growth

The adverse effects of color in the discharge and the possibility of stimulated growth of river algae were commented on.

Example comments, quoted as written, are:

- o "The color stain will certainly make a difference to these recreational users of the river. The sailboarders who use the river just down from the mill site will certainly not like the discolored water." R.P. Griffith
- o "My husband and I carried out an experimental shad trapping program in 1987-1988, and were shocked at the massive amounts of plant growth which took place on our trap in the few weeks of the program." "What I am saying is that the fishermen are usually the first ones to notice when pollution starts to accumulate and affect the Columbia, and I would say that we already have a problem." Irene Martin

Concern Area 6--Groundwater Contamination

Possible groundwater contamination was identified as a concern.

- o "In addition, the proposed aeration lagoon presents a threat of groundwater contamination and eventual discharge into the Columbia. Even if lined, there is little doubt that the pond would leak contaminants into the groundwater, and that the groundwater would in turn migrate and discharge to the Columbia." Northwest Environmental Advocates

Concern Area 7--Contamination from Pilings Placed in the River

Two people were concerned about the effect on aquatic life of toxic wood preservatives leaching from new pilings that are proposed to be placed in the river as part of the project.

STAFF RESPONSE TO THE PUBLIC TESTIMONY

Concern Area 1--Emission of Toxic Substances

As awareness of chemicals in the environment and knowledge of the subtle toxic effects of many of the chemicals grows, public concerns for health and environmental well-being also grow.

This proposed mill would release significant quantities of chemicals into the environment, as does virtually every other basic manufacturing plant. Emission of any chemical into the environment undoubtedly has some effect. Water quality standards have been developed for many chemicals that have

been identified as having predictable, adverse impact. Many chemicals, even though they seem to have minimal known effects, may have subtle effects that are unknown or unquantified. For these chemicals, the risk of adverse impact is generally considered to be low enough to be acceptable, given the present knowledge.

Any industrial discharge probably creates some incremental environmental risk; zero incremental risk could only be achieved by prohibiting the discharge. In other words, if we are going to have industrial processes, we probably are going to have to accept some additional risk.

Prohibiting a particular discharge may not increase the incremental risk associated with that discharge but it also would not reduce the existing risk if the chemical is present in the environment from other sources. Virtually all chemical species are present in the environment already at some level, many produced by natural causes. TCDD, for example, is thought to be produced in significant quantities by forest fires.

Much of the public comment received expresses the opinion that toxics in the environment present too great a risk already and that no emission should be allowed which would increase the risk.

TCDD and other chlororganic compounds have been the focal point of health concerns with this proposed mill. The technology is available to reduce TCDD formation in our existing bleaching pulp mills and to minimize it in new bleaching mills. The technology does not guarantee complete elimination of TCDD, however, so there will presumably always be some TCDD risk as long as we have chlorine based bleaching pulp mills.

The ICSs proposed by the Department, Washington and EPA Region X are intended to reduce TCDD emission by existing mills to a level that will meet the water quality standard in the Columbia River.

Prohibition of chlorine based bleaching in pulp mills in an attempt to eliminate chlororganic compound formation would be a public policy decision of far reaching consequence that could probably only be reached through the political process and judicial review.

The best assurance the Department can provide to the public regarding chlororganic compound emission from Oregon mills is that short of eliminating chlorine based bleaching, the Department has undertaken a program of reducing emissions from existing Oregon mills to meet water quality standards. The method to be used for control of chlororganics from the proposed Port Westward mill would be to require use of the most stringent control technology available today.

Concern Area 2--Public Comment Process

Department rules require a minimum 30 day public notice and comment period on wastewater discharge permits.

The Department mailed out approximately 146 notices of the July 6 NPDES permit hearing to a broad spectrum of recipients, including media representatives, individual citizens, citizen groups, regulatory agencies and private companies from its state and county mailing lists.

The comment period was extended approximately three weeks from July 10 to August 1 and a re-mailing was done to the July 6 mailing list and to those who were subsequently added to the list.

Copies of the public hearing notice, proposed permit and evaluation report were sent to EPA Region X and the Washington Department of Ecology.

Region X has not yet commented on the technical details of the proposed permit. Region X will again review any final draft permit that is submitted, in accordance with the provisions of the DEQ/EPA Memorandum of Agreement.

Technical comment on the proposed permit has been received from the Washington Department of Ecology.

The Department elected not to hold a general open floor question and answer period at the July 6 water quality permit hearing. Instead, members of the staff made themselves available before the meeting to talk to individuals about their particular concerns.

At the July 25 air quality permit hearing, members of the Air and Water Quality Division staff sat as a question and answer panel to respond to questions from the floor.

Concern Area 3--The Approval Process

The Department intends to move the permit process forward to a conclusion in a timely fashion. If the Commission approves the proposed discharge, the Department will grant the permit only after it is satisfied that all issues have been addressed and appropriate information is available.

The Governor has publicly stated that he supports environmentally acceptable growth in the pulp and paper industry. The Governor looks to the regulatory agencies and the permitting process, however, to make the determination of environmental acceptability.

Concern Area 4--Economic Development and Environmental Protection

The primary responsibility of the Department in the permitting process is to assess the adequacy of the environmental protection aspects of a proposed project. Broader questions of public policy such as land use zoning, economic benefit considerations or type of allowable industry are generally left to other appropriate public processes to resolve.

Concern Area 5--Color Discharge and Algae Growth

One person reported significant algae growth on the bottom of the Columbia River. The Department will evaluate this information but this seems to be an isolated report and generally, the river is regarded as acceptably free of the nuisance growths that characterized the days before the existing pulp mills installed secondary wastewater treatment facilities.

The Department is reviewing its water quality rules regarding color as noted previously and will explore the feasibility of establishing a less subjective water quality standard applicable to all dischargers.

Concern Area 6--Groundwater Contamination

The proposed permit requires that the wastewater lagoon (aerated stabilization basin) be lined to a permeability of 10^{-7} cm/sec which is considered adequate to reduce leakage to an acceptable rate. The shallow surface aquifer is not used for critical uses and the Department concludes that any residual leakage from the lagoon would not be a problem.

The permit requires that the spill containment basin be doubly lined with a synthetic liner and that leakage be monitored between the liners. If the liner is found to be leaking, the Department will assess the risk and require appropriate remedial action.

Concern Area 7--Contamination from Pilings Placed in the River

The relatively small amount of wood preservatives used in pilings which have relatively low solubility in water are not considered to be a source of significant chemical release.

STAFF RECOMMENDATIONS

The Department recommends approval of the Port Westward discharge, subject to the Commission's conditions contained in Decision Alternative 2 of the July 21 staff report.

The Department would issue the discharge permit only after it has considered all relevant factors and has evaluated and approved WTD's plan for "highest and best practicable treatment" for prevention of chlororganics and TCDD in the mill and its discharge. WTD's plan would include a chlorine balance for the mill.

The Commission may want to consider expressing its intent to approve the discharge as a policy, and ask the Department to return to the Commission at its regular meetings with updates on the Department's progress toward issuance of the permit.

ATTACHMENTS

- A. Copy of the July 21, 1989 Commission staff report on the proposed Port Westward permit
- B. Revised proposed discharge permit
- C. Letter dated August 16, 1989 from Lydia Taylor to Robert Burd
- D. Columbia River TCDD Analysis
- E. Oregon and Washington proposed Individual Control Strategies
- F. Letter dated August 7, 1989 from WTD Industries, Inc. to Lydia Taylor.

Prepared by:

Jerry E. Turnbaugh
Industrial Waste Section
Water Quality Division
August 24, 1989



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

REQUEST FOR EQC ACTION

Meeting Date: July 21, 1989
Agenda Item: L
Division: Water Quality
Section: Industrial Waste

SUBJECT:

Approval of a Significant New Waste Discharge to the Columbia River--Proposed WTD Pulp Mill at Clatskanie, Oregon.

PURPOSE:

To present strategy alternatives to the Commission on allowing discharge to the Columbia River of additional quantities of TCDD (2,3,7,8-tetrachloro-dibenzo-p-dioxin).

ACTION REQUESTED:

- Work Session Discussion
 - General Program Background
 - Potential Strategy, Policy, or Rules
 - Agenda Item for Current Meeting
 - Other: (specify)

- Authorize Rulemaking Hearing
- Adopt Rules
 - Proposed Rules Attachment
 - Rulemaking Statements Attachment
 - Fiscal and Economic Impact Statement Attachment
 - Public Notice Attachment

- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
 - Proposed Order Attachment

Meeting Date: July 21, 1989
Agenda Item: L
Page 2

- | | | |
|---|------------|--------------------------|
| <input type="checkbox"/> Approve Department Recommendation | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Variance Request | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Exception to Rule | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Informational Report | Attachment | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> Other: Provide Policy Direction | Attachment | <input type="checkbox"/> |

DESCRIPTION OF REQUESTED ACTION:

The Department of Environmental Quality (Department) has received application for a significant new discharge to the Columbia River. Pursuant to OAR 340-41-026(3), the Environmental Quality Commission (Commission) must approve any significant new discharge.

Upon evaluating the application, the Department finds that the discharge would not violate water quality standards, with the exception of TCDD. However, because of the discharges from pulp mills and other sources on the Columbia River, the TCDD standard may already be violated.

The Department is asking the Commission to provide policy direction on whether to allow new discharges of TCDD to receiving waters that may be water quality limited with respect to TCDD, and if so, under what circumstances.

AUTHORITY/NEED FOR ACTION:

- | | | |
|--|------------|--------------------------|
| <input type="checkbox"/> Required by Statute: _____ | Attachment | <input type="checkbox"/> |
| Enactment Date: _____ | | |
| <input type="checkbox"/> Statutory Authority: _____ | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Pursuant to Rule: _____ | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Pursuant to Federal Law/Rule: _____ | Attachment | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> Other: OAR 340-41-026(3) (a) | Attachment | <u>A</u> |
| <input type="checkbox"/> Time Constraints: (explain) | | |

DEVELOPMENTAL BACKGROUND:

- | | | |
|---|------------|--------------------------|
| <input type="checkbox"/> Advisory Committee Report/Recommendation | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Hearing Officer's Report/Recommendations | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Response to Testimony/Comments | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Prior EQC Agenda Items: (list) | Attachment | <input type="checkbox"/> |

Meeting Date: July 21, 1989
Agenda Item: L
Page 3

X Other Related Reports/Rules/Statutes:

Permit Evaluation Report Attachment B

X Supplemental Background Information

Summary of Public Hearing Testimony Attachment C
Rules Findings Attachment D

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

This proposed pulp mill has raised considerable interest from industry, economic development and environmental protection groups. The primary environmental water-quality issue is the potential discharge of toxic TCDD and related chlorinated organic compounds.

TCDD was found in the effluent of pulp mills and in fish in their receiving streams during joint EPA/Paper Industry screening studies (the five(5)-mill and 104-mill studies).

The United States Environmental Protection Agency (EPA) issued the "Interim Strategy for the Regulation of Pulp and Paper Mill Discharges to the Waters of the United States" on August 9, 1988. EPA then followed with its "Guidance for Section 304(1) Listing and Permitting of Pulp and Paper Mills" on March 15, 1989, which directed the States to list pulp mills and their receiving streams, to develop numerical water-quality standards for TCDD, to develop individual control strategies for the mills and to include best professional judgement (BPJ) effluent limitations for each mill to meet the 1992 TCDD water-quality compliance deadline.

The Department listed the Columbia River (at the points of discharge of the Oregon pulp mills) as being water-quality limited with respect to TCDD. This proposed mill would discharge some amount of TCDD to a theoretically over-loaded stream, although the amount could be expected to be minimal relative to older-technology mills.

Creation of a TCDD minimization/reduction program for the mills discharging to the Columbia River (an interstate waterway) and its tributaries would require the cooperative efforts of Oregon, Washington, and the EPA.

PROGRAM CONSIDERATIONS:

This source, if permitted and constructed, will be classed as a major discharger. As such there will be at least annual sampling inspections to verify compliance. The proposed permit is limited to a five-year life and must be renewed every five years. Oregon administrative rules (OAR 340-41-026(4)) provide that the Commission or Director may approve new discharges, subject to the criteria of -026(3).

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. Deny approval of the new bleached kraft pulp mill effluent discharge load to the Columbia River at this time.

RATIONALE:

Based on available information from the EPA 104-mill study and best professional judgment in interpreting and applying results with respect to the bleached kraft mills discharging to the Columbia, TCDD levels in the Columbia River probably exceed the EPA Water Quality Criteria/EQC standard for TCDD.

Insufficient information is available to determine what actions and timetable may be necessary to achieve compliance with the standard, or to determine with certainty that the standard can be met with current technology.

Approval of a new bleached kraft pulp mill discharge, even if it will contribute only slightly to increasing the level of TCDD in the river, is not an acceptable public policy decision.

2. Authorize a new discharge from a bleached kraft pulp mill to the Columbia River subject to the following conditions:
 - a. State-of-the-art production and pollution control technology will be installed to minimize the production of TCDD and other chlorinated organic compounds to the greatest degree practicable.
 - b. Chlorine dioxide must be substituted 100 percent for chlorine in the bleaching operation unless the applicant can demonstrate to the Department that a lesser substitution amount is the highest possible.

Meeting Date: July 21, 1989

Agenda Item: L

Page 5

- c. The applicant will agree to install such further equipment or make such further modifications as may be necessary to meet its wasteload allocation within 3 years after EPA has established a TMDL for TCDD for the Columbia River and allocated the load to the individual sources. The timetable for compliance may be subject to modification if the EQC determines that the 3 year time frame is not achievable.
- d. The applicant agrees to implement, or join in implementation, of a research and development program to develop additional means for reducing TCDD in the mill effluent.
- e. An approach is developed to require existing bleached kraft pulp mills in Oregon to proceed to install state-of-the-art production and pollution control technology to reduce present discharges of TCDD to the greatest extent practicable and eventually, to a level to meet water quality standards.
- f. EPA approves this overall approach for Oregon-- both for the existing mills and for a new mill.

The above conditions must be met before the Department can issue the NPDES permit dependent upon this discharge approval.

RATIONALE:

This overall approach should reduce current TCDD levels in the river, even with the small addition from a new state-of-the-art mill. The approach recognizes the lack of agreement on the appropriateness of the existing TCDD standard, that the standard is under review, and that direct determination of compliance with the standard is not possible through scientific measurement. The approach assumes that EPA will be responsible for assuring that the the approaches used for Washington, Idaho, and Oregon (and the rest of the Nation) will be compatible.

This approach fundamentally assumes that the concern for TCDD is shared by all the Columbia Basin states, that a diligent effort is underway to develop technology to reduce TCDD generation to the lowest possible levels, that an effective program will be developed and implemented for the Columbia River as soon as possible to achieve the desired standards, and that Oregon's

Meeting Date: July 21, 1989
Agenda Item: L
Page 6

citizens should not be unreasonably or unfairly deprived of an economic opportunity while an ultimate industry-wide program is being developed.

This approach finally assumes that the Commission can enter a finding that the proposed new mill will not act to cause the standard for TCDD to be exceeded, and further that such approval will most likely enhance the timetable for the changes that are necessary to achieve compliance with the ultimate standard for TCDD.

3. Adopt the conditions as set forth in Alternative 2 as a reasonable basis for allowing a discharge load to the Columbia River from a new bleached kraft mill, and require that the matter be returned to the EQC for a final decision at the September (or October) meeting. At that time, additional information may be available to indicate how the conditions will be met.

RATIONALE:

This delay in the Commission decision could, but is not likely to, delay the overall WTD project. The Air Contaminant Discharge Permit will not be ready for issuance sooner than the September Commission meeting.

Further, if the Commission finds acceptable the protective strategy embodied in the condition of Alternative 2, the Department would have more time to confer with EPA to better develop the details of how the conditions will be met and to have the Commission review that detail.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends that the Commission choose Alternative 2.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The Department is committed to setting total maximum daily loads (TMDL's) for Oregon's rivers, streams and lakes as a means of protecting and improving beneficial uses (see for example, "Water Quality: Oregon's New Approach, DEQ pamphlet).

Meeting Date: July 21, 1989
Agenda Item: L
Page 7

ISSUES FOR COMMISSION TO RESOLVE:

Should this application be denied until the TCDD "overload" in the Columbia River is removed?

Should additional discharges be approved while a strategy is being developed that would eventually remove the "overload"?

If an additional discharge is approved, would the policy be extended to other streams that may be limited with respect to TCDD or other critical pollutants?

INTENDED FOLLOWUP ACTIONS:

The Department will undertake the actions indicated in the various decision alternatives, depending upon which alternative the Commission chooses.

Approved:

Section:

Division:

Director:

Charles F. ...
Lydia Taylor
Jul Hansen

Report Prepared By: Jerry E. Turnbaugh

Phone: (503) 229-5374

Date Prepared: July 17, 1989

JET:hs
IW/WC5202
6/30/89

Expiration Date:
 Permit Number:
 File Number: 104265
 Page 1 of 7 Pages

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
 WASTE DISCHARGE PERMIT**

Department of Environmental Quality
 811 S.W. Sixth Avenue
 Portland, OR 97204
 Telephone: (503) 229-5696

Issued pursuant to ORS 468.740 and the Federal Clean Water Act

ISSUED TO:

Port Westward Pulp Co.
 PO Box 5805
 Portland, OR 97228-5805

SOURCES COVERED BY THIS PERMIT:

<u>Type of Waste</u>	<u>Outfall Number</u>	<u>Outfall Location</u>
Process Effluent	001	RM 57

PLANT TYPE AND LOCATION:

Market Bleached Kraft Pulp Mill
 Kallunki Rd, Clatskanie, OR
 Columbia County

RECEIVING STREAM INFORMATION:

Basin: North Coast/Lower Columbia
 Sub-Basin: Lower Columbia/Clatskanie
 Stream: Columbia River
 Hydro Code: 10--COLU 57.0 D
 County: Columbia

EPA REFERENCE NO: OR-003267-1

Issued in response to Application No. 998821 received November 23, 1988.

This permit is issued based on the land use findings in the permit record.

Lydia R. Taylor, Administrator

Date _____

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify or operate a wastewater 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 Discharge Limitations not to be Exceeded..	2-3
Schedule B - Minimum Monitoring and Reporting Requirements...	4-5
Schedule C - Compliance Conditions and Schedules.....	6
Schedule D - Special Conditions.....	7
General Conditions.....	Attached

Each other direct and indirect waste 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.

B-1

SCHEDULE A

1. Waste Discharge Limitations not to be exceeded after permit date.

Outfall Number 001 (effluent discharge to the Columbia River).

<u>Parameter</u>	<u>Mass Loadings</u>	
	<u>Monthly Ave.</u> <u>lb/day</u>	<u>Daily Max.</u> <u>lb/day</u>
Phase I		
BOD5	6,000	12,850
TSS	12,000	24,000
2,3,7,8 TCDD ¹	2.4x10 ⁻⁷	2.4x10 ⁻⁷
Phase II		
BOD5	7,800	16,690
TSS	15,850	31,160
2,3,7,8 TCDD ¹	3.1x10 ⁻⁷	3.1x10 ⁻⁷

¹ 2,3,7,8-Tetrachloro-dibenzo-p-dioxin (Measured by the analytical protocol in NCASI Technical Bulletin No. 551, May 1989, "NCASI Procedures for the Preparation and Isomer Specific Analysis of Pulp and Paper Industry Samples for 2,3,7,8-TCDD and 2,3,7,8-TCDF".)

Other Parameters

Color	Color at the color mixing-zone boundary shall not be more than 10-CU greater than the river background color.
Temperature	Shall not exceed 90°F
pH	Shall not be outside the range 5.0-9.0
2,3,7,8-TCDD	None detectable
AOX ¹	4.0 lb per short ton of air-dried pulp produced

¹ Adsorbable Organic Halides (Measured by the analytical protocol in Standard Methods, 16th ed., 1985, "Method 506 Microcolumn Procedure")

Effluent From Bleach Plant Acid and Alkali Sewers Before Dilution.

<u>Parameter</u>	<u>Limits</u>
2,3,7,8-TCDD	None detectable

Effluent From Sanitary Treatment Plant

<u>Parameter</u>	<u>Limits</u>
Fecal Coliform	Shall not exceed a log mean of 200-fc per 100-ml based on a minimum of five samples in a 30-day period, with no more than 10 percent of the samples exceeding 400-fc per 100-ml.
BOD and TSS	Either parameter shall not exceed 20-mg/l from May 1 to October 31 or 30 mg/l from November 1 to April 30.

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 340-41-205 except in the following defined mixing zone:

That portion of the Columbia River defined by circles centered on the Outfall Number 001 diffuser of 1000-ft radius for color and 400-ft radius for all other parameters.

3. Chemical agents containing pentachlorophenol or trichlorophenol shall not be used at the pulp mill.
4. Sanitary wastes shall receive adequate treatment and disinfection (1-ppm residual chlorine following 60-minutes contact) prior to discharge.
5. No toxic or biological growth-inhibiting substances, including zinc, shall be discharged from the mill to the aerated stabilization basin in concentrations that may have an adverse effect upon the efficiency of waste treatment.

Spills of toxic materials within the mill must be routed to the spill basin for subsequent recovery and treatment so there will be no adverse effect on the aerated stabilization basin.

6. No brownstock defoamers which contain recycled oils or dioxin precursors may be used. Defoamers used must have the lowest practical content of dioxin precursors.
7. The mixing-zone boundary for color will be reduced to the boundary for all other parameters when water-quality regulations warrant it or means for color control or removal become practicable.
8. This permit may be modified in accordance with OAR 340-45-055 to include chlororganics effluent limits that are not already included in the permit or that are more restrictive which result from promulgation of new federal BAT effluent guidelines or chlororganics waste load allocations.

SCHEDULE B

Minimum Monitoring and Reporting Requirements (unless otherwise approved in writing by the Department)

Outfall Number 001

<u>Parameter</u>	<u>Minimum Frequency</u>	<u>Sample Type</u>
Flow Rate	Daily	Measurement
BOD5	Three per week	24-hr composite
TSS	Three per week	24-hr composite
Temperature	Three per week	Grab
pH	Three per week	Grab
Color	Weekly	24-hr composite
Acute Toxicity Bioassay	January & July	96-hr static using the agreed-upon test species.
Chronic Toxicity Bioassay (During the first summer of operation.)	Monthly (June to October)	Chronic bioassay using two test species.
Chronic Toxicity Bioassay (After DEQ approval of the test species.)	Monthly (July to September)	Chronic bioassay using most appropriate test species.
2,3,7,8-TCDD	Quarterly during first year, semi-annually in January & July thereafter	24-hr composite

Bioassay monitoring shall be conducted in accordance with procedures approved by the DEQ Laboratory.

Effluent From Bleach Plant Acid and Alkali Sewers Before Dilution

<u>Parameter</u>	<u>Minimum Frequency</u>	<u>Sample Type</u>
2,3,7,8-TCDD	Quarterly during first year, semi-annually in January and July thereafter	24-hr composite
2,3,7,8-TCDF ¹	Quarterly during first year, semi-annually in January and July thereafter	24-hr composite
AOX ²	Weekly	24-hr composite

¹ 2,3,7,8-Tetrachloro-dibenzo-furan (Measured by the analytical protocol in NCASI Technical Bulletin No. 551, May 1989, "NCASI Procedures for the Preparation and Isomer Specific Analysis of Pulp and Paper Industry Samples for 2,3,7,8-TCDD and 2,3,7,8-TCDF".)

² AOX results are to be reported monthly in pounds per short ton of air-dried pulp produced during the month.

Effluent from Sanitary Treatment Plant

<u>Parameter</u>	<u>Minimum Frequency</u>	<u>Sample Type</u>
Fecal Coliform	Five samples per month	Grab
Chlorine	Three per week	Grab
BOD & TSS	Five samples per month	Grab

Aerated Stabilization Basin Influent and Effluent

<u>Parameter</u>	<u>Minimum Frequency</u>	<u>Sample Type</u>
BOD5	Three per week	24-hr composite
TSS	Three per week	24-hr composite
Color	Weekly	24-hr composite
Temperature	Three per week	Grab

Aerated Stabilization Basin Bottom Sludge

<u>Parameter</u>	<u>Minimum Frequency</u>	<u>Sample Type</u>
Sludge Depth	January & July	Measurement
EOX (Extractable Organic Halides)	Annually, in July	Representative sample

Production

<u>Parameter</u>	<u>Minimum Frequency</u>	<u>Sample Type</u>
Pulp Produced	Monthly	Calculated

Average daily production of pulp shall be reported monthly, in air-dried tons. (The average is defined as the total production during the month divided by the number of days operated during the month.)

River Color

<u>Parameter</u>	<u>Minimum Frequency</u>	<u>Sample Type</u>
Background river color	Weekly	Grab-2000-ft upstream
Color at mixing-zone boundary	Quarterly-Jan., Apr., Jul., Oct.	Grab--at least three locations on the mixing-zone boundary.

B-5

SCHEDULE C

Compliance Conditions and Schedules

1. Mixing Zone Confirmation and Outfall Diffuser Design

The permittee shall submit an engineering study for approval to the Department for outfall diffuser design before starting construction of the diffuser. The study must confirm proposed mixing-zone boundaries based on acute and chronic toxicity, dissolved oxygen, turbidity, temperature and color and must include modelling and calibration of the model to local stream hydrology.

2. The permittee must be granted a Section 404 permit for utilization of the wetlands on the site before beginning construction of the mill.

3. As soon as practicable, but before beginning mill construction, the permittee shall submit a Best Management Practices Plan to the Department for approval for control of stormwater runoff from the mill. The Plan must be designed to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or other waste disposal, and drainage from raw material storage associated with, or ancillary to, the construction, manufacturing or treatment process.

4. The applicant shall install such further equipment or make such further modifications as may be necessary to meet its wasteload allocation within three years after EPA has established a total maximum daily load (TMDL) for TCDD for the Columbia River and has made the wasteload allocations to the individual sources.

B6

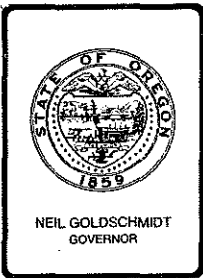
SCHEDULE D

Special Conditions

1. The total discharge from Outfall Number 001 shall be controlled to maintain a reasonably constant flow rate throughout each 24-hour operating period unless a temporary or short-term flow variation is necessary to meet other provisions of this permit.
2. An adequate contingency plan for prevention and handling of spills and unplanned discharges shall be in force at all times. A continuing program of employee orientation and education shall be maintained to ensure awareness of the necessity of good inplant control and quick and proper action in the event of a spill or accident.
3. Waste waters discharging to biological secondary treatment facilities shall contain adequate nutrients for optimum biological activity at all times. An automatic flow-regulated mechanical nutrient feeding facility is recommended.
4. The permittee shall, during all times of disposal, provide personnel whose primary responsibilities are to assure the continuous performance of the disposal system within the limitations of this permit.
5. If a spill management basin is installed, it must be double-lined with synthetic-membrane liners and between-the-liner leak detection must be provided.
6. The aerated stabilization basin must be fully lined with an engineered liner providing a minimum permeability of 1×10^{-7} cm/sec.
7. Filter backwash solids, sludges, dirt, sand, silt or other pollutants separated from or resulting from the treatment of intake or supply water shall not be discharged to state waters without first receiving adequate treatment (which has been approved by the Department) for removal of the pollutants.
8. A study, to be approved by the Department, to determine TCDD and TCDF baseline concentrations in river sediments and fish tissue taken in the vicinity of the outfall must be conducted prior to discharge.

P104265W (CRW/kjc)

ATTACHMENT BC



Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

August 16, 1989

Robert S. Burd
Director, Water Division
U. S. Environmental Protection Agency
1200 Sixth Avenue
Seattle, WA 99101

Re: Columbia River (dioxin)

Dear Bob:

I wish to confirm my understanding of the results of the meeting we held on July 24th. I've covered these items with Mr. Sobolewski of your Oregon Operations Office, but want to also do so with you.

It is my understanding from our meeting that:

1. EPA Region X will perform an analysis of the Individual Control Strategies provided by Washington and Oregon on pulp and paper mills to determine if the river will or will not be water quality limited for TCDD once the ICS's are applied.
2. EPA Region X expects to determine the Total Maximum Daily Loads of TCDD for the Columbia including wasteload allocations for the individual dischargers. The TMDLs would then likely be adopted by the individual states rather than by the EPA.
3. EPA Region X expects both the State of Oregon and the State of Washington to have their mills use equally effective strategies to solve the problem. The State of Oregon would only be responsible for implementation on the Oregon side of the Columbia.
4. An estimate of the time schedule of the process needed by EPA to develop TMDLs, proposed wasteload allocations, and a review of ICS's submitted by Oregon and Washington will be developed.
5. EPA Region X would be willing to consider a permit for a new bleaching pulp mill on the Columbia River which is potentially water quality limited with respect to TCDD if a strategy is developed or in place to bring the river under standard. No commitment was made regarding a specific permit.

C-1

Robert S. Burd
August 16, 1989
Page 2

Thank you for agreeing to meet with us and State of Washington staff on this issue.

Sincerely,



Lydia R. Taylor
Acting Administrator
Water Quality Division

LRT:kjc
WJ2125

COLUMBIA RIVER TCDD ANALYSIS

August 1989

Table of Contents

Overview

Background

Approach

- Water Quality Standard
- River Flow and Loading Capacity
- Sources
- Attenuation

Existing Loads

Analysis of Individual Control Strategies

Summary

Overview

A major water quality issue in the Pacific Northwest involves discharges of dioxin (2,3,7,8-TCDD) and other chlorinated organic compounds from bleached kraft pulp mills. In response to questions which have been raised regarding current concerns on the Columbia River, a preliminary receiving water evaluation of TCDD has been initiated. The purpose of this preliminary analysis is to begin developing a framework which can be used to address questions on water quality based controls needed for 2,3,7,8-TCDD at bleached kraft pulp mills.

In conducting this preliminary analysis, it is acknowledged that limited information is available to describe concentrations of 2,3,7,8-TCDD in the Columbia River. As a result, several assumptions need to be made. First, this analysis initially assumes that bleached kraft pulp mills located in Idaho, Washington, and Oregon are the only sources of 2,3,7,8-TCDD to the Columbia River. It is recognized that 2,3,7,8-TCDD can originate whenever chlorine reacts with organic precursors and that there are at least two bleached kraft pulp mills in British Columbia. More data is needed to describe levels originating from other sources. However, if the preliminary analysis shows that proposed water quality based controls will not lead to the attainment of water quality standards without accounting for other potential sources, then other options need to be explored.

Secondly, very little information is readily available to describe the attenuation (or losses) of 2,3,7,8-TCDD from the Columbia River system. Losses can occur through sedimentation and through uptake by aquatic organisms. More data is needed to describe attenuation rates. This analysis initially assumes that all 2,3,7,8-TCDD discharged stays intact in the water column. If the preliminary analysis shows that proposed water quality based controls will lead to the attainment of water quality standards, then these controls should also be effective regardless of attenuation rates.

A major objective of this preliminary analysis is to locate additional existing information which is not readily available and which could be important for evaluating 2,3,7,8-TCDD in the Columbia River. Included is data on other sources of TCDD, on wastewater flow rates at existing mills, and on studies of attenuation. The preliminary analysis is also intended to guide future data collection efforts for chlorinated organics in the the Columbia River. A third objective is to assess the effectiveness of draft controls levels proposed by both Oregon and Washington to attain water quality standards for 2,3,7,8-TCDD. Finally, this analysis proposes a framework which can be used to develop and refine a total maximum daily load (TMDL) for 2,3,7,8-TCDD including the waste load allocations (WLA's) and load allocations (IA's) for non-point sources and background.

Background

The Columbia River has been identified as water quality limited for dioxin (2,3,7,8-TCDD). Both the Oregon Department of Environmental Quality and the Washington Department of Ecology included the lower Columbia River on the §304(1) short list because of discharges of 2,3,7,8-TCDD from existing bleached kraft pulp mills. Segments identified on the §304(1) short list are waters which do not meet water quality standards for §307(a) priority pollutants due substantially to point source discharges. The listing of the lower Columbia River is based on data describing concentrations of 2,3,7,8-TCDD in fish tissue below bleached kraft pulp mills as well as 2,3,7,8-TCDD in effluents and treatment plant sludges at these mills.

The Federal Clean Water Act (CWA) requires the development of a total maximum daily load (TMDL) for water quality limited segments. The TMDL describes an implementation plan which allocates loads to point sources, non-point sources, and background in a manner that achieves water quality standards. The CWA also requires the development of individual control strategies (ICS's) for point sources identified on the §304(1) short list. The ICS's need to produce a reduction in the discharge of toxic pollutants from these point sources and must be sufficient to achieve applicable water quality standards.

In order to answer questions regarding the effectiveness of any proposed TMDL or ICS, a receiving water evaluation of TCDD for the Columbia River is needed. To focus efforts towards developing water quality based controls, a

preliminary receiving water analysis is presented. The objectives of this analysis are to:

- o organize existing data so that the effectiveness of draft ICS's towards attaining water quality standards for 2,3,7,8-TCDD can be assessed.
- o identify information needs to guide future data collection efforts for chlorinated organics in the Columbia River.
- o propose a framework to refine the TMDL for 2,3,7,8-TCDD including the waste load allocations (WLA's) for point sources and the load allocations (LA's) for non-point sources and background.

Approach

The primary reason for including the lower Columbia on the §304(1) short list is because of concerns over 2,3,7,8-TCDD from existing bleached kraft pulp mills. Consequently, this preliminary analysis focuses on bleached kraft pulp mills which discharge to the Columbia River drainage system in Region 10. The initial approach calculates loads from each source. The cumulative loads are then compared with the "loading capacity" of the river at key points. The "loading capacity" is the greatest amount of loading that the river can receive without violating water quality standards. The framework used to organize information consists of the following major components:

- o the water quality standard for 2,3,7,8-TCDD applicable to the Columbia River.
- o the river flow used as the basis to define the "loading capacity" of the Columbia River at key locations.
- o the sources of 2,3,7,8-TCDD in the Columbia River.
- o the effect of attenuation (or losses) on 2,3,7,8-TCDD as it is transported through the Columbia River system.

Water Quality Standard:

Table 20 of Oregon Administrative Rules (OAR) Chapter 340, Division 41 summarizes water quality criteria for toxic substances applicable to all basins. The concentration for 2,3,7,8-TCDD listed in Table 20 is based on EPA's Quality Criteria for Water (1986). For 2,3,7,8-TCDD, the criteria identified is 0.000013 ng/L, or 0.013 parts per quadrillion (ppq). This value represents an ambient water concentration needed to protect human health. It considers the consumption of both contaminated water as well as fish or other aquatic organisms. The criteria adopted by the Commission is based on the 10^{-6} risk level which means the probability of one cancer case per one million people at the stated concentration.

River Flow and Loading Capacity:

The "loading capacity" of a stream is determined using the water quality criteria value and a river flow. For conventional pollutants, loads are typically given in pounds per day. In the case of 2,3,7,8-TCDD, loads have been expressed as milligrams (mg) per day which are calculated as follows:

$$\text{Load (mg/day)} = 0.00245 * \text{Concentration (ppq)} * \text{Flow (cfs)}$$

The appropriate river flow used to calculate the loading capacity has not been defined. There has been discussion on the use of the annual average flow. The rationale focuses on the criteria for 2,3,7,8-TCDD. The criteria value is based on a risk level for human exposure over a 70 year life expectancy. The annual median flow is also being considered for use as a design flow. The reason is that annual average flows are often biased towards the high side because of flood flows. The median, on the other hand, represents a middle value where half the flows are above and half below. Moreover, the extremes in flow do not affect the median value. Thus, this flow may be more appropriate when considering exposure mechanisms.

Sources:

In conducting the preliminary analysis, information which describes concentrations 2,3,7,8-TCDD is limited. As a result, it is necessary to make several assumptions. One such assumption involves quantifying sources of 2,3,7,8-TCDD in the Columbia River. For the purposes of this preliminary analysis, it is assumed that the only source of TCDD is from bleached kraft pulp mills. A stated objective of this preliminary analysis is to evaluate the effectiveness of draft ICS's. Existing data led to the identification of bleached kraft pulp mills on the §304(1) short list for 2,3,7,8-TCDD in the Columbia River. If the analysis shows that draft ICS's will not lead to attainment of water quality standards without considering other potential sources, then other options need to be evaluated.

It is recognized that 2,3,7,8-TCDD can originate whenever chlorine reacts with organic precursors and that more data is needed. It is also acknowledged that there are at least two bleached kraft pulp mills in British Columbia and one mill in Montana which discharge in the Columbia River drainage system. A second objective of the preliminary analysis is to identify information needs. Thus, the effect of this assumption in the preliminary evaluation will serve to guide the planning of future data collection efforts.

Attenuation:

Very little data is readily available to describe the attenuation of 2,3,7,8-TCDD from the Columbia River system. Losses can occur through sedimentation and through uptake by aquatic organisms. Again, assumptions need to be made. The Clean Water Act specifically states that TMDL's shall be established with a margin of safety which takes into account any lack of

knowledge. For the purposes of this preliminary analysis, it is assumed that attenuation does not occur. Thus, all 2,3,7,8-TCDD discharged stays intact in the water column. If the analysis shows that draft ICS's will lead to the attainment of water quality standards, then they should also be effective regardless of attenuation rates.

It is acknowledged that attenuation processes may play an important role and should be considered before a final TMDL is set. Again, the second objective of the preliminary analysis is to guide the development of a data collection program.

Existing Loads

In EPA Region 10, eight bleached kraft mills currently discharge to the Columbia River system. These mills, one in Idaho, four in Washington, and three in Oregon, are shown in Figure 1. The eight mills currently produce over 6,000 tons per day of bleached kraft pulp. Production estimates are shown in Figure 2.

Figure 1. Location of Region 10 Columbia River Basin Bleached Kraft Pulp Mills

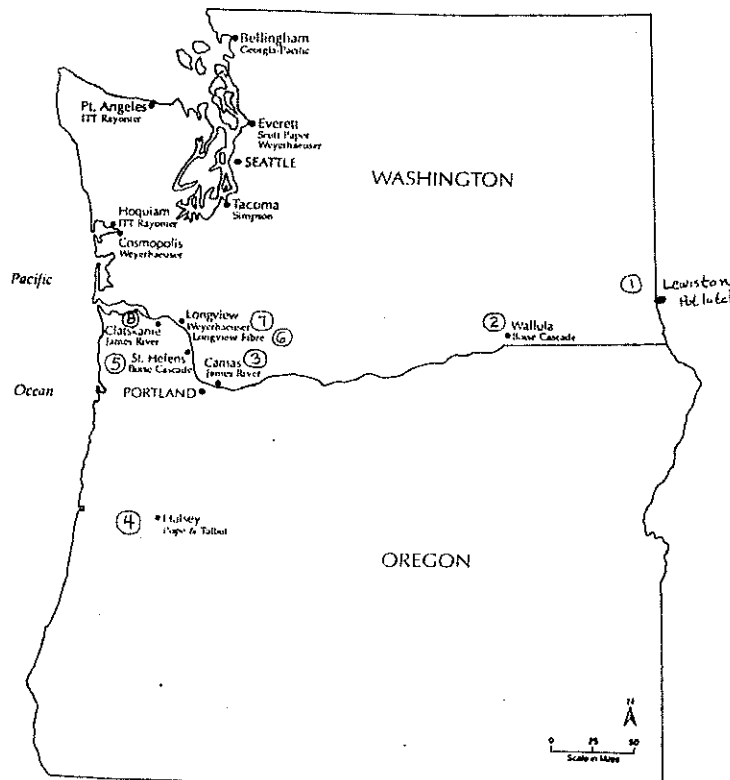
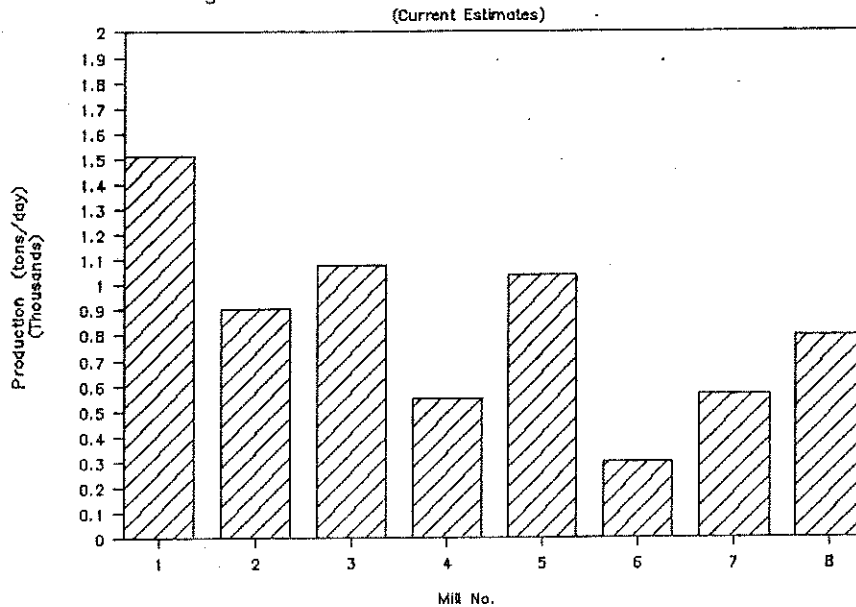


Figure 2. Bleached Kraft Production



In 1987, an EPA / Paper Industry Cooperative Dioxin Screening Study was initiated which looked at 104 bleached kraft pulp mills in the United States. Preliminary results from this study are shown in Table 1. These results can be used to estimate the current cumulative load of 2,3,7,8-TCDD discharged from seven of the eight mills using data from the 104 mill study (Note: the James River Camas mill was resampled due to lab analytical problems, follow-up results are not yet available). Figure 3 depicts this load relative to loading capacities estimated for the annual average and median flows. The calculated load is over 40 mg/day. This is more than five times greater than a loading capacity at 250,000 cfs (an estimated annual average flow) and seven times greater than a loading capacity at 190,000 cfs (an estimated annual median flow). Figure 4 shows the distribution of individual loads for each of the mills.

Table 1. Region X Columbia River Basin Pulp Mills Using Chlorine Bleach Kraft Process

Mill No.	Facility	Location	Bleach Production (tons/day)	Flows			TCDD Concentration		TCDD Effluent Load (mg/day)
				Total (mgd)	Bleach (mgd)	% (BP/TP)	Effluent (ppq)	Sludge (ppt)	
1	Potlatch	(Lewiston)	1509	37	19	50	75.0	78.0	10.6
2	Boise Cascade	(Wallula)	904	17	4	18	360.0	70.0	23.1
3	James River II	(Camas)	1071	59	8	13	**	12.0	**
4	Pope & Talbot	(Halsey)	550	14	7	50	30.0	31.0	1.6
5	Boise Cascade	(St. Helens)	1035	38	17	50	22.0	4.2	3.2
6	Longview Fiber	(Longview)	298	62	8	11	4.6	69.0	1.1
7	Weyerhaeuser	(Longview)	565	50	4	8	9.3	25.0	1.8
8	James River II	(Wauna)	796	38	10	25	15.0	42.0	2.1
Total			6728						43.5

Note: Original sample for James River - Camas failed internal standard recovery criteria. Re-sampled, but results not yet available.

Figure 3. Cumulative 2,3,7,8-TCDD Load
(from 104 mill study)

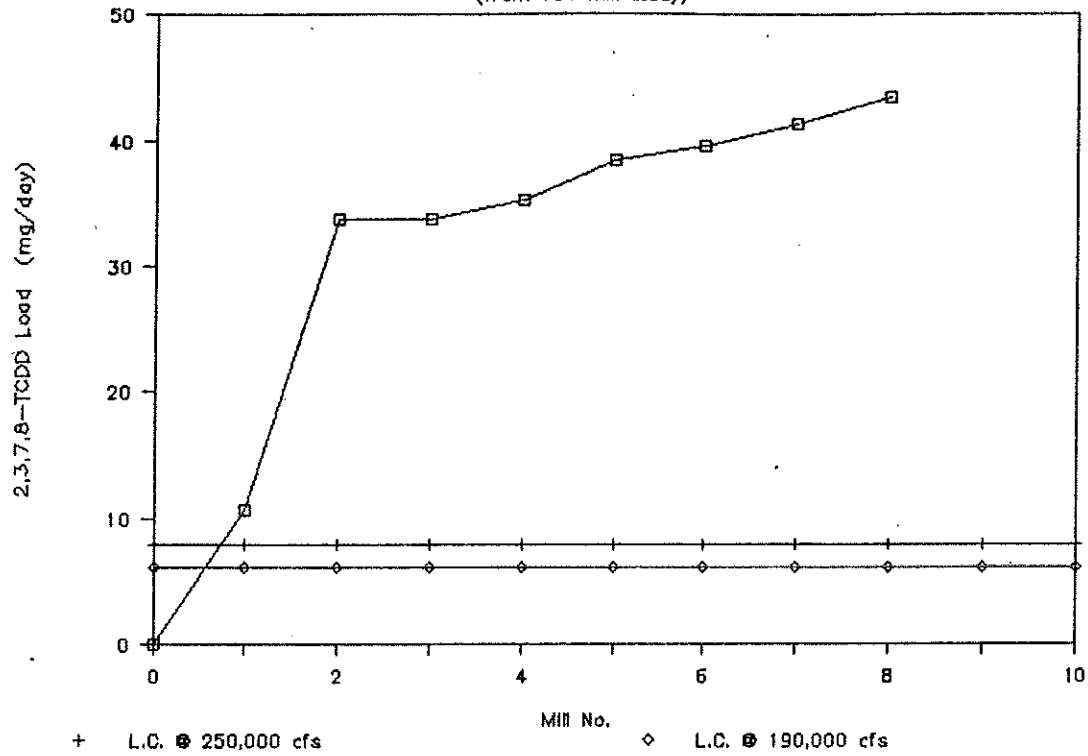
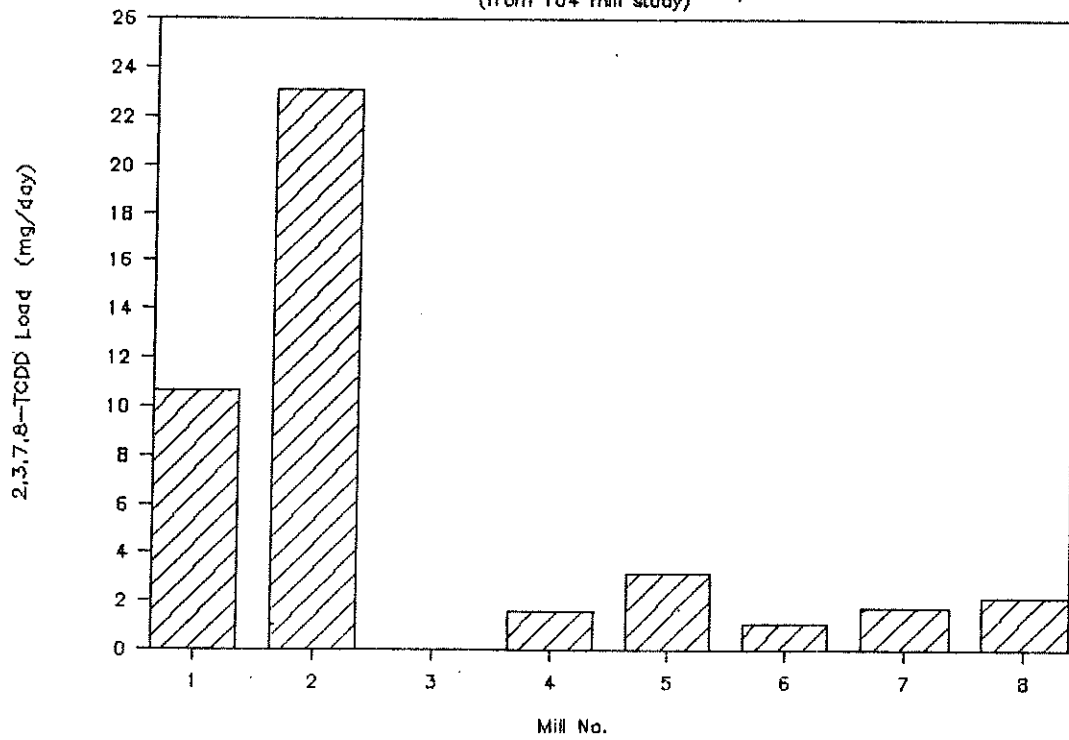


Figure 4. Estimated 2,3,7,8-TCDD Loads
(from 104 mill study)



Analysis of Individual Control Strategies

In June 1989, both Oregon and Washington submitted draft ICS's for the bleached kraft mills identified on the §304(1) short list. Oregon and Washington have taken slightly different approaches towards the ICS's. The current ICS proposed by the Washington Department of Ecology will require compliance with a total effluent limit of "non detectable" for 2,3,7,8-TCDD in each of the NPDES permits for the bleached kraft pulp mills. Oregon's proposed ICS will require compliance with a combined bleach plant effluent limit of "non detectable" for 2,3,7,8-TCDD in each of the NPDES permits for the bleached kraft pulp mills.

Analytical protocols and detection limits for dioxin have been discussed in the EPA / Paper Industry Cooperative Dioxin Screening Study (EPA 440/1-88-025). Detection levels vary depending on individual analyses, but are generally around 10 parts per quadrillion (ppq). Consequently, 10 ppq is used as the detection limit for the purposes of this preliminary analysis. Using assumptions described in the approach and estimates of effluent flow data, three scenarios have been conducted.

Scenario I: Limit Existing Oregon Mills to 10 ppq TCDD in Their Combined Bleach Plant Flows and Limit Washington & Idaho Mills to 10 ppq TCDD in Their Total Plant Flows.

The results of this scenario are summarized in the following table and depicted in Figure 5. Estimates of total plant effluent discharge have been gathered from discharge monitoring reports (DMRs) submitted by each mill.

SCENARIO I. Allocate according to draft ICS's (10 ppq 2,3,7,8-TCDD final effluent for WA/ID mills,
----- 10 ppq 2,3,7,8-TCDD on bleach plant flow for OR mills)
[Pope & Talbot @ existing; No Port Westward]

Mill No.	Facility	Location	Effluent Flows				TMDL Analysis		
			Bleach Production (tons/day)	Total Plant (mgd)	Bleach Plant (mgd)	% (BP/TP)	TCDD Effluent Conc.		TCDD Load (mg/day)
							Total (ppq)	Bleach (ppq)	
1	Potlatch	(Lewiston)	1509	37	19	50	10.0	20.0	1.4
2	Boise Cascade	(Wallula)	904	20	4	18	10.0	55.6	0.8
3	James River II	(Camas)	1071	60	8	13	10.0	75.0	2.3
4	Pope & Talbot	(Halsey)	550	14	7	50	5.0	10.0	0.3
5	Boise Cascade	(St. Helens)	1035	34	17	50	5.0	10.0	0.6
6	Longview Fiber	(Longview)	298	70	8	11	10.0	87.5	2.7
7	Weyerhaeuser	(Longview)	565	50	4	8	10.0	119.0	1.9
8	James River II	(Wauna)	796	38	10	25	2.5	10.0	0.4
Total			6728						10.3

Estimates of combined bleach plant flows have been gathered through informal contacts with the mills and may be subject to change. As can be seen, the cumulative load of 10.3 mg/day would exceed the loading capacity defined based on either the annual average or median flow. The cumulative load could go slightly higher with higher estimates of combined bleach plant flows from the Oregon mills. Figure 6 shows the distribution of loads for each of the individual mills.

Figure 5. Cum. Load -- Current ICS's

(P&T ⊕ existing; no Port Westward)

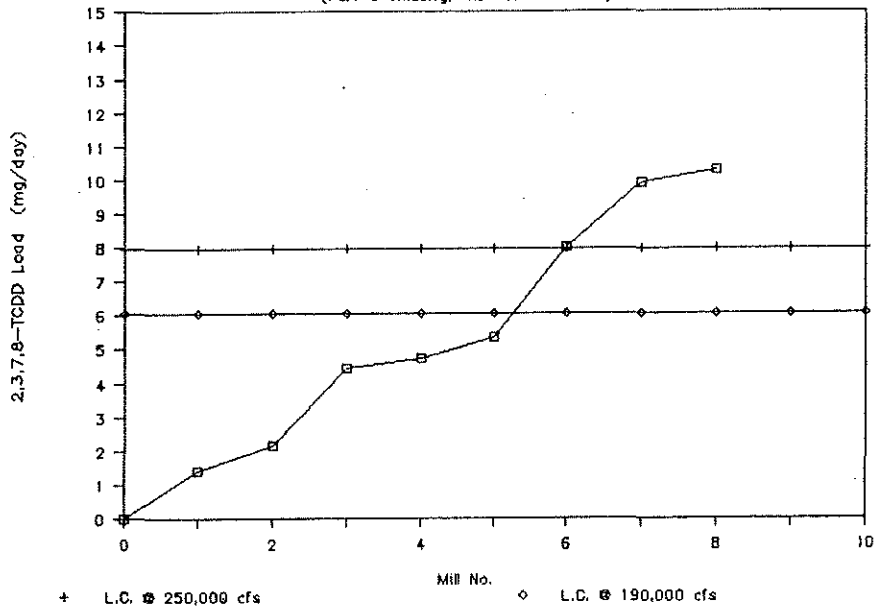
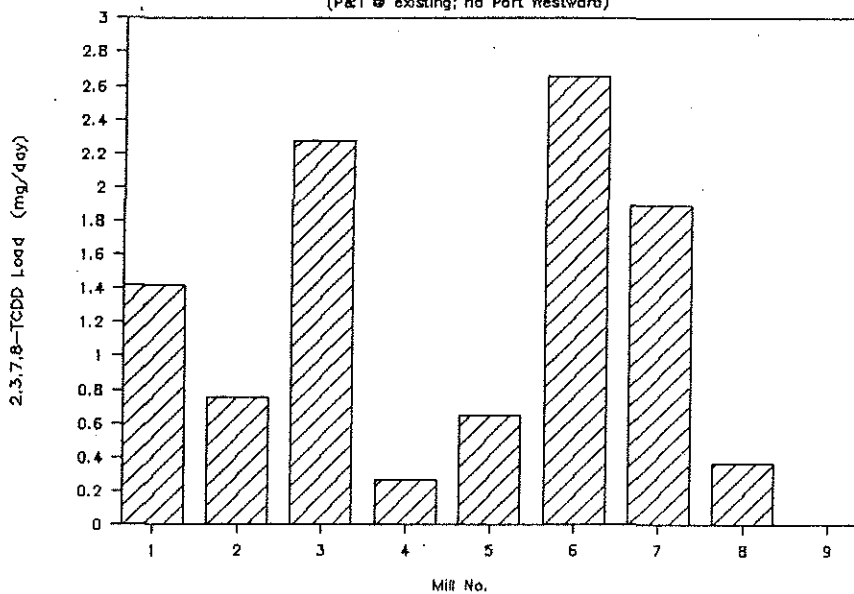


Figure 6. Load Dist. -- Current ICS's

(P&T ⊕ existing; no Port Westward)



Scenario II: Limit Existing Mills to 10 ppq TCDD in Their Bleach Plant Flows

The results of Scenario I indicate that the loading capacity could be exceeded and that more restrictive controls may be needed. A permit condition set at a level below the analytical detection limit creates a situation where it is difficult, if not impossible, to determine compliance. Because dioxins and other chlorinated organic compounds are produced in the bleach plant, concentrations of 2,3,7,8-TCDD are higher in the combined bleach plant flow than in the total plant effluent. This means that discharge loads based on total plant effluent limits which are below the analytical detection limit could be monitored for compliance using the combined bleach plant waste stream. Scenario II looks at the cumulative load which results from setting limits of 10 ppq in the combined bleach plant flow.

The results of this scenario are summarized in the following table and depicted in Figure 7. As can be seen, the cumulative load of 2.9 mg/day would be below the loading capacity set at either the annual average flow or the median flow. This scenario also indicates that background and non-point source loads, assumed to be zero, could be taken into account. Figure 8 shows the distribution of loads for each of the individual mills.

It should be noted that Scenario II does not account for removal of 2,3,7,8-TCDD from the wastewater treatment system prior to discharge. This type of information should be collected prior to determining waste load allocations. Bleach plant flow information was collected from informal contacts with the mills. Actual bleach plant flows may be higher and could result in a cumulative load which could approach 4 mg/day.

SCENARIO II. Allocate 10ppq 2,3,7,8-TCDD based on Bleach Plant Flow

[Pope & Talbot @ existing; No Port Westward]

Mill No.	Facility	Location	Effluent Flows				TMDL Analysis		TCDD Load (mg/day)
			Bleach Production (tons/day)	Total Plant (mgd)	Bleach Plant (mgd)	% (BP/TP)	TCDD Effluent Conc.		
							Total (ppq)	Bleach (ppq)	
1	Potlatch	(Lewiston)	1509	37	19	50	5.0	10.0	0.7
2	Boise Cascade	(Wallula)	904	20	4	18	1.8	10.0	0.1
3	James River II	(Camas)	1071	60	8	13	1.3	10.0	0.3
4	Pope & Talbot	(Halsey)	550	14	7	50	5.0	10.0	0.3
5	Boise Cascade	(St. Helens)	1035	34	17	50	5.0	10.0	0.6
6	Longview Fiber	(Longview)	298	70	8	11	1.1	10.0	0.3
7	Weyerhaeuser	(Longview)	565	50	4	8	0.8	10.0	0.2
8	James River II	(Wauna)	796	38	10	25	2.5	10.0	0.4
Total			6728						2.9

45

Figure 7. Cum. Load -- 10 ppq BP Flow

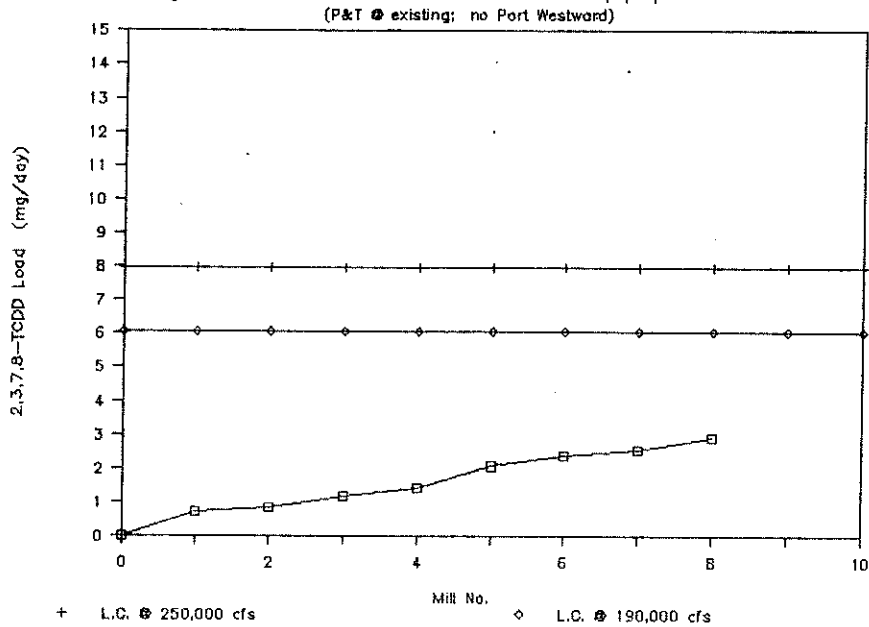
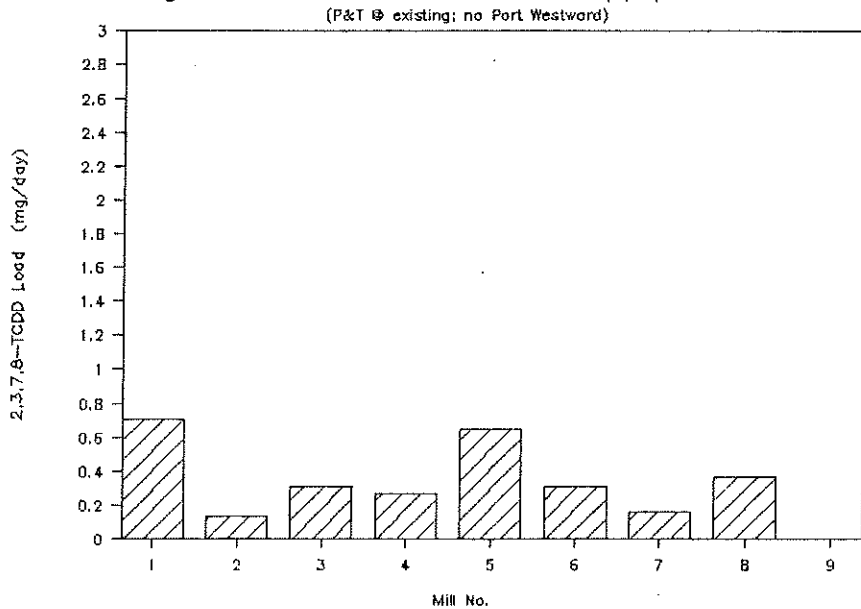


Figure 8. Load Dist. -- 10 ppq BP Flow



Scenario III: Limit Existing Mills to 10 ppq TCDD in Their Bleach Plant Flows, Allow the Proposed Pope & Talbot Expansion and the New Port Westward Mill

Scenario III is basically the same as Scenario II except that increases from the proposed Pope & Talbot expansion and the proposed Port Westward mill have been estimated. The results of this scenario are summarized in the following table and depicted in Figure 9. As can be seen, the cumulative load of 3.6 mg/day would still be below the loading capacity set at either the

annual average flow or the median flow. This scenario also indicates that background and non-point source loads, assumed to be zero, could still be taken into account. Figure 10 shows the distribution of loads for each of the individual mills.

Again, Scenario III does not account for removal of 2,3,7,8-TCDD from the wastewater treatment system prior to discharge. This type of information should be collected prior to determining waste load allocations. Bleach plant flow information was collected from informal contacts with the mills. Actual bleach plant flows may be higher and could result in a cumulative load which could approach 5 mg/day.

SCENARIO III. Allocate 10ppq 2,3,7,8-TCDD based on Bleach Plant Flow

[Pope & Talbot @ expanded; Port Westward @ Phase 2]

TMDL Analysis

Mill No.	Facility	Location	Effluent Flows				TCDD Effluent Conc.		TCDD Load (mg/day)
			Bleach Production (tons/day)	Total Plant (mgd)	Bleach Plant (mgd)	% (BP/TP)	Total (ppq)	Bleach (ppq)	
1	Potlatch	(Lewiston)	1509	37	19	50	5.0	10.0	0.7
2	Boise Cascade	(Wallula)	904	20	4	18	1.8	10.0	0.1
3	James River II	(Camas)	1071	60	8	13	1.3	10.0	0.3
4	Pope & Talbot	(Halsey)	1500	26	13	50	5.0	10.0	0.5
5	Boise Cascade	(St. Helens)	1035	34	17	50	5.0	10.0	0.6
6	Longview Fiber	(Longview)	298	70	8	11	1.1	10.0	0.3
7	Weyerhaeuser	(Longview)	565	50	4	8	0.8	10.0	0.2
8	James River II	(Wauna)	796	38	10	25	2.5	10.0	0.4
9	Port Westward	(Clatskanie)	1240	19	12	63	6.3	10.0	0.4
Total			7678						3.6

Figure 9. Cum. Load -- 10 ppq BP Flow
(P&T expanded; Port Westward @ Phase 2)

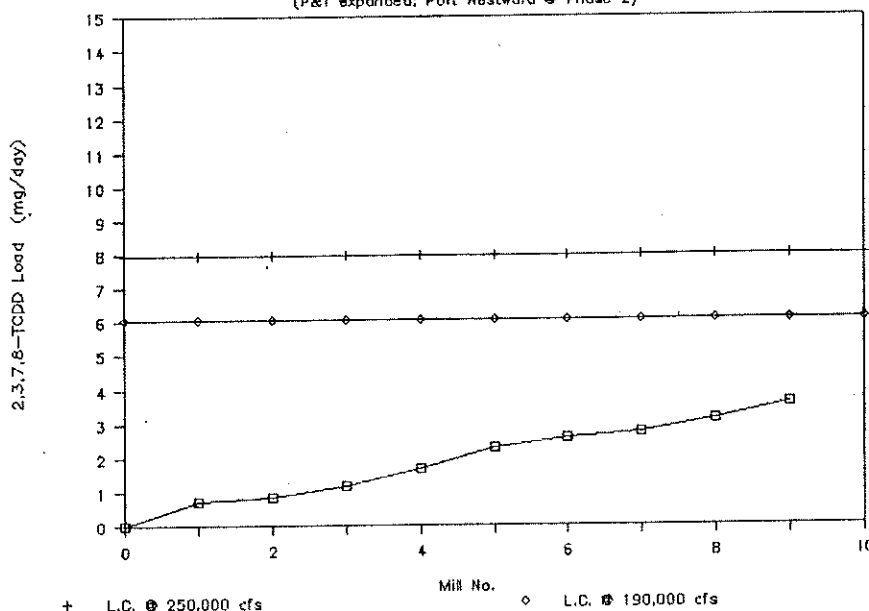
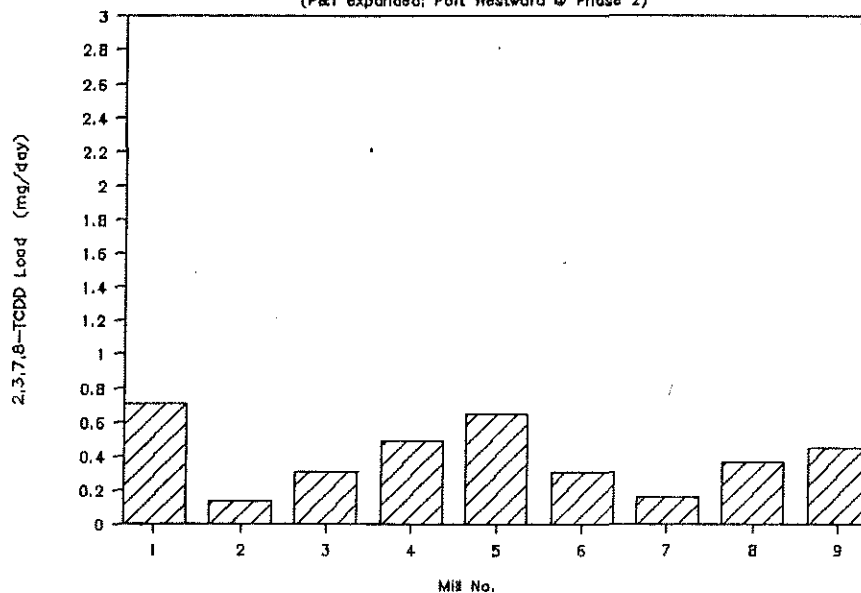


Figure 10. Load Dist. - 10 ppq BP Flow
(P&T expanded; Port Westward @ Phase 2)



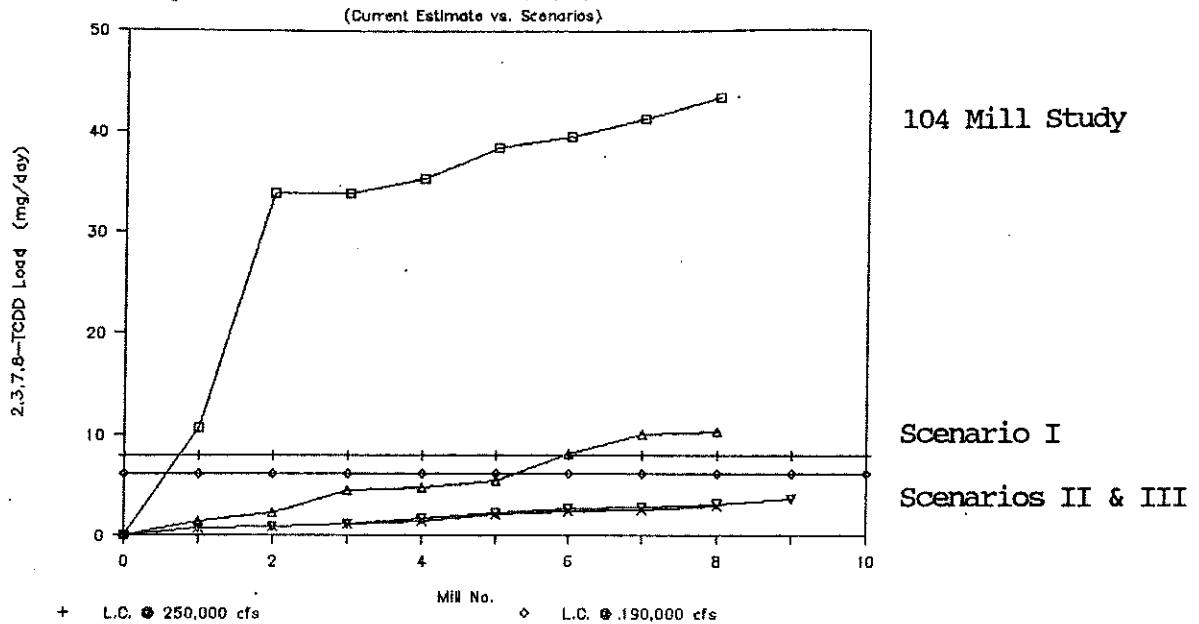
Summary

* Analysis of Individual Control Strategies.

One proposed ICS is to require compliance with a total effluent limit of "non detectable" for 2,3,7,8-TCDD in NPDES permits for bleached kraft pulp mills. The preliminary analysis indicates that if this approach were applied to all bleached kraft mills in Region 10, the Columbia River could remain water quality limited for TCDD.

The current ICS proposed by the Oregon Department of Environmental Quality is to require compliance with a combined bleach plant effluent limit of "non detectable" for 2,3,7,8-TCDD in each of the NPDES permits for the bleached kraft pulp mills. The preliminary analysis indicates that if this approach were applied to all bleached kraft mills in Region 10, it appears that water quality standards would be attained in the Columbia River. This approach is shown for comparison in Figure 11.

Figure 11. Cumulative 2,3,7,8-TCDD Load



* Development of a Total Maximum Daily Load.

EPA Region 10 will work with both Oregon and Washington and coordinate in the development of a TMDL for 2,3,7,8-TCDD for the Columbia River. The TMDL (including the wasteload allocations) will be adopted by the individual states and approved by EPA.

The development of the TMDL will occur in three phases. Phase 1 is to complete the preliminary analysis after receiving input from Oregon, Washington, the pulp and paper industry, environmental groups, and other concerned individuals. This should be finished by late 1989. Phase 2 is to conduct a data collection program designed to fill information gaps and to resolve technical TMDL issues raised during the preliminary analysis. Phase 2 will also begin to address concerns regarding other chlorinated organic compounds. Phase 2 should be completed by the end of 1991. Phase 3 will be the actual allocation of loads. The initial allocation will be the ICS's to be issued by June 1990. Phase 3, which will also refine the initial allocations, should be completed by the end of 1992.

ATTACHMENT E
mailed 6-7-89



Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

June 4, 1989

Mr. Robie Russell, Regional Administrator
USEPA Region X
1200 6th Avenue
Seattle, Washington, 98101

Dear Mr. Russell:

The Oregon Department of Environmental Quality is submitting the enclosed tables as final lists to fulfill the requirements of Section 304(1) of the Water Quality Act of 1987.

Attached are the Individual Control Strategies for those point sources identified as contributors of Section 307(a) pollutants to waterbodies identified as water quality limited for those pollutants.

Should you have any questions concerning the lists, please contact Krystyna Wolniakowski or Gene Foster.

Sincerely,

Richard J. Nichols
Administrator
Water Quality Division

cc: Bob Burd: USEPA - Region X
Oregon Operations Office - USEPA
Rick Albright: USEPA - Region X

E-1

LIST - Water Quality Limited Waterbodies Due to 307(a)
Pollutants and the Associated Point Source

Columbia River at river mile 41.0

Point Source: James River, Inc.

Parameter: Dioxin

Concentration Detected in the Effluent: 0.0151 ppt

Columbia River at river mile 86.0

Point Source: City of St. Helens / Boise Cascade Corp.

Parameter: Dioxin

Concentration Detected in the Effluent: 0.022 ppt

Willamette River at river mile 148.0

Point Source: Pope & Talbot, Inc.

Parameter: Dioxin

Concentration Detected in the Effluent: 0.030 ppt

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: June 7, 1989

TO: Bob Burd

FROM: Dick Nichols - DEQ

SUBJECT: Schedule for issuing final ICSs for 304(1)-listed pulp mills

The Department intends to submit final ICSs to Region X, EPA by September 30, 1989. Once these are approved by EPA, DEQ would issue the ICSs within two weeks provided EPA does not request substantial revisions.

DISCUSSION DRAFT
NOT FOR PUBLICATION
DO NOT QUOTE OR CITE

Permit Number: 100413
Expiration Date: 12/31/92
File Number: 36335
Page 1 of 4 Pages

MODIFICATION

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WASTE DISCHARGE PERMIT
Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, OR 97204
Telephone: (503) 229-5696

Issued pursuant to ORS 468.740 and The Federal Clean Water Act

ISSUED TO:

Pope & Talbot Inc.
P.O. Box 400
Halsey, OR 97348

SOURCES COVERED BY THIS PERMIT:

<u>Type of Waste</u>	<u>Outfall Number</u>	<u>Outfall Location</u>
Bleached Kraft Pulp & Paper Effluent & Domestic Waste	001	RM 148.4

PLANT TYPE AND LOCATION:

Pulp and Paper Mill plus
Aerated Stabilization lagoon
Halsey, OR

RECEIVING SYSTEM INFORMATION:

Basin: Willamette
Sub Basin: --
Stream: Willamette
Hydro Code: 22 = -WILL 148.4D
County: Linn

EPA REFERENCE NO: OR-000107-4

ISSUED BY DEPARTMENT OF ENVIRONMENTAL QUALITY

Richard J. Nichols, Administrator

Date

ADDENDUM NO. 1

NPDES permit 100413 (OR-000107-4) is modified by adding the following conditions, as attached, in Schedules A, B, C, and D.

SCHEDULE A

4. Waste Discharge Limitations not to be Exceeded After Permit Issuance Date.

Outfall Number 001 (Process and Domestic Waste Water)

Beginning June 1, 1992

<u>Parameters</u>	<u>Loadings</u>	
	<u>Monthly Ave.</u> <u>lb/day</u>	<u>Daily Max.</u> <u>lb/day</u>
BOD-5		
June 1 to October 31	2500	3700
November 1 to May 31	5000	6250
Total Suspended Solids (TSS)	7000	10500
2,3,7,8 TCDD*	Note (1)	Note (1)

<u>Other Parameters</u>	<u>Limitations</u>
2,3,7,8-TCDD (001)	Non detectable ²
2,3,7,8-TCDD (Combined Bleach Plant Effluent)	Non detectable ²

NOTES:

- 1) 2,3,7,8 TCDD Load Limitations will be established by waste load allocations. The waste load allocations will be determined through a Total Maximum Daily Loads (TMDL) Study to be conducted by EPA for the Columbia River Basin.
- 2) Detectability and analytical protocol for TCDD to be per EPA/Paper Industry Cooperative Dioxin Screening Study (EPA 440/1-88-025) or NCASI analytical method listed in Technical Bulletin NO. 551.

* TCDD - Tetrachlorodibenzo-p-dioxin

SCHEDULE B

Minimum Monitoring and Reporting Requirements
(unless otherwise approved in writing by the Department)

Outfall Number 001 (Aerated Stabilization Lagoon)

<u>Item or Parameter</u>	<u>Minimum Frequency</u>	<u>Type of Sample</u>
2,3,7,8-TCDD	Quarterly	24 hr Composite
TOX & AOX ₃	Quarterly	24 hr Composite

OTHER MONITORING REQUIREMENTS:

	<u>Minimum Frequency</u>	<u>Type of Sample</u>
Combined Bleach Plant Effluent 2,3,7,8-TCDD	Quarterly	24 hr Composite
TOX & AOX ₃	Quarterly	24 hr Composite

NOTES:

- 3) TOX & AOX are the Total and Adsorbable Organically-bound Chlorine respectively. Analyses to be conducted during the study phase and subsequent to the completion of plant and process modifications.

SCHEDULE C

Compliance Conditions and Schedules

6. No later than six (6) months from the issuance of this permit modification, the permittee shall conduct and implement an interim dioxin control program for the total pulp and paper mill.
7. By June 1, 1992, the permittee shall provide pollution control facilities and/or in plant modifications as necessary to meet Schedule A Condition 4. Progress reports shall be submitted every six (6) months beginning January 1, 1990.

SCHEDULE D

Special Conditions

8. Once the new Federal BAT effluent limits and 2,3,7,8 TCDD waste load allocations have been finalized, this permit shall in accordance with procedures in OAR 340-45-055, be modified to include all applicable effluent limits not already in the permit or more stringent than those presently in the permit. A time schedule for achieving those limits within the time frames established by the Clean Water Act will also be added to the permit.



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

Mail Stop PV-11 • Olympia, Washington 98504-8711 • (206) 459-6000

RECEIVED
JUN 10 1989

June 9, 1989

RECEIVED
EPA - REGION 10
JUN 14 1989
WATER DIVISION

WATER PERMITS & COMPLIANCE BRANCH

EPA-REGION 10

Mr. Robert S. Burd, Director
Water Division
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle Washington 98101

Dear Mr. Burd:

On March 30, 1989 you provided us with Region 10's strategy on listing of waters and pulp mills under Section 304(1). We have reviewed the available data on dioxin levels in plant effluent and sludges and in fish tissue, and are now prepared to make several additions to our lists of waterbodies and dischargers pursuant to Section 304(1).

"Attachment 1" to this letter presents waterbodies which are added to our 304(1)(1)(B) list, as well as our 304(1)(1)(A)(ii) list, and dischargers to these waterbodies which are added to our 304(1)(1)(C) list, because of water quality standard violations for the priority pollutant 2,3,7,8-tetrachlorinated dibenzo-p-dioxin (2378-TCDD). These listings are based on data available to date from EPA's National Bioaccumulation Study and the EPA/Industry 104 Mill Cooperative Study, and such data is incorporated here by reference. The basis for listing, individual control strategies, and public involvement issues are discussed further below.

CRITERIA FOR LISTING PULP MILLS AND AFFECTED WATERBODIES UNDER SECTION 304(1): WATER QUALITY STANDARD VIOLATIONS FOR DIOXIN

According to 304(1), the short list of waterbodies should contain those waters which are not meeting applicable water quality standards for 307(a) priority pollutants due substantially to point source discharges. This entails considering both numeric and narrative water quality standards, whichever are applicable.

Washington has not adopted numeric criteria for the priority pollutant 2378-TCDD. Our narrative water quality standards state that acceptable

Mr. Robert S. Burd
Page 2
June 9, 1989

levels of toxic substances not specifically assigned a numeric criteria in our standards "shall be determined in consideration of USEPA's Quality Criteria for Water, 1986, and as revised, and other relevant information as appropriate". Our narrative standards prohibit levels of toxic pollutants which "may adversely affect characteristic water uses, cause acute or chronic conditions to the aquatic biota, or adversely affect public health, as determined by the department". Ecology has used EPA's water quality criterion for 2378-TCDD as the basis for determining whether our narrative standards are violated.

EPA's water quality criterion for protection of human health at the theoretical risk level of one additional cancer death per million population is 0.013 parts per quadrillion (ppq). This concentration is orders of magnitude below detectable levels in water. Consequently, most water quality standard violations have been determined based on indirect evidence using limited data on concentrations of 2378-TCDD in fish samples and concentrations of 2378-TCDD in effluents and treatment plant sludges at pulp mills. Additionally, in the case of Grays Harbor, analysis of suspended sediment from large volume water samples revealed calculated 2378-TCDD concentrations of approximately 0.023 ppq to 0.10 ppq.

Pulp mills discharging to waterbodies where water quality standard violations are indicated are listed pursuant to 304(1) where there is evidence that 2378-TCDD occurs in mill effluent. Such evidence includes detection of 2378-TCDD in mill effluent, detection of 2378-TCDD in secondary treatment sludge, and in-plant processes known to result in the formation of 2378-TCDD.

INDIVIDUAL CONTROL STRATEGIES: ECOLOGY'S PROPOSED DIOXIN CONTROL PROGRAM FOR PULP MILLS

Ecology has developed an overall dioxin control program for pulp and paper mills in Washington. An outline of this program is attached. This program will be applied to the mills in question, and constitutes the individual control strategy for each mill, so far as can presently be ascertained.

PUBLIC INVOLVEMENT ISSUES

The lists which Ecology has previously transmitted to you pursuant to 304(1) have undergone considerable public review. The current additions to those lists have not specifically undergone public review. Rather, these waterbodies and dischargers are being listed in response to

Mr. Robert S. Burd
Page 3
June 9, 1989

comments received from EPA during the earlier list development process,
as well as Ecology's consideration of recently available data.

Because of the significant nature of these additions, it may be
appropriate for Ecology and/or EPA to obtain additional comments from the
public. The need to provide EPA with revisions to our previous 304(1)
submissions in a timely manner precludes Ecology from obtaining such
public comments prior to listing.

Please feel free to contact me if you have any questions regarding this
action.

Sincerely,



Stan Springer
Water Quality Program Manager

SS:ebr

Attachments

ATTACHMENT 1

WATERBODIES AND PULP MILLS LISTED PURSUANT TO SECTION 304(1)

<u>WATERBODY</u>	<u>WATERBODY ID NO.</u>	<u>PULP MILL</u>
Columbia River	WA-CR-1025	Boise-Cascade @ Wallula
Columbia River	WA-CR-1010	James River @ Camas
Columbia River	WA-CR-1010	Longview Fibre @ Longview
Columbia River	WA-CR-1010	Weyerhaeuser @ Longview
Everett Harbor	WA-07-0010	Weyerhaeuser @ Everett
Grays Harbor	WA-22-0030	Weyerhaeuser @ Cosmopolis
Grays Harbor	WA-22-0030	ITT Rayonier @ Hoquium
Commencement Bay	WA-10-0020	Simpson Tacoma Kraft @ Tacoma
Snake River	WA-35-1010	*Potlatch Corp. @ Lewiston, ID

* The Idaho mill is not listed by Ecology, but is presented here for information only.

DIOXIN CONTROL PROGRAM FOR
PULP AND PAPER MILLS

Purpose of this control strategy is to remove measurable discharges of dioxin and reduce to the extent practicable the discharge of chlorinated organic compounds by minimizing the use of chlorine in the bleaching process.

To achieve this, NPDES permits will be reissued or modified to contain requirements relating to: (1) short term control of 2, 3, 7, 8 - TCDD; (2) long term control of 2, 3, 7, 8 - TCDD; and (3) control of chlorinated organics.

1. Short Term Dioxin Control Program. Limitations requiring the following will be inserted in NPDES permits governing discharges from the subject pulp mills:

Permittee will immediately begin to take the following actions to provide interim reduction of dioxins produced and discharged at its facility to the extent that such actions are consistent with existing product standards and equipment configurations:

- a. Eliminate brownstock defoamers which contain re-cycled oils.
- b. Minimize the use of defoamers and other chemicals which contain dioxin precursors.
- c. Optimize chlorine dioxide substitution to the extent allowed by on-site generation equipment.
- d. Minimize chlorine usage.

Permittee will complete implementation of the above actions and submit a report of the actions taken to Ecology within 120 days after the date of issuance.

2. Long Term Dioxin Control Program. Effluent limitation requiring compliance with an effluent limitation of "nondetectable" for 2, 3, 7, 8 - TCDD will be inserted in each of the subject NPDES permits. The compliance date for this limitation will be three years after issuance. Detectability and analytical protocol for dioxin to be per EPA/Paper Industry Cooperative Dioxin Screening Study (EPA 440/1-88-025).
3. Control of Chlorinated Organics. Ecology plans to develop a study where the industry would provide information on AOX (Absorbable Organic Halogens) achievable under various technologies, mill configurations, products, and costs. Ecology intends to utilize the results of these studies if any, together with other available information to establish effluent limitation for AOX to be inserted within the subject NPDES permits. Compliance is intended to be within five years of issuance.

W T D

INDUSTRIES Inc.

RECEIVED
AUG 08 1989

August 7, 1989

Water Quality Division
Dept. of Environmental Quality

Lydia Taylor, Administrator
Water Quality Division
Department of Environmental Quality
811 SW Sixth Avenue
Portland, OR 97204-1390

Dear Lydia:

In preparation for the September EQC meeting, WTD would like to offer the following comments on conditions 2a through 2e of the July EQC staff report:

Condition 2a:

State-of-the-art production and pollution control technology will be installed to minimize the production of TCDD and other chlorinated organic compounds to the greatest degree practicable.

WTD Response:

At the Department's request, WTD has asked Nystrom, Lee and Kobayashi (NLK) to prepare a study defining "highest and best practicable control" for TCDD and other chlorinated organics minimization. NLK is an internationally respected pulp and paper industry design and engineering consulting firm. NLK designed the Port Westward Pulp Co. mill in late 1988, specifically to eliminate the environmental concerns associated with traditional pulp mills. This report will be available prior to the September 7, 1989 EQC work session. We hope to be able to review a draft of the report with the Department prior to that time.

Condition 2b:

Chlorine dioxide must be substituted 100 percent for chlorine in the bleaching operation unless the applicant can demonstrate to the Department that a lesser substitution amount is the highest possible.

WTD Response:

The NLK report will consider 100% chlorine dioxide substitution. If 100% substitution is not determined to be practicable, the report will establish the highest possible degree of substitution or a procedure by which the mill would establish that level.

Lydia Taylor
August 3, 1989
Page two

Condition 2c:

The applicant will agree to install such further equipment or make such further modifications as may be necessary to meet its wasteload allocation within 3 years after EPA has established a TMDL for TCDD for the Columbia River and allocated the load to the individual sources. The timetable for compliance may be subject to modification if the EQC determines that the 3-year time frame is not achievable.

WTD Response:

WTD agrees to this reopener which we understand refers to technologies or modifications which are currently unknown or not practicable. As you know, we are confident that current highest and best practicable technology, which is available to the existing mills as well, will allow us all to meet TMDL for TCDD.

Condition 2d:

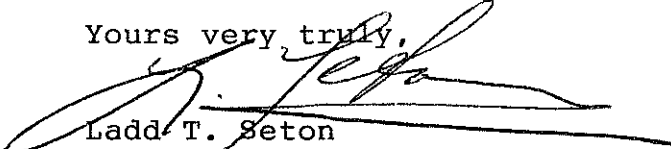
The applicant agrees to implement, or join in implementation, of a research and development program to develop additional means for reducing TCDD in the mill effluent.

WTD Response:

Extensive research and development programs for reducing TCDD are underway throughout the industry. It does not make sense for WTD to implement a new program independent of the current efforts. WTD does agree to help support the national effort of an industry organization such as API or NCASI which are conducting research on dioxin formation and control.

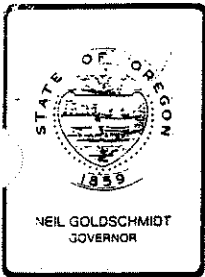
We understand the importance of Conditions 2e and 2f and support the ongoing efforts of the DEQ to satisfy them.
Please call me if you have questions or additional information.

Yours very truly,



Ladd T. Seton
Vice President - Pulp Operations

LTS:gg



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

REQUEST FOR EQC ACTION

Meeting Date: July 21, 1989
Agenda Item: L
Division: Water Quality
Section: Industrial Waste

SUBJECT:

Approval of a Significant New Waste Discharge to the Columbia River--Proposed WTD Pulp Mill at Clatskanie, Oregon.

PURPOSE:

To present strategy alternatives to the Commission on allowing discharge to the Columbia River of additional quantities of TCDD (2,3,7,8-tetrachloro-dibenzo-p-dioxin).

ACTION REQUESTED:

- Work Session Discussion
 - General Program Background
 - Potential Strategy, Policy, or Rules
 - Agenda Item ___ for Current Meeting
 - Other: (specify)

- Authorize Rulemaking Hearing.
- Adopt Rules

Proposed Rules	Attachment ___
Rulemaking Statements	Attachment ___
Fiscal and Economic Impact Statement	Attachment ___
Public Notice	Attachment ___

- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order

Proposed Order	Attachment ___
----------------	----------------

Meeting Date: July 21, 1989
Agenda Item: L
Page 2

- | | | |
|---|------------|--------------------------|
| <input type="checkbox"/> Approve Department Recommendation | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Variance Request | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Exception to Rule | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Informational Report | Attachment | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> Other: Provide Policy Direction | Attachment | <input type="checkbox"/> |

DESCRIPTION OF REQUESTED ACTION:

The Department of Environmental Quality (Department) has received application for a significant new discharge to the Columbia River. Pursuant to OAR 340-41-026(3), the Environmental Quality Commission (Commission) must approve any significant new discharge.

Upon evaluating the application, the Department finds that the discharge would not violate water quality standards, with the exception of TCDD. However, because of the discharges from pulp mills and other sources on the Columbia River, the TCDD standard may already be violated.

The Department is asking the Commission to provide policy direction on whether to allow new discharges of TCDD to receiving waters that may be water quality limited with respect to TCDD, and if so, under what circumstances.

AUTHORITY/NEED FOR ACTION:

- | | | |
|--|------------|--------------------------|
| <input type="checkbox"/> Required by Statute: _____ | Attachment | <input type="checkbox"/> |
| Enactment Date: _____ | | |
| <input type="checkbox"/> Statutory Authority: _____ | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Pursuant to Rule: _____ | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Pursuant to Federal Law/Rule: _____ | Attachment | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> Other: OAR 340-41-026(3) (a) | Attachment | <u>A</u> |
| <input type="checkbox"/> Time Constraints: (explain) | | |

DEVELOPMENTAL BACKGROUND:

- | | | |
|---|------------|--------------------------|
| <input type="checkbox"/> Advisory Committee Report/Recommendation | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Hearing Officer's Report/Recommendations | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Response to Testimony/Comments | Attachment | <input type="checkbox"/> |
| <input type="checkbox"/> Prior EQC Agenda Items: (list) | Attachment | <input type="checkbox"/> |

Meeting Date: July 21, 1989
Agenda Item: L
Page 3

X Other Related Reports/Rules/Statutes:

Permit Evaluation Report Attachment B

X Supplemental Background Information

Summary of Public Hearing Testimony Attachment C
Rules Findings Attachment D

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

This proposed pulp mill has raised considerable interest from industry, economic development and environmental protection groups. The primary environmental water-quality issue is the potential discharge of toxic TCDD and related chlorinated organic compounds.

TCDD was found in the effluent of pulp mills and in fish in their receiving streams during joint EPA/Paper Industry screening studies (the five(5)-mill and 104-mill studies).

The United States Environmental Protection Agency (EPA) issued the "Interim Strategy for the Regulation of Pulp and Paper Mill Discharges to the Waters of the United States" on August 9, 1988. EPA then followed with its "Guidance for Section 304(1) Listing and Permitting of Pulp and Paper Mills" on March 15, 1989, which directed the States to list pulp mills and their receiving streams, to develop numerical water-quality standards for TCDD, to develop individual control strategies for the mills and to include best professional judgement (BPJ) effluent limitations for each mill to meet the 1992 TCDD water-quality compliance deadline.

The Department listed the Columbia River (at the points of discharge of the Oregon pulp mills) as being water-quality limited with respect to TCDD. This proposed mill would discharge some amount of TCDD to a theoretically over-loaded stream, although the amount could be expected to be minimal relative to older-technology mills.

Creation of a TCDD minimization/reduction program for the mills discharging to the Columbia River (an interstate waterway) and its tributaries would require the cooperative efforts of Oregon, Washington, and the EPA.

PROGRAM CONSIDERATIONS:

This source, if permitted and constructed, will be classed as a major discharger. As such there will be at least annual sampling inspections to verify compliance. The proposed permit is limited to a five-year life and must be renewed every five years. Oregon administrative rules (OAR 340-41-026(4)) provide that the Commission or Director may approve new discharges, subject to the criteria of -026(3).

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. Deny approval of the new bleached kraft pulp mill effluent discharge load to the Columbia River at this time.

RATIONALE:

Based on available information from the EPA 104-mill study and best professional judgment in interpreting and applying results with respect to the bleached kraft mills discharging to the Columbia, TCDD levels in the Columbia River probably exceed the EPA Water Quality Criteria/EQC standard for TCDD.

Insufficient information is available to determine what actions and timetable may be necessary to achieve compliance with the standard, or to determine with certainty that the standard can be met with current technology.

Approval of a new bleached kraft pulp mill discharge, even if it will contribute only slightly to increasing the level of TCDD in the river, is not an acceptable public policy decision.

2. Authorize a new discharge from a bleached kraft pulp mill to the Columbia River subject to the following conditions:
 - a. State-of-the-art production and pollution control technology will be installed to minimize the production of TCDD and other chlorinated organic compounds to the greatest degree practicable.
 - b. Chlorine dioxide must be substituted 100 percent for chlorine in the bleaching operation unless the applicant can demonstrate to the Department that a lesser substitution amount is the highest possible.

- c. The applicant will agree to install such further equipment or make such further modifications as may be necessary to meet its wasteload allocation within 3 years after EPA has established a TMDL for TCDD for the Columbia River and allocated the load to the individual sources. The timetable for compliance may be subject to modification if the EQC determines that the 3 year time frame is not achievable.
- d. The applicant agrees to implement, or join in implementation, of a research and development program to develop additional means for reducing TCDD in the mill effluent.
- e. An approach is developed to require existing bleached kraft pulp mills in Oregon to proceed to install state-of-the-art production and pollution control technology to reduce present discharges of TCDD to the greatest extent practicable and eventually, to a level to meet water quality standards.
- f. EPA approves this overall approach for Oregon-- both for the existing mills and for a new mill.

The above conditions must be met before the Department can issue the NPDES permit dependent upon this discharge approval.

RATIONALE:

This overall approach should reduce current TCDD levels in the river, even with the small addition from a new state-of-the-art mill. The approach recognizes the lack of agreement on the appropriateness of the existing TCDD standard, that the standard is under review, and that direct determination of compliance with the standard is not possible through scientific measurement. The approach assumes that EPA will be responsible for assuring that the the approaches used for Washington, Idaho, and Oregon (and the rest of the Nation) will be compatible.

This approach fundamentally assumes that the concern for TCDD is shared by all the Columbia Basin states, that a diligent effort is underway to develop technology to reduce TCDD generation to the lowest possible levels, that an effective program will be developed and implemented for the Columbia River as soon as possible to achieve the desired standards, and that Oregon's

Meeting Date: July 21, 1989
Agenda Item: L
Page 6

citizens should not be unreasonably or unfairly deprived of an economic opportunity while an ultimate industry-wide program is being developed.

This approach finally assumes that the Commission can enter a finding that the proposed new mill will not act to cause the standard for TCDD to be exceeded, and further that such approval will most likely enhance the timetable for the changes that are necessary to achieve compliance with the ultimate standard for TCDD.

3. Adopt the conditions as set forth in Alternative 2 as a reasonable basis for allowing a discharge load to the Columbia River from a new bleached kraft mill, and require that the matter be returned to the EQC for a final decision at the September (or October) meeting. At that time, additional information may be available to indicate how the conditions will be met.

RATIONALE:

This delay in the Commission decision could, but is not likely to, delay the overall WTD project. The Air Contaminant Discharge Permit will not be ready for issuance sooner than the September Commission meeting.

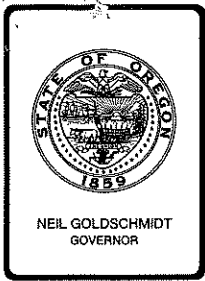
Further, if the Commission finds acceptable the protective strategy embodied in the condition of Alternative 2, the Department would have more time to confer with EPA to better develop the details of how the conditions will be met and to have the Commission review that detail.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends that the Commission choose Alternative 2.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The Department is committed to setting total maximum daily loads (TMDL's) for Oregon's rivers, streams and lakes as a means of protecting and improving beneficial uses (see for example, "Water Quality: Oregon's New Approach, DEQ pamphlet).



Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

REQUEST FOR EQC ACTION

Meeting Date: September 8, 1989
Agenda Item: K
Division: Hazardous & Solid Waste
Section: Underground Storage Tanks

SUBJECT:

Underground Storage Tank Reimbursement Grant Program

PURPOSE:

Provide assistance in the form of reimbursement grants to property owners, tank owners, or permittees for UST tightness testing and soil assessment of underground storage tank facilities that contain motor fuel.

ACTION REQUESTED:

- Work Session Discussion
 - General Program Background
 - Potential Strategy, Policy, or Rules
 - Agenda Item ___ for Current Meeting
 - Other: (specify)
- Authorize Rulemaking Hearing
- Adopt Rules
 - Proposed Rules Attachment A, B, C
 - Rulemaking Statements Attachment D
 - Fiscal and Economic Impact Statement Attachment E
 - Public Notice Attachment F
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
 - Proposed Order Attachment ___
- Approve Department Recommendation
 - ___ Variance Request Attachment ___

Meeting Date: 9/8/89
Agenda Item: K
Page 2

Exception to Rule Attachment
 Informational Report Attachment
 Other: (specify) Attachment

DESCRIPTION OF REQUESTED ACTION:

The 1989 legislature adopted legislation (House Bill 3080) establishing a reimbursement grant, loan guarantee, and interest subsidy program to provide financial assistance to persons responsible for underground storage tanks in meeting Environmental Protection Agency (EPA) requirements and obtaining financial responsibility coverage. The legislation required the program to become operative on September 1, 1989.

The proposed temporary rule establishes the reimbursement grant portion of the legislation by reimbursing property owners, tank owners, or permittees up to 50 percent of the costs, not to exceed \$3,000, for conducting tightness testing and soil assessment on underground storage tanks that contain an accumulation of motor fuel.

Modifications to existing rules on underground storage tanks and UST service providers, Attachment B and Attachment C, are also proposed. These modified rules establish an underground storage tank definition that is consistent with the federal definition, thus identifying those motor fuel USTs that must meet federal requirements.

The request for rule adoption to allow implementation of the loan guarantee and interest subsidy program will be brought before the Commission at a later meeting.

AUTHORITY/NEED FOR ACTION:

Required by Statute: _____ Attachment
Enactment Date: _____
 Statutory Authority: ORS 466.907 - .995 Attachment E
Chapter 1071 Oregon Law 1989
 Pursuant to Rule: _____ Attachment
 Pursuant to Federal Law/Rule: _____ Attachment
 Other: Attachment
 Time Constraints: (explain)

Adoption of temporary rules is necessary to assure that the underground storage tank reimbursement grant and loan program

Meeting Date: 9/8/89
Agenda Item: K
Page 3

will start on or near September 1, 1989, as required by statute.

DEVELOPMENTAL BACKGROUND:

___ Advisory Committee Report/Recommendation	Attachment ___
___ Hearing Officer's Report/Recommendations	Attachment ___
___ Response to Testimony/Comments	Attachment ___
___ Prior EQC Agenda Items: (list)	Attachment ___
___ Other Related Reports/Rules/Statutes:	Attachment ___
___ Supplemental Background Information	Attachment ___

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The federal underground storage tank regulations require owners or operators of USTs to demonstrate financial responsibility of at least \$1,000,000 no later than October 26, 1990 to pay for cleanup and third party damages caused by releases from USTs. Firms offering UST insurance are likely to require that UST sites be tested for leakage and soil contamination and possibly upgraded to the EPA standards for new USTs before insurance can be obtained. Small businesses that pump small quantities of motor fuel may not be able to afford the cost of both the upgrading and the financial responsibility coverage.

The UST reimbursement grant and loan guarantee program proposed by HB 3080 provides financial assistance in the form of 50 percent reimbursement grant up to \$3,000 for UST tightness testing and soil assessment. For a site with three tanks, the grant reimbursement should cover half the estimated \$6,000 cost of performing tank tightness testing and soil assessment. The environmental benefit of the grant reimbursement program will be early detection of potentially contaminated sites, leading to a program of early site cleanups and UST system upgrades or replacements.

Funding for the grant reimbursement program is provided by an UST regulatory fee on petroleum products of \$10 per withdrawal from a bulk loading facility and \$10 per cargo tank or barge for petroleum products that are imported for delivery into an underground storage tank.

Meeting Date: 9/8/89
Agenda Item: K
Page 4

An UST Financial Assistance Workgroup of eleven members representing the regulated community has been appointed to assist the Department in developing the UST reimbursement and guaranteed loan program. The workgroup has met once.

The regulated community is supportive of the grant reimbursement program.

PROGRAM CONSIDERATIONS:

Underground storage tanks containing motor fuel are located at approximately 6000 facilities throughout Oregon. The legislation (HB 3080) requires that a preference be given to reimbursement grants over loan guarantees. The reimbursement grant program will provide grants for 1130 facilities, an expenditure of \$3,390,000 if each reimbursement grant is \$3,000.

The remainder of the funds collected by the \$10 regulatory fee will be used for program administration and to fund the loan guarantee portion of the legislation (HB 3080). These funds will provide loan guarantee and interest subsidy on low interest rate loans for upgrading and replacement of USTs at an estimated 245 facilities.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. Propose EQC adoption of a Temporary Rule for the grant portion of the program.

This alternative will allow the reimbursement grant program to start soon after September 1, 1989. This alternative allows maximum time for a person to use the results of the UST tightness testing and soil assessment to plan a cleanup, upgrade or replace the UST system and apply for insurance. The average time to accomplish this work is 8 months.

2. Undertake normal rulemaking for the reimbursement grant portion of the program.

The normal rulemaking process takes a minimum of 90-120 days to accomplish (Commission authorization for hearing, notice publication in the Secretary of State's Bulletin, hearing, evaluation, return to EQC for adoption).

Meeting Date: 9/8/89
Agenda Item: K
Page 5

The delay would adversely affect small businesses that retail motor fuel by delaying the availability of reimbursement grants.

3. Propose adoption of rules for the loan guarantee program.

The loan guarantee program will be a joint effort between the Department and the commercial lending institutions. It is important that the Department carefully describe the responsibilities of all parties within the loan guarantee rules. The staff is presently working with the commercial lending institutions and the Financial Assistance Workgroup to develop rules for the next EQC meeting. The Department does not believe this action will delay issuance of loan guarantees since a site assessment is required prior to issuing a loan guarantee.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends that the Commission:

1. Adopt the Findings of Need for adoption of a temporary rule as presented in Attachment D.
2. Adopt the Temporary Rule as presented in Attachments A, B, and C.
3. Adopt the Statement of Need for Rules as presented in Attachment E.
3. Authorize hearings for the temporary rule as presented in Attachment F.

The Department expects to return to the Commission in the next few months for adoption of a Temporary Rule for the loan guarantee and interest subsidy portion of the financial assistance program. The final rules will be presented to the Commission for adoption early in 1990.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The recommended action is consistent with legislative policy.

ISSUES FOR COMMISSION TO RESOLVE:

1. Should the limited number of grants be targeted to the same population areas as the loan guarantees or to the high risk environmental areas?

The Department believes reimbursement grants should be given on a first-come-first-serve basis to encourage discovery of contaminated sites at the earliest possible date. Adding a priority system that would take into account sensitive ground water, small business, rural areas and retail motor fuel sites would delay the program start, delay discovery of contaminated sites and delay the insurance qualification process.

2. Should all persons be eligible for the maximum grant of 50 percent or \$3,000 or should a lower amount be established as a way to help more people?

The Department is proposing the maximum reimbursement allowed by the legislation to encourage site assessment, allowing a greater number of businesses to qualify for insurance. Contaminated sites will also be discovered earlier.

3. Should fewer loan guarantees be considered as a way to make more reimbursement grants available?

The cost for one loan guarantee is approximately the same as three reimbursement grants.

4. Should the reimbursement grants give preference to soil assessment or tank tightness testing?

Additional contaminated sites would be discovered if preference was given to soil assessment reimbursement grants. The Department believes that UST owners will be required to perform both soil assessment and UST tightness testing to qualify for insurance. The market place will determine which tests are performed if no preference is given to either.

INTENDED FOLLOWUP ACTIONS:

File the Temporary Rule with the Secretary of State immediately upon EQC adoption.

Distribute fact sheets promoting the reimbursement grant program.

Meeting Date: 9/8/89
Agenda Item: K
Page 7

Work with the Underground Storage Tank Financial Assistance Advisory Committee to evaluate early implementation of the program and modify the final rules where improvement is needed.

Hold statewide hearings on the temporary rule.

Develop the loan guarantee and interest subsidy program rules as soon as possible.

Approved:

Section:

Division:

Director:

Richard P. Ruit
Stephanie Hallock
Jul Hansen

Report Prepared By: Larry D. Frost

Phone: 229-5769

Date Prepared: August 24, 1989

LDF:lf
STAFF908.RP4
August 24, 1989

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 170 - DEPARTMENT OF ENVIRONMENTAL QUALITY

UNDERGROUND STORAGE TANK REIMBURSEMENT GRANT PROGRAM

AUTHORITY, PURPOSE, AND SCOPE

340-170-005 (1) These rules are promulgated in accordance with and under the authority of ORS 466.705 through ORS 466.995 as amended by Chapter 1071, Oregon Laws, 1989 (House Bill 3080).

(2) The purpose of these rules is to provide for the regulation of persons who receive reimbursement grants for UST tightness testing and soil assessment of underground storage tank facilities that contain motor fuel regulated by ORS 466.705 through ORS 466.995; and to provide assistance to owners of underground storage tanks in meeting Environmental Protection Agency requirements and obtaining financial responsibility coverage.

(3) These rules establish requirements and standards for:

(a) Reimbursement grant of up to 50 percent, not to exceed \$3,000, for UST tightness testing and soil assessment,

(b) Procedures for applying and qualifying for a reimbursement grant,

(c) Administration and enforcement of these rules by the Department.

(4) Scope:

(a) OAR 340-170-010 through OAR 340-170-080 applies to persons who receive reimbursement grants for UST tightness testing and soil assessment.

DEFINITIONS

340-170-010, As used in these rules,

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

(2) "Corrective action" means remedial action taken to protect the present or future public health, safety, welfare, or the environment from a release of a regulated substance. "Corrective action" includes but is not limited to:

(a) The prevention, elimination, removal, abatement, control, minimization, investigation, assessment, evaluation or monitoring of a hazard or potential hazard or threat, including migration of a regulated substance; or

(b) Transportation, storage, treatment or disposal of a regulated substance or contaminated material from a site.

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

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

(5) "Firm" means any business, including but not limited to corporations, limited partnerships, and sole proprietorships, engaged in the performance of tank services.

(6) "Grant" means reimbursement for costs incurred for UST tightness testing and soil assessment at a facility with underground storage tanks containing motor fuel.

(7) "Investigation" means monitoring, surveying, testing or other information gathering.

(8) "Licensed" means that a firm or an individual with supervisory responsibility for the performance of tank services has met the Department's experience and qualification requirements to offer or perform services related to underground storage tanks and has been issued a license by the Department to perform those services.

(9) "Motor fuel" means a petroleum or a petroleum-based substance that is a motor gasoline, aviation gasoline, No.1 or No. 2 diesel fuel, or any grade of gasohol, and is typically used in the operation of a motor engine.

(10) "Owner" means the owner of an underground storage tank.

(11) "Permittee" means the owner or a person designated by the owner who is in control of or has responsibility for the daily operation or daily maintenance of an underground storage tank under a permit issued pursuant to these rules.

(12) "Property owner" means the legal owner of the property where the underground storage tank resides.

(13) "Release" means the discharge, deposit, injection, dumping, spilling, emitting, leaking or placing of a regulated substance from an underground storage tank into the air or into or on land or the waters of the state, other than as authorized by a permit issued under state or federal law.

(14) "Soil assessment" means evaluating the soil adjacent to the UST system for contamination from motor fuel.

(15) "Soil remediation" means those corrective actions taken to excavate, remove, treat or dispose of soil contaminated with motor fuel so as to bring a site containing underground storage tanks into compliance with the Department's Cleanup Rules for Leaking Petroleum UST System, OAR 340-122-205 through OAR 340-122-360.

(16) "Supervisor" means a licensed individual operating alone or employed by a contractor and charged with the responsibility to direct and oversee the performance of tank services at a underground storage tank facility.

(17) "Tank Services" include but are not limited to tank installation, decommissioning, retrofitting, testing, and inspection.

(18) "Tank Services Provider" is an individual or firm registered and, if required, licensed to offer or perform tank services on regulated underground storage tanks in Oregon.

(19) "Tightness testing" means a procedure for testing the ability of a tank system to prevent an inadvertent release of any stored substance into the environment (or, in the case of an underground storage tank system, intrusion of groundwater into a tank system).

(20) "Underground storage tank" or "UST" means an underground storage tank as defined in OAR 340-150-010 (11) and is not an exempted tank as defined in OAR 340-150-015.

SOIL ASSESSMENT

340-170-020 (1) Soil assessment at a facility where underground storage tanks contain an accumulation of motor fuel shall be conducted by the property owner, UST owner or permittee in accordance with OAR 340-122-305 through OAR 340-122-360 and subsections (2) and (3) of this section.

(2) Conduct an inspection of the UST facility to:

(a) Look for warning signs that indicate possible soil or water contamination due to spills or leakage from underground tanks;

Note: Warning signs of petroleum contamination include discolored or oily soil, petroleum and gasoline odors, and a sheen on standing or moving water. Check for these signs on the property and adjacent property.

(b) Check with owners of adjacent property to see if they have observed petroleum taste or odor in drinking water, petroleum fumes in their basement or buildings, or other unusual conditions that could be caused by motor fuel;

(c) Review UST inventory control and UST repair records for indications of releases from the USTs; and

(d) Prepare a written record of the inspection results.

(3) In situations where the tanks and lines are to remain in place, the property owner, tank owner, or the permittee shall:

(a) Submit a specific soil sampling plan to the Department for approval prior to initiating any work; or

(b) Collect soil samples by boring or test pits:

(A) Where groundwater is not present, collect one sample in each boring or test pit from the native soils at an elevation below, but no more than two feet below, the bottom of any underground storage tank;

(B) Where groundwater is present, collect two samples in each boring or test pit, the first sample within the first six inches of saturated soil and the second sample at an elevation below, but no more than two feet below, the bottom of any underground storage tank;

(C) Borings or test pits shall be located along each side of an imaginary rectangular area drawn around an UST or group of USTs so that each side of the rectangle lies a maximum of three feet from the nearest UST.

(i) The imaginary rectangle may be drawn around a group of USTs when each UST is within six feet of an adjacent UST.

(ii) A separate imaginary rectangle must be drawn around each UST that is located more than six feet from an adjacent UST.

(ii) A minimum of one boring or test pit shall be located at the midpoint on each side of the imaginary rectangle. Where a side exceeds fifteen feet, two or more borings or test pits shall be located equally spaced along the side. Borings or test pits shall not be located more than twenty five feet apart along any side of the rectangle.

(D) Analyze the soil and/or ground water samples in accordance with subsection (1) of this section.

Note: The soil assessment procedures outlined in this section are intended for use only when qualifying for the reimbursement grant described by these rules.

UNDERGROUND STORAGE TANK TIGHTNESS TESTING

340-170-030 (1) UST tightness testing consists of testing the underground storage tank and associated piping and equipment routinely in contact with the ground for tightness against product leakage at normal operating pressures.

(2) Tank tightness testing must be capable of detecting a 0.1 gallon per hour leak rate from any portion of the of the UST that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

(3) Pipe tightness testing, for that piping not tested during the tank

tightness test, must be capable of detecting a 0.1 gallon per hour leak rate at one and one-half times the operating pressure. Suction piping shall be tested at a positive pressure equivalent to one and one-half times the negative operating pressure.

(4) The tank and pipe tightness testing report shall contain the testing equipment manufacturers written performance claims pertaining to the test used, and the manner in which these claims have been justified or tested by the equipment manufacturer.

GENERAL PROVISIONS, UNDERGROUND STORAGE TANK FACILITY REIMBURSEMENT GRANT

340-170-050 (1) The property owner, tank owner, or permittee of an UST facility may qualify to receive an UST tightness testing and soil assessment reimbursement grant at any facility location.

(2) A facility location may not receive more than one reimbursement grant.

(3) The reimbursement grant shall not exceed the lesser of fifty percent of the costs for UST tightness testing and soil assessment or \$3,000 at any facility location.

(4) The reimbursement grant is limited to investigating underground storage tank systems located at a facility:

(a) where tanks contain motor fuel;

(b) are regulated by 40 CFR 280;

(c) where UST tightness testing is performed by licensed service providers in accordance with OAR 340-160-005 through OAR 340-160-150;

(d) where UST tightness testing is performed in accordance with these rules;

(e) where soil assessment is performed in accordance with OAR 340-122-301 through OAR 340-122-360 and these rules;

(f) where soil assessment is performed under the direction or supervision of a registered professional engineer or a registered geologist;

(f) where soil assessment and/or UST tightness testing is performed after September 1, 1989 and before August 31, 1992; and

(h) where regulated underground storage tanks have a valid UST permit.

APPLICATION, UNDERGROUND STORAGE TANK FACILITY REIMBURSEMENT GRANT

340-170-060 (1) Any person wishing to obtain a reimbursement grant from the Department shall submit a written application on a form provided by the Department. Applications must be submitted no later than February 28, 1993. All application forms must be completed in full, and accompanied by all required exhibits.

(2) Applications which are obviously incomplete, unsigned, or which do not contain the required exhibits (clearly identified) will not be accepted by the department for filing and will be returned to the applicant for completion.

(3) Applications which appear complete will be accepted by the Department.

(4) Within 30 days after filing, the Department will determine the completeness of the application:

(a) Within 30 days after the application is complete for processing, the Department will approve the application if the UST tightness testing and soil assessment meets all Department requirements.

(b) If the Department determines that the application is not complete, it

will promptly request the needed information from the applicant. The application will not be considered complete for processing until the requested information is received. The application will be considered to be withdrawn if the applicant fails to submit the requested information within 180 days of the request.

(5) In the event the Department is unable to process an application within 30 days after the application is considered complete by the Department, the applicant shall be deemed to have received approval of the application. In no case, however, is the Department obligated to reimburse more than 50 percent or \$3,000, whichever is the lesser amount.

(6) If, upon review of an application, the Department determines that the reimbursement grant application does not meet the requirements of the statutes and rules, the Department shall notify the applicant in writing of this determination. Such notification shall constitute final action by the Department on the application.

INFORMATION REQUIRED ON THE REIMBURSEMENT GRANT APPLICATION

340-170-070 (1) The reimbursement grant application shall include:

- (a) The name and mailing address of the grant applicant;
- (b) The signatures of the property owner, the tank owner and the permittee;
- (c) The UST facility name and location;
- (d) The UST permit numbers;
- (e) The date of the application;
- (f) The date of the UST tightness testing and soil assessment;
- (g) The name of the persons performing UST tightness testing and soil assessment;
- (h) Description of the assessed area including a sketch showing, but not limited to, property boundaries, location of structures, location and identification of tanks including tank contents and tanks tested, and identification of soil assessment sites;
- (i) Assessment findings including, but not limited to, results of laboratory tests, UST tightness testing results, soil matrix calculations (OAR 340-122-325) and the site inspection results where the underground storage tank remained in place during the assessment.
- (j) The actual cost of UST tightness testing and soil assessment.

Note: Actual costs include, but are not limited to, paid invoice with related canceled check or vendor receipt if cash payment was made.

(2) The Department shall have access to books, documents, papers and records of the applicant which are directly pertinent to the reimbursement grant for the purpose of making audit, examination, excerpts and transcripts.

REIMBURSEMENT GRANT PAYMENT

340-170-080 (1) Upon approval of the reimbursement grant application the Department shall determine if sufficient grant funds are available in the Underground Storage Tank Compliance and Corrective Action Fund to make the reimbursement grant payment.

(1) Reimbursement grant applications will qualify for payment on a first come first serve basis based upon the date of receipt of the complete application.

(2) Where the Department determines that grant funds are available, the reimbursement payment will be made within 30 days after approval of the reimbursement grant application. Reimbursement grant payments will be prioritized by date of receipt of a complete grant application.

(3) Where the Department determines that grant funds are not available, payment will be made as soon as funds are available from the Underground Storage Tank Compliance and Corrective Action Fund. The Department shall notify the applicant in writing that payment of the reimbursement grant will be delayed until funds become available.

(4) The Department and State of Oregon are not obligated to pay the reimbursement grant if grant funds are not available.

(5) The reimbursement grant payment will be by warrant to the reimbursement grant applicant.

Note: At this time, the amount of revenue projected to be available for the reimbursement grant program is \$3,390,000. If each applicant receives the maximum allowable reimbursement grant of \$3,000 per facility location, the Department can provide 1130 reimbursement grants.

(6) Upon payment of the reimbursement grant payment, the Department will issue a written notice of compliance indicating that the assessment and testing has been conducted in accordance with requirements of the Department.

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 150 - DEPARTMENT OF ENVIRONMENTAL QUALITY

MODIFICATIONS TO UNDERGROUND STORAGE RULES

DEFINITIONS

340-150-010 (1) "Corrective Action" means remedial action taken to protect the present or future public health, safety, welfare or the environment from a release of a regulated substance. "Corrective Action" includes but is not limited to:

(a) The prevention, elimination, removal, abatement, control, investigation, assessment, evaluation or monitoring of a hazard or potential hazard or threat, including migration of a regulated substance; or

(b) Transportation, storage, treatment or disposal of a regulated substance or contaminated material from a site.

(2) "Decommission" means to remove from operation an underground storage tank, including temporary or permanent removal from operation, abandonment in place or removal from the ground.

(3) "Fee" means a fixed charge or service charge.

(4) "Investigation" means monitoring, surveying, testing or other information gathering.

(5) "Oil" means gasoline, crude oil, fuel oil, diesel oil, lubrication oil, sludge, oil refuse and any other petroleum related product or fraction thereof that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

(6) "Owner" means the owner of an underground storage tank.

(7) "Permittee" means the owner or a person designated by the owner who is in control of or has responsibility for the daily operation or daily maintenance of an underground storage tank under a permit issued pursuant to these rules.

(8) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, joint venture, consortium, association, state, municipality, commission, political subdivision of a state or any interstate body, any commercial entity and the Federal Government or any agency of the Federal Government.

(9) "Regulated substance" means:

(a) Any substance listed by the United States Environmental Protection Agency in 40 CFR Table 302.4 as amended as of the date October 1, 1987, but not including any substance regulated as a hazardous waste under 40 CFR Part 261 and OAR 340 Division 101, or

(b) Oil.

(10) "Release" means the discharge, deposit, injection, dumping, spilling, emitting, leaking or placing of a regulated substance from an underground storage tank into the air or into or on land or the waters of the state, other than as authorized by a permit issued under state or federal law.

(11) "Underground storage tank" or "UST" means any one or combination of tanks [and] (including underground pipes connected thereto) [to the tank,] that is used to contain an accumulation of a regulated substance, and the volume of which[,] (including the volume of the underground pipes connected thereto) [to the tank,] is 10 percent or more beneath the surface of the

ground. Such term does not include any:

(a) Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes[.];

(b) Tank used for storing heating oil for consumptive use on the premises where stored[.];

(c) Septic tank;

(d) Pipeline facility (including gathering lines) regulated under:

(A) Under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671, et seq.);

(B) Under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001, et seq.); or

(C) As an intrastate pipeline facility regulated under state laws comparable to the provisions of law referred to in paragraph (A) or (B) of this subsection[.];

(e) Surface impoundment, pit, pond or lagoon[.];

(f) Storm water or waste water collection system[.];

(g) Flow-through process tank[.];

(h) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations[.]; or

(i) Storage tank situated in an underground area if the storage tank is situated upon or above the surface of a floor. As used in this subsection, "underground area" includes but is not limited to a basement, cellar, mine, drift, shaft or tunnel.

(j) Pipe connected to any tank described in subsections (a) to (i) of this section.

(12) "Seller" or "Distributor" means person who is engaged in the business of selling regulated substances to the owner or permittee of an underground storage tank.

EXEMPTED TANKS

340-150-015 (1) The following regulated underground storage tanks are exempt from the requirements of these rules:

(a) Any UST system holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances;

(b) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under section 402 or 307(b) of the Clean Water Act;

(c) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;

(d) Any UST system whose capacity is 110 gallons or less;

(e) Any UST system that contains a de minimus concentration of regulated substances;

(f) Any emergency spill or overflow containment UST system that is expeditiously emptied after use;

(g) Pipes connected to any tank described in subsections (a) to (f) of this section.

Note: The exempt underground storage tanks defined by this section are the same underground storage tanks defined by 40 CFR 280.10, Paragraph (b).

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 160 - DEPARTMENT OF ENVIRONMENTAL QUALITY

MODIFICATIONS TO RULES FOR REGISTRATION AND LICENSING REQUIREMENTS
FOR UNDERGROUND STORAGE TANK SERVICE PROVIDERS

DEFINITIONS

340-160-010, As used in these rules,

(1) "Cathodic Protection" means a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. A tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

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

(3) "Decommissioning or Removal" means to remove an underground storage tank from operation, either temporarily or permanently, by abandonment in place or by removal from the ground.

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

(5) "Director" means the Director of the Department of Environmental Quality.

(6) "Facility" means the location at which underground storage tanks are in place or will be placed. A facility encompasses the entire property contiguous to the underground storage tanks that is associated with the use of the tanks.

(7) "Fee" means a fixed charge or service charge.

(8) "Firm" means any business, including but not limited to corporations, limited partnerships, and sole proprietorships, engaged in the performance of tank services.

(9) "Installation" means the work involved in placing an underground storage tank system or any part thereof in the ground and preparing it to be placed in service.

(10) "Licensed" means that a firm or an individual with supervisory responsibility for the performance of tank services has met the Department's experience and qualification requirements to offer or perform services related to underground storage tanks and has been issued a license by the Department to perform those services.

(11) "Retrofitting" means the modification of an existing underground storage tank including but not limited to the replacement of monitoring systems, the addition of cathodic protective systems, tank repair, replacement of piping, valves, fill pipes or vents and the installation of tank liners.

(12) "Supervisor" means a licensed individual operating alone or employed by a contractor and charged with the responsibility to direct and oversee the performance of tank services at a facility.

(13) "Tank Services" include but are not limited to tank installation, decommissioning, retrofitting, testing, and inspection.

(14) "Tank Services Provider" is an individual or firm registered and, if required, licensed to offer or perform tank services on regulated underground storage tanks in Oregon.

(15) "Testing" means the application of a method to determine the integrity

of an underground storage tank.

(16) "Tightness testing" means a procedure for testing the ability of a tank system to prevent an inadvertent release of any stored substance into the environment (or, in the case of an underground storage tank system, intrusion of groundwater into a tank system).

(17) "Underground Storage Tank" or "UST" means an underground storage tank as defined in OAR 340-150-010 (11) and is not an exempted tank as defined in OAR 340-150-015.

[(18) "Field-Constructed Tank" means an underground storage tank that is constructed in the field rather than factory built because of its large size; usually greater than 50,000 gallons capacity.]

[EXEMPTED TANKS

340-160-015 (1) The following regulated underground storage tanks are exempt from the requirements of this part:

- (a) Hazardous waste tanks
- (b) Hydraulic systems and tanks
- (c) Wastewater treatment tanks
- (d) Any UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954 (42 USC 2011 and following)
- (e) UST systems containing electrical equipment
- (f) Any UST system whose capacity is 110 gallons and less
- (g) Any UST system that contains a de minimus concentration of regulated substances
- (h) Any emergency spill or overflow containment UST system that is expeditiously emptied after use.
- (i) Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR 50 Appendix A
- (j) Airport hydrant fuel distribution systems
- (k) UST systems with field-constructed tanks

Note: The exempt underground storage tanks defined by OAR 340-150-015 (1) are the same underground storage tanks defined by 40CFR 280.10, subparagraphs (b) and (c).]

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
811 S. W. 4th AVENUE
PORTLAND, OREGON 97204

STATEMENT OF NEED AND EMERGENCY JUSTIFICATION STATEMENT
TEMPORARY RULE ESTABLISHING UNDERGROUND STORAGE GRANT PROGRAM

FINDINGS AND DECLARATIONS:

- (a) ORS 466.705 through 466.995, as amended by Chapter 1071, Oregon Law 1989, authorizes the Commission to adopt rules establishing a grant program to reimburse persons up to 50 percent of the costs, not to exceed \$3,000, for conducting tightness testing and soil assessment on underground storage tanks that contain an accumulation of motor fuel.
- (b) ORS 466.705 through 466.995, as amended by Chapter 1071, Oregon Law 1989, directs the Department of Environmental Quality to conduct a grant reimbursement program for underground storage tank containing an accumulation of motor fuel beginning September 1, 1989.
- (c) Funding for the grant reimbursement program is provided by an UST regulatory fee of \$10 on import or withdrawal of petroleum products from a bulk loading facility.
- (d) Early adoption of the grant program rules is necessary to start the program with little delay.
- (e) Failure to establish a grant program for motor fuel underground storage tank testing and soil assessment will result in serious prejudice to the public interest, and particularly to persons responsible for underground storage tanks containing motor fuel, because reduced financial aid could cause significant financial hardship to the tank owner resulting in closure of businesses retailing motor fuel.

August 24, 1989

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF ADOPTING)
OAR Chapter 340)
Division 170) STATEMENT OF NEED FOR RULES
and Modifying Portions of)
Division 150)

Statutory Authority

ORS 466.705 through ORS 466.995 authorizes rule adoption for the purpose of regulating underground storage tanks. Chapter 1071, Oregon Law 1989 (HB3080) authorizes the Commission to adopt rules establishing a reimbursement grant, loan guarantee, and interest subsidy program to provide financial assistance to persons responsible for underground storage tanks, containing an accumulation of motor fuel, so that they may meet Environmental Protection Agency (EPA) requirements and obtain financial responsibility coverage.

Need for the Rules

The proposed rules are needed to carry out the authority given to the Commission to adopt rules for establishing the reimbursement grant portion of the program, providing reimbursement grants for the costs of underground storage tank tightness testing and soil assessment of 50 percent, up to a maximum of \$3,000 for each facility.

Failure to adopt the rules will result in serious prejudice to the public interest, and particularly to persons responsible for underground storage tanks containing motor fuel, because reduced financial could cause significant financial hardship to the tank owner resulting in closure of businesses retailing motor fuel.

Principal Documents Relied Upon

Chapter 1071, Oregon Law, 1989 (HB 3080)

Fiscal and Economic Impact

Fiscal Impact

The revenue for the reimbursement grant and loan guarantee program is generated by a regulatory fee on petroleum products of \$10 per withdrawal

from a bulk loading facility. The revenue is expected to total \$3,000,000 per year. Failure to adopt the rules would allow the Department to use the revenue for the underground storage tank program or alternately, the loan guarantee program if rules are adopted for the loan guarantee program.

Small Business Impact

The majority of businesses owning and operating underground storage tanks are classified as small business. Federal regulations require owners and operators of underground storage tanks to demonstrate financial responsibility of up to \$1,000,000 by October 26, 1990 for cleanup and third party damages resulting from a release from an underground storage tank. Underwriters will likely require a contamination free facility plus requiring that the tanks be upgraded to federal standards for new tanks. Underground storage tank tightness testing and soil assessment will indicate a clean or contaminated site. The underground storage tank tightness test and soil assessment for a typical three tank site is estimated to cost \$6,000.

The proposed reimbursement grant will pay for 50 percent, up to a maximum of \$3,000, for tank tightness testing and soil assessment at a facility where the tanks contain an accumulation of motor fuel. This reimbursement grant provides a way for a person to afford the first step toward qualifying for financial responsibility. The program will be able to fund reimbursement grants for approximately 1130 facilities, an expenditure of \$3,390,000 if each grant was \$3,000.

The soil assessment will provide early detection of contamination, thereby allowing the property owner, tank owner or UST permittee to cleanup the facility before ground water is contaminated.

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Proposed Temporary Rules for the Underground Storage Tank Grant Program

WHO IS AFFECTED: Persons who own or are in control of underground storage tanks used to store motor fuel. Persons affected may be tank owners or operators or owners of land in which the tanks are located. Underground storage tanks are found at gasoline stations, marinas, automobile dealerships, nurseries, commercial fleets, manufacturing firms, and farming operations. Federal military and non-military facilities, state agencies, school districts, port districts, and local governments are also included within this regulatory program.

BACKGROUND: Chapter 1071, Oregon Law 1989 (HB 3080 1989 Legislature) requires the Environmental Quality Commission to adopt rules establishing a grant reimbursement program for conducting tightness testing and soil assessment on underground storage tanks that contain an accumulation of motor fuel. Persons responsible for these underground storage tanks may qualify for reimbursement grants up to 50% of the costs, not to exceed \$3,000, for tank tightness testing and soil assessment.

WHAT IS PROPOSED: The purpose of the temporary rules is to establish the reimbursement grant program for tightness testing and soil assessment for tanks containing an accumulation of motor fuel.

WHAT ARE THE HIGHLIGHTS: Underground Storage Tank Reimbursement Grant Program

1. The reimbursement grant applicant must complete the underground storage tank tightness testing and soil assessment after September 1, 1989, in accordance with the requirements in the temporary rules.
2. The reimbursement grant will be paid, as funds are available, for 50% of costs, up to \$3,000 maximum for tank tightness testing and soil assessment to the property owner, tank owner or UST permittee.
3. Tank tightness testing and soil assessment procedures and standards are defined for the purpose of obtaining a reimbursement grant.
3. Underground storage tanks are defined to match the federal definition of an underground storage tank.



811 S.W. 6th Avenue
Portland, OR 97204

11/1/86

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: Public Hearings Schedule

Bend

December 11, 1989
3:00 to 5:00 P.M.
Cascade Natural Gas
334 N.E. Hawthorne
Bend, Oregon

Pendleton

December 12, 1989
3:00 to 5:00 P.M.
Blue Mountain Community College
Room P12, Pioneer Hall
2411 N.W. Garden
Pendleton, Oregon

Portland

December 12, 1989
3:00 to 5:00 P.M.
DEQ Headquarters
Fourth Floor
811 S.W. Sixth Ave.
Portland, Oregon

Medford

December 14, 1989
3:00 to 5:00 P.M.
City Council Chambers
Medford City Hall
Medford, Oregon

Eugene

December 15, 1989
3:00 to 5:00 P.M.
Lane Community College
Room 308, The Forum
4000 E. 30th Ave.
Eugene, Oregon

A Department staff member will be appointed to preside over and conduct the hearings. Written comments should be sent to:

Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204

The comment period will end December 29, 1989. All comments should be received at the Department by 5:00 P.M..

For more information or copies of the proposed rules, contact Larry Frost at (502) 229-5769 or toll-free at 1-800-452-4011

WHAT IS THE
NEXT STEP:

After public testimony has been received and evaluated, the proposed rules will be revised as appropriate and presented to the Environmental Quality Commission in February 1990. The Commission may adopt the Department's recommendation, amend the Department's recommendation, or take no action.

HOW TO COMMENT: Public Hearings Schedule

Bend

December 11, 1989
3:00 to 5:00 P.M.
Cascade Natural Gas
334 N.E. Hawthorne
Bend, Oregon

Pendleton

December 12, 1989
3:00 to 5:00 P.M.
Blue Mountain Community College
Room P12, Pioneer Hall
2411 N.W. Garden
Pendleton, Oregon

Portland

December 12, 1989
3:00 to 5:00 P.M.
DEQ Headquarters
Fourth Floor
811 S.W. Sixth Ave.
Portland, Oregon

Medford

December 14, 1989
3:00 to 5:00 P.M.
City Council Chambers
Medford City Hall
Medford, Oregon

Eugene

December 15, 1989
3:00 to 5:00 P.M.
Lane Community College
Room 308, The Forum
4000 E. 30th Ave.
Eugene, Oregon

A Department staff member will be appointed to preside over and conduct the hearings. Written comments should be sent to:

Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204

The comment period will end December 29, 1989. All comments should be received at the Department by 5:00 P.M..

For more information or copies of the proposed rules, contact Larry Frost at (502) 229-5769 or toll-free at 1-800-452-4011

WHAT IS THE
NEXT STEP:

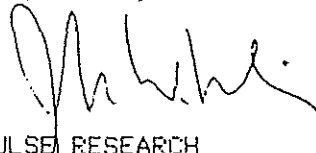
After public testimony has been received and evaluated, the proposed rules will be revised as appropriate and presented to the Environmental Quality Commission in February 1990. The Commission may adopt the Department's recommendation, amend the Department's recommendation, or take no action.

Pulse Research

THE AMERICAN LUNG ASSOCIATION OF OREGON
PUBLIC OPINION STUDY

June 26, 1989

Prepared by:



PULSE RESEARCH
P.O. Box 10011
Portland, OR 97210
(503) 227-4660

AGENDA ITEM Public Forum

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

David Mann
NAME (PLEASE PRINT)

10015 SW Terwilliger PDX 97219
ADDRESS

Northwest Environmental Defense Center (NEDC)
AFFILIATION

I REQUEST APPROXIMATELY 10 MINUTES TO SPEAK.

AGENDA ITEM Forum

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

Termy Jenkins
NAME (PLEASE PRINT)

ADDRESS

CCWWM
AFFILIATION

I REQUEST APPROXIMATELY 10 MINUTES TO SPEAK.

AGENDA ITEM Forum

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

Dale Sherborne
NAME (PLEASE PRINT)

ADDRESS

CCWWM
AFFILIATION

I REQUEST APPROXIMATELY 2 MINUTES TO SPEAK.

AGENDA ITEM Forum

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

A/ Lynch
NAME (PLEASE PRINT)

ADDRESS

CCWMA
AFFILIATION

I REQUEST APPROXIMATELY 7 MINUTES TO SPEAK.

AGENDA ITEM Form

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

John Poister
NAME (PLEASE PRINT)

ADDRESS

CCWWM
AFFILIATION

I REQUEST APPROXIMATELY 8 MINUTES TO SPEAK.

AGENDA ITEM Public Forum

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

Terry Jenkins / Alan Lynch
NAME (PLEASE PRINT)

ADDRESS

Concern Citizens with Wastewater Management
AFFILIATION

I REQUEST APPROXIMATELY 20 MINUTES TO SPEAK.

AGENDA ITEM Tax Credits
T2491

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

Robert T. MALITZ

NAME (PLEASE PRINT)

~~1015 E~~ Byers Penclleton 9780

ADDRESS

attorney for ~~BHAF~~ Blue Mt Forest Products Inc

AFFILIATION

I REQUEST APPROXIMATELY 5 MINUTES TO SPEAK.

AGENDA ITEM E

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

JEFF GOLDEN

NAME (PLEASE PRINT)

JACKSON COUNTY COURTHOUSE, MEDFORD

ADDRESS

JACKSON COUNTY COMMISSIONER

AFFILIATION

I REQUEST APPROXIMATELY 5 MINUTES TO SPEAK.

AGENDA ITEM B

OREGON ENVIRONMENTAL QUALITY COMMISSION
WITNESS REGISTRATION

Dr Robert J Pulzar
NAME (PLEASE PRINT)

5050 Dept of Chem April 10-11, 012
ADDRESS

Coalition To Improve Air Quality
AFFILIATION

I REQUEST APPROXIMATELY 5 MINUTES TO SPEAK.

AGENDA ITEM E

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

NAME (PLEASE PRINT)

Paul Wintersgreen

ADDRESS

P.O. 1626, Jacksonville, OR.

AFFILIATION

OEC

I REQUEST APPROXIMATELY 5 MINUTES TO SPEAK.

AGENDA ITEM E

OREGON ENVIRONMENTAL QUALITY COMMISSION
WITNESS REGISTRATION

Paul Wintersgreen
NAME (PLEASE PRINT)

120W Jacksonville
ADDRESS

Oregon Envirn Council
AFFILIATION

I REQUEST APPROXIMATELY 5 MINUTES TO SPEAK.

AGENDA ITEM _____

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

Joe Uris

NAME (PLEASE PRINT)

2526 NE 10

ADDRESS

none

AFFILIATION

I REQUEST APPROXIMATELY 10 MINUTES TO SPEAK.

AGENDA ITEM WTD

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

AL CASEBERE

NAME (PLEASE PRINT)

13820 C NW 10th Ct

ADDRESS

VANCOUVER, WA - concerned homeowner

AFFILIATION

I REQUEST APPROXIMATELY 5 MINUTES TO SPEAK.

AGENDA ITEM _____

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

Paul Williams

NAME (PLEASE PRINT)

19130 SW Red Wing Ct.

ADDRESS

Lake Oswego 97035-

AFFILIATION

I REQUEST APPROXIMATELY 3 MINUTES TO SPEAK.

AGENDA ITEM WTO Mill

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

BOB EATON

NAME (PLEASE PRINT)

P.O. Box 56 Astoria 97103

ADDRESS

SALMON FOR ALL

AFFILIATION

I REQUEST APPROXIMATELY 3-5 MINUTES TO SPEAK.

AGENDA ITEM _____

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

CHRIS SOTER

NAME (PLEASE PRINT)

CLATSKANIE OR,

ADDRESS

SELF

AFFILIATION

I REQUEST APPROXIMATELY 5 MINUTES TO SPEAK.

AGENDA ITEM WTD
Mill Discharge

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

Mary H. O'Brien
NAME (PLEASE PRINT)
Staff Scientist ; NW Coalition for Alternatives to Pesticides
ADDRESS
P.O. Box 1393
Eugene OR 97440
AFFILIATION

I REQUEST APPROXIMATELY 10 MINUTES TO SPEAK.

AGENDA ITEM _____

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

Nina Bell / Cindy Mackey
NAME (PLEASE PRINT)

408 SW 2nd
ADDRESS

NW Env. Advocates / NW Env. Defense Center
AFFILIATION

I REQUEST APPROXIMATELY 3 MINUTES TO SPEAK.

AGENDA ITEM

J

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

DOUGLAS MORRISON
NAME (PLEASE PRINT)

1300 114th Ave SE #110 Bellevue WA 98004
ADDRESS

Northwest Pulp + Paper Assoc.
AFFILIATION

I REQUEST APPROXIMATELY 10 MINUTES TO SPEAK.

AGENDA ITEM _____

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

DAVID WALSETH

NAME (PLEASE PRINT)

P.O. Box 5805 Portland

ADDRESS

WTD Industries

AFFILIATION

I REQUEST APPROXIMATELY 5 MINUTES TO SPEAK.

AGENDA ITEM _____

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

CHARLIE ROSENZWEIG
NAME (PLEASE PRINT)

9070 OCEAN BEACH Hwy LONGVIEW
ADDRESS

LIVE NEAR PROPOSED MILL
AFFILIATION

I REQUEST APPROXIMATELY 3 MINUTES TO SPEAK.

AGENDA ITEM _____

OREGON ENVIRONMENTAL QUALITY COMMISSION

WITNESS REGISTRATION

RICK THOMPSON
NAME (PLEASE PRINT)

123 DESIREE RD. LONGVIEW WA
ADDRESS

LIVE NEAR PROPOSED SITE
AFFILIATION

I REQUEST APPROXIMATELY 3 MINUTES TO SPEAK.

RESEARCH DESIGN and METHODOLOGY

SURVEY METHODOLOGY

A telephone survey was used to carry out this study of public opinion in the State of Oregon.

Universe: All Oregon residents above the age of 17.

Sample Size: In total, 700 questionnaires were completed. To achieve the desired sampling tolerance, all 700 surveys were tabulated. The following sample quotas were filled through random selection of households in these areas: 300 - Portland area; 100 - Eugene area; 100 - Salem area; 50 - Bend area; 50 - Pendleton area; 50 - Medford area; 50 - remainder of the state (coast; Eastern Oregon).

Questionnaire Design:

The survey instrument was designed with input from the client. Care was given to assure development of a comprehensive questionnaire that would elicit the information need to achieve the objectives of the study.

Sampling

Verification: Information was gathered by telephone using the fore-mentioned questionnaire. Surveys were completed between the 10th and 21st of June, 1989.

All clerical phases of the project were carefully monitored and verified to protect against non-sampling errors.

SURVEY METHODOLOGY (continued)

Sampling

Variability: The sample survey is subject to a measurable margin of variability due to sampling factors and other possible sources of influence on its accuracy. Results for this survey have a maximum sampling tolerance as shown below:

RANGE OF VARIATION AT A
95% CONFIDENCE LEVEL
TOTAL SAMPLE.....PLUS OR MINUS 3.7%

The reader should be aware that there are other possible sources of error for which precise estimates cannot be made. Good research practices tend to diminish the chances of such errors, but they can never be entirely ruled out. Pulse Research makes every attempt to carefully manage each step of the research according to the highest standards of quality to ensure that all sources contributing to error in a survey are controlled.

4. CHANGING THE SUBJECT, PARTS OF OREGON HAVE AIR QUALITY PROBLEMS BECAUSE OF HEAVY USE OF WOOD STOVES. WHICH OF THE FOLLOWING DO YOU THINK IS THE BEST COURSE OF ACTION REGARDING WOOD STOVES? (READ AND ROTATE; CHECK ONE ONLY)

- Don't worry about the air quality problem because it doesn't seem to be that big an issue and inexpensive heat is important..... 9%
- Prohibit all wood stove burning on days when air quality is poor, unless it is the only source of heat or the home is low income.....19%
- Require wood stove manufacturers to reduce the amount of emissions from their stoves.....50%
- Prohibit the use of wood as a source of home heating... 2%
- Create an economic incentive to shift to other fuel sources other than wood.....17%
- (DON'T READ NEXT VARIABLE)
- Don't know/no opinion..... 4%

StatPac Gold Statistical Analysis Package

Crosstabs and Chi Square

----- BY -----
 AREA - (Y Axis)
 ACTION/WOOD STOVES - (X Axis)

	Number	I DON'T WORRY/AIR	I PROH/QUALITY LOW	I REDUCE EMMIS ION	I PROH WOOD STOVES	I ECON NCENTI VE	I DON'T KNOW	I Totals
	Row %							
	Column %							
	Total %	1	2	3	4	5	6	
PORTLAND	1	20 6.7 32.8 2.9	56 18.7 41.8 8.0	164 54.7 47.1 23.4	3 1.0 27.3 0.4	45 15.0 37.5 6.4	12 4.0 46.2 1.7	300 42.9
EUGENE	2	6 6.0 9.8 0.9	26 26.0 19.4 3.7	45 45.0 12.9 6.4	1 1.0 9.1 0.1	15 15.0 12.5 2.1	7 7.0 26.9 1.0	100 14.3
PENDLETON	3	4 8.0 6.6 0.6	7 14.0 5.2 1.0	23 46.0 6.6 3.3	0 0.0 0.0 0.0	15 30.0 12.5 2.1	1 2.0 3.8 0.1	50 7.1
SALEM	4	13 13.0 21.3 1.9	17 17.0 12.7 2.4	53 53.0 15.2 7.6	4 4.0 36.4 0.6	10 10.0 8.3 1.4	3 3.0 11.5 0.4	100 14.3
BEND	5	6 12.0 9.8 0.9	7 14.0 5.2 1.0	28 56.0 8.0 4.0	0 0.0 0.0 0.0	9 18.0 7.5 1.3	0 0.0 0.0 0.0	50 7.1
MEDFORD	6	5 10.0 8.2 0.7	10 20.0 7.5 1.4	14 28.0 4.0 2.0	1 2.0 9.1 0.1	18 36.0 15.0 2.6	2 4.0 7.7 0.3	50 7.1
OTHER	7	7 14.0 11.5 1.0	11 22.0 8.2 1.6	21 42.0 6.0 3.0	2 4.0 18.2 0.3	8 16.0 6.7 1.1	1 2.0 3.8 0.1	50 7.1
	Column Totals	61 8.7	134 19.1	348 49.7	11 1.6	120 17.1	26 3.7	700 100.0

COLUMBIA RIVER TCDD ANALYSIS

August 1989

DRAFT

Table of Contents

Overview

Approach

- Water Quality Standard
- River Flow and Loading Capacity
- Sources
- Attenuation

Existing Loads

Analysis of Individual Control Strategies

Summary

Overview

The Columbia River has been identified as water quality limited. Both the Oregon Department of Environmental Quality and the Washington Department of Ecology included the lower Columbia River on the §304(1) short list because of discharges of 2,3,7,8-TCDD from existing bleached kraft pulp mills. Segments identified under §304(1) are waters which do not meet water quality standards for §307(a) priority pollutants due substantially to point source discharges. The listing of the lower Columbia River is based on data describing concentrations of 2,3,7,8-TCDD in fish tissue below bleached kraft pulp mills as well as 2,3,7,8-TCDD in effluents and treatment plant sludges at these mills.

The Federal Clean Water Act (CWA) requires the development of a total maximum daily load (TMDL) for water quality limited segments. The TMDL describes an implementation plan which allocates loads to point sources, non-point sources, and background in a manner that achieves water quality standards. In addition, the CWA requires the development of individual control strategies (ICS's) for point sources identified on the §304(1) short list. The ICS's need to produce a reduction in the discharge of toxic pollutants from these point sources and must be sufficient to achieve applicable water quality standards.

**DISCUSSION DRAFT
NOT FOR PUBLICATION
DO NOT QUOTE OR CITE**

DRAFT

In order to answer questions regarding the effectiveness of any proposed TMDL or ICS, a receiving water evaluation of TCDD for the Columbia River is needed. To focus efforts towards developing water quality based controls, a preliminary TMDL analysis is presented. The objectives of this analysis are to:

- organize existing information so that the effectiveness of draft ICS's towards attaining water quality standards for 2,3,7,8-TCDD can be assessed.
- identify information needs to guide future data collection efforts for chlorinated organics on the Columbia River.
- propose a framework to refine the TMDL for 2,3,7,8-TCDD including the waste load allocations (WLA's) for point sources and the load allocations (LA's) for non-point sources and background.

Approach

The primary reason for including the lower Columbia on the §304(1) short list is because of concerns over 2,3,7,8-TCDD from existing bleached kraft pulp mills. Consequently, this preliminary TMDL analysis focuses on bleached kraft pulp mills which discharge to the Columbia River drainage system in Region 10. The initial approach calculates loads from each source. The cumulative loads are then compared with the "loading capacity" of the river at key points. The "loading capacity" is the greatest amount of loading that the river can receive without violating water quality standards. The framework used to organize information consists of the following major components:

- the water quality standard for 2,3,7,8-TCDD applicable to the Columbia River.
- the river flow used as the basis to define the "loading capacity" of the Columbia River at key locations.
- the sources of 2,3,7,8-TCDD in the Columbia River.
- the effect of attenuation (or losses) on 2,3,7,8-TCDD as it is transported through the Columbia River system.

Water Quality Standard:

Table 20 of Oregon Administrative Rules (OAR) Chapter 340, Division 41 summarizes water quality criteria for toxic substances applicable to all basins. The concentration for 2,3,7,8-TCDD listed in Table 20 is based on EPA's Quality Criteria for Water (1986). For 2,3,7,8-TCDD, the criteria identified is 0.000013 ng/L, or 0.013 parts per quadrillion (ppq). This value represents the ambient water concentration needed to protect human health.

DRAFT

It considers the consumption of both contaminated water as well as fish or other aquatic organisms. The criteria adopted by the Commission is based on the 10^{-6} risk level which means the probability of one cancer case per one million people at the stated concentration.

River Flow and Loading Capacity:

The "loading capacity" of a stream is determined using the water quality criteria value and a river flow. For conventional pollutants, loads are typically given in pounds per day. In the case of 2,3,7,8-TCDD, loads have been expressed as milligrams (mg) per day which are calculated as follows:

$$\text{Load (mg/day)} = 0.00245 * \text{Concentration (ppq)} * \text{Flow (cfs)}$$

The appropriate river flow used to calculate the loading capacity has not been defined. There has been discussion on the use of the annual average flow. The rationale focuses on the criteria for 2,3,7,8-TCDD. The criteria value is based on a risk level for human exposure over a 70 year life expectancy. The annual median flow is also being considered for use as a design flow. The reason is that annual average flows are often biased to the high side due to flood flows. The median, on the other hand, represents a middle value where half the flows are above and half below. This may be more appropriate when considering exposure mechanisms.

Sources:

In conducting the preliminary analysis, information which describes concentrations 2,3,7,8-TCDD is limited. As a result, it is necessary to make several assumptions. One such assumption involves quantifying sources of 2,3,7,8-TCDD in the Columbia River. For the purposes of this preliminary analysis, it is assumed that the only source of TCDD is from bleached kraft pulp mills. A stated objective of this preliminary analysis is to evaluate the effectiveness of draft ICS's. Existing data led to the identification of bleached kraft pulp mills on the §304(1) short list for 2,3,7,8-TCDD in the Columbia River. If the analysis shows that draft ICS's will not lead to attainment of water quality standards without considering other potential sources, then other options need to be evaluated.

It is recognized that 2,3,7,8-TCDD can originate whenever chlorine reacts with organic precursors and that more data is needed. A second objective of the preliminary analysis is to identify information needs. Thus, the effect of this assumption in the preliminary evaluation will serve to guide the planning of future data collection efforts.

Attenuation:

There is virtually no data available to describe the loss of 2,3,7,8-TCDD from the Columbia River system. Again, assumptions need to be made. The Clean Water Act specifically states that TMDL's shall be established with a

DRAFT

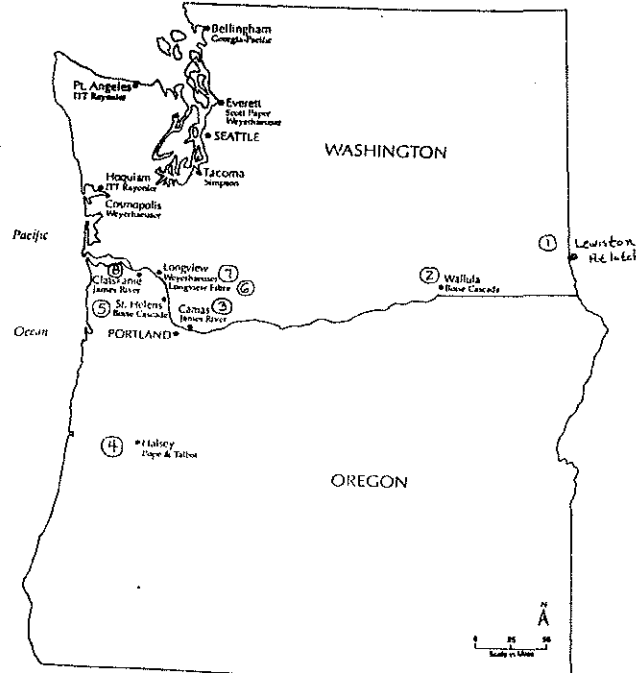
margin of safety which takes into account any lack of knowledge. For the purposes of this preliminary analysis, it is assumed that there is no attenuation. Thus, all 2,3,7,8-TCDD discharged stays in the system. If the analysis shows that draft ICS's will lead to the attainment of water quality standards, then they should also be effective regardless of attenuation rates.

It is acknowledged that attenuation processes may play an important role and should be considered before a final TMDL is set. Once more, a second objective of the preliminary analysis is to guide the development of a data collection program.

Existing Loads

There are currently eight bleached kraft mills located in EPA Region 10 which discharge to the Columbia River system. These mills, one in Idaho, four in Washington, and three in Oregon, are shown in Figure 1. The eight mills currently produce over 6,000 tons per day of bleached kraft pulp. Production estimates are shown in Figure 2.

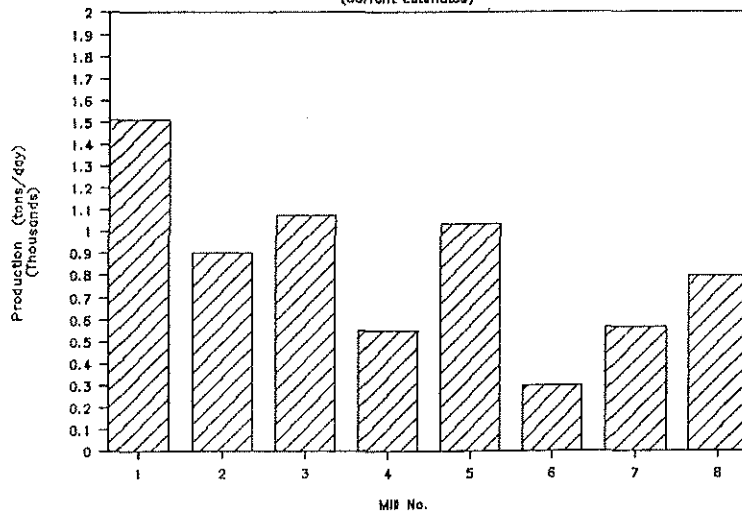
Figure 1. Location of Region 10 Columbia River Basin Bleached Kraft Pulp Mills



DISCUSSION DRAFT
NOT FOR PUBLICATION
DO NOT QUOTE OR CITE

DRAFT

Figure 2. Bleached Kraft Production
(Current Estimates)



In 1987, an EPA / Paper Industry Cooperative Dioxin Screening Study was initiated which looked at 104 bleached kraft pulp mills in the United States. Preliminary results from this study are shown in Table 1. These results can be used to estimate the current cumulative load of 2,3,7,8-TCDD discharged from seven of the eight mills using data from the 104 mill study (Note: results from the James River Camas mill are not yet available). Figure 3 depicts this load relative to loading capacities estimated for the annual average and median flows. The calculated load is over 40 mg/day. This is more than five times greater than a loading capacity at 250,000 cfs (an estimated annual average flow) and seven times greater than a loading capacity at 190,000 cfs (an estimated annual median flow). Figure 4 shows the distribution of individual loads for each of the mills.

Table 1. Region X Columbia River Basin Pulp Mills
Using Chlorine Bleach Kraft Process

Mill No.	Facility	Location	Bleach		Flows		Concentration		Effluent Load (mg/day)
			Production (tons/day)	Total (mgd)	Bleach (mgd)	% (BP/TP)	Effluent (ppq)	Sludge (ppt)	
1	Potlatch	(Lewiston)	1509	37	19	50	75.0	78.0	10.6
2	Boise Cascade	(Wallula)	904	17	4	18	360.0	70.0	23.1
3	James River II	(Cumas)	1071	59	8	13		12.0	
4	Pope & Talbot	(Halsey)	550	14	7	50	30.0	31.0	1.6
5	Boise Cascade	(St. Helens)	1035	38	17	50	22.0	4.2	3.2
6	Longview Fiber	(Longview)	298	62	8	11	4.6	69.0	1.1
7	Weyerhaeuser	(Longview)	565	50	4	8	9.3	25.0	1.8
8	James River II	(Mauna)	796	38	10	25	15.0	42.0	2.1
9	Port Westward	(Clatskanie)	0	15					
									6728
									43.5

DRAFT

Figure 3. Cumulative 2,3,7,8-TCDD Load
(from 104 mill study)

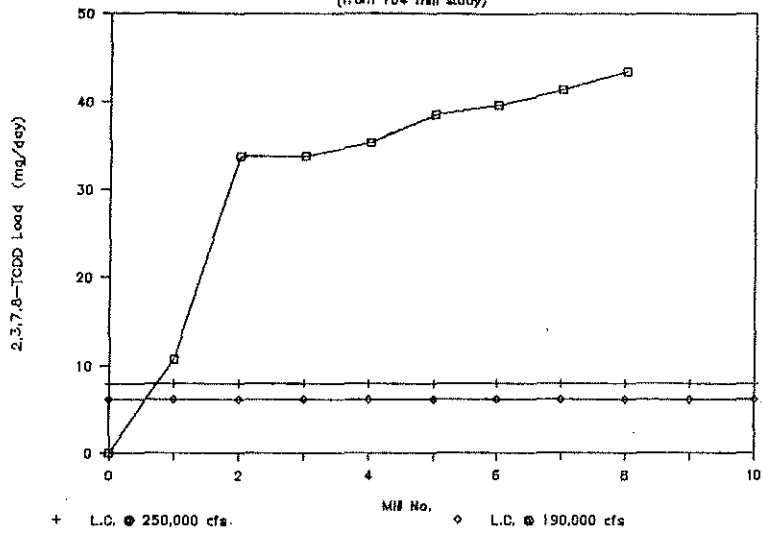
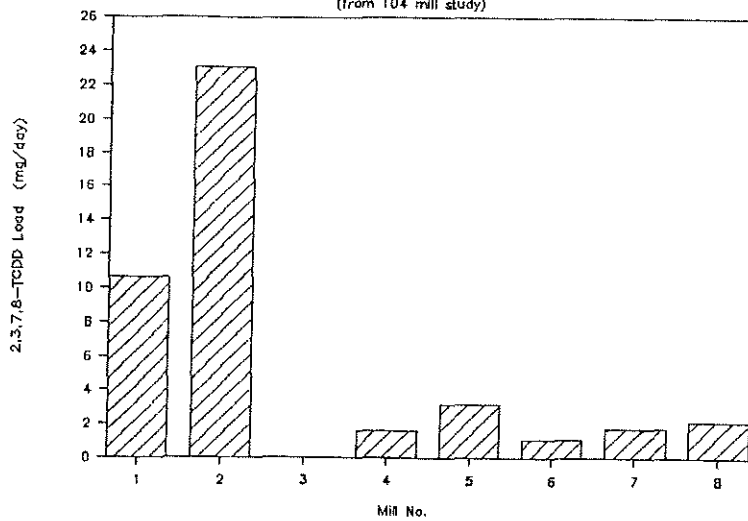


Figure 4. Estimated 2,3,7,8-TCDD Loads
(from 104 mill study)



DRAFT

Analysis of Individual Control Strategies

In June 1989, both Oregon and Washington submitted draft ICS's for the bleached kraft mills identified on the §304(l) short list. Oregon and Washington have taken slightly different approaches towards the ICS's. The current ICS proposed by the Washington Department of Ecology will require compliance with a total effluent limit of "non detectable" for 2,3,7,8-TCDD in each of the NPDES permits for the bleached kraft pulp mills. Oregon's proposed ICS will require compliance with a combined bleach plant effluent limit of "non detectable" for 2,3,7,8-TCDD in each of the NPDES permits for the bleached kraft pulp mills. Using assumptions described in the approach and estimates of effluent flow data, three scenarios have been conducted.

Scenario I: Limit Existing Oregon Mills to 10 ppq TCDD in Their Combined Bleach Plant Flows and Limit Washington & Idaho Mills to 10 ppq TCDD in Their Total Plant Flows.

The results of this scenario are summarized in the following table and depicted in Figure 5. As can be seen, the cumulative load would exceed the loading capacity. Figure 6 shows the distribution of loads for each of the individual mills.

SCENARIO I. Allocate according to draft ICS's (10 ppq 2,3,7,8-TCDD final effluent for WA/ID mills, 10 ppq 2,3,7,8-TCDD on bleach plant flow for OR mills) (Pope & Talbot @ existing; No Port Westward)

TMDL Analysis

Mill No.	Facility	Location	Effluent Flows				Effluent		Load (mg/day)
			Production (tons/day)	Total Plant (mgd)	Bleach Plant (mgd)	% (BP/TP)	Total (ppq)	Bleach (ppq)	
1	Potlatch	(Lewiston)	1509	37	19	50	10.0	20.0	1.4
2	Boise Cascade	(Wallula)	904	20	4	18	10.0	55.6	0.8
3	James River II	(Camas)	1071	60	8	13	10.0	75.0	2.3
4	Pope & Talbot	(Halsey)	550	14	7	50	5.0	10.0	0.3
5	Boise Cascade	(St. Helens)	1035	34	17	50	5.0	10.0	0.6
6	Longview Fiber	(Longview)	298	70	8	11	10.0	87.5	2.7
7	Weyerhaeuser	(Longview)	565	50	4	8	10.0	119.0	1.9
8	James River II	(Waukena)	796	38	10	25	2.5	10.0	0.4
9	Port Westward	(Clatskanie)	0	0	0				0.0
6728									10.3

DISCUSSION DRAFT
NOT FOR PUBLICATION
DO NOT QUOTE OR CITE

DRAFT

Figure 5. Cum. Load -- Current ICS's
(P&T existing; no Port Westward)

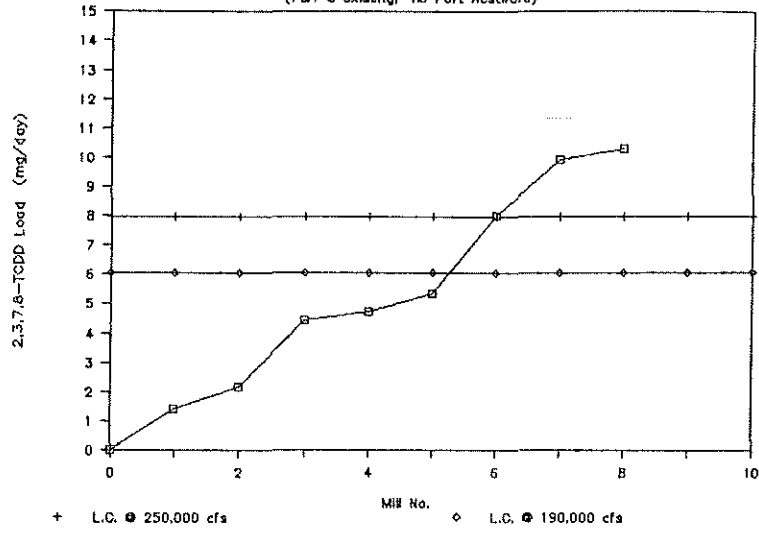
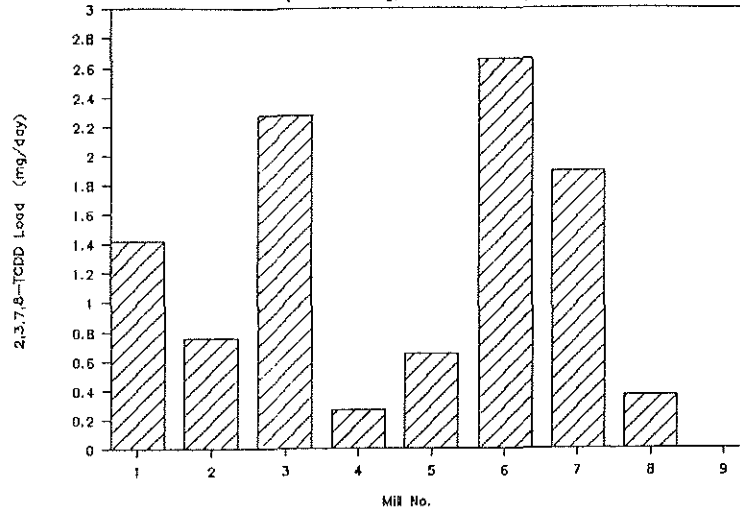


Figure 6. Load Dist. -- Current ICS's
(P&T existing; no Port Westward)



Scenario II: Limit Existing Mills to 10 ppq TCDD in Their Bleach Plant Flows

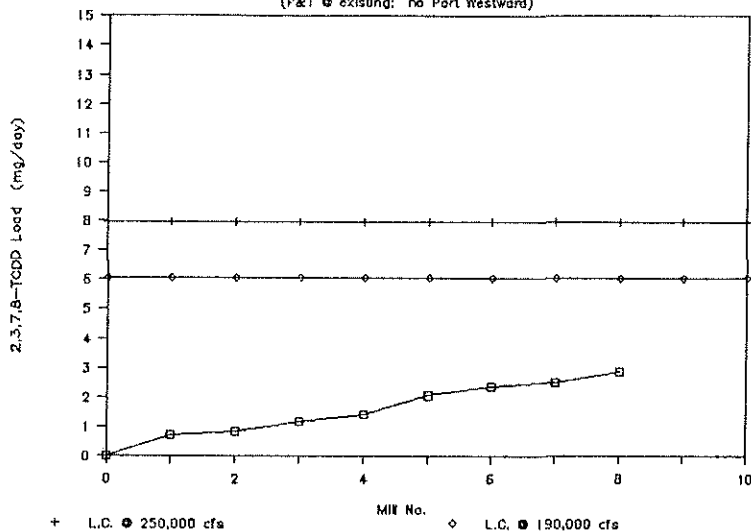
The results of this scenario are summarized in the following table and depicted in Figure 7. As can be seen, the cumulative load would be below the loading capacity set at either the annual average flow or the median flow. This scenario also indicates that background and non-point source loads, assumed to be zero, could taken into account. Figure 8 shows the distribution of loads for each of the individual mills.

SCEANRIO II. Allocate 10ppq 2,3,7,8-TCDD based on Bleach Plant Flow

 (Pope & Talbot existing; No Port Westward)

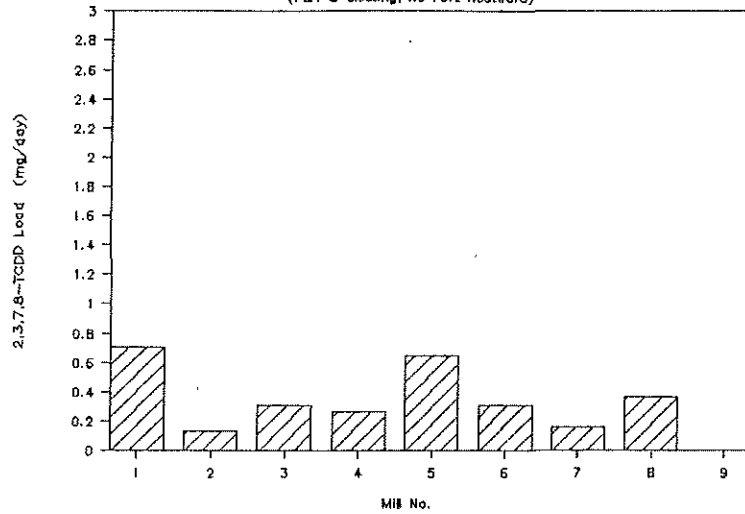
Mill No.	Facility	Location	Effluent Flows				TMDL Analysis		
			Bleach Production (tons/day)	Total Plant (mgd)	Bleach Plant (mgd)	% (BP/TP)	Total Effluent (ppq)	Bleach Effluent (ppq)	Load (mg/day)
1	Potlatch	(Lewiston)	1509	37	19	50	5.0	10.0	0.7
2	Boise Cascade	(Wallula)	904	20	4	18	1.8	10.0	0.1
3	James River II	(Canas)	1071	60	8	13	1.3	10.0	0.3
4	Pope & Talbot	(Halsey)	550	14	7	50	5.0	10.0	0.3
5	Boise Cascade	(St. Helens)	1035	34	17	50	5.0	10.0	0.6
6	Longview Fiber	(Longview)	298	70	8	11	1.1	10.0	0.3
7	Meyerhaeuser	(Longview)	565	50	4	8	0.8	10.0	0.2
8	James River II	(Mauna)	796	38	10	25	2.5	10.0	0.4
9	Port Westward	(Clatskanie)	0	0	0				0.0
6728									2.9

Figure 7. Cum. Load -- 10 ppq BP Flow
 (P&T existing; no Port Westward)



DRAFT

Figure 8. Load Dist. --- 10 ppq BP Flow
(P&T @ existing; no Port Westward)



Scenario III: Limit Existing Mills to 10 ppq TCDD in Their Bleach Plant Flows, Allow the Proposed Pope & Talbot Expansion and the New Port Westward Mill

The results of this scenario are summarized in the following table and depicted in Figure 9. As can be seen, the cumulative load would be below the loading capacity set at either the annual average flow or the median flow. This scenario also indicates that background and non-point source loads, assumed to be zero, could still be taken into account. Figure 10 shows the distribution of loads for each of the individual mills.

SCENARIO III. Allocate 10ppq 2,3,7,8-TCDD based on Bleach Plant Flow

(Pope & Talbot @ expanded; Port Westward @ Phase 2)

Mill No.	Facility	Location	Effluent Flows				THDL Analysis		
			Bleach Production Plant (tons/day)	Total Plant (mgd)	Bleach Plant (mgd)	% (BP/TP)	Total Effluent (ppq)	Bleach Effluent (ppq)	Load (mg/day)
1	Potlatch	(Lewiston)	1509	37	19	50	5.0	10.0	0.7
2	Boise Cascade	(Wallula)	904	20	4	18	1.8	10.0	0.1
3	James River II	(Camas)	1071	60	8	13	1.3	10.0	0.3
4	Pope & Talbot	(Halsey)	1500	26	13	50	5.0	10.0	0.5
5	Boise Cascade	(St. Helens)	1035	34	17	50	5.0	10.0	0.6
6	Longview Fiber	(Longview)	298	70	8	11	1.1	10.0	0.3
7	Meyerhaeuser	(Longview)	565	50	4	8	0.8	10.0	0.2
8	James River II	(Wauona)	796	38	10	25	2.5	10.0	0.4
9	Port Westward	(Clatskanie)	1240	19	12	63	6.3	10.0	0.4
			7678						3.6

DRAFT

Figure 9. Cum. Load -- 10 ppq BP Flow
(P&T expanded; Port Westward Phase 2)

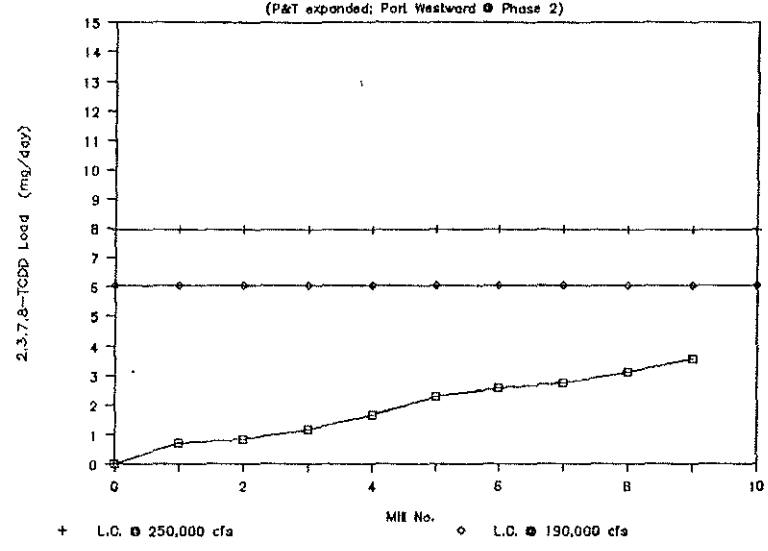
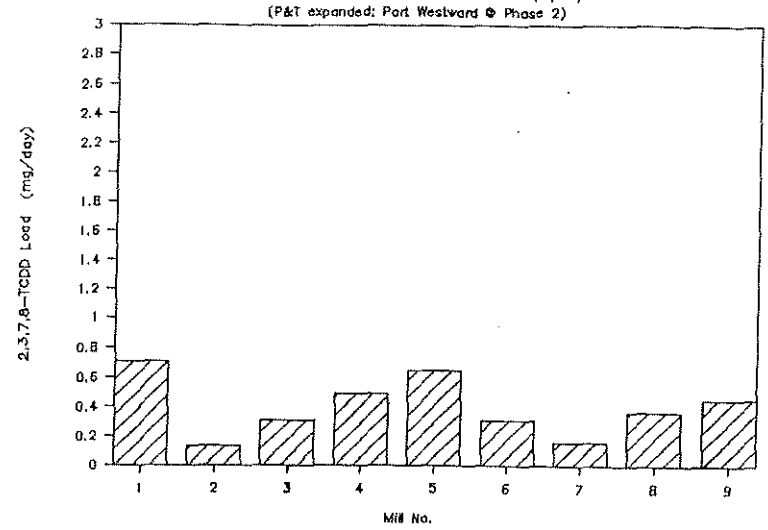


Figure 10. Load Dist. -- 10 ppq BP Flow
(P&T expanded; Port Westward Phase 2)



DISCUSSION DRAFT
NOT FOR PUBLICATION
DO NOT QUOTE OR CITE

DRAFT

Summary

* Analysis of Individual Control Strategies.

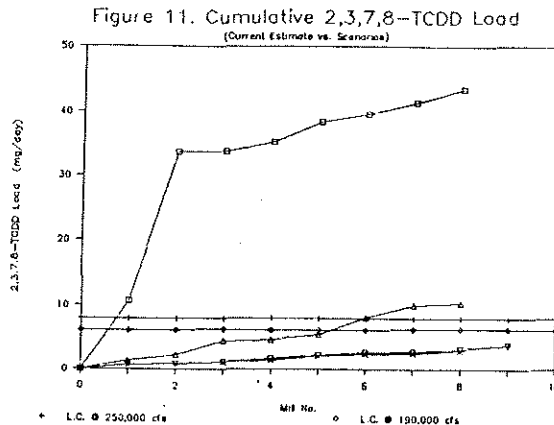
One proposed ICS is to require compliance with a total effluent limit of "non detectable" for 2,3,7,8-TCDD in NPDES permits for bleached kraft pulp mills. The preliminary analysis indicates that if this approach were applied to all bleached kraft mills in Region 10, the Columbia River could remain water quality limited for TCDD.

The current ICS proposed by the Oregon Department of Environmental Quality is to require compliance with a combined bleach plant effluent limit of "non detectable" for 2,3,7,8-TCDD in each of the NPDES permits for the bleached kraft pulp mills. The preliminary analysis indicates that if this approach were applied to all bleached kraft mills in Region 10, it appears that water quality standards would be attained in the Columbia River. This is summarized in Figure 11.

* Development of a Total Maximum Daily Load.

EPA Region 10 will assist both Oregon and Washington in developing a TMDL for 2,3,7,8-TCDD for the Columbia River. The TMDL (including the wasteload allocations) will be adopted by the individual states and approved by EPA.

The development of the TMDL will occur in three phases. Phase 1 is to complete the preliminary analysis after receiving input from Oregon, Washington, the pulp and paper industry, environmental groups, and other concerned individuals. This should be finished by late 1989. Phase 2 is to conduct a data collection program designed to fill information gaps and to resolve technical TMDL issues raised during the preliminary analysis. Phase 2 will also begin to address concerns regarding other chlorinated organic compounds. Phase 2 should be completed by the end of 1991. Phase 3 will be the actual allocation of loads. The initial allocation will be the ICS's to be issued by June 1990. Phase 3, which will also refine the initial allocations, should be completed by the end of 1992.



Chris Soter

14460 N.W. Oak Hills Drive
Beaverton, Oregon 97006
(503) 645 4706

August 16, 1989

To: The OREGON ENVIRONMENTAL QUALITY COMMISSION

William P. Hutchison, Chairman
Dr. Emery N. Castle, Vice Chairman
Wallace B. Brill
Genevieve Pisarski Sage
William W. Wessinger
Henry Lorenzen (Commissioner designate)

Reference: Allowing a Significant New Wastewater Discharge
into the Columbia River at Port Westward

Subject: THE REAL WORLD OF BLEACHED PULP AND PAPER MILLS
AS SEEN THROUGH THE EYES OF MILLWORKERS

I attended the last EQC work session and meeting held on July 20-21 at Corvallis and was impressed by the Commission's sense of fairness and concern in dealing with the issues brought before them, especially one whose impact on one of the Northwest's greatest assets, the Columbia River will be felt for years to come.

A major part of this issue that has not been fully explored yet is the ability of the regulating agencies to effectively monitor and control discharges from pulp and paper mills and to enforce water and air quality laws by levying significantly large penalties when violations occur.

It is vitally important that the Commission is aware of the real world of bleached pulp and paper mills, the violations that frequently occur and the conditions that exist for potentially catastrophic accidents.

I have spoken to many millworkers who privately tell of violations of quality standards that occur frequently in the operation of bleached pulp mills. Many of these violations allow unauthorized discharges into the air and into the water and either go undetected or result in minor penalties to the mill.

I have urged these millworkers to report their observations, but until now they were reluctant for fear of losing their jobs. Two people have now agreed to come forward and discuss these issues. One is an ex-mill worker. The other is presently working at a mill and is within three years of retiring. He has agreed to speak to the commission if he can be assured of confidentiality. He won't be available to testify at the next EQC meeting, however he is willing to meet with any of the commissioners before September 1.

I would like to arrange to have the you meet with these individuals first-hand so that you may have a more comprehensive picture of the real world of bleached pulp mills before you decide on allowing a new wastewater discharge into the Columbia River system.

I will call you within the next few days to arrange for meeting with these people at your convenience before Sept 1.

Thank you for your concern and attention to this issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chris Jones". The signature is written in black ink and features a long, sweeping horizontal line extending to the right from the end of the name.

JET

Submitted for review by DEQ officials 7-26-89.

This is why the public is wary of a new pulp mill. "Accidents" can and do happen.

Sincerely
Robert J. Thompson
11804 130 AV CT E
Payallup, Wa 98374

RECEIVED
JUL 28 1989

Water Quality Division
Dept. of Environmental Quality

Simpson fined \$10,000 for water pollution

The Simpson Tacoma Kraft Co. has been fined \$10,000 for a third violation of state water quality law in two years, according to the Department of Ecology.
In April, Simpson exceeded allowable limits of organic waste materials discharged into Commencement Bay, the agency said. Although not toxic, pulp byproducts can threaten certain fish species because they

limit the amount of oxygen available. The unacceptably heavy discharge was "totally unexpected," according to Don Zemek, Simpson's acting operations manager. He said the company is installing equipment that it believes will preclude similar incidents in the future. Though the company employs state-of-the-art technology for its

pulp wastes, even the best systems can be upset, said Greg Bean, the DOE inspector assigned to Simpson. In April, a new Simpson bleaching process caused warmer effluent temperatures, which in turn reduce the efficiency of bacteria that consume pulp wastes. So rather than discharging the permitted 7,300 pounds per day in April, Simpson discharged an aver-

age of 8,011 pounds, prompting violation notice. Because this was the third violation, following similar incidents Simpson in June 1988 and in January, the EPA levied its maximum penalty in May. A fourth violation wastewater discharge standard would invite another \$10,000 fine and stricter DOE regulation before a compliance schedule.

Tacoma News Tribune 7-21-89

Tacoma News Tribune 7-21-89

State fines Weyerhaeuser mill \$30,000 for toxic spill

The Associated Press
OLYMPIA — The Weyerhaeuser Pulp Mill at Cosmopolis has been fined a maximum \$30,000 after thousands of gallons of sulfuric acid, acidic water, and waste water leaked into the Chehalis River in

late May and early June, state officials said Tuesday. Truman Sesly, a spokesman for the mill, said the company may appeal a portion of the fine, which cover three separate incidents. Department of Ecology spokesman Don Kjosness said the first in-

cident occurred on May 31 and 32 when a pipe at the plant leaked about 19,200 gallons of diluted sulfuric acid. The acid trickled through a storm drain system into the Chehalis River, he said. The other two incidents, involving discharge of unknown quantities of

acid water and waste water, discovered on May 23 and respectively as ecology officials investigated the acid pipe leak. The department levied the maximum fine in each case, citing it said were past problems.

Tacoma News Tribune 7-26-89



WOOD HEATING ALLIANCE

1101 CONNECTICUT AVENUE, N.W. SUITE 700, WASHINGTON, D.C. 20036—202/857-1181—TELEFAX: 202/775-2625

PRESENTATION MADE TO THE OREGON ENVIRONMENTAL QUALITY COMMISSION SEPTEMBER 7, 1989

- WHA supports the goals of state and federal air pollution control laws, and in particular, efforts to attain and maintain the national ambient air quality standards for PM_{10} . During recent years, WHA has participated with federal, state and local government in a variety of efforts to achieve cleaner air throughout the country. Most notably, WHA voluntarily participated in the EPA regulatory negotiation ("reg neg") -- along with the State of Oregon, the Oregon Environmental Council, and other states and environmental groups -- which resulted in the current EPA new source performance standards for woodstoves, the second phase of which take effect on July 1, 1990.

- WHA supports modification of the Oregon new source performance standards for woodstoves to conform them to the federal NSPS. Such action, in our view, is fully consistent with the agreement to support the federal NSPS, that was signed by the State of Oregon and the other parties to the regulatory negotiation which produced the federal standard. As Mr. Kowalczyk will certainly recall, a major reason for WHA agreeing to participate in the regulatory negotiation, and ultimately agreeing to the final standards, was a desire to achieve uniformity in the regulation of woodstoves across the land by adopting tough federal standards which would obviate

the need for a multiplicity of standards at the state and local level. The stringency of the Phase II (1990) federal standards, and the very short implementation schedule were among the concessions reluctantly made by WHA and the woodstove industry to obtain the agreement of the State of Oregon, other states, and representatives of local governments and environmental groups to the final package. A reason often advanced by these parties for the need for tough standards and a rapid implementation schedule was the need to move rapidly to address anticipated PM₁₀ nonattainment problems. If the "reg neg" compact is to have any meaning at all, the signatories must be required to support the standards through their implementation, and until they are ultimately reviewed, and revised (as appropriate), in accordance with the requirements of Section 111 of the Clean Air Act. As DEQ has pointed out in its briefing papers, the second phase of the federal standards does not even take effect until July 1, 1990; accordingly, it is far too soon to even begin to contemplate revisions to new federal source performance standards for woodstoves, much less changes (other than conforming ones) to state standards.

■ The federal standards have taken a frightful toll on the woodstove industry. According to EPA figures, there were 324 manufacturers producing woodstoves for the U.S. market prior to the implementation of the EPA standards. According to

current EPA figures, there are approximately 70 of these manufacturers left. While it was expected that the federal standards would result in a number of marginal producers retiring from the industry, no one anticipated that the reduction would be on the order of a factor of five. In addition, the woodstove market has shrunk dramatically. The size of the market was a contentious issue during reg neg. EPA and other parties contended that the national market was on the order of 800,000 appliances per year. WHA insisted that it was roughly 400,000 appliances per year. Our current estimate is that it is on the order of 300,000 appliances per year. In short, another round of standards at this time may well destroy what little is left of the industry; for this reason as well, we must insist that the parties to the regulatory negotiation adhere to their bargain.

- It is far too early to make any determinations about the need for modified standards. While there have been some "stress" tests and some studies of the field performance of certified appliances, none of these studies have yet evaluated any EPA Phase II (1990) certified appliances. The best that can be said is that there have been attempts to project the likely performance of EPA Phase II appliances, based on the testing of earlier generation appliances which were judged to be likely to meet these standards. In view of the many

provisions included in the EPA Phase II program to close loopholes and enhance stringency, such efforts are, at best, highly suspect. For example, all of the Phase III CONEG stoves were projected to be 1990 certifiable. However, the best performing of these stoves -- the Country Flame BBF-6 -- could not pass the 1990 certification test without modification. In any event, it is grossly misleading and unfair to suggest that even the current generation of certified appliances is not meeting design objectives, because they do not reproduce their laboratory certification numbers in the field. In short, it was not expected that field performance values would equal laboratory certification values. This is because, among other things, the laboratory certification tests involve the use of rigorously controlled fueling protocols, which do not reflect "real world" conditions. This fueling protocol was developed by DEQ, and vigorously advocated by DEQ in reg neg. It was ultimately adopted, despite industry objections. In sum, while the certification tests are useful for identifying best demonstrated technology, they simply were never intended to reflect quantitatively the performance of "passing" appliances in the field.

- WHA and the woodstove industry are vitally interested in assuring that the appliances which are sold to the public are durable and perform optimally in the field. Toward this

end, WHA convened a stove-design conference this summer in Chicago, at which DEQ representatives made presentations, as invited participants. The purpose of this design conference was to assure that stove manufacturers were aware of the most recent research, so they could incorporate any important insights from this research into the design process for new appliances. WHA plans to continue to encourage this kind of interaction, toward the end of assuring that EPA 1990 appliances incorporate the most advanced design concepts, and perform optimally in the field.

- WHA believes it is at best premature to attempt to identify a subset of 1990 EPA certified appliances which are to be preferred over others for use in PM_{10} nonattainment areas. Until a representative sample of 1990 certified appliances are available for appropriate evaluation, it would be statistically meaningless -- and highly arbitrary -- even to attempt such an exercise. Clearly the DEQ BEST study generated insufficient data to allow any statistically significant conclusions to be drawn about the relative importance of DEQ's BEST design criteria, alone or in combination. Even the CONEG Phase III study, which generated approximately twice as much data per stove model, did not generate sufficient data to allow the identification of statistically significant trends.

It is far more in keeping with the fact that the 1990 Standards reflect a consensus agreement to which the State of Oregon was a party to adopt a policy that 1990 appliances are to be given a fair chance to prove themselves, rather than a policy which, in effect, indicts them as a class before any significant number of them have even been created. Since it is all but inevitable that Congress will extend deadlines for PM₁₀ attainment, the current "deadlines" do not argue against the recommended approach. Finally, failure to adopt an hospitable policy toward these EPA Phase II appliances will certainly create disincentives for industry to sit down with state and local agencies to attempt to resolve common problems.

3394R

November 7, 1986

ENVIRONMENTAL PROTECTION AGENCY
NEGOTIATING COMMITTEE
FOR
NEW SOURCE PERFORMANCE STANDARD FOR RESIDENTIAL WOOD HEATERS

A G R E E M E N T

The Negotiating Committee considered the technical and policy issues involved in a new source performance standard for residential wood heaters and has reached a consensus on a recommended proposed rule.

John F. Kowalczyk, a party to the negotiations, agrees that:

1. The person signing this document is authorized to commit the organization to the terms of the agreement.
2. It concurs in the recommended proposed rule entitled "Recommended Proposed Rules -- Residential Wood Heater NSPS" that is dated "10/24/86" and that is attached to this agreement when considered as a whole.
3. a. EPA agrees to draft a preamble consistent with the recommended proposed rule and to publish that preamble and the recommended proposed rule as a Notice of Proposed Rulemaking for a New Source Performance Standard for Residential Wood Heaters.
b. If the proposed rule and its preamble are consistent with the recommended proposed rule, each other party agrees not to file negative comments in response to the Notice of Proposed Rulemaking and to file a memorandum in the docket that it participated in the negotiations and that it concurred in the recommended proposed rule when considered as a whole.
4. a. EPA will consider all relevant comments submitted in response to the Notice of Proposed Rulemaking and will make such modifications in the proposal as are necessary when issuing a final rule.
b. Each other party agrees not take any action to inhibit the adoption of the recommended proposed rule as a final rule.
5. Each party other than EPA agrees not to challenge the final rule in court if the final rule and its preamble are consistent with the recommended proposed rule.

6. If the final rule is challenged in court and if the preamble and final rule are consistent with the recommended proposed rule, then each party other than EPA agrees to file a memorandum informing the court that it participated in the negotiations and that it concurred in the recommended proposed rule when considered as a whole.
7. This agreement takes effect when all members of the Negotiating Committee have signed it.


Individual Committee Member

Oregon Department of Environmental Quality
Organization

November 18, 1986

Date

This Agreement is conditioned on the satisfactory resolution of test method issues identified in my November 14, 1986 letter to Peter Westlin which can affect the stringency and applicability of this rule. *JFK*

November 7, 1986

ENVIRONMENTAL PROTECTION AGENCY
NEGOTIATING COMMITTEE
FOR
NEW SOURCE PERFORMANCE STANDARD FOR RESIDENTIAL WOOD HEATERS

A G R E E M E N T

The Negotiating Committee considered the technical and policy issues involved in a new source performance standard for residential wood heaters and has reached a consensus on a recommended proposed rule.

JOHN CHARLES, a party to the negotiations, agrees that:

1. The person signing this document is authorized to commit the organization to the terms of the agreement.
2. It concurs in the recommended proposed rule entitled "Recommended Proposed Rules -- Residential Wood Heater NSPS" that is dated "10/24/86" and that is attached to this agreement when considered as a whole.
3. a. EPA agrees to draft a preamble consistent with the recommended proposed rule and to publish that preamble and the recommended proposed rule as a Notice of Proposed Rulemaking for a New Source Performance Standard for Residential Wood Heaters.
b. If the proposed rule and its preamble are consistent with the recommended proposed rule, each other party agrees not to file negative comments in response to the Notice of Proposed Rulemaking and to file a memorandum in the docket that it participated in the negotiations and that it concurred in the recommended proposed rule when considered as a whole.
4. a. EPA will consider all relevant comments submitted in response to the Notice of Proposed Rulemaking and will make such modifications in the proposal as are necessary when issuing a final rule.
b. Each other party agrees not take any action to inhibit the adoption of the recommended proposed rule as a final rule.
5. Each party other than EPA agrees not to challenge the final rule in court if the final rule and its preamble are consistent with the recommended proposed rule.

6. If the final rule is challenged in court and if the preamble and final rule are consistent with the recommended proposed rule, then each party other than EPA agrees to file a memorandum informing the court that it participated in the negotiations and that it concurred in the recommended proposed rule when considered as a whole.
7. This agreement takes effect when all members of the Negotiating Committee have signed it.

John Q. Clark
Individual Committee Member

OREGON ENVIRONMENTAL COUNCIL
Organization

11/19/86
Date

RECEIVED

SEP 07 1989

OFFICE OF THE DIRECTOR

Association of Oregon Recyclers

September 5, 1989

Chair

Bruce Walker, Recycling Coordinator
City of Portland
1120 S.W. Fifth, Room 400
Portland, Oregon 97204
(503) 796-7772

Secretary

Delyn Kies, Solid Waste Director
City of Portland
1120 S.W. Fifth, Room 400
Portland, Oregon 97204
(503) 796-7010

Treasurer

Mary Kanz, Executive Director
Mid Valley Garbage & Recycling Association
3680 Brooklake Road, N.E.
Salem, Oregon 97305
(503) 390-1370

Markets

Harold Rodinsky, Assistant Vice President
Schnitzer Steel Products Co.
P.O. Box 10047
Portland, Oregon 97210
(503) 286-5771

Legislation

Judy Roumpf
Resource Recycling, Inc.
P.O. Box 10540
Portland, Oregon 97210
(503) 227-1319

Education

Pat VeRnon, Associate Solid Waste Planner
Metropolitan Service District
2000 S.W. First
Portland, Oregon 97201-5398
(503) 221-1646

Special Projects

Jerry Powell
Resource Recycling
P.O. Box 10540
Portland, Oregon 97210
(503) 227-1319

Business Office

Sharon or Kathy
Computations
9747 S.E. Powell Boulevard
Portland, Oregon 97266
(503) 761-8075

Chairman Hutchison and Members
Oregon Environmental Quality Commission
811 S.W. Sixth Ave.
Portland, OR 97204

RE: WTD Industries' Clatskanie Permit Application

Dear EQC Chairman and Members:

The Association of Oregon Recyclers urges you to require the use of waste paper as a feedstock at the pulp mill proposed by WTD Industries. Recycling is known to reduce pollutants, water consumption and energy use in paper manufacture when compared to virgin paper production. Thus, the EQC should establish a state policy that recycling -- i.e., the use of secondary fibers in papermaking -- is a mitigation technique that must be employed before discharge permits can be issued. By so doing, the EQC would promote an integrated environmental approach, one that coordinates solid waste, air quality and water quality management.

At the same time, your deliberations on all aspects of the WTD permit should set a procedure to ensure potential new industries in Oregon that if certain conditions are met, a plant can indeed be sited in this state. If we are to have any new recycling mills in the future, we must make sure that state procedures do not succumb to the not-in-my-backyard syndrome.

P.O. Box 66241, Portland, OR 97266
(503) 761-8075

The Association of Oregon Recyclers -- which represents all aspects of recycling from collection to end use markets, including governments and citizens -- appreciates the steps you've adopted to enhance recycling in this state. The WTD permit offers another opportunity for precedent-setting policy.

Sincerely,

Judy Roumpf

Judy Roumpf
Legislative Chair

cc: Jerry Turnbaugh, DEQ Water Quality Div.



Northwest Environmental Defense Center

10015 S.W. Terwilliger Blvd., Portland, Oregon 97219
(503) 244-1181 ext.707

PROPOSED GUIDELINES FOR CONTENTS OF PUBLIC NOTICES

Presented before the Environmental Quality Commission on September 7, 1989 by David S. Mann on behalf of the Northwest Environmental Defense Center (NEDC)

(Please note that these model requirements are for wastewater discharges, equivalent requirements should be imposed for air contaminant and solid waste contaminant permit application notices.)

PROPOSED RULE

All public notices pertaining to proposed new, modified, or renewals of discharge permits must contain, at the minimum, the following information:

All PERMITS

1. General Information

- a. Name of applicant
- b. Type of facility
- c. Location of facility, discharge
- d. Wastes received/Wastes generated
- e. Type of product/Quantity of product
- f. Treatment and/or control facilities currently in place

2. Basis of need for permit (ie problems, regulations, technology change, change in Water Quality standards)

3. Water Quality Impacts

- a. Description of the Water Quality of the receiving stream, both upstream and downstream.

b. If the stream is water quality limited, list the TMDLs that have been established and how the permit will fit within the TMDLs.

c. Description of how the permit will impact the water quality

d. Summary list, by date, of all evaluations done by the Department or the applicant concerning the water quality impacts.

4. Special Conditions

Assessment of future control needs based on findings on water quality, and a schedule for compliance.

6. List and location of documents used to prepare permit proposal

FOR PERMIT RENEWALS AND MODIFICATIONS

7. If a permit modification, why? (ie, change in technology, change in water Quality, failure to meet previous conditions)

8. Permit History

a. Type of Discharge

b. Dates of previous permits

c. Compliance History for at least the last two permit cycles.

- 1) Evaluation and summary of DMRs with explanation of previous NPDES violations
- 2) Summary of inspections performed by DEQ on influents and effluents to verify DMRs.
- 3) Summary of complaints received and Department actions.
- 4) Enforcement History, including; Notice of Violations, Notice of Intent, and enforcement actions taken.
- 5) Evaluation of special conditions in previous permits and whether they were met. Explanation for any previous conditions that were not met.
- 6) Documentation of any load increases allowed and the basis for the allowance, including dates of EQC approval.

d. Location of DEQ cumulative impacts analysis to assure basin water quality standards or plans are not being violated.

9. An assessment of future control needs based on the adequacy of present controls, records of compliance, and applicable rules and regulations, and the proposed schedule for permittee to meet these conditions.

The above proposed rules should serve as guidelines for promulgating minimum standards for public notices of proposed discharge permits. NEDC requests that the Commission initiate rulemaking proceedings within the next 30 days in accordance with applicable procedures for Commission rulemaking.

RECEIVED
JAN 21 1985

INTEROFFICE MEMO
Water Control Division
Dept. of Environment & Quality

TO: All Agency Staff
FROM: Fred Hansen
SUBJECT: Permit Evaluation Reports

DATE: January 28, 1985

This memo is a follow-up to my May 3, 1984 memo on Enforcement/Compliance Procedures by which permits are issued, modified, and enforced.

With the experience I have gained in reviewing permit evaluation reports and documentation to support major program and permit conditions decisions, I am now able to present in greater detail, my expectations and views on the kinds and level of information which should accompany proposed permits coming to me for signature. Attached is a guidance document outlining essential elements of this permit evaluation report.

My rationale for the recommended content of Permit Evaluation Report is the following:

1. Issuance of a permit is a significant environmental program decision made by the Department.
2. Permit conditions must reflect applicable statutes, rules, and policies.
3. The current environmental status of the source must be accurately known before major program decisions can be made and incorporated into a draft permit.
4. A complete and thorough inspection and evaluation of a source prior to processing any application for permit issuance, together with a review of the compliance, enforcement, and assessment records should provide a solid basis for evaluating the status and performance of the source during the prior permit period and for determining what needs to be accomplished.
5. We need to be aware of the level of oversight and coordination that is likely to be needed by us to assure that the conditions and deadlines of a permit are met.

In my discussion with Division Administrators, there is agreement that assembling this information will not impose substantial additional burdens on either the staff or the permittees. Instead, this pertinent information includes both that which should be accessible through the course of conducting program activities and that which is necessary for preparing draft permits. Well prepared permit evaluation reports will allow new staff to become familiar with a source and continue oversight activities with minimal loss of time and regulatory momentum.

All Agency Staff
January 28, 1985
Page 2

This information to accompany proposed permits is needed for us to insure that we address environmental problems consistently, establish reasonable goals, and write enforceable permit terms and conditions.

There are some additional items which I believe should be given priority consideration, both by regional and headquarters staff over the next few months. These include the following:

1. The need for thorough permit evaluation reports prior to transferring a source to general or minimal source permit.
2. The need for field and headquarters staff agreement on both short and long-range program requirements to be incorporated into a permit prior to discussions or negotiations with the permittee.
3. The need for inspections to be consistent, whether conducted by field or headquarters staff. Should joint inspections be considered?

TT574
Attachment

NORTHWEST ENVIRONMENTAL ADVOCATES



September 6, 1989

Bill Hutchison, Chair
Environmental Quality Commission
811 S.W. 6th
Portland, Oregon 97201

Dear Commissioner Hutchison:

In preparation for the upcoming Environmental Quality Commission hearing on September 8, Northwest Environmental Advocates (NWEA) and the Northwest Environmental Defense Center (NEDC) submit the following comments on the proposed WTD Pulp Mill at Port Westward. This letter is based on our understanding of the applicant's proposal, the recommendations made by the Department of Environmental Quality, and the commitments made by the Environmental Protection Agency at this time.

EQC Must Focus on Water Quality Not Technology Based Regulation

The Department and applicant have repeatedly assured the Commission that the proposed mill will use the best available bleach kraft technology and "highest and best practicable treatment." Oregon, however, now uses a water quality control program, not a technology-based program. "Water Quality: Oregon's New Approach"; See also Oregon's 305b Report (1988). It is critical, using this approach, to achieve the end result: meeting the water quality standard. It is not enough that the applicant do its best and use the best available technology.

Specific Findings Are Required Under the Commission's Rule

Under its recently adopted rules the Commission must make a series of affirmative findings, in good faith and based upon substantial evidence, in order to approve a major new discharge. These findings are that:

- o The new discharge will not cause water quality standards to be violated;
- o The new discharge will not threaten or impair any recognized beneficial uses;
- o The new discharge must not be granted if the received stream is classified as being water quality limited; and
- o The activity is consistent with land use plans.

This rule does not contemplate consideration, much less approval, of new discharges where the receiving stream is water quality limited. The rule only authorizes NPDES permits for streams which presently have unused capacity to assimilate waste discharges. See Staff Report on Agency Item K for June 2, 1989 EQC Meeting. The rule echoes this explicitly by requiring a finding that "The new or increased discharged load shall not be granted if the receiving stream is classified as being water quality limited..." OAR 340-41-026(3)(a)(i).

A TMDL With Available Capacity Must be Established Before Approval of New Discharge to the Columbia River

In other words, the Commission must find that there is a present and future assimilative capacity available in the Lower Columbia River before the new discharge is approved. There must be complete certainty that there is "room" for more dioxin in the river before an additional permit is issued. This certainty cannot be achieved before the following two events take place. First, a Total Maximum Daily Load (TMDL) calculation must be completed, and Waste Load Allocations (WLAs) made to non-point (e.g. forest fires) and background (e.g. sediment contamination) sources of dioxin. Second, a real reduction in the discharge of dioxin from existing point sources must be achieved (e.g. effective implementation of the proposed Individual Control Strategies) in order to ensure that the water quality standard will be met with existing sources.

The Department asked, at the August work session, whether the Commission needs to "see" the TMDL before granting the approval for the WTD discharge. NEDC and NWEA believe that the Commission does in fact need to see the TMDL in order to make the required findings. It is not appropriate for the Commission to substitute Department assurances that the NPDES permit will include conditions in place of mandatory Commission findings. The rule makes it clear that the Commission plays an important role in the decision to allow major new dischargers, regardless of and in addition to the Department and the EPA. The process requires the Commission to come to terms with the policy implications of the NPDES permitting system. In sum, the NPDES permit and the TMDL/WLA go hand-in-hand.

The TMDL Must be Based on Accurate and Reliable Data

The TMDL upon which the Commission must rely should be the completion of Phase III as described by EPA. According to the Clean Water Act, the TMDL "shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality." Section 303(d)(1)(C). Until the Phase III TMDL is completed, the Commission will not be

able to make an affirmative finding that water quality standards will be met on the Columbia -- with or without the proposed WTD mill. This is because biomonitoring is required to measure compliance with a standard which is lower than detection, a standard whose ultimate purpose is to protect living creatures from bioaccumulation of the toxin. (Fish are able to bioconcentrate as high as 150,000 times the dioxin concentration in water.)

The Phase I TMDL is based on some extremely broad assumptions, namely that there are no background sources of dioxin and that there is no attenuation. Until the Phase II data collection and analysis has been completed, the TMDL is little more than a theoretical creation. The Phase I TMDL is useful for the purpose of giving regulators and industry some idea of the limitations that will be required to bring the stream into compliance with water quality standards. It is not, however, sufficient basis to issue approval of new discharges to a stream that is already water quality limited. The Commission cannot, particularly at a time when Phase I of the TMDL process has not even been completed, foresee the future. There is currently next to no data on background sources of dioxin, no analysis of contributions by non-point sources, and no understanding of the timeliness and the ease with which existing pulp mills will be able to implement the proposed ICSSs. In short, there is no reason to be optimistic about the dioxin burden of the Columbia River in three years.

Moreover, until the Phase II data on background sources of dioxin in Columbia River sediment is collected, analyzed and incorporated into a Phase III TMDL, the WLAs will not be designed to protect sediment quality. The Department is currently writing sediment quality standards, as required by the Clean Water Act.

Much Uncertainty Surrounds Whether the Water Quality Standard Can Be Met Within Three Years

The Department and the applicant argue that we are three years away from the proposed additional loads from WTD. The assumption is that in three years, the proposed Individual Control Strategies (ICSSs) will be fully implemented at existing mills, pursuant to section 304(1) of the Clean Water Act. In theory this may be correct. However, not only is there no assurance that this will occur but there are several indications that suggest that the Columbia will not meet the water quality standard in three years. Three pulp mills have already filed suit against the State of Oregon contesting the imposition of the ICSSs at existing mills on the Columbia River system. These challenges to the proposed ICSSs put their viability into serious question. The lawsuits will certainly affect the timeliness of implementation of the ICSSs. Washington's proposed ICSSs are currently quite different from those proposed by Oregon, and this

difference has yet to be worked out. EPA's preliminary Phase I TMDL shows that the use of Washington's ICSSs would not achieve the water quality standard in the Columbia.

Additionally, the public has no reason to have confidence that the necessary actions will be taken by the Department in a timely and effective manner. There is no history of attention by DEQ or the Washington Department of Ecology to the Columbia River, including regulatory enforcement of the existing NPDES permits and/or the state's water quality standard for dioxin, despite a serious discrepancy between permitted effluents and the standard.

Reliance on Conditions as Substitute for Affirmative Findings is An Abuse of Discretion and Is Outside the Scope of EQC Authority.

The Department has recommended that the Commission avoid its responsibility to make affirmative findings that the Columbia River is/is not overburdened with dioxins and other pollutants before approving the issuance of an NPDES permit. Instead, the Department recommends that the Commission avoid tough decisions by inserting vague, irrelevant and perhaps unenforceable conditions in the applicant's permit. Reliance on such conditions would constitute an abuse of discretion and is outside the scope of the Commission's authority. A few of the numerous problems with these conditions are discussed immediately below.

Condition 2a requires the installation of "state-of-the-art" technology "to the greatest degree practicable." No further explanation is offered regarding the meaning of "state-of-the-art" as requested by the Commission. In addition, no language is available to limit the escape clause of "to the greatest degree practicable."

Condition 2b is fundamentally misleading and a farce. It requires 100 percent substitution of chlorine with chlorine dioxide despite the admission by the applicant and the Department that such a degree of substitution is absolutely impossible for the product the applicant intends to produce. If the Commission believes that the use of chlorine is a problem, then it should say so directly and without equivocation. If the Commission intends to allow the use of chlorine, then it should do so directly with full discussion and understanding of the ramifications of such usage. Similarly, condition 2b's limitation on concentrations of dioxin in the bleach plant at a level far below detectability (unlike the ICSS' standard of nondetectability) is misleading because enforcement cannot occur where compliance cannot be measured.

Condition 2c acknowledges that the Commission is being asked to issue this NPDES permit without sufficient data. The condition admits that a TMDL is not established and that the TMDL may not be achievable. This condition is a substitute for affirmative

findings that the Columbia River is not water quality limited and that the water quality standards will be met when the new discharge is added. This substitution, where findings are mandatory, is illegal and irresponsible. Furthermore, the condition is rendered ineffective by the escape clause that "the timetable for compliance may be subject to modification if the EQC determines that the 3 year time frame is not achievable." If there is a possibility that compliance will not be achieved, the NPDES permit should not be issued, and if issued, should be subject to automatic revocation when conditions are not met. This condition is the Department's acknowledgement that the ICSSs will most likely not be fully implemented in three years, that the water quality standard will most likely not be met in that same time, but nevertheless it wants to issue the applicant's permit.

Condition 2d is good but has nothing to do with whether the permit should be issued. The Commission must base its decision on present knowledge and data.

Condition 2e is an unusual and useless permit condition. It simply requires that other mills and DEQ begin to comply with the law governing toxic discharges. It does not place any obligation on the proposed permittee (WTD) and does not seem to effect any change to WTD's operation in the event that the condition is not satisfied. Furthermore, it waffles and fails to require that water quality standards be met. Instead it simply contains vague language mandating that an approach be developed to install "state-of-the-art" pollution control technology to reduce discharges "to the greatest extent practicable" so that "eventually" water quality standards may be met. It does not require the installation of technology nor the achievement of water quality standards. It appears to be unenforceable.

Condition 2f, like the above conditions, would be much more appropriate as a finding than as a condition.

The issuance of an NPDES permit based on these vague permit conditions without sufficient findings based on reliable data would be arbitrary and capricious.

Time is Not of the Essence

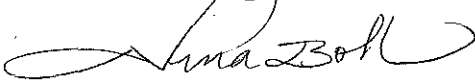
NWEA and NEDC reiterate that other permits are being processed that will cause significant time delays in construction. We are not recommending that for this reason the Commission should fail to act in a timely fashion. We are saying that the Commission should not respond to veiled threats by WTD that the project's viability depends on immediate issuance of the NPDES permit -- or at least EQC's approval. In fact, the Department has already withheld Clean Water Act Section 401 certification for the project. The Department's concerns and more are shared by a

large number of federal and state agencies. The Army Corps of Engineers has not yet issued an Environmental Assessment, and may decide to conduct a full Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA). In any case, the Commission's obligation is to ensure that water quality is protected, a goal in this instance which may require the substantial passage of time.

NEDC and NWEA Recommend that EQC Deny Approval

In conclusion, NWEA and NEDC recommend that the Commission deny approval of the new bleached kraft pulp mill until sufficient information is available.

Sincerely,



Nina Bell
Executive Director

for Northwest Environmental Advocates and
Northwest Environmental Defense Center

cc: Dr. Emery N. Castle
Genevieve Pisarski Sage
William W. Wessinger
Wallace B. Brill
Henry Lorenzen

September 1, 1989

Attached for your review is historical information in regard to the approval of a building permit for the construction of the Pope and Talbott pulp mill, then known as American Can Company.

je

MINUTES OF THE 118th MEETING

of the

Oregon State Sanitary Authority
September 6, 1967

The 118th meeting of the Oregon State Sanitary Authority was called to order by John D. Mosser, Chairman, at 10:05 a.m., September 6, 1967, in Room 72, State Office Building, Portland, Oregon. The members and staff present were: John D. Mosser, Chairman; Herman P. Meierjurgan, Edward C. Harms, Jr., B. A. McPhillips and Storrs Waterman, Members; Kenneth H. Spies, Secretary; John O. Denman, Legal Advisor; E. J. Weathersbee, Deputy State Sanitary Engineer; H. M. Patterson and H. E. Milliken, Assistant Chief Engineers; Fred M. Bolton and J. A. Jensen, District Engineers; Dr. Warren C. Westgarth, Laboratory Director; H. W. McKenzie, Associate Sanitary Engineer, Glen D. Carter, Aquatic Biologist; C. A. Ayer, Sanitary Engineer; and R. Bruce Snyder, Meteorologist.

MINUTES:

It was MOVED by Mr. Harms, seconded by Mr. McPhillips, and carried that the minutes of the July 24, 1967, meeting be approved.

PROJECT PLANS:

It was MOVED by Mr. McPhillips, seconded by Mr. Harms, and carried that the action taken on the following 110 project plans and engineering reports for water pollution control and the 27 project plans for air quality control for the months of May, June, July and August, 1967, be approved:

Water Pollution Control

<u>Date</u>	<u>Project</u>	<u>Location</u>	<u>Action</u>
5/4/67	Tigard	Farmers Ins. Co. Sewer	Prov. app.
5/5/67	Forest Grove	Elm Street Sewer	Prov. app.
5/5/67	N. Umpqua S.D.	N. Bank Interceptor & Pump Sta.	Prov. app.
5/8/67	Eugene	Valerie Park Sewers	Prov. app.
5/8/67	Cascade Locks	Preliminary Report	Prov. app.
5/9/67	Oak Lodge S.D.#2	Lateral 2C-0-11	Prov. app.
5/9/67	Portland (L-GL)	Change Order #3-Unit I Phase I	Approved
5/10/67	Amity	Sewerage facilities	Prov. app.
5/11/67	Twin Rocks S.D.	Engineering Report	Approved
5/11/67	Bay City	Engineering Report	Approved
5/12/67	Tigard	Burlwood III Sewers	Prov. app.
5/17/67	Clatskanie	Fourth St. sewers	Prov. app.
5/17/67	Gresham	NE 17th St. Sewer	Prov. app.
5/17/67	Bend	N. Pilot Butte Add. sewers	Prov. app.
5/17/67	Milwaukie	Chlorination Facilities	Prov. app.
5/18/67	Jacksonville	Oregon St. Extension	Prov. app.
5/18/67	Coos Bay	Thompson Road Area san. sewers	Prov. app.
5/19/67	Albany	So. Residential san. sewers	Prov. app.
5/22/67	Ontario	Engineering Report	Approved
5/22/67	Bandon	Engineering Report	Approved
5/23/67	Hayden Island	Sewage treatment plant	Prov. app.
5/25/67	Sherwood	Orcutt Place sewers	Prov. app.
5/25/67	Oak Lodge S.D. II	El Centro Way sewer	Prov. app.
5/25/67	Tigard	Phil Lewis School sewer	Prov. app.
5/25/67	Multnomah Co.	AP Industrial Park sewer	Prov. app.
5/25/67	Multnomah County	Della Rose Subd. sewers	Prov. app.
5/26/67	Gladstone	Pump station	Approved
5/29/67	Oregon City	Netzel Acres LID 28	Prov. app.
5/29/67	Coos Bay	Thompson Road Pump Station	Prov. app.
5/29/67	Willamette Basin	Revetment and weed control	Approved
5/31/67	Sheridan	Waste treatment	Prov. app.
5/31/67	Lebanon	West Side Interceptor	Prov. app.
6/5/67	Multnomah County	Rev. AP Industrial Park	Prov. app.
6/8/67	Halfway	Sewerage system	Prov. app.
6/8/67	Raleighwood S.D.	Lars Bong Lateral	Prov. app.
6/9/67	Oaklodge S. D.	Lateral 2A-7-10	Prov. app.
6/9/67	Forest Grove	Oxford Court sewers	Prov. app.
6/9/67	Sunset Valley S. D.	NW 119th Avenue sewers	Prov. app.
6/9/67	Oregon City	LID-30	Prov. app.
6/12/67	Tillamook	Engineering Report - STP	Prov. app.
6/13/67	Oakridge	Engineering Report - sewerage	Prov. app.
6/16/67	Jackson County	Bel Air Subd. sewerage	Prov. app.
6/16/67	Gresham	Force main Mt. Hood College	Prov. app.
6/16/67	Coos and Curry Co.	BLM Weed control	Remarks
6/20/67	Green San. Dist.	Sunnyslope Subd. sewer	Prov. app.
6/20/67	Salem	Oakleaf Terrace and Southwood Park sewers	Prov. app.

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
6/21/67	Eugene	Sewers	Prov. app.
6/21/67	Lake Oswego	LID 105 Stone Acres #3	Prov. app.
6/21/67	La Grande	Industrial Site lift Station	Prov. app.
6/21/67	Aloha San. Dist.	Green Tree Acres sewers	Prov. app.
6/22/67	West Slope S.D.	Laterals BR-2, BR-2-1, B-9-5	Prov. app.
7/3/67	Benton County	Skyline West sewage lagoon	Prov. app.
7/5/67	Monmouth	Gentle's Fourth Addn. sewers	Prov. app.
7/6/67	Multnomah Co.	Sewers-Strathmore Assessment Dist.#1	Prov. app.
7/7/67	Gresham	Dela Cruz Subd. sewers	Prov. app.
7/7/67	Pendleton	Relocation of water and sewer lines	Prov. app.
7/11/67	Multnomah Co.	Bevest Industrial Park sewers	Prov. app.
7/11/67	Oak Lodge	Sewer ext. Y, Y-1, Y-2	Prov. app.
7/11/67	Portland	Phase I Tunnel Portals L-GL sewers	Prov. app.
7/12/67	Whitford-McKay	Rosegarden and Rambler Subd. sewers	Prov. app.
7/12/67	Gresham	Sundown, NE 190 & 191st Streets	Prov. app.
7/14/67	Medford	Montcrest Subd. sewers	Prov. app.
7/14/67	Jackson County	Bel Air Heights Subd. sewers	Prov. app.
7/18/67	Tigard	Pinebrook Interceptor	Prov. app.
7/17/67	Benton County	Skyline West sewers	Prov. app.
7/19/67	Oak Lodge #1	Lateral D-5-3 sewers	Prov. app.
7/19/67	Oak Lodge #2	Lateral C-10-5-5-C	Prov. app.
7/19/67	Oregon City	LID #31 sewers	Prov. app.
7/18/67	Union Creek Camp	Sewage treatment facilities	Prov. app.
7/19/67	Forest Grove	Cambridge Drive sewers	Prov. app.
7/19/67	Creswell	Mill St. & Art Lot Lane sewers	Prov. app.
7/19/67	Milwaukie	Natalie Addn. sewers Lateral B-2-4a	Prov. app.
7/20/67	Lebanon	Wynn ext. sewers	Prov. app.
7/20/67	St. Helens	Block 140 sewers	Prov. app.
7/20/67	Tillamook	Eastgate First Addition sewers	Prov. app.
7/20/67	Oak Hills	Ext. and pump station-O.H. #5	Prov. app.
7/25/67	Central Co. S.D.	Lancashire sewer district #2	Prov. app.
7/25/67	Multnomah Co.	Sewers-Tualatin Hts. Co. Serv. Dist.	Prov. app.
7/26/67	Hillsboro	Laterals-Baseline and Walnut St.	Prov. app.
7/26/67	Springfield	Mt. Vernon Elem. School sewers	Prov. app.
7/27/67	Somerset West	Parkview #2 sewers	Prov. app.
7/27/67	Canyonville	Airport Cafe Lateral sewer	Prov. app.
7/31/67	King City	Outfall line	Prov. app.
7/31/67	West Slope	East Beaverton Interceptor	Prov. app.
7/31/67	Port Orford	Sewers	Prov. app.
8/1/67	Brookings	Memory Lane pump sta. & interceptor	Prov. app.
8/1/67	Monroe	Sewerage system-	Prov. app.
8/7/67	McLaren School	Animal waste disposal	Prov. app.
8/8/67	Albany	S. Res. Ext. 16, Lat. A & B	Prov. app.
8/9/67	Goshen Elem. Sch.	Chlorination and effluent pump	Prov. app.
8/9/67	Sherwood	S.E. Highland Drive sewer	Prov. app.

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
8/10/67	Hillsboro	Rock Creek pump station	Prov. app.
8/10/67	S. Sub. San. Dist.	Ext. D-17-8 Climax St.	Prov. app.
8/10/67	Washington Co.	Union Oil Co. Sewer	Prov. app.
8/10/67	McMinnville	Divco-Wayne sewer	Prov. app.
8/10/67	Tektronix	Contact Chamber and dry beds	Prov. app.
8/14/67	Tolovana Park	Engineering Report	Approved
8/16/67	Mult. Co. Central	Sewage treatment plant	Prov. app.
8/16/67	Woodburn	Nazarene Dist. Center	Prov. app.
8/17/67	Salem	S. Salem relief sewer	Prov. app.
8/25/67	Beaverton	Westbrook sewers	Prov. app.
8/30/67	Klamath Falls	Unit 42 Eldorado	Prov. app.
8/30/67	Aloha San. Dist.	Southview Sewers	Prov. app.
8/30/67	Washington Co.	Rock Creek Subd. sewers	Prov. app.
8/31/67	Beaverton	S. E. Allen Ave. sewer district	Prov. app.
8/31/67	Springfield	Mains - sewer	Prov. app.
8/31/67	West Slope	Lateral L-5-1-1	Prov. app.
8/31/67	Beaverton	Murmuring Pines #2, Wilson Park #7	Prov. app.
8/31/67	Gresham	S. E. Metzger St. sewer	Prov. app.
8/31/67	Oak Lodge #1	Miniview Court-Greenvew Estates	Prov. app.
<u>Air Quality Control</u>			
5/2/67	Eugene	Fox Hollow Elem. Sch. incinerator	Additional Info. Requested
5/2/67	Salem	Mid-Willamette Valley APA Clean Air Act Project Grant Application #421	Approved
5/11/67	Sherwood	Frontier Leather Co. special waste incineration	Add. Info. requested
5/11/67	Sheridan	Wigwam waste burner installation	Cond. app.
5/17/67	Mt. Angel	Elementary School incinerator	Add. Info. requested
5/17/67	Ontario	Ontario Rendering Co. control of non-condensable from cooker	Cond. app.
5/17/67	Clackamas Co.	Clackamas Middle Sch. incinerator	Add. Info. requested
5/17/67	Gresham	Union High Sch. incinerator	Change rec.
5/22/67	Corvallis	Forest Products Lab. Application for Solid Waste Grant for Timber Industries	Comments submitted

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
5/25/67	Central Point	Jr. High Sch. CR-200 incinerator	Cond. app.
5/31/67	Oregon City	Publishers' Paper Co. incinerator	Cond. app.
5/31/67	Ontario	Rendering Company resubmission	Cond. app.
6/8/67	Lane Co.	Cone Lumber Co. incinerator	Add. Info. requested
6/22/67	Halsey	American Can Co. prel. proposal	Under consid- eration
6/23/67	Hillsboro	Smith's Market incinerator	Cond. app.
6/23/67	Ashland	Walker Elem. Sch. incinerator	Cond. app.
6/26/67	Knappa	Hilda Lahti Elem. Sch. incinerator	Not app.
6/28/67	Warrenton	Northwest Aluminum Co. prel. proposal	Add. info. requested
7/6/67	Astoria	Jr. High Sch. incinerator	Add. info. requested
7/6/67	Corvallis	Forest Research Laboratory federal grant application	Comments submitted
7/19/67	Sherwood	Frontier Leather Pathological Incin.	Approved
7/21/67	Albany	Wah Chang Corporation	Cond. app.
7/31/67	Bend	Central Oregon College incinerator	Add. info. requested
8/14/67	Albany	Wah Chang Corporation scrubber	Under consid- eration
8/21/67	Halsey	American Can Co. proposal on Kraft pulp mill	Recommendations made
8/23/67	Wauna	Crown Zellerbach Oxidation and non-condensable systems	Cond. app.
8/31/67	Rockwood	Rockwood Alder School incinerator	Add. info. requested

LOWER WILLAMETTE

Mr. Mosser then stated he would like to take up the situation in the lower Portland Harbor although it was not on the agenda. He asked the secretary if he had a report on the present status of the fish run, the oxygen in the harbor and the steps that are being taken or should be taken in that respect.

The secretary explained that the hot weather that we have been experiencing here in the state of Oregon this summer has had some very serious effects upon water quality. As a result of the warm weather the temperature of the rivers and streams has been considerably higher than normal and because of this higher water temperature it has not been possible to improve materially the oxygen content. The DO for most of the summer in the Willamette River has been about the same as it was last year and occasionally it has been slightly lower in spite of the fact that the flow in the river has been slightly greater than it was a year ago and the pollution loads from the upstream cities and industries have been lower than last year. For example, during the second week in August reports indicated that the oxygen demand of the loads of the 7 pulp mills in the Willamette Basin was some 20,000 lbs less than for the corresponding week last year. Because of the combination of circumstances, the DO in the lower Portland Harbor has been running about 3 ppm whereas the standards that were adopted on July 1 of this year specify a minimum of 5 ppm. A communication from the Fish and Game Commissions last week requested that the Authority try to improve this situation due to the fact that it is the time of the year when the fall run of Chinook salmon should be migrating upstream.

Although the run is taking place in the main Columbia as has been proven by daily fish counts made at Bonneville Dam, so far no fish have been observed at the Willamette Falls in the Willamette River.

Mr. Carter then passed out to the members a summary of fish run data while the secretary added that in response to the communication from the Fish and Game Commissions he directed a letter to the Federal Water Pollution Control Administration asking them to support the Sanitary Authority in a request to the Corps of Engineers for an increase in the release of stored waters. As a result, the Army Engineers on September 5 agreed to release stored waters sufficient to maintain a low flow of 7500 cu.ft. per second at Salem. He said this would be an increase of more than 1500 cfs. He also pointed out that about 60% of the flow as measured at Salem has actually come from storage in the reservoirs.

Mr. Carter then explained that the main run of fish in the Columbia River the last of August and first week of September was Chinook Salmon. On September 4 and 5 more than 4,000 per day were counted at Bonneville. Since 1938 the run has peaked on an average about the 7th of September. He emphasized the point that high water quality must be maintained during the September period if we are to attract these fish. He said these fish will be peaking fast and if we are to get any of them started up the Willamette, we must improve the water quality immediately in order to attract them.

It was explained that it would take 7-8 days before the increased flow would get from the reservoirs down to the harbor although apparently there had been some additional releases for power generation over the week end as there already was an increased flow at Salem.

Mr. Kelly Conover of the Fish Commission then stated that from surveys made last year from the Molalla River to the Santiam it appears that the spawning occurred the first week in October and that since it is already the month of September he thought there could be no delay in getting the fish to their spawning grounds.

The secretary stated that as a result of the shutdown of the pulp mills over the Labor Day week end the DO at the first station below the falls had increased to over 8 ppm whereas previously it had been about 6 ppm. This increase was believed due to aeration of the water cascading over the falls.

Mr. Mosser then stated that in the river we have situations comparable to those in the forest and that there are times when we have to shut operations down in order to preserve our resources. He said he was not willing to cut off a lot of jobs and shut off production unless the people who are responsible for the affected resource are willing to take the positions that are necessary.

Mr. Conover then said it was the duty of the Fish Commission to see that these fish are taken care of adequately and therefore the Fish Commission would have to take the position of requesting a shutdown of the mills sufficient to improve water quality.

Mr. Harms stated that he thought perhaps 10 days would be a time to consider as that could include two week ends.

After further discussion it was MOVED by Mr. McPhillips, seconded by Mr. Meierjurgan and carried that based on present conditions the pulp mills at Oregon City and West Linn be requested to shut down immediately for 10 days with the provision that should in this 10-day period a sudden change in the weather or other factors result in improvement in the stream conditions the mills could be permitted to resume operations.

Mr. Mosser asked the secretary to notify the mills of this action and to keep the companies advised of the conditions of the river and the members informed.

AMERICAN CAN CO.

Mr. Mosser said that there had been numerous requests to postpone a decision on the proposal of the American Can Company to build a pulp mill at Halsey. If it would be of any purpose to delay he would be happy to do so but he didn't feel that the Authority would have any more information in a month or three months than it has today. He stated he had spent the entire time since the hearings going through all the exhibits, the many communications that had been given to him and discussing the matter with the staff. He then read a prepared statement which is attached to and made a part of these minutes.

The Chairman then called on Mr. Harms who said that he agreed with much of what Mr. Mosser had said. He then read his prepared statement and as a final comment said that he was going to vote "No" on the American Can Company proposal. His statement likewise is attached to and made a part of these minutes.

Mr. McPhillips said that he did not have a prepared statement but had listened with great interest to the Chairman's and Mr. Harms' statements. He said he also had studied all of the testimony that was presented in written form and listened to the many witnesses who took the time to come and appear before the Authority at the Eugene and Corvallis hearings. He reviewed briefly the situation as he had seen it for the more than 23 years that he has served on the Sanitary Authority. He said he felt a good deal

like Mr. Harms that we have almost reached the point of no return, giving full regard to the integrity of the American Can Company, the fact that we would have a new industry if a permit is granted which will boost our economy and will utilize our raw products but we must also think of the people who live here. He said he has spent his life in this valley and has seen the quality of the air and water depreciate year by year. He said because of the objectionable pollution caused by industry he was going to vote "No" on the proposal.

Mr. Meierjurgan said that he had no prepared statement either but that he spent a restless weekend studying the many pages of material and testimony that had been presented at the Eugene and Corvallis hearings. He said that he had given particularly close attention to the joint statement presented by the Fish and Game Commissions and that if he felt the proposed mill would in any way affect detrimentally the fishery resources of the Willamette he would be opposed to its construction. He said he was convinced that adequate controls could and would be provided to protect the water quality in the Willamette River. He expressed concern however about possible increases in nutrients. He also indicated that in his opinion industry should undertake aquatic research and that existing industry should clean up its pollution. After considering all of the letters and material presented he said that he was going to vote "For" the mill.

Mr. Waterman said he too had thoroughly examined and studied the staff report, the proposal of the American Can Company and all of the testimony that had been supplied by the people in the area involved. He stated

that he had the utmost confidence in the State Sanitary Authority staff and he thought that they had done a fine job in putting together their report and that he concurred with their recommendations. He said he readily understood the problems involved with controlling air pollution as opposed to the problems of controlling water pollution, and that air pollution was much more difficult. He felt that American Can Company is a responsible organization and will be a good industrial neighbor in the community. He stated that he had an obligation to take a very personal interest in the installation and operation and the results of the control equipment. He said that he was "For" the approval of the plans.

The Chairman then stated the consensus seems to be 3 to 2 in favor of the installation. In deference to the members who stated they were opposed he asked if they had any suggestions for additional controls or steps to be taken other than those outlined in his remarks.

Mr. Harms said the difficulty in this position is that there are no additional controls beyond those that the chairman had suggested, and that is one of the reasons why he had reached his conclusion.

Mr. McPhillips said he felt the same way as Mr. Harms. He pointed out that the controls we have thus far have not been effective. He said he hoped for the good of the country that more adequate controls are developed.

The Chairman said he felt very strongly that we should get on with the business of the establishment of air quality standards and not wait till the Federal Government tells us we have to do it. He pointed out it is a more difficult job than water quality standards because of the variety of emissions, the lack of information as to what goes into the air, how it mixes, etc.

It was MOVED by Mr. Mosser, seconded by Mr. Waterman and carried that the staff be instructed to start what undoubtedly would be a long and difficult task of developing air quality standards with perhaps priority given to problems of the kraft mills and considering the problems of the metal industries and all other sources of pollution.

In addition it was MOVED by Mr. Mosser, seconded by Mr. Waterman and carried that the staff be instructed to change its attitude to not concern itself with economic feasibility but instead to confine its study to technological feasibility, to bring to the Authority members the maximum recommendations, to let industry bring to the Authority members its problems and to let the members be the judge of where the balance lies.

It was MOVED by Mr. Mosser, seconded by Mr. Waterman and carried that as indicated in the staff report and with the qualifications in Mr. Mosser's statement and the research remarks of Mr. Meierjurgan, the Authority approve the preliminary water quality control plans and the proposed provisions of the water quality permit as outlined in the staff report for the American Can Company. Mr. Harms and Mr. McPhillips voted "No". Mr. Harms stated that he wanted to make clear as he has stated before that he had no objection to the company's water quality control plans and that he thinks they are excellent.

It was MOVED by Mr. Mosser, seconded by Mr. Waterman and carried that the company's proposal for air quality control be accepted with the understanding that the standards we propose to adopt will require all possible controls on the sulfide and mercaptan emissions and will involve the points raised in the staff report and in the Chairman's statement. Mr. Harms and Mr. McPhillips voted "No". Meeting adjourned at 11:50 a.m.

Respectfully submitted,

Kenneth H. Spies

STATEMENT BY JOHN D. MOSSER
Chairman, Oregon State Sanitary Authority
September 6, 1967

A chairman may sit back and wait for others to make motions and then vote only in the event it is necessary to break a tie. There may be times when I shall exercise those options; but this is not one.

As a new member of the Authority acting on a major application under revised laws not yet generally understood, it seems appropriate that I should give a full expression of my views. Although speaking with so little experience will undoubtedly expose my ignorance, it has seemed to me that this statement would better serve the public who will be regulated or affected by this and future decisions, the staff working for the Authority, and the Governor who appointed me, than a simple "yes" or "no" or even silence in these circumstances.

Before discussing the water and air quality details of the proposal, I would like to interject a comment on our procedure in this case.

THE HEARINGS

The Authority felt this proposal of sufficient importance to warrant advance publicity of it and the staff analysis of it as well as the holding of hearings to secure public comment, although the law apparently requires none of these procedures in advance of action.

The great interest in the hearings is most encouraging, for public support is essential if we are to control and reduce pollution.

Even more important was the quality of much of the testimony. I would particularly commend the Citizens for a Clean Environment, whose analysis of the proposal is thorough, professional and constructive. They reinforce

my already stated belief that by utilizing informed and willing volunteers we may greatly expand the progress that has been possible with the efforts of only a small full-time staff.

We shall continue to try to provide a maximum of public information and to work cooperatively with all who are willing to devote time and talent to the goal of clean air and water. Hopefully, better planning in the future will eliminate the inconvenience suffered by many members of the public who had to stand for hours through the hearings in Eugene. I apologize to them for those conditions.

WATER POLLUTION CONTROL

The water pollution laws of Oregon were greatly strengthened by the last Legislature. Significant discharge of wastes into any state waters without a permit or in violation of its conditions is prohibited after January 1, 1968. Any pollution harmful to beneficial uses is prohibited.

Not only are the requirements stringent but enforcement means are expanded. Plans for construction of pollution treatment facilities must be approved. Conditions may be attached to the required waste discharge permits. Injunction or abatement suits brought by the Authority are to receive priority in the courts. The State may sue for damage to fish and wildlife and their habitat as well as seeking criminal penalties.

The law does not require, however, that there be no waste discharges or that water taken from a river be returned unchanged. The Willamette Greenway Association and several individuals testified or wrote that such standards should be adopted by the Sanitary Authority. I do not believe

the law authorizes us to do so. And if we could, the only means I would know for enforcing them would be to require the people of Oregon to leave the State.

The Sanitary Authority has adopted general water quality standards for all of the waters of the State including the Willamette River. These have won praise from Federal authorities as among the best in the nation. They require that this portion of the river be kept pure enough not only for passage but also spawning and rearing of salmon, for swimming and all forms of aquatic recreation, for irrigation and other agricultural use, and, with minimal treatment, for domestic water supply and industrial uses requiring maximum purity.

The pollution limitations designed to preserve these high standards are based on extensive knowledge of river flows, water characteristics, and fish and plant life in the river. In addition, existing sources of waste discharge are known, so that total cumulative effects can be judged. While we have more to learn, we know enough to impose and enforce standards with expectation of success in the high goals we have set.

It is the conclusion of the Sanitary Authority staff that the treatment system proposed for this plant will preserve those high standards of quality.

There was no testimony to the contrary. Nevertheless, several areas of concern and suggestions for safeguards were expressed and deserve comment.

A joint statement by the Fish and Game Commissions, while not enthusiastic about any additional waste discharge in the river, found the treatment system adequate and the plant unobjectionable from a water quality standpoint

provided the Authority pursues the clean-up of other more serious sources of pollution so that a net downstream reduction in total pollution of the river occurs. The Authority has already adopted an enforcement plan which will achieve this. I intend to see that it is vigorously pursued, even to the extent of closing some existing industry during extended low flow periods if that proves necessary. I should make clear my firm belief that it would be folly for Oregon to deny expanding or new, relatively clean, industries for the sake of preserving existing dirty ones. We cannot afford vested interest in pollution.

The Fish and Game Commissions also requested screening of the plant water intake. This is a standard requirement on all intakes and will apply at this plant. They further expressed the desire for continuation of research programs instituted by American Can Company to monitor effects of the plant on fish life and habitat. I believe this should be a condition of the waste discharge permit.

The Upper Willamette Valley Anti-Pollution League expressed concern for insect life. Prior to installation of secondary treatment at the Springfield mill, the effluent was damaging to both insect and other aquatic life. Recent inspections show abundant insect life as well as return of bottom snails and fish. Secondary treatment proposed by American Can is even more extensive than that proved successful at Springfield.

The Citizens for Clean Environment group made a number of suggestions. Several of these, although not covered by the original proposal of American Can Company, had been incorporated in the final proposal. Thus, emergency storage to contain and treat all accidental spills has been provided and the entire secondary treatment basin has been divided into two parallel

chambers either of which could operate independently in the event it became necessary to shut down one. With the division of the secondary treatment lagoon additional aerator capacity was also proposed. Secondary settling facilities, although only suggested by this group for future consideration, have been provided. The division of the lagoon also results in manifolding of the inlet piping to come up under two of the initial aerators, one in each lagoon. Doubling of this to provide manifold inlets to each lagoon chamber would more than meet the C₂E suggestion. I believe we should require it.

The recommendation for test wells to monitor ground water quality in the vicinity of the lagoon is also entirely reasonable and should be required.

The suggestion of future utilization of treated effluent for irrigation should be investigated. However, preliminary investigation indicates that the soil in the immediate area of the proposed mill is impervious clay not suitable for irrigation. Possible reduction of river flow and increased temperature of irrigation returns to the river must also be considered and may be adverse to extensive diversion to irrigation here. Summer discharge through gravel bars also deserves experiment.

Only two of the group's water quality recommendations appear unreasonable and in fact not supported by their own task force findings. Thus, the task force gave general praise and approval to the method of water treatment. This is based upon natural processes and the effect of sunlight, oxygen, plant and animal action in reducing the organic matter in the settling basin. It works best at high temperature and sunshine when the demand for high treatment is also greatest because of low river

flows. In the opinion of the Sanitary Authority staff a requirement as suggested by the C2E Board of Directors of 95% efficiency in this process is simply not attainable on a continuous basis even under favorable conditions and certainly not on a year-round basis. The staff proposed requirement of minimum 90% efficiency during low flow periods and maximum efficiency at all times seems to be entirely proper and adequate. To reach a 95% treatment efficiency an entirely different process of treatment would have to be devised.

There similarly seems to be no justification in the background material for the suggestion of continuous biological assay of the lagoon effluent. Periodic sampling and tests, together with selective research projects as proposed by the Fish and Game Commissions, should be adequate.

One woman testified that this portion of the river was sometimes closed to swimming and that no further pollution should be allowed while that condition existed. To the extent that the area has been closed to swimming it was because until this year Eugene and Corvallis did not provide secondary treatment of their municipal sewage, the Albany plant has been badly overloaded and Monroe has been dumping raw sewage into the river. Happily, these conditions have already been largely cured with the new Corvallis and Eugene plants. Construction has been authorized and will soon be completed at Monroe and Albany. The proposed mill discharges will not contain the bacteria that has led to recreational closures.

In summary, the water pollution control facilities proposed by American Can Company seem not merely adequate but outstandingly good to me.

There is only one further qualification I would add to those in the staff recommendations and the comments I have already made. What is

outstandingly good today may become inadequate in the future under increased pressures from growing use. I would limit the waste discharge permit at the indicated levels to five years, which in my opinion is the maximum period which we should allow in any permit at this time.

AIR POLLUTION CONTROL

The picture is far different when we turn from water to air. The laws, our standards, knowledge on which to base additional standards and available technology of control all leave something to be desired.

The Authority has established standards only for smoke emission, particulate fallout and suspension and lime dust. These do not reach the most objectionable feature of kraft pulp mills -- the sulphide gas emissions-- at all.

The Upper Willamette Valley Anti-Pollution League urges that we should not approve this plant until we have standards for control of hydrogen sulphide, mercaptan and other emissions. Its spokesmen further contend that before we set such standards we must carefully gather evidence on each of the fourteen points mentioned in ORS 449.785(1).

Thus, they emphasize the inadequacy of the meteorological data available. Again, they point out that there has been no continuous monitoring of kraft recovery furnace stack emissions to furnish reliable data on the exact problem to be dealt with. Further, they note the lack of detailed economic studies of the probable effect of the proposed project.

With all of their observations on our lack of desirable data, I concur.

Weather data is largely confined to a few major population centers. Although the number of stations and breadth of data collected has increased in the past two years it offers no precise formula for predicting the exact

impact of this mill on even the large communities, much less the smaller ones that are equally deserving of consideration.

Since, as this summer amply demonstrates, weather is notoriously variable it may take years to accumulate data enough to develop the sophisticated formulas that would represent the precise predictions this group claims we must make.

There is no continuous monitoring of stack emissions simply because there is no equipment capable of doing it. Efforts to develop it are being carried out. Some experimental success has been had at the Crown Zellerbach Mill in Camas, but only under the expert personal control of its developers. The time when it can be installed in all mills may not be far off, but it is not here.

Most of the economic testimony was exceedingly superficial. The plant will add to the tax rolls. Obviously, however, it and its employees will also require services that cost tax dollars. It will affect other property values, both up and down. It will provide jobs, but may also eliminate some. The Sanitary Authority has neither a staff economist nor money to hire a consultant to furnish any refined weighing of these pluses and minuses.

All this does not mean that we know nothing or that we cannot act. At least I hope not or the result would be quite the opposite of that contended by the Eugene group.

The reason is quite simple. The air pollution statute is relatively weak. No permit is required to emit wastes into the air as it is to discharge them into the water. Several major sources of pollution are entirely exempt from regulation, a fact which must be considered in regulating others. The

Authority can require plans for "any air cleaning device" to be submitted to it, but no approval is required. No special enforcement procedures or priority in the courts is given us.

Under the statute, the Eugene group is putting the cart before the horse. We must adopt standards, not before we can approve, but before we can set the stage for any effective control.

I do not read the statutes to require that we await the ultimate in information. ORS 449.765 expressly states that "The program for control of air pollution . . . shall be undertaken in a progressive manner."

Let us look at the fundamentals of information we have rather than the mass of detail we lack:

1. The people of Oregon and the nation want and use ever increasing quantities of paper.
2. The kraft process produces the strongest paper. Because of chemical recovery it produces it more economically and with less total pollution than other chemical processes.
3. The forest products industry is economically dependent on maximum utilization of wood. The sale of chips and sawdust is the margin of profit in many wood processing plants.
4. Forests are Oregon's chief raw material. The recent Water Quality Control and Management Study of the Willamette River Basin by the federal government forecasts expansion of the pulp and paper industry in the whole Willamette basin and particularly the middle and upper basins, each of which is expected to nearly double in available raw material before 2010.

5. There is no available technology to completely eliminate kraft mill air pollution. It is possible, as the new mill at Wauna demonstrates, to do a substantially better job of reducing this pollution than has been done in the older plants now in the Willamette Valley.
6. The air pollution these mills cause is of two types:
 - a) Particulates (largely water) which affect visibility.
 - b) Sulphide gases, which stink.
7. The Willamette air shed presents both geographical and frequent temperature inversion barriers to pollutant dispersal that render any increase in air pollution in it a cause for concern.

These to me are the basic facts. Reasonable men may draw different conclusions from them; and in fact the members of this Authority do. My conclusions are these:

First, that the development of an integrated forest products industry with maximum utilization of this resource is too important to Oregon to adopt any blanket prohibition against expansion of the pulp industry in the Willamette Valley. If the people of Oregon wish to rule out this basic industry, it should be done by the Legislature or a state zoning authority under directive from the elected representatives of the people. Significantly, no county or city has to my knowledge exercised existing zoning power in such fashion.

Second, if we are not to rule them out, we must control kraft mills better. I think our basic policy should be that sulphide and mercaptan odors are so objectionable that both new and old mills be required to install every technologically feasible control as rapidly as possible after

it becomes available. I would instruct our staff to cease thinking about costs and recommend to us every control they think feasible. Let the industry worry about proving to us that it is not economically feasible. In view of the Legislature's new policy of underwriting a substantial portion of such costs with tax credits, that burden of proof will be difficult to meet.

Third, we should instruct our staff to proceed at once with the studies necessary to establish ambient air standards limiting the concentrations of kraft odors in any location. I would hope that that standard can be held to threshold, or lowest detectable, levels. It is not enough to control each individual source if an undue concentration of sources reduces the best of controls to high pollution. This is one way to encourage the industry to initiate new technology, since without progress expansion at any site will be limited. It also will provide the foundation for control in the event of unusual weather or equipment function problems.

To the American Can Company, I would say everything in your record and your dealings with the Authority indicates you are an outstanding industrial citizen. If you can live with these proposals, I say welcome to you and this facility, though the welcome will always have reservations to Oregonians until we jointly eliminate this odor problem. Specifically the above proposals, in addition to the requirements suggested by the staff would mean:

1. Control of the oxidation tower by any feasible means.
2. Increase in precipitator efficiency from 99% to 99.5% unless you can persuade us it is not economically feasible.

3. Continuous monitoring of oxygen and combustion in the recovery furnace to prevent overloading.
4. Installation of further continuous monitoring devices and additional controls as fast as technology permits.

To the people and the Legislature, I would add that we may not always be fortunate enough to be dealing with a company as responsible as this. In this application review we have depended on its stated willingness to design not only for present limited air quality standards but also others likely to be adopted. Clarification of the air pollution laws, provision for air waste discharge permits and stronger enforcement procedures will be needed to control air pollution just as much as water pollution.

STATEMENT BY EDWARD C. HARMS, JR.
Member, Oregon State Sanitary Authority

In arriving at my conclusion as to how I should cast my vote on the issue of approval of plans submitted by American Can Company for a proposed Kraft pulp mill in the Halsey area, I have carefully examined all evidence available to us, including thoughtful consideration of almost thirteen hours of statements by the public, as I am sure other members of this Authority have also done.

The issue requires a balancing, a delicate balancing, of what each of us perceives to be the public interest.

ORS 449.765 provides: (Re: Air Pollution)

"In the interest of the public health and welfare of the people, it is declared to be the public policy of the State of Oregon to maintain such a reasonable degree of purity of the air resources of the State to the end that the least possible injury should be done to human, plant or animal life or to property and to maintain public enjoyment of the State's natural resources and consistent with the economic and industrial well being of the State..."
(underlines mine)

I have attempted to make a judgment consistent with that declared public policy.

I am not swayed by obtuse legal arguments which relate to the establishment of standards as contained in ORS 449.785 which we heard at such great length in Eugene. We are not concerned with the establishment of standards but rather with approval or disapproval of plans which may or may not comply with air purity

standards which may in the future be adopted for this area. Nonetheless, I am convinced that the Sanitary Authority has given consideration to and taken into account the available facts concerning all of those items listed in that statute relating to standards in considering the matter now before it.

Certainly it is not required that the Staff make formal findings and report on those matters apparent to all those who have eyes to see.

For example, it does not require an economist to determine that a new manufacturing industry employing 450 persons and requiring a capital investment of \$40 million is of some economic benefit to the area and the State.

I would like to compliment the people of the area on their interest in this matter of great public concern, as evidenced by the attendance at the Eugene and Corvallis public hearings. Obviously a great deal of thoughtful consideration had been given to many of the presentations made to us and I think particular recognition should be made to the Citizens for Clean Environment group in Corvallis for the comprehensive study which they have made of the problem. Since all pollution is in one way or another caused by people, it is only by such public interest that our problems in the area of water and air pollution may be solved in the future.

I must, however, also comment that I noted at the hearing what I felt was a distressing tendency on the part of many of our citizens to attribute to all those of differing view, ig-

norance or bad faith, or both; an assumption that no one was interested in the public good except themselves and those agreeing with them without reservation; and implying that the applicant and the Sanitary Authority Staff were guilty of incompetence at the least.

I reject all such implications and assumptions categorically, and my own opinion shortly to be expressed is not to be construed as even the slightest agreement with such non-thinking.

I believe that the American Can Company's plans for both air and water pollution control are the best, or very nearly so, that can be devised within the practical and economic limits of present technology.

I am satisfied with their plans for water pollution control and would vote for approval if that was all that was involved. I believe the staff report is complete and contains all information necessary to reaching a decision. My own conclusion is based upon it, not upon a rejection of it.

The Staff points out, in the field of air pollution, numerous difficulties, as for example on page 10:

"Odorous gases will still escape. Kraft type odors will be detected adjacent to and at varying distances from the plant under varying meteorological conditions..."

The Staff further states on page 11:

"The effects of such phenomena^{as} combining, oxidation, absorption, wash-out, topographic channeling or synergistic effects which might effect the concentration of materials once emitted to the atmosphere are not possible to predict."

On page 14 we read that "visible emissions will be present and these emissions can be expected to combine with the presently existing sources and somewhat reduce visibility in the valley."

In reference to odors, the Staff stated that "the perimeters and distance that odors will be perceived and their frequency will depend upon wind direction and other meteorological factors and can only be estimated." It is important to emphasize that the Staff did not necessarily recommend approval of American Can Company's plans. The Staff merely recited facts and stated if the plans are approved, certain conditions should be imposed. These facts are known to us:

(1) From observation on Tuesday, August 29, it is apparent that a considerable air pollution problem already exists in the valley, particularly in the summer months.

(2) If this plant is allowed, there will be odor of varying intensity and distances from the plant. (The extent of both the intensity and distances may be debated--the important fact is that it will exist.)

(3) Visibility will be reduced even further in the valley.

Further, we have the unknown factor as to what the effect may be when the known additional pollutants from this plant, however minimal, are combined with existing air pollution sources.

Certainly, it is reasonable to expect that the condition and quality of air in the upper valley will further deteriorate.

Considering these matters, I cannot in good conscience, as a resident of the area, beneficiary of its advantages, and sufferer of its disadvantages vote to approve another significant air pollution source in this area.

The fact is that we cannot keep adding more wastes into the air in an already pollution saturated air-shed, highly prone to

inversion conditions. My witness is the past summer in particular and the noticeable progressive deterioration of air quality in the past several years, especially the last two or three.

It is said that "Man lives in delicate equilibrium with the biosphere on the precious earth-crust, using and re-using the waters, drawing breath from the shallow sea of air. While these can cleanse themselves, they can only do so to a finite point. That point is being reached and passed in many places in the United States." (A Strategy for a Liveable Environment, A Report to the Secretary of Health, Education and Welfare by the Task Force on Environmental Health and Related Problems, June, 1967). I believe that we have reached that point and are on the brink of passing it in our Willamette Valley.

We have not reached that point where the air is actually dangerous to health; however, we are treading on the thin edge, in my opinion. An individually acceptable amount of water pollution, added to a tolerable amount of air pollution, added to a bearable amount of noise and congestion can produce a totally unacceptable health environment. Health experts have repeatedly pointed out that grave, delayed physical manifestations can result from repeated exposure to concentrations of environmental pollutants so small that they do not make one ill enough to send him to the doctor. Knowing that we already face grave problems, I am unwilling to take that risk in the Willamette Valley until some of the existing pollution is eliminated or until technology advances to reduce the risk of Kraft pulp mills as a pollution source.

Economics deter us from eliminating many existing sources,

industrial and private, and it would not make sense to me to shut down existing industries to make way for new ones or to find that we might have to shut them all down because we have placed that final disastrous overload on our natural environment. It is better to face the issue now to prevent the condition from becoming worse.

I recognize, as stated at the outset, that the matter requires a delicate balancing of the public interests, of economic advancement versus our greatest and most essential natural resource, the very air we breathe. Reasonable men may differ as to the conclusion. For myself, I must decide in favor of attempting to preserve what is left of our environment in a safe, if not pure, (for that is long gone) condition. If, in the next few years, technology advances to where the air pollution can be further reduced from Kraft mills, then this technology should be applied to existing mills and required of them by this Authority, or, when field burning can economically be eliminated without undue hardship on agriculture; or, if new developments allow reductions by auto and other private sources, then and only then should new pulp mills be allowed in the valley. I think under present conditions we cannot impose this additional burden on the atmosphere, and on the people and industries presently dependent upon it.

This does not mean no new industry for the valley, so far as I am concerned. It does mean that I do not believe that the air in the valley can take this industry at this time.

I am therefore compelled to vote in opposition to approval of the proposed plans.

OREGON STATE SANITARY AUTHORITY

Staff Report
on American Can Co. proposal
for Air and Water Quality Control at proposed Kraft Mill
near Halsey, Oregon

August 21, 1967

INTRODUCTION

The American Can Company has submitted a proposal to the Oregon State Sanitary Authority for controlling the liquid and gaseous emissions from a proposed 300 tons per day bleached Kraft (sulfate process) pulp and paper mill which the company is seeking to build on a 1500 acre site located approximately two miles due west of the community of Halsey, Oregon.

The proposal was first submitted to the Sanitary Authority technical staff on June 22, 1967, and adjustments and clarification of details of the proposal have continued thereafter.

Primarily because it produces a stronger, more versatile pulp at lower cost, the kraft pulping process as proposed by the American Can Co. has become the dominant process nationwide for production of pulp and paper. In 1920 the total production of pulp in the United States was approximately 3.8 million tons annually of which approximately 4.5% was produced utilizing the kraft process. By 1966, nationwide production of paper pulp had risen to more than 35 million tons annually of which approximately 63% was produced by the kraft process.

Growth of the kraft process in Oregon has been similar to that experienced nationwide. In 1939, pulp production capacity in Oregon was approximately 575 tons per day of which 20% (120 T/D) was by the kraft process.

By 1966, pulp production in Oregon had risen to more than 4400 tons per day of which 78% (3400 T/D) was produced by the kraft process.

Kraft mills operating in Oregon at the present time include the following:

Boise Cascade Co. Mill at St. Helens - -	450 T/Day
currently expanding to - -	730 T/Day
Georgia Pacific Corporation, Toledo - -	830 T/Day
Western Kraft Corp., Albany - -	520 T/Day
Weyerhaeuser Paper Co., Springfield - -	1050 T/Day
International Paper Co., Gardiner - -	460 T/Day
Crown Zellerbach Corp., Wauna - - under initial operations	
that will soon reach a capacity of	750 T/Day

The production advantages of the kraft or sulfate pulping process are accompanied by a greatly reduced stream pollution potential over the sulfite process where chemical recovery of pulping chemicals is not practiced. The kraft process, however, does emit reduced sulfur compounds into the atmosphere which produce, even at extremely low concentrations, odors which are very unpleasant to most people. The odorous emissions can be minimized, however, by proper design, sizing and operation of production and control facilities. Discharges can be maintained well below levels considered to have any deleterious physiological effects on human, animal or plant life; however, technology to completely solve the odor problem is not presently known.

EVALUATION OF WATER QUALITY CONTROL FACILITIES

The American Can Company proposes to install essentially the same type of liquid waste control and treatment system that has proven successful at the Weyerhaeuser mill at Springfield, Oregon.

The principal features of the proposed system consist of the following:

1. Provisions to intercept and hold for later return to process, any slugs of strong wastes that may result from spills and equipment malfunctions.
2. Primary settling of the entire waste flow of 18 MGD, except for the 2 MGD first stage bleach wash water which experience has shown to be essentially free of settleable solids.
3. Secondary or biological treatment of all process wastes in a two-cell aerated stabilization basin which would be sized for a treatment period of 8 to 12 days at a flow rate of 18 MGD.
4. Final settling of all process waste waters, after biological treatment, to remove essentially all settleable solids.
5. Secondary biological treatment plus disinfection with chlorine of the sanitary sewage in a separate treatment facility.
6. Discharge of the treated effluents through a diffuser to the Willamette River.

It is the opinion of the staff that the preliminary proposal of the American Can Company contains all of the basic elements of a satisfactory treatment system based upon presently known treatment technology for Kraft mill wastes.

4.

The proposed system should be capable of producing overall BOD reductions of 85 to 90%, with effluent characteristics within the limits stated in the American Can Company proposal, namely:

BOD	10-20 ppm
pH	6.5 to 8.5
Color	approximately 1500 units
Turbidity	35 to 75 JTU

The Willamette River in the area of the proposed mill is generally shallow and quite swift running with relatively few pool-like zones. The water is normally clear in appearance and aesthetically appealing. Excellent fish populations abound in the area and surveys indicate that it is an important and highly productive rearing ground for juvenile chinook salmon. The Oregon Fish and Game Commissions consider this reach of the river as prime potential spawning areas for fall chinook salmon. The city of Corvallis water intake is located approximately 12 miles downstream. It is therefore particularly important that this section of the river be kept as clean and free from pollution as possible.

The proposed rate of effluent discharge of 18 MGD and an assumed minimum river flow of 4000 cfs appear reasonable. These conditions would provide a minimum dilution factor or ratio of river flow to waste discharge of approximately 140 to 1 and would result in calculated changes in the river as follows:

- An increase in BOD of 0.07 to 0.14 ppm
- No change in pH
- An increase in color of approximately 11 units
- An increase in turbidity of approximately $\frac{1}{2}$ unit.

The BOD is actually exerted over a period of several days and maximum depletion of dissolved oxygen that would occur in the river as a result of a 2500 #/day BOD discharge at the Halsey site was calculated to be 0.02 ppm which is well below the limits of detectability in the river.

Before the first paper machine could be placed in operation, estimated to be around December, 1968, reductions will be made in BOD discharges to the Willamette River at the Evans Products Corporation mill in Corvallis and the Crown Zellerbach pulp mill in Lebanon amounting to some 25,000 pounds per day. Further substantial BOD reductions entering the Willamette River system, for an overall total of almost 70,000 pounds per day, will be made prior to the projected startup of the proposed pulp mill, in July 1969.

Studies of the Weyerhaeuser waste control system at Springfield indicate that the proposed waste discharges would not produce a significant or measurable increase in the temperature of the river.

Experience and laboratory tests indicate also that the waste discharges, at minimum river dilutions, should have no discernible effect on the city of Corvallis water supply from the Willamette River. The color which would be added should not be apparent, and would be expected to be removed in the normal water purification process.

It is, therefore, concluded that the liquid wastes, after proper control and treatment in the manner proposed by the American Can Company, could be assimilated by the Willamette River without violating water quality standards which the Sanitary Authority has established to protect the beneficial uses and values of the Willamette River.

Recommendations Relative to Water Quality Control

If the American Can Company proposal for control of liquid effluents is to be approved, it is recommended that such approval be only tentative and subject to final approval of detailed plans and specifications for all liquid waste control and treatment facilities, and further that liquid waste discharge conditions be imposed as follows:

1. The average normal process waste discharge shall not exceed 18 MGD.
2. The pH of the combined waste discharges shall not be outside the range of 6 to 9.
3. Turbidity of the waste discharges shall not exceed 100 JTU.
4. The average color of the waste discharges shall not exceed 1500 color units.
5. The 5-day, 20° C. BOD discharges to the river shall not exceed 2500 lb/day. This BOD limit shall apply only during periods of low river flow; however, all waste control and treatment facilities shall be operated at maximum efficiency throughout the year.
6. The waste discharges shall be essentially free of settleable solids.
7. Sufficient bioassays shall be run to demonstrate that no statistically significant mortality of salmonid fingerlings will occur in a 96-hour bioassay using a 65% concentration of effluent.
8. Waste handling and discharges shall be controlled in such manner so as not to cause pollution of groundwater, or water quality standards applicable to the Willamette River to be violated.
9. The company shall effectively monitor its waste discharges and submit such data to the Sanitary Authority as may be reasonably required to demonstrate continued compliance with the imposed waste discharge conditions.

EVALUATION OF AIR QUALITY CONTROL FACILITIES

The air quality problems associated with kraft pulp mills are related to emission of particulates, malodorous gases, and water vapor. In general, quantities of malodorous gases emitted into the atmosphere from kraft pulp mills are related to mill capacity, that is, the larger the mill, the greater the emissions; however, this is not necessarily true for mills that have expanded or have been constructed using the latest and best known control techniques. For example, for the Weyerhaeuser Company at Springfield, emissions of sulfurous gases per ton of pulp produced have been reported on expanded or new facilities as from 1/4 to 1/8 of that reported on the old facilities.

In addition to installed control facilities, emission of gaseous components in part depend upon the operating characteristics of each mill. The staff has gathered emission data from other Oregon kraft mills, from the National Council for Stream Improvement, the Public Health Service, and literature review for comparison with the emissions estimated for the American Can Company mill.

American Can Company proposes to install all presently known technically feasible controls and to operate the facilities in a manner to minimize emissions. The gaseous sulfur emissions to the atmosphere per ton of pulp production as predicted by the company are lower than those reported for any Oregon kraft mill. Because of the relatively small size of the proposed mill (300 T/Day) and the advanced nature of the controls being proposed, the total emissions of hydrogen sulfide and methyl mercaptan are estimated to be less than $\frac{1}{2}$ the average total emissions at other Oregon kraft mills.

Particulate Emissions

Major sources of particulate emissions in a kraft mill are the recovery furnace, the lime kiln and the smelt tank. On an uncontrolled mill, it is expected that particulate emissions might be 55% from the recovery furnace, 38% from the lime kiln and 7% from the smelt tank.

The recovery furnace emission will be controlled by electrostatic precipitators with guaranteed efficiency of 99% removal at an inlet loading of 1-3 grains of salt cake (Na_2SO_4) per cubic foot of gases.

The lime kiln emission will be controlled by a venturi scrubber of a type which has proven successful at other plants, with an expected efficiency of greater than 99%.

The smelt tank emissions which are a less significant source of particulates will be controlled by a scrubber.

The staff has requested that monitoring equipment be placed on the electrostatic precipitator effluent to sound an alarm in case of excessive emissions due to reduced collection efficiency caused by power or equipment failure.

Other Oregon kraft mills are controlling particulates from the recovery furnace by less efficient precipitators, venturi scrubbers, and one mill by precipitators and scrubbers.

In the judgment of the staff, the approach to control of particulates proposed by American Can Company is as good as is available, and will provide effective control of particulates relating to particle fallout and suspended particulate matter.

Gaseous Emissions

Malodors are caused by the emission of reduced sulfur compounds in gaseous form. Major sources of gaseous sulfur emissions are the recovery furnace, evaporators, and the blow and relief gases from the digester.

The recovery furnace is by far the largest source of kraft mill odors. It is also important to the economy of the kraft process. Instead of discharging the pulping chemicals and the organic materials dissolved out of the wood chips in the cooking process into the river as is often done in the sulfite process, the so called black liquor from the kraft or sulfate process is sprayed into the furnace and burned to recover heat and re-usable chemicals. Even with the best of equipment, controls, and operation some odorous gases will escape. Malodors from the recovery furnace can be greatly minimized, however, by operating the furnace at or below design loading, by maintaining a proper balance of oxygen and combustibles in the furnace, and by completely oxidizing the sulfurous compounds in the black liquor before it is injected into the furnace.

The recovery furnace, as proposed, will be designed for 400 T/Day for a proposed actual pulp production of 300 T/Day, and black liquor oxidation will be practiced with a guarantee of 99% oxidation efficiency. It is extremely important from the standpoint of odor control that the recovery furnace and black liquor oxidation facilities are not overloaded.

Digester blow and relief gases and hot-well gases which are the other significant sources will be condensed and the non-condensable portion of these gases will be burned in the lime kiln. The combustion of these gases in the lime kiln is a proven procedure and is generally accepted as the best available method of control.

Less significant gaseous sources including the pulp washer, condensates from the evaporator, dissolving tank, and bleach plant will be collected and treated.

In the judgment of the staff the controls proposed for gaseous emissions include all of those known to be technically feasible. Control of emissions from the oxidation tower has not been proposed, and at the present time the staff does not have an evaluation of the magnitude of these emissions or the feasibility of controlling them. This matter will be given additional study and controls will be required if control is found to be feasible.

Field Experience

With all of the proposed control systems operating at maximum efficiency, odorous gases will still escape. Kraft type odors will be detected adjacent to and at varying distances from the plant under varying meteorological conditions.

Some of the sulfurous gases emitted from a kraft pulp mill are detectable at concentrations of one to 10 parts per billion parts of air.

Field experience with other kraft mills has shown downwind concentrations to vary markedly with source strength and meteorological conditions. In general field experience can be summarized as follows:

Field odor surveys have shown that kraft odors from the Western Kraft Corporation plant can be detected at the definite or No. 2 level consistently 3 to 4 miles from the plant. Odors have been reported at the threshold (No.1) level as far as 10 to 25 miles from the Western Kraft plant.

Kraft type odors from the Weyerhaeuser Company mill in Springfield have been commonly detected at the definite level (No. 2) at a distance of 6 miles and strong odors (No. 3) are frequently detected at 2 and 3 miles from the plant. Threshold (No. 1) values have been infrequently reported from 12 to 20 miles from the plant. Little continuous information is available on International Paper Company in Gardiner; however, threshold levels (No. 1) have been reported as far as 31 miles from the plant. It has been reported also that an occasional strong west wind brings threshold odors (No. 1) from Georgia-Pacific Corporation in Toledo to Corvallis some 38 miles away.

Staff Studies

To predict the frequency and extent of expected odor travel, meteorological data were gathered and empirical diffusion equations were applied to gaseous emissions estimated for the proposed Halsey mill. The Salem weather data for winds aloft for 8 years and the Eugene data for 16 years were summarized and used in the prediction studies. Low speed wind direction data from Salem and Eugene for $4\frac{1}{2}$ years ending June 1967, were used to predict frequency of occurrences. The application of empirical equations to the solution of diffusion problems involves a number of assumptions and some degree of objective judgment. These equations do not consider any process other than diffusion. The effects of such phenomena as combining, oxidation, absorption, washout, topographic channeling or synergistic effects which might effect the concentration of materials once emitted to the atmosphere are not possible to predict.

The staff studies show that highest concentrations of sulfurous gases (hydrogen sulfide and mercaptans) will occur under meteorological conditions which produce fumigation. Fumigation usually results from solar heating of lower layers of the atmosphere.

When the heated layer is deep enough to reach the plume, thermal turbulence will bring high concentrations to the ground along the full length of the plume. This condition is favored by clear skies and light winds and is apt to occur more frequently in early morning during the summer months.

Meteorological conditions causing fumigation are usually of a localized nature and the frequency of occurrence cannot be reasonably estimated. Under fumigation conditions, threshold odors (just detectible odor levels) of hydrogen sulfide and mercaptan would be expected to occur throughout the fumigated area.

The studies also show that significant levels of sulfurous compounds would occur only at low wind speeds (0-5 miles per hour). Winds in this speed class prevail toward Albany 15 days/year, toward Corvallis 17 days per year, and toward Eugene 27 days per year.

Based upon the staff study it appears that winds of the right speed and direction will combine with sufficiently high values of stack emissions to cause persistent threshold odor concentrations at ground level in Albany and Corvallis from 2 to 8 days per year and in Eugene from 0 to 3 days per year.

However, it is emphasized that these are indicative of the number of full days per year that the cities would be affected, and that there will undoubtedly be portions of other days when the wind speed and direction are such that concentrations at or above threshold may be experienced for shorter periods.

Reduced Visibility

There is no reliable method of precisely predicting the effects of the proposed mill on area visibility. The primary effects may be expected to be due to the addition of condensation nuclei and release of water vapor to the area atmosphere. Studies have shown that reduced visibility occurs over metropolitan areas or major air pollution sources but direct correlations between emissions, ambient air measurements and visibility have not been possible. Examples of particulate emissions which may significantly affect visibility at considerable distances from their source, but which may not be accompanied by proportionate increases in particulates as detected by sampling equipment, are those from field and slash burning and from forest fires.

Reduced visibility due to condensed water in emissions from the mill may be expected periodically in the immediate vicinity of the mill and predominately in the fall and winter months. It is not expected that this will seriously affect the community of Halsey or highway I-5.

The particulate matter in the mill's recovery furnace emissions will also contribute to reduced visibility in the valley, but the magnitude of this contribution likewise cannot be quantitatively assessed.

Conclusions Relative to Air Quality Control

1. The staff concludes that the systems as proposed for controlling total particulates are capable of being installed and operated in a manner such that Sanitary Authority regulations pertaining to particle fallout rate, suspended particulate matter and lime dust will not be exceeded.

2. Visible emissions will be present and the emissions can be expected to combine with presently existing sources and somewhat reduce visibility in the valley. The degree will vary with atmospheric conditions, but visible emissions will be predominately in the form of water vapor from pulp dryer vents, scrubbers, water vapor in the recovery stack, etc.

3. Some effect upon area visibility by particulates and water vapor will occur but the extent of carry, frequency and time of occurrence, and persistence cannot be accurately assessed. General overall improvement in area visibility should be possible in time by requiring the best possible controls for all presently existing sources as well as for all new sources that might be added.

4. Gaseous sulfur-bearing compounds having an extremely low threshold odor level will be emitted, although the control systems as proposed will minimize these emissions. It is the opinion of the staff that after a reasonable start up period to provide time for proper adjustment of production facilities and to gain experience in operating the control facilities, the projected hydrogen sulfide emissions can be kept at or below 2 lbs/T of pulp.

5. Odors at threshold levels and above will almost always be discernible adjacent to the plant site in the downwind direction. The perimeter and distance that odors will be perceived and their frequency will depend upon wind direction and other meteorological factors and can only be estimated. American Can Company consultants and the Sanitary Authority staff projected frequency of occurrence and odor travel to more distant cities of Corvallis, Albany and Eugene using slightly different approaches. The ranges of days, within limitations of data and available means to project odor levels from both studies indicate that Corvallis and Albany may be affected for periods of from 2 to 10 days per year and Eugene from 0 to 3 days per year.

Recommendations Relative to Air Quality Control

If the American Can Co. proposal for control of air polluting emissions is to be approved, it is recommended that such approval be conditional to final approval of detailed plans and specifications for all facilities related to the control of atmospheric pollutants, and that further conditions relating to the control of air pollution be imposed as follows:

1. Approval of the proposed facilities be given specifically for an average production not to exceed 300 BDT/Day of bleached Kraft pulp until such time that it may be demonstrated that emissions into the atmosphere can be effectively controlled at that level and application has been made and approval granted for operation at a higher level.
2. As soon as the pulp mill is in normal operation, stack emission tests shall be completed and data submitted to the Sanitary Authority so that predicted and actual emissions can be compared. These tests shall include measurements of black liquor oxidation and electrostatic precipitator efficiencies.
3. Monthly reports shall be submitted covering production, sulfidity of cooking liquor, sodium sulfide concentration in black liquor both before and after oxidation, routine monitoring results of excess oxygen, sulfur compounds, and particulate in the flue gas, and upon request precipitator efficiency.
4. The Sanitary Authority shall be notified immediately of equipment breakdown or malfunction that is likely to result in an increased emission of air pollutants, further that a program of corrective action will follow which may involve production curtailment or shutdown, if necessary, to prevent widespread or excessive air pollution.

OREGON 304(1)(C) LIST

James River II, Inc., NPDES Number OR-200079-5

City of St. Helens, NPDES Number OR-202063-4

Pope & Talbot Inc., NPDES Number OR-000107-4

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: July 14, 1989

TO: Environmental Quality Commission

FROM: Jerry Turnbaugh, Water Quality Div.

SUBJECT: Proposed Port Westward Pulp Mill

SUMMARY OF THE PORT WESTWARD PULP COMPANY PROPOSAL

Mill Description

The proposed pulp mill would occupy approximately 250 acres on property leased from the Portland General Electric Company at the Beaver Terminal near Clatskanie, Oregon.

The mill would produce some 1200-1300 air-dried tons of bleached kraft market pulp per day at full capacity using softwood chips from Northwest sawmills. Chips would be delivered by barge, rail and truck and finished baled pulp would be shipped out by ocean-going ship, barge, rail and truck.

Modern in-plant production processes, such as extended cooking, oxygen delignification and chlorine dioxide substitution in the bleaching process would be provided to reduce the amount of color discharged and to prevent formation of dioxin, chloroform and other toxics.

Wastewater would be treated in a conventional aerated stabilization basin to reduce effluent oxygen demand before being discharged to the Columbia River.

Significant Environmental Impacts

Color Discharge

The proposed mill effluent would be brown in color and may be visible in the river in the vicinity of the mixing zone. The Department proposes to require that Port Westward limit the visible color plume to a mixing zone radius of 1000 feet from the mill outfall diffuser. This requirement would not cause the mill to remove or otherwise treat color in its effluent. It may, however, cause the mill to withhold discharge during the critical

hours of the day when tide and current conditions are least favorable to effluent dispersal.

Why?
Other Oregon mills on the Columbia River do not have a similar color limitation.

Dioxin Discharge

Dioxin in pulp-mill effluent is generally thought to be produced in the chlorination steps of the bleach plant. Because this mill proposes to use a chlorine bleaching process, it may be expected to discharge some amount of dioxin (2,3,7,8-tetrachloro-dibenzo-p-dioxin), chloroform and other chlorinated organic toxics in its effluent.

Dioxin is the common name of a family of chlorinated organic compounds. Nobody produces dioxins on purpose. It is an unwanted and often unavoidable by-product that comes from not only pulp mills but from other manufacturing operations and certain types of combustion processes.

This mill proposes to use extended cooking and oxygen delignification to remove as much lignin from the pulp as possible before the pulp reaches the bleach plant. The less lignin remaining in the pulp, the less bleaching is required to bring the pulp to the required whiteness.

The proposed bleach plant uses a four-stage process: chlorine/chlorine-dioxide delignification, alkaline lignin extraction with oxygen, and two chlorine-dioxide bleaching stages.

The first stage uses a mixture of chlorine and chlorine-dioxide to make the lignin remaining from the oxygen delignification step soluble in alkaline solution so it can be further removed in the following extraction stage.

The alkaline extraction stage removes solubilized lignin by washing it out of the pulp. Oxygen is added to further bleach and assist in the delignification process.

The last two stages use chlorine-dioxide to chemically bleach the remaining colored impurities in the pulp to the desired whiteness.

Thoroughly washing the pulp to remove process chemicals and the last remaining impurities completes the pulping process.

Pulp-mill experience from Scandinavia indicates chlorinated organic toxics are more likely to be produced by elemental chlorine than by other chemical forms of chlorine. Substitution

of chlorine dioxide for elemental chlorine is widely used as a means of reducing formation of chlorinated organics. The degree of substitution can range from 0 (no chlorine-dioxide) to 100 percent (all chlorine dioxide). It is not clear how much dioxin is produced at any given level of substitution but it is generally assumed that the higher the degree of substitution, the better.

High levels of substitution also increase the demands on processing equipment. Increased corrosion must be controlled with more expensive metals and other, less conventional, corrosion-resistant materials.

If Port Westward uses extended cooking, oxygen delignification, and a high percentage of chlorine-dioxide, the mill should produce the minimum amount of dioxin possible with today's available technology.

Wetlands Mitigation

The Department would propose a condition in the discharge permit to prohibit construction of the mill until a Section 404 (of the federal Clean Water Act) permit has been issued by the US Army Corps of Engineers. Before a Section 404 permit can be issued, the Department must certify, pursuant to Section 401 of the Clean Water Act, that the dredging and filling of the wetlands will not violate water quality standards. The Department is currently reviewing the Section 401 application and has requested further information upon which to evaluate the proposal.

The Corps of Engineers received a Section 404 permit application from Port Westward Pulp Co. and solicited public comment from May 24, 1989 to June 23, 1989.

Construction of the mill would result in the loss of 38 acres of existing wetlands. Port Westward proposes to mitigate the loss of these wetlands by creating 38-acres of wetlands, 5.6 acres of buffer around the created wetlands and 6.4 acres of spoil mounds from a 50 acre parcel of land.

Remaining existing wetlands would be protected by conditions in the wastewater discharge permit from any adverse effect of the mill, including stormwater runoff from chip and hog fuel storage piles.

Air-Toxics Discharge

Port Westward has also applied to the Department for an air-contaminant discharge permit. The permit does not require approval by the EQC.

Memo to: Environmental Quality Commission
July 11, 1989
Page 4

The Air Quality Division conducted a preliminary technical review and analyzed computer modelling of emissions of all pollutants at the facility. Pollutants regulated by the Department include particulate, total reduced sulfur, sulfur dioxide, carbon monoxide and nitrogen oxides. They were modeled to determine their impact on air-quality standards, non-attainment areas and visibility. Chlorine, chlorine dioxide and chloroform were modeled to determine impact on nearby industrial and non-industrial areas. The health risks associated with these chlorine compounds are still being evaluated.

Air-quality issues will be addressed in a hearing to be held July 25, 1989, at 7 P.M., in the Clatskanie American Legion Hall.

FACT SHEET
ON
POPE AND TALBOT
HALSEY MILL
EXPANSION AND MODIFICATION

BACKGROUND

Construction of the Halsey pulp and paper mill was originally proposed by American Can Company in 1967. After commissioning in 1969, American Can Company operated the 375 ton per day bleached kraft pulp and paper mill until the change of ownership in the early 1980's. Currently, the pulping and paper manufacturing operations are separately owned and operated by Pope and Talbot, Inc. and James River Corporation, respectively. Since 1969, the pulp and paper operations have undergone several phases of process improvements and the mill is now capable of producing 550 tons per day of bleached kraft pulp. Although production levels have increased, the mill has not only reduced the amount of process waste water discharged into the Willamette River from 18 to 14.5 million gallons per day (MGD), but has also improved the performance of the biological treatment system to maintain the original permit limitation of 2500 pounds per day of Biochemical Oxygen Demand (BOD) in low stream flow months during the summer.

A color limitation was incorporated into the first Waste Discharge Permit for the mill in 1969 and has remained in each subsequent permit until 1987. The initial color limitation of 1500 units was based on the company's projection before mill startup of what the color concentration would be in the treated effluent. Until the early 1980's, the color limits were consistently achieved. Various changes in the company's bleaching sequence (from CEHH to CE₀HP) resulted in less chemical usage in the process, but higher effluent color. To comply with the color limitations, approximately \$2500 to \$3500 per day of bleaching chemical (sodium hypochlorite) was added to the waste water to reduce effluent color. In July 1987, Pope and Talbot, Inc. requested to delete the color limitation in their NPDES permit because of costs and other unknown side effects caused by the chemicals used for color reduction. The request was presented to the Environmental Quality Commission (EQC) for a decision. After reviewing the supporting documents and opposing arguments, EQC approved the request but required the Company to further evaluate color removal technology and environmental impacts on the receiving stream caused by the highly colored effluent. The company is currently undertaking the second phase of the color impact study and the conclusions from the study will be available at the end of this year.

Four or five mills in the United States are currently required to comply with effluent color limits. The Halsey operation was the only pulp and paper mill in Oregon that was required to comply with an effluent color limit. During summer streamflow

conditions, the treated effluent discharge can be highly visible at the outfall and, after mixing with the entire river, dissipates to a brownish tea color downstream. Although there are two other bleached kraft mills in Oregon, both of these mills discharge treated effluent to the Columbia River. With the extremely large dilution that occurs in the Columbia River, the colored discharge plume from one of these mills is occasionally visible, but it rapidly disperses and does not have a lasting effect on the river. The five other pulp mills in the Willamette River Basin discharge effluents ranging from 75 to 750 color units.

PROPOSED EXPANSION AND EXISTING MILL MODIFICATION

In July 1988, Pope and Talbot, Inc. initiated discussions with the Department regarding a proposed expansion/upgrade plan for the Halsey mill. The expanded and upgraded operation will have the capability to produce 550 air-dried tons (ADT) per day of board, coarse, tissue pulp; and 1100 ADT per day of market pulp by 1992. After the initial discussions and review of some of the existing issues surrounding the bleached pulp operations, the company applied in January 1989 for a modification of their existing NPDES permit to facilitate the proposed expansion project.

The proposed mill will incorporate the latest state-of-the-art technologies in the pulping and bleaching processes, namely extended cooking, oxygen delignification, and 100% chlorine dioxide substitution. In addition to process expansion, the company proposed to increase their biological treatment system by 75% to handle the extra wasteloads. The existing mill generates an average effluent flow of around 14.5 million gallons per day (MGD) while the proposed new operation will produce an effluent of 26.0 MGD. A two (2) billion gallon effluent polishing pond is also proposed. The intent of the polishing pond is to provide the company with the flexibility to regulate effluent discharge in proportion to river flow on a year-round basis. The Department is waiting for more information from the company, such as the engineering reports on sludge dewatering/disposal and City of Corvallis Water Treatment Plant Performance Evaluations, before proceeding with the pending NPDES permit modification application.

ENVIRONMENTAL ISSUES

COLOR

In the July 1987 EQC meeting, the commission authorized the color limits to be removed from the NPDES permit for the Halsey mill, but required the company to explore options for color removal and control. Since then, treated effluent with 3500 color units (CU) has been discharging into the Willamette River.

Since color is a byproduct of the pulp and paper manufacturing process, it is logical that there will be an associated increase of color loads caused by the proposed mill expansion. However, the color load will not increase in proportion to the production. Reduced color generation, i.e. the amount of color bodies produced per ton of product, is a side benefit of the state-of-the-art processing technologies. In the new technologies, a high percentage of the color bodies (lignin and lignin derivatives) are captured in the pulping and washing stages and eventually disposed of in the boilers for steam and power generation. The projected color reduction is around 60% to 75%. However, the three-fold increase in production will increase the color load to the receiving river from the current level by 60%. As required by EQC and the existing NPDES permit, the company reviewed all existing color control technologies and concluded that the best available method is the Dissolved Air Flootation (DAF) process patented by Stone Container Corporation. With the aides of chemicals, such as alum or polymers, which can enhance agglomeration, the DAF process can remove approximately 90% of the color bodies from the pulp and paper waste waters. The only drawback of this color control methodology is the creation of large quantities of solid waste or sludge, which will require further disposal considerations. Currently, an environmentally acceptable sludge disposal alternative has not been technically identified.

The company is now considering the possibility of holding some of the treated effluent in polishing pond during low flow months and discharging when color would not be visible. In other words, the company plans to control the discharge during the summer months so that the original 1500 color unit limit can be maintained, and during the winter months discharge will be increased in accordance with the river flow. Since river flow is normally two to three folds higher in the winter months, the additional discharge of treated effluent will have minimal impact to the color of the river. In conjunction with this control strategy, the company will continue investigating color removal and sludge disposal alternatives and will commit to installing additional facilities when an economically and technically feasible system becomes available.

DIOXIN AND OTHER CHLORINATED COMPOUNDS

Dioxin (2,3,7,8-TCDD) has been found in treated effluent (30 parts per quadrillion - ppq) and in fish (0.8 and 4.6 parts per trillion) caught downstream from the discharge. Based on those findings, the Department included both the mill and the downstream segment of the Willamette River on the 304 (1) list. In order to mitigate the toxicity issue, the company proposes to use state-of-the-art pulping and bleaching processes in the new and upgraded operations. These new technologies will minimize the creation of dioxin and other chlorinated compounds, and Pope and Talbot, Inc. anticipates that dioxin will not be detected in the effluent of

the new bleach plants. Currently, the detectability of dioxin is 10 ppq. Based on a conservative scenario, i.e. bleach plant effluent is 50% of the total mill process waste water, there will be more than a six-fold reduction in the generation of dioxin from the new bleaching process.

Department of Environmental Quality
811 SW Sixth Avenue
Portland, Oregon 97204

FACTS ABOUT THE COLUMBIA RIVER & WTD

Eight pulp mills producing bleached kraft pulp in three states discharge treated wastewater into the Columbia River Basin. WTD Industries has proposed to build a new bleached-kraft pulp mill at Port Westward, six miles north of Clatskanie, the first proposed new pulp mill in Oregon in over 22 years.

WHAT IS REQUIRED OF WTD?

The Oregon Department of Environmental Quality (DEQ) must consider many environmental issues. No wastes can be legally discharged into Oregon's environment without a permit. WTD has applied for wastewater discharge and air emission permits to assure that the proposed mill meets DEQ's environmental standards. WTD also needs approval from the Army Corp of Engineers to fill wetlands (404 permit), which DEQ reviews to certify that water quality standards will be met. DEQ's governing board, the Environmental Quality Commission must approve any new major discharge to Oregon's waterways.

DEQ held two July public hearings in Clatskanie to hear concerns and gather information about how the mill would affect the environment. DEQ is still reviewing information presented at those hearings and during the extended comment periods. The chance for the public to comment ended for water quality issues on August 1, 1989 and for air quality on August 25, 1989. However, DEQ is always open to review new information at any time. When new environmental information develops on facilities that DEQ permits, DEQ could impose new permit requirements.

WHAT ARE THE AIR QUALITY ISSUES?

For air quality, DEQ must consider any effects from the exhaust gases the mill would discharge. Findings by DEQ's technical staff are that the emissions of non-toxic air pollutants would not violate the ambient air quality standards. DEQ further concluded that the effect on visibility was insignificant and that there would be no adverse impacts on surrounding soils or vegetation from these substances.

Chloroform emissions from the proposed facility would have the most significant impact on the surrounding air quality. Chloroform is considered by the U.S. Environmental Protection Agency (EPA) to be a probable human carcinogen and, consequently, DEQ followed EPA Guidelines to determine the potential health impacts of this pollutant. Because there are no residences in the near vicinity of the proposed facility, the chloroform emissions would primarily affect adjoining industrial property. DEQ anticipates that the mill will be able to reduce the emissions far below the original permit request and the authorized emissions of chloroform would be within DEQ's and EPA's Guidelines for protection of the environment and public health.

DEQ's Air Quality Division authorizes or denies the requested permit after analyzing the data and other information it receives. The Air Quality Division is continuing to evaluate the impacts on human health and the environment from any toxic or non-toxic air pollutant and is working with WTD to reduce both the proposed emissions from the plant and the impacts from those emissions.

WHAT ARE THE WATER QUALITY ISSUES?

DEQ sets water quality standards to protect the beneficial uses of recreation, fish habitat, water supply (drinking, irrigation, and industrial use), and aesthetics. DEQ believes that water quality standards for dissolved oxygen, pH, temperature and suspended solids will be met outside of a 400-foot area where the discharge mixes with river water. The greatest water quality concern for the proposed mill is whether the Columbia is already receiving too much of a toxic chemical compound, dioxin, from upstream bleached kraft pulp mills.

Dischargers and regulators alike have long considered the Columbia, the second largest river in the U.S., a stream that can receive wastewater discharges safely. The river's great quantities of water dilute treated wastewater to almost undetectable levels. But that assumption can no longer be taken for granted as we learn more about dioxins.

WHAT ARE DIOXINS?

Dioxins are a group of chemicals that, at even a trace, cause cancer in laboratory animals. The chemicals are produced by nature (e.g. forest fires), but in greater quantities by humans in processes that allow chlorine to bond to carbon. Dioxins do not break down easily and may remain in the environment for a long time. One compound, TCDD, is considered the most dangerous form of dioxin. TCDD is an unwanted by-product of the bleaching process in pulp mills. An EPA study found TCDD in fish tissue taken from the Columbia River.

TCDD is discharged in pulp mill effluent in minute quantities measured in parts per quadrillion (ppq). Once the mill effluent mixes with water in the river, the amount of dioxin is so small, it can not be detected. To further complicate the issue, the water quality criterion for TCDD set by the EPA (.013 ppq)--adopted as Oregon's standard--is below what current technology can detect.

CAN DIOXIN BE REDUCED?

The solution to the dioxin problem in bleached kraft mills lies in using the best available technology to meet water quality standards. The key to reducing dioxin is to reduce the use of chlorine in several steps of the mill process.

Scandinavia, West Germany and several Canadian provinces have set goals to reduce dioxin production in their pulp mills. Scandinavia has been the leader in developing new technology. WTD would be required to send the cleanest pulp possible into the bleach process of the plant. The cleaner the pulp, the less bleach the plant will use. Pulp is cleaned by extending the "cooking" time and using oxygen to break down the lignin (the source of color) in the wood. DEQ has set a goal for WTD to completely replace the chlorine used for bleaching with chlorine-dioxide. Not only will this decrease the amount of dioxin produced, it will also reduce color in the wastewater discharge and the formation of chloroform.

IS DIOXIN A NEW CONCERN?

The bleached kraft pulp mills are not the only reason dioxin has become a concern for Oregon. EPA studied dioxin for years before developing a health criteria in 1984 of 0.013 parts of dioxin for every quadrillion parts of river water. That level assumes humans are protected even though they consume water and fish from the stream over a lifetime.

At the request of EPA and Congress, Oregon and other states provided a list (304L list) earlier this year of waterways where pollutants and dischargers were violating standards. Oregon's three bleached kraft pulp mills were included on the list because of dioxin. By being on the list, the mills were asked to eliminate detectable levels of dioxin by June 4, 1992. Those three mills--Pope & Talbot, James River II, and Boise Cascade--have filed suit against DEQ, asking to be removed from the list.

DO WE HAVE ALL OF THE ANSWERS?

No. The industry is exploring other methods for bleaching pulp and is considering ways to expand the market for unbleached pulp. Pulp mills are developing studies to gather more information about dioxin. EPA and the state of Washington are both looking into the need to gather additional data. EPA has assisted DEQ in developing a preliminary analysis on the amounts of dioxin the mills along the Columbia River might contribute under various control strategies. The analyses has been based on assumptions of river flows, no other sources of dioxin and no loss of dioxin in the water.

WHAT IS THE NEXT STEP?

The Environmental Quality Commission, which must approve any new major wastewater discharge to the Columbia River, considered but delayed a decision on WTD's wastewater discharge request on July 21. The Commission will consider the request again at their September 8 meeting. DEQ's preliminary analysis will be presented along with DEQ's staff report to help the Commission with their decision. If you would like a copy of the report, please contact Shirley Kengla, DEQ, 229-5766.

HOW WOULD THE PERMITS BECOME FINAL?

If the Commission authorizes a new discharge into the Columbia River for WTD, DEQ will complete the evaluation of public comments and develop a recommendation to the DEQ Director. Once the director takes final action on the permit, WTD and the public will be notified. If WTD is not satisfied with the decision, they have the right to request a contested case hearing before the Commission.

September 1, 1989

METRO/NORTHWEST

Obituary, D8 Forum, D7

Editorial, D6

The Oregonian, Saturday, November 13, 1988

D

City faces fines for breaking rules on PCBs

The federal environmental agency could charge Portland as much as \$25,000 per day for each violation at its wastewater plant

By GORDON OLIVER
The Oregonian Staff

Portland's Bureau of Environmental Services faces possible fines from the federal Environmental Protection Agency, which discovered toxic PCBs at the city's wastewater treatment plant, 5001 N. Columbia Blvd.

The PCBs, or polychlorinated biphenyls, were found in a 6-inch oil stain beneath a transformer.

The city also could be fined heavily for 31

violations of PCB-related inspection and reporting requirements at the treatment plant. Potentially, the city could face fines of up to \$25,000 per day for each violation. A hearings officer will review the violations in the next two to three weeks and decide what fines, if any, should be imposed.

John Lang, director of the Bureau of Environmental Services, said the PCB-tainted oil spot found at the plant posed no threat to the health of workers or to the environment. He said the city was moving rapidly to correct problems.

Lang said that the transformer was enclosed by a fence and concrete barriers, and that the oil spot beneath it was inaccessible. The inspector obtained a test sample by reaching over the fence with a stick, he said.

After the leak was discovered during the

August inspection, a tray was placed beneath the leak. It has collected a spot of PCB-contaminated oil about the size of a dime, he said.

Cleanup experts from Riedel Environmental Services Inc. visited the site Thursday and will prepare cost estimates for removing the PCB-contaminated concrete from beneath the transformer, he said.

The EPA cited the city for not having records of quarterly inspections of seven transformers before January 1987; for failing to register eight transformers with the Portland Fire Bureau before December 1983; and for not having PCB annual documents for the years 1983 through 1987.

Lang said administrators in the Wastewater Treatment Branch were unaware of the reporting requirements.

"The question is why didn't we know



Bob Koch

"It's a regulation none of us knew about."

about this? We were definitely in violation," he said. "I don't know why we didn't know."

Lang has told Ross Peterson, director of the Wastewater Treatment Branch, to explain by early next week how the reporting lapses occurred and what corrective action he will take.

Commissioner Bob Koch, who oversees

the Bureau of Environmental Services, said he'd also try to find out what happened.

"I'm disappointed about the lack of appropriate reporting," he said. "It's a regulation none of us knew about."

Mayor Bud Clark received the EPA letter Nov. 3 and directed City Attorney Jeffrey Rogers to develop a response. Rogers has been working with the Bureau of Environmental Services and others on a plan of corrective action while preparing for an EPA hearing.

Clark released the EPA letter and cleanup materials to the news media on Thursday.

In his letter to Clark, Gill, chief of the EPA's Region 10 Toxic Substances Section, said conditions at the plant last August "constitute a threat to health and the environment."

Problem Identification Meeting

Wednesday, November 19, 1986 - 7:30 AM to 8:45 AM

(Derek Hills, Gary Isaacson, Craig Everhart, Bill Plekanec, Ron Poe, Loren Stover)

NEXT MEETING: Alternative Solutions - Wednesday, November 26, 1986, 7:30 AM to 8:45 AM

A. **SUMMARY:** Instrument Technicians and Electricians met to identify problems affecting overall operation of the plant and/or their abilities to effectively do their job. Larry Vogel facilitated, Trudy Cooper recorded.

B. **PROBLEMS IDENTIFIED:**

1. **Understaffing** (both electricians and instrument techs).
 - a. Time pressure due to understaffing causes crisis orientation. There is no time for planning or preventive maintenance. Nearly all work has "emergency status."
2. **Lack of preventive maintenance program.**
3. **Lack of accurate, as-built prints poses a safety as well as an efficiency problem.**
4. **Improper installations by contractors.** There is no enforcement when contract does not meet specs. Is inadequate inspection according to code standards. Inspectors are not qualified; there is no time for electricians and instrument techs' review.
5. **Most engineers don't understand instrumentation and don't make use of plant expertise in design.**
6. **Low bid.** This process does not always result in "lowest cost overall".
 - a. Is inadequate enforcement of performance bond procedures.
 - b. Lack of equipment standardization means higher maintenance costs and costs for training from different manufacturers.
 - c. Replacement parts: Low cost is the only consideration, not future maintenance.
 - d. Plant personnel don't have enough control over what is bought.
7. **Plant management is unwilling to follow-up, to pursue the above problems to solution.**
8. **Lack of progress on getting more storage and working space and lack of feedback as to why the lack of progress.**
9. **Lack of inventory system.**
10. **No central storage location; parts are in several locations.**
11. **There is not enough coordination and pre-planning between plant personnel and contractor prior to installation.**
Consequences: Mistakes that create more work for plant personnel.

12. Input from personnel with regard to above problems is ~~not considered/not~~ acted upon. No feedback is given as to why not.
13. The people with the technical expertise in instrumentation and electrical don't have clout; can't successfully affect the decision making process.
14. We don't have an instrument engineer.
15. Tools and materials ordered are not received in a timely manner; no follow-up. Downtown purchasing causes delays.
16. There is a lack of cooperation between stores and shops.
17. Too much temporary maintenance.
18. Catch 22: Not allowed overtime to make up for understaffing; documented O.T. is required to justify new staff.
No O.T. is authorized except in cases of break-down.
19. Has been no follow-up on OSHA safety write-ups; no copy to electricians on write-ups.
20. No standards/criteria have been established by which to determine priorities.
21. Important problems and decisions are often not put in writing.
22. Safety hazards are not being recognized, addressed, and there is no system for dealing with them.
23. Authority of supervising electrician has not been clearly defined.
24. Need lead electrician position.
25. 4-10 proposal. Did not get a reasonable explanation as to why not. Access to stores between 6 and 7 AM is not a significant problem. The advantage of having a shift overlap outweighs this disadvantage. There was not opportunity for rebuttal.
26. Need overall assessment and strategy for training. Set plans, priorities and budget for the year.
27. PCB's: Problem needs to be researched.

C. SUGGESTIONS BY FACILITATOR:

1. Have Peterson, Bielman, and an engineer at next problem solving meeting.
 2. Electricians talk out role definition issue with Peterson, Bielman, Manthey
-

D. NEXT STEPS: Group and prioritize problems; propose alternative solutions for management consideration.

Problem Identification, 9/22/86, Alternative Solutions, 10/2/86
Electricians and Instrument Technicians

A. Problems

1. Takes too long to get parts when ordered.
2. Lack of communication from Management.
3. Lack of accurate as built prints.
4. Taking too long to get moved to new area.
5. Lack of time for preventive maintenance.
6. Need another vehicle.

B. Alternative Solutions

1. Takes too long to get parts when ordered.
 - a. Need open accounts at some suppliers.
 - b. Purchasing needs to speed up process.
2. Lack of communication from Management.
 - a. This is Management problem.
3. Lack of accurate as built prints.
 - a. Need to have engineers get these.
 - b. Don't pay contractors until we have prints.
4. Taking too long to get moved to new area.
 - a. Use plant people on overtime to do work.
 - b. Try to get people to move faster.
5. Lack of time for preventive maintenance.
 - a. Need more people.
6. Need another vehicle.
 - a. Borrow from pump crew.
 - b. Need two crews on road sometimes.

C. Next Steps

1. Supervisors will meet with their groups to prioritize problems and solutions you see to be most worthy of further management attention.
2. Supervisors will then meet with managers to evaluate solutions against the criteria listed in Ross Peterson's memo to employees.
3. Managers will decide which solutions will be implemented, by whom, and in what time frame.
4. There will be a feedback meeting to employees to communicate these actions.
5. John Lang will hold a meeting to review the problem solving process with employees.

D. This record (A & B, above) is my interpretation of what happened at this meeting. If you would like to correct an error, make an addition, or consult the original records, please contact Albert Mannthey
Albert Mannthey

cc: Al Mannthey
Bob Bielman
Ross Peterson

From : Terrance E. Jenkins
36445 Ridgeview Drive
Vacolt , Washington 98675

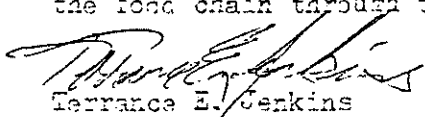
10 February 1987

To: Department of Environmental Quality
Hazardous and Solid Waste Division
811 SW Sixth Avenue
Portland , Oregon 97204
503-229-5013

Re: PCB filled Transformers and lighting fixtures the related spills into the drains and personel contact with PCBs at the City of Portland's Wastewater Treatment Plant , 5001 N. Columbia Blvd, Portland Oregon .

Since the installation of the PCB fille transformers and lighting fixtures in 1975 there have been no apparent records kept on any of the installations . We have had an electrician and an operator that has had contact with PCB because of two separate spills . One leaking transformer leaked onto concrete and down into the drain and was pumped out to the Columbia River . When the spill was brought to my attention by an operator I roped off the area and contacted my supervisor. It took more than two weeks for the City Management to get a contractor (General Electric) to come and repair the leaking transformer . The concrete and all the structure that came in contact with the PCBs was not removed but instead an operator was sent down to clean up the spill . This operator later developed cancer while the electrician who came in contact came down with an immedate rash .

I have tried to get the PCBs removed by informing management that there is no containment in case of another leak and there has been no records kept on any of the transformers including the one that leak . When I was lead electrician I put this problem with many others that needed immediate attention . my lead job was budgeted out of the system and I was demoted . I still believe that the best solution is to remove the PCBs completly so there is no hazard in the future to pollute the Columbia River . Please look into this problem as it not only affects those that work in that plant but can enter the food chain through the river .


Terrance E. Jenkins

copy: Environmental Protection Agency



Department of Environmental Quality

811 S.W. SIXTH AVENUE, PORTLAND, OREGON 97204 PHONE: (503) 229-5696

March 5, 1987

• Terrance E. Jenkins
36445 Ridgeview Drive
Yacolt, WA 98675

Dear Mr. Jenkins:

Your letter of February 10, 1987 discussing PCB filled transformers and lighting fixtures at the City of Portland's Columbia Boulevard Sewage Treatment Plant has been referred to our office for response.

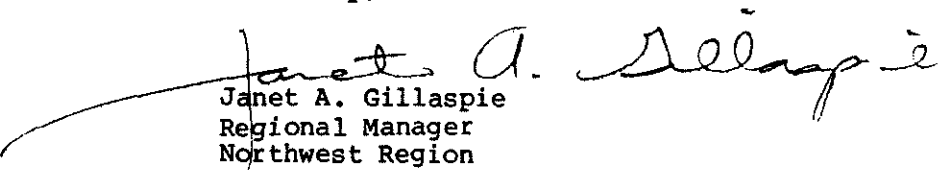
You raise several points which are not the responsibility of our agency. For concerns about worker safety, and possible exposure to hazards in the workplace, the Accident Prevention Division (APD) of the Worker's Compensation Department is the proper state agency to respond to concerns about operators in contact with PCB's as they cleaned up spills. I have forwarded a copy of your letter to the APD's Eastside office for their information.

The Federal Toxic Substances Control Act (TOSCA) regulates what types of PCB filled transformers must be labeled, and what types of records must be maintained. The requirement for removal of PCB containing transformers applies only to some limited types of operations, and does not apply to a sewage treatment plant. I have enclosed a booklet that summarizes some of the federal regulations for your information.

Your letter provided little information on the leaking transformer. We will need additional information from you to investigate. Unless the spill was relatively recent, there is likely little that can be done. I have, however, discussed the importance of proper reporting and spill clean up with the wastewater operations manager for the City of Portland to ensure they are aware of proper cleanup procedures.

Should you have further questions about PCB regulations, the Environmental Protection Agency's Oregon Operations Office is the best resource at 221-3250. Should you have other questions, please contact me in Portland at 229-5292.

Sincerely,


Janet A. Gillaspie
Regional Manager
Northwest Region

JAG:p
RP317
Enclosure

cc: City of Portland, Bureau of Environmental Services, Ross Peterson
Accident Prevention Division, Eastside Office
Environmental Protection Agency, Oregon Operations Office
Regional Operations, DEQ
Water Quality, DEQ

Janet A. Gillaspie
Regional Manager
Northwest Region
Department of Environmental Quality
811 S.W. Sixth Avenue
Portland , Oregon 97204
503-229-5696

✓cc: HMI
March 7, 1987 WJQ

Dept. of Environmental Quality

RECEIVED
MAR 12 1987

NORTHWEST REGION

Dear Janet:

My concern regarding PCB in lighting fixtures and transformers is that we have already experienced two spills and the potential is great that another will occur which will cause greater environmental damage let alone harm to employees in contact with such a spill . There are 4 known locations of PCB filled transformers located at MCB (Blower Building) , MCTA / MCTS (Gold & Silver Tunnel) and MCE (The Effluent Pump House) . The spill occurred at installation at the west end on the Gold & Silver Tunnel on the east transformer . There is no containment at this or any transformers containing PCB and resulted in contaminating the concrete, the drains , the sump and sump pumps , associated piping and eventually out to the Columbia River . Under 340-104-228 " the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless 40 CFR 261.3d applies." since I was present to shut down the equipment and lock out the transformer I saw first hand what was done which was to repair the leak , check the transformer and clean up the transformer not the concrete, drains, sump & pump, etc.

What needs to be done is to eliminate the hazard by removing the transformers or retrofilling with impervious containment . I was told that the action would be taken before and after the spill to remove the transformers by management , so far nothings been done not even testing these as well as the transformers at the main substation , digester substation , composter substation , screenhouse transformer or at Ankeny Substation. This material has destroyed the reproduction in fish in the parts per Billion as well as caused cancer when it enters our food chain and it is our responsibility to do whatever it takes to remove any such materials when it runs the risk as these transformers, with a spill already occurred .

Terrance E. Jenkins
Terrance E. Jenkins



Department of Environmental Quality *CBTP*
WQ-Ault

811 S.W. SIXTH AVENUE, PORTLAND, OREGON 97204 PHONE: (503) 229-5696

March 19, 1987

- Terrance Jenkins
36445 Ridgeview Dr.
Yacolt, WA 98675

Dear Mr. Jenkins:

In your letter of March 7, 1987, you again indicated that you thought it would be best to replace the PCB-containing transformers at the City of Portland's Columbia Blvd. sewage treatment plant.

The regulation you cited in your letter, OAR 340-104-228 applies to facilities which are applying for hazardous waste Treatment, Storage, or Disposal (TSD) permits regulated under the Resource Conservation and Recovery Act. The City of Portland's sewage treatment plant is not subject to these requirements since it is not applying for a TSD permit. The hazardous waste regulations are very complex, but generally apply to materials which are toxic, corrosive, ignitable, or reactive. The Resource Conservation and Recovery Act specifically does not apply to PCB's.

As I indicated in my earlier letter, the regulations which cover the manufacture and use of PCB's is the Toxic Substances Control Act which is a federal law implemented by the Environmental Protection Agency. I have referred your letter to EPA's Oregon Operations Office.

Sincerely,

Janet A. Gillaspie
Regional Manager
Northwest Region

JAG:y
RY5011

cc: ✓ EPA-Oregon Operations Office
✓ City of Portland
Bureau of Environmental Services
Wastewater Treatment Section
Water Quality Division, DEQ
Hazardous and Solid Waste Division, DEQ



U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

RECEIVED
NOV 21 1988
MAYOR'S OFFICE

NOV 21 1988

REPLY TO
ATTN OF: S0-125

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

The Honorable Bud Clark
Mayor of Portland
1120 SW 5th Avenue
Portland, Oregon 97204

Re: Toxic Substances Control Act
Docket No. 1088-11-04-2615

Dear Mayor Clark:

Since your office received our letter of October 31, 1988, which identified violations of the federal PCB Regulations, John Lang, Administrator of the City of Portland Environmental Services, has been in contact with William Hedgebeth of my staff. We appreciate the immediate and thorough response to our letter. We feel the City's response will make resolution of these violations a much easier process. The following and attached documents formally identifies the process and the steps required for proceeding.

Enclosed you will find a Complaint and Notice of Opportunity for Hearing. A copy of the regulations and Rules of Practice applicable to this proceeding are also enclosed. You are hereby advised to read this document carefully and communicate your answer within the time limit specified.

The Complaint alleges that the City of Portland violated the disposal, inspection, registration, and recordkeeping provisions of the PCB Regulations issued pursuant to the Toxic Substances Control Act. Accordingly, it is of considerable importance that you attend to this matter forthwith.

You are allowed twenty (20) days to formally answer the complaint unless you request and receive a written extension of time. However, we would like to informally discuss the alleged violations and proposed penalties. Such discussions may result in settlement which would make the filing of a formal answer unnecessary. We look forward to further discussions with the City.

*ct/cs - to
file answer*

Juliane Matthews, EPA Attorney, is knowledgeable about this subject and can be reached at (206) 442-1169.

Sincerely,



Kenneth D. Feigner, Chief
Pesticides and Toxic Substances Branch

Enclosures

cc: John A. Foley, EPA Headquarters

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE REGIONAL ADMINISTRATOR
Region 10
Seattle, Washington

In the Matter of:) DOCKET NO. 1088-11-04-2615
CITY OF PORTLAND, OREGON,)
Respondent.) COMPLAINT

I.

JURISDICTION

1. This is an administrative action instituted pursuant to Section 16(a) of the Toxic Substances Control Act (hereinafter "TSCA"), 15 U.S.C. § 2615(a), for the assessment of a civil penalty. The complainant is Region 10, United States Environmental Protection Agency (hereinafter "EPA"). Complainant has reason to believe that the above-named respondent has violated federal regulations addressing the use and/or disposal of polychlorinated biphenyls (PCBs) (40 C.F.R. Part 761 promulgated under Section 6 of TSCA), and thereby has violated Section 15 of TSCA, 15 U.S.C. § 2614.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II.

FINDINGS AND VIOLATIONS

2. On August 11, 1988, an EPA inspection was performed at facilities of the City of Portland, Oregon, Wastewater Treatment Branch, Environmental Services. The purpose of the inspection was to determine compliance with TSCA, 15 U.S.C. § 2601, et seq., and specifically the PCB regulations pursuant to 40 C.F.R. Part 761. The inspection disclosed the following violations:

3. REGULATION - DISPOSAL: 40 C.F.R. § 761.60(d) states that spills and other uncontrolled discharges of PCBs at concentrations of 50 ppm or greater constitute the disposal of PCBs. PCBs resulting from the cleanup and removal of spills, leaks, or other uncontrolled discharges, must be stored and disposed of in accordance with 40 C.F.R. § 761.60(a). Disposal of PCBs in any other manner constitutes the improper disposal of PCBs.

4. VIOLATION ONE: Analysis of a wipe sample taken from the floor by a PCB Transformer in MCTA East, 1000 KVA, Pyranol, showed the presence of PCB at 50,270 micrograms/100 cm². This indicates a failure to adequately clean up a release of PCBs from this transformer and constitutes the improper disposal of PCB.

5. REGULATION - QUARTERLY INSPECTIONS: 40 C.F.R. § 761.30(a)(1) requires that owners of PCB Transformers in use or stored for reuse:

- 1 a) visually inspect each PCB Transformer at least once every
2 three months;
3 b) record all leaks and initiate cleanup within 48 hours of a
4 leak being observed; and
5 c) maintain records of the inspections and servicing history.
6

7 The use of PCB Transformers, as outlined in 40 C.F.R. Part 761, is allowed
8 only if the persons using that equipment comply with these steps. A reduced
9 visual inspection frequency of at least once every 12 months is allowed:

10 1) if a PCB Transformer has impervious, undrained, secondary containment
11 capacity of at least 100 percent of the total dielectric fluid volume of all
12 transformers so contained; or, 2) if a PCB Transformer has been tested and
13 found to contain less than 60,000 ppm PCB.
14

15 6. VIOLATIONS TWO THROUGH NINE: There was no record of
16 quarterly inspections having been conducted on the following PCB Transformers
17 prior to January 1987:
18

19 VIOLATION TWO: Transformer Number 1, Blower Building, 750
20 KVA, Pyranol, 215 gallons.
21 VIOLATION THREE: Transformer Number 2, Effluent Pump House,
22 750 KVA, Pyranol, 215 gallons.
23 VIOLATION FOUR: Transformer Number 3, MCTA East, 1000 KVA,
24 Pyranol, 250 gallons.
25 VIOLATION FIVE: Transformer Number 4, MCTA West, 1000 KVA,
26 Pyranol, 250 gallons.
27 VIOLATION SIX: Transformer Number 5, MCTB East, 1500 KVA,
28 Pyranol, 295 gallons.
VIOLATION SEVEN: Transformer Number 6, MCTB West, 1500 KVA,
Pyranol, 295 gallons.
VIOLATION EIGHT: Transformer Number 7, Ankeny Pump Station,
500 KVA, Inerteen, 130 gallons.
VIOLATION NINE: Transformer Number 8, Ankeny Pump Station,
500 KVA, Inerteen, 130 gallons.

- VIOLATION FOURTEEN: Transformer Number 5, MCTB East, 1500 KVA, Pyranol, 295 gallons.
- VIOLATION FIFTEEN: Transformer Number 6, MCTB West, 1500 KVA, Pyranol, 295 gallons.
- VIOLATION SIXTEEN: Transformer Number 7, Ankeny Pump Station, 500 KVA, Inerteen, 130 gallons.
- VIOLATION SEVENTEEN: Transformer Number 8, Ankeny Pump Station, 500 KVA, Inerteen, 130 gallons.

9. REGULATION - RECORDS & MONITORING: 40 C.F.R.

§ 761.180(a) requires that, beginning July 2, 1978, facilities using or storing at one time at least 45 kilograms (99.4 pounds) of PCBs contained in PCB Container(s), or one or more PCB Transformers, or 50 or more PCB Large High or Low Voltage Capacitors, develop and maintain records on the disposition of the PCBs and PCB Items. The records shall form the basis of an annual document prepared by July 1, covering the previous calendar year.

10. VIOLATIONS TEN THROUGH FOURTEEN: There were no PCB Annual Documents for the years 1983, 1984, 1985, 1986, and 1987.

III.

PROPOSED CIVIL PENALTY

11. Section 16 of TSCA, 15 U.S.C. § 2615, and the regulations promulgated thereunder, 40 C.F.R. § 761, et seq., authorize a civil penalty of up to \$25,000.00 per day for each violation of TSCA. Based on the facts given in Section II above, the nature, circumstances, extent and gravity of the above-cited violations, and degree of culpability, the following penalties are hereby proposed:

	<u>Regulation</u>	<u>Requirement</u>	<u>Penalty Amount</u>
1.	40 C.F.R. § 761.60	Disposal	\$ 5,000
2-9.	40 C.F.R. § 761.30	Quarterly Inspection	\$41,600

	<u>Regulation</u>	<u>Requirement</u>	<u>Penalty Amount</u>
10-17.	40 C.F.R. § 761.30	Registration	\$64,000
18-22.	40 C.F.R. § 761.180(a)	Annual Reports	\$10,000
		TOTAL	\$120,600


12. Payment of such penalty shall be by check made payable to the United States Treasurer, remitted to the following:

Environmental Protection Agency, Region 10
 (Regional Hearing Clerk)
 P.O. Box 360903M
 Pittsburgh, Pennsylvania 15251

with a copy of the check and transmittal letter sent to:

Regional Hearing Clerk
 Office of Regional Counsel
 Environmental Protection Agency
 1200 Sixth Avenue, S0-125
 Seattle, Washington 98101

ISSUED AT SEATTLE this 22nd day of November, 1988.


 KENNETH D. FEIGNER, Chief
 Pesticides and Toxic Substances Branch

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 10, 1200 Sixth Avenue, SO-125
Seattle, Washington 98101

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Complainant,	)	NO. <u>1088-11-04-2615</u>
vs.)	
)	
CITY OF PORTLAND, OREGON,	)	NOTICE OF LEGAL PROCEEDINGS; NOTICE OF EPA COMPLAINT; AND NOTICE OF OPPORTUNITY FOR HEARING, AND FOR SETTLEMENT MEETING
)	
Respondent.)	

THE REGIONAL ADMINISTRATOR EPA REGION 10 TO THE FOLLOWING RESPONDENT:

The City of Portland, Oregon
1120 SW 5th Avenue
Portland, Oregon 97204

YOU ARE HEREBY GIVEN NOTICE AS FOLLOWS:

1. Administrative proceedings have been commenced against you by the U.S. Environmental Protection Agency ("EPA").
2. You are hereby NOTIFIED of, and served with, the ATTACHED TRUE COPY of a COMPLAINT filed in these proceedings. It explains EPA's claims for civil penalties proposed to be adjudged against you.
3. The signed original of the attached COMPLAINT is filed with the EPA Regional Hearing Clerk, SO-125, Park Place Bldg., 1200 Sixth Avenue, Seattle, King County, Washington, 98101, Phone No. (206) 442-1141.
4. The ATTACHED COMPLAINT is a claim by EPA for civil penalties to be assessed against you. Adjudicative proceedings to that end are controlled by the "Consolidated Rules of Practice" (copy attached to the Complaint) appearing in Title 40, Code of Federal Regulations, Part 22.
5. You have a RIGHT TO A HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE:
 - A. To contest any material allegation of the attached penalty COMPLAINT which you genuinely deny; and/or
 - B. To contest the amount and appropriateness of the civil penalties proposed in the COMPLAINT.

However, TO OBTAIN A HEARING YOU MUST FILE A WRITTEN RESPONSE to the COMPLAINT called an "Answer."

6. YOU HAVE ONLY TWENTY (20) CALENDAR DAYS (if you choose to respond) from the day you receive this Notice within which to file a WRITTEN RESPONSE to the attached COMPLAINT. Such a written response or "Answer" must be filed by having it DELIVERED ON TIME to the EPA Hearing Clerk (address in paragraph 3). Copies of all papers filed by you must be delivered at the same time (by mail or otherwise) to the EPA attorney whose name appears below in paragraph 10.

7. ANY SUCH WRITTEN RESPONSE YOU FILE TO THE COMPLAINT MUST:

- A. Request a hearing on the Complaint (or your right to request a hearing on the Complaint is deemed waived); and
- B. Contain clear and direct admissions, denials, and/or explanations with respect to each of the allegations of the Complaint; and
- C. Contain a definite statement of any facts which you contend constitute grounds for defense against the penalty liability stated in the Complaint; and
- D. Contain a concise statement of all material facts relating to allegations in the Complaint which you intend to place in issue at a hearing.

8. IF YOU FILE A LATE WRITTEN RESPONSE, OR IF YOU OMIT ENTIRELY FILING ANY WRITTEN RESPONSE, YOU ARE SUBJECT TO THE ENTRY OF AN ORDER OF DEFAULT on the Complaint. After an order of default, penalties can be adjudged and imposed on you without any further notice to you.

9. AN INFORMAL SETTLEMENT MEETING can be held at your request. You may discuss there:

- A. Whether or not the violations alleged truly occurred; and/or
- B. The amount and appropriateness of any civil penalty considering: the size of your business, the gravity of any such violations, the effect of civil penalties on your ability to continue in business, and any other appropriate factors.

Such a meeting might resolve matters by a settlement which would make a hearing unnecessary.

10. In order to arrange an informal settlement meeting you must contact the following EPA attorney at (206) 442-1169, 1200 Sixth Avenue SO-125, Seattle, Washington 98101: Juliane Matthews, not later than twenty (20) calendar days from receipt hereof.

11. PLEASE TAKE NOTICE that an EXTENSION OF TIME to make and file your written response may be negotiated with the EPA attorney named above. If an agreement is reached to extend time, a written stipulation and an agreed order will be entered in accordance with 40 C.F.R. §22.16(c).

ISSUED AT SEATTLE this 22nd day of November, 1988.


KENNETH D. FEIGNER, Chief
Pesticides and Toxic Substances Branch

DEQ fines city \$5,000 over spills

By PHEL MANZANO
of The Oregonian staff

The Oregon Department of Environmental Quality has fined the city of Portland \$5,000 for two sewage spills in the Willamette River last month, but allowed the fine to be used for a public information program.

Meanwhile, about 175,000 gallons of raw sewage spilled into the Willamette River on Tuesday evening near downtown Portland, a DEQ spokeswoman said.

Shirley Kengla said the spill from a pump station on the east end of the Burnside Bridge began at 4:45 p.m. and was stopped at 7:23 p.m.

Kengla said the DEQ was warning against recreational use of the Willamette downstream from the spill until 5 p.m. Wednesday. The cause of the spill was not immediately known.

The earlier spills that prompted the fine both occurred last month. About 10,000 gallons of raw sewage spilled into the river June 2. On June 6, "several million gallons" spilled at the same pump station involved in Tuesday night's spill.

Although state law requires immediate reporting of spills to DEQ, about six hours elapsed before city workers reported the June 6 spills.

A third spill of about 100,000 gallons occurred June 7, but no fine resulted because the DEQ was notified immediately.

The spill June 6 was the result of a failure in a computer-controlled pump system.

In a letter advising the city of the fine, DEQ Director Erik Hansen said "assessing civil penalties against another unit of government is not a practice which tends to be good for public health."

However, the length of time the spills went unreported was serious enough to warrant a fine, Hansen said. Immediate notification allows the DEQ to assess the environmental damage and, if needed, issue warnings to the public, he said.

John Lang, administrator of environmental services for the city, said the city decided Tuesday to set up a public information program, as suggested by the DEQ.

He said a public information program about how residents and industries could reduce the amount of waste going into the city's sewage system was of more benefit than a fine.

Hansen told the city that a public information program should reach the largest number of people and should be coordinated with the Portland School District and included in its curriculum.

The city must submit a plan for the public information program to the DEQ for approval.

"Our concern was not so much to give the city a penalty," said Carolyn Young, spokeswoman for the DEQ. "That's not good public policy."

Computer fouls river second day

□ The state extends the warning against recreational use of the Willamette as sewage dumps out again

By EDWIN GARCIA
of The Oregonian staff

A warning against recreational activity in the Willamette River was extended Tuesday morning by state officials after the second raw sewage spill in two days poured into the river.

Between 9:40 a.m. and 10 a.m. Tuesday, 100,000 gallons of sewage spilled into the Willamette River while a crew was investigating Monday's 3.4 million gallon spill.

The new spill is a "fairly insubstantial amount," said Ross Peterson, director of the Columbia Boulevard Wastewater Treatment Plant.

The Oregon Department of Environmental Quality is advising against any activity that would include direct contact with river water between the Burnside Bridge and the confluence of the Willamette and Columbia rivers, said DEQ spokeswoman Shirley Kengla.

The new warning is in effect until 10 a.m. Wednesday.

Contact with the water could cause sickness with severe flu-like symptoms, Kengla said.

Computer fails again

Peterson said the sewage spill was caused by the same controller unit as Monday's computer failure at the Sullivan Pump Station, located near the east end of the Burnside Bridge.

"Programming steps that have to take place apparently weren't done correctly or we had some kind of programming problem," Peterson said.

"If there's a programming problem it doesn't bring on the pumps like it's supposed to," he added.

Rainfall Monday and Tuesday did not cause the problem, but it changed the flow characteristics of the sewage, Peterson said.

When the water level rises, additional pumps are activated by computer, calling for more pumping capacity and the controller failed to supply that capacity.

At 10 a.m. Tuesday, an additional pump was manually turned on, he said.

Sewage flows into river; computer failure blamed

□ The five-hour spill from the Sullivan Pump Station poured about 5.4 million gallons into the Willamette River downtown

By DAVE HOGAN

of The Oregonian staff

A computer failure caused about 5.4 million gallons of raw sewage to spill into the Willamette River in downtown Portland early Monday, prompting state officials to warn against recreational use of the river through Tuesday morning.

"That's a major spill," said Shirley Kengla, spokeswoman for the Oregon Department of Environmental Quality.

The spill began about 3 a.m. when a computer failure at the Sullivan Pump Station caused sewage to flow directly into the river, said Ross Peterson, director of the Columbia Boulevard Wastewater Treatment Plant. The spill was stopped by 8 a.m., he said.

The Sullivan Pump Station, located near the east end of the Burnside Bridge, is owned by the city of Portland and pumps sewage from the east side of Portland to the Columbia Boulevard Wastewater Treatment Plant.

Peterson said the computer failure was caused by a loss of electrical power, shutting down the pumps at the pump station.

He said the computer system was designed so that operators could override computer commands at the station, but they discovered Monday they could only do that when the computer had electrical power. Monday's loss of power prevented that.

So, repair crews worked first to

restore power to the computer, then fixed the problem with the pumps, he said.

Peterson said Monday's problems showed that the design of the complex control system for the Sullivan Pump Station needed to be changed. The Sullivan station is the largest of about 78 pump stations that send a total of about 75 million gallons of sewage to the Columbia Boulevard treatment center each day, he said.

"The pump station is normally one of the most reliable in our system," Peterson said. "This one changes that."

Kengla said the DEQ is investigating the spill.

"Because it was a computer failure, it was an accident and for that reason, we're just looking toward making sure it doesn't happen again," she said.

In response to the spill, DEQ officials were advising against any activity that would include direct contact with river water between the Burnside Bridge and the confluence of the Willamette and Columbia rivers, Kengla said. That warning remains in effect until 8 a.m. Tuesday.

Contact with the water could cause sickness with severe flu-like symptoms, she said.

In June 1965, another computer failure caused the dumping of more than 3 million gallons of raw sewage into the Willamette from the same pump station, Kengla said. State and city officials had been working to prevent a recurrence of the problem.

"We thought we had done enough, but obviously we hadn't," she said.

In October 1967, about 47,000 gallons of raw sewage spilled from the city-owned Ankeny Pump Station on the west bank of the Willamette River near the Burnside Bridge. That was caused by failure of one of two pumps.

Wednesday

APR 87

4M 89 CT

O/NORTHWEST

Local news, C4,5 Forum, C9,11
Obituary, C8 Editorial, C10
The Oregonian, Wednesday, June 8, 1988

C

Raw sewage again pollutes Willamette

Another second spill in two days, again "insubstantial" 100,000 gallons, is blamed on a computer glitch at the Sullivan Pump Station

By [Name] and JOHN SNELL

A second spill in two days dumped raw sewage into the Willamette River, and again, the cause was blamed again to a computer glitch. The new spill is a "fairly insubstantial amount," said Ross Peterson, director of the city's Columbia Boulevard Wastewater Treatment Plant.

City Commissioner Bob Koch said a "serious watch would be placed on the Sullivan Pump Station for at least the next couple of weeks" to guard against additional spills.

About 5.4 million gallons were spilled into the river Monday. Both incidents were caused by the same computer unit at the Sullivan Pump Station, on the east side of the Willamette River and just north of the Burnside Bridge.

"There will be a long-term evaluation of the situation within a week," said Koch, who is in charge of the Bureau of Environmental Services, which runs the station. "If there is any human error involved, the appropriate disciplinary action will be taken."

The new spill is a "fairly insubstantial amount," said Ross Peterson, director of the city's Columbia Boulevard Wastewater Treatment Plant.

A spokeswoman for the Oregon Department of Environmental Quality said neither spill posed a threat to the environment.

"It's not an environmental concern, it's a health concern," said Shirley Kengla, a DEQ spokeswoman in Portland. "We're mainly worried about the bacteria that would be in the sewage and that people could come in contact with it while swimming or water skiing or jet skiing. They might accidentally swallow it."

The bacteria could cause sickness with severe flu-like symptoms, she said, adding that there had been no reports of illness. She

said DEQ officials were concerned because of the thousands of people that were being attracted to the affected section of river during the Rose Festival.

Kengla said the sewage didn't contain toxic wastes from industry.

The 100,000-gallon spill occurred between 9:40 and 10 a.m. Tuesday, while a DEQ crew was investigating Monday's spill. The Sullivan station is the pumping station that serves most of the east side of the city and sends sewage to the Columbia Boulevard treatment plant.

Please turn to SPILL, Page C7

METRO/NORTHWEST

Forum, B5,7
Editorial, B6

The Oregonian, Thursday, June 16, 1988

B

DEQ checks into delay in sewage spill notification

The Portland sewage pumping system will be examined to see if technical changes are needed to prevent future spills.

By [REDACTED] of the [REDACTED]

The state Department of Environmental Quality wants to know more about why city of Portland employees waited more than five hours to notify the state of the

sewage into the Willamette River last week, a spill that occurred Wednesday.

The DEQ will examine Portland's sewage pumping system to see if technical

changes are needed to prevent such spills, said Janet Gillaspie, manager of the Northwest Region, DEQ's investigations section for Northwest Oregon.

A preliminary report on the spill, submitted by the city to the state Wednesday, also found that a wiring mistake caused the second, smaller spill.

[REDACTED] said that [REDACTED]

[REDACTED] although the [REDACTED]

[REDACTED]

The second spill occurred

June 7.

Ross W. Peterson, the city's waste water operations manager, submitted the report, which details step-by-step efforts to correct mechanical problems before the spills.

To meet requirements of the city's river discharge permit from DEQ, the state agency should be notified within an hour of any dis-

charge of untreated sewage into the Willamette, Peterson acknowledged in a telephone interview Wednesday.

However, as technicians worked to get the system on line, one thought another had made notification after sewage started pouring into the river about 2:50 a.m. June 6, Peterson said.

About 7:30 a.m., a city supervisor realized DEQ hadn't been called, Peterson said. The supervisor called the state agency's office and got a recorded message but decided to wait until the DEQ office opened at 8 a.m. rather than using an after-hours number, Peterson said.

"We are in the process of evaluating the report on two fronts," Gillaspie said. "There are timely notification (of spills) and what needs to be done to revise the mechanical system to these situations don't happen in the future."

The city will continue an engineering review and submit a report to DEQ by July 1 with a proposed schedule for making corrections, Peterson said.

Shirley Kengle, DEQ spokeswoman for water quality, said that after DEQ reviewed the final report the city could be issued a notification of violation or could be fined.

DEQ will examine the alarm system at the Columbia Boulevard control panel to see if changes are needed, Gillaspie said.

DEQ staff members also want to see that city employees can manually override a computer-controlled pumping and valving system at the Ankeny and Sullivan's Gulch pump stations, the major stations in the city system, she said.

More backups in case of system failures may be needed, she said.

Peterson's report noted that mechanical problems started at an unspecified time

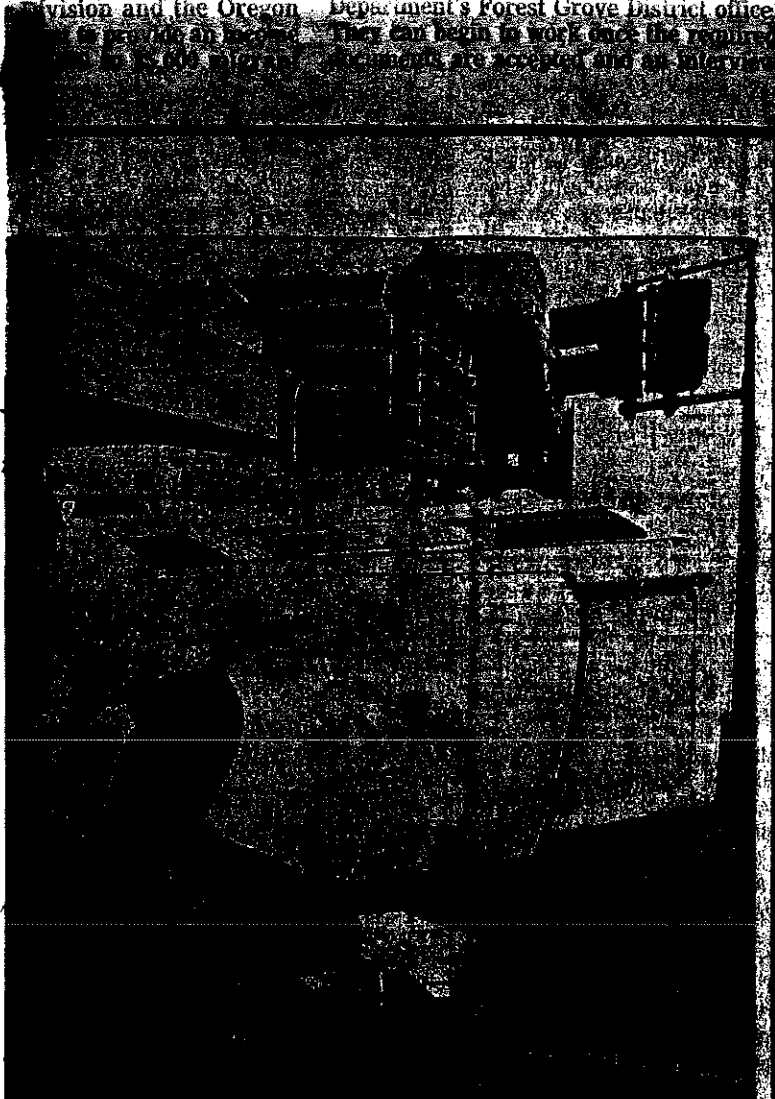
June 5 at the Sullivan's Gulch pump station.

The computer controller for the pump controls failed, but an on-duty mechanic was able to reset the device without a spill occurring, Peterson said. It stopped again at 3:34 p.m. June 5.

A maintenance supervisor responded and then called out technicians, including engineers, the report said.

The technicians examined the system but couldn't pinpoint the source of trouble, the report said. They left shortly after midnight, and mechanics remained to watch for system failures.

At 1:20 a.m. June 6, the computer controller failed again and couldn't be restarted. The technical staff returned to the station. At 2:50 a.m., sewage started flowing into the river at an estimated 7,000 gallons per minute. It was stopped at 7:40 a.m.



Greg Lloyd Desso, 29, Clatsop County, was cited for running a red light. Story on Page C3.

Oregon drug effort

of them illegally in the country in drugs, Beebe said. The positions, already authorized, are to be filled by the agency's Oregon staff from the Portland staff. The main artery from Canada to the U.S. is in the 1980s moving both in and out. Enforcement Administration will send two to five agents permanently to deal mostly with marijuana and cocaine cases in Clatsop and Klamath counties, but when the DEA's office opens, more agents must be transferred. The space obtained. Customs Service used a major budget keeping agents in Oregon the first of this year, said Tom Gray, enforcement office in Portland. He does not know the current status of funds to open a permanent office. Turner, U.S. attorney for Oregon, said James Wallan, a Jacksonville district attorney, as a

special prosecutor for the area and Deborah Dealy-Browning, a deputy district attorney in Marion County, will become a special prosecutor in the Eugene office of the U.S. attorney to deal solely with drug and drug-related cases in Southern Oregon, Turner said. Dealy-Browning will work for one year under a grant received by his office, he said. Turner said federal drug enforcement activity is being increased because "in the federal system, people can go to jail." Large scale drug operations in Southern Oregon are outgrowing the ability of local law enforcement to deal with them and local law enforcement agencies "turned to us" for help in dealing with the problem, Turner said. The federal law enforcement leaders said major drug traffickers have moved to the Southern Oregon area, many from Southern California, because they see it as an area where law enforcement is spread thin and overcrowded prisons make long sentences unlikely for the convicted. "We're attempting a type of deterrence," Turner said.

Computer fouls river second day

The state extends the warning against recreational use of the Willamette as sewage dumps out again

By EDWIN GARCIA
of The Oregonian

A warning against recreational activity in the Willamette River was extended Tuesday morning by state officials after the second raw sewage spill in two days poured into the river.

Between 7 a.m. and 10 a.m. Tuesday, another million gallons of sewage spilled into the Willamette River while a crew was diverting Monday's 10 million gallons into a treatment plant.

The new spill is a "rather substantial amount," said Ross Peterson, director of the state's Department of Environmental Quality.

The Oregon Department of Environmental Quality is advising against any activity that would include direct contact with river water between the Burnside Bridge and the confluence of the Willamette and Columbia rivers, said DEQ spokeswoman Shirley Kengla.

The new warning is in effect until 10 a.m. Wednesday.

Contact with the water could cause sickness with severe flu-like symptoms, Kengla said.

Computer falls again

Peterson said the sewage spill was caused by the same controller unit as Monday's computer failure at the Sullivan Pump Station, located near the east end of the Burnside Bridge.

"Programming steps that have to take place apparently weren't done correctly or we had some kind of programming problem," Peterson said.

"If there's a programming problem it doesn't bring on the pumps like it's supposed to," he added.

Rainfall Monday and Tuesday did not cause the problem, but it changed the flow characteristics of the sewage, Peterson said.

When the water level rises, additional pumps are activated by computer, calling for more pumping capacity and the controller failed to supply that capacity.

At 10 a.m. Tuesday, an additional pump was manually turned on, he said.

Broken spring blamed for latest sewage spill

Several problems plague Portland system that DEQ says is showing its age

By JANET GOETZE

of The Oregonian staff

A broken spring, a sign of an aging sewage system, caused Tuesday's spill of raw sewage into the Willamette River, John Lang, administrator of Portland's Bureau of Environmental Services, said Wednesday.

It was the fourth sewage spill in the Willamette since June 2 and the fifth such spill involving the city's sewer system since then. According to Lang and officials with the Department of Environmental Quality, the spills have resulted from several problems.

and poured about 10,000 gallons of raw sewage into the Willamette. Then, on June 6, several million gallons spilled and, on June 7, another 100,000 gallons went into the river, according to state and city estimates.

On Tuesday, the city announced a spill in connection with two of the earlier spills, about 175,000 gallons poured

into the Willamette.

The spills on June 2, June 6 and June 7 were all related to the same problem, according to Lang and Shirley Kengla of the DEQ — electrical shorts in a junction box.

Lang said a heater that was supposed to prevent condensation in the box burned out, and that allowed condensation to form and cause problems with the electricity June 2.

By June 8, the circuit was destroyed and that disrupted energy to a computer that helps operate the pump station and to the system's manual controls, Lang said. The June 7 spill was related to the same problem.

The broken spring implicated in Tuesday's incident is on a screen that is located at a screen at the 35-year-old Sullivan pump station on the east side of the Willamette, where the electrical problems occurred June 4 and 6, Lang said.

The screen is designed to keep debris from the pumps, he said. However, if debris piles up on the screen, a bypass line releases it into the river, he said.

"We don't like to use that bypass line, but the option is to let it back up into homes," Lang said.

The spring was replaced about eight weeks ago in a normal maintenance program, Lang said. However, the operation of aging devices around it apparently caused enough stress to

break the spring, he said.

About two years ago, the Bureau of Environmental Services forecast that greater maintenance would be needed for the city's sewage treatment plant and pumping stations because they are nearing 40 years old, Lang said.

"I think this indicates an accurate forecast," Lang said of mishaps of recent weeks.

However, we didn't expect the breakdowns to happen in this short period of time," he added.

The spill that took place June 27 in the Columbia Slough was the result of a broken release valve in a sewage pipe. The pumping station had been inspected in early June and found to be faulty, but a repair crew was waiting to obtain portable welding equipment with which to repair it when the spill took place.

In part of a bureau plan for dealing with aging equipment, a supervisor was hired two months ago for a new maintenance program, Lang said. Additional engineers and electricians also were hired, he said.

Later this month, the bureau expects to purchase new computer hardware that will help it track its maintenance needs and schedule work, he said.

The \$200,000 computer cost was included in the bureau's 1987-88 fiscal year budget, Lang

said.

Tuesday's spill had resulted in a ban on Willamette River recreation but by 5 p.m. Wednesday, the Department of Environmental Quality lifted the ban.

The city estimated that about 40,000 gallons of untreated sewage entered the river between 4:45 p.m. and 7:23 p.m. Tuesday, said Kengla, who is the DEQ's water quality information officer. Estimates, based on engineering specifications for the pump station's maximum load, indicated up to 174,000 gallons of debris could have entered the Willamette, she said.

The actual amount of sewage may lie somewhere between those two numbers, she acknowledged. No one has a way to measure precisely the amount of material that entered the river from a spill, she said.

The city was fined the \$5,000 for failing to notify the DEQ immediately of the June 2 and 6 spills, quickly notified the state agency of the new spill, Kengla said.

In lieu of sending money to the state agency, the city will put the \$5,000 into a public education program on the sewer system and will submit a plan to the DEQ by Sept. 1, Lang said.

The city is expected to submit a second report on Tuesday's spill by the end of this week or early next week, but a final deadline has not been set, Kengla said.

WEST REGION
 NOTICES OF VIOLATION/NONCOMPLIANCE ISSUED
 DURING THE MONTH OF May, 19

cc:VAR

Name of Company or Person in Violation	County	AQ WQ OSS SW HW	Number of Notice	Date of Notice	Description of Violation	Staff	Per NPC
Northwest Retraders Inc	Mult	AQ	88-42	5/4/89	Particles in air + smoke being vented	RHW	NO
PENNWALT	MULT	WQ	88-43	?	WQ	STW	
Can Industrial	WA	AQ	88-44	5/13/89	Non Notification	DEN	N/A
Patrol Bench	Mult	AQ	88-45	5/13/89	Non Notification	DEN	N/A
Thorolyte Fiberglas	Clack	WQ	88-46		Unpermitted discharge of wastewater	RV	NO
Fred Meyer	WA	AQ	88-47	5/17	Non Notification	DW	N/A
McConaghy Construction	WA	WQ	88-48	5/24	Paint in storm drain	LJM	N/A
Egon Steinborn-Bests Inc	WA	HW	88-49	5/25	Burning waste plastics	HMD	NO
Snyder Roofing Inc	WA	AQ	88-50	6/2	Gas entrained effluent violation	HMD	NO
Willamette Ind,	WA	NOISE	88-51	6/1	Dust Collection section	J/R	
Ione Plaza	Mult	AQ	88-52	6/2	Opacity - boiler	RLN	NO
Campbell Crane	Mult	WQ	88-53	6/7	oil contam pond	LJM	NO
Twin Rocks	Till	WQ	88-54	6/7	permit limit exceed. TSS	LJM	Yes
Rockaway	Till	WQ	88-55	6/7	" " " FC	LJM	Yes
WAKN - Ind.	Mult	HW	88-56	6/8	HW	DLP	NO
Michels of OR Co	Mult	HW	88-57	6/8	HW	DLP	NO
Arrow Transportation	MULT.	HW	88-58	6/8	HW	DLP	NO
Keyhold Metal Co Troutdale	Mult.	WQ	88-59	6/8	permit limit exceeded, pH, TSS Fluoride	STW	N/A

at, 5' 3-deck
screw tandem ax-
le chutes P.O.R.

9500 Canica vertical impact with 300 h.p. electric motor
mounted on portable tandem axle trailer with 36" under
crusher conveyor, complete with electric controls, 1983.
\$75,000

36"x90' Peerless portable radial stacking conveyor, mech.
fold, hydraulic raise, power radial. Like new P.O.R.

INT
t, 18"x24" jaw, 24"
wer P.O.R.

5100 Std. Symons Cone w/200 h.p. mtr. mtd. on port.
tandem axle trlr. P.O.R.
1560 NEW Omni Nordberg Cone Crusher, (in stock) P.O.R.
54" El Jay Std. Cone - complete, rebuild P.O.R.

10'x60' Port. Murphy Truck Scales, 60 ton cap. w/steel deck
- 3 sect. \$16,000

RADIAL STACKING CONVEYORS

36"x90' Peerless port. radial stacking conveyor, mech.
fold, hyd. raise, power radial, like new P.O.R.

FEEDERS

36"x12' Pioneer Apron Feeder \$4,000
30"x12' Pioneer Apron Feeder w/elect. Eddy current control
..... P.O.R.
44"x16' A.C. Vibratory Feeder, used \$9,500
New 46"x16' Vib. Grizzly Feeder P.O.R.
Kolman 101 Port. Feeder, 36" conveyor, plate feeder w/hozer
trap, 30 h.p. elect. mtr. P.O.R.
36"x60' Port. Kolman Conveyor, single axle, plate feeder,
elect. mtr. drive, dozer trap P.O.R.
36" SPOMAC Dozer Trap Feeder w/plate feeder, 36"x31'
discharge conveyor, port., single axle \$10,500

SCREENS

42"x5' Nordberg Symons Vibratory H.D. Bar Grizzly
\$8,500
4'x12' 2-Deck El Jay Horizontal H.D. Scalping Screen
w/mtr., gear drive P.O.R.
4'x14' 2-Deck Horizontal Symons Screen \$5,500
4'x14' 2-Deck Hewitt Robins Hanging Screen \$3,000
5'x7' Single Deck Kolman mid. on stand \$3,300
5'x16' 3-Deck Horizontal Cedar Rapids \$11,500
6'x16' 3-Deck Horizontal El Jay Screen, gear drive, comp.
w/30 h.p. mtr., wet spray bars & manifold sys. & strainer P.O.R.

PORTABLE SCREENING PLANTS

New Kolberg Recovery KR10 Screening Plant, port., dsl.
eng., 2-deck screen P.O.R.
Twin El Jay screening plant w/2-5'x16' 2-deck horizontal
screens, gear drive, mtd. on tandem axle trlr. w/36" under
screen conveyor, 2 cross conveyors P.O.R.
5'x16' 2-Deck Cedar Rapids Screen mtd. on single axle trlr.
w/36" under conveyor. 1-24" cross conveyor \$22,000
5'x16' 2-Deck Cedar Rapids Screen mtd. on port. single
axle trlr. w/36" under screen conveyor \$19,500

BUNKERS AND SCALES

15 Yd. Port. Bunker w/30" discharge conveyor w/15 h.p. mtr.,
single axle, tow hitch \$6,000
New 45 Yd. SPOMAC Port. Bunker, 42" discharge conveyor,
40 h.p. mtr., single axle, 5th wheel pin P.O.R.
10'x40' Murphy Truck Scales, 40 ton cap. w/concrete sect.
deck & scale house \$9,500

WASH PLANTS

New 36"x25' Sand Screw w/15 h.p. mtr. \$15,960
1 - 48"x24' Wemco Sand Screw w/mtr. \$7,500
44" Twin Packer-Hughes Coarse Washer w/twin 40 h.p.
P.O.R.
New SPOMAC Port. Washing Plant, 5'x16' 3-deck horizontal
Ultra screen w/36"x25' sandscrew, tandem axle, comp.
w/wash bars & discharge chutes P.O.R.
5'x16' 3-Deck El Jay Horizontal mtd. on port. tandem axle
trlr. w/36" sand screw & comp. set of wash bars .. P.O.R.

CONVEYORS

Misc. new & used conveyors in stock

CONCRETE EQUIPMENT

Complete NEW SPOMAC batch plants

GENERATORS AND ELECTRICAL

50 K.W. CAT Gen., mdl. 3145 \$5,500
200 K.W. 610 G.M.C. gen., skid mtd. \$9,000
500 KW CAT 348 gen. mtd. on 40' tandem axle flatbed ..
..... P.O.R.
500 K.W. Model #VTA12800GS, 12 V. Cummins gen., skid
mtd. \$32,000
850 K.W. (Cont.) G.M.C. Gen., 16V, 149T, eng. mtd in
tandem axle trlr. van, fuel tank w/add. 30 K.W. Deutz gen.,
low hrs. P.O.R.
Electric Control Center, mtd. in tandem axle trlr. van, push-
button station w/windows, consists of 29 starts, & switches,
1600 amp disconnect, able to operate comp. crushing plant
(like new) P.O.R.
1-Electrical Console mtd. in van trlr., comp. w/starters & swit-
ches to operate comp. crushing plant P.O.R.

TRAILERS

2 - New 20 Yd. SPOMAC Cross Spread, single gate, tandem
axle, belly dump \$24,500
2 - 20 Yd. SPOMAC Belly Dumps, dual hoppers, cross
spread \$9,500 Ea.
40 Ft. Utility Van Trailer, w/parts bin, insulated tandem axle
..... \$4,500

MANGANESE AND CRUSHER PARTS

Manganese avail. for all popular crushers in-stock
Spare parts avail. for Symons Std. cones, 3'-5100 - 4-1/4'
- 5-1/2'
WESTERN WIRE SCREEN CLOTH - ALL SIZES



Factory authorized
Nordberg Symons
Crushing & Screen Products

ANE MACHINERY CO.



Call For
Additional Information Telephone
(509) 535-1576

Machinery and Supplies

306, STATION B, E. 3730 TRENT AVE., SPOKANE, WASHINGTON 99202

AFFORDABLE! BY THE PROVEN LEADERS IN PORTABLE SCREENING PLANTS



U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION X

1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101



REPLY TO
ATTN OF: M/S 513

Fred Hansen, Director
Department of Environmental Quality
522 S.W. Fifth Avenue
Portland, Oregon 97204

Re: **Notice of Intent to Enforce**

Dear Mr. Hansen:

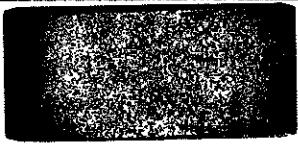
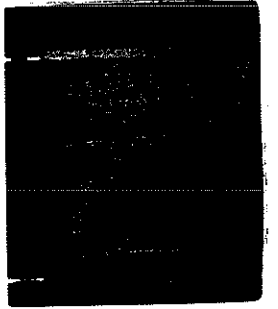
The EPA, Oregon Operations Office was notified of violations of the City of Portland's Columbia Boulevard STP NPDES permit No. OR-202690-5, for improper storage of sludge compost in the West Delta Park area. **Inspection was made on March 10, 1988 and noted that the sludge compost storage is not paved, and contains no curbing to control leachate. Sludge compost has spread onto a roadway. The area drains into Mud Slough.**

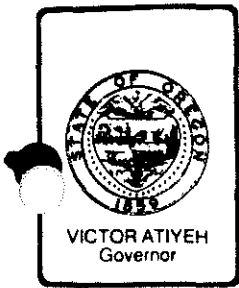
These violations were discussed with your staff. It is our intent to initiate enforcement action against the City of Portland 30 days after receipt of this letter to insure composted sludge is properly stored and disposed at the Columbia Boulevard STP unless the Oregon Department of Environmental Quality initiate a similar enforcement action.

If you have any specific questions please contact Michael F. Gearheard at 221-3250.

Sincerely,

Robert S. Burd
Director, Water Division





Department of Environmental Quality

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

August 18, 1986

- Mr. Ross Peterson
Wastewater Treatment Branch
City of Portland
5001 N. Columbia Blvd.
Portland, OR 97203

Re: WQ-Columbia Blvd. STP
File No. 70725
Multnomah County

Dear Mr. Peterson:

The Department has evaluated the proposed sludge application site for the sludge coming from the Columbia Blvd. sludge lagoon. We reviewed the site on Hayden Island with Bud Griffith on August 8, 1986.

As we understand it, approximately 10,000 cubic yards of sludge is to be removed from the lagoon and placed on the Hayden Island site. The sludge application site is owned by Portland General Electric and leased to another party. Mr. Griffith has subleased the property from this party for one year.

The sludge application site is hereby approved with the following conditions:

1. Grazing animals should not be allowed on the application site for at least 30 days after application.
2. Particular care must be taken to ensure that spillage of sludge does not occur while in transport to the application site.
3. Sludge is to be applied at agronomic rates.

If you should have any questions, please feel free to contact me at 229-5288.

Sincerely,

Charles H. Gray
Regional Supervisor
Northwest Region

CHG:y
RY3179

cc: Water Quality Division, DEQ
John Lang, City of Portland
PGE, Attn: Rick Hess
Bud Griffith

Additional Data
to be supplied by
E. K. Griffith

MUNICIPAL SLUDGE DISPOSAL

Agricultural Application Site Approval Request

A. BACKGROUND INFORMATION

1. Name and Phone Number of Person Completing Request Form:

Ross W. Peterson 503-285-0205
Director Wastewater Operations

2. Site Owner/Controller Name and Address:

E. K. Griffith dba White River Ranch
(see attached lease)

3. NPDES/WPCF Permit Number and Permittee Name and Address

3881-J City of Portland, Bureau of Environmental Svcs
1220 SW 5th Portland OR 97204

4. Site Zoning (i.e., EFU, Residential, etc.):

EFU

5. Site Legal Description:

Township _____ Range _____ Section _____ W.M.

6. Directions To Site:

Exit I-5 No. @ Hayden Island Hayden Is Drive West to
end (Under R.R. bridge)

7. Total Site Acreage:

2000 application area 1000 acres

8. Site Soil Types (See SCS Map):

Field No. _____ Soil Type Pitcheuck sand

Field No. _____ Soil Type Rappon silt loam

9. Site Soil Cation Exchange Capacity (CEC) if site is expected to be used for three years or more:

Field No. _____ Meg/100 grams 5

Field No. _____ Meg/100 grams 5

10. Crop(s), by individual field, to be grown:

Field No. _____ Crop: Pasture Acres: _____

Field No. _____ Crop: Pasture Acres: _____

11. Crop Nitrogen Requirement (See OSU Extension Service Guidelines):

Crop: Pasture 120 lbs/acre

Crop: Pasture _____ lbs/acre

12. Anticipated Commercial Nitrogen to be applied by Site Owner/Controller:

Crop: Pasture 0 lbs/acre

Crop: Pasture _____ lbs/acre

13. Sludge Characteristics (From latest available sludge chemical analysis):

a. Type of Sludge (aerobic/anaerobic; digested/raw): Anaerobic digested d.r.c.d

b. Total Solids Content in mg/l (example: 1% solids equals 10,000 mg/l solids content): _____ mg/l
35 % Solids

B. AGRONOMIC LOADING CALCULATION

Definitions:

C = Anticipated commercial Nitrogen (fertilizer) to be applied, in lbs/acre (from Section A, Item 12).

N = Crop Nitrogen Requirement, in lbs/acre (from Section A, Item 11).

G = Gallons of sludge/acre/year (Agronomic Loading Rate).

S = Percent Total Solids Content in sludge, expressed as a whole number. Example: 5% = 5 (from Section A, Item 13b).

M = Percent Mineral Nitrogen in sludge, being $NH_4-N + NO_3-N$ values, expressed as percentage dry weight basis (from Section A, Item 13d). 0.561
0.258
0.819

T = Percent Total Kjeldahl Nitrogen in sludge, expressed as percentage dry weight basis (from Section A, Item 13d).

Formula for Calculation:

For surface application where sludge is tilled into soil within 48 hours of application:

$$G = \frac{120,000 \times (N-C)}{S \times (85M + 15T)} = \frac{120,000 \times (\underline{\quad} - \underline{\quad})}{\underline{\quad} \times (85 \times \underline{\quad} + 15 \times \underline{\quad})}$$

= gal/acre/yr

For surface application with no immediate tillage into soil:

$$\frac{120,000 \times (N-C)}{S \times [50M + 20(T-M)]} = \frac{120,000 \times (\underline{120} - \underline{0})}{\underline{28.7} \times [50 \times \underline{0.82} + 20 \times (\underline{3.91} - \underline{0.82})]} = \underline{2950} \text{ gal/acre/yr}$$

(-3.09)
21.8

ANNUAL SLUDGE LOADING CALCULATION (dry weight basis) 102.8

Definitions:

L = Annual Sludge Loading, in tons/acre (dry weight basis).

S' = Percent Solids, of the sludge to be applied, expressed as a decimal fraction (Example: 5% solids = 0.05).

G = Agronomic Loading Rate (from calculations performed above).

Formula for Calculation:

$$L = \frac{S' \times G \times 8.34 \text{ lbs/gal}}{2,000 \text{ lbs/ton}} = \frac{\underline{.287} \times \underline{2950} \times 8.34 \text{ lbs/gal}}{2,000 \text{ lbs/ton}}$$

L = 3.53 tons/acre/year

STOP HERE FOR SITES TO BE USED FOR THREE YEARS OR LESS

CONTINUE ON FOR SITES TO BE USED FOR MORE THAN THREE YEARS



Department of Environmental Quality

811 S.W. SIXTH AVENUE, PORTLAND, OREGON 97204 PHONE: (503) 229-5696

April 6, 1987

John Lang
Bureau of Environmental Services
City of Portland
1120 SW Fifth
Portland, OR 97209

Re: WQ - Multnomah County
Columbia Boulevard STP
File No. 70725

Dear Mr. Lang:

On March 5, 1987, City of Portland staff met with DEQ's Water Quality Division staff to discuss sludge management. At that time, the Department was advised that approximately 3,300 dry tons of belt press sludge had been improperly applied to the Hayden Island sludge application site. The City was advised to have the surface soils tested for pH, cation exchange capacity, cadmium, copper, zinc, nickel and lead. The City indicated that it would not apply any more sludge to the Hayden Island site in the immediate future, pending the outcome of sampling.

On March 6, 1987, the Department contacted Ross Peterson and suggested the City determine the hydraulic gradient beneath the sludge application site and inventory wells within a one-half mile radius of the site for nitrate-nitrogen.

On March 9, 1987, Northwest Region staff visited the Hayden Island site and observed that:

- 1) Sludge had been applied to an area of approximately two acres, at a thickness ranging from 2 to 6 inches; and
- 2) A flock of sheep was grazing in the same pasture.

Also, on December 24, 1986, the Department sampled sludges at the Columbia Boulevard Sewage Treatment Plant in response to a complaint. Analysis of the samples indicated that some metals exceeded guideline concentrations for land application of sludge, raising concerns over the suitability of the sludge for land application, limitations the metals content may impose on crops and site life, and the effectiveness of the City's industrial pretreatment program.

John Lang
April 6, 1987
Page 2

To address these issues, the Department requests that the City of Portland take the following actions:

- 1) Require the removal of all livestock from the Hayden Island site and do not allow livestock on the site until 30 days after completion of item (2);
- 2) Require the collection and redistribution of the sludge in a manner approved by the Department;
- 3) Determine the hydraulic gradient beneath the site;
- 4) Identify and locate any wells within one-half mile downgradient of the site;
- 5) Carry out soil analyses at the Hayden Island site to determine pH, cation exchange capacity, and the cadmium, copper, zinc, nickel and lead content of the soil;
- 6) Enter into a formal agreement with all present and future owners of sludge application sites and sludge applicators to ensure that all applicable standards can be met, and if necessary, enforced by the City;
- 7) Improve the City's Sludge Management Plan to ensure that item (6), as well as the requirements of the Oregon Administrative Rules, Chapter 340, Division 50, will be carried out for all future sludge application sites, and to provide for self-monitoring of sludge application operations. In addition, limitations on site life and site and crop suitability that may be imposed by the metals content of the sludge should be addressed; and
- 8) The high metals content of the sludges should be explained and the effectiveness of the City's industrial pretreatment program should be reviewed.

Item 1 should be carried out immediately, and the Department notified. Item 2 should be completed prior to May 31, 1987. Items 3 through 8 should be completed prior to July 31, 1987.

If you have any questions, please contact me at 229-5393, or Mark Ronayne at 229-6442.

Sincerely,

George Davis
Environmental Engineer
Northwest Region

GD:p
RP421
cc: Water Quality Division, DEQ
Regional Operations Division, DEQ

DIGESTED SEWAGE SLUDGE FACT SHEET

I, the undersigned, do hereby certify that I have read and understand the following information and requirements regarding the disposal of sludge on my property:

1. Origin

Digested municipal sludge is the result of treating human wastes under controlled conditions. This reduces chances of odor or disease. This material is well suited as a soil amendment and for supplementing crop nitrogen requirements.

2. Precautions

Because of the origin of sewage sludge, it is necessary to take certain precautions with its application and disposal to prevent contamination of surface or groundwaters and reduce the possibility of nuisance odor conditions. Care must be taken to maintain a minimum 50 foot setback from any ditch, channel, pond or waterway. A minimum setback of 200 feet must be maintained from downgradient springs, infiltration galleries, water withdrawal points from surface waters and wells.

Other precautions include maintaining buffer zones or strips from property lines and adjacent residential areas. The amount of distance necessary to make up a buffer zone will vary with local conditions and the method of sludge application.

3. Responsibility

It is the City's responsibility to insure the proper handling and disposal of all sludge generated at the sewage treatment plant. Precautions must be taken in transporting the sludge from the treatment plant to the application site to prevent leaking or spilling the sludge onto highways, streets, roads, or waterways.

4. Access

The land owner/controller must limit access to the sludge site for 12 months following application if the sludge is not worked into the soil. Access is assumed to be controlled if the site is located on rural private land.

5. Cropping

As a general guideline, crops grown for direct human consumption (fresh market fruits and vegetables) should not be planted sooner than 18 months after sludge application. If the crop is to be treated or processed prior to marketing so that disease causing organisms are not a concern, the DEQ may allow sludge application within 18 months.

(a) Upon termination of the contract, any facilities constructed by the Contractor on City property shall be removed by the Contractor at no cost to the City. The Contractor shall restore the affected City property to the condition existing prior to the construction of its facilities. The City Engineer may withhold payment due or to become due for the estimated cost of removal of such facilities, as determined by the Engineer, until such time as the facilities are removed and the City's property is restored.

3. Sludge Specifications Portland digested sludge contains (on a dry weight basis) 35 to 50% organic materials, 3 to 4% nitrogen, 1 to 2% phosphorous, approximately 0.5% potassium, and small amounts of cadmium, chromium, copper, nickel, lead and zinc.

The City of Portland controls discharges of incompatible and toxic pollutants into the public sewer system through the sewer permit process and enforcement of effluent limitations contained in the municipal sewer code. An active monitoring program is carried out by the City to enforce pretreatment requirements and effluent limitations for industrial materials discharged into the public sewer system.

The City will not be responsible for changes in the sludge characteristics that are the result of unlawful discharges into its sewer system, but will maintain sludge delivered to the contractor within limits as established in the Contractor's permit for disposal and utilization.

Contractor assumes no responsibility or liability for changes in the sludge characteristics that are the result of unlawful discharges into the public sewer system, except that Contractor acknowledges that sludge deliveries may be suspended by City until such condition is corrected. Such interruption in deliveries shall not affect the payment provisions of paragraph 6 below. If Contractor is named or joined as a party in any action or proceeding relating to sludge characteristics, the defense of such action or proceeding shall be undertaken by City, it being understood and agreed that Contractor is not obligated to sample or monitor sludge characteristics and content; provided however, such duty to defend shall not extend to any circumstance or event which is determined by the agency or court to have been the result of a violation of a duty of Contractor imposed by this contract or the result of negligence of Contractor.

TO: Mayor Bud Clark
Commissioner Dick Bogle
Commissioner Mike Lindberg
Commissioner Mildred Schwab
Commissioner Margaret Strachan

FROM: John Lang, Administrator
Bureau of Environmental Services

SUBJECT: Disposing of Wastewater Sludge

Beginning this week and continuing for the balance of the calendar year, the Bureau of Environmental Services will have part of Portland's wastewater sludge hauled and deposited on agricultural sites rather than putting all of it through the sludge composter.

The reason for hauling and disposing of some of the sludge is to reduce an accumulation of sludge that has occurred over the last two years in the City's sludge lagoon. During this period, the composter has gone through its initial operation phase but has not been able to compost 100% of the sludge produced at the treatment plant. Excess sludge has remained in the sludge lagoon. The lagoon is now full and must have its level reduced during the next 4-5 months in order to provide sufficient capacity for temporary holding and storage of sludge during the wet winter months.

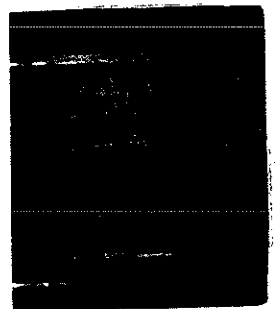
The sludge composter was substantially completed approximately two years ago and has been composting sewage sludge since that time. In the two year period it has composted approximately 2/3 of all sludge produced at the treatment plant. The limited compost production has resulted from necessary shutdowns and reduced operations of the composter while making modifications and corrections to its original construction. The limited operations has resulted in the accumulation of lagoon sludge which now must be removed.

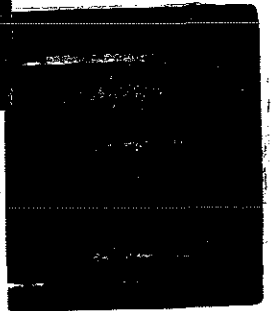
The Taulman Company, recognizing its responsibility for providing a composter with adequate sludge processing capacity, has agreed to remove the sludge under a contract they have with James Griffith Company and to pay all costs for doing so in excess of the cost the City would pay for running the sludge through the composter. A "no cost" change order has been issued for this purpose.

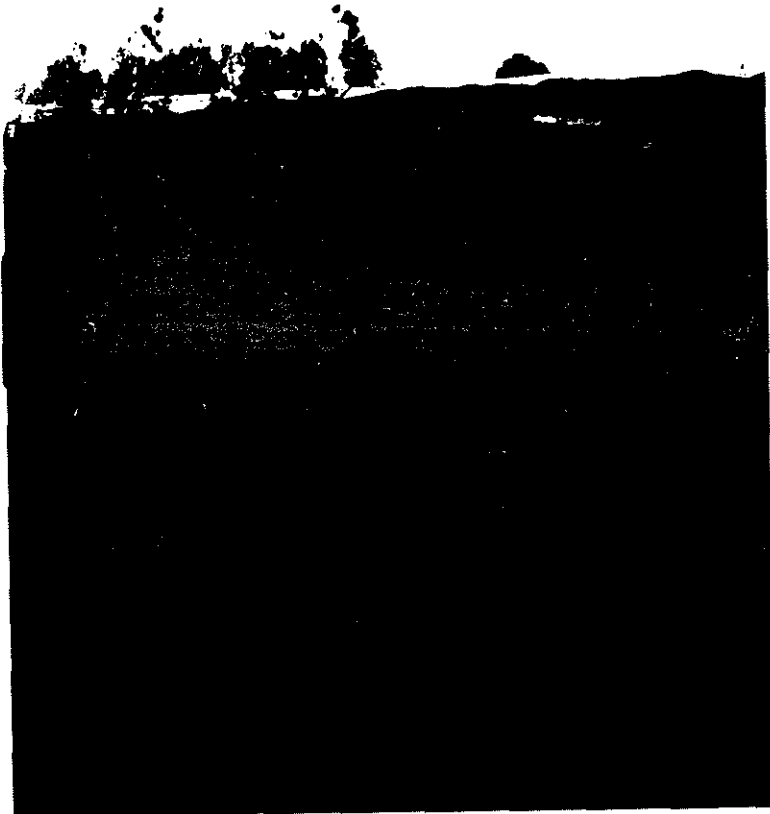
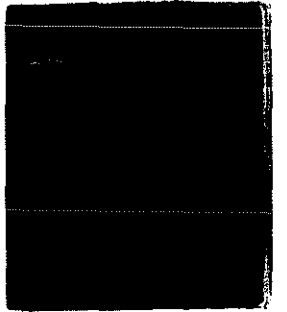
The City will pay the Taulman Company for hauling the excess sludge at a price not to exceed the cost of running that sludge through the composter. Payments to the Taulman Company will be made in the form of credit toward money the Taulman Company would otherwise pay the City for sludge that will be composted during the same period of time and sold to the Taulman Company under the provisions of our mutual contract.

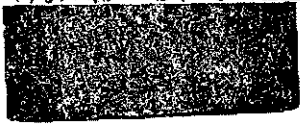
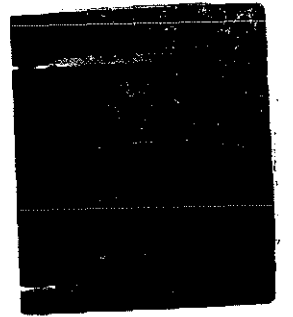
Because there have been questions raised in the past about the adequacy and integrity of the composting project, I felt it important to inform you of the sludge hauling that will occur. The composter has been producing compost from sewage sludge in an acceptable manner during the past two years. There have been, however, some mechanical components of the composter which required revision or replacement to provide adequate capacity for meeting contract specifications. These changes have been occurring at the Taulman Company's expense and are anticipated to be complete within the next six months.

If you have questions or desire further information regarding these activities, either myself at 706-7160 or Bill Coffi, our Project











Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

JUN 6 1988

John Pointer
2480 N.W. 111th
Portland, OR 97229

Dear Mr. Pointer:

To follow up on your appearance before the Environmental Quality Commission at its March 11, 1988 public forum, I requested the staff to research your concerns in detail.

Your concerns have been summarized in a series of questions which have been answered by the staff. I have reviewed the answers and believe they address the questions you raised.

Sincerely

Fred Hansen
Director

FH:y
RY7136

cc: Environmental Quality Commission
Water Quality Division, DEQ
Laboratory, DEQ
Northwest Region, DEQ
Regional Operations, DEQ

Based on the composted sludge's cadmium content, up to 450 yards compost could be land applied per acre (See calculations in Question 1) before total cadmium content would accrue to 4.5 pounds per acre. At this amount, sites could be used for a variety of purposes, including the growing of plants with a high affinity for cadmium.

Question 3:

Is the City's pretreatment program meeting federal and state requirements?

Answer:

Based on the Department's present knowledge, the city program meets standards. However, a number of actions were recommended to improve the City's pretreatment program during a joint EPA/DEQ audit conducted in 1987. A follow-up to the 1987 audit was conducted in May, 1988, and is currently being written up.

Pretreatment regulations and guidance are regularly updated and re-evaluated by both the state and EPA. The planned inspection will also be used as an opportunity to update the City on any new regulations or guidance.

Question 4:

Does the "confidentiality" clause of the City of Portland's code prevent effective auditing of the City's pretreatment program by not allowing EPA and DEQ to review industrial user data without 10 days notice?

Answer:

The City of Portland's Sewer User Ordinance developed in 1982, contains language requiring a written notice by a governmental agency to obtain confidential information. However, the Department considers this a reasonable clause based on the following:

1. Less than 3 of the City's approximately 260 permitted industries have requested that the information regarding their treatment activities be considered confidential.
2. Portland's 10-day notification requirement is taken directly from EPA model sewer use ordinance.
3. DEQ's present (1988) model sewer use ordinance has similar language requiring that agencies include a written request for confidential information.
4. The City uses the exemption clause of the Oregon Open Records Law (ORS 192) to guide its requests for confidentiality as does DEQ.

Question 5:

Did the City improperly dispose of sludge at Hayden Island? If so, what was the Department's investigation and follow up. Was sludge dumped to within 5 feet of the water table, and was it on the south or north side of the island?

a. Did the City improperly dispose of sludge at Hayden Island?

Yes, in the fall of 1986 dewatered sludge was improperly spread by a contractor on the Hayden Island site. Sludge was not spread evenly and thinly, as required, but was dumped and spread in a number of small areas at thicknesses ranging from 3 to 6 inches.

b. If so, what was the Department's investigation and follow up?

City staff reported the improper spreading of the sludge to the Department in the Spring of 1987, approximately three to five months after the sludge had been spread. The site was inspected once by Northwest Region staff only, and again by Northwest Region staff, City staff and a consulting engineer for the City. It was verified that the sludge was spread improperly in a number of areas on the site.

The Northwest Region required the City to do soil evaluations on the site, to determine if any drinking water wells might be affected, to determine the groundwater gradient beneath the site, and to respread the sludge as well as could be done without destroying the existing grass crop. The City was also required to submit a sludge management plan. All required actions were carried out by the City and its contractors, and a report was submitted detailing the soils evaluations, groundwater gradient determination, well location determination and respreading rates. After the sludge had been respread, the site was reinspected by Northwest Region staff, accompanied by City staff. No drinking water wells were located that were likely to be affected. Only one well was located where it might be affected by leachate from the sludge; the well is in the shallow aquifer and produces poor quality water that is not used for drinking. The soils evaluations indicated that soil metals levels in the sludge application areas were not much different from areas where no sludge was applied. Respreading rates were still well above the agronomic rates for nitrogen, but the metals loadings were below the ultimate loading limits. The sludge management plan was also submitted. The Department determined that the City had properly carried out all required actions, and that the site did not constitute an environmental problem.

c. Was sludge dumped to within 5 feet of the water table, and was it on the south or north side of the island?

During the course of the above investigation, it was learned that the sludge had been initially dumped in large pits on the site (the northern side of the island); from the pits, the sludge was removed and dumped in the spreading areas. During the last inspection by Northwest Region staff, these pits were viewed. The bottoms of the pits consisted of sandy soils with large rocks; no remaining sludge was evident in the pits. It is not

known what the depth to groundwater was from the bottom of the pits, and a technical violation may have occurred; however, because the pits are located near the river to which the groundwater would drain, and because water from the shallow aquifer is unsuitable for drinking, such a violation would not lead to an environmental or health hazard.

Mr. Pointer also contacted the Northwest Region later in 1987 alleging that the City had illegally buried composted sludge on Hayden Island. Northwest Region staff made an inspection of two locations.

The first location was the same site where the sludge had been respread earlier (the northern end of the island). At that site it was found that piles of what appeared to be barkdust were partially covered over by dredging spoils. The land is owned by Portland General Electric Company (PGE), and leased to Mr. Jeff Strasheim. Both PGE and Mr. Strasheim were contacted. From PGE, it was learned that Mr. Strasheim had obtained the barkdust and planned to use it on the site; when the dredging spoils were pumped onto the site, the barkdust piles were accidentally covered. Mr. Strasheim gave the Department the same information, and further verified that he had obtained the barkdust from a private party, and that to his knowledge it consisted entirely of barkdust and wood chips. The City verified that no sludge or composted sludge had been taken out to Hayden Island since the sludge discussed above was taken there.

The second location that Northwest Region staff inspected is a sand pit near the southern end of the island. The sand pit operators had obtained composted sludge from the City in the summer of 1986. Northwest Region staff were aware that the composted sludge had been obtained, and had responded to odor complaints about the compost. During the inspection, the Northwest Region staff discussed the use of the compost with one of the sand pit workers, who explained that the composted sludge is mixed with sand and sold to landscapers. The sand pit operators had covered the pile of compost with sand to alleviate the odor problems. The storage and use of the composted sludge is not in violation of state rules.

Question 6:

Is raw sewage being dumped on Hayden Island?

Answer:

Northwest Region staff were contacted by Mr. Pointer several months ago regarding his concerns on Hayden Island. Mr. Pointer made several serious allegations about the sewage treatment plant operations on the Island. Specifically, he said that the plant operators were pumping raw sewage out of the plant and dumping it around the island. He claimed to have pictures of a tanker truck dumping "sewage" on the island. The truck was labeled "water". Staff asked him how he knew the truck was dumping sewage and he said he didn't really know if it was sewage but it could have been. Investigations by Northwest Region staff did not confirm any such dumping occurring. Staff requested Mr. Pointer's documentation of the dumping

incident, including pictures and a letter describing time it occurred.

At this date, the Department has not received the material so requested.

Question 7:

Does the Department routinely take complainants out with them on complaint investigations?

Answer:

The Department does not routinely take complainants out on complaints with them. When received, pollution complaints are written up and forwarded to the field staff person best able to resolve it. The field staff return the call of the complainant within 48 hours of receiving the initial contact to gather additional information from the complainant and to keep the complainant informed as to resolving the problem. The complaint will then be incorporated into the field inspectors other routine work including inspections, spill response, and resolving other complaints. As the complaints are resolved, the complainant is again called back as to the solution, and a final report reviewing the field inspectors actions on the complaint is forwarded to the section supervisor for review prior to being filed.

If the field staff were to take complainants out with them in the field, the Department would need to evaluate how these private parties would gain lawful access to private property to accompany the Department on an inspection, along with any liability problems which might occur should the people be injured in a state vehicle or at the site.

Question 8:

Why has the DEQ not fined the City of Portland for past violations?

Answer:

The City of Portland has received 1 Notice of Violation in the past 5 years. One was issued October 14, 1982 (NWR-86-112) for the City's failure to properly notify the Department when sewage bypasses were occurring, inadequate training of staff and using wastewater treatment facilities without an appropriate permit. Additional compliance meetings have been held with the City of Portland Bureau of Environmental Services Administrator. No civil penalties have been issued because the City has committed to resolving the violations brought to their attention without the need for penalties. Since the Notice of Violation, the City's overall compliance has increased. The Department will continue to review the compliance of the City with regard to its permits and other regulations carefully.

Question 9:

Does self-monitoring allow adequate oversight of the permittees?

Answer:

Self monitoring is a system by which permittees collect and analyze samples of their waste and report on results and other pertinent information onto discharge monitoring reports for submittal to DEQ. These in turn are reviewed to evaluate compliance with permitted limitations and conditions. Self monitoring reports are a very useful regulatory tool; however, they are not the sole means by which oversight of permittees is conducted. The federal Clean Water Act recognized that continuous on-site evaluation of regulated sources by a regulating agency is not possible and established a means by which permittees are responsible for reporting on their discharges. Failure to comply or falsely report data are also violations of permit conditions.

In addition, permittees are inspected by the DEQ. At least one annual comprehensive inspection which includes sampling of the effluent of all major permittees is conducted. These inspections also include an evaluation of the record keeping and sampling and analytical procedures used by the permittee, as well as the overall performance of the permitted facility.

Question 10:

What level of deviation is acceptable between sludge results from different laboratories?

Answer:

The reliability (precision, accuracy and representativeness) of sewage sludge analyses are influenced most by the analytical methods employed and the sample matrix complexity of sewage sludge. There are at least five different sample digestion procedures which have been used for sludge analysis. Data available comparing results obtained from five different digestion procedures is summarized in Table B. Results obtained from the digestion procedures indicates that the digestion used can greatly affect the analytical results. The inherent complexity of the sample matrix is the predominant factor in method performance. Depending on the sample matrix, the digestion procedure employed may be inadequate for the complete oxidation of organic matter in the sample. The unoxidized organic matter can affect the extraction efficiency and introduce either positive or negative interferences to the analysis.

The DEQ Laboratories employ Test Methods for Evaluating Solid Waste (EPA SW-846) Method 3050 digestion procedure for the analysis of sewage sludge samples. Intralaboratory precision and accuracy control limits are $\pm 10\%$ and $100 \pm 20\%$, respectively.

The DEQ sludge analysis results and three sets of results from samples analyzed by the City are summarized below:

	DEQ 12/23/86	Portland 9/30/86	Portland 7/21/87	Portland 9/29/87
Cadmium (mg/kg)	26	33	43	48
Chromium (mg/kg)	420	449.5	407	423
Copper (mg/kg)	710	694.3	926	954
Lead (mg/kg)	530	621.9	675	685
Nickel (mg/kg)	140	214.6	199	175
Zinc (mg/kg)	1700	2130.3	2248	2258

Analysis results for the sample taken by the staff and split with the City on November 9, 1987 are not yet available, but will be forwarded to you as soon as they are.

2. Did sludge get dumped at Hayden Island and covered over with sand?

On November 10, 1987, Department staff inspected the property owned by Portland General Electric Co. and leased to Messrs. Jeff and Jerry Strasheim, and found piles of compost partially covered by dredging spoils. A sample of the compost was taken and is currently being analyzed by our lab.

Department staff contacted both PGE and Mr. Jeff Strasheim on November 19, 1987. A representative of PGE informed the Department that the compost piles were owned by the Strasheims, and that they were accidentally partially covered by the dredging spoils; it was not PGE's intent to cover the compost.

Mr. Jeff Strasheim informed the staff that the compost belonged to him. He further informed us that he obtained the compost from a private party, not from the City of Portland or Taulman-Weiss, and that to his knowledge it consisted entirely of wood bark. Mr. Strasheim is now using the compost to make a road over the dredging spoils.

3. Has the land application of sludge undertaken by Portland been at agronomic rates?

There have been problems with sludge application in the past. In response to a complaint, the Department found that sludge had been improperly applied on Hayden Island and that livestock were being allowed to graze too soon after application. The Department requested the City take corrective action by removing the livestock and respreading the sludge. This was accomplished by the City and verified by Department staff during a follow-up inspection. Recent inspections of the City's sludge application site in Tygh Valley indicate the material is being properly spread at agronomic rates.

4. If land application of sludge has been higher than allowed for human consumption crops, how do we ensure only those crops are grown?

The crops to be grown are indicated in the sludge management plan and noted as the staff inspect sludge application sites. You will notice none of the crops are of a variety directly consumed by humans. They are all either pasture grass or animal fodder.

5. Are cows grazing on the land a problem?

The Department requires that all livestock remain off a site where adequately stabilized sludge has been land applied for 30 days following application. After 30 days have elapsed, the livestock may be returned to the sludge application sites.

6. What is the cause of the dead cows on Hayden Island?

During the staff inspection on November 10, 1987, no dead cows were seen, but the remains of what may have been a deer were seen about a quarter of a mile outside the gate to the leased property. In response to questions on this matter, Mr. Strasheim informed the staff that he has had only one animal die on Hayden Island. A mule foundered earlier in 1987 and had to be put down. Mr. Strasheim explained that foundering is similar to gout and occurs in horses and mules when they are allowed to overgraze. The mule was too sick to be saved, so Mr. Strasheim shot it and left the carcass in the field to decompose. Mr. Strasheim also mentioned that one or two elk or deer carcasses had been dumped by persons unknown along the road outside the gate to the property he leases.

7. Is Portland sludge being improperly disposed of at the St. Johns Landfill?

The Department approved use of Portland sludge to augment the top soil in subarea #2 of the St. Johns Landfill. Two inches of sludge were applied to the top soil in this area to improve the cover. The sludge was then disced into the existing top soil. Higher than agronomic rates were allowed to better establish a good grass cover in the area prior to winter rains. Recent inspections indicate the grass in the areas where the top soil was sludge augmented is coming up better than in other areas. A good grass cover helps keep the top soil in place to maintain the clay cap.

8. Is Portland imposing the proper requirements on industrial dischargers regarding waste analysis, self-monitoring and permitting?

A team of consultants to the Environmental Protection Agency involved in oversight of pretreatment programs audited the City of Portland in April 1987. The team also included a member of the Department staff, John Harrison, who is the Department's Pretreatment Coordinator.

Findings by the audit team were that the City of Portland was properly implementing its pretreatment program. The City was in compliance with both EPA and State of Oregon requirements for management of industrial discharges into public sewers. The audit team concluded that the City of Portland's pretreatment program contained:

1. Well qualified staff.
2. A good data management system.
3. Adequate resources, equipment, and funding.
4. Well written permits.
5. No evidence of upset, passthorough or sludge contamination from industrial discharges.

However, the audit team also made observations in several areas of industrial management where the City should consider improving its existing pretreatment program. These recommendations included:

1. Develop formal methods and improve procedures for identifying and regulating industrial users (IUs) in contributing jurisdictions.
2. Re-evaluate local limits using DEQ approved methodology.
3. Require total toxic organic (TTO) monitoring of certain categorical IUs.
4. Conduct surveillance and inspection activities to independently identify any occasional or continuing noncompliance with pretreatment standards.
5. Develop chain-of-custody procedures to ensure sample collection and analysis is performed with sufficient care to produce evidence admissible in court.
6. Conduct cyanide sampling, especially at metal finishing facilities, in accordance with federal standards.
7. Maintain all records pertaining to the regulated IUs, including lab bench sheets and sample data for at least three years.

The Department will be following up with an inspection of pretreatment activities in April 1988. The purpose of this inspection will be to determine if the City is continuing to improve its pretreatment program as recommended in the 1987 audit.

9. Might there be problems at the treatment plant from a past spill from a PCB-filled transformer?

The staff requested information from the treatment plant staff and were informed of two incidents at the plant involving PCB oil.

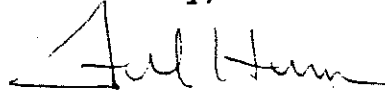
In the first incident, as reported to us, a leaking transformer drain valve resulted in a spot of PCB oil about eight inches in diameter on the concrete floor. None of the oil ran off into drains. A contractor was called in to drain the transformer, repair the drain valve and chip out and replace the contaminated section of concrete floor. Since that time, the entire area near the transformer has been covered with a layer of grout. As far as the treatment plant staff could determine, no plant personnel came into contact with the PCB oil.

In the second incident, as reported to us, an electrician replacing a leaking light ballast unit got some PCB oil on his hand. He developed a rash on his hand, but the rash later cleared up. A doctor was not consulted. A new operational procedure was instituted requiring electricians to wear gloves when replacing ballast units. The replacement ballast units contain non-PCB oil.

Our state remedial action staff will be following up on concerns regarding PCB-filled transformers. Should you have additional information on this, please contact our Remedial Action staff in Portland at 229-5072.

We have attached information relating to your concerns. Should you have additional questions, please contact George Davis in our Portland Office at 229-5393.

Sincerely,



Fred Hansen
Director

FH:p
RP1151

cc: Dale Sherborne
Representative Ron McCarty
City of Portland, John Lang
Water Quality Division, DEQ
Northwest Region, DEQ
Remedial Action Section, DEQ

To: Debora Clovis
Permits Division (EN-336)
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

12 May 1988

Re: Comment on the Proposed Sewage Sludge Rules
53 Fed. Reg. 7642 (March 9, 1988)

From: Committee of Citizens Concerned with Wastewater Management
2480 N.W. 111th Ave.
Portland, Oregon 97229
503 - 641 - 9472

Dear Ms. Clovis:

Thank you for allowing the additional time to respond to this very important change of the sludge rules .

Guideline vrs. Law:

Regarding the use of guidelines it is our experience with the State of Oregon Department of Environmental Quality and the City of Portland's Bureau of Environmental Services that the levels are not enforceable and considered "optional". Even when Portland's sludge exceeded the DEQ guideline of 2.5 times there was no enforcement because it is only a "guideline". With the records (provided) you can see that the sludge guideline of 25 mg/kg has been consistently exceeded in the Cadmium levels since 1985 in the sludge (cake) and in the composted sludge has been over the limit for sludge nearly half the time . Without technically based guideline required the sludge quality will vary with the needs of industry and not what is environmentally sound or safe for the public.

Terminology Loopholes:

The conversion of sludge into composted sludge should no way reduce the tracking , storage or site identification unless the levels are processed down below 1 mg/kg . At present the composted sludge is considered "product" and no longer sludge so it is not required to be handled as sludge even when it has exceed sludge guidelines . When the Seattle office of EPA sent a Notice of Intent to Enforce to the DEQ concerning the storage of composted sludge the DEQ responded by saying it had sold to the City of Portland Parks Bureau and relieved them of any responsibility concerning handling or storage . If the levels are above 1 mg/kg in reference to cadmium then it should be accepted as sludge and handled as sludge .

Monitoring / Enforcement by the state:

At a meeting between 3 of our committee members, State Representative Ron McCarty and DEQ Director Fred Hansen we were told by Fred Hansen that DEQ cannot monitor sludge quality because of a lack of funds. We suggested that the fines issued be used to support monitoring and enforcement he then told us that the fines go directly to the general fund. He also stated that self-monitoring was working just fine in his opinion. It is for this reason that a comprehensive plan included required monitoring from the state level and annual reports sent the EPA for assurance of compliance to the Clean Water Act. Funding should be borne by those industries that contribute to the pollution through annual permit fees according to their flow.

Due to our complaints to DEQ had an audit of the City of Portland's pretreatment program ordered which we have included for your review. Regarding monitoring / tracking on page #3 "PROCEDURES FOR IDENTIFYING VIOLATIONS AND NOTIFYING IUOF VIOLATIONS ARE INEFFECTIVE. THERE ARE NO METHODS FOR TRACKING SAMPLE DATA FROM WHEN IT IS FIRST RECORDED TO THE TIME VIOLATIONS ARE IDENTIFIED AND VIOLATION NOTICES SENT OUT. IN ADDITION, DURING THE AUDIT, A REVIEW OF FILES INDICATED THAT NOT ALL VIOLATIONS WERE IDENTIFIED, AND IF IDENTIFIED, THERE IS NO RECORD OF THE IU BEING NOTIFIED OR AN ENFORCEMENT ACTION TAKEN". Without required standards and required monitoring sludge quality will not improve and damage to the environment will result from contaminated sludge / composted sludge dumped on agricultural lands, parks and homes leaching toxins into our ground water, lakes, streams and ocean. Control over these waste products is a must if we are to prevent large scale contamination from occurring.

Required Action / Fines:

Upon review of the past six years of DEQ's fines it appears that the State of Oregon has a reluctance to fine the City of Portland even once in the past six years for their violations of dumping raw sewage into our water ways, misapplication of sludge on agricultural sites, allowing livestock to graze in the same area or exceeding their permit. As a result there must be action required of the state when the offending treatment plant is out of compliance and further the contributing discharger should action taken them as well when the treatment plant fails to do so.

Public Access / Required Public Comment

We have been denied access to public records by DEQ , told we will be charged for "actual cost necessary to obtain them" by the City of Portland , had public officials hanging up when we asked for information on the telephone and our very jobs threaten by the management of the City of Portland for even asking for information . When the city began storage of composted it did not solicit public comment even though it was stored on areas without paving, curbs and was spilling into the Columbia Slough which was cited by EPA and explained away by DEQ . The very operation is own by the public , the pollution of ground water , sloughs , rivers and public lands all dictate public involvement yet the reluctance is there to allow public participation or to access information necessary to evaluate their total operation . As city employees we have a right to express our opinion , access information and contact public agencies without fear of reprisals . We want our system pollution free and our enviornment cleaned up we ask that the standard put into place that all must follow throughout Oregon and the United States we do not want another "LOVE CANAL" . We ask that the standard be rigid and not subject to state or local interpetation so that we do not have to go to our state or federal representatives to insure compliance or to access the records .

Please feel free to contact us concerning any of the information we have provided .

John Pointer
2480 N.W. 111th Ave.
Portland , Oregon 97229
503 - 641 -9472

Terry Jenkins
36445 Ridgeview Drive
Yacolt , Washington 98675
206 - 686 - 3257

RON McCARTY
MULTNOMAH COUNTY
DISTRICT 16

REPLY TO ADDRESS INDICATED:

House of Representatives
Salem, Oregon 97310-1347



HOUSE OF REPRESENTATIVES
SALEM, OREGON
97310-1347

December 16, 1986

Mayor Bud Clark
1220 S. W. Fifth Avenue
Portland, OR 97204

Dear Mayor Clark:

A group of concerned citizens in my Legislative District called my attention to the possibility of serious problems in connection with the Bureau of Wastewater Treatment (now a part of the Bureau of Environmental Services). I wrote to Commissioner Bogle on August 25, 1986 asking for information on this matter. As of this date Commissioner Bogle's office has not replied to my request.

Since that date an extensive list of documented problems related to wastewater treatment has been presented to me. I am convinced by their material that a complete and thorough investigation of these allegations should be conducted immediately. I am enclosing a summary of this material, most of which appears to be thoroughly documented for your consideration.

Please let me know as soon as possible what action is being taken on this matter. It is of great concern to the people of District 16, and to me, their State Representative.

Sincerely,

Ron McCarty

November 23, 1986

Representative Ron McCarty
Multnomah County
District 16
House of Representatives
Salem, OR 97310-1347

Representative McCarty:

As Chairman of the Committee of Citizens Concerned with Wasterwater Management, I request your attention to problems within the Columbia Wastewater Treatment plant and the impact upon all present and future residents connected to such a system will have to address. From our sources we have obtained information that indicates there are many problems that City of Portland Management within Bureau of Environmental Services is not addressing, and will result in costs passed on to all either connected to the sewers or those having assessments against their property. Further, the City is not applying enough of their own rules in restricting industrial sites to dump heavy metals into the sewers, resulting in the heavy metals in the sludge at the treatment plant and then into compost which they are trying to market as a peat moss replacement (Exhibit W & Z). Those who have spoken out within the ranks are being retaliated against by management for their honesty. We ask that you consider what needs to be done and take appropriate action to correct the situation before the public pays an extremely high price for these managers' incompetence.

Currently Bonneville Power Administration is investigating the Columbia Treatment Plant concerning \$1,500,000.00 energy saving project in which the City paid \$765,000.00, while Bonneville (through the Oregon Department of Energy) provided a grant of \$735,000.00, based on the idea that the system worked. At the present time \$147,000.00 is being withheld by the B.P.A. pending the outcome of their investigation. (Exhibits A-A8, B-B3, D, E, J & P). The employees that brought up the problems in this project and the fraudulent activities to the attention of their supervisors were threatened with loss of job, and in one case one person was demoted, when it was called to the attention of the B.P.A. These employees now have stress claims filed against the managers of the Columbia Wastewater Treatment Plant. This raises questions as to why Columbia's management takes action against their own employees, rather than the problem at hand, or why the system

was put in to begin with, or what is it that they want to hide? So far the BPA has found enough evidence to withhold their last payment to the City of Portland. For these reasons^{we} have asked Bonneville to keep^{us} posted of the proceedings, findings and action taken since the results will directly affect the cost of Columbia's operation and, in turn, will be passed on to Mid-Multnomah County residents. (EXHIBIT U)

These questions are not just limited to questionable management decisions, but to overall operational mismanagement in critical areas, as in:

1. The construction of the composer.
2. The expansion of the Columbia Plant while shutting down of Multnomah County's Inverness Treatment Plant.
3. Accepting the construction of the secondary digesters:
 - A. In the non-automatic control condition they are still in
 - B. The problems concerning the boilers
 - C. Heat exchangers
 - D. The gas compressors, and yet still signing off the job as complete and paying for as such
4. The aerobic digesters at the Tryon Creek Treatment Plant that do no function . . . and were again accepted as complete.
5. The heat treat system that didn't work and was recently scrapped out.
6. Along with the 5 expensive 150 hp centrifuges (where did the money received from the sale go? - Refer to Exhibit Y), which were replaced by a troubled belt press system
7. A chlorine system that doesn't chlorinate properly at low flows at Tryon Creek... and again was accepted.
8. In fact the use of chlorine at all is at best questionable, aside from hazard it creates, still the City has made an issue of it which has resulted in the ensuing litigation against the City.

9. Further, the secondary digester system doesn't function from:
 - A. The composter controls
 - B. The pumps
 - C. Primary thickeners
 - D. Lack of operational modes

10. Non-functioning programmable controls at the:
 - A. Digester control building
 - B. Sludge processing
 - C. Aeration Basin; in regards to the Aeration Basin controls:
 1. The failure of the motor-operated valves due to the program errors
 2. The vane controls of the blowers
 3. Flow meters
 4. The dissolved oxygen probes, and an inefficient aeration delivery system . . . All supposedly installed and accepted to save electricity, despite extensive research by the instrument technicians as to the type of instrumentation that would get the job done. Management ignored their recommendation even when they wrote a letter of protest, management still went ahead and installed another non-functioning system.

11. Their mis-sized piping for return sludge system which resulted in burnt-out variable speed drive systems and motors.

12. Management installed a variable speed drive on the wash water system against the recommendations of the energy study and now have had to change the system once again, still ignoring the professional recommendations. (Ref. Energy Conservation Study 1981, page No. 50, Exhibit L and Exhibits F, K, and Q from the PIPELINE).

13. Installing a Polymer feed system that is designed for use with only one brand of Polymer against the recommendations of the employees that has resulted in failures on the:
 - A. Blowers
 - B. Probes
 - C. Motors
 - D. Piping systems
 - E. Electrostatic discharge

F. Control failures

G. Safety hazards and injuries to employees

14. The two system failures and safety complaints, even though this problem was brought to the attention of supervisors when it was under construction, it was accepted regardless and plant employees had to work overtime to correct the problem.
15. Under the warranty period, City engineers reluctance to contact factory personnel in many cases, resulted in the City employees making the repairs, since the time was allowed to pass out of the various warrantee date before contact was made.
16. The automatic mode of the filter press was accepted without being in a functional condition and still does not work.
17. The belt wash system was inadequate as installed, and there has been a constant breaking of new style belts on the belt press, which costs many worker hours to maintain, let alone the expense of the materials.
18. Inadequate safety safeguards on belts in sludge processing and screenhouses (EXHIBIT T)
19. The unnecessary installation of Transfer Belt 2 and 3 since the DEQ turned down the construction of an incinerator, which has been a constant maintenance problem and which should be removed and the parts used for other necessary belt installation (ref. Exhibit Q - "Attention all Screenhouse Personnel").
20. Also the unnecessary installation of the 100 hp hammermill which also was for the defunct incinerator and was run 10 hours and then was disconnected.
21. They built in a high-demand waste station which constantly plugs up when all that is needed is a manhole over the influent line to dump septic trucks into. After 10 years of trying to make this station work, it is now abandoned

November 23, 1986

Page five

22. The installation of 3 ozone generators that can no longer be used, because of the levels of exposure to employees that were finally deemed harmful.
23. PCB's in many transformers and lighting fixtures, even after a spill that was not properly reported or properly taken care of since the PCB's were pumped out to the Columbia River.
24. Problems with:
 - A. Plug valves
 - B. Sludge return valves
 - C. The boost pump controls not working in automatic at Triangle Lake--all accepted from the contractor and paid for, and not working
25. Also at Triangle Lake is a dredge that was supposed to pump sludge back to the plant after it had settled. (EXHIBIT Y-2 page 16)
 - A. From the start it was found that the dredge could not pump the necessary distance without the aid of a diesel boost pump along the dike.
 - B. The next step was that the City built a boost pump station which was also accepted, not able to function in automatic, and still would not deliver the necessary flow to the plant.
 - C. So, the diesel pump was brought back and was installed directly on the dredge and nearly sunk the dredge on that side.
 - D. Aside from the comedy of errors that followed, it still does not do the job and now another new but larger dredge has been budgeted. . .

In the meantime, the City has been hauling sludge to be dumped, as Triangle Lake is now full. (ref. Exhibit X). The conditions on the dredge were cited by State inspectors (ref. Citations, Accident Prevention Division, State of Oregon Exhibit T)

26. In regards to conditions of the two boilers installed in DCB that have never passed the performance test,

and were accepted and paid for even though major repairs have had to be made and still they do not do the job. The 500 lb. boilers in SPB have been operated at 15 lbs. in the past, and now are operated at 50 lbs., without a qualified operator manning them. Even at 50 lbs. they are still being operated well below the best performance range, near to 500 lbs., which was done to avoid having to hire a qualified operator to take care of the boiler.

27. The Composter belt system: (EXHIBITS X , H , G , I , & M)
 - A. Was installed upside down and when the polymer chemical reacted with the belt it tried to flip and had to be taken apart and reversed.
 - B. The belts cannot be cleaned during the winter and have freezing problems.
 - C. There is a lack of accessibility for maintenance, and repairs, making the alignment problems, bearing repairs and removal of sludge build up very difficult.
 - D. Belts must operate in continuous operation because they cannot be restarted in cold weather. Engineering did not consider cold weather operation to be a factor due to the many problems that occur during cold weather.
28. There is confusion over the responsibility of those portions which the City engineers have and have not accepted when it comes to making the repairs, since there are parts under warranty, parts out of warranty, and parts not accepted at all. There is a lack of information, since there have been no as-built plans turned over to City forces, which makes trouble shooting nearly impossible.
29. There are cracks in the blower room floor and their support frames...
30. The Motor Control Center is not isolated from the sawdust, sludge, ammonia and benzine which will damage both the motor controls and variable frequency drives, let alone cause a fire.
31. Composter transfer area contains toxic fumes and presents hazardous working conditions and lack any monitoring equipment.

32. Elevator chains and housings have had to be totally rebuilt, while the carbon unloading station wasn't designed for wet weather or control of airbourne material City did not take action when employees requested changes for safety reasons because of numerous injuries until the State of Oregon's Accident Prevention Division forced plant management to do something about the problem (EXHIBIT T)
33. The cost of commercially buying sawdust is running much higher because of excess demand exceeding demand specs. (Ref. Exhibit G -) while management ignored the suggestions from employees to use yard debris, Since the DEQ banned back yard burning, it would provide an inexpensive source of carbon material and solve residents' problems of getting rid of yard debris and reduce additional pressure on dump sites.
34. Where is the \$300,000.00 of revenue as promised citizens (Ref. Exhibit M) for the composter (not in Budget) (ref. Exhibit Y. At present, most of the compost is being repurchased by the City and sold to other bureaus, which, in essence, means there is no revenue generated, since the funds are diverted from another bureau in the city and there's no big market for the compost, as was claimed at the start of construction... The compost cannot be used for any use that would enter the food chain because of the heavy metals dumped into the sewers by industrial sites and gets into the sludge which is mixed with sawdust to form the compost. The irony is that some lucky individuals on the Street of Dreams this year had their lot landscaped with the same compost (Ref. PIPELINE - Exhibit H). Let those individuals draw their own conclusions about health and safety of the product (Ref. Exhibit Z - Willamette Weekly article).
35. The original idea was that it would take just two people to operate the composter (one shift), being one Operator 2 and one Mechanic 2. Now there's one Operator 1, one Operator 2, one Mechanic 1, one Mechanic 2, and a Supervisor on one shift with one Operator 1, one Operator 2 and a Supervisor on another shift, with one Mechanic 1 and one Mechanic 2 working part time "as assigned". This may account for some of the lost revenue, but without a viable market for the compost, it will only produce a loss and still the City will have to find a place to dump the sludge or compost, as is presently being done and for more reasons than the City states. (Exhibit X).

From the decisions made as to the construction choices made at the Columbia, Tryon Creek and Inverness Treatment plants, there is an outgrowth of similar decisions as to the decisions made in new and modified pumping stations.

36. Documented failures such as the one at the Sullivan Pump Station indicate that changes have not provided for system control in the event of PC failures, even though there were questions brought up by City employees at the time of construction. They were ignored until a failure made the Television News by polluting the Willamette River. The station failures that back sewage up into someone's house or business make the News, but the questions as to why a relatively simple system has been made more complicated cannot be brushed aside, since the public health is at stake. It is important that reliable, serviceable and interchangeable equipment be used throughout the system to prevent failures from not having parts in stock or locally, or worse, not made at all, and the company has gone out of business. Low bid has no place when it comes to public safety. Bids should be made on specific equipment so that a system remains constant throughout, which would make it practical to stock parts for one manufacturer, rather than whatever comes in on a low price (which may be outdated before it is even installed). It is important that this essential public service be as trouble free and reliable as possible. Taking whatever comes in on low bid many times is what some wholesaler wants to get rid of, which usually means out of production and trouble when it fails and parts are needed ASAP. This can result in jury rigged systems until replacement parts are found or until the system can be replaced... More time should be spent in selecting a single manufacturer that continues to make their current line work with their past equipment, thereby allowing not only repairs to be made, but future expansion with relative ease.
37. Hi-tech controls do not replace consistent pumping systems, such as the installation at Ankeny Pump Station where a PC was installed to replace the mechanic on duty, when the existing automatic controls did the job without the mechanic anyhow. It was simply a reason to change the controls while the motors and pumps remained the same. Further, it is noted that the same pumping station operates no differently or saves any more power than it did before the installation.

37. (cont'd.) One thing the change in both Sullivan Pump Station and Ankeny Pump Station did do is have a lot more failures and repairs than they did in the past and the lions share came on the new controls which were supposed to make the system better.

Making reference to Mayor Clark's January 2, 1986 letter "TO: All City Employees", the employees of the Wastewater Treatment Plant responded to the Mayor, asking that indeed the management of the Wastewater Treatment Plant follow his six guiding principles. It is apparent that there are many problems between management and the employees when 35 employees are willing to sign their names to this letter (Ref. Exhibit R & S) There is not a single mention of pay in any of the letters, but instead, fairness, job satisfaction, productivity, cost effectiveness and honesty. The employee's letter July 26, 1986 indicates that conditions have become worse than when the letter in May was sent, and that professional managers are needed.

38. This brings up the point of all the earlier operational problems, that these employees must work with each day, are a direct result of poor judgement, since it appears that not only will management not listen to their employees, but they also ignore professional advice... even when they pay for it (Ref. Exhibits L, F, K and Q).
39. How can employees advocate a system that is ineffective and sell this misinformation to their fellow citizens as instructed to do by the Bureau... and still retain their ethics (Ref. V).

We also understand that Mr. John Lang (Administrator of Environmental Services) now has taken an office directly in the administration building of the Wastewater Treatment Plant two days a week from his office at City Hall to help run the plant. In the 35-year history of the Wastewater Treatment Plant it has never been necessary for an administrator from City Hall to come out and take over the plant, which indicates that there must be some serious problems in management and in their operations. There seems to be some high-level management problems that the commissioner should have solved and now are festering into many unresolved opportunities and failures from indecision or ignorance.

The employees seem to be asking for only what should be expected of management in seeing to it that tax dollars are not wasted, but used efficiently, while providing open communication to help resolve problems. The concept of "not my money" is as unacceptable to us as ratepayers as it is to these workers and/or taxpayers.

November 23, 1986

Page ten

At the same time, the discrimination in favor of white males that have been primarily selected for supervisor jobs presently and in years past will not be accepted by taxpayers, as we demand the most for our money and this means the most qualified individual. Skilled workers, who in many cases have managerial skills of their own are by-passed, and we all can plainly see the many errors by this buddy-type selection method and the disservice done to the community and how the system suffers. (EXHIBIT C,O,R,Y-1 pp 7 ,Y-2 pp17 and W)

For these and many other reasons there needs to a light shed on this operation within the City and possibly some house cleaning as a result to better provide a better, more efficient, cost-effective service to the public.

From the Mayor's office on down there seems to be little concern as to the millions of taxpayers' dollars wasted in selection of equipment, management of it's operation and maintenance, ignoring operation and maintenance personnel when problems occur, making poor decisions when employee and professional advice recommends one solution, and management goes for just the opposite solution. Aside from the 40 thousand dollars and up for their salary that is wasted, their decisions are costing much more in terms of effective operations, cost of maintenance and employee morale. With the advent of the "TRAINING OFFICER" whose job it was to train the managers how to be managers, we wonder why did the City hire these individuals for these critical jobs in the first place if they have to be trained how to do their job? Why is Mr. Lang now at the plant doing a manager's job? Why not seek more qualified individuals that already have experience and have been successful as professional managers, not using the "Buddy System" for promotions to these highly responsible jobs, and stop wasting thousands of taxpayers' dollars? Setting aside the employees' complaints, the operation speaks for itself since the failure of so much equipment indicates poor selection, poor inspection and poor compliance to contracts, which rest solely on the shoulders of management.

Our question now is one of who is going to pay for all of this? If the City thinks that Mid-Multnomah County residents are going to pay to completely rebuild all their mistakes, then our sewers would be better taken care of by reopening the Inverness Treatment Plant because it would take much less to improve the operation at Inverness than rebuilding Columbia. May it be that if all these mistakes did not exist that these high sewer charges levied against the Mid-Multnomah County residents would be considerably lower?

Before these exorbitant fees become a reality to these residents, there should be some dialogues as to alternatives

Since the City is going to get an advantage by utilizing the pumping stations from ground water wells recently drilled for the water bureau, and cannot use because of contamination, we believe the City should foot the bill for any plant improvement and split the cost of providing the sewer to Mid-Multnomah County residents, including hook-ups.

It is for these and other questions like them that we would like to air publicly their responses, since this entire affair has been so far crammed down the throats of the Mid-Multnomah County residents without much explanation, choice or alternatives.

How can the City of Portland expect the residents of Mid-Multnomah County to foot the bill for this mandated ground water clean up, when all the water districts served will benefit?

We would like a forum as we protest this mandated involvement in City of Portland's WASTE WATERGATE.

If you could help us present these facts to anyone, or any organization that could get some action, or make these facts known to the general public, we would appreciate it greatly.

Sincerely yours

Crew and extras for the film "Come See the Paradise" shoot a scene Friday between Davis and Everett streets along Northwest Third Avenue.

Lights, camera, action shut down Old Town

Authorities close several streets for a time to allow filming of a feature motion picture

Several streets in Portland's Old Town were closed Friday for production of a feature film, but officials and area merchants said the closures had caused no major problems.

Third Avenue from West Burnside Street to Flanders Street, and Couch Street, Davis Street and Everett Street from Second Avenue to Fourth Avenue were closed to vehicle traffic, beginning about 5 a.m. Friday. Pedestrian traffic was allowed, with some limitations.

Businesses in the area remained open and commercial vehicles were allowed to make local deliveries.

The section of Old Town is being used to depict the "Little Tokyo" area of Los Angeles, circa 1940, in the film "Come See the Paradise." The multimillion-dollar independent film is being directed by Academy Award nominee Alan Parker and stars Dennis Quaid.

Dano Deifs, a locations assistant for the film, said that the set was closed and that no photographers were being allowed to take pictures of the production.

Minor traffic congestion during the morning rush hour was reported. Drivers attempting to go westward from Second Avenue had trouble from about 7 a.m. to 8 a.m., said Portland police Officer Rafael Cancio.

Third Avenue between Everett Street and Flanders Street was closed to pedestrians. Several large trucks containing film equipment, makeup and catering departments for the production were parked there.

Portland police and film security personnel rerouted pedestrians from other parts of the production area as needed. A crowd of about two dozen people watched the shooting from the southeast corner of Third Avenue and Davis Street through the morning.

Everett Street was to be open from 4 p.m. to 6 p.m. Friday to accommodate Friday's rush hour traffic. Street closures will otherwise be in effect until late Saturday and are tentatively scheduled to resume Monday and Tuesday.

The slight encouraged metropolitan fruits ripened.

However, crop yields are though, said Department were surprised of the cool spr.

Portland's June 24, when the airport. H temperatures

In 1954, the 82 in both Jul hottest day at

In 1957, th August each g

However, warmed to a month might and light rain temperatures

Forecaster showers over northern part weekend shot

Last month inch of rain. areas.

Aug. 6 had degrees. The 15. Fog move two.

Friday afternoon moved into ners and thun

The forecast to linger in day, with high finish to the I

Portland faces EPA fine over sewage system

A city official says the action involves administrative details, which he calls "dancing on the head of a pin"

By SARAH CARLIN AMES
of The Oregonian staff

The U.S. Environmental Protection Agency has proposed fining Portland \$100,000 for improperly regulating the businesses that dump dangerous waste into the city sewage system, Commissioner Earl Blumenauer announced Friday. The federal agency told the city that:

- Too many companies were dumping waste without permits.
- Portland must have legal authority to enforce its rules on Lake Oswego businesses using the Portland sewage system.
- The city didn't have local limits in place for industrial discharges.
- The city wasn't fining violators often enough.

"This just came out of the blue," said Blumenauer, who runs the Bureau of Environmental Services. He said none of the alleged violations involved any danger to the public or the environment. Rather, they are based on compliance with administrative detail, which he called "dancing on the head of a pin."

EPA officials in Seattle were not available for comment Friday evening.

Blumenauer said he thought the federal government was singling out Portland and other cities to look tough on pollution,

without spending any money or being constructive.

"It's hard to believe that we aren't somehow caught in the midst of some posturing or some political statement out of D.C.," he said, adding that he was trying hard not to overreact. "You try to be balanced and give people the benefit of the doubt," he said. "But this is really hard to swallow."

Please turn to EPA, Page C3

Farm workers union files suit for right to picket

The suit challenges a state law forbidding picketing by any but regular employees of a farm

By MIKE FRANCIS
of The Oregonian staff

All Oregon farm workers ought to have the right to picket their employers, assert the plaintiffs in a suit filed Friday against Oregon Gov. Neil Goldschmidt in federal district court in Portland.

The 13 plaintiffs in the suit, led by Pineros y Campesinos Unidos Del Noroeste, which translates as Northwest Tree-

Ferrel said the prohibition on picketing effectively prevented farm workers from going on strike and made it possible for growers to avoid collective bargaining. Meanwhile, he said, farm workers are continuing to live and work "in slave-type conditions," with no prospect of improving their circumstances.

Lee Weinstein, a spokesman for Goldschmidt, said Friday the governor's office hadn't had a chance to review the lawsuit

The union represents about 7 percent of the farm workers in Marion and Polk counties. Members pay dues of \$4 a month, which entitles them to a death benefit and access to the union's social services. But so far, the union hasn't signed a labor contract with any growers, nor has it called for a strike.

Union leaders say their demands under a collective contract would include: recognition of the union by growers; a seniority system for hiring, promoting and laying off workers; a grievance procedure; a closed shop, in which only unionized workers would be hired; and a provision

that's a pretty impressive number," he said. "Farm workers have been exploited for a long time."

In the session that concluded July 4, the Oregon Legislature considered, but failed to pass, a Senate bill that would have guaranteed the right of farm workers to bargain collectively.

Employees in other industries in Oregon work under a framework for forming a union and conducting collective bargaining with their employers. The state governing farm workers, while it says their right to bargain collectively can't be



at speeds up to 105 mph, Cahill said. They notified Albany police, prompting the roadblocks.

"You should really be proud of your police department," Cahill said. "They resisted the urge to join the pursuit, which is hard to do, and set up to block intersections to keep traffic out of the area at a busy time of day."

Mansfield to be speaker

Mike Mansfield, former U.S. ambassador to Japan, will be a keynote speaker Friday when a branch campus of Tokyo International Uni-

versity have troopers work overtime for the Labor Day weekend in an attempt to keep motorists in line through summer's final holiday.

Lt. Ken Chichester of the Oregon State Police office in Salem said Friday that the extra patrol officers would be looking for "accident-causing violations — foremost, the intoxicated driver."

Chichester said the Oregon State Police had set up a toll-free hotline so motorists could report drinking drivers. The number is 1-800-243-7865.

— From correspondent and wire reports

EPA: Advance treatment lowers levels of hazards

Continued from Page C1

Bureau workers learned of the proposed fine after EPA workers at the Seattle regional office called midweek. The official notification, a letter to the mayor's office, has not arrived. Blumenauer said the EPA would announce its action against Portland and dozens of other U.S. cities next week.

More than 100 companies treat their sewage before dumping it into Portland's sewer system, said John G. Blumenauer, Bureau of Environmental Services manager.

The pretreatment lowers levels of three types of hazards: heavy metals, such as copper or cadmium, which can harm wildlife; corrosive liquids, such as acids, which may eat away at the sewer system itself; and toxic chemicals, which can kill the bacteria that break down wastes in the treatment plant, Lang said.

The EPA last inspected Portland's sewage system in 1988, and the state Department of Environmental Quality performed a follow-up review in April.

Based on the state agency's information, the EPA's Seattle office recommended a \$20,000 fine. The state DEQ wrote to the EPA on Aug. 28 that fines were not appropriate because "the deficiencies are of an administrative nature and have not resulted in any documented environmental damage."

However, the EPA's headquarters office did not agree, and decided to fine the city \$100,000, Lang said.

Blumenauer said the city attorney would review the alleged violations and that the city would work with the state and federal agencies to have the fines lowered. Barring

that, he said, Portland could appeal the fines.

The EPA alleges these violations of the federal Clean Water Act:

- The city allowed 33 companies to dump dangerous waste without a permit, as of January.

Lang said five of those companies have since received permits, and that the city was monitoring 19 of them on its own initiative, although the companies did not need permits based on federal standards. The remaining nine businesses either will receive permits or will be removed from the files because they don't let out much waste, he said.

- The city did not have legal authority over Lake Oswego businesses that use the Portland sewer system.

Lang said the Portland City Council had approved a legal contract on that matter in July, and that the Lake Oswego City Council should agree to the new contract in early September. He said that Lake Oswego also regulates industrial waste and has monitored companies within its city limits, anyway.

- Portland did not have local discharge limits by the end of 1988.

Lang said the city thought the Department of Environmental Quality had set a Jan. 31, 1990, deadline for those limits to be in place.

- Portland does not mete out timely or consistent punishment to companies breaking the rules.

Blumenauer aide Barbara George said the city would rather work with the companies. The city and company cooperate to make sure the problem is solved, not to penalize the business. "We'd rather see them put that money into fixing the problem," she said.

WATERBED CENTER • WATERBED CENTER • WATERBED CENTER • WATERBED CENTER • WATERBED CENTER

Compare at \$219.99
Starting at
\$129.99

WATERBED HEATERS 1/2 PRICE!
\$19.99



SOMMA FLOTATION

- SUPERB COMFORT**
For maximum comfort the soft top of a Somma conforms to your body shape. Arching head, neck, shoulders and able to slide movements are completely eliminated.
- PERFECT SUPPORT**
Each person can adjust the pressure on their side of the mattress for the most support they need and need to simply varying the amount of water in the individual cylinders.
- PRACTICAL BENEFITS**
The Somma is lightweight, it uses standard bedding and a standard size support base. And heavy edges are treated with DuPont Teflon™ so it stays moisture protected.

STARTING AT **\$269.99**

WATERBED SHEET SETS
Comp. at \$29.99
\$19.99

If you buy anywhere



waterbed center

EUGENE 688-9753 PORTLAND 1550
823 HIGHWAY 99 NORTH

All sale items limited to stock on hand. Products are similar to illustration & may not in so shop early. Not all products shown are available in every store. All items are subject to change without notice.

WATERBED CENTER • WATERBED CENTER • WATERBED CENTER

Dept. of Environmental Quality

RECEIVED

NOV 13 1987

NORTHWEST REGION

To: Jane
Gillaspie
NWPR
Dept.

PRETREATMENT AUDIT REPORT
CITY OF PORTLAND, OREGON



Science Applications International Corporation

RECEIVED

SEP 15 1987

Water Quality Division
Dept. of Environmental Quality

**PRETREATMENT AUDIT REPORT
CITY OF PORTLAND, OREGON**

Prepared for:
State of Oregon
Department of Environmental Quality
811 S.W. 6th Avenue
Portland, OR 97204

Prepared by:
Science Applications International Corporation
5150 El Camino Real
Suite C-31
Los Altos, CA 94022

EPA Contract No. 68-01-7043, WA# P1-10
SAIC Project No. 2-834-03-490-84

September, 1987

PRETREATMENT AUDIT REPORT
CITY OF PORTLAND, OREGON

OVERVIEW

A pretreatment program audit was performed on the City of Portland on April 22 and 23, 1987. Participants of the audit team included:

John Harrison	Municipal Facilities Coordinator Department of Environmental Quality
Janice Wenning	Environmental Scientist Science Applications International Corporation
Jill Kiernan	Environmental Engineer Science Applications International Corporation

Information regarding Portland's program was provided by:

Bob Rieck	Chief Engineer	System Management Branch
Tom Bottenberg	Industrial Waste Manager	Industrial Waste Division
Harry Edmonds	Senior Engineer	Industrial Waste Division
Jim McCadden	Civil Engineer Assoc. II	Industrial Waste Division
Jim Cooke	Water Lab Supervisor	Industrial Waste Division
Ron Houston	Engineer Assoc. III	Policy & Financial Planning

The goals of this audit were:

- o To determine compliance of Portland's pretreatment program with the General Pretreatment Regulations as specified in 40 CFR 403
- o To determine the assistance of Portland's pretreatment program in controlling industrial discharges and in meeting the goals of the pretreatment program
- o To provide the assistance and recommendations to Portland which might allow for more effective implementation of its program.

The audit consisted of informal discussions, field observations of an industrial user, and examination of the pretreatment records. An audit

checklist was used to ensure all required components of a pretreatment program were evaluated. A copy of the completed checklist and attachments are included with this report.

The City of Portland has a well established pretreatment program, although not all of the elements of this program have been implemented. The audit team found the City of Portland out of compliance with the following General Pretreatment Regulations:

- 1 ○ The City of Portland does not have formal procedures for identifying and regulating industrial users (IUs) in contributing jurisdictions as required by 40 CFR 403.8(f)(2).
- 2 ○ Portland does not have the required authority to take enforcement action directly against an offending discharger located in Lake Oswego, Dunthorpe-Riverdale, and West Hills as required by 40 CFR 403.8(f)(1)(vi).
- 3 ○ Portland must develop more effective procedures for identifying and tracking violations and notifying IUs of these violations.
- 4 ○ Portland must reevaluate their local limits using an EPA approved methodology, to develop technically based local limits per 40 CFR 403.5(c) and (d).
- 5 ○ Total toxic organic (TTO) monitoring, required of certain categorical IUs, must be implemented and enforced.
- 6 ○ As per 40 CFR 403.8(f)(2)(v), the City must conduct surveillance and inspection activities in order to identify, independent of information supplied by the IUs, any occasional or continuing noncompliance with pretreatment standards.
- 7 ○ Chain-of-custody procedures must be developed, per 40 CFR 403.8(f)(2)(vi), to ensure sample collection and analyses is performed with sufficient care to produce evidence admissible in court.
- 8 ○ Cyanide sampling, especially at metal finishing facilities, must comply with 40 CFR Appendix E and 40 CFR 433.12.
- 9 ○ The City must maintain all records pertaining to the regulated IUs, including lab bench sheets and sample data, at least three years, as per 40 CFR 403.12(1)(2).

BACKGROUND OF PORTLAND'S PRETREATMENT PROGRAM

The City of Portland's pretreatment program was approved on March 3, 1983, although the City has initiated an industrial waste control program in the early 1970's, prior to the promulgation of the pretreatment regulations requiring POTWs to establish pretreatment programs. In 1982, the City conducted an industrial user survey and found over 200 industrial users (IUs). The survey has since been updated with a total of 260 IUs. Also, in 1982, the City began using a permit system for controlling industrial discharges. Prior to that time, control was through administrative enforcement actions.

Approximately two-thirds of the City's 260 industrial users have been permitted to date. The City expects to have all of these industries permitted with a one to one and a half year period. Of these 260 industrial users, 99 are categorical industries, which includes electroplating, metal finishing, pesticide and organic chemical manufacturers, timber products, and other miscellaneous industries.

The City has adopted local limits as part of their Sewer Use Ordinance, although these limits were not technically based. Currently, the City is reevaluating these limits using an extensive sampling and chemical analyses program.

The City receives flows from six outlying areas. There are IUs located in some of these areas, however, the City lacks adequate legal authority in three of the areas and procedures with all six to address program implementation and enforcement activities.

PORTLAND'S TREATMENT FACILITIES

The City of Portland owns two wastewater treatment plants which provide secondary treatment. The Columbia Boulevard Plant, the larger of the two, was designed for an average flow of 100 mgd, with an actual flow of 77 mgd. The effluent is discharged to the Columbia River.

The second plant, Tryon Creek, has an average design flow of 8.3 mgd, with an actual flow of 8.6 mgd. This effluent is discharged to the Willamette River.

★ Doc. 2
Sludge from the Tryon Creek Plant is trucked to the Columbia Plant where the sludges are mixed and disposed of by land application or composting. Sludge contamination problems have occurred in the past, however, recent monitoring has shown a reduction in cadmium and a general decreasing trend in all concentrations of metals.

Both treatment plants are continually meeting their NPDES limits, with the exception of a few minor pH and suspended solids violations. There have been three minor POTW worker injuries that have occurred at pump stations, that could have potentially been to discharges from IUs, however, the source in each case was not found.

MAJOR CHANGES TO THE PROGRAM SINCE APPROVAL

The City of Portland has amended or established new interjurisdictional agreements since program approval that now provide the City with adequate legal authority with Central County Service District (dated 11/20/86), Clackamas County Service District (dated 3/16/87) and the City of Milwaukie (dated 3/16/87). The remaining three contributing jurisdictions do not have adequate agreements. In addition, the City is considering adding a "Letter of Credits" provision to access fines/fees directly from a bank and a provision outlining a vacating users' responsibilities.

The City has also recently resurveyed all of its industrial users and have prioritized the list to assist with their permitting effort. All industrial users are not classified into one of three groups.

5.
Portland has not been requiring industrial users to self-monitor and submit semi-annual reports. The City is now beginning to require self-monitoring, however, this has not affected the City's own compliance monitoring frequency.

The City has not submitted any of these program changes to the State Department of Environmental Quality (DEQ) for review.

The City is currently in the process of revising their local limits. Once developed, but prior to final adoption these limits should be submitted to the DEQ for review.

AUDIT FINDINGS, REQUIRED ACTIONS AND RECOMMENDATIONS

The major findings of the audit are summarized below followed by required actions and recommendations. The completed checklist contains additional details. Supporting documentation including permit applications, an example permit, field log sheet, lab bench sheet and legal authority review worksheets are also attached.

Legal Authority

Portland's and Lake Oswego's Ordinances and the six extrajurisdictional agreements between the City of Portland and the six contributing jurisdictions were reviewed using EPA's legal authority worksheet to ensure evaluation of all required components of the General Pretreatment Regulations. The completed worksheets and detailed comments keyed to the worksheet are included in Attachment A.

Findings:

- o Portland receives both domestic and industrial wastewater from six surrounding jurisdictions (Central County Service District, West Hills Service District, Dunthorpe-Riverdale Service District, Clackamas County Sanitation District No. 1, Cities of Milwaukie, and Lake Oswego).
- o Portland's Title 17, Chapter 34 (Public Improvements) of the City Code was found to be adequate for ensuring compliance with all applicable Federal pretreatment program requirements, per 40 CFR 403.8(f)(1). However, a few provisions need clarification.
- o Lake Oswego's Code, Section 41.710 - 41.775 (Sewers and Sewage Disposal) is adequate to ensure compliance with all applicable Federal pretreatment program requirements, per 40 CFR 403.8(f)(1). However, as with the City of Portland's Ordinance, recommendations are provided to improve certain provisions.
- o Three of the six extra-jurisdictional agreements have been modified in the last year and are adequate to ensure compliance with the Federal requirements of 40 CFR 403. These agreements are with

Clackamas County Service District No. 1, City of Milwaukie, and Central County Service District.

- o Three of the six extra-jurisdictional agreements are not adequate to ensure compliance with 40 CFR 403. These agreements are with Lake Oswego, West Hills Service District and the Dunthorpe-Riverdale Service District.
- o There are no formal or implemented procedures for regulating industrial users in the outlying jurisdictions.

Required Actions:

- o The City must develop procedures to implement and enforce all General Pretreatment Regulations and program requirements in the outlying jurisdictions. For the contributing jurisdictions that have their own approved pretreatment programs, and decide to regulate all IUs in their jurisdictions regardless of whether or not the flow goes to the City of Portland, the City of Portland may need to coordinate efforts, and should maintain some involvement with procedural activities such as review and sign-off authority on permits issued by the other agency, periodic compliance checks on IUs, and a very thorough and frequent exchange of information.
- o The three agreements between the City of Portland and Lake Oswego, West Hills and Dunthorpe-Riverdale, must be amended to adequately address all applicable pretreatment program regulations and requirements. More specifically:

Portland - Lake Oswego: Portland does not have the right to take enforcement action directly against offending dischargers located within Lake Oswego. The Agreement must be amended to allow Portland to seek relief from any violations, per 40 CFR 403.8(f)(1)(vi), in the event Lake Oswego is unable or unwilling to do so.

Portland - Dunthorpe - Riverdale: This Agreement only addresses part of 40 CFR 403 requirements (403.8(f)(1)(iv), (v) and 403.5). It is not clear whether the remainder of the Federal requirements have been met since Dunthorpe-Riverdale does not purport to adopt other provisions of the Federal law or the Portland Sewer Use Ordinance. This Agreement must be modified/amended to address these deficiencies.

Portland - West Hills: This Agreement only covers the duties and obligations of operating and maintaining a portion of the shared sewer collection system. The Agreement does reference the Multnomah County Ordinances, however, these Ordinances were not available for review. The City must review this Agreement and referenced Ordinances to determine the legal authority status.

Recommendations:

- o Portland should amend Section 17.34.070(a) of the City Code to include contracts and/or agreements as well as permits as control mechanisms for ensuring compliance of all IUs, especially ones located on outlying jurisdictions. This would more accurately reflect the City's actual practice of establishing agreements with the surrounding jurisdictions that have discharges to the City.
- o The City should provide a provision that explicitly requires the installation of monitoring equipment in the City Code.
- o 40 CFR 403.12(1)(2) requires the City to have the authority to copy as well as inspect IU files. Section 17.34.060 should be amended to include the authority to copy IU files that are inspected.
- o Section 17.34.110(d) does not clearly identify what enforcement remedies are available to the City. In particular, injunctive relief is not specifically mentioned. It is recommended the City provide for equitable relief, in addition to civil penalties for violations.
- o Section 17.34.060(c) limits the Federal and State regulatory agencies access to IU confidential information without a 10 day notification given to the discharger. It is questionable that the City can impose such a restriction. It is recommended this provision be amended.

Administration of Control and Enforcement Mechanisms

Findings:

- 3
- o The City of Portland will occasionally require BMRs from IUs, although, generally, only permit applications are required. Two permit applications are utilized by the City; one is a comprehensive form for significant IUs, the other is an abbreviated form for nonsignificant IUs. Both permit applications meet most of the data disclosure requirements of 40 CFR 403.12(b), except for a few deficiencies.
 - o The City has developed some confidentiality procedures for handling IU information. These procedures include an initial qualifying screening and segregated storage of confidential file information.
 - o The City requires IUs to submit Accidental Spill Prevention Plans (ASPP) as a condition of their permit. Requirements of the ASPP are specified in the Permit, although the City did not receive the guidance document from EPA Region X in developing these requirements.

- 3.
- o Industrial users within the City of Portland's jurisdiction have been identified and updated through a recent survey, however, not all IUs have been permitted. The permitting priority is focused on new IUs. In addition, IUs in outlying jurisdictions have not been identified nor permitted with the exception of one categorical IU.
 - o The permitting system provides the City with the necessary authority to effectively regulate IU discharges and ensure IU compliance with pretreatment program requirements. The actual permits contain the necessary requirements and conditions, with the exception of sample location specifications, to serve as an effective control mechanism.
 - o Permit applications are usually submitted by the IU within a 30 day period from the date they were received. The permit issuance process averages three months from the time permit applications are received and reviewed by the City to the actual permit issuance date.
 - o Permits are issued for a duration of five years.
 - o Procedures for identifying violations and notifying IUs of violations are ineffective. There are no methods for tracking sample data from when it is first recorded to the time violations are identified and violation notices sent out. In addition, during the audit, a review of files indicated that not all violations were identified, and if identified, there is no record of the IU being notified or any enforcement action taken.
 - o A standard transmittal letter is used to notify IUs of sampling results. The same form letter is used to identify that a violation of discharge limits has occurred. The actual violation is not readily brought to the IUs attention.
 - o Enforcement follow-up activities for IU limit exceedences are often lacking.
 - o Formal written compliance schedules are not provided by the City to noncomplying IUs, although verbal compliance schedules are commonly worked out with the IU. This informal approach appears to be effective and the City feels it maintains the cooperative, working relationship between the City and the IU.
 - o IUs in contributing jurisdictions are not being regulated, with the exception of one IU, and as a result, the City has not exercised their enforcement abilities in these areas.

3.

Required Actions:

The City must identify, categorize and permit all IUs discharging to its system; this includes all IUs in the outlying jurisdictions.

3

- o The City's enforcement options available to them are adequate to meet the General pretreatment requirements, however, the City's actual enforcement follow-up activities are not adequate. The City must develop more effective procedures for identifying and tracking violations and notifying IUs of these violations. Methods for tracking sample data should be developed and include dates of sample analysis, violation identification, and when violation notices are sent out.

Recommendations:

3

3

- o The City should consider modifying their permit application form used for categorical IUs to include all applicable BMR requirements such as a list of all environmental permits, name of the owner, as well as the signing official, pollutant measurements and a certification of whether all applicable pretreatment standards are being met. If the IU is not in compliance with the applicable standards, then the IU must submit a description of the additional operation and maintenance or pretreatment facilities that are needed and a schedule by which the IU will complete the necessary changes/additions and be in compliance.
- o Confidentiality procedures could be upgraded to include stamping of confidential material and locking the material in a separate file drawer away from other nonconfidential IU information.
- o The City should request a copy of the guidance manual from EPA, Region X via the State DEQ, in developing Accidental Spill Prevention Plan requirements, and evaluating these ASPP submittals from IUs.
- o The permits should be modified to include sampling location specifications.
- o The City should consider reducing the 5 year permit duration for those IUs that have a high potential for impacting POTW operations that are not in consistent compliance, or undergoing process or waste discharge characteristic changes.
- o The City should formalize the compliance schedules with IUs, especially schedules that extend over a period of several months and require several steps to accomplish. The City should also have the IUs submit periodic reports that summarize what progress has been made.
- o The standard transmittal letter for notifying IUs of sampling results should be modified. For those IUs not in compliance, the letter should indicate the specific discharge limit violation(s).

3

The violation should be highlighted more. The letter should have a heading that clearly spells out that this is a "Notice of Violation".

- o The City should keep track of all the categorical IUs, regardless of whether or not the CIU discharges a process wastewater to the City sewer. Technically, the CIUs are still required to report semi-annually per 40 CFR 403.12(e). Of course, with no process wastewater being discharged, the CIU can just re-certify that this situation has not changed or the City should verify at least once each year by a site inspection.

Application of Pretreatment Standards

Findings:

- 5
- 40
- o Local limits are specified in the City's Ordinance, although these limits were developed using WWTP operator input and literature reviews. The City is developing new local limits which will be more technically based.
 - o Federal standards are specified in permits issued to categorical IUs and the local limits are specified in the permits issued to noncategorical IUs. However, the City is not correctly comparing local limits with categorical standards and applying the more stringent of the two in the CIU permits. For IUs in the metal finishing category, some of the local limits were more stringent than the Federal standards by numerical comparison, assuming the sampling location is at the end of process as the City indicated, although these were not being enforced.
 - o TTO standards were specified in some of the permits issued to CIUs, although TTO monitoring was lacking in the files.
 - o The City does not currently apply the combined wastestream formula to any categorical IUs. It was not clear during the audit that all CIUs have segregated wastestreams and that all sampling locations for CIUs are at the end of process.
 - o The City has seen a decreasing trend in metals, particularly cadmium, in both the influent flows to the treatment plants and the sludge.

Required Actions:

- 4
- o Portland must complete the reevaluation of their local limits by using an EPA approved methodology. The City should be sure to review the EPA policy memo, dated August 5, 1985 (included in Attachment 10) with regards to the minimum requirements for developing technically based local limits. The City should also

4

evaluate both treatment plants and their respective collection systems separately. Since the sludges from both treatment plants are combined for disposal the same criteria for the sludge variable can be used.

4

Once the local limits have been developed and adopted, the City should conduct a thorough and accurate comparison of these local limits with Federal categorical standards and apply the more stringent of the two, to all applicable IUs.

5

The City must follow-up on TIO monitoring requirements for all those CIUs that have TIO limits specified in their permits and required by Federal regulations.

Recommendations:

4

Portland should review all sampling locations to ensure there are no dilution or nonregulated wastestreams mixing with the process wastewater prior to sampling. If this situation exists, then the sampling location should be relocated or the combined wastestream formula applied.

Inspection and Sampling Procedures

Findings:

6

The City has a well established sampling program for both categorical and noncategorical IUs. At least 4 composite samples are taken by the City each year for the categorical IUs. Grab samples for conventional pollutants are taken more frequently.

7

The City's inspections appear to be thorough and include looking at any sources of hazardous waste generation and the IUs method(s) of disposal, however, the City cannot verify that at least two inspections per significant IU, including categorical IUs, are performed each year. X Site inspections are not well documented in the files and the site visits are not tracked.

8

No formal chain-of-custody procedures are employed by the City although field log sheets and lab bench sheets are used.

Cyanide sampling techniques for metal finishing IUs are not performed correctly by the City. Samples were collected in a manhole downstream of the cyanide treatment process where other wastestreams are combined, instead of at the end of the cyanide treatment or process and before dilution with other wastestreams.

The City requires IUs to submit ASPP plans and is actively reviewing and following up with IUs on this requirement. An IU's ASPP procedures are reviewed during the on-site inspection.

Required Actions:

- 6
- o The City must perform at least two inspections each year for each significant IU. One of these inspections should be unannounced. The other should be announced, if necessary, and include a thorough inspection of process areas, pretreatment unit and chemical waste storage areas.
 - 7
 - o Formal chain-of-custody procedures must be developed by the City to ensure the integrity of each sample. The field and lab forms currently used could be modified to include the signatures of the persons who collected, received, and analyzed the sample.
 - 8
 - o Sampling methods for cyanide for metals finishers, as specified in 40 CFR 403, Appendix E and in 40 CFR 433.12 should be reviewed and correctly applied by the City. This includes that the cyanide sample should be collected as a grab sample after the cyanide process or treatment, but prior to any commingling with other process wastewaters.

Recommendations:

- 6
- o The documentation of site inspections performed by the City needs to be improved. Standardized inspection forms could be used to provide the necessary documentation and should be maintained in each IUs individual file.
 - o The City, as a QA/QC check, should set up a review of the contract labs that are used by the IUs and by the City. At a minimum the City should be familiar with what QA/QC protocol the labs follow, how industrial waste samples are handled and how the data is verified.

Data Management and Public Participation

Findings:

- 1
- o The City has procedures for updating its industrial survey for those IUs within its jurisdiction. However, no formal procedures exist between the City and contributing jurisdictions for identifying IUs in outlying areas.
 - 9
 - o Sampling results are well documented in the files. However, inspection reports, phone contact reports, and meeting summaries were absent from most of the files.
 - 9
 - o The lab sheets the sampling data is reported on is stored in a file drawer and is purged as space becomes limiting, usually less than three years.

- o Not all CIUs are required to self-monitor though the City is beginning to make this a requirement for more of the major contributors.

Required Actions:

- o Formal procedures must be developed between the City and contributing jurisdictions for identifying IUs in the outlying areas.
- o The City must maintain all records, including sampling data, for a minimum of three years.

Recommendations:

- o In addition to site inspections, all communications with IUs should be formally documented. This should include, phone conversations, meeting notes, etc.

Program Resources

Findings:

- o Program resources are adequate for the current level of effort. However, with additional inspection requirements and addressing IUs in contributing jurisdictions, the City may need to reevaluate personnel needs.

Required Actions:

None

Recommendations:

- o The City should enlist the help from any available staff in the contributing jurisdictions to assist with the initial identification of IUs discharging to the City's system

Written Implementation and Procedures and Use of Standard Forms

Findings:

- o The City's procedures for implementing all aspects of its pretreatment program are adequately described in writing. Standardized forms are used for the permit applications, letter of agreement, field log sheets, lab bench sheets and file memos.

Required Actions:

None

Recommendations:

- 6
- o The City should develop a standardized form for industrial inspections to be used by the City's inspectors to ensure documentation of the site visit and the self-monitoring information the IUs will be submitting.

CADMIUM LEVELS
FOR
CITY OF PORTLAND
SLUDGE AND COMPOST

	SLUDGE	COMPOST
5-85	66.745 *	36.083 *
12-85	43.2 *	26.3 *
7-86	42.9 *	28.9 *
10-86	33.0 *	27.5 *
1-87	31.8 *	24.02
4-87	37.6 *	24.8
7-87	43.0 *	22.0
10-87	48.0 *	30.0 *
1-88	34.0 *	20.0
	-----	-----
AVERAGE	42.25	26.62 *

THIS INFORMATION WAS TAKEN FROM THE 9 QUARTERLY REPORTS FURNISHED BY THE CITY OF PORTLAND'S BUREAU OF ENVIRONMENTAL SERVICES AT OUR REQUEST . THE REPORTS ARE FROM NEILSON RESEARCH CORPORATION IN mg/kg .

* THESE LEVELS ARE ABOVE THE D.E.Q. LIMITS FOR SLUDGE GUIDELINES WHICH IS 25 mg/kg .

NEILSON RESEARCH CORPORATION

446 Highland Drive • Medford, Oregon 97504
 Telephone (503) 770-5678
 EPA, OREGON & CALIFORNIA CERTIFIED LABORATORY

NR Sample No. 5-2345 5-2346
 Date Received 5-28-85
 Time Received 3:12 p.m.
 Date Reported 7-9-85
 A B C D E F G H I J
 0 1 2 3 4 5 6 7 8 9

Print or type applicable information in box below.

Telephone No. _____	Sample Bottle Number _____	Time Collected _____	Date Collected <u>5-13-85</u>
Mailing Address:		Sample Location: (If different than mailing address)	
Name <u>City of Portland</u>	EPA # _____		
Street <u>Rm 412 City Hall</u>	Name <u>Wastewater Treatment Plant</u>		
City <u>Portland</u> State <u>OR</u> Zip <u>97204</u>	Street <u>5001 N. Columbia Blvd.</u>		
Water Source: Spring <input type="checkbox"/> Stream <input type="checkbox"/> Well <input type="checkbox"/>		Chlorinated: Yes <input type="checkbox"/> or No <input type="checkbox"/> Iodinated <input type="checkbox"/>	Sample Type: Routine <input type="checkbox"/> Resample <input type="checkbox"/> Check <input type="checkbox"/>
Sample Point <u>Sludge</u>		Collector's Name <u>Nek</u>	

PO # 52600

TEST	Test Method	Units	5-2345 Belt Press Cake	5-2346 Compost		Date of Analysis	Analyst
pH	SM 423	pH Units					
Specific Conductance	SM 205	uMHO/CM					
Cadmium	<u>35</u> SM 303B	dry wt. mg/kg	66.745	36.083	<u>20</u>	6-17-85	PM
Chromium	<u>462</u> EPA 218.2	mg/kg	555.699	327.644	<u>273</u>	6-28-85	PM
Copper	<u>737</u> EPA 220.1,2	mg/kg	866.750	500.716	<u>450</u>	6-17-85	PM
Lead	<u>610</u> SM 303B	mg/kg	669.015	370.223	<u>350</u>	6-17-85	PM
Nickel	<u>170</u> EPA 249.1,2	mg/kg	226.027	165.982	<u>105</u>	6-27-85	PM
Total Nitrogen	<u>3.6</u> SM 420A	mg/kg	35083.678	17861.967		6-27-85	PM
Ammonia Nitrogen	<u>0.6</u> SM 417B	mg/kg	5066.980	6466.306		6-24-85	PM
Nitrate Nitrogen	ASTM D992-71	mg/kg	39.84	57.20		6-18-85	PM
* Total Phosphorus	SM 424C,F	mg/kg	21431.29	25167.44		6-17-85	PM
Potassium	EPA 258.1	mg/kg	2618.228	1848.646		6-17-85	PM
Zinc	<u>1960</u> EPA 289.1,2	mg/kg	2406.112	1532.992	<u>1150</u>	5-31-85	PM
Total Solids	<u>34.3</u> SM 209A	g/kg	238.282	379.095	<u>39.4</u>	5-31-85	PM
Volatile Solids	SM 209E	g/kg	108.639	238.916		5-31-85	PM
% Vol. Solids	<u>48.1</u>		<u>45.6</u>	<u>63.0</u>	<u>68.2</u>		
Amended Report							
* Total Phosphorus	SM424C,F	mg/kg	10701.86	12552.76		8-21-85	JM

1. Limits set by EPA/OSHD EPA—EPA 600/4-79 020, Mar. '83
 2. No limit established SM—Standard Methods, 15th Ed.
 N.D.—None detected ASTM—ASTM Annual Std. Part 31
 © NEILSON RESEARCH CORPORATION 1985

Approved by: *Daniela M. C. Luna*
 John W. T. Neilson, President

pink copy given to *CJB*

NEILSON RESEARCH CORPORATION

446 Highland Drive • Medford, Oregon 97504
Telephone (503) 770-5678

EPA, OREGON & CALIFORNIA CERTIFIED LABORATORY

Print or type applicable information in box below. PO # 55656

NR Sample No. 5-5711 & 5712
 Date Received 12-20-85
 Time Received 3:39
 Date Reported 1-27-86
 A B C D E F G H I J
 0 1 2 3 4 5 6 7 8 9

Telephone No. _____ Sample Bottle Number as above Time Collected _____ Date Collected 12-17-85
 Mailing Address: ATT: Tim Neketin Sample Location: (If different than mailing address) _____
 Name City of Portland - Wastewater Tr. Plant EPA # _____
 Street 5001 N. Columbia Blvd. Name _____
 City Portland State OR Zip 97203 City _____ State _____ Zip _____
 Water Source: Spring Chlorinated: Yes Sample Type: Routine Sample Point _____
 Stream or No Resample
 Well Iodinated Check Collector's Name T. Neketin

TEST	Test Method	Dry Wt. Units	Compost 5-5711	BP Cake 5-5712	<i>Cake 5-13 Dec 85</i>	Date of Analysis	Analyst
pH	SM 423	pH Units	<u>4.01</u>	<u>6.05</u>		1-26-86	JN
Specific Conductance	SM 205	uMHO/CM					
Cadmium	SM 303B	mg/kg	26.3	43.2	40	1-17-86	JN
Chromium	EPA 218.2	mg/kg	355	539	440	1-17-86	JN
Copper	SM 303A	mg/kg	558	941	—	1-17-86	JN
Lead	SM 303B	mg/kg	410	769	750	1-17-86	JN
Nickel	EPA 249.1,2	mg/kg	92.5	167	—	1-17-86	JN
Zinc	SM 303A	mg/kg	1375	2070	2085	1-17-86	JN
Ammonia Nitrogen	SM 417B	% Dry Wt	0.045	0.196		1-26-86	JN
Nitrate Nitrogen	ASTM D992-71	% Dry Wt	0.163	0.005		1-26-86	JN
Total Kjeldahl Nitrogen	SM 420A	% Dry Wt	0.887	1.756		1-26-86	JN
Total Phosphorus	SM 424C,F	% Dry Wt	0.75	1.84		1-18-86	JN
Total Solids	SM 209D	% Dry Wt	39.61	23.50	24.0	12-28-85	JN
Volatile Solids	SM 209D	% Dry Wt	64.98	47.79	49.5	12-29-85	JN
Potassium	EPA 258.1	% Dry Wt	0.077	0.099		1-17-86	JN

1. Limits set by EPA/OSHD EPA—EPA 600/4-79 020, Mar. '83
 2. No limit established SM—Standard Methods, 15th Ed.
 N.D.—None detected ASTM—ASTM Annual Std. Part 31

Approved by: _____
 John W. T. Neilson, President

N Kch:

CH

4 Return to Neilson folder

NR Sample No. 6-3514
 Date Received 7-23-86
 Time Received 1:07
 Date Reported 8-14-86
 A B C D E F G H I J PO # 60496
 0 1 2 3 4 5 6 7 8 9

EPA
Print or type sp.

504
ORY

Telephone _____	Time Collected _____	Date Collected <u>7-15-86</u>
Mailing Address _____	Sample Location (if different than mailing address) _____	
Name <u>C</u>	EPA # _____	Name <u>Belt Press Cake</u>
Street <u>5</u>	Street <u>Pool 1-11 July 86</u>	Street _____
City <u>Portland</u> State <u>OR</u> Zip <u>97203</u>	City _____	State _____ Zip _____
Water Source: Spring <input type="checkbox"/> Chlorinated Yes <input type="checkbox"/> Sample Type Routine <input type="checkbox"/> Sample Point _____	Stream <input type="checkbox"/> or No <input type="checkbox"/> Resample <input type="checkbox"/>	Well <input type="checkbox"/> Iodinated Check <input type="checkbox"/> Collector's Name <u>Tim Neketin</u>

SLUDGE ANALYSIS

TEST	Test Method	Units	Dry Wt	6-3514	Col. Lab	Date of Analysis	Analyst
pH	SM 423	pH Units		5.25	7.6	8-13-86	CC/JN
Specific Conductance	SM 205	umHO/CM		435.0		8-13-86	CC/JN
Cadmium	SM 303B	mg/kg	Dry Wt	42.9	40	8-7-86	CC/JN
Chromium	EPA 218.2	mg/kg	Dry Wt	425.3		8-7-86	CC/JN
Copper	SM 303A	mg/kg	Dry Wt	902.1		8-7-86	CC/JN
Lead	SM 303B	mg/kg	Dry Wt	636.4	620	8-7-86	CC/JN
Nickel	EPA 249.1,2	mg/kg	Dry Wt	199.4		8-7-86	CC/JN
Zinc	SM 303A	mg/kg	Dry Wt	2715.6	2240	8-7-86	CC/JN
Ammonia Nitrogen	SM 417B	%	Dry Wt	0.501	0.49	8-8-86	CC/JN
Nitrate Nitrogen	ASTM D992-71	%	Dry Wt	NDQ0.001		8-4-86	CC/JN
Total Kjeldahl Nitrogen	SM 420A	%	Dry Wt	4.001	4.2	8-5-86	CC/JN
Total Phosphorus	SM 424C,F	%	Dry Wt	1.696		8-13-86	CC/JN
Total Solids	SM 209A	%	Wet Wt	25.45	25.5	7-25-86	CC/JN
Volatile Solids	SM 209D	%	Dry Wt	53.59	54.5	8-6-86	CC/JN
Potassium	EPA 258.1	%	Dry Wt	0.155		8-7-86	CC/JN

1. Limits set by EPA/OSHD EPA—EPA 600/4-78 020, Mar. '83
 2. No limit established SM—Standard Methods, 15th Ed
 ND—None Detected ASTM—ASTM Annual Sid Part 31
 NEILSON RESEARCH CORPORATION 1985

Approved by: *[Signature]*
 President

NEILSON RESEARCH CORPORATION

446 Highland Drive • Medford, Oregon 97504
 Telephone (503) 770-5678
 EPA, OREGON & CALIFORNIA CERTIFIED LABORATORY

Print or type applicable information in box below

NR Sample No. 6-3512
 Date Received 7-23-86
 Time Received 1:07
 Date Reported 8-14-86
 A B C D E F G H I J PO 60496
 0 1 2 3 4 5 6 7 8 9

Telephone No. _____ Sample Bottle Number 6-3512 Time Collected _____ Date Collected 7-18-86
 Mailing Address: ATT: Tim Nektin
 Name City of Portland EPA # _____
 Street 5001 N. Columbia Blvd. Name _____
 City Portland State OR Zip 97203 City Compost State _____ Zip _____
 Water Source: Spring Chlorinated Yes Sample Type Routine Sample Point Aseptic Grab from stockpile
 Stream or No Resample
 Well Iodinated Check Collector's Name Tim Nektin

SLUDGE ANALYSIS

TEST	Test Method	Units	Dry Wt	6-3512	Col. Lab	Date of Analysis	Analyst
pH	SM 423	pH Units		4.99	7.8	8-13-86	CC/JN
Specific Conductance	SM 205	uMHO/CM		449.0		8-13-86	CC/JN
Cadmium	SM 303B	mg/kg	Dry Wt	28.9	24	8-7-86	CC/JN
Chromium	EPA 218.2	mg/kg	Dry Wt	285.1		8-7-86	CC/JN
Copper	SM 303A	mg/kg	Dry Wt	475.3		8-7-86	CC/JN
Lead	SM 303B	mg/kg	Dry Wt	433.6	400	8-7-86	CC/JN
Nickel	EPA 249.1,2	mg/kg	Dry Wt	134.4		8-7-86	CC/JN
Zinc	SM 303A	mg/kg	Dry Wt	1629.4	1240	8-7-86	CC/JN
Ammonia Nitrogen	SM 417B	%	Dry Wt	0.552	0.57	8-8-86	CC/JN
Nitrate Nitrogen	ASTM D992-71	%	Dry Wt	0.002		8-8-86	CC/JN
Total Kjeldahl Nitrogen	SM 420A	%	Dry Wt	1.784	1.8	8-5-86	CC/JN
Total Phosphorus	SM 424C,F	%	Dry Wt	1.317		8-13-86	CC/JN
Total Solids	SM 209A	%	Wet Wt	55.08	56.5	7-25-86	CC/JN
Volatile Solids	SM 209D	%	Dry Wt	66.35	66.2	8-6-86	CC/JN
Potassium	EPA 258.1	%	Dry Wt	0.136		8-7-86	CC/JN

1. Limits set by EPA/OSHD EPA-EPA 800/4-79 020, Mar. '83
 2. No limit established SM-Standard Methods, 15th Ed
 N.D. - None detected ASTM-ASTM Annual Std. Part 31
 © NEILSON RESEARCH CORPORATION 1985

Approved by 
 John W. T. Neilson, President

NEILSON RESEARCH CORPORATION

448 Highland Drive • Medford, Oregon 97504
Telephone (503) 770-5678

EPA, OREGON & CALIFORNIA CERTIFIED LABORATORY
11480

Print or type applicable information in box below.


NR Sample No. 6-5241
Date Received 10-23-86
Time Received 1:15
Date Reported 12-4-86
A B C D E F G H I J PO 62712
0 1 2 3 4 5 6 7 8 9

Telephone No. _____	Sample Bottle Number <u>6-5241</u>	Time Collected _____	Date Collected <u>30 Sept, 13 Oct 86</u>
Mailing Address: <u>Tim Neketin</u>		Sample Location: (if different than mailing address)	
Name <u>Portland, City of</u>	EPA # _____	Name _____	_____
Street <u>5001 N. Columbia Blvd.</u>	Street _____	_____	_____
City <u>Portland</u> State <u>OR</u> Zip <u>97203</u>	City _____ State _____ Zip _____	_____	_____
Water Source: Spring <input type="checkbox"/> Chlorinated Yes <input type="checkbox"/> Sample Type Routine <input type="checkbox"/> Sample Point <u>Belt Press Cake</u>	Stream <input type="checkbox"/> or No <input type="checkbox"/> Resample <input type="checkbox"/>	Well <input type="checkbox"/> Iodinated <input type="checkbox"/> Check <input type="checkbox"/>	Collector's Name _____

SLUDGE ANALYSIS

TEST	Test Method	Units	Dry Wt	6-5241		Date of Analysis	Analyst
pH	SM 423	pH Units		6.00		12-2-86	SR/JN
Specific Conductance	SM 205	uMHO/CM					
Cadmium	SM 303B	mg/kg	Dry Wt	33.0	38	11-18-86	SR/JN
Chromium	EPA 218.2	mg/kg	Dry Wt	449.5	250	11-19-86	SR/JN
Copper	SM 303A	mg/kg	Dry Wt	694.3	844	11-18-86	SR/JN
Lead	SM 303B	mg/kg	Dry Wt	621.9	592	11-18-86	SR/JN
Nickel	EPA 249.1,2	mg/kg	Dry Wt	214.6	100	11-18-86	SR/JN
Zinc	SM 303A	mg/kg	Dry Wt	2130.3	1821	11-18-86	SR/JN
Ammonia Nitrogen	SM 417B	%	Dry Wt	0.561		12-3-86	SR/JN
Nitrate Nitrogen	ASTM D992-71	%	Dry Wt	0.258		12-2-86	SR/JN
Total Kjeldahl Nitrogen	SM 420A	%	Dry Wt	3.914	3.7	12-1-86	SR/JN
Total Phosphorus	SM 424C,F	%	Dry Wt	2.087		11-25-86	SR/JN
Total Solids	SM 209A	%	Wet Wt	28.721	24.9	11-4-86	SR/JN
Volatile Solids	SM 209D	%	Dry Wt	50.558	47.7	11-6-86	SR/JN
Potassium	EPA 258.1	%	Dry Wt	0.259		11-18-86	SR/JN

1 Limits set by EPA/OSHD EPA - EPA 600/4-79 020, Mar '83
2 No limit established SM - Standard Methods, 15th Ed
N D - None detected ASTM - ASTM Annual Std. Part 31
© NEILSON RESEARCH CORPORATION 1985

Approved by 
John W. T. Neilson, President

NEILSON RESEARCH CORPORATION

446 Highland Drive • Medford, Oregon 97504
 Telephone (503) 770-5678
 EPA, OREGON & CALIFORNIA CERTIFIED LABORATORY

NR Sample No. 6-5242
 Date Received 10-23-86
 Time Received 1:15
 Date Reported 12-4-86
 A B C D E F G H I J PO 62712
 0 1 2 3 4 5 6 7 8 9


Print or type applicable information in box below.

Telephone No. _____	Sample Bottle Number <u>6-5242</u>	Time Collected _____	Date Collected <u>17 Oct 86</u>
Mailing Address: <u>Tim Neketin</u>		Sample Location: (if different than mailing address) _____	
Name <u>City of Portland</u>	EPA # _____	Name _____	Name _____
Street <u>5001 N. Columbia</u>	Street _____	Street _____	Street _____
City <u>Portland</u> State <u>OR</u> Zip <u>97203</u>	City _____ State _____ Zip _____	City _____ State _____ Zip _____	City _____ State _____ Zip _____
Water Source: Spring <input type="checkbox"/> Stream <input type="checkbox"/> Well <input type="checkbox"/>	Chlorinated: Yes <input type="checkbox"/> or No <input type="checkbox"/> Iodinated _____	Sample Type: Routine <input type="checkbox"/> Resample <input type="checkbox"/> Check <input type="checkbox"/>	Sample Point <u>Compost Grab Sample</u> Collector's Name <u>T. Neketin</u>

SLUDGE ANALYSIS

TEST	Test Method	Units	Dry Wt	6-5242		Date of Analysis	Analyst
pH	SM 423	pH Units		4.45		12-2-86	SR
Specific Conductance	SM 205	uMHO/CM					
Cadmium	SM 303B	mg/kg	Dry Wt	27.5	25	11-18-86	SR/JN
Chromium	EPA 218.2	mg/kg	Dry Wt	368.7	200	11-18-86	SR/JN
Copper	SM 303A	mg/kg	Dry Wt	319.0	NA	11-18-86	SR/JN
Lead	SM 303B	mg/kg	Dry Wt	473.5	489	11-18-86	SR/JN
Nickel	EPA 249.1,2	mg/kg	Dry Wt	160.4	60	11-18-86	SR/JN
Zinc	SM 303A	mg/kg	Dry Wt	1435.0	1320	11-18-86	SR/JN
Ammonia Nitrogen	SM 417B	%	Dry Wt	0.115		12-3-86	SR/JN
Nitrate Nitrogen	ASTM D992-71	%	Dry Wt	0.292		12-2-86	SR/JN
Total Kjeldahl Nitrogen	SM 420A	%	Dry Wt	1.339	1.5	12-2-86	SR/JN
Total Phosphorus	SM 424C,F	%	Dry Wt	1.930		11-25-86	SR/JN
Total Solids	SM 209A	%	Wet Wt	44.375	43.7	11-4-86	SR/JN
Volatile Solids	SM 209D	%	Dry Wt	34.858 ⁷⁶⁴	66.9	11-6-86	SR/JN
Potassium	EPA 258.1	%	Dry Wt	0.529		11-18-86	SR/JN

1. Limits set by EPA/OSHD EPA-EPA 600/4-79 020, Mar. '83
 2. No limit established SM-Standard Methods, 15th Ed
 N.D.-None detected ASTM-ASTM Annual Std. Part 31
 © NEILSON RESEARCH CORPORATION 1985

Approved by 
 John W. T. Neilson, President

NEILSON RESEARCH CORPORATION

446 Highland Drive • Medford, Oregon 97504
 Telephone (503) 770-5678
 EPA, OREGON & CALIFORNIA CERTIFIED LABORATORY

Print or type applicable information in box below

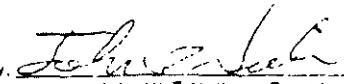
NR Sample No. 7-0132
 Date Received 1-9-87
 Time Received 12:35
 Date Reported 2-3-87
 A B C D E F G H I J
 0 1 2 3 4 5 6 7 8 9

Telephone No. _____	Sample Bottle Number <u>7-0132</u>	Time Collected _____	Date Collected <u>1-7-87</u>
Mailing Address: <u>Tim Neketin</u>		Sample Location (if different than mailing address) _____	
Name <u>City of Portland</u>	EPA # _____		
Street <u>5001 N. Columbia</u>	Name _____		
City <u>Portland</u> State <u>OR</u> Zip <u>97203</u>	City _____ State _____ Zip _____		
Water Source: Spring <input type="checkbox"/>	Chlorinated Yes <input type="checkbox"/>	Sample Type Routine <input type="checkbox"/>	Sample Point <u>Compost Grab Sample</u>
Stream <input type="checkbox"/>	or No <input type="checkbox"/>	Resample <input type="checkbox"/>	Collector's Name _____
Well <input type="checkbox"/>	Iodinated <input type="checkbox"/>	Check <input type="checkbox"/>	

SLUDGE ANALYSIS

TEST	Test Method	Units	Dry Wt	7-0132	Date of Analysis	Analyst
pH	SM 423	pH Units		5.65	2-3-87	NE
Specific Conductance	SM 205	uMHO/CM		642.0	2-3-87	NE
Cadmium	SM 303B	mg/kg	Dry Wt	24.02	1-20-87	NE/JN
Chromium	EPA 218.2	mg/kg	Dry Wt	250.0	1-19-87	NE/JN
Copper	SM 303A	mg/kg	Dry Wt	647.21	1-20-87	NE/JN
Lead	SM 303B	mg/kg	Dry Wt	371.54	1-20-87	NE/JN
Nickel	EPA 249.1,2	mg/kg	Dry Wt	107.90	1-20-87	NE/JN
Zinc	SM 303A	mg/kg	Dry Wt	1344.81	1-20-87	NE/JN
Ammonia Nitrogen	SM 417B	%	Dry Wt	0.842	1-26-87	NE/JN
Nitrate Nitrogen	ASTM D992-71	%	Dry Wt	0.715	1-29-87	NE/JN
Total Kjeldahl Nitrogen	SM 420A	%	Dry Wt	3.91	1-23-87	NE/JN
Total Phosphorus	SM 424C,F	%	Dry Wt	5.50	1-28-87	NE/JN
Total Solids	SM 209A	%	Wet Wt	42.74	1-14-87	NE/JN
Volatile Solids	SM 209D	%	Dry Wt	29.83 15.70%	1-16-87	NE/JN
Potassium	EPA 258.1	%	Dry Wt	0.122	1-20-87	NE/JN

1. Limits set by EPA/OSHD EPA—EPA 600/4-79-020, Mar. '83
 2. No limit established SM—Standard Methods 15th Ed.
 N.D.—None detected ASTM—ASTM Annual Sij Part 31
 © NEILSON RESEARCH CORPORATION 1985

Approved by: 
 John W. T. Neilson, President

NEILSON RESEARCH CORPORATION

446 Highland Drive • Medford, Oregon 97504
Telephone (503) 770-5678

EPA, OREGON & CALIFORNIA CERTIFIED LABORATORY

Print or type applicable information in box below

NR Sample No. 7-0133
 Date Received 1-9-87
 Time Received 12:35
 Date Reported 2-3-87
 A B C D E F G H I J
 0 1 2 3 4 5 6 7 8 9

Telephone No. _____ Sample Bottle Number 7-0133 Time Collected _____ Date Collected _____
 Mailing Address: Tim Neketin Sample Location (If different than mailing address) _____
 Name City of Portland EPA # _____ Name _____
 Street 5001 N. Columbia Street Pool 12-23-86 - 1-5-87
 City Portland State OR Zip 97203 City _____ State _____ Zip _____
 Water Source: Spring Chlorinated Yes Sample Type Routine Sample Point Belt Press Cake
 Stream or No Resample
 Well Iodinated Check Collector's Name T. Neketin

SLUDGE ANALYSIS

TEST	Test Method	Units	Dry Wt	7-0133	Date of Analysis	Analyst
pH	SM 423	pH Units		6.45	2-3-87	NE
Specific Conductance	SM 205	uMHO/CM		660.0	2-3-87	NE
Cadmium	SM 303B	mg/kg	Dry Wt	31.80	1-20-87	NE/JN
Chromium	EPA 218.2	mg/kg	Dry Wt	416.6	1-19-87	NE/JN
Copper	SM 303A	mg/kg	Dry Wt	858.66	1-20-87	PM
Lead	SM 303B	mg/kg	Dry Wt	513.83	1-20-87	NE/JN
Nickel	EPA 249.1,2	mg/kg	Dry Wt	171.73	1-20-87	NE/JN
Zinc	SM 303A	mg/kg	Dry Wt	1820.12	1-20-87	NE/JN
Ammonia Nitrogen	SM 417B	%	Dry Wt	0.623	1-26-87	NE/JN
Nitrate Nitrogen	ASTM D992-71	%	Dry Wt	0.516	1-29-87	NE/JN
Total Kjeldahl Nitrogen	SM 420A	%	Dry Wt	4.07	1-23-87	NE/JN
Total Phosphorus	SM 424C,F	%	Dry Wt	4.93	1-28-87	NE/JN
Total Solids	SM 209A	%	Wet Wt	24.52	1-14-87	NE/JN
Volatile Solids	SM 209D	%	Dry Wt	48.0758 52.9%	1-16-87	NE/JN
Potassium	EPA 258.1	%	Dry Wt	0.172	1-20-87	NE/JN

1. Limits set by EPA/OSHD EPA - EPA 600/4-73-020, Mar. 83
 2. No limit established SM - Standard Methods, 15th Ed
 N.D. - None detected ASTM - ASTM Annual C-1, Part 31

Approved by 
 John W. T. Neilson, President

NEILSON RESEARCH CORPORATION

446 Highland Drive • Medford, Oregon 97504
Telephone (503) 770-5678

EPA, OREGON & CALIFORNIA CERTIFIED LABORATORY

NR Sample No. 7-1599-1600
 Date Received 4-17-87
 Time Received 1:30
 Date Reported 4-27-87
 A B C D E F G H I J PO# 65104
 0 1 2 3 4 5 6 7 8 9

Print or type applicable information in box below

Telephone No. _____ Sample Bottle Number as above Time Collected _____ Date Collected _____
 Mailing Address: Tim Neketin EPA # _____
 Name Portland Wastewater Treatment Plant Name _____
 Street 5001 N. Columbia Blvd. Street _____
 City Portland State OR Zip 97203 City _____ State _____ Zip _____
 Water Source: Spring Chlorinated Yes Sample Type Routine Sample Point Belt Press Cake & Compost Grab Sample
 Stream or No Resample
 Well Iodinated Check Collector's Name _____

Corrected Report

SLUDGE ANALYSIS

TEST	Test Method	Units	Dry Wt	7-1599 Belt Press	7-1600 Compost Grab	Date of Analysis	Analyst
pH	SM 423	pH Units					
Specific Conductance	SM 205	uMHO/CM		337.0	323.0	4-27-87	NE/JN
Cadmium	SM 303B	mg/kg	Dry Wt	37.6	24.8	4-22-87	NE/JN
Chromium	EPA 218.2	mg/kg	Dry Wt	438.0	231.0	4-22-87	NE/JN
Copper	SM 303A	mg/kg	Dry Wt	910.0	472.0	4-22-87	NE/JN
Lead	SM 303B	mg/kg	Dry Wt	683.0	378.0	4-22-87	NE/JN
Nickel	EPA 249.1,2	mg/kg	Dry Wt	183.0	110.0	4-22-87	NE/JN
Zinc	SM 303A	mg/kg	Dry Wt	2,335.0	1,368.0	4-22-87	NE/JN
Ammonia Nitrogen	SM 417B	%	Dry Wt	0.58	0.68	4-27-87	NE/JN
Nitrate Nitrogen	ASTM D992-71	%	Dry Wt	0.006	0.228	4-27-87	NE/JN
Total Kjeldahl Nitrogen	SM 420A	%	Dry Wt	5.13	2.02	4-27-87	NE/JN
Total Phosphorus	SM 424C,F	%	Dry Wt	1.17	0.90	4-23-87	NE/JN
Total Solids	SM 209A	%	Wet Wt	23.65	39.61	4-21-87	NE/JN
* Volatile Solids	SM 209D	%	Dry Wt	47.72	67.39	4-21-87	NE/JN
Potassium	EPA 258.1	%	Dry Wt	0.1475	0.0853	4-22-87	NE/JN

1. Limits set by EPA/OSHD EPA—EPA 800/4-79-020, Mar 83
 2. No limit established SM—Standard Methods, 15th Ed.
 N.D.—None detected ASTM—ASTM Annual Std Part 31.
 © NEILSON RESEARCH CORPORATION 1985

Approved by: *John W. T. Nelson*
 President

NEILSON RESEARCH CORPORATION

446 Highland Drive • Medford, Oregon 97504
Telephone (503) 770-5878

EPA, OREGON & CALIFORNIA CERTIFIED LABORATORY

Print or type applicable information in box below.

NR Sample No. 7-3240/3241
 Date Received 7-24-87
 Time Received 12:40
 Date Reported 8-6-87
 A B C D E F G H I J WTB 019
 0 1 2 3 4 5 6 7 8 9 PO 67875

Telephone No. _____ Sample Bottle Number as above Time Collected 10:00/10:30 Date Collected 7-20-21-87
 Mailing Address: Tim Neketin Sample Location: (if different than mailing address) _____
 Name City of Portland - WWTP EPA # _____
 Street 5001 N. Columbia Blvd. Name 7-3240= Belt Press Cake 7-21-87
 City Portland State OR Zip 97207 Street 7-3241 = Compost Grab 7-20-87
 Water Source: Spring Chlorinated Yes No Sample Type Routine Resample Check Collector's Name Tim Neketin
 Stream or Iodinated _____
 Well

SLUDGE ANALYSIS

TEST	Test Method	Units	Dry Wt	7-3240 Belt Press	7-3241 Compost Grab	Date of Analysis	Analyst
pH	SM 423	pH Units					
Specific Conductance	SM 205	uMHO/CM		745.0	430.0	8-5-87	NE
Cadmium	SM 303B	mg/kg	Dry Wt	43.0	22.0	7-27-87	NE
Chromium	EPA 218.2	mg/kg	Dry Wt	407.0	203.0	7-27-87	NE
Copper	SM 303A	mg/kg	Dry Wt	926.0	446.0	7-27-87	NE
Lead	SM 303B	mg/kg	Dry Wt	675.0	322.0	7-27-87	NE
Nickel	EPA 249.1,2	mg/kg	Dry Wt	199.0	116.0	7-27-87	NE
Zinc	SM 303A	mg/kg	Dry Wt	2248.0	1099.0	7-27-87	NE
Ammonia Nitrogen	SM 417B	%	Dry Wt	0.41	0.46	7-30-87	NE
Nitrate Nitrogen	ASTM D992-71	%	Dry Wt	0.005	0.21	8-4-87	NE
Total Kjeldahl Nitrogen	SM 420A	%	Dry Wt	3.79	1.78	7-29-87	NE
Total Phosphorus	SM 424C,F	%	Dry Wt	4.49	2.18	8-5-87	NE
Total Solids	SM 209A	%	Wet Wt	23.89	38.69	7-25-87	NE
Volatile Solids	SM 209D	%	Dry Wt	50.49	66.72	7-27-87	NE
Potassium	EPA 258.1	%	Dry Wt	0.19	0.15	7-27-87	NE

1. Limits set by EPA/OSHD EPA—EPA 600/4-79 020, Mar '83
 2. No limit established SM—Standard Methods, 19th Ed
 N.D.—None detected ASTM—ASTM Annual Sid. Part 31

Approved by: *Tom Fowler*
 Tom Fowler, President

NEILSON-RESEARCH CORPORATION

446 Highland Drive • Medford, Oregon 97504
Telephone (503) 770-5678

EPA, OREGON & CALIFORNIA CERTIFIED LABORATORY

Print or type applicable information in box below

NR Sample No. 7-4440
 Date Received 10-1-87
 Time Received 12:10 p.m.
 Date Reported 10-14-87
 A B C D E F G H I J
 0 1 2 3 4 5 6 7 8 9

Telephone No. _____ Sample Bottle Number 7-4440 Time Collected 10:30 a.m. Date Collected 9-28-87
 Mailing Address: Attn: Tim Neketin EPA # _____
 Name Wastewater Treatment Branch Name _____
 Street 5001 N. Columbia Blvd. Street _____
 City Portland State OR Zip 97203 City _____ State _____ Zip _____
 Water Source: Spring Chlorinated Yes Sample Type Routine Sample Point Compost Grab
 Stream or No Resample
 Well Iodinated Check Collector's Name T. Neketin

SLUDGE ANALYSIS

TEST	Test Method	Units	Dry Wt	7-4440	Date of Analysis	Analyst
pH	SM 423	pH Units				
Specific Conductance	SM 205	uMHO/CM		670.0	10/12	NE
Cadmium	SM 303B	mg/kg	Dry Wt	30.0	10/5	NE
Chromium	EPA 218.2	mg/kg	Dry Wt	300.0	10/5	NE
Copper	SM 303A	mg/kg	Dry Wt	492.0	10/5	NE
Lead	SM 303B	mg/kg	Dry Wt	401.0	10/5	NE
Nickel	EPA 249.1,2	mg/kg	Dry Wt	116.0	10/5	NE
Zinc	SM 303A	mg/kg	Dry Wt	1,365.0	10/5	NE
Ammonia Nitrogen	SM 417B	%	Dry Wt	0.24	10/9	NE
Nitrate Nitrogen	ASTM D992-71	%	Dry Wt	0.43	10/2	NE
Total Kjeldahl Nitrogen	SM 420A	%	Dry Wt	1.52	10/8	NE
Total Phosphorus	SM 424C,F	%	Dry Wt	1.66	10/9	NE
Total Solids	SM 209A	%	Wet Wt	39.62	10/1	NE
Volatile Solids	SM 209D	%	Dry Wt	66.43	10/2	NE
Potassium	EPA 258.1	%	Dry Wt	0.17	10/5	NE

1. Limits set by EPA/OSHD EPA—EPA 800/4-79 020, Mar. '83
 2. No limit established SM—Standard Methods 15th Ed
 N.D.—None detected ASTM—ASTM Annual Std Part 31
 NEILSON-RESEARCH CORPORATION 1985

Approved by: Tim Neketin

NEILSON RESEARCH CORPORATION

446 Highland Drive • Medford, Oregon 97504
 Telephone (503) 770-5678
 EPA, OREGON & CALIFORNIA CERTIFIED LABORATORY

NRC Sample No 7-4439
 Date Received 10 / 1 / 87
 Time Received 12:10 AM PM
 Date Reported 10 / 14 / 87
 P B C N G PO
 Cash Check

Print or type applicable information in box below

Telephone No _____ Sample Bottle Number 7-4439 Time Collected _____ AM PM Date Collected 9 / 29 / 87
 Sample Location (if different than mailing address) _____
 Mailing Address Attn: Tim Neketin EPA # _____
 Name Wastewater Treatment Branch Name _____
 Street 5001 N. Columbia Blvd. Street Pool 9/17-28/87
 City Portland State OR Zip 97203 City _____ State _____ Zip _____
 Water Source Spring Permanent Chlorination _____ Sample Type Routine Sample Point Belt Press Cake
 Stream Yes No Check
 Well Residual _____ Special Collector's Name T. Neketin

SLUDGE ANALYSIS

TEST	Test Method	Units	Dry Wt.	7-4439	Date of Analysis	Analyst
pH	SM 423	pH Units				
Specific Conductance	SM 205	uMHO/CM		580.0	10/12	NE
Cadmium, Cd	SM 303B	mg/kg	Dry Wt	48.0	10/5	NE
Chromium, Cr	EPA 218.2	mg/kg	Dry Wt	423.0	10/5	NE
Copper, Cu	SM 303A	mg/kg	Dry Wt	954.0	10/5	NE
Lead, Pb	SM 303B	mg/kg	Dry Wt	685.0	10/5	NE
Nickel, Ni	EPA 249.1,2	mg/kg	Dry Wt	175.0	10/5	NE
Zinc, Zn	SM 303A	mg/kg	Dry Wt	2,258.0	10/5	NE
Ammonia Nitrogen	SM 417B	%	Dry Wt	0.27	10/9	NE
Nitrate Nitrogen	ASTM D992-71	%	Dry Wt	0.003	10/2	NE
Total Kjeldahl Nitrogen	SM 420A	%	Dry Wt	3.96	10/8	NE
Total Phosphorus	SM 424C,F	%	Dry Wt	1.85	10/9	NE
Total Solids	SM 209A	%	Wet Wt	21.86	10/1	NE
Volatile Solids	SM 209D	%	Dry Wt	50.29	10/2	NE
Potassium	EPA 258.1	%	Dry Wt	0.20	10/5	NE

1. Limits set by EPA/OSHD EPA-EPA 600/4-79 020, Mar. '83
 2. No limit established SM-Standard Methods, 15th Ed.
 N.D.-None detected ASTM-ASTM Annual Std. Part 31
 © NEILSON RESEARCH CORPORATION 1985

Approved by: Jay Fowler
 John W. T. Neilson, President

NEILSON RESEARCH CORPORATION

446 Highland Drive • Medford, Oregon 97504
Telephone (503) 770-5678
EPA, OREGON & CALIFORNIA CERTIFIED LABORATORY

Print or type applicable information in box below

NRC Sample No 8-0029/0030
Date Received 1 / 4 / 88
Time Received 12 05 AM PM
Date Reported 1 13 / 88
 B C N G PO 71246
 Cash Check

Telephone No _____ Sample Bottle Number as above Time Collected as below AM PM Date Collected as below /
Sample Location (if different than mailing address) _____

Mailing Address Tim Neketin EPA # _____

Name Portland WTP Name Pool Sample DEC 15-28, 1987

Street 5001 N. Columbia Blvd. Street Grab Sample DEC 29, 1987

City Portland State OR Zip 97203 City _____ State OR Zip _____

Water Source Spring Permanent Chlorinated Sample Type Routine Check Special

Stream Residual _____

Well _____

Sample Point Pool & Grab Samples

Collector's Name Tim Neketin

SLUDGE ANALYSIS

TEST	Test Method	Units		8-0029 POOL 12/15-28/87	8-0030 GRAB 12/29/87	Date of Analysis	Analyst
pH	SM 423	pH Units		<u>Cake</u>	<u>Compost</u>		
Specific Conductance	SM 205	uMHO/CM					
Cadmium, Cd	SM 303B	mg/kg	Dry Wt	34.0	20.0	1-7-88	NE
Chromium, Cr	EPA 218.2	mg/kg	Dry Wt	357.0	214.0	1-7-88	NE
Copper, Cu	SM 303A	mg/kg	Dry Wt	726.0	412.0	1-7-88	NE
Lead, Pb	SM 303B	mg/kg	Dry Wt	511.0	276.0	1-7-88	NE
Nickel, Ni	EPA 249.1,2	mg/kg	Dry Wt	177.0	103.0	1-7-88	NE
Zinc, Zn	SM 303A	mg/kg	Dry Wt	1,981.0	1,074.0	1-7-88	NE
Ammonia Nitrogen	SM 417B	%	Dry Wt	0.38	0.63	1-12-88	NE
Nitrate Nitrogen	ASTM D992-71	%	Dry Wt	0.05	0.18	1-7-88	NE
Total Kjeldahl Nitrogen	SM 420A	%	Dry Wt	3.38	1.74	1-11-88	NE
Total Phosphorus	SM 424C,F	%	Dry Wt	1.80	1.30	1-11-88	NE
Total Solids	SM 209A	%	Wet Wt	27.71	38.59	1-4-88	NE
Volatile Solids	SM 209D	%	Dry Wt	45.90	70.46	1-5-88	NE
Potassium	EPA 258.1	%	Dry Wt	0.166	0.166	1-7-88	NE

1. Limits set by EPA/OSHD EPA—EPA 600/4-79 020, Mar. '83
2. No limit established SM—Standard Methods, 15th Ed.
N.D.—None detected ASTM—ASTM Annual Sid. Part 31
© NEILSON RESEARCH CORPORATION 1985

Approved by: John W. T. Neilson
John W. T. Neilson, President

Form 10
 ENFORCEMENT ACTIVITY
 (Number of Actions Taken)

Name of Industrial User	Calls	Meetings	Letter	Notice	Penalties	Other	Comments
Landa Inc.	2	2	1				
Leininger Polishing	4	2	11				
Oregon Plating	3	2	9				
Pacific Coatings	2	1	9				
Pacific States Galv.	4	2	6	1			Public Notice
Rose City Plating	5	3	10				
Superior Stripping	5	4	8	2			Public Notice
TSCO	3	2	8				
Palmco	6	5	5	1			Public Notice
Continental Brass	3	2	10				
Other Non-Categorical U.S	26	5	37				

Form 10
 ENFORCEMENT ACTIVITY
 (Number of Actions Taken)

Name of Industrial User	Calls	Meetings	Letter	Notice	Penalties	Other	Comments
Amcoat Enameling	1	1	10				
Anodizing Inc. (SE)	1	1	10				
Anodizing Inc. (NE)	6	5	9				
Apollo Metal Fin.	3	2	10	1			Public Notice
Blackline	3	1	9				
Columbia-American	5	3	10	1			Public Notice
Dura Industries	1	1	9				
East Side #1	7	6	12				
East Side #2	4	3	10	1			Public Notice
East Side #3	3	2	8	1			Public Notice
El/ -o-Chem	2	1	10				
F - - - - - scts	2	1	10				
	-	1	2				
	2	1	-				
		1	10				
		2	1	1			
			2				

Form 11
RESOURCE SUMMARY

Item	Job #	Previous Year	Planned	Comments		
Labor (manhours)						
Extra-Strength Lab	0023	3,722	3,600			
Compliance Lab	0030	1,617	1,800			
Inspection	0032	1,591	3,470			
Management	0001-0005	2,082	2,100			
Compliance		1,308	1,205			
Outside Agency Mgmt			418			
Administration	0026	5,231	4,877			
Permitting	0031	5,697	6,000			
TOTAL HOURS		21,248	23,470			
Operating Cost						
Extra-Strength Lab		\$86,223	\$90,566			
Compliance Lab		101,598	106,715			
Sampling and Insp.		42,123	44,245			
Permit Writing, Compliance, Outside Agency Mgmt		283,480	383,510			
TOTAL COSTS (\$)		\$513,424	\$625,035			
Basis for Extra Strength Charges:						
INCOME REVENUE				Before 7/1/87	After 7/1/87	After 7/1/88
Sewer Use		\$22,664,114	\$24,431,010	Flow (\$/100 cf)	\$0.00	\$0.00
Extra Strength		672,766	765,800	COD (\$/lb)	\$0.00	\$0.00
Impervious Area		N/A	N/A	BOD (\$/lb)	\$0.094	\$0.107
Penalties		0	0	TSS (\$/lb)	\$0.115	\$0.126
TOTAL INCOME (\$)		\$23,336,880	\$25,196,810			\$0.134

540 New Federal Building
1220 S.W. Third Avenue
Portland, Oregon 97204

Tele: (503) 221-3057

Reply to the Attention of:



June 6, 1988

COPY

Mike Lindberg, Commissioner
Bureau of Parks and Recreation
City of Portland
1120 SW 5th Avenue - Room 502
Portland, Oregon 97204

RE: Terrence Jenkins vs. Bureau of Parks and Recreation,
City of Portland, Oregon

Dear Mr. Lindberg:

This letter is to notify you of the results of our compliance actions in the above case. As you know, Terrence Jenkins filed a complaint with the Secretary of Labor under the Clean Water Act and the Resource Conservation and Recovery Act on April 11, 1988 and filed an Amended complaint under the same Acts on May 5, 1988. A copy of the complaint and the Amended complaint and copies of Regulation, 29 CFR Part 24 were furnished in previous letters from this office.

Our initial efforts to conciliate the matter revealed that the parties would not, at that time, reach a mutually agreeable settlement. An investigation was then conducted. Based on our investigation, the weight of evidence, to date, indicates that Mr. Terrence Jenkins was a protected employee engaging in a protected activity within the ambit of the Clean Water Act and the Resource Conservation and Recovery Act, and that discrimination, as defined and prohibited by the statutes, was a factor in the actions which comprise his complaint. The following disclosures were persuasive in this determination:

Subsequent to Mr. Jenkins filing complaints regarding safety violations, he was subjected to continued harassment and disparate treatment regarding leave, outside employment and cancellation of his health insurance. Such actions have resulted in psychological problems which have required medical treatment. In addition, his outside employment has been terminated.

This letter will notify you that the following actions are required to abate the violation and provide appropriate relief:

Cessation of harassment and interference with outside employment, removal of restrictions on vacation time, reimbursement of costs and expenses incurred in filing the complaint, reasonable attorneys fees, reimbursement of any medical expenses or any lost wages that resulted from the discriminatory practices.

2 September 1986

MEMORANDUM

TO: Rudy Westerband, Deputy City Attorney

FROM: Ross Peterson, Acting Director, Wastewater Operations

SUBJ: Communication regarding Dale Sherbourne

Attached is a draft response to a letter received from an Attorney on behalf of Dale Sherbourne. In a discussion regarding this situation, John Lang requested your advice as to the advisability of requiring employees to advise management prior to making statements to outside agencies or as an alternative, disciplining them for actions "contrary to maintaining an effective working relationship with others" as it states in the job description.

Relative to the attached letter, I prepared the following statement also, but decided against including it.

For you information, we feel that Mr Sherbourne is over-reacting to a situation that was intended to inform him of managements concern that he had not informed his employer of the his concerns prior to contacting BPA. As a result, the information provided was incomplete, inaccurate, and contrary to fact. It is apparent that is was his intent to embarrass and damage the credibility of his superiors in direct contradiction to his responsibilities as an employee to maintain and effective working relationship with other employees including management.

I solicit your comments on this. Please give me a call if you have any questions.

THE PROBLEM WITH SNOOPS

by Adele Leonard

Have you caught someone snooping through your office lately? Has your mail been opened and looked at before you get it, but not by your secretary? Have files and items on your desks been moved out of place in subtle ways?

If you answered 'yes' to any of these questions, you may be one of the latest victims of the "office snoop." This may be one person or more; all we know is that these maddening things are happening on an almost-daily basis in our offices - almost certainly by a fellow employee.

It's hard to know exactly what to do about this situation; unless someone is caught one-handed there's no way of knowing who the culprits are. What we can do is be aware of the problem, lock up or put away papers and files (confidential or not) whenever we leave our desks, and otherwise secure our areas as best we can. Making employees aware of the problem is the first step - we can then watch out for each other to some extent. Ideally we should all be able to operate in an open manner; situations like this put that ideal in jeopardy.

Snooping is a disgusting and yet puzzling practice. It's difficult to know if these people are insecure in their jobs, don't have enough work to do, or have disappointing or unfulfilled private lives. Perhaps they feel mistreated

... believe "no one tells me anything" so they sneak around to find things out for themselves. Perhaps they do it to get information for someone outside of the Bureau. Who knows? Motivation in itself is a personal thing - we are all driven by different factors that make our lives what they are.

It's sad to realize there are Bureau employees here who have the energy to spare for this kind of nonsense. They could channel that energy in positive directions by joining with other employees on Bureau committees and activities and find out a lot of information legitimately. They could also do the obvious - ask someone in the know. Being upfront and asking is a lot cleaner than snooping. You still may not have the answer but your conscience will be clear.

If you catch someone obviously snooping, confront them. Maybe if they know someone's on to them they'll quit. I don't know what the ulterior motive is for this snooping but it can't be for the Bureau's benefit. This practice must stop!



From the Portland Bureau of Environmental Services newsletter "The SCOOP" Issue # 2, 1987.



BUREAU OF LABOR AND INDUSTRIES

Mary Roberts, Commissioner

MAILING DATE:
September 17, 1986

John L. Pointer
2480 NW 111th Ave.
Portland, OR 97229

RE: John L. Pointer
ST-EM-IW-850917-1150

Dear Mr. Pointer:

After investigation and review, the Civil Rights Division has determined that there is substantial evidence to support the allegations of discrimination contained in the complaint cited above dated October 2, 1986.

We would like to offer you the opportunity to resolve this matter through conciliation. Therefore, a conciliator will contact you to discuss what action you are prepared to take to resolve this matter.

Sincerely,

Johnnie M. Bell
Administrator
Civil Rights Division

JMB/mab

Enclosure: Requirements under OAR 839-03-065(9)

PORTLAND
1400 SW 5th Avenue
Portland, Oregon 97201

MEDFORD
700 E. Main
Medford, Oregon 97504

SALEM
3865 Wolverine St. NE; E-1
Salem, Oregon 97310

COOS BAY
320 Central Ave., Suite 510
Coos Bay, Oregon 97420

BEND
1230 NE Third, Suite A244
Bend, Oregon 97701

EUGENE
165 E. 7th Street, Suite 220
Eugene, Oregon 97401

PENDLETON
700 SE Emigrant, Suite 240
Pendleton, Oregon 97801

AN EQUAL OPPORTUNITY EMPLOYER



BUREAU OF LABOR AND INDUSTRIES

Mary Roberts, Commissioner

MAILING DATE: September 17, 1986

John L. Pointer
2480 NW 111th Ave.
Portland, OR 97229

NOTICE OF PRIVATE RIGHT OF ACTION

Complainant POINTER, John L.
Respondent City of Portland Water Bureau
Case Number ST-EM-IW-850917-1150

The Oregon Revised Statutes provide a private right of action for any complaint filed with the Commissioner of Labor and Industries alleging an unlawful practice which occurred after October 4, 1977, as follows:

If, within one year of filing such a complaint of unlawful practice, the complaint has not been conciliated or charges pursuant to a Commissioner's hearing under ORS 659.060 have not been served, the Complainant may file a suit in Circuit Court.

You are hereby notified that you have 90 days from the above mailing date to commence a civil suit in the Circuit Court of this state based on the allegations of your complaint. After 90 days from this date you lose your right to proceed in Circuit Court. If you wish to protect this right you should consult an attorney immediately.

If you decide to pursue your complaint in court, please notify this office.

If you do not wish to pursue your complaint in Circuit Court, the Bureau will continue to process your complaint. This does not mean that a hearing will be held. The Bureau may determine at a future date to terminate proceedings without initiating a contested case hearing.

CRD/851219

PORTLAND
1400 SW 5th Avenue
Portland, Oregon 97201

MEDFORD
700 E. Main
Medford, Oregon 97504

SALEM
3865 Wolverine St. NE; E-1
Salem, Oregon 97310

COOS BAY
320 Central Ave., Suite 510
Coos Bay, Oregon 97420

BEND
1230 NE Third, Suite A244
Bend, Oregon 97701

EUGENE
165 E. 7th Street, Suite 220
Eugene, Oregon 97401

PENDLETON
700 SE Emigrant, Suite 240
Pendleton, Oregon 97801

AN EQUAL OPPORTUNITY EMPLOYER

NOTICE OF ADMINISTRATIVE DETERMINATION

COMPLAINANT: William H. Shockey

INVESTIGATOR: Ursula Bessler

RESPONDENT: City of Portland

REVIEWED BY: Barbara Strouther ^{BS}_{wt}

DATE OF FILING: August 14, 1985

JURISDICTION:

Oregon Revised Statutes, Chapter 659 and Section 654.062, and Oregon Administrative Rules, Chapter 839, authorize the Civil Rights Division to accept, amend, investigate, resolve and determine complaints alleging unlawful practices in employment, housing and public accommodations.

ALLEGATIONS:

Complainant, who has a visual impairment and who refuses to shave his beard, alleges that Respondent failed to accommodate his physical impairment, and discharged him due to a perceived mental impairment. ORS 659.425.

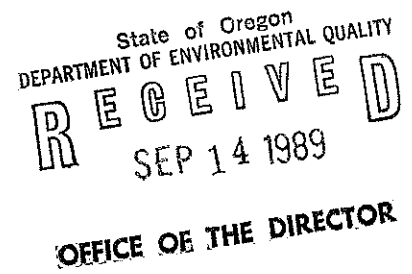
FINDINGS OF FACT:

1. Complainant was appointed to Wastewater Mechanic I on December 31, 1981, and promoted to Wastewater Mechanic II II on January 12, 1984.
2. Respondent is a Municipality employing six or more persons in Oregon.
3. On August 1, 1984, Respondent implemented a Respiratory Protection Policy which states that properly fitted, approved respirators must be worn while performing potentially hazardous operations, and that no facial hair which is located under the sealing surface of the respirator shall be allowed. This affected several classifications, including Complainant's.
4. Complainant has consistently refused to shave his beard.
5. Complainant has a vision impairment. Respondent has accommodated employees with vision impairments in that it provided prescription respirator lenses. Respondent did not provide corrective lenses for Complainant, based on evidence that Complainant would not wear a face mask if it required that he shave. Complainant had previously worn a respirator without corrective lenses.
6. Initial medical tests showed that Complainant developed a skin irritation from shaving a portion of his beard. The tests were discontinued when Complainant stated that he did not intend to shave again. Respondent has provided medical exemptions for workers who submitted to complete tests which showed that they had long-term or permanent physical reactions to shaving.

MEMORANDUM

September 14, 1989

TO: Fred Hansen
FROM: Stephanie Hallock
RE: HB 3080



After lengthy discussions with Rich and Gerry, I believe I can summarize for you the logic behind the grant and loan split which was, in fact, more than just a mathematical exercise. Now that I understand the thinking, I am comfortable with how they arrived at 1,130 grants and 245 loans. The attachment from last May goes into the background in more detail, if you want it.

- 1) The total universe of 19,000 tanks or 6,000 facilities consists of retailers in the form of major service stations, distributors, independents, and non-retailers who have tanks for their own convenience.
- 2) The original legislation was intended to give preference to the independents; therefore, numbers used to calculate the scope of the program start from the 2,623 tanks owned by independents.
- 3) The program was first designed to give hardship grants and loans (not loan guarantees) for upgrades and replacements so that independents could get insurance. Site assessment grants were not part of the program when first proposed. Early on, the concept shifted to loan guarantees, so that the Department would not have to take on the administrative burden of a loan program.
- 4) Initially, it was estimated that 38 hardship grants and 569 loans would be given. 569 was based on an estimated EPA survival rate of 78% and an application rate of 75% of the 2,623 independent tanks, or $(2,623 \times .78 \times .75)$ divided by 2.7 tanks per facility.
- 5) From talking to contractors and members of the regulated community, it was anticipated that most of the 569 loan guarantees would be for replacements, as opposed to upgrades.
- 6) Parkinson et al realized that if helping independents obtain insurance was also a primary goal of the program, site assessments needed to be part of the grant and loan program; the site assessment would determine if the site was clean, or if an upgrade or replacement was needed to obtain insurance.

7) At that point, 980 site assessment grants were added to the 38 hardship grants and 569 loan guarantees. The 980 was selected purely on the revenue and expense projections at that time during formulation of the bill, and assuming no change to the original calculation of either the hardship grants or loan guarantees.

8) Parkinson et al then shifted the emphasis of the program to early detection in the form of site assessment grants. Revenue was projected at \$6 million annually, to fund 1,500 site assessment grants, 38 hardship grants, and 572 loan guarantees. This is essentially what went to ways and means.

9) During the ways and means process, the annual revenue was cut to \$3 million and the hardship grants were eliminated. In addition, the House Revenue Committee required the interest subsidy cost to be internalized.

10) With the direction given by House Revenue and Ways and Means, it was not possible to hold the original loan guarantee number at ~~569~~ 572 and give ANY site assessment grants. If the number of site assessments was held at 1,500, fewer than 200 loans could be guaranteed. No direction as to actual numbers of grants or loan guarantees to be given came from Parkinson et al or from the Legislature, except that preference was to be given to site assessment grants.

11) At that point, Rich and Gerry calculated the 1,130 site assessment grants and 245 loan guarantees. Obviously, the cut could be made mathematically elsewhere; however, given the history described above, this cut seems as logical to me as any and is reflective of the intent of the program.

I hope this explains the thinking behind the numbers. I'm not sure what else I can provide. It was good for me to sit down and talk through it with Rich and Gerry, which perhaps was your intent all along, you sly dog!

HISTORY OF GRANT, LOAN AND SITE ASSESSMENT

DATE	UPGRADE GRANTS	REPLACE LOANS	TOTAL LOANS	SITE ASS'M'TS	% LOANS	COMMENTS	
4-6-89	38	97	472	569		1. Projections based upon providing grants and loans to independent service stations only. 2. 78% would survive 10 years. a. 75% of these would receive loans (17% upgrade, 83% replacement). b. 5% of these would receive grants.	
5-11-89	38	97	472	569	980	58.1%	1. Site assessments were added.
5-26-89	44	98	474	572	1500	38.1%	1. Site assessments were increased to 1500. 2. Loan and grant numbers were modified by the spreadsheet formulae.
6-29-89	50	100	500	600	1500	40.0%	1. Loan grant numbers were adjusted to even numbers.
7-11-89		86	481	567	1380	41.1%	1. Loan and grant numbers adjusted for new expenses.
8-21-89		50	195	245	1130	21.7%	1. Payment of interest rate subsidy reduced loan and grant numbers. 2. Revenue stream was cut in half.

LDF
SUMMARY
9/12/89

IMPACT OF LOANS AND GRANTS - LOW SURVIVAL RATE

	Tanks Surviving 15 Years (2)		Tanks Receiving Loans (3)				Tanks Receiving Grants (3)			
	Tanks(1)	% #	% #	Estimated Cost		% #	Estimated Cost			
				Upgrade(4)	Replacement(5)		Upgrade(4)	Replacement(5)		
Service Station (Major)	1,749	78% 1,364	0% 0	\$0	0	0% 0	\$0	\$0		
Service Station (Distributor)	2,354	78% 1,836	75% 1,377	\$8,027,910	24,786,000	0% 0	\$0	\$0		
Service Station (Independent)	2,623	47% 1,233	75% 925	\$10,239,750	26,889,750	5% 62	\$686,340	\$1,802,340		
Other	10,279	30% 3,084	50% 1,542	\$17,069,940	44,825,940	0% 0	\$0	\$0		
Government	1,995	47% 938	0% 0	\$0	0	0% 0	\$0	\$0		
	=====	=====	=====	=====	=====	=====	=====	=====		
	19,000	8,455	3844	\$35,337,600	\$96,501,690	62	\$686,340	\$1,802,340		
				\$686,340	\$1,802,340					
				=====	=====					
			TOTAL COST	\$36,023,940	\$98,304,030					

NOTES:

1. Data obtained from Oregon UST permit applications.
2. Service Station data obtained from October 26, 1989 Federal UST Financial Responsibility Rules, Page 43369. DEQ staff estimates that owners of other tanks (Farm, business, and private tanks) will seek alternate ways to obtain fuel, thus the survival rate is lower.
3. DEQ staff estimates that 75% of the surviving independent retail service station operators will receive loans; 5% will qualify for grants. 50% of other tanks (farm, business, and private tanks) and 75% of the Distributor service stations will receive loans.
4. Estimated upgrade cost is \$11,070 per tank. This represents the lowest probable program cost.
5. Estimated replacement cost is \$29,070 per tank. This represents the highest probable program cost.

May 8, 1989
 LDF

IMPACT OF LOANS AND GRANTS - MODERATE SURVIVAL RATE

	Tanks Surviving 15 Years (2)		Tanks Receiving Loans (3)				Tanks Receiving Grants (3)			
	Tanks(1)	%	%	#	Estimated Cost Upgrade(4)	Estimated Cost Replacement(5)	%	#	Estimated Cost Upgrade(4)	Estimated Cost Replacement(5)
Service Station (Major)	1,749	78%	0%	0	\$0	0	0%	0	\$0	\$0
Service Station (Distributor)	2,354	78%	75%	1,377	\$8,027,910	24,786,000	0%	0	\$0	\$0
Service Station (Independent)	2,623	62%	75%	1,220	\$13,505,400	35,465,400	5%	81	\$896,670	\$2,354,670
Other	10,279	40%	50%	2,056	\$22,759,920	59,767,920	0%	0	\$0	\$0
Government	1,995	47%	0%	0	\$0	0	0%	0	\$0	\$0
	=====			=====	=====	=====		=====	=====	=====
	19,000			9,876	4653	\$44,293,230	\$120,019,320	81	\$896,670	\$2,354,670
						\$896,670	\$2,354,670			
						=====	=====			
					TOTAL COST	\$45,189,900	\$122,373,990			

NOTES:

1. Data obtained from Oregon UST permit applications.
2. Service Station data is modified upward from the data contained in the October 26, 1989 Federal UST Financial Responsibility Rules, Page 43369 to survival rates of 62% for independent service stations and 40% for Other tanks. DEQ staff estimates that owners of Other tanks (Farm, business, and private tanks) will seek alternate ways to obtain fuel, thus their survival rate is lower.
3. DEQ staff estimates that 75% of the surviving independent retail service station operators will receive loans; 5% will qualify for grants.
4. Estimated upgrade cost is \$11,070 per tank. This represents the lowest probable program cost.
5. Estimated replacement cost is \$29,070 per tank. This represents the highest probable program cost.

May 8, 1989
 LDF

IMPACT OF LOANS AND GRANTS - HIGH SURVIVAL RATE

	Tanks Surviving 15 Years (2)		Tanks Receiving Loans (3)				Tanks Receiving Grants (3)				
	Tanks(1)	%	#	%	#	Estimated Cost		%	#	Estimated Cost	
						Upgrade(4)	Replacement(5)			Upgrade(4)	Replacement(5)
Service Station (Major)	1,749	78%	1,364	0%	0	\$0	0	0%	0	\$0	\$0
Service Station (Distributor)	2,354	78%	1,836	75%	1,377	\$8,027,910	24,786,000	0%	0	\$0	\$0
Service Station (Independent)	2,623	78%	2,046	75%	1,535	\$16,992,450	44,622,450	5%	102	\$1,129,140	\$2,965,140
Other	10,279	50%	5,140	50%	2,570	\$28,449,900	74,709,900	0%	0	\$0	\$0
Government	1,995	47%	938	0%	0	\$0	0	0%	0	\$0	\$0
	=====		=====		=====	=====	=====		=====	=====	=====
	19,000		11,324		5482	\$53,470,260	\$144,118,350		102	\$1,129,140	\$2,965,140
						\$1,129,140	\$2,965,140				
						=====	=====				
					TOTAL COST	\$54,599,400	\$147,083,490				

NOTES:

1. Data obtained from Oregon UST permit applications.
2. Service Station data is modified upward from the data contained in the October 26, 1989 Federal UST Financial Responsibility Rules, Page 43369 to survival rates of 78% for independent service stations and 50% for Other tanks. DEQ staff estimates that owners of Other tanks (Farm, business, and private tanks) will seek alternate ways to obtain fuel, thus their survival rate is lower.
3. DEQ staff estimates that 75% of the surviving independent retail service station operators will receive loans; 5% will qualify for grants.
4. Estimated upgrade cost is \$11,070 per tank. This represents the lowest probable program cost.
5. Estimated replacement cost is \$29,070 per tank. This represents the highest probable program cost.

May 8, 1989
 LDF

PROPOSED RULES

HB 3080 GRANT REIMBURSEMENT RULES

PROGRAM OBJECTIVES:

1. Early detection of spills and releases - environmental benefits from earlier cleanups
2. Develops information necessary for insurance eligibility - clean site and tight tanks and piping or cleanup and tank and piping repair necessary
3. OPTIONAL: develops information necessary for loan guarantee program - clean site and tight tanks and piping or cleanup and tank and piping repair necessary

LEGISLATIVE OBJECTIVES:

1. Preference for grants over loan guarantees
2. Any motor fuel tanks
3. Early program implementation: 9-1-89
4. Financial incentive - up to 50 % of costs on a reimbursable basis - average estimated project cost is \$6000

MERITS OF FIRST COME - FIRST SERVE REIMBURSEMENT

1. Allows for early implementation with limited staff resources
2. Provides maximum financial incentive allowed by law for early detection yet shouldn't encourage facilities that have already upgraded, purchased insurance or can self insure to redo this work so they can apply for a 50% reimbursement grant (generally majors, distributors and high volume independents in urban areas have moved forward because of future liability concerns)
3. Avoids compressing an already tight compliance schedule for those facilities hoping to meet the financial responsibility requirements by October 26, 1990.
4. Avoids, to the maximum degree possible, putting an added strain on the limited number of consultants and contractors available to oversee and perform this cleanup, upgrade, replacement or testing work by allowing the work to be scheduled starting in the next couple of weeks rather than 3 to 4 months from now.

5. There will be an opportunity to review early results of the program in four to five months when we bring back the rules for final adoption. Adjustments can be made at that time, including a priority system, if warranted.

6. There will be an opportunity in about 16 months for a legislative review, including an opportunity for the legislature to authorize additional revenue to support more applicants receiving up to a 50% grant reimbursement.

CONCERNS OVER A "NOTICE OF INTENT TO APPLY" PROGRAM:

1. Everyone may apply just to preserve the right to seek reimbursement grant later when the work is done. At some 6000 facilities, an equal share for all would be about \$500 or less than ten percent of the estimated project cost. Yet a notice to apply may not actually result in an application for reimbursement.

2. Would require a rule to be written, probably delaying a decision to October meeting or requiring an additional conference call meeting.

3. Requires a significant Department effort to get a notice of intent application form prepared, printed and distributed and may require, as the notices are returned, a verification that it is a regulated facility.

4. Would need to allow 60 to 90 days for the regulated community to receive, evaluate and return notices of intent. As mentioned earlier, for quality control we may need to compare notices against existing data base to validate notice is from an eligible party. Our experience with the permit program suggests that some eligible parties will miss the notice of intent deadline requiring the need for some form of variance or appeal process

5. A delay in the grant reimbursement program may have an adverse affect on when someone could expect to apply for a loan guarantee. We would expect most small businesses to delay doing soil assessment and tank tightness testing work until they knew what the rules were.

In summary, we recommend that first come, first serve be the guiding principal for early implementation of the grant reimbursement program. In mid-December, hearings will be held at which point we can get feedback from the regulated community on these emergency rules and results of early implementation. If appropriate, at the time of final adoption sometime in the next six months, the Commission can also review public testimony and

early trends and make appropriate adjustments. We do not expect a mad rush to undertake this work, even with the prospect of up to a fifty percent grant not to exceed \$3000. In fact, some facilities may already know the likely outcome (i.e. their site is contaminated) and may choose instead to ignore the financial assistance program and continue as they are until forced out of business as the result of some enforcement action. Others, even with these financial assistance programs, may already know that they won't be able to afford their share of the costs to do this work. Taken together with those who have already done this work, we expect the universe of facilities seeking assistance under the grant reimbursement program to be substantially less than the 6000 potentially eligible facilities.

SPECIAL THANKS TO:

Oregon Historical Society and Janis Miglavs -- Plaque Photos

Portland Development Commission -- Plaque Donation

Reidel, Inc. -- Tugboat

Fred Meyer, Inc. -- Birthday Cakes

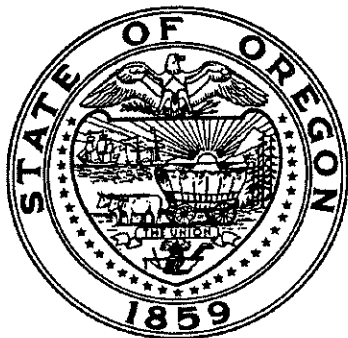
Portland Fire Bureau -- Fireboat Display

"It won't stay clean if we languish in the admiration of our own handiwork."

Gov. Tom McCall on the cleanup of the Willamette River

"Have we got enough intelligence, imagination and cooperation among us to show the world that humankind CAN co-exist with the environment? This river tells us the answer, and the answer is yes."

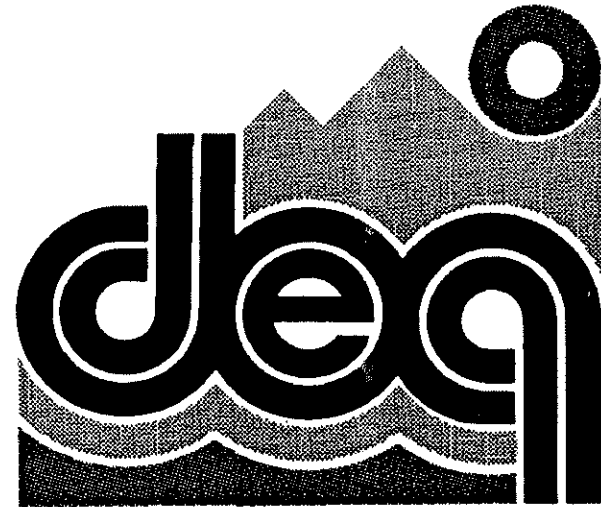
Gov. Neil Goldschmidt on the 50th Anniversary of the Willamette River cleanup



**Department of Environmental
Quality**

Environmental Fair

September 8, 1989



**Celebrating 50 Years of
Environmental Progress**

Willamette River Cleanup

Today the Willamette River is a popular recreation center with a healthy salmon population. But it wasn't always so. Before water quality laws, rivers served as a convenient way to get rid of wastes. By the 1930's the Willamette reeked with untreated sewage and waste from slaughterhouses, industries and canneries. Unfit for drinking or swimming, hostile to fish and wildlife, the river was menace to public health.

In 1938, outraged citizens overwhelmingly supported an initiative petition creating a State Sanitary Authority to clean up and protect the river. The Legislature revamped the agency in 1969 and renamed it the Department of Environmental Quality (DEQ).

The cleanup task began after World War II. By the mid-1950's, every community along the Willamette River had sewage facilities which remove at least 30 percent of the organic waste from sewage effluent. Industry installed pollution control equipment and by 1972 the Willamette was again safe for water contact activities.

*-- Commemorative Plaque
Dedicated September 8, 1989
by Governor Neil Goldschmidt*

Schedule of Events

11 a.m. to 3 p.m. . . . Environmental Fair

Noon Program

Welcome William P. Hutchison, Jr.
Chair, Environmental
Quality Commission

Plaque Dedication . . Governor Neil Goldschmidt

Special Guest Audrey McCall

Exhibitors

Department of Environmental Quality

Oregon Water Resources Department

City of Portland Environmental Services

Oregon Department of Fish and Wildlife

Clackamas County

Audobon Society

Oregon Marine Board

Oregon Parks and Recreation Department

Oregon Department of Forestry

Portland Free Press

Volume One • Number Four

Portland's Newspaper of Investigative Reporting

READ THIS FIRST

DIOXIN IS A FAMILY OF CHEMICALS WITH VARYING AMOUNTS OF CHLORINE ATTACHED TO THEIR OUTSIDE EDGES. THE SUBSTANCE 2,3,7,8-DIOXIN HAS FOUR CHLORINE ATOMS AND IS THE MOST TOXIC CHEMICAL EVER SYNTHESIZED BY HUMANS.

WTD INC., THE FOURTH LARGEST LUMBER PRODUCER IN THE NATION, HAS APPLIED FOR A PERMIT TO DISCHARGE THIS AND OTHER SIMILARLY TOXIC CHEMICALS INTO THE COLUMBIA RIVER VIA A PROPOSED PULP MILL NEAR CLATSKANIE, 30 MILES FROM PORTLAND.

DIOXIN IS THOUGHT TO IMITATE NATURAL STEROID HORMONES AND FIT INTO PROTEIN RECEPTORS IN HUMANS. THIS TRIGGERS A WHOLE RANGE OF BASIC BIOCHEMICAL REACTIONS, MAKING MANY PARTS OF THE BODY VULNERABLE TO DIOXIN'S HARMFUL EFFECTS. MINUTE QUANTITIES TRIGGER A WIDE RANGE OF HEALTH EFFECTS RANGING FROM STRONG HEADACHES TO REPRODUCTIVE FAILURE, BIRTH DEFECTS TO IMMUNE SYSTEM DISORDERS. THE LATTER LEAVES THE BODY VULNERABLE TO DISEASE FROM OTHER SOURCES.

COMPOUNDING DIOXIN'S DANGER IS ITS FAT-SOLUBILITY. IT IS PASSED UP THE FOODCHAIN AND STORED IN FAT CELLS OF EACH ORGANISM. DIOXIN IS ALREADY FOUND IN MILK OF THE AVERAGE NORTH AMERICAN MOTHER. NURSING INFANTS CAN BE EXPOSED TO 200 TIMES MORE DIOXIN THAN HEALTHY ADULTS.

PULP MILLS HAVE LONG BEEN KNOWN TO BE MAJOR SOURCES OF DIOXIN POLLUTION. FISH HAVE BEEN FOUND DOWNSTREAM FROM PULP MILLS WITH HIGH CONCENTRATIONS OF DIOXINS. BIRDS, FOUND WITH EQUALLY HIGH DIOXIN LEVELS, HAVE FAILED TO REPRODUCE.

Dioxin-Dumping

Two East Coast Financial Giants Stand to Profit Big From WTD's Columbia River Dioxin Dumping

PORTLAND (PFP)—Two of the largest financial institutions in the nation stand to gain huge profits by the granting of a dioxin-dumping permit for the proposed WTD Pulp Mill near Clatskanie.

J.P. Morgan, the huge New York-based International Holding Company, and FMR, the Boston financial giant, own almost a quarter of WTD's stocks.

WTD President Bruce Engel and his wife Teri own about 45 per cent of the company.

J.P. Morgan

J.P. Morgan is a name that has been a symbol of aggressive capitalism throughout this century. In its current incarnation, it stands as the holding company of a powerful string of banks throughout the world, Morgan Guaranty Bank in New York being its flagship.

By holding the assets of banks, these men are in a position to buy large amounts of stock, as was the case with WTD, thereby stimulating certain activities through investment.

Just months after Morgan bought over 800,000 shares for around \$64 million, the move to build the new pulp mill began.

The officers and directors of this company represent a mouthwatering display of the best that corporate America has to offer.

Exxon, GM, GE

The Chairman and Chief Executive officer (CEO), Lewis Preston, sits on the Federal Reserve Bank and the Board of General Electric, one of the largest corporations in the world and one that dumped large amounts of PCB's in the Hudson River everyday for 30 years.

Lee Raymond, President of Exxon, is a Morgan Director. He has re-

cently been occupied with the public relations clean-up efforts from the world's largest oil spill.

A director of Ingersoll Train, major manufacturers of pulp and paper machinery, is on the J.P. Morgan board.

George Schultz & CBS

Other directors include the director and former chairman of IBM, three directors from General Motors, and three from E.I DuPont de Nemours, the chairman and CEO's of Merck Pharmaceuticals, Corning Glass, Proctor and Gamble, Tenneco, Conoco, and Ralston Purina; and miscellaneous directors from CBS, Prudential Insurance, Metropolitan Life,

PFP's Corporate Executive BRUCE ENGEL

Profession: President, WTD Industri

Estimated wealth: \$70,000,000

Amount of money given to Govern

Current Project: Building a new pulp mill which will dump the most toxic chemical known into the Columbia River for the purpose of increasing individual wealth

Current Challenge: Getting a dioxin dumping permit from a government agency which is to protect the environment.

Connecticut Mutual, Dow Chemical, the Federal Reserve, et. al.

Former Secretary of State under Ronald Reagan, George Schultz is Chairman of Morgan's International Council. Members of that group include corporate leaders from Sony, Nestle's, General Mills, etc.

J.P. Morgan listed a net income of over \$1 billion last year.

FMR

FMR is another large financial institution that specializes in, among other dealings, holding pension

—see Bankers page 2

Cover-Ups of Dioxin Hazard Gov't. Desperation to Pro

WASHINGTON, D.C. (PFP)—Though you wouldn't know it from local media, at least two major scandals concerning the covering up of toxic effects of the chemical compound dioxin have rocked the nation's capitol.

Dioxin is produced from chlorine-bleaching in pulp mill plants, as well as hazardous waste incinerators and other industries.

Agent Orange Cover-up

A congressional Committee has recently exposed Center For Disease

bungled.

EPA Cover-Up

This is not the first cover-up involving the deadly compound dioxin. In 1980, the Environmental Protection Agency knew that pulp mills were potentially major dischargers of dioxin. In 1983, they confirmed that fish downstream of several mills were heavily contaminated. Data gathered in 1985 showed the source to be chlorine-based pulp mills.

In 1986, rather than implement

ee Press

Reporting

September 1989

g Mill Nears OK

DEQ Says Yes to Dioxin Dumping Despite Listing Columbia River As Having Reached Dioxin Limit

Articles on mill and related issues by Andrew Seltser

PORTLAND (PFP)—Despite the fact that the Department of Environmental Quality has listed the Columbia River as having reached its limit in dioxins, it is recommending the approval of a permit for further dioxin dumping.

The permit is for the proposed WTD Industries Pulp Mill near Clatskanie.

The Department listed the Columbia as "water-quality limited", which requires the formation of Total Maximum Daily Loads for Pulp Mills on the River, and the approval

to presume levels of water toxicity. The results were higher than the EPA allowable standard.

River Standards

The DEQ submitted a list to the EPA that identified the stream reaches below three bleached pulp mills in Oregon as being "out-of-compliance" with the state dioxin standard.

"If this mill were going in a river that didn't have any sources of dioxin in it already," said Eugene Rosalie, of Northwest Environmental Advocates "than it may be a little different situation, but now there's the Boise-Cascade mill in St. Helens, the James River Mill, Longview Fiber and Weyerhaeuser in Longview, and they're all bleaching pulp."

Industry Concerned

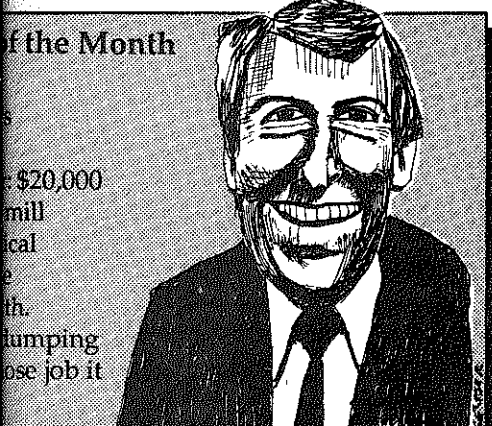
According to the DEQ, the industry has expressed concerns regarding the validity of the EPA criteria of .013 ppq (parts per quadrillion). They are questioning the haste of the implementation of the criteria when compliance cannot be determined. The industry is also concerned about maintaining a viable and competitive business as necessary changes are implemented.

DEQ Claims Reduction

DEQ claims that their plan will reduce current dioxin levels in the river even with the "small additions from a new state of the art mill." Their report tells the commission that "Oregon's citizens should not be unreasonably or unfairly deprived of an economic opportunity while an ultimate industry-wide program is being developed."

The DEQ concludes that this plan would "most likely enhance the timetable for the changes that are necessary to achieve compliance with the ultimate standard for TCDD(dioxin)."

Charles Ashbaker, Manager of the Industrial Waste Department of DEQ's Water Quality Division, said the proposed pulp mill plans "represent a new major discharge of pollutants." Despite this, he has recommended the approval of the permit.



of the Month

\$20,000
mill
ical
e
th.
umping
ose job it

of EQC for further discharges.

Theoretical Overload

According to DEQ's recommendation to the Environmental Quality Commission, the permit-granting body, "this proposed mill would discharge some amount of TCDD (dioxin) to a theoretically overloaded stream, although the amount could be expected to be minimal relative to older technologies."

The Department uses the term "theoretical" because dioxin limits are below measurable standards. They obtained their figures from testing fish tissue and extrapolating

ards Reveal ect Industry

papers reported the discovery of high levels of dioxin in eggs of Great Blue Heron near a Canadian Pulp Mill. All

—see Cover-up page 6

September 8 EQC Meeting To Decide Fate of Pulp Mill

PORTLAND (PFP)—The decision on whether or not to permit WTD Industries to dump dioxin

INSIDE STORIES

Storm Over Stello.....page 3
Bush's nominee for Secretary of Defense in charge of nuclear weapons facilities may be explosive, literally

ative Churchill

consciousness that comes dictate for a new praxis, if s for the interchange of the environment and a more e, a more just interchange The left always clings to ge, to a Euro-supremacy, a s much as the protest to the ways the assumption that nda that's formed on the ll come and explain the re- and reality to those who anced.

...? basically, basically. No! st, those rights first. When ored then we figure out the And people can stay on ens or whatever, partici- n good faith. Indians have n-Indians into the land and h the understanding that it land.

change the worldview of a of white America? that's why they call it oint stuff. In the Dakotas 8 Fort Laramie Treaty, to most everything else, and in terms of that treaty. lk about mining, we're he treaty first and the im- aty and mining works its Do you guys have a right nto the Earth? We're not with you about cyanide mining, we're not going bout the half-life of ura- nissions. You got no right first place unless we tell haven't told you you do s no argument. reaty rights as being...I

uno partly 'cause it fits into dominant culture. Partly its own right in attempts ity and so forth and since d it. But also because it lar of the dominant cul- nd saying, "Hey, it's a ? The law. Well, the law is particular instance we le of articulation, which hey do not understand. I the hoop, the wheel, the the pipe; I might as well most of the population. d neat, they all come out alk away with nothing. es and they get uncom- want them to be uncom- thing they should feel this situation.

ries of three parts of an hill. of Colorado AIM and ral Progress. He has o the UN for the Inter- ty Council. He has Native Americans, pression, and Culture e on the look out for his TELPRO Papers and tive North America. ver 85 articles, speaks ut the country around

eat 1001 St
Portland

re peoples

t untouched

ent not told
ood is currency
ven dollars
n billion
er buy one thing back.

dian million
11.86

— Bankers,

from page 1
funds for multinational conglomerates. Last year they picked up the funds of Mobil Oil, Bristol Meyers, Firestone, TWA, and the State of Illinois.

They also own the controlling interests in many corporations around the country. They recently purchased 539,000 shares of WTD.

FMR's trustees include directors from the boards of corporations including Prudential Insurance, W.R. Grace, N.Y. Telephone, Mechanics Bank, etc.

WTD : Trees to Stocks

The financial support of such banking firms have greatly helped WTD expand to its position of fourth largest lumber concern in the country. They acquired sixteen mills in a twelve month period from 1986-87.

In the following year, however, they acquired only two mills, putting their money instead into over \$15 million of stock. According to *Portland Business Journal's* Tom Gaunt, one-seventh of WTD's net income has come from stock market investments. "Money that once went to buy up entire small wood-products companies," writes Gaunt, "is now being used to purchase small blocks in large companies."

Engel Worth \$70 million

This has led many in the lumber business to wonder if Engel and WTD are in it for the long haul, or if their sudden growth to the top of the lumber heap is soon to fizzle, with Engel taking his financial fortunes into other areas of investment.

Engel makes over \$400,000 a year, and is estimated to be worth \$70,000,000. His 3.5 million shares of WTD are worth around \$25 million.

The Wtd Board

The board of WTD includes:

Andrew Franklin, former president of **Riedel Environmental Technologies**, 1985-1988, past president of **Nerco Mining**, coal-mining subsidiary of **PacifiCorp**.

Gerard Griffin, former director of corporate communications at **Louisiana Pacific**, major forest products manufacturer, 1973-1986.

L. Robert Hoffman, formerly with **Pacificorp** and **Nerco**.

Ladd Seton, active in the U.S. pulp industry for 27 years with **Louisiana Pacific**, **Weyerhaeuser**, and **International Paper**.

Tom Cusma, Nix From Supreme Court

Court upheld a \$6 million fine against **Browning Ferris Industries** second leading trash hauler, and the firm recommissioned **Cusma** to get the highly sought after **Metro East Transfer** contract. **FI** was convicted of trying to run a Vermont disposal company, and was ordered to pay \$51,000 actual fines, \$6 million in penalties. An official in the Metro Office said the cases were "unrelated to the awarding of the contract. "None of these companies are totally clean", the official said.

Sleep in the Gorge

Millions of federal money is apparently on the way for a newly planned center for the Washington side of the Columbia River. The center will have at least 150 lodging units and will be built on land to be selected in January, 1990. Market studies done by the Gorge Commission which asked for the proposals, claim that meetings and convention sites exist in the gorge.

a Walk on the Dioxin Side

(Salem, Heliotrope) Once there was a Boise-Cascade Paper mill that used chlorine bleach processing, now known to produce dioxin. The City of Salem decided to develop the 300 acre area. The plan envisions using two sludge ponds, effluent settling ponds, for "activities such as model boat racing, and canoeing". It also suggests using land east of the gorge for fairs, and summer concerts.

The city is planning to build a footbridge to the site. Salem City officials believe the bridge and connecting footpaths present a danger. "If there's a danger of dioxin, we need to look further. We need to know, whether or not there's a bridge, if it's a danger."

Mac, Incinerated, No Pickles

McDonald's is destroying essential rainforests for their styrofoam. They have just entered the incinerator market. McD's VP stated he believes styrofoam is perfectly safe to burn, and has received from the Illinois EPA licenses to install incinerators. They will put three of them behind Chicago area and are currently seeking approval for other states.

Send Us Your Briefs!

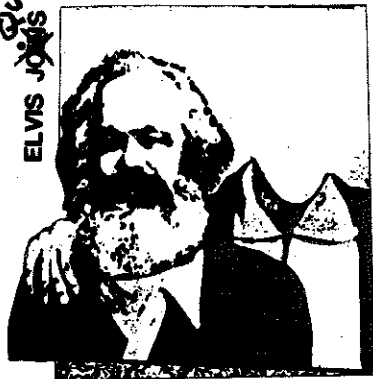
Responses from all areas on all areas of interest to PFP will be given for submissions. Call or mail to the Free Press, 1111, Portland, OR 97214, or phone 232-3282.

Wiley, N.D.

Health Physician
General Practice
Nutrition
Acupuncture
Herbal Homeopathy
Women's Health Care
Fasting Program

NATUROPATHIC
CLINIC
Portland, OR
97210
(503) 224-8083

ELVIS JOHNS RADICAL STUDY GROUP



LAUGHING HORSE BOOKS
1322 NW 23rd 227-5440

Sunflower
Recycling
Cooperative



24 hour recycling drop-off center
2345 SE Gladstone
recycling, garbage & yard debris collection
Call us at 238-1640

Fred
E.H.

SCHEDULE

Columbia Street park entrance:

- 7:30 am - Dan Nelson, Parks Bureau (remove ballards)
Dick Jr., Barbur Rentals (stage & equip)
PT, DEQ
- 9:00 am - DEQ first load (continuously until 10:00)
gatekeeper arrives, mans park entrance
- 10:00 - exhibitors begin arriving for set up
- 11:00 - Rose City Sound arrives
Environmental Fair exhibits open
- 11:30 - Governor Goldschmidt arrives
- 12:00 - noon program begins
- 12:40 - approx - Governor finishes speech
 - Volunteer signals fireboat
 - Fireboat shoots water
- 1:00 pm - invited guests walk to Riverplace Marina for cruise
(last approx. one hour)

Riverplace Marina:

- 12:15 - Reidel "Friendship" tug arrives
- 12:30 - Fred Meyer delivers cakes to tug
 - Bev delivers sodas and ice to tug
 - Brewed hot Coffee delivers hot beverages to tug
- 1:00 pm - Cruise begins

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
SEP 07 1989
OFFICE OF THE DIRECTOR



Northwest Environmental Defense Center

10015 S.W. Terwilliger Blvd., Portland, Oregon 97219
(503) 244-1181 ext.707

PROPOSED GUIDELINES FOR CONTENTS OF PUBLIC NOTICES

Presented before the Environmental Quality Commission on September 7, 1989 by David S. Mann on behalf of the Northwest Environmental Defense Center (NEDC)

(Please note that these model requirements are for wastewater discharges, equivalent requirements should be imposed for air contaminant and solid waste contaminant permit application notices.)

PROPOSED RULE

All public notices pertaining to proposed new, modified, or renewals of discharge permits must contain, at the minimum, the following information:

ALL PERMITS

1. General Information

- a. Name of applicant
- b. Type of facility
- c. Location of facility, discharge
- d. Wastes received/Wastes generated
- e. Type of product/Quantity of product
- f. Treatment and/or control facilities currently in place

2. Basis of need for permit (ie problems, regulations, technology change, change in Water Quality standards)

3. Water Quality Impacts

- a. Description of the Water Quality of the receiving stream, both upstream and downstream.

b. If the stream is water quality limited, list the TMDLs that have been established and how the permit will fit within the TMDLs.

c. Description of how the permit will impact the water quality

d. Summary list, by date, of all evaluations done by the Department or the applicant concerning the water quality impacts.

4. Special Conditions

Assessment of future control needs based on findings on water quality, and a schedule for compliance.

6. List and location of documents used to prepare permit proposal

FOR PERMIT RENEWALS AND MODIFICATIONS

7. If a permit modification, why? (ie, change in technology, change in water Quality, failure to meet previous conditions)

8. Permit History

a. Type of Discharge

b. Dates of previous permits

c. Compliance History for at least the last two permit cycles.

1) Evaluation and summary of DMRs with explanation of previous NPDES violations

2) Summary of inspections performed by DEQ on influents and effluents to verify DMRs.

3) Summary of complaints received and Department actions.

4) Enforcement History, including; Notice of Violations, Notice of Intent, and enforcement actions taken.

5) Evaluation of special conditions in previous permits and whether they were met. Explanation for any previous conditions that were not met.

6) Documentation of any load increases allowed and the basis for the allowance, including dates of EQC approval.

d. Location of DEQ cumulative impacts analysis to assure basin water quality standards or plans are not being violated.

9. An assessment of future control needs based on the adequacy of present controls, records of compliance, and applicable rules and regulations, and the proposed schedule for permittee to meet these conditions.

The above proposed rules should serve as guidelines for promulgating minimum standards for public notices of proposed discharge permits. NEDC requests that the Commission initiate rulemaking proceedings within the next 30 days in accordance with applicable procedures for Commission rulemaking.

RECEIVED
JAN 21 1985

INTEROFFICE MEMO

Water Control Division
Dept. of Environment & Quality

TO: All Agency Staff
FROM: Fred Hansen
SUBJECT: Permit Evaluation Reports

DATE: January 28, 1985

This memo is a follow-up to my May 3, 1984 memo on Enforcement/Compliance Procedures by which permits are issued, modified, and enforced.

With the experience I have gained in reviewing permit evaluation reports and documentation to support major program and permit conditions decisions, I am now able to present in greater detail, my expectations and views on the kinds and level of information which should accompany proposed permits coming to me for signature. Attached is a guidance document outlining essential elements of this permit evaluation report.

My rationale for the recommended content of Permit Evaluation Report is the following:

1. Issuance of a permit is a significant environmental program decision made by the Department.
2. Permit conditions must reflect applicable statutes, rules, and policies.
3. The current environmental status of the source must be accurately known before major program decisions can be made and incorporated into a draft permit.
4. A complete and thorough inspection and evaluation of a source prior to processing any application for permit issuance, together with a review of the compliance, enforcement, and assessment records should provide a solid basis for evaluating the status and performance of the source during the prior permit period and for determining what needs to be accomplished.
5. We need to be aware of the level of oversight and coordination that is likely to be needed by us to assure that the conditions and deadlines of a permit are met.

In my discussion with Division Administrators, there is agreement that assembling this information will not impose substantial additional burdens on either the staff or the permittees. Instead, this pertinent information includes both that which should be accessible through the course of conducting program activities and that which is necessary for preparing draft permits. Well prepared permit evaluation reports will allow new staff to become familiar with a source and continue oversight activities with minimal loss of time and regulatory momentum.

All Agency Staff
January 28, 1985
Page 2

This information to accompany proposed permits is needed for us to insure that we address environmental problems consistently, establish reasonable goals, and write enforceable permit terms and conditions.

There are some additional items which I believe should be given priority consideration, both by regional and headquarters staff over the next few months. These include the following:

1. The need for thorough permit evaluation reports prior to transferring a source to general or minimal source permit.
2. The need for field and headquarters staff agreement on both short and long-range program requirements to be incorporated into a permit prior to discussions or negotiations with the permittee.
3. The need for inspections to be consistent, whether conducted by field or headquarters staff. Should joint inspections be considered?

TT574
Attachment

I WANT TO STOP A NEW THREAT TO THE COLUMBIA RIVER

WTD Industries proposes to build a bleached kraft pulp mill at Port Westward, Oregon, near Clatskanie. The mill will discharge highly toxic compounds into the river, including dioxin, described by a June 1988 EPA document as "the most potent animal carcinogen ever tested." Pulp mill discharges along the Columbia already exceed EPA's water quality standard for dioxin. In addition, WTD intends to destroy 38 acres of wetlands, a critical habitat for wildfowl that is already in short supply.

Citizens of the Pacific Northwest should insist that any new pulp mill be nothing less than dioxin-free.

Name Address City State Zip

- 1 Doyle Dillehay 675 Bunker Hill Rd Longview Wa. 98632
- 2 Colleen Corbin P.O. Box 1554 LV WA 98632
- 3 Robert L Cannon P.O. Box 505 LV WA 98632
- 4 Ruth N. Cannon P.O. Box 505, LV, WA 98632
- 5 Juni F. Stecker 2402 Hudson Longview, WA 98632
- 6 Marilyn G. Skelton P.O. Box 68 Longview WA 98632
- 7 Mary S. Thompson 708 Bunker Hill Longview WA 98632
- 8 Loren Thompson 708 Bunker Hill Longview WA 98632
- 9 George A. Dennis 9108 Ocean Beach Hwy, Longview, WA 98632
- 10 John A. Dennis 9108 Ocean Beach Hwy LV, WA 98632
- 11 Cliff Haggerty 9116 Ocean Beach Dr. LV 98632
- 12 Theresa A. Haggerty 9116 Ocean Beach LV, WA 98632
- 13 Maurice Watson 210 Bunker Hill Rd. Longview WA
- 14 Annitta Watson 210 Bunker Hill Rd Longview WA
- 15 Synda Rosenzweig 9070 Ocean Beach Hwy Longview WA 98632
- 16 Theronda Jobbins 143 Foster Rd Cathlamet WA 98612
- 17 Frank Melba 4309 Pean Longview
- 18
- 19
- 20

I WANT TO STOP A NEW THREAT TO THE COLUMBIA RIVER

WTD Industries proposes to build a bleached kraft pulp mill at Port Westward, Oregon, near Clatskanie. The mill will discharge highly toxic compounds into the river, including dioxin, described by a June 1988 EPA document as "the most potent animal carcinogen ever tested." Pulp mill discharges along the Columbia already exceed EPA's water quality standard for dioxin. In addition, WTD intends to destroy 38 acres of wetlands, a critical habitat for wildfowl that is already in short supply.

Citizens of the Pacific Northwest should insist that any new pulp mill be nothing less than dioxin-free.

Name Address City State Zip

- 1 Jack Uhl 4715 Olympia Way Longview, Wash 98632
- 2 Theresa Uhl 4715 Olympia Way Longview 98632
- 3 David R. Haglin 4318 Pine ~~Way~~ EV WA 98632
- 4 Judy Haglin 4318 Pine ~~Way~~ Longview 98632
- 5 S.G. Hanson 4727 Oly Way Longview, Wa. 98632
- 6 Gayle Hansen 4727 Oly. Way Longview WA 98632
- 7 Sheila R. Thompson 123 Desiree Rd. Longview, Wa 98632
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20

I WANT TO STOP A NEW THREAT TO THE COLUMBIA RIVER

WTD Industries proposes to build a bleached kraft pulp mill at Port Westward, Oregon, near Clatskanie. The mill will discharge highly toxic compounds into the river, including dioxin, described by a June 1988 EPA document as "the most potent animal carcinogen ever tested." Pulp mill discharges along the Columbia already exceed EPA's water quality standard for dioxin. In addition, WTD intends to destroy 38 acres of wetlands, a critical habitat for wildfowl that is already in short supply.

Citizens of the Pacific Northwest should insist that any new pulp mill be nothing less than dioxin-free.

Name Address City State Zip

- 1 Barbara Neely 275 E Birnie Slough Rd Cathlamet, WA 98612
- 2 Cathy Evans 418 1/2 SW Gynon Loop Winlock, WA 98596
- 3 Jean Cuates 1108 S. Pacific Kelso, WA 98626
- 4 Wayne Rie 617 15th Ave. Longview, WA 98632
- 5 Bob Bagshaw 101 Mimosa D. Kelso WA 98626
- 6 Sharon Erickson P.O. Bx 2394 Longview WA 98632
- 7 Paul Batzle 1208 23rd Longview WA 98632
- 8 Louise Thompson 5210 Pacific Way Longview WA 98632
- 9 Susan Nelson 745 Marine View Dr. Longview WA 98632
- 10 Jeff Ellis 910 Crestline Ln WA 98632
- 11 David Stuthers 4731 Oly Wy Longview WA 98632
- 12 Larry Kolano 1314 21st Longview WA 98632
- 13 Barbara Keith 3030 Coal Creek Longview, WA 98632
- 14 Sandra Sullivan 110 Yelton Drive Longview WA 98632
- 15 Adele P Marshall 3614 Ocean Beach, WA 98632
- 16 Claudia Timmerman 2343 Hill St. Longview, WA 98632
- 17 Pam Anfinson 47 Bardick Pl Longview, wa 98632.
- 18 Marjorie Kalal 10 Jeffery Pl. Longview, WA 98632
- 19 Ann Alligin 5406 Rose Valley Rd. Kelso WA 98626
- 20 Tracy W. Koveroski 152 Villa Rd. Kelso, WA 98626

I WANT TO STOP A NEW THREAT TO THE COLUMBIA RIVER

WTD Industries proposes to build a bleached kraft pulp mill at Port Westward, Oregon, near Clatskanie. The mill will discharge highly toxic compounds into the river, including dioxin, described by a June 1988 EPA document as "the most potent animal carcinogen ever tested." Pulp mill discharges along the Columbia already exceed EPA's water quality standard for dioxin. In addition, WTD intends to destroy 38 acres of wetlands, a critical habitat for wildfowl that is already in short supply.

Citizens of the Pacific Northwest should insist that any new pulp mill be nothing less than dioxin-free.

Name Address City State Zip

- 1 Steve McCallum 2948 Fieldst Longview WA 98632
- 2 Julia Esche 322 Cedar Lane Longview WA 98632
- 3 Bob Beilba 3401 EAST 18th VANCOUVER, WA 98661
- 4 J.S. Wagh 1405 17th Ave LONGVIEW WA 98632
- 5 David A. Cristof 322 N 3rd W KELSO WA 98626
- 6 Nancy M. Jones 129 Old Beacon Hill LONGVIEW WA 98632
- 7 Francis J. Neely 275 E. Bernice Rd Cathlamet WA 98612
- 8 Jan Johnson 128 Mt. Pleasant Rd. Kelso, WA 98626
- 9 David Johnson 128 Mt. Pleasant Rd. Kelso, WA 98626
- 10 Kara Thompson 3003 W. Chestnut Yakima, WA 98902
- 11 Cheryl A. Jones 3344 A6A F-6 Hood River, OR 97031
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20

I WANT TO STOP A NEW THREAT TO THE COLUMBIA RIVER

WTD Industries proposes to build a bleached kraft pulp mill at Port Westward, Oregon, near Clatskanie. The mill will discharge highly toxic compounds into the river, including dioxin, described by a June 1988 EPA document as "the most potent animal carcinogen ever tested." Pulp mill discharges along the Columbia already exceed EPA's water quality standard for dioxin. In addition, WTD intends to destroy 38 acres of wetlands, a critical habitat for wildfowl that is already in short supply.

Citizens of the Pacific Northwest should insist that any new pulp mill be nothing less than dioxin-free.

Name Address City State Zip

- 1 Maudie J. Riva 576 Hwy 907 Cathlamet Wa. 98612
- 2 Sally Ann Morehead 2638 Terry Ave Longview Wa. 98632
- 3 Laura Luckini 3920 Oak St. Longview, Wa 98632
- 4 Jill Stockdale 821 Hillcrest Ave. Longview Wa 98632
- 5 Melinda Larson 2431 Park Hill Dr. Longview, WA 98632
- 6 Larry Byman 1106 Oak Pt. Rd Longview, WA 98632
- 7 Yvonne Bean 3151 Ammons OR Longview WA 98632
- 8 Julie A. Davis 181 S. Welcome Slough Cathlamet WA 98612
- 9 Jay M. Kay 960 Coal Creek Longview WA 98632
- 10 Bark Byman 1106 Oak Pt Rd Longview WA 98632
- 11 Miriam Byman 23349 Shepard Rd. Clatskanie, OR 97016
- 12 Aino Byman 23349 Shepard Rd Clatskanie Or. 97016
- 13 Ed Byman 2185 38th Longview wa 98632
- 14 Suzanne Byman 5516 Mt Solo Rd Sp20 Longview 98632
- 15 Joanne E. Hubsta 3609 Ocean Beach Hwy Longview 98632
- 16 Karen Leven 79338 Stewart Ck. Rd. Clatskanie, OR 97016
- 17 Margaret Gurney 531 Oak Pt. Rd. Lv WA 98632
- 18 Robert Gurney 221 Dan Martin Rd LV. WA 98632
- 19 Philip Sueb 3335 Tori Lane Longview WA 98632
- 20 Ginnie Dixon 961 Oak Point Rd. LV. WA 98632

I WANT TO STOP A NEW THREAT TO THE COLUMBIA RIVER

WTD Industries proposes to build a bleached kraft pulp mill at Port Westward, Oregon, near Clatskanie. The mill will discharge highly toxic compounds into the river, including dioxin, described by a June 1988 EPA document as "the most potent animal carcinogen ever tested." Pulp mill discharges along the Columbia already exceed EPA's water quality standard for dioxin. In addition, WTD intends to destroy 38 acres of wetlands, a critical habitat for wildfowl that is already in short supply.

Citizens of the Pacific Northwest should insist that any new pulp mill be nothing less than dioxin-free.

Name Address City State Zip

- 1 D. L. D. D. 1706 18th Longview WA 98632
- 2 Angie M. Mitchell 65 Alpha Dr. Longview WA 98632
- 3 Audrey Walker 9 Judith Longview WA 98632
- 4 Chae W. Cheek 9 Judith Pl Longview WA 98632
- 5 Rocky Cance 11 Judith Pl Longview WA 98632
- 6 Bill Henderson 13 Judith Place Longview WA 98632
- 7 Christina Andrus 13 Judith place Longview WA 98632
- 8 Jan Don 12 Judith Place Longview WA 98632
- 9 Standi Blaschke 8 Judith Place Longview WA 98632
- 10 Sally Storie 3 Judith Pl Longview WA 98632
- 11 Marilyn Mulvill 8 Monterey Pl Longview WA 98632
- 12 Donald R. May 3 Monterey place Longview 98632
- 13 Pamela Bivell 125 Manteca Dr. Kelso WA 98626
- 14 Gill Ellingson 16 Judiths Place Longview WA 98632
- 15 Linda J. Busman 728 N. Columbia Hts. Rd. Longview WA 98632
- 16 Melanie Jechort 3208 Col. Hts Rd #2 Longview WA 98632
- 17 _____
- 18 _____
- 19 _____
- 20 _____

I WANT TO STOP A NEW THREAT TO THE COLUMBIA RIVER

WTD Industries proposes to build a bleached kraft pulp mill at Port Westward, Oregon, near Clatskanie. The mill will discharge highly toxic compounds into the river, including dioxin, described by a June 1988 EPA document as "the most potent animal carcinogen ever tested." Pulp mill discharges along the Columbia already exceed EPA's water quality standard for dioxin. In addition, WTD intends to destroy 38 acres of wetlands, a critical habitat for wildfowl that is already in short supply.

Citizens of the Pacific Northwest should insist that any new pulp mill be nothing less than dioxin-free.

Name Address City State Zip

1 ~~Chuck Woodard~~ 1700 Tower Rd. Castle Rock WA 98611

2 ~~Ruth Kuras~~ 238 Long Oak Rd CU WA 98632

- 3 _____
- 4 _____
- 5 _____
- 6 _____
- 7 _____
- 8 _____
- 9 _____
- 10 _____
- 11 _____
- 12 _____
- 13 _____
- 14 _____
- 15 _____
- 16 _____
- 17 _____
- 18 _____
- 19 _____
- 20 _____

- 21 Marie Centry RD1 Box 217 Birkenfeld, OR 97016
- 22 Kathy Irwin 2325 Beech Longview, Wash. 98632
- 23 Mary Luino Flock 3410 Memorial Park Dr. Longview, WA. 98632
- 24 Marc Phipps 164 N 5th St. Helens Oregon 97051
- 25 Elaine Davis 1025 East E Klamath, OR
- 26 Lisa Johnson 4304 Independence Ln Longview Wa 98632

I WANT TO STOP A NEW THREAT TO THE COLUMBIA RIVER

WTD Industries proposes to build a bleached kraft pulp mill at Port Westward, Oregon, near Clatskanie. The mill will discharge highly toxic compounds into the river, including dioxin, described by a June 1988 EPA document as "the most potent animal carcinogen ever tested." Pulp mill discharges along the Columbia already exceed EPA's water quality standard for dioxin. In addition, WTD intends to destroy 38 acres of wetlands, a critical habitat for wildfowl that is already in short supply.

Citizens of the Pacific Northwest should insist that any new pulp mill be nothing less than dioxin-free.

Name Address City State Zip

- 1 Jon M Fountain #9 LAULAINEN BL. LONGVIEW WA 98632
- 2 Judy Purdy Fountain ^{9 Laulainen Rd} Longview WA 98632
- 3 Kirkland Biley 3130 Pacific Way Longview WA 98632
- 4 Darryl J. Boshart 222 Si Town Rd. Castle Rock WA 98611
- 5 Roger D. Nuff 332 Williams Finney Rd Kelso, Wa, 98626
- 6 Betty de Vries 1210 Spruce Longview, Wa. 98632
- 7 Norma Jo Gentry 143 Clark Cr. Ln. Longview WA 98632
- 8 Sandy Estill 3079 Oly. Way Longview, WA 98632
- 9 Kathleen Arneson 122 Roley Cr. Kelso, wa 98626
- 10 Nona Inman 540 22nd Longview, Wa 98632
- 11 Susan Lee 1532 25th Longview, WA 98632
- 12 Robert P. Griffith 961 Oak Point Rd. Longview, WA 98632
- 13 Richard C. Thum 123 DESIREE RD LONGVIEW WA 98632
- 14 ✓
- 15
- 16
- 17
- 18
- 19
- 20

PETITION

August 25, 1989

Pg. 1 of 2

WE THE UNDERSIGNED:

Are opposed to the proposed WTD Bleached Kraft Pulp Mill at Point Westward, Clatskanie, Oregon, for the following reasons:

1. Health risks, such as increased cancer risk due to the release of dioxin and other dangerous pollutants into the air and water.
2. Failure by the DEQ and other agencies to adequately monitor air, water, noise, and traffic.
3. Inadequate studies concerning environmental effects to the surrounding area.
4. Impact on lower Columbia river fishermen.
5. Devastation of 38 acres of federally protected wetlands, and endangered wildlife.
6. Increased economic burden on Columbia County taxpayers for roads, power, traffic control and other out of pocket costs.

Name

Address

Dimidy White 80741 Kallunki Rd, Clatskanie

Anna Williams ^{NO WTD!!} 80703 Kallunki Rd Clatskanie

Richard Williams 80703 Kallunki Rd. Clatskanie

Mylene White 5335 Nehalem St Clatskanie

Frederick ~~White~~ 79230 Blackford Rd Clatskanie

John White P.O. Box 403 Clatskanie Ore

Jinda L. White 11097 Colvin Rd Clatskanie, Ore

Ally White 11097 Colvin Rd Clatskanie Rd.

John Paradise 20515 John's Dist. Rd. Clatskanie,

Marvin Kallunki 20553 John's Dist Rd Clatskanie

AUGUST 25, 1989 PETITION WTD Bleached Pulp Mill

Name address

P. J. Juntala 20765 Johns Dist. Rd. Clatskanie, Ore.
 Dennis Lehto 7988 Quincy Meyer Rd. Clatskanie, Ore.
 Paulina Lehto 20787 John Dist. Rd. Clatskanie, Ore.
 Kay Lehto 20787 John Dist Rd Clatskanie OR
 Audra Kraney 80014 Quincy-Meyer Rd Clatsk. OR
 Lellis E. Oyala 20716 John Dist. Rd. Clatskanie, OR
 Wayne Oyala 20716 John Dist. Rd Clatskanie, OR
 John O. Luis 80393 Kallunki Rd Clatskanie OR 97016
 Kate Linn 80393 Kallunki Rd Clatskanie OR 97016
 Gandy Strom 80233 Kallunki Rd Clatskanie OR 97016
 Ken & Ken 80271 Kallunki Rd Clatskanie OR 97016
 Gary Nikita 80741 Kallunki Rd Clatskanie OR 97016
 H. J. Enhuak 79652 Quincy Meyer Rd. Clatskanie
 Bonnie Enhuak " " " " "
 Ken & Jean 19600 Beaver Dike Rd. Clatskanie, OR 97016
 Joly & Mildred Lee 19544 Beaver Dike Rd Clatskanie Ore
 Rama Brown 19069 Beaver Dike Rd. Clatskanie, Ore.
 Vieno A. Rantala 78615 Rantala Rd. Clatskanie, OR
 Alvar I. Luukkainen 78615 Rantala Rd. Clatskanie Ore.
 Candace & James 78517 Rantala Rd Clat OR
 Rick & James 78517 Rantala Rd. Clat OR

PETITION

August 25, 1989

P. 1 of 2

WE THE UNDERSIGNED:

Are opposed to the proposed WTD Bleached Kraft Pulp Mill at Point Westward, Clatskanie, Oregon, for the following reasons:

1. Health risks, such as increased cancer risk due to the release of dioxin and other dangerous pollutants into the air and water.
2. Failure by the DEQ and other agencies to adequately monitor air, water, noise, and traffic.
3. Inadequate studies concerning environmental effects to the surrounding area.
4. Impact on lower Columbia river fishermen.
5. Devastation of 38 acres of federally protected wetlands, and endangered wildlife.
6. Increased economic burden on Columbia County taxpayers for roads, power, traffic control and other out of pocket costs.

Name

Address

Diana Compton 80408 Badine Rd. Clatskanie, OR.

Elizabeth Mustola Blackford Rd Clatskanie Or.

Steve Mustola 23499 Beaver Falls Rd Clatskanie OR

Jim Mustola Blackford Rd Clatskanie Or

Mark Thomas 80071 Life Lane Clatskanie, OR

John W. Thomas 80071 Life Lane Clatskanie Or

Quincy L. Viikola 80412 QUINCY MAYGER RD CLATSKANIE OREGON 97016

Randy Viikola P.O. Box 952 Clatskanie OR 97016

Mary Mustola 80190 Alston Mayger Rd Clatskanie, OR 97016

Dag Mustola 80190 Alston Mayger Rd. Clatskanie Or, 97016

AUGUST 25, 1989 PETITION WTD Bleached Pulp Mill

Name	address
Ron Mustola	Clatskanie Ore
Steve Spuman	Clatskanie Oregon
Jerry Lane	Clatskanie Oregon
Dan Ostrand	80268 Alston Mayger Rd
Valerie Ostrand	80268 Alston Mayger Rd. Clatskanie
Carol Montgomery	80184 Alston Mayger Rd. Clatskanie, OR
Carol Montgomery	80184 ALSTON MAYGER RD. CLATSKANIE OR
Joe Mustola	22647 MAYGER HTS. LN. CLATSKANIE OR
Paul Johna	79457 Blackford Rd - Clatskanie OR 97016
Keitha Johna	79457 Blackford Rd. Clatskanie Oreg. 97016
Edward G. Vinkkala	80412 Quincy 1/2 Mayger Clatskanie OR
Mae D. Lauridsen	79341 Blackford Rd Clatskanie, OR
John O. Lauridsen	79341 Blackford Rd Clatskanie, OR 97016
DW Johnson	79259 CHURCH RD. CLATSKANIE OR
Dale Odums	79746 Blackford Rd Clatskanie OR
John A. Kallunki	79806 Blackford Rd. Clatskanie OR
Wesley K. Nelson	80415 QUINCY MAYGER RD Clats
Wesley Nelson	80415 Quincy Mayger Rd Clats.
Bill Miller	80415 Quincy Mayger Rd. Clats.
Steven D. Bell	80415 Quincy Mayger Rd Clats.
Bret H. Fohl	80415 Quincy MAYGER Clats
Leslie J. Kallunki	79806 Blackford Rd. Mayger Ore.

PETITION

August 25, 1989

Pg 1 of 2

WE THE UNDERSIGNED:

Are opposed to the proposed WTD Bleached Kraft Pulp Mill at Point Westward, Clatskanie, Oregon, for the following reasons:

1. Health risks, such as increased cancer risk due to the release of dioxin and other dangerous pollutants into the air and water.
2. Failure by the DEQ and other agencies to adequately monitor air, water, noise, and traffic.
3. Inadequate studies concerning environmental effects to the surrounding area.
4. Impact on lower Columbia river fishermen.
5. Devastation of 38 acres of federally protected wetlands, and endangered wildlife.
6. Increased economic burden on Columbia County taxpayers for roads, power, traffic control and other out of pocket costs.

Name

Address

Jack Cook 74749 Lost Creek Rd, Clatskanie

John E Miller 21109 Ilmari Rd Clatskanie

Betty J Coor 74749 Lost Creek Rd - CLATSKANIE

Schweyer Johnson Rd Clatskanie, OR

Maryine R Miller 21109 Ilmari Rd - Clatskanie, Ore. 97016

John W. Wolf 21111 Ilmari Rd, Clatskanie, Ore 97016

Lorraine D. Wolf " " Clatskanie, OR 97016

Clair Russell 76292 Alston-Meyer Prairie, OR 97048

Lain Wolf 21475 Ilmari Clatskanie, OR 97016

Kate Linn 80393 Fallmont Rd Clatskanie OR 97016

AUGUST 25, 1989 PETITION WTD Bleached Pulp Mill

Name

address

Mary Beard	P.O. Box 636 Clatskanie
John Beard	Box 2306 Clats
Elizabeth Mae Johnson	Rt. 2 - Box 2306 Clatskanie
Jim Stebbins	P.O. Bx 982 Clatsk.
Debra Horness	P.O. Bx 65 Clatskanie, OR 97016
Jim Wolf	21475 Ilmari Rd. Clatskanie Ore 97016
Nancy Martin	79537 Wukkala Rd Clatskanie
William D Martin	79537 Wukkala R Clatskanie
William H. Martin	79537 Wukkala R Clatskanie
Frank Wilcox	19917 Beaver Lake Rd.

PETITION

August 25, 1989

pg 1 of 2

WE THE UNDERSIGNED:

Are opposed to the proposed WTD Bleached Kraft Pulp Mill at Point Westward, Clatskanie, Oregon, for the following reasons:

1. Health risks, such as increased cancer risk due to the release of dioxin and other dangerous pollutants into the air and water.
2. Failure by the DEQ and other agencies to adequately monitor air, water, noise, and traffic.
3. Inadequate studies concerning environmental effects to the surrounding area.
4. Impact on lower Columbia river fishermen.
5. Devastation of 38 acres of federally protected wetlands, and endangered wildlife.
6. Increased economic burden on Columbia County taxpayers for roads, power, traffic control and other out of pocket costs.

Name

Address

TOM HECK, Thomas R. Heck 20462 ILMARI Rd CLATSKANIE

JAN HECK, Janet M. Heck 20462 Ilmari Rd., Clatskanie

Lila Martin, Lila D. Martin 20409 Ilmari Rd. 97016

Jennyfer Sukowka 78771 Mayger Quincy Rd, Clatskanie, OR 97016

Lori Sherman, Lori Sherman 80402 Green Pt. Rd. Clatskanie, OR 97016

Mary Anne Sullivan 20093 Ilmari Rd. Clatskanie, OR 97016

Bonnie L. Howard 380 S.W. Orchard St., CLATSKANIE, OR 97016

Walter E. Keyala 20361 Ilmari Rd. Clatskanie, OR 97016

Cheryl Dill 20359 Ilmari Rd Clatskanie, OR 97016

Deborah S. Mueller 20073 Ilmari Rd Clatskanie, OR 97016

PETITION

August 25, 1989

pg 1 of 1

WE THE UNDERSIGNED:

Are opposed to the proposed WTD Bleached Kraft Pulp Mill at Point Westward, Clatskanie, Oregon, for the following reasons:

1. Health risks, such as increased cancer risk due to the release of dioxin and other dangerous pollutants into the air and water.
2. Failure by the DEQ and other agencies to adequately monitor air, water, noise, and traffic.
3. Inadequate studies concerning environmental effects to the surrounding area.
4. Impact on lower Columbia river fishermen.
5. Devastation of 38 acres of federally protected wetlands, and endangered wildlife.
6. Increased economic burden on Columbia County taxpayers for roads, power, traffic control and other out of pocket costs.

Name

Address

Carol Bitterman	79935 Blackford Rd	Clatskanie
DAVE BITTERMAN	79935 BLACKFORD RD	CLATSKANIE
Karl Bitterman	79935 Blackford Rd.	Clatskanie
Elmer Hueth	79900 BLACKFORD	Clatskanie
Elmer Hueth	79900 BLACKFORD	Clatskanie
Wanda Jones	18381 Klamm Lane	Clatskanie
Dianna Johnson	15914 Calvin Rd.	Clatskanie
Wes Foulter	79853 Alston Maynard Rd	Clatskanie
Nancy Foulter	79853 Alston Maynard	Clatskanie
Chris Aote	60213 Johns District Rd	Clatskanie



**NORTHWEST COALITION for
ALTERNATIVES to PESTICIDES**

P.O. BOX 1393 EUGENE, OREGON 97440 (503) 344-5044

TESTIMONY REGARDING
APPROVAL/DISAPPROVAL OF NEW DISCHARGE TO THE
COLUMBIA RIVER BELOW CLATSKANIE

Mary H. O'Brien
September 8, 1989

I am Mary O'Brien, staff scientist for the five state Northwest Coalition for Alternatives to Pesticides (NCAP). On behalf of NCAP, I have submitted preliminary comments to the Oregon Department of Environmental Quality (DEQ) on WTD applications for a wastewater discharge permit and air contaminant discharge permit. I was able to prepare only preliminary comments because I have not yet received critical information needed to comment fully, i.e., information on the partition of chlorine/organochlorines through the mill into the river, atmosphere, sludge, ash, and pulp.¹

¹ WTD has prepared an "Estimated Chlorine (Chloride) Balance @ 70% Chlorine Dioxide Substitution" for DEQ (August 25, 1989), but it provides no basis for the numbers in terms of specific processes in the mill, or references to real life mill data. In addition, WTD indicates on p. 15 of their engineering analysis of the mill that the mill would initially function at 50% chlorine dioxide substitution, not 70%. Therefore the numbers are not meaningful for independent review.

For instance, WTD provides no description of the materials that enter any of its furnaces, so I am unable to judge the estimate of what will exit WTD stacks. The chlorine balance sheet predicts zero release of organochlorines other than chloroform (a carcinogen and liver toxin) to the atmosphere. Will WTD produce its own ClO₂ on site? If so, will it incinerate the salt cake that results? The Environmental Protection Agency has indicated that such a process yields large amounts of octa- and other highly chlorinated dioxins. Such dioxins degrade to the more stable 2,3,7,8-TCDD in sunlight.

See Van Strum, Carol, and Paul Merrell. 1987. No margin of safety: A preliminary report on dioxin pollution and the need for emergency action in the pulp and paper industry. Greenpeace USA, Inc., p. IX-9, citing U.S. EPA national Dioxin Study Tier IV Black Liquor Boiler, chapter VII, pg. 10 note 20; salt cake from chlorine dioxide plant only source of chlorine to the recovery boiler.

See also Miller,

I testified at the public hearing held July 6, 1989 by the DEQ regarding the WTD wastewater discharge permit request. Although I was unable to attend the July 20 and 21 Environmental Quality Commission (EQC) meetings at which the DEQ requested approval of a new discharge of 2,3,7,8-TCDD into the Columbia River, Norma Grier, Director of NCAP, testified, and I have listened to tape recordings of the entire proceedings.

In preparation for these comments I have reviewed both the August 29, 1989 DEQ staff report to you and the engineering analysis report prepared by WTD for DEQ referred to on p. 4 of the DEQ staff report.

The DEQ, on behalf of WTD, is asking you to approve a new discharge of 2,3,7,8-TCDD, an organochlorine priority pollutant, into the Columbia River. This river is, and will remain for an extended period of time, out of compliance for that organochlorine pollutant. The DEQ, on behalf of WTD, is asking you to approve an action that will not and cannot be in compliance either with (a) the Oregon water quality standard for 2,3,7,8-TCDD or (b) the U.S. Environmental Protection Agency (EPA) Region X guidance to states whose waters receiving discharges from pulp mills exceed criteria for a priority pollutant.

It is your responsibility to consider the evidence regarding the scientific integrity and legality of your recommendation regarding approval of a new source of 2,3,7,8-TCDD discharge into the Columbia River given that the river is currently out of compliance with the state water quality standard for 2,3,7,8-TCDD.

Moreover, NCAP trusts that you will consider, in a publicly reviewable manner, the implications of approval of such a discharge of 2,3,7,8-TCDD for the current and projected burdens of related, cumulatively adverse organochlorines (e.g., other dioxins, furans, guaiacols, catechols, PCBs, DDT) in the Columbia River ecosystem. That EPA has addressed only 2,3,7,8-TCDD in water and fish does not relieve you of the environmental, public health, and moral responsibility of ensuring that you and the public are adequately informed of what is currently known and suspected regarding the organochlorine burden of the Columbia River watershed before you approve a major new discharge of 2,3,7,8-TCDD into the Columbia River.

NCAP therefore strongly urges you to delay approval of a major new discharge source for 2,3,7,8-TCDD until you have informed yourself and the public of the scientific, legal, public health, and ecological implications of additional discharges of this most toxic known organochlorine into the Columbia River

ecosystem. You can do this by requesting that the Oregon DEQ, in conjunction with relevant state agencies, prepare for you and the public an environmental assessment of these implications.

THE DEQ POSITION

The DEQ claims in its August 1989 "Columbia River TCDD Analysis" (Attachment D to the August 29, 1989 DEQ staff report to the EQC) that the Columbia River will be in compliance with the state water quality standard for 2,3,7,8-TCDD when the proposed Clatskanie WTD mill and Hallsey Pope and Talbot expanded mill discharge 2,3,7,8-TCDD into the river on the basis that these discharges will be made in conjunction with reduced discharges from the other seven Oregon and Washington bleached kraft pulp mills discharging into the Columbia River watershed.

The DEQ bases this argument on a Columbia River analysis that calculates projected 2,3,7,8-TCDD loadings using three critical assumptions:

- (1) There is no background load of 2,3,7,8-TCDD in the Columbia River;
- (2) 2,3,7,8-TCDD stays in the water and does not attach to sediments or enter fish or other organisms in the river; and
- (3) Seven of the eight Oregon and Washington bleached kraft pulp mills are the only source of 2,3,7,8-TCDD for the Columbia River.

The EQC needs to take responsibility for the consequences of proceeding on the basis of each of these utterly false assumptions. Because these assumptions are false, the plan to simultaneously operate the WTD mill and the expanded Pope and Talbot mill and bring the Columbia River into compliance with the state water quality standard for 2,3,7,8-TCDD is not realistic.

DO YOU REMEMBER WHAT WE LEARNED ABOUT DDT?

As you try to understand why the three critical river analysis assumptions are fatal to the reasonableness and legality of DEQ's plan, you need to draw on what our society has learned about DDT which, like dioxins, is an organochlorine compound.

If you were to resume spraying of DDT into the environment now, 17 years after DDT was banned, you would be spraying into an environment that still contains DDT. In 1984, the Natural Resources Defense Council tested for pesticide residues on fresh

fruits and vegetables grown in the United States and sold in San Francisco markets.² Of the 19 pesticides detected in thirty-one samples, the most common residues found on the produce were DDT and its metabolite, DDE. Because DDT has a half-life of 20 years in the soil, more than half of all the DDT present in the soil at the time DDT was banned 19 years ago remains today for continued uptake by organisms and incorporation into the food chain.

If you were to resume spraying of DDT into the environment now, you would be exposing animals that are still bioaccumulating DDT residues introduced into the environment at least 17 years ago. An August 1988 report by the US Army Corps of Engineers entitled Ecology of Bald Eagles on the Lower Columbia River notes that the analysis of 17 eggs found 14 eggs to contain DDE, DDD, hexachlorobenzene, mirex, and PCBs; all of these are organochlorine compounds.³ Concentrations of DDE, a metabolite of DDT, were high, ranging from 4.0 to 16.0 ppm; concentrations of PCBs were also high. Eggshell thickness ranged from normal (similar to pre-DDT averages) to 44% thinner than the pre-DDT thickness. The average eggshell thickness was 14% thinner than the pre-DDT average. From 1980 to 1987, only 37% of the occupied breeding territories on the lower Columbia River were successful in fledging young, compared with a statewide average of 62% (1978 to 1987).

The Army Corps concludes, "The results of this study revealed high concentrations of DDE and PCB's in bald eagle eggs and carcasses. Significant eggshell thinning and low reproductive success were associated with presence of these contaminants in the eagle population on the [lower Columbia River]."⁴ The bald eagle is a federally listed endangered species

As the breeding eagles were present in the lower Columbia River the entire year and the majority of the eagle diet is comprised of fish (as opposed to migratory birds that might be exposed to DDT being sprayed in southern countries), the Corps concludes that DDE is still present in sediments and water in the Columbia River estuary.

² Mott, Lawrie. 1984. Pesticides in food. San Francisco: Natural Resources Defense Council.

³ U.S. Army Corps of Engineers, Portland District. August 1988. Ecology of bald eagles on the lower Columbia River.

⁴ Ibid.

2,3,7,8-TCDD IS LIKE DDT....ONLY WORSE

The situation with 2,3,7,8-TCDD (and the hundreds of dioxins, furans, catechols, guaiacols, and other organochlorines released by pulp mills⁵) is similar to that of DDT.

Contrary to the assumptions of the DEQ Columbia River TCDD Analysis, Oregon does have a Columbia River with background 2,3,7,8-TCDD. Fish have been found in some cases to be highly contaminated with 2,3,7,8-TCDD,⁶ and the river is currently out of compliance with federal water quality criteria and Oregon water quality standards.

Contrary to the assumption of the DEQ Columbia River TCDD Analysis, 2,3,7,8-TCDD does not remain in the water, but rather enters sinks: adsorbing to particulate and organic matter and entering the aquatic food chain where it bioaccumulates. As noted by Philip Cook, EPA Chief of the Hazardous Waste Research Branch in Duluth, Minnesota, fathead minnows have been determined to bioaccumulate 2,3,7,8-TCDD 159,000 times above ambient water values.⁷ Cook notes that "Approximately 90% of the TCDD in the fish exposure water was associated with particulate and dissolved organic matter."⁸

A recent review of pulp mill technology and environmental consequences prepared by the Australian (federal) Commonwealth Scientific and Industrial Research Organization notes that "it is clear that some [bleach kraft mill effluent organochlorines] persist in sediments for many decades [citations]. Once they are released into the environment little can be done to eliminate them or to prevent them from entering food chains and reaching concentrations in aquatic birds, mammals, fish, and invertebrates

⁵ Suntio, Leena R., Wan Ying Shiu, and Donald Mackay. 1988. A review of the nature and properties of chemicals present in pulp mill effluents. *Chemosphere* 17(7):1249-1290. (A compilation of 250 chemicals, most of them organochlorines, identified in the effluents from pulp mills.)

⁶ U.S. Environmental Protection Agency. 9 August 1988 transmittal of the "latest data from the National Bioaccumulation Survey." Cover letter by Bob Jacobson, Region 10 press officer.

⁷ U.S. Environmental Protection Agency. February 4, 1987. Memorandum from Philip M. Cook, Chief, Hazardous Waste Research Branch (Duluth, MN) to Jim Cummings, Office of the Assistant Administrator for Solid Waste and Emergency Response. Re: 2,3,7,8-TCDD in Aquatic Environments.

⁸ Ibid.

sometimes hundreds or thousands of times higher than those in receiving waters or sediments [citation]... Moreover, various chlorinated phenols, guaiacols and catechols have been found in waters, sediments and organisms at distances of as much as 50 km downstream from outfalls of older mills [citation]. Guaiacols have been found in the Fraser River, British Columbia, 700 km downstream from their point of origin."

Astonishingly, the Columbia River TCDD Analysis claims to be conservative because it doesn't consider the "attenuation" of 2,3,7,8-TCDD into sediments and fish. When 2,3,7,8-TCDD associates with sediments and enters the food chain in the river, then the longterm, particularly dangerous consequences of 2,3,7,8-TCDD contamination of the water really begin. That is the point at which the river begins to store 2,3,7,8-TCDD for continued contamination long after the dumping by mills stops. (Remember the legacy of DDT being borne by eagles now, 17 years after use of DDT was banned in the area.)

Contrary to the assumption of the DEQ Columbia River TCDD Analysis, there are sources other than the seven mills considered for 2,3,7,8-TCDD and the other, cumulatively toxic, dioxins and furans in the Columbia River. As noted by the DEQ in its river analysis, for instance, "It is recognized that 2,3,7,8-TCDD can originate whenever chlorine reacts with organic precursors" (p. D-1). The presence of pesticides in the river ecosystem and the chlorination of organic sewage by municipalities would be two such sources of dioxins in the Columbia River.

The WTD chlorine balance sheet at 70% chlorine dioxide substitution claims that the mill will discharge 67,613 pounds of Cl^- and ClO^- a day (i.e., 54.5269 lb Cl^- and ClO^- /ADMT; 1,240 ADMT/day) into the Columbia River in addition to 505 pounds/day organochlorines into the River (i.e., 0.3266 pounds organochlorines/ADMT; 1,240 ADMT/day). This is disingenuous. The ClO^- molecule is highly reactive and will, when combined with organic matter in the River, produce dioxins and other organochlorines. The mill, therefore, will not only dump 2,3,7,8-TCDD into the Columbia River; it will discharge highly reactive chlorine compounds into a river containing organic material which will result in production of additional dioxins and organochlorines.

The DEQ notes that the river analysis fails to include the James River Camas bleach kraft mill, two British Columbia bleach kraft pulp mills, and a Montana bleach kraft pulp mill, all of which discharge into the Columbia River drainage system.

The DEQ claims on p. 14 of its August 29, 1989 staff report that "significant quantities" of 2,3,7,8-TCDD are produced in forest fires. While I have never seen published or unpublished papers demonstrating this (the "God makes dioxin" school of thought long

promoted by Dow Chemical Company), the extensive slashburning of forests in Oregon would constitute a source of dioxin in the Columbia River which would exacerbate the consequences of dioxin-dumping by bleach kraft pulp mills.

What is the significance of this? Simply that the "Columbia River TCDD Analysis" prepared by DEQ for the EQC is scientifically absurd. The EQC needs to pause and request preparation of a sound, publicly reviewable document regarding the likely picture of dioxin and organochlorine contamination of the Columbia River. It is essential prior to exercising informed judgment regarding the likelihood that the addition of a new 2,3,7,8-TCDD discharge source will not violate the Oregon water quality standard for 2,3,7,8-TCDD.

It is of interest that construction of a \$1.3 billion pulp mill near Athabasca, Alberta was recently postponed pending public hearings that "will consider the cumulative effect of all proposed and existing pulp mills on the Peace-Athabasca river system."⁹ The Alberta Environment Minister is hoping to provide the farming community adjacent to the proposed mill site with \$50,000 so that they can effectively participate in the extensive public hearings (a court reporter has been booked for 20 days).

**FOOD CHAIN CONTAMINATION, NOT WATER CONTAMINATION,
IS THE MAJOR BASIS FOR THE EPA WATER QUALITY CRITERION**

In its publication, Ambient Water Quality Criteria for 2,3,7,8-Tetrachlorodibenzo-p-Dioxin, the EPA notes, "Approximately 94.2% of the 2,3,7,8-TCDD exposure results from the consumption of aquatic organisms which exhibit an average bioconcentration potential of 5000-fold. The remaining 5.8% of 2,3,7,8-TCDD exposure results from drinking water."¹⁰

In other words, the real reason the Columbia River is out of compliance with the water quality standard for 2,3,7,8-TCDD is not because of the ambient water concentration of 2,3,7,8-TCDD, but because of the food chain contamination. Moreover, the findings of the Duluth EPA office study that fish may concentrate 2,3,7,8-TCDD up to 159,000 times (rather than the 5,000 times assumed in calculating the 0.013 ppq water quality standard) means that the criterion is inadequate to prevent more than one

⁹ Helm, Richard. "Pulp project on hold till impact assessed," The Edmonton Journal, August 26, 1989.

¹⁰ U.S. Environmental Protection Agency. 1984. Ambient water quality criteria for 2,3,7,8-tetrachlorodibenzo-p-dioxin.

cancer for every million people exposed to the "compliance" concentration 2,3,7,8-TCDD.

Likewise, the recent findings by Canadian and U.S. federal agencies that milk in bleached paper milk cartons is (and, by extension, has long been) contaminated with 2,3,7,8-TCDD shows the inadequacy of calculating a water quality standard as if fish and Columbia River water were the only significant source of exposure for Oregonians.

Because food chain contamination will continue from the stores of 2,3,7,8-TCDD in Columbia river sediments, particulate matter, and organisms, the hoped-for reduction in Columbia River pulp mill discharges to 10 ppq 2,3,7,8-TCDD in bleach plant effluent will not rapidly bring the Columbia River, now estimated by the DEQ in its Columbia River TCDD analysis to be at least seven times over compliance, into compliance.

The EQC has a responsibility to be accountable to the extensive scientific evidence regarding the decades-long persistence of the organochlorine 2,3,7,8-TCDD and its longterm bioaccumulation in the food chain when judging the likelihood of the DEQ's scenario that the Columbia River will, with the addition of the WTD mill, be in compliance with the water quality criterion, which criterion is based on food chain contamination by the world's most toxic known organochlorine.

TCDD DOES NOT EXERT ITS TOXICITY IN ISOLATION FROM OTHER ORGANOCHLORINES

I have earlier mentioned the 1988 Army Corps of Engineers study of bald eagles in the lower Columbia River in which DDE, PCBs, and other organochlorines were found in the eggs and carcasses of bald eagles. Exposure to 2,3,7,8-TCDD and other dioxins, furans, and other organochlorines is cumulatively toxic. Therefore, the EQC should require the preparation of an overview of the cumulative organochlorine load in the Columbia River estuary. It is intellectually depauperate and scientifically inaccurate to assume that adding a new, "minimal" source of 2,3,7,8-TCDD will be protective of the Columbia River ecosystem and public health. This ecosystem and public health are, after all, the *raison d'etre* for water quality standards and Environmental Quality Commission overview of DEQ's permitting of private and public waste dumping into the Columbia River ecosystem.

In July 1989, the US Forest Service's falcon specialist, Joel Pagel, reported that an alarming number of peregrine falcon eggs failed to hatch this year in southern Oregon and northern

California.¹¹ Noting that DDT, hexachlorobenzene (a pesticide), dioxins, furans, and PCBs have been found in the eggs, he notes that "what we are seeing is an accumulation of background levels. It's kind of scary, but I think it's just an accumulation of what's out there."

A 1988 review of dioxin literature, funded by the American Paper Institute (the U.S. pulp and paper mill industry association and lobby group) provides an excellent review of animal studies and human studies of the effects of dioxins and furans.¹² The review notes that current evidence indicates that 2,3,7,8-TCDD (and other dioxins, furans, PCBs, and related organochlorines) may cause many of the toxic effects (cancer promotion, teratogenesis, and immunotoxicity) by a common mechanism in animal species, including humans. The process is one whereby dioxins and related compounds bind to a receptor in cells, move into the cell nucleus, and stimulate enzymes that provoke damage. The review indicates that when human cells are exposed to dioxins and furans and PCBs, these cells react in a manner similar to cells in other animals.

CONCLUSION

An overall, publicly reviewable picture needs to be prepared regarding:

(a) what we already know about the extent of organochlorine contamination of the Columbia River ecosystem;

(b) the behavior of dioxins, furans, and related organochlorines in the riparian environment;

(c) the likelihood that a new source of waste dioxins and furans will allow the river ecosystem to be in compliance with the 2,3,7,8-TCDD standard; and

(d) cumulative impacts to be reasonably expected from the general organochlorine load in the Columbia River ecosystem.

It is not acceptable to release an absurd scenario like the

¹¹ Earnard, Jeff. "Birds' failure to hatch alarming." The Register-Guard, July 26, 1989.

¹² Human health aspects of environmental exposure to polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans. June 1988. Report of the Ad Hoc Panel on Health Aspects of Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans. Bethesda, MD: Universities Associated for Research and Education in Pathology, Inc.

DEQ's Columbia River TCDD Analysis and then, on the basis of such absurdity, assume that a new bleach kraft mill and an expanded bleach kraft mill will be compatible with significant reduction in the current level of 2,3,7,8-TCDD contamination of the Columbia River sediments, water, and food chain.

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

NORTHWEST COALITION FOR)
ALTERNATIVES TO PESTICIDES)
Petitioners)

) PETITION FOR POSTPONEMENT
) OF EQC DECISION REGARDING
) CONSTRUCTION OF PROPOSED
) WTD PULP MILL
) NEAR CLATSKANIE
)
)
)
)
)

INTRODUCTION

Petitioner, the Northwest Coalition for Alternatives to Pesticides, requests that if the Department of Environmental Quality's recommended policy direction is not denied outright at this meeting then any other decision on the matter be postponed. Such postponement is supported by sound policy considerations. Additionally, the Oregon Administrative Act requires that agency rulemaking such as this be conducted with the necessary rulemaking notice and comment periods, a procedure not followed by the commission. Therefore, it would be improper for the EQC to adopt the proposed policy at this meeting. Alternatively, even if adequate notice was given, N.C.A.P. requests the mandatory postponement period of 10 to 90 days to comment prior to the adoption of any policy direction.

I. POLICY CONSIDERATIONS SUPPORT POSTPONEMENT

The Federal Environmental Protection Agency has determined from extrapolating ~~epidemiological~~ studies done on fish that ambient concentrations of TCDD in the Columbia exceed the levels

determined ^{acceptable} ~~safe~~ for human contact. The scientific community continues to support the EPA's findings. Dioxin is not a substance which will eventually flush out of an aquatic or riparian habitat, unlike sediments or fecal coliform. TCDDs bioaccumulate in the tissue of vertebrates. This means the effects of releasing even minute quantities now may result in magnified and destructive effects years later. For example, DDT, outlawed over ten years ago is still causing toxic trauma in raptors and other predatory species today.

Further, The federal Fish and Wildlife Service has urged the Army Corp of Engineers to compile a full EIS under NEPA to establish the effects of the wetlands destruction and the adequacy of the mitigation efforts, citing potential conflicts under the Endangered Species Act as to the habitat destruction of the endangered white tailed deer and bald eagle. Such a process may take one or more years to complete.

Other issues, including effects of dioxin on anadromous fisheries, recreation, and subsequent tourism, are in themselves substantial reasons to carefully consider the wisdom of allowing yet another pulp mill to be constructed on the Columbia.

II. THE EQC HAS FAILED TO MEET THE NECESSARY NOTICE AND COMMENT REQUIREMENTS OF THE OREGON ADMINISTRATIVE PROCEDURES ACT

The EQC has not employed the procedures required by the Oregon APA, and so cannot adopt any policy at this meeting. The decision made by the commission must be necessarily characterized

as either a rulemaking or adjudicative proceeding. The request for action submitted by the DEQ clearly shows the rule-making and policy nature of the matter before the EQC. The normal notice and comment requirements for rulemaking have not been followed, however, so no policy directions can be adopted by the EQC at this time. Further, even if the decision were characterized as being adjudicative, it would involve the formal contested case procedures required by the Oregon APA. Those procedures have not been met, so no adjudicative decisions can be made at this meeting.

The decision before the EQC is clearly rulemaking, and clearly not adjudicative as it fails to comply with the criteria established under ORS 183.310.

Pursuant to ORS 183.335 petitioners request postponement of approval until adequate notice and comment under the rulemaking procedures is formally recognized.

The Oregon APA defines a rule as:

"any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice of any agency." ORS 183.310(8).

The DEQ itself has requested that the commission approve a policy decision, i.e. enabling the department to proceed with a permit process even in the face of violating the water quality limited regulations it imposed upon itself. See OAR 340-41-026(3).

Consequently, the Commission must:

"[p]rior to the adoption, amendment or repeal of any rule. . . give notice of its intended action." ORS 183.335(1).

III. EVEN IF ADEQUATE NOTICE AND COMMENT WAS PROVIDED PETITIONER REQUESTS A MANDATORY POSTPONEMENT

If the Commission maintains that it gave notice as required subsection (4) of ORS 183.335 states that:

"[u]pon request of an interested person received within 15 days after agency notice pursuant to subsection (1) of this section, the agency shall postpone the date of its intended action no less than 10 nor more than 90 days in order to allow the requesting person an opportunity to submit data, views or arguments concerning the proposed action."

N.C.A.P. requests such a postponement so that it may address in greater depth the variety of serious objections to the proposed mill construction and allow the EQC additional time to assimilate the available factual data and formulate a comprehensive state policy regarding the release of dioxin in Oregon.

IV. THERE IS NO REASON TO MAKE A DECISION AT THIS TIME

Granting the requested postponement will not significantly slow the construction of the plant, should it ultimately be approved, since no construction can begin until several other agencies complete studies of the plant and its impacts, and decide whether to grant necessary permits. As these agencies study the proposed plant, new information will become available to the EQC regarding effects of dioxin on the environment. For

example, the pending environmental assessment or environmental impact statement from the Army Corps of Engineers will take time to complete, and several groups have already insisted that the agency prepare a full EIS.

The EQC should not allow itself to be rushed into making such an important decision as this. Oregon's economic and public health demand at the very least a postponement of the approval process to allow further review and consideration of the proposal.

V. CONCLUSION

While the public has been given a chance to comment on the proposed mill, it has not been given access to information which would allow it to respond responsibly. The Commission has a duty to provide the public with the relevant data necessary to make a balanced and informed decision. In order to provide such information, the EQC must demand more information from the DEQ as to how much TCDD will be released from the new pulp process proposed by WTD, how much of the Columbia is now actually in violation of the current TCDD water quality standards, and how long that violation will persist given the nature of the bioaccumulation of dioxins by fish. Until adequate information is available on these and related topics, it would be improper and illegal for the EQC to set a policy allowing construction of pulp mills which will release dioxin into the Columbia.

available to the EQC, it is clear that the EQC cannot properly make these findings.

A. First Finding

The first required finding, OAR 340-41-026(3)(a)(A), requires that prior to allowing construction of a new facility which would cause an increased stream load, the Commission or the director must first find that "the new or increased discharge load would not cause water quality standards to be violated."

The EQC cannot properly reach this required finding and therefore should not authorize the DEQ to consider the requested permit. The DEQ, in offering its rationale in its first alternative proposal, clearly admitted that "[b]ased on available information from the EPA 104-mill study and best professional judgment in interpreting and applying results with respect to the bleached kraft mills discharging to the Columbia, TCDD levels in the Columbia River probably exceed the EPA Water Quality Criteria/EQC standard for TCDD." EQC Request For Action, July 21, 1989, pg. 4. As a result, portions of the river are deemed by the DEQ to be in violation as exceeding its water quality standards for TCDD.

Because the DEQ has already listed portions of the Columbia River as exceeding its water quality standard for TCDD, the addition of this plant will not cause the Columbia to go from a condition from nonviolation to a condition of violation, because the river is already in noncompliance. This plant will be part of the cause of a violation of water quality standards in the

Columbia River. This directly contradicts the required finding. Permitting another pulp mill to discharge additional TCDD, because the river already exceeds its permissible level for TCDD is a gross violation of common sense and sound public policy. The violation still remains and the threat to public health will have been worsened.

There can be no doubt about the current violation of water quality standards for TCDD. In spite of this, the DEQ report by Jerry Turnbaugh attempts to cast doubt on this situation. It does this by directing the Commission's attention to the scientific inability to detect TCDDs at the extremely low pollution level at which a violation occurs, and downplaying the significance of the discovery of TCDD in fish tissue. The report merely notes in passing that "TCDD has been found in fish tissue taken from the river." Turnbaugh memo of July 17, 1989, page D-2. The memo fails to point out that the contamination of fish tissue is ^{one method} ~~precisely the accepted EPA methodology~~ for determining the level of TCDD water pollution. This is especially important because the contamination of fish tissue is the major basis of the EPA 2,3,7,8-TCDD water quality criterion.

TCDD will not be readily reduced upon reduction in 2,3,7,8-TCDD being released from Columbia River bleach kraft mills. The bioaccumulation of TCDD in fish is a function of the longterm availability of TCDD persistent in river sediments and the ecosystem's foodchain. The Columbia River will remain water

quality limited (in terms of availability of TCDD for contamination of fish) for an undiscussed length of time.

Approximately 94.2% of human exposure 2,3,7,8-TCDD results from the consumption of aquatic organisms which exhibit an average bioconcentration potential of 5000-fold; the remaining exposure is from drinking water. Environmental Protection Agency, Ambient Water Quality Criteria for 2,3,7,8-Tetrachlorodibenzo-P-Dioxin, pg. 181. A recent EPA study conducted in Minnesota shows the bioconcentration potential of TCDD to be 66,000 for carp and 97,000 and 159,000 for fathead minnows for varying concentrations. Memo from Philip M. Cook, Chief Hazardous Research Branch, to Jim Cummings, Office of Assistant to the Administrative for Solid Waste and Emergency Response, Environmental Protection Agency, 2,3,7,8-TCDD in Aquatic Environments, Feb. 4, 1987. These higher bioconcentrations render the EPA Water Quality Criterion inadequate to protect human health at the level stated.

B. Second Finding

The second required finding under OAR 340-41-026(3)(a)(B) is that "new or increased discharged load would not threaten or impair any recognized beneficial uses."

Because there is no recognized safe concentration for a human carcinogen, the recommended concentration of 2,3,7,8-TCDD in water, for the causation of one cancer in a million exposed humans is 0.0013 parts per quadrillion (ppq). This number is largely based on consumption of fish since this is the

predominant route of exposure for humans. However, the study conducted by the EPA in Minnesota suggests that even this value may underestimate the health risks of TCDD exposure.

Given the extreme toxicity of TCDD, any new or increased discharge will certainly threaten and impair many beneficial uses of the Columbia. Many fish are taken from the river. The bioaccumulation of TCDD in fish will have a devastating impact on the fisheries industries. Fish have already been found to be contaminated with TCDD, and the addition of more TCDD to the water will not only contaminate additional fish, but increase levels of TCDD in fish already contaminated.

DEQ, in an interoffice memorandum from Jerry Turnbaugh to the EQC, dated July 17, states that "based on information from the applicant, the effluent from the proposed mill meets water quality standards outside a 400 foot mixing zone with the possible exception of TCDD." (emphasis added). The main reason for this uncertainty is that no testing for TCDD has been conducted in the vicinity of the proposed plant site.

Such uncertainty on the part of the DEQ does not satisfy the finding requirement that no threat or impairment to beneficial uses could occur. In fact, the mere presence of trace amounts of a substance as toxic as TCDD in itself, is a threat to aquatic organisms. The lowest dose of 2,3,7,8-TCDD ever tested on aquatic organisms (i.e., 38 ppq on fingerling trout) resulted in significantly increased mortality and abnormal behavior and in decreased growth. Mehrle, Paul M., et. al. 1987. Toxicity in

Bioconcentration of 2,3,7,8-tetrachlorodibenzodioxin and 2,3,7,8-tetra chlorodibenzofuran in Rainbow Trout. *Envt. Tox. J. and Chem.* 27. pg. 47-62. The DEQ has offered no finding of any level of 2,3,7,8-TCDD exposure that does not threaten the survival or functions of aquatic organisms. Likewise, 2,3,7,8-TCDD has caused cancer, (Kociba R.J., et. al. 1978. Results of Two Year Chronic Toxicity and Oncogenicity Study on 2,3,7,8-tetrachloradibenzo-P-dioxin in Rats. *Toxicology Applied Pharmacology*, Vol. 46. pg. 279-303), reproductive effects (Murray, F.J, et.al. 1979. Three Generations Reproductive Study of Rats given 2,3,7,8 tetrachloradibenzo-P-dioxin (TCDD) in the Diet, *Toxicology Applied Pharmacology*, Vol. 46. pg 279-303) and immune system effects (Nagarkatti, P.S., et. al. 1984. Sensitivity to Suppression Cytotoxic T-cell Generation by 2,3,7,8 tetrachloradibenzo-P-dioxin (TCDD) is Dependent on ^{Ah}~~Ah~~ Genotype Murine Host. *Toxicology and Applied Pharmacology*. Vol. 72, pg 159-176) in laboratory animals at the lowest doses ever tested, one part per trillion.

C. Third Finding

The third required finding under subsection OAR 340-41-026(3)(a)(C) is that "new or increased discharged load shall not be granted if the receiving stream is classified as being water quality limited unless the pollutant parameters associated with the proposed discharge are unrelated either directly or indirectly to the parameter(s) causing the receiving stream to be water quality limited."

The DEQ again admits its uncertainty by stating in its findings that the "Port Westward mill will be using state of the art production processes that should minimize the formation of TCDD and a denial of the permit on the basis that some small amount of TCDD will be discharged may be unwarranted because of the uncertainty as to whether the Columbia River is actually water quality limited with respect to TCDD." Interoffice Memorandum from Jerry Turnbaugh to EQC, July 17, 1989. (emphasis added). The DEQ has classified the river as water quality limited with regard to levels of TCDD allowed.

At this time, DEQ admits that "because the mill bleaching process is different from other Oregon bleached-kraft mills, it is not known to what extent dioxin will be produced." Oregon Department of Environmental Quality, Draft of Public Hearing Notice, July 6, 1989. The recently amended regulations require no additional loading if the receiving stream is classified as water quality limited. The Department, nevertheless, strongly urges that the Commission approve the construction of the WTD pulp mill along with its inevitable outflow of dioxin into the Columbia River. Such a request clearly defies EQC's guidance that it avoid both cumulative and new source discharges of pollutants which cause the receiving stream to be water quality limited in the first place. The Agency must, according to its own procedure, assure the public that the receiving stream can adjust to increased toxicity loads without adverse affects to the human, riparian, and benthic environments.

Therefore, until the Agency can demonstrate the present levels of TCDD are in compliance with the current water quality limited standard established, the introduction of any new source, no matter how technologically streamlined should be flatly prohibited. DEQ's own uncertainty on this issue underscores the need to postpone the granting of the WTD request.

II. A MORE RESTRICTIVE STANDARD SHOULD BE APPLIED TO TCDD POLLUTION

Even though the river is not in compliance with existing TCDD standards, an even more restrictive standard should be adopted. According to the Oregon Administrative Rules, levels of toxic substances shall not exceed the most recent published criteria values for organic and inorganic pollutants established by EPA and published in "Quality Criteria for Water," which are presented in Table 20. Table 20 list the Water Quality Criteria for 2,3,7,8 -TCDD (Dioxin) as 0.000013 ng for water and fish ingestion and 0.000014 ng for fish consumption only. OAR 340-41-205(2)(p)(B) (1987). This standard is already being violated.

The existing standards for TCDD should be made more restrictive. OAR states "[t]he criteria in paragraph (B) of this subsection shall apply unless data from scientifically valid studies demonstrate that the most sensitive designated beneficial uses will not be adversely affected by exceeding a criterion or that a more restrictive criterion is warranted to protect

beneficial uses, as accepted by the Department on a site specific basis." OAR 340-41-205(2)(p)(C) (1987).

III. THE PROPOSED WTD PLANT MAY VIOLATE THE ENDANGERED SPECIES ACT

The proposed project site for the WTD Industries, Inc. bleached kraft pulp mill (WTD mill) contains sensitive wetlands habitat for a variety of wildlife. According to the Fish and Wildlife Service, bald eagles and perhaps the Columbian white-tailed deer, are present adjacent to the site.

The Environmental Quality Commission must follow the mandate of the Endangered Species Act (the Act). The Act is directly applicable to state governments as well as the federal government. The Act provides that any person may bring a civil suit to enjoin the United States or any other governmental agency which is in violation of any provision of the act or any regulations issued under the authority of the Act. [16 U.S.C. sec. 1540(g)(1)(A) (1982)].

The authorization of dioxin effluent discharge from the WTD Mill may violate the Endangered Species Act. The Endangered Species Act prohibits the "taking" of any endangered species [16 U.S.C. sec. 1538(a)(1)(B)]. The term "taking" is defined broadly to include "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" 16 u.s.c. 1532(19) (1982).

Any dioxins discharged into the Columbia River will combine with the already high concentrations of DDE and PCB's in the bald eagles to cause further reductions in the viability of the Lower Columbia River bald eagle population. The dioxins will exacerbate the current eggshell thinning and low reproductive success of the bald eagles. In a 1988 report, the Army Corps of Engineers concluded that DDE and PCB's found in nestling eagles were probably acquired from prey from the river ecosystem. "Ecology of Bald Eagles on the Lower Columbia River", Army Corps of Engineers, Portland District, Aug. 1, 1988. The Environmental Quality Commission must not authorize the WTD Mill permit because the nestling eagles will acquire the dioxins discharged from the mill in the same manner by which they acquired the DDE and PCB's. The resulting contamination is clearly the type of harm that falls within the Endangered Species Act's prohibition against "taking".

WTD

INDUSTRIES INC.

September 8, 1989

Testimony on the Port Westward Pulp Load Application

Thank you for the opportunity to testify before you today. My name is David Walseth and I am the Pulp Mill Project Manager for WTD Industries. Upon completion of the mill, I will be the plant manager in charge of day-to-day operations at the mill.

I come before you today to testify in favor of the load application that is before you concerning the proposed Port Westward mill. As you may recall, I also testified before you in July. I will not repeat that testimony here. Instead, I will focus on how the issues that were identified at the July meeting have been resolved. In light of these developments, we urge the Commission to immediately approve the Port Westward Pulp load application.

In our view, the six conditions identified by DEQ in its July 21 staff report essentially reflect four basic concerns, all of which were seconded by the Commission in July. First, DEQ was concerned that there be a strategy in place amongst the relevant governmental agencies (EPA, DEQ and the Washington Department of Ecology (DOE)) to address the perceived water quality standard violation for dioxin in the Columbia River and to deal with any permitting issues arising prior to the achievement of compliance

WTD Testimony - September 8, 1989

with the relevant standard. This concern was reflected in conditions 2e and 2f in the staff report. Second, DEQ wanted to be assured that WTD mill will be designed to minimize the production of TCDD and other chlorinated organic compounds to the greatest extent practicable. This concern was reflected in conditions 2a and 2b. Third, condition 2c reflects DEQ's concern that WTD commit to installing such further modifications as may become necessary in order to meet its wasteload allocation (WLA) within three years after the imposition of such WLA by EPA and DEQ. And finally, condition 2d reflects DEQ's concern that WTD join with the rest of industry in implementing a research and development program to develop additional means for reducing TCDD in the mill effluent.

With regard to the first concern, I would first like to point out my understanding that Robert Burd is here today from EPA Region X. Mr. Burd is the Director of the Water Division for EPA in this region. I understand that Mr. Burd is prepared to answer any questions that you may have as to the development of the strategy by EPA, DEQ and DOE. While I will generally defer to Mr. Burd in this area, I would like to outline our understanding that the three agencies have agreed upon a strategy under which mills, including Port Westward, may be issued permits or, in most cases, permit modifications which contain reopeners allowing for the imposition of more stringent load allocations once EPA develops the "total maximum daily load" (TMDL) for

WTD Testimony - September 8, 1989

dioxin in the Columbia River and determines the necessary WLAs for each mill in order to meet the TMDL.

Additionally, contrary to the statement on page 3 of the addendum to the July 21 staff report, it is our understanding that DOE has agreed to impose a 10 parts per quadrillion (ppq) standard for TCDD in the bleach plant flows, not the total plant flows. I believe that Mr. Burd can confirm this. If this is true, it indicates that, for modeling purposes, the relevant scenario should be Scenario III, as set forth in Attachment D to DEQ's staff report. Most significantly, this scenario indicates that, even including the proposed Port Westward and Pope & Talbot discharges, the total TCDD load to the river will be at only 58 percent of the theoretical river capacity once these permit conditions are imposed. Thus, according to the indication from the preliminary modeling results, there will be room within the even the current highly conservative water quality standard for the Port Westward discharge and, as such, the discharge will not cause a water quality standard violation.

In line with the above, we believe that a strategy is in place that will (1) lead to the attainment of water quality standards for dioxin in the Columbia River, and (2) leave room within the standards to the WTD discharge (and other new discharges or expansions). We believe that this strategy satisfies conditions 2e and 2f of the July 21, 1989 EQC staff report.

WTD Testimony - September 8, 1989

We also believe that we have satisfied conditions 2a through 2d of the earlier staff report. As indicated in DEQ's addendum to the staff report, WTD has provided DEQ with a draft copy of an engineering analysis for their review which demonstrates that Port Westward will use the "highest and best practicable" control technology to minimize the formation of TCDD and other chlororganic compounds. Moreover, the Department has added to the proposed permit a discharge limit for dioxin of 2 ppq in the total plant effluent. This is equal to 3.2 ppq in the bleach plant effluent, which is substantially below the 10 ppq standard that DEQ and EPA have used for modeling purposes.

Additionally, DEQ has inserted in the proposed permit a new requirement for total chlororganic compounds (measured as "adsorbable organic halides" or "AOX") of 4.0 lb per air dried short ton of pulp produced. The Department acknowledges that this limit represents "best practices" control of dioxin, since it can be expected that the same chemical processes that produce AOX also produce TCDD. In our view, this acknowledgement indicates the Department's agreement that WTD has met conditions 2a and 2b.

Regarding conditions 2c and 2d, WTD has committed to make whatever process modifications may be required to meet the Port Westward TCDD wasteload allocation and to support national dioxin research efforts by the pulp and paper industry. We believe that these commitments satisfy the relevant conditions.

WTD Testimony - September 8, 1989

In closing, the proposed discharge that you were asked to approve in July was subject to the most stringent requirements ever required for any bleached kraft pulp mill in the United States. From the outset, WTD has been willing to meet every legal requirement and in some areas has agreed to go beyond what the law requires to meet DEQ's concerns in this environmentally sensitive area. Most significantly, we have not challenge the very stringent water quality standard that is being applied to us despite the fact that we believe it to be insupportably stringent. The above steps taken and commitments made in response to the July 21 meeting further demonstrate WTD's firm resolve to address all legitimate concerns regarding the proposed NPDES discharge.

We believe that WTD has done all it can do to satisfy the concerns expressed by the Commission at the July meeting. We further believe that we have been successful in resolving these issues, and that a favorable decision can and should be made today. With these points in mind, we urge the Commission to immediately approve the proposed discharge. We underscore this request by pointing out our belief that this mill represents a "best case" scenario for any additional pulp mills in the Columbia River basin. The approval of this state-of-the-art mill will represent a new era in environmental control and water quality management in the Columbia River.

WTD Testimony - September 8, 1989

Thank you for this opportunity to testify. We would be pleased to answer any questions the Commission may have.

DATE: August 30, 1989

TO:

Division Administrators

**FISCAL AND ECONOMIC IMPACT OF PROPOSED GROUNDWATER
QUALITY PROTECTION RULES**

Introduction

Adoption and implementation of the proposed groundwater quality protection rules will result in increased costs to the Water Quality program and may result in increased costs to local governments, small and large businesses, industries, private and public utilities, and individuals. Specifically, increased costs may be incurred for:

- Groundwater monitoring;
- Hydrogeologic assessments needed for setting concentration limits;
- Providing data for the purpose of obtaining concentration limit variances;
- Capital construction improvements and other operating costs associated with protecting groundwater quality;
- Remediation of contaminated groundwater.

Requirements

The proposed regulations would require permitted facilities which may potentially degrade groundwater quality to monitor the groundwater quality and report the results to the Department. The types of facilities that may be required to conduct groundwater monitoring as a condition of a permit include sewage treatment plants that employ surface impoundments, lagoons, or infiltration beds, industrial facilities which use surface impoundments, facilities which dispose of waste water through land application

techniques, mining operations which physically disturb groundwater or employ heap leach methods of metals extraction, solid waste landfills.

Prior to issuing a new permit or to renewing or modifying an existing permit, the Department will evaluate the facility's potential to contaminate groundwater. Based on this evaluation the facility may be required to conduct regular groundwater monitoring as a condition of the permit.

In addition to monitoring and reporting requirements, the permit will specify concentration limits for contaminants of concern. Information characterizing the hydrogeology at the facility location (such as the direction of groundwater flow and the quality of the groundwater upgradient and downgradient of the existing or proposed facility) will be required to be submitted to the Department before such concentration limits may be established.

A permittee or permit applicant has the option to apply for a variance to the above mentioned permit-specific concentration limit if that limit is considered unattainable or infeasible. Should a permitted facility desire to obtain a concentration limit variance, it will have the burden of proving to the Director of the EQC that the concentration limit variance will be protective of human health and the environment. Such proof will include characterizing the contaminant of concern and the site's hydrology, examining current and future uses of the groundwater, and considering the comparative feasibility and cost of obtaining the permit-specific concentration limit.

The proposed regulations would also require that certain steps be taken in the event that groundwater contamination exceeds allowable limits at the facility compliance point. Such steps would include requiring the facility to perform a preliminary assessment of the contamination problem, and might lead to a remedial investigation, feasibility study, and selection of remedial action.

Costs

The fiscal and economic impacts cannot be fully defined until actions are taken to comply with the rules. There will be an immediate cost to achieve compliance with the rules. The cost incurred by individual private and public facilities through permit-specific groundwater protection requirements will vary considerably depending on a number of site-specific factors such as:

- The number and depth of monitoring wells needed;
- Method of drilling employed and level of safety needed for the drilling & installation of the wells;

- Types of materials used to construct the monitoring wells;
- The driller and whether or not a consulting geologist or engineer is needed;
- Complexity of geology;
- Types of contaminants to be analyzed;
- Information already available on the site;
- Types of capital construction improvements required;
- Degree of remedial action needed.

Depending on the different factors listed above, the cost to a facility to comply with the groundwater quality protection program in the proposed rules could range from \$4,000 to \$25,000 per facility if a minimum of 3 or 4 monitoring wells are drilled and installed at depths between ten and fifty feet. Costs will increase with the depth and number of wells and the level of safety called for at each site as well as with the type of quality analysis required. Information is not available on the total number of new or existing sites which may require groundwater quality monitoring at this time. In addition, the costs associated with ongoing monitoring will vary considerably depending on the parameters of concern, the number of wells and the frequency of monitoring. Estimated costs per sample may range from \$35 to \$1200 each.

Costs associated with remedial investigations, feasibility studies, and the selection & implementation of remedial actions can be substantial and will vary widely from site to site. Costs will vary for cleanup activities based on the nature and extent of contamination at individual sites, the potential public health or environmental hazards, the degree of cleanup, the technologies available, and the need for long term operation and maintenance.

The total cost estimates for cleanup activities cannot be determined because information is not available on the number of sites state wide. In addition, cleanup costs at even one site may vary dramatically depending on a large number of factors such as the level of cleanup selected and other considerations given during the complex process of groundwater pollution abatement. The cleanup costs at state superfund sites are estimated to range from \$50,000 to \$2 million, with an average cost of approximately \$500,000. While there are fundamental differences between the cleanup requirements in these rules and those adopted under the authority of SB 122, these figures may be considered representative of costs associated with remedial actions required through these rules.

The cost of implementing the proposed rules to the Department's Water Quality program will include staff time spent reviewing permits and groundwater monitoring data for compliance with the rules, evaluating the adequacy of groundwater quality protection plans, and preparing recommendations and staff reports for the Director and the Environmental Quality Commission. While the

precise workload is difficult to gauge, it is estimated that two full time equivalent staff members will be needed to fulfill the Department's requirements. The approximate cost for maintaining two full time equivalent staff members is \$100,000 per year.

Table 1 summarizes the possible fiscal impacts to state and local governments, the general public, small and large businesses. In it, the following questions are considered: Who is impacted? How are they impacted? Where are they impacted?

TABLE 1

SUMMARY OF POSSIBLE FISCAL IMPACTS

WHO?	HOW?	WHERE?
State Government	Operating expenses-Direct	Cash Outlays-Ongoing
Local Government	Operating expenses-Direct Capital Investments in facilities-Direct	Cash Outlays-Ongoing Cash Outlays-Ongoing
General Public	Rate Increases-Indirect Price Increases-Indirect Tax Increases-Indirect	Cash Outlays-Ongoing Cash Outlays-Ongoing Cash Outlays-Annual
Small Business	Increased Operating expenses-Indirect Capital Investments in facilities-Direct	Cash Outlays-Ongoing Cash Outlays-Ongoing
Large Business	Increased Operating expenses-Indirect Capital Investments in facilities-Direct	Cash Outlays-Ongoing Cash Outlays-Ongoing

Benefits

The benefits provided through the implementation of these proposed groundwater quality protection rules are enhanced protection of groundwater for drinking water supply and other beneficial uses. The baseline information garnered from the hydrogeologic assessment activities is of benefit to both the public and private sectors when it becomes public information. Such information is valuable to planners, developers, consultants, investors, regulators, and many others who may have a vested interest in property values or resource management.

Through groundwater quality monitoring, facilities are able to promptly detect the release of contaminants, thus enabling them to quickly take corrective action and employ early treatment and cleanup efforts before a major pollution problem results. The savings to private industry and the public in remedial action and court costs alone could be enormous. By preventing contamination from occurring, the beneficial use of groundwater will remain unimpaired, consequently saving potentially responsible parties the cost of providing alternative sources of water to the affected users.

Conclusion

The proposed rules would require facilities to minimize their impacts on groundwater quality through the use of highest and best practicable technology as well as monitoring and reporting specifications. While the initial cost to comply with the rules will undoubtedly result in increased costs to local governments, small and large businesses, industries, private and public utilities, and individuals, the immediate and long-term economic benefits of protecting groundwater and its beneficial uses are beyond measure.

Public comment on any fiscal and economic impact is welcome and may be submitted in the same manner as indicated for testimony on this notice.

POPE & TALBOT

HALSEY MILL

EQC/DEQ VISIT

- I. INTRODUCTIONS**
Pope & Talbot
James River
- William Frohnmayer
Walt Sinclair
- Charles Warren
- II. PROJECT SCOPE**
- Products
- Process
- Technology
- Roger Campbell
- Dan Williamson
- III. ENVIRONMENTAL IMPACTS**
- Characteristics
- Color
- Dioxin/Chlororganics
- Roger Campbell
- IV. TOUR**
- Kraft Mill
- Tissue Mill
- Art Vosburg
- Ed Kroll

WHO IS POPE & TALBOT?

- . **A diversified wood products, pulp & paper company.**
- . **Traded on the NYSE and listed in the Fortune 500.**
- . **Largest P/L tissue manufacturer in the U.S.**
 - . **(P/L stands for Private Label such as store brands)**
- . **Oldest wood products company in the U.S.**
- . **Founded in San Francisco in 1849 by Andrew J. Pope and Frederic Talbot.**
- . **Strictly lumber and shipping until 1963.**
- . **Diversification: Halsey in 1978, CPD in 1980.**
 - . **CPD is Consumer Products Division - Tissue & diapers.**

THE HALSEY MILL

- . **Built in 1969. Last greenfield kraft pulp mill built west of the Mississippi.**

- . **Environmentally sound.
Technologically advanced.**

- . **Major economic force in Willamette Valley.**

- . **P & T and JRC employ 800 with payroll of \$20 million.**
 - . **170 P&T employees with 70 additional after expansion.**

- . **Seventh largest taxpayer in Linn County.**
 - . **The largest taxpayer after expansion.**

- . **Multi-product capability.**
 - . **Tissue slush pulp**
 - . **Sheeted "White Gold"**
 - . **Dried pulp**

- . **Exclusive "White Gold" sheeted pulp use in newsprint manufacturing.**

EXPANSION

- . **A matter of necessity.**
 - . **Cost competition requires high production rates.**

- . **Economics of scale and newer technologies needed to remain competitive.**

- . **Worldwide demand far outstripping supply.**

- . **Largest private-sector capital project ever in Oregon - \$350 million.**

- . **Triple the mill's output.**
 - . **500 tons/day to 1500 tons/day.**

PRODUCTS

	<u>BRIGHTNESS</u>	<u>CURRENT</u>	<u>EXPANSION</u>
NEWS KRAFT - WHITE GOLD	65	60%	~30%
TISSUE KRAFT	80	40%	~10%
MARKET KRAFT	90	0	~60%

WHY BLEACH?

- . BRIGHTNESS
- . SOFTNESS
- . STRENGTH & BONDING
- . PRINTING QUALITY
DIRT & SHIVE REMOVAL

PROCESS

- I. CONVENTIONAL PULPING TO MODIFIED PULPING AND OXYGEN DELIGNIFICATION

- II. CHLORINE BLEACHING TO CHLORINE DIOXIDE SUBSTITUTION

PULPING PROCESS

- | | |
|------------------------|---|
| 1. PULPING - DIGESTION | DELIGNIFICATION |
| 2. BLEACHING | DELIGNIFICATION |
| 3. RECOVERY CYCLE | CHEMICAL RECOVERY/
ENERGY GENERATION |
| 4. LIQUOR CYCLE | CHEMICAL MAKEUP |

BLEACH CHEMICALS

	<u>PRESENT</u>	<u>O₂+ClO₂</u>
KAPPA NO.	34	19
<u>CHEMICAL USAGE</u>	<u>LBS/BDT</u>	
CHLORINE	120	48
NaOH	120	50
HYPOCHLORITE	68	--
CHLORINE DIOXIDE	--	30
TOTAL CHLORINE	188	48
TOX, Kg/ADT	3.6	1.5
COLOR, pcu	3,500	2,000

OXYGEN DELIGNIFICATION

The kraft process requires the chemical breakdown of wood chips into its components: cellulose fibers, from which pulp is the result, and lignin, which is the substance that holds the cellulose together in wood. This is done by literally pressure cooking the chips in a chemical solution until it dissolves and breaks down the lignin. The lignin and chemical solution are washed from the cellulose fibers and recovered for power generation and chemical reuse.

The efficiency of the lignin removal process is the key to pulp strength and brightness. For decades now, the pulp industry has brightened its pulp by adding chlorine to the kraft pulp just as you would add bleach to your laundry to make it whiter. But we now know this may create a problem with the formation of chloro-organics. Principally dioxin in minute amounts is one of these compounds which could be released in our effluent.

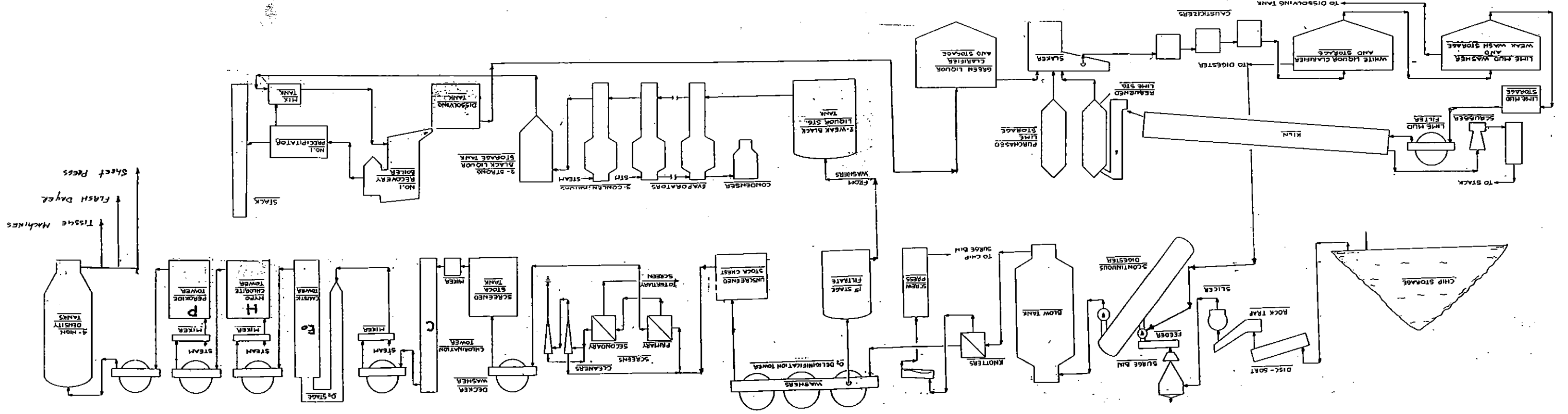
In the last few years, however, a new process has been developed that maintains strength and brightness with a minimal amount of chlorine use. It's called oxygen delignification.

With oxygen delignification, concentrated oxygen gas is added to the pulp under pressure and at high temperature to remove more of the lignin.

The major environmental benefit of this system is that more of the lignin can be recovered and destroyed by burning. It's lignin that gives effluent its color. The chlorine bleach that we use to get rid of the color is what creates the problem with chloro-organics. Oxygen delignification helps to solve both problems at one. This system lowers color concentration in the effluent. Now, substitution with other bleach chemicals will eliminate reactions with precursors in forming chloro-organics and dioxin.

The result is a cleaner pulping process and an environmentally safer mill.

EXISTING MILL



EFFLUENT CHARACTERISTICS

	<u>CURRENT</u>	<u>EXPANDED</u>
WATER MGD	14	26
COLOR pcu	3500	2000
BOD ₅ #/DAY (S/W)	2500/5000	2500/5000
TSS #/DAY	7500	7500
TOCL Kg/T	3.6	~1.5
DIOXIN ppq	30	<Below Detection>

ENVIRONMENTAL PROTECTION

- . **Dioxin**
- . **New test technology makes detection possible.**
- . **Results from chlorine use?**
 - . **Free chlorine gas at high temperature.**
- . **About 8 grams per year for total mill.**
- . **PPT range in bleached kraft pulp and sludge.**
 - . **(Parts per trillion)**
 - . **Pulp 3.0 grams/year**
 - . **Sludge 4.4 grams/year**
- . **Current Halsey level is 30 ppq in effluent.**
 - . **(Parts per quadrillion)**
- . **About 0.6 grams per year in Willamette River.**
- . **New technologies.**
 - . **Chlorine Dioxide**
 - . **Bleach without free chlorine**
 - . **Oxygen delignification**
 - . **Another pulping stage with oxygen to reduce lignin content before adding bleaching chemicals.**
- . **Cost: More than \$30 million.**
- . **Results: Dioxin reduced to non-detectable levels.**
 - . **Chloroform dramatically reduced because of substitution for chlorine.**

Figure 15 **The Effect of Chlorine Dioxide Substitution on
the Discharge of Total Organic Chlorine
(TOCl) (3)**

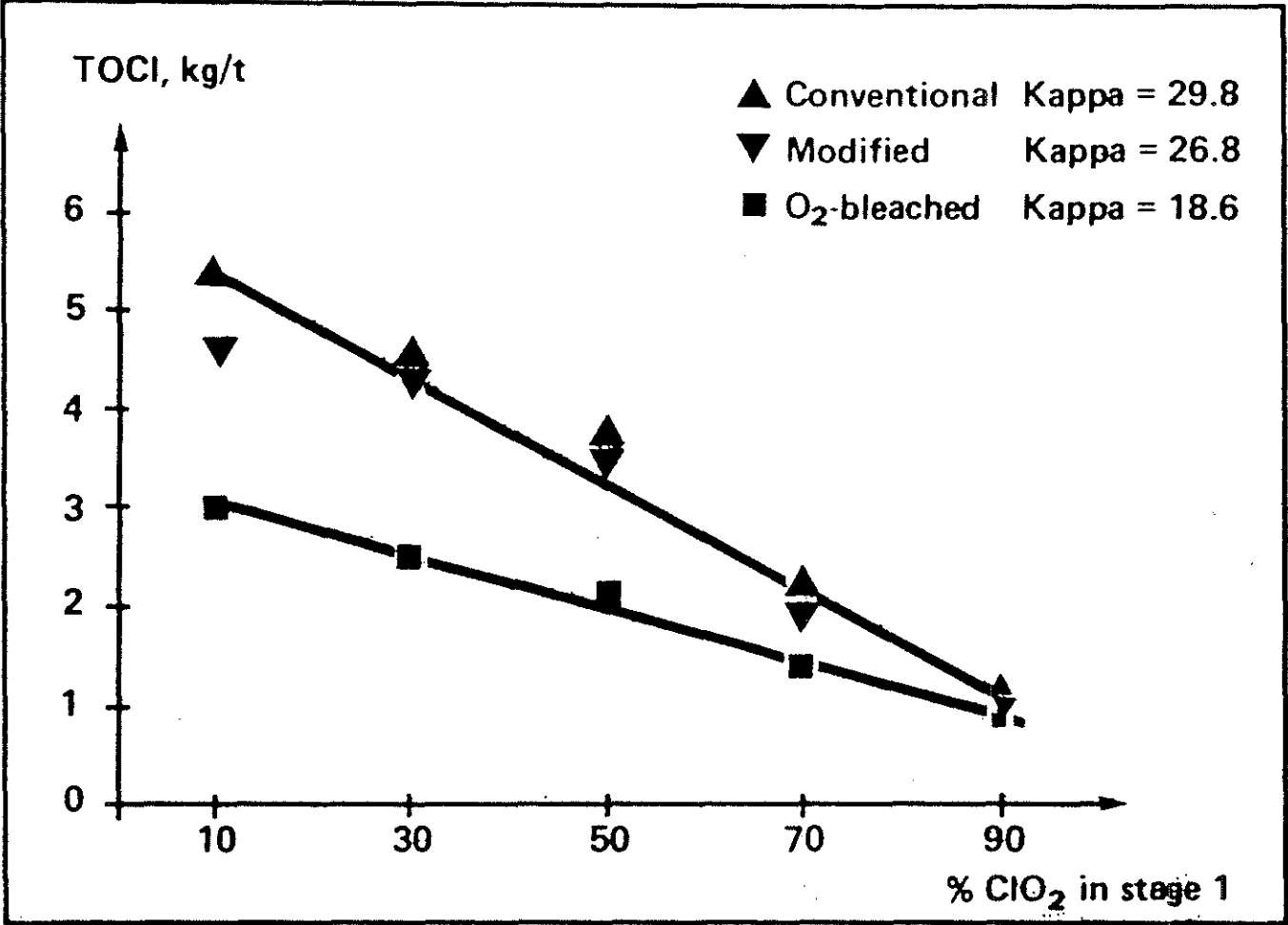
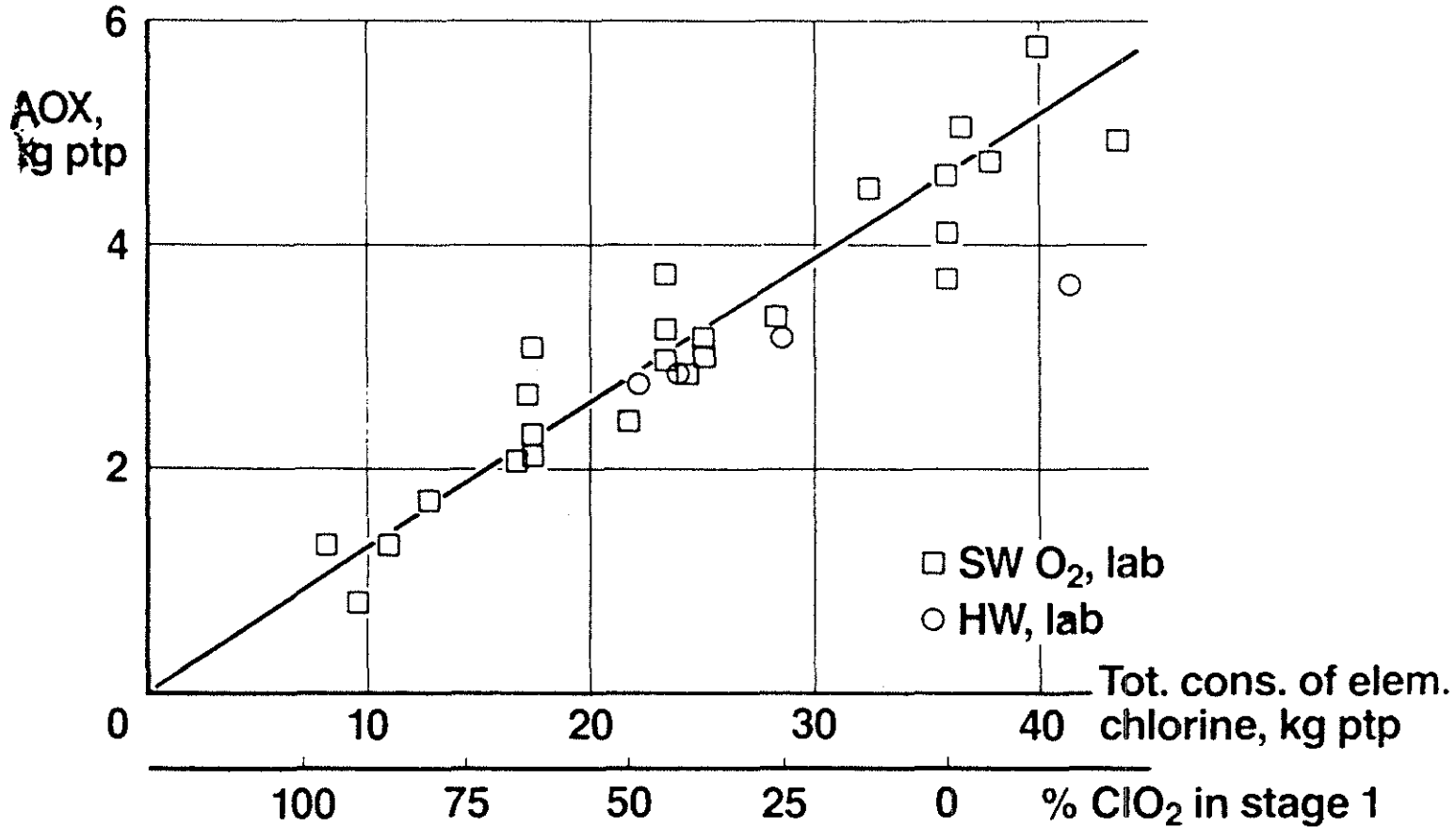


Figure 16 The Effect of Chlorine Multiple and Chlorine Dioxide Substitution on the Formation of Chlorinated Organic Compounds (AOX) (10)

AOX vs total chlorine



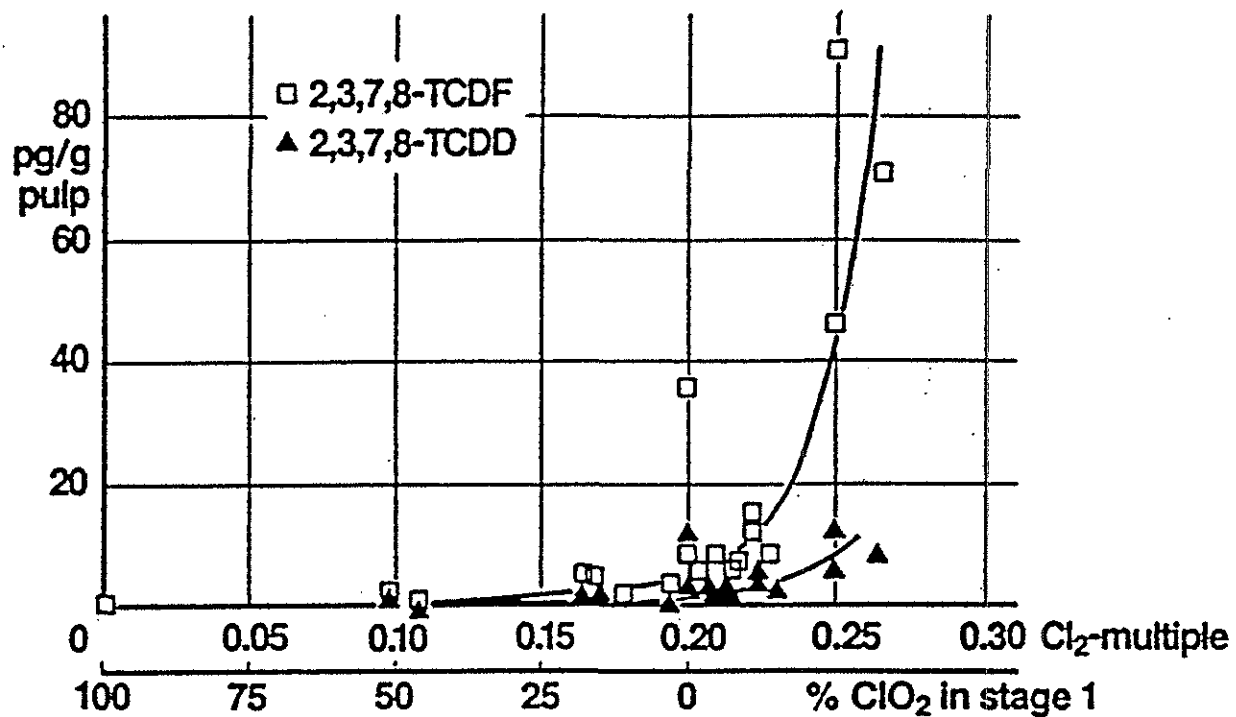


Figure 6. 2378-TCDF/TCDD in bleached pulp versus Cl₂-multiple. Lower x-axis, see Fig. 4.

- Color

- Tea brown color for a mile or two from the mill.
 - Countless studies have shown no toxic impact of pulp mill color.
 - Mainly composed of wood breakdown products similar to rotting leaves found in swamps.
- Working with Corvallis to determine color impact on water treatment system.

- Air Quality

- Currently below DEQ limits.
- Expansion will have little impact.
- Air emissions are 99% water vapor.

Figure 11 Effect of Chlorine Dioxide Substitution on Combined Effluent Colour (1)

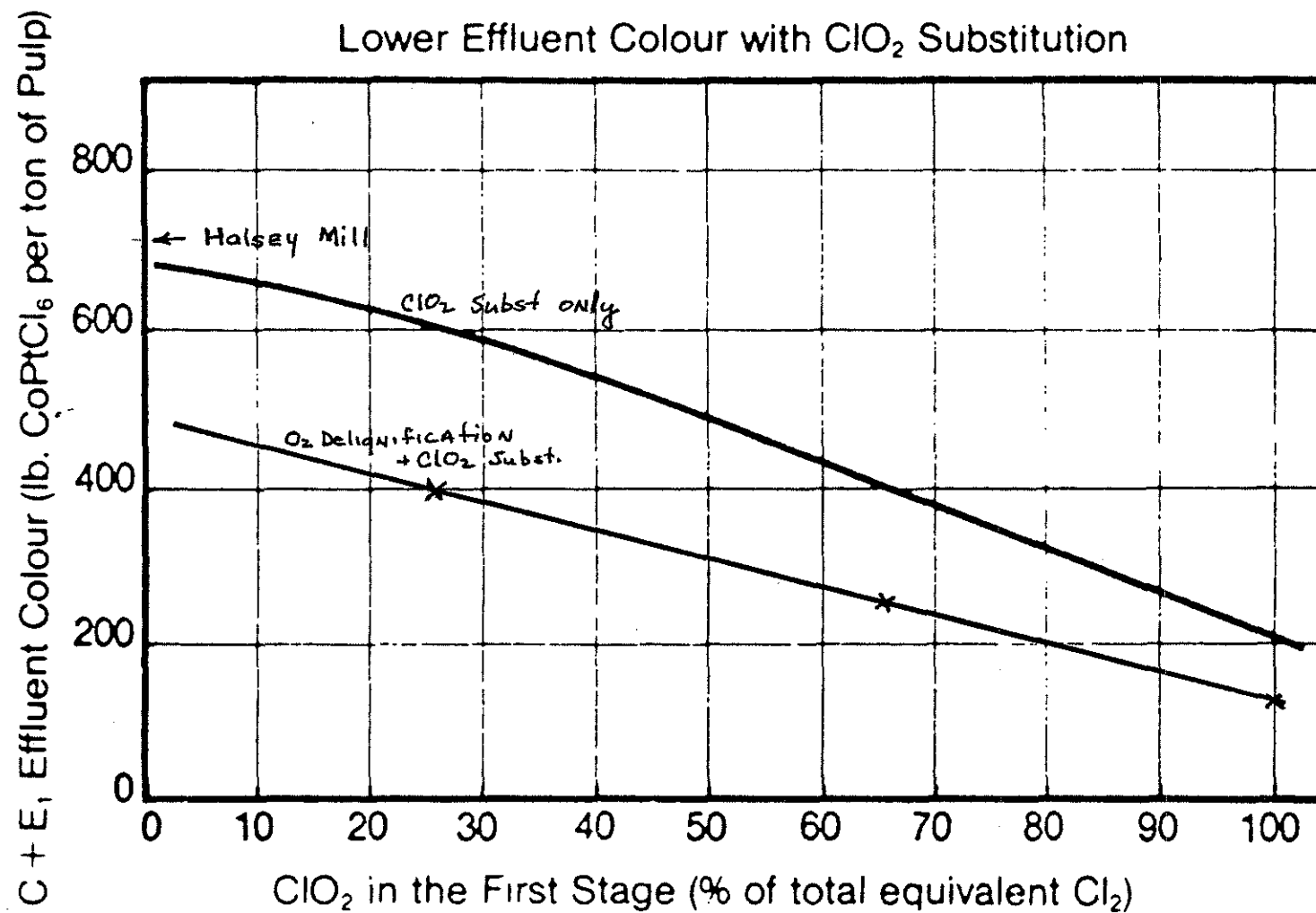


Figure 12 **Effect of Chlorine Dioxide Substitution on Total and Tetra Chlorinated Phenolic Compounds (3)**

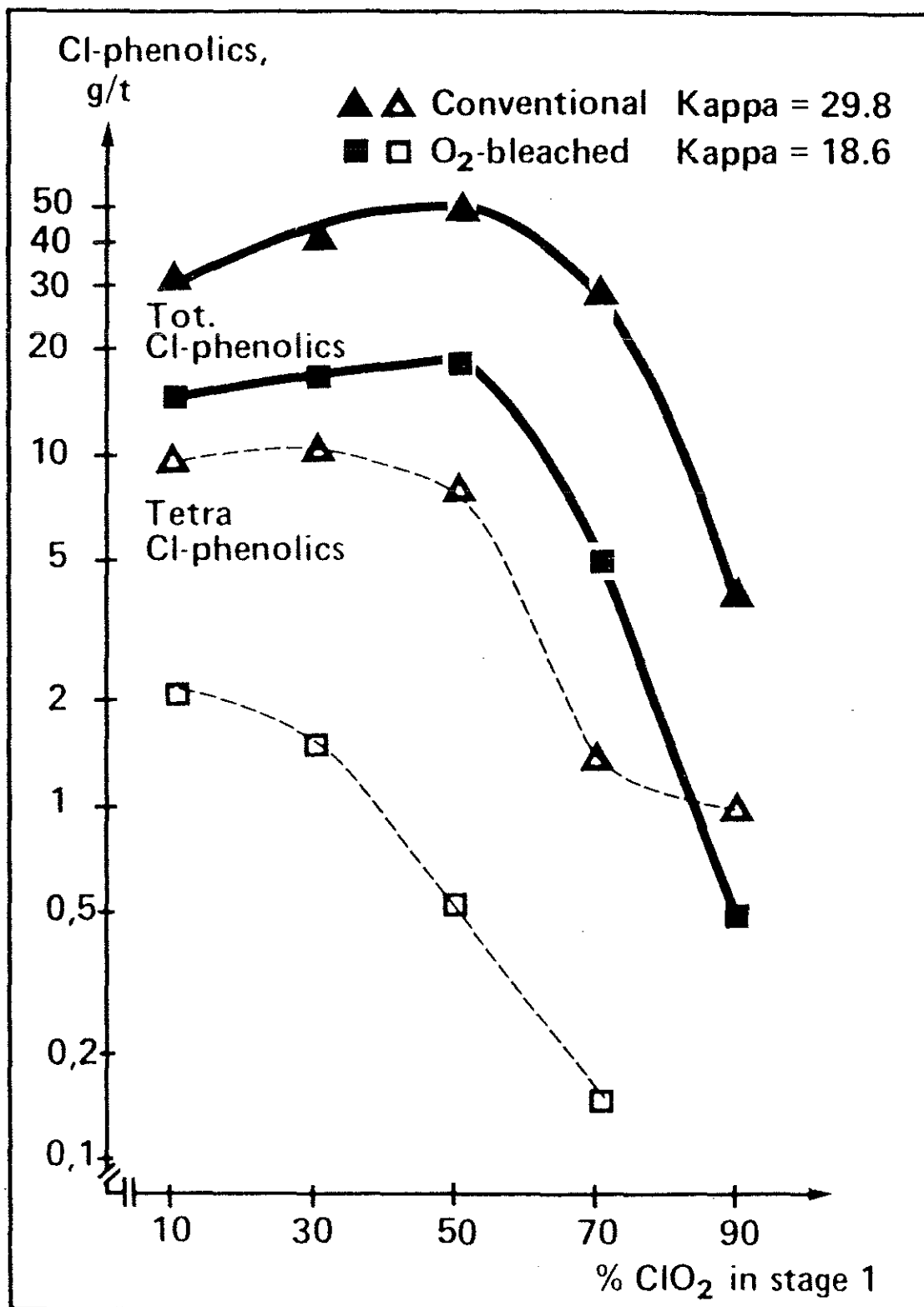
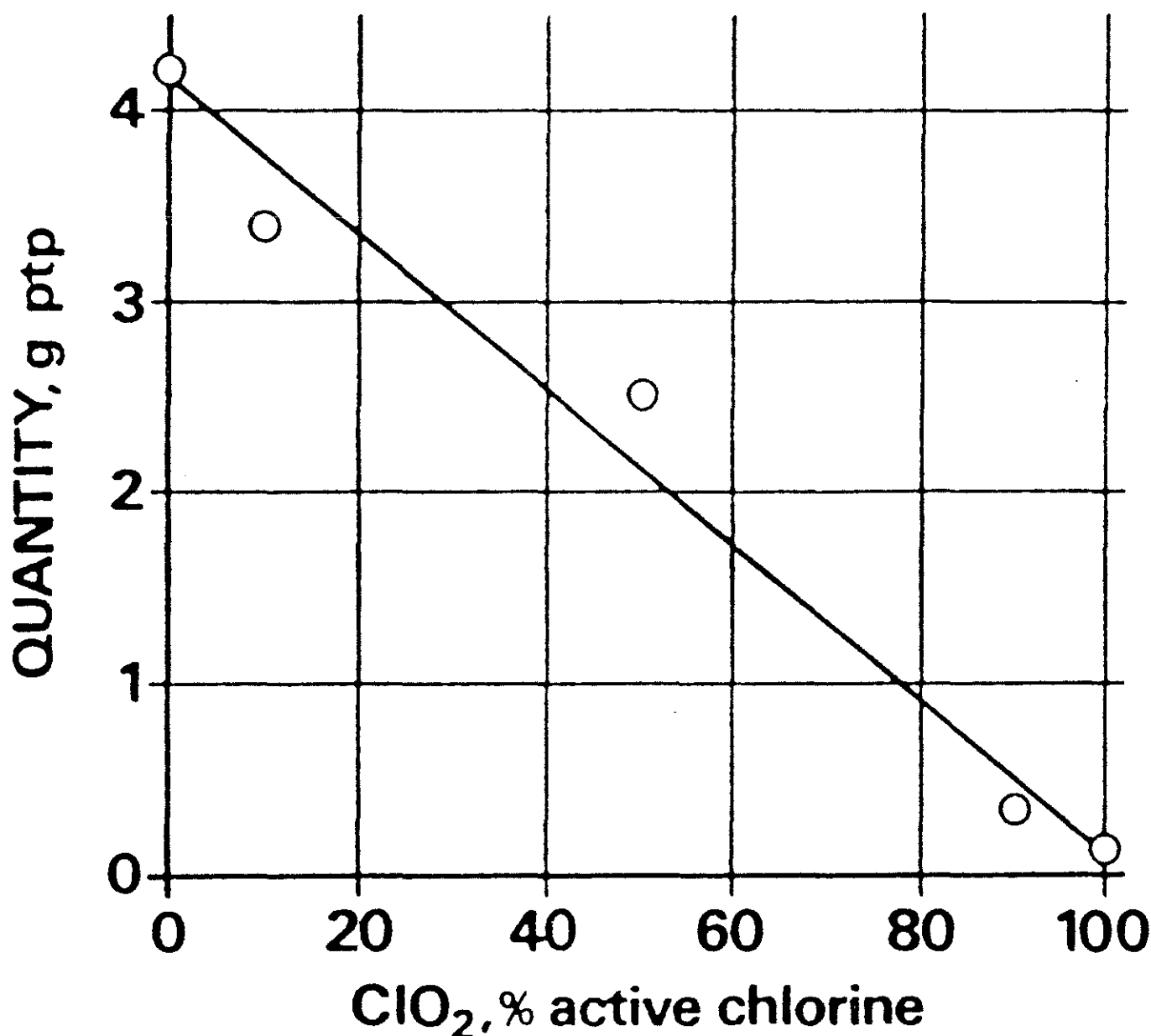
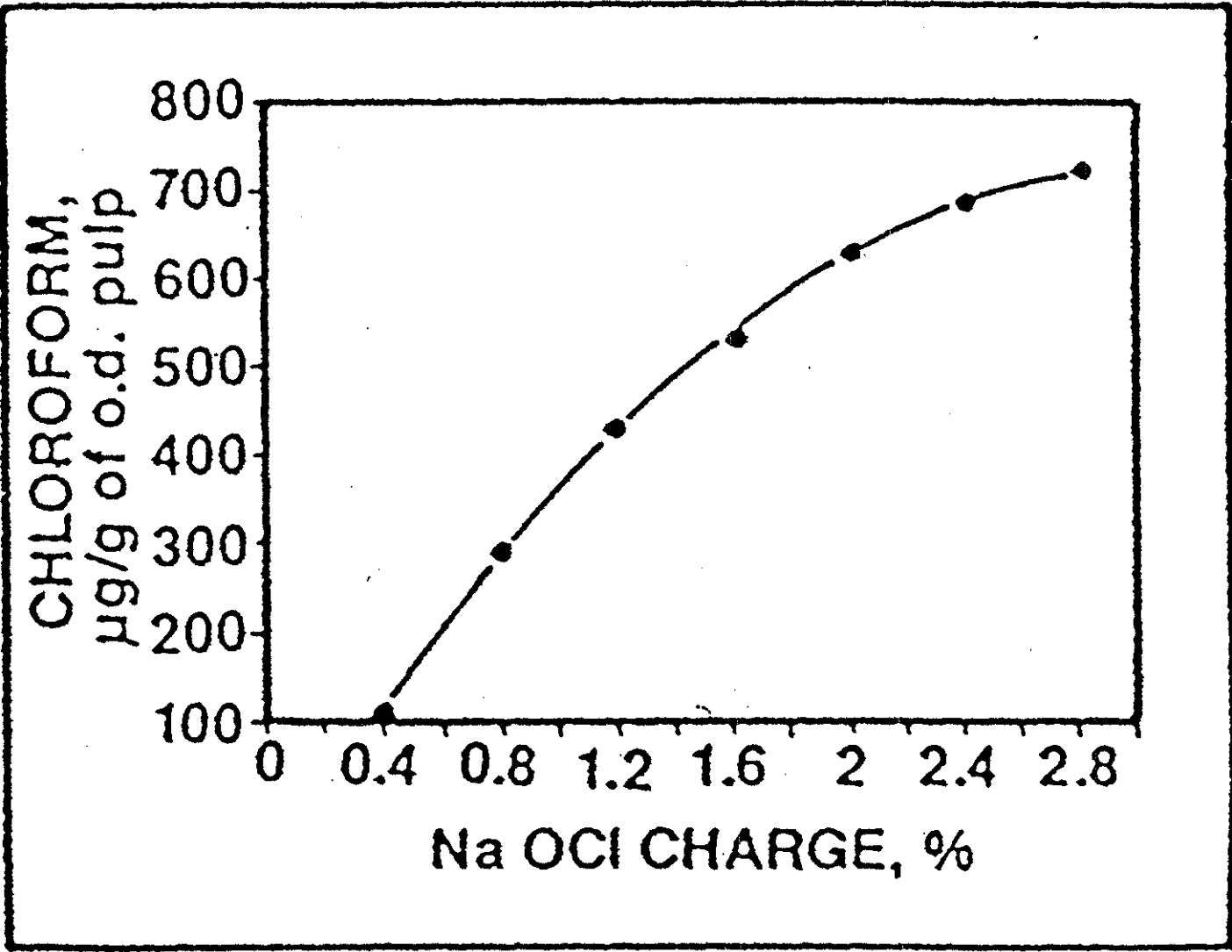


Figure 13 **Effect of Chlorine Dioxide Substitution on the Sum of Tri, Tetra and Penta Chlorinated Phenolic Compounds for an Oxygen Delignified Pulp — Kappa No. 14.2 (9)**





SOME STRAIGHT TALK ABOUT WATER, AIR AND THE HALSEY MILL EXPANSION.

SINCE IT WAS BUILT IN 1969, Pope & Talbot's pulp mill in Halsey, Oregon, has enjoyed a reputation as the environmentally cleanest mill in the U.S. One of the most technologically advanced as well. Many of the processes we use and products we make at Halsey have set the standard for our industry.

Now we want to expand the mill. In fact, we want to triple its size; a \$350 million project. While the economic benefits of such an expansion are obvious, there's some understandable concern about the environmental impacts.

Foremost among these environmental impacts is the problem of chlorinated organics, principally dioxin. As you're probably aware, the EPA has in the past year discovered dioxin in the pulp, sludge and effluent of bleached kraft pulp mills, including the Halsey mill. It's a problem that P&T will take strong measures to address.

Other environmental concerns are water color in the Willamette River, emissions from our stacks and the impact construction work will have on the land around the mill.

What follows are some of the questions that most frequently come up in regard to the expansion, along with some very straightforward answers. We hope we've answered your questions.

HOW LONG HAS POPE & TALBOT BEEN IN HALSEY?

The Halsey mill was built in 1969 by American Can Company. Pope & Talbot purchased half interest in the mill in 1978 and purchased the remaining half in 1983.

The mill has long been recognized as the environmentally cleanest and one of the most technologically advanced mills in the pulp and paper industry.

Today, Pope & Talbot and James River Corporation employ about 620 people at the mill site, with an annual payroll of more than \$20 million. Pope & Talbot pays Linn County more than \$750,000 annually in property taxes.

WHAT DOES POPE & TALBOT MAKE AT HALSEY?

The Halsey mill produces paper pulp. In fact, it's one of only a few mills in the country with multi-product capability. We manufacture slush pulp, which is slurried directly to an adjacent James River Corporation tissue plant, flash-dried pulp and an exclusive pressed sheeted pulp called "White Gold" that's used in the manufacture of newsprint and fine papers by paper mills throughout the Northwest.

WHY DOES POPE & TALBOT WANT TO EXPAND?

It's a matter of economic necessity. The cost of manufacturing market pulp is rising faster than the price we can get for that pulp. By expanding the mill, we can take advantage of economies of scale and make more pulp for proportionately less money. We can also invest in newer technol-

ogy that will make the manufacturing process more efficient, both environmentally and economically.

In the meantime, worldwide demand for pulp — especially in Asia — is expected to grow faster than supply in the foreseeable future. So the timing for the expansion couldn't be better.

WHAT WILL THE EXPANSION ENTAIL?

Pope & Talbot's plans call for tripling the size of the mill. Our current production capacity is about 500 tons per day. With the expansion, capacity will increase to about 1,500 tons per day, much of it to be shipped overseas from Oregon ports.

WHAT WILL THE ECONOMIC IMPACT OF THE EXPANSION BE?

We can only make an educated guess, although we know for certain that it will be tremendous.

The projected cost of the expansion would be \$350 million, making it the largest private-sector capital project ever undertaken in Oregon. The two-year construction period will directly create about 700 jobs. But the "multiplier" effects from the money spent on construction and the salaries paid to those workers will indirectly create the equivalent of more than 8,000 jobs in the region and generate more than \$200 million in salaries and wages.

The impacts after the expansion is complete will be equally staggering, as Pope & Talbot increases its purchases of wood chips and supplies to run the mill. It's estimated that every dollar spent by the mill generates \$2.87 in the re-

gional economy. Since we'll be adding more than \$300 million to the value of the region's economic production, it's not hard to see the economic benefits of the expansion.

The expansion will also make Pope & Talbot the largest taxpayer in Linn County, with estimated property taxes of more than \$2 million per year.

WHAT IMPACT WILL CONSTRUCTION HAVE ON THE LAND AROUND THE MILL?

Absolutely none. A portion of the land in question is currently zoned as farmland and another portion is wetlands which are not suitable for farming. Pope & Talbot will replace these wetlands by creating new wetlands near the plant site, in order to protect wildlife who use them for nesting and shelter.

WHAT IMPACT WILL THE EXPANSION HAVE ON AIR QUALITY?

Again, practically none. Pope & Talbot is well below the standards for air emissions established by the Environmental Quality Commission in our environmental permits, and will continue to be below those standards even with the expansion. What you see coming out of our stacks, by the way, is over 99% water vapor, not smoke.

WHAT WILL THE IMPACT BE ON WATER COLOR IN THE WILLAMETTE?

Unfortunately, the effluent from our mill turns the Willamette River a light tea-brown

color for a mile or two downstream from the mill. The color is from wood sugars and lignins, two natural, non-toxic substances. We could get rid of the color by bleaching it with chlorine, but we've been asked to cut back on our use of chlorine by state environmental authorities.

As part of the expansion, however, we're planning to install a new type of bleaching system that minimizes chlorine use. This will help reduce, but not eliminate the color. Again, according to biological studies, the color is harmless.

THERE'S BEEN A LOT OF TALK ABOUT DIOXIN GETTING INTO THE WILLAMETTE RIVER FROM THE HALSEY MILL. WHAT IS DIOXIN?

Dioxin is the common name for a family of 210 chemical compounds produced as a byproduct in the manufacture of several commercial substances, including bleached kraft pulp. It has been previously found in some common household items, including paint and weed killer, and it's also been found in the smoke from chimneys and wood stoves. One Canadian study suggests that it's found in cigarette smoke.

Although no long-term adverse effects on humans have been documented, dioxin's reputation as a toxic chemical comes from tests with laboratory animals.

HOW MUCH DIOXIN IS THERE AT HALSEY?

Incredibly minute amounts. In fact, up until a couple of years ago, test equipment didn't exist that could measure such small amounts. That's why we're just now learning about the problem.

The level of dioxin in Halsey's effluent is 30 parts per quadrillion. (One part-per quadrillion is the equivalent of one second in 32 million years.) Over the course of a year, about six-tenths of a gram of dioxin gets into the Willamette River. (That's about the weight of two aspirin.)

HOW IS DIOXIN FORMED IN A PULP MILL?

There's strong evidence that it results from the use of chlorine in the bleaching process that turns paper pulp white.

IS IT SAFE TO USE BLEACHED PAPER PRODUCTS?

Of course. All evidence to date, all scientific information, as well as the industry's long history, indicate that no real human health hazard can be associated with the trace levels of dioxin found in paper and pulp.

THEN WHY IS THE PULP & PAPER INDUSTRY SPENDING SO MUCH MONEY TO DEAL WITH DIOXIN?

It's the Environmental Protection Agency's job to take the most conservative view possible with regard to environmental health risks. The EPA has announced new dioxin guidelines for the pulp and paper industry to meet as new permits are issued. We're simply getting a head start.

HOW IS POPE & TALBOT GOING TO ADDRESS THE DIOXIN ISSUE?

We're going to greatly reduce our reliance on chlorine in the bleaching process. To accomplish this, we'll retrofit the mill to use chlorine dioxide — which does not lead to dioxin formation. We're also investigating some new bleaching processes, including "oxygen delignification" which uses concentrated oxygen to bleach the pulp. This system has been successfully used in Sweden, but is used by only a handful of mills in the United States. If oxygen delignification is the answer, we're committed to using the best and most effective technology available to address the problem.

WILL THESE MEASURES ELIMINATE THE DIOXIN?

We're not sure. We're certain it will reduce it to levels too low to be detected with existing test equipment, but whether that means it's completely gone, we can't say for sure.

HOW MUCH IS IT GOING TO COST?

Again, we're not sure. It could be as much as \$30 million. But we think it's worth it to protect the surrounding environment — especially the Willamette River.

Good jobs. Good products. Good citizens. Good neighbors.



POPE & TALBOT, INC.

Halsey, Oregon

PRODUCING A BRIGHT FUTURE FOR HALSEY, FOR OREGON.

The Pope & Talbot Pulp Mill in Halsey was constructed in 1969, making it the last pulp mill built west of the Mississippi. Pope & Talbot acquired half-interest in 1978, then bought the rest in 1983. In 1987, \$8,000,000 was spent on plant improvements, increasing mill production to 180,000 tons of pulp a year.

Today, the pulp mill at Halsey is one of the few in the world to produce three types of pulp: Slush pulp — which is piped directly to the James River tissue plant next door . . . Flash-dried pulp . . . and the unique product that has become the new standard for sheeted pulp — Pope & Talbot's exclusive White Gold.

The pulps are sold to paper plants, where they are used to create a wide variety of products — from tissue to newsprint.

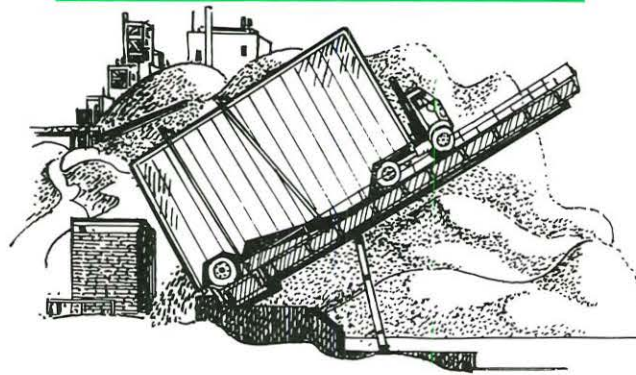
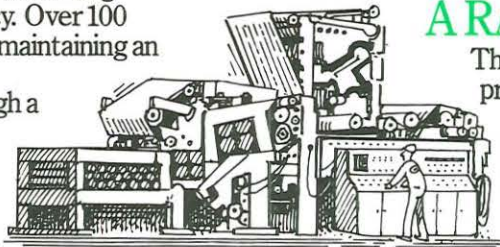
FROM SMALL BEGINNINGS, A FIRST-RATE PULP.

Pope & Talbot uses Douglas Fir exclusively to produce pulp of outstanding quality, strength and consistency. Over 100 truckloads of chips arrive daily, maintaining an uninterrupted supply.

After screening through a disc-sorting system, wood chips are blown to bins at the top of continuous digesters. Inside, the chips are cooked under pressure with steam and chemicals to break down the sugars and lignin — the organic material that binds together the cellulose fibers in wood.

The process takes 30 to 35 minutes, at approximately 365° fahrenheit, and leaves behind unbleached pulp — the base of all chemical pulp products.

Pulp is continuously discharged into a blow tank, where the release of pressure causes the wood chips literally to explode. Knots and partially cooked chips are screened out, leaving a thick stream of mushy-brown pulp fiber.



The fiber is then washed on large drum filters, and cleaned on a series of centrifugal cleaners. The pulp is then bleached to the specified brightness level in four separate stages. In the end, the fiber is a bright white — ready for use in tissue, towelling or printing papers.

Ready-to-use pulp is stored in four high-density storage tanks, with a total capacity of 1,000 tons.

From here, it can be fed directly to the James River tissue plant next door . . . or to Pope & Talbot's dryers for making flash-dried pulp. But the most interesting route the pulp takes is to Pope & Talbot's 49er press, where White Gold is created.

A RARE VEIN OF PULP.

The 49er is a unique twin-wire press — the only one of its kind on the West Coast, and one of the few in the United States. The press was specially modified by Pope & Talbot to handle White Gold.

The 49er squeezes out more than half the water from the pulp, then cuts it into large, white sheets. It's then stored in bales, which simplifies material handling.

Pope & Talbot's computerized Just-In-Time Delivery System means paper mills don't have to carry their own inventory. White Gold is trucked directly from the warehouse to the customer's mill, then unloaded and repulped.

Trucks and rail cars full of White Gold roll out of Halsey every day, filling a continuous pipeline up to 1,000 miles long.

Unlike regular flash-dried pulp, White Gold repulps instantly. The results: higher mill efficiency, lower energy use and reduced inventory carrying costs to the customer.



THE ENVIRONMENT IS A TOP PRIORITY.

A recovery boiler burns the lignins removed from the wood chips in the cooking process and extracts the chemicals. The recovered chemicals are continually recycled in the cooking process. The recovery boiler also produces the steam used by the plant.

The boiler's electrostatic precipitator makes sure the gasses leaving the boiler are clean, chemically-free and unpolluted.

A forced circulation evaporator eliminates the odor associated with most pulp and paper mills.

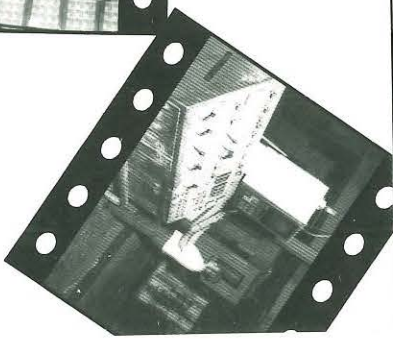
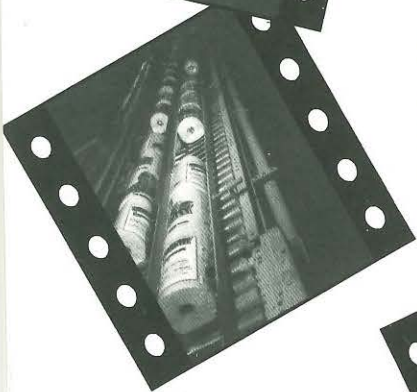
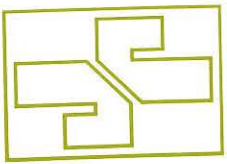
Pope & Talbot has always maintained a duty to the environment to return the water to the Willamette River as clean as it was taken out. The most modern effluent treatment methods and equipment are used, and Pope & Talbot spends \$500,000 each year to maintain the quality of the water discharged to the river.

Process water is pumped from the pulp mill to the primary clarifier, then to large outdoor aeration ponds. Seventeen mechanical aerators churn the water, forcing particles to settle, while at the same time adding oxygen.

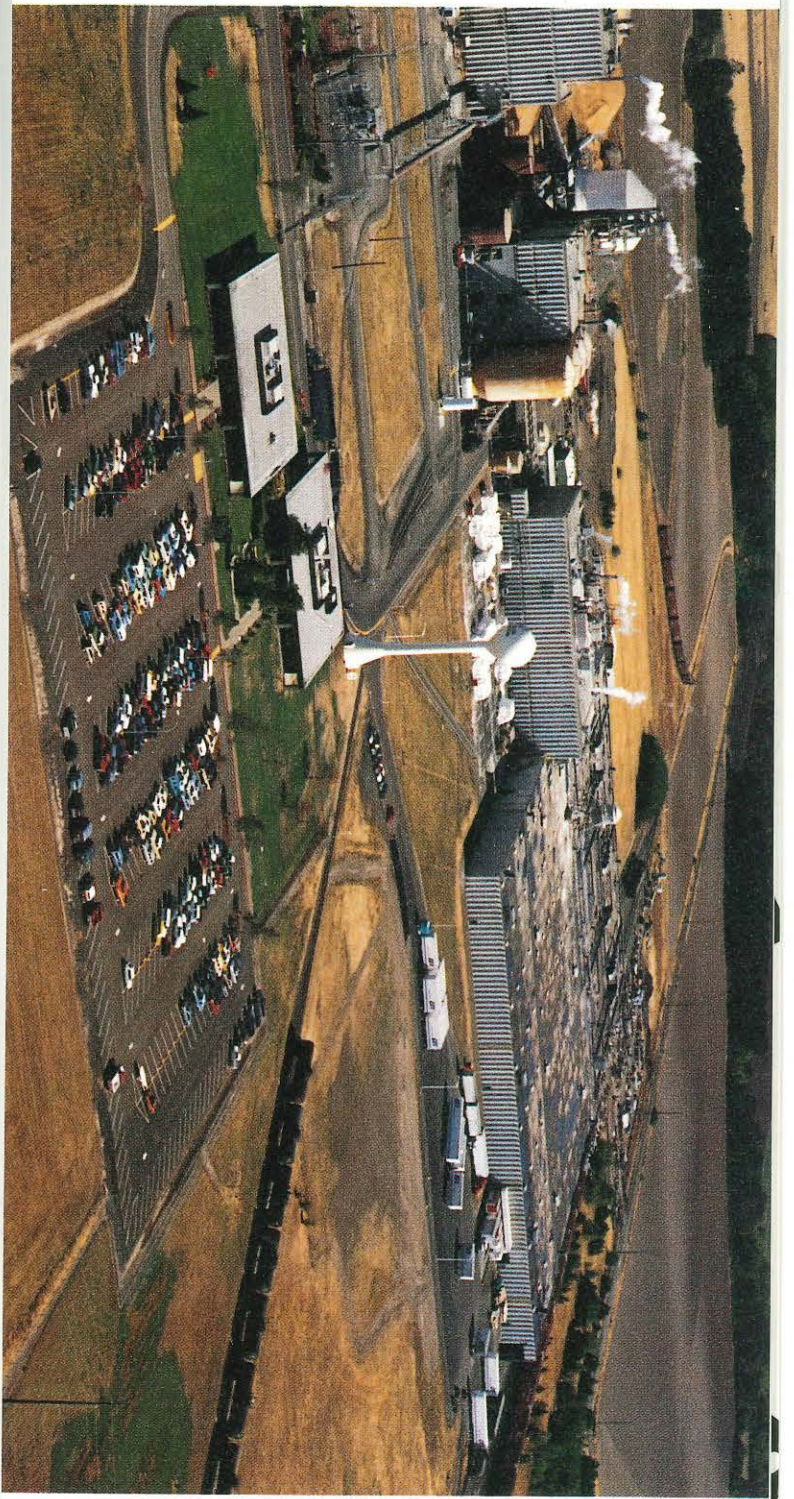
After a holding period of 10 to 14 days, a biochemical oxygen demand level of less than 2500 pounds per day is achieved. The water is now ready to be returned to the Willamette — safe and virtually free of chemical contamination.



PEOPLE PRODUCTS & PROCESSES



THE
HALSEY
MILL





2 Company Overview

Hygienics



Communications



Consumer Food and Beverage



Specialty Industrial and Packaging



Welcome to James River Corporation. James River is an integrated manufacturer of pulp, paper, converted paper, and plastic products serving the following strategic markets: Hygienics; Communications; Food and Consumer Packaging; Food and Beverage Service; and Specialty Industrial and Packaging. Primary products manufactured, converted, and marketed by the company include towel and tissue products, communication papers, folding cartons and flexible packaging materials, food and beverage service items, and specialty industrial and packaging papers. The company also produces synthetic non-woven fabrics, coated film, and market pulp.

Since its birth in 1969, James River has pursued a well-defined business strat-

egy of internal growth and acquisitions enabling the company to significantly expand and diversify its products while maintaining a consistently growing level of profitability.

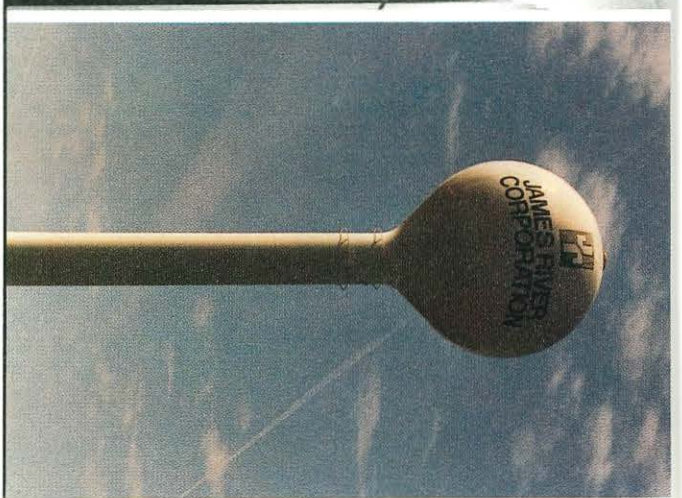
With well over 35,000 employees in North America and approximately 5,000 employees at its European subsidiaries and affiliates, James River is one of the largest worldwide manufacturers of pulp and paper. The company's 133 manufacturing facilities--including its joint venture affiliates--are located in 30 states, as well as Canada, Mexico and five Euro-



pean countries. As of January 22, 1989, there were approximately 23,000 common shareholders of record.

The company employs 22,000 people who serve in 7 pulp mills, 24 paper mills, 43 converting plants and 3 major research and development centers. James River also owns two trucking companies and two railroads.

Company Overview 3



4 Mill Overview

The consumer tissue business originated in 1902 with Northern Paper Mills in Green Bay, Wisconsin. In 1953, Northern merged with Marathon Corporation, a major paper and paperboard food packaging manufacturer. Both Marathon and Dixie Corporation joined American Can Company in 1957.

James River entered the consumer towel and tissue business in July of 1982 with its acquisition of American Can's Dixie-Northern assets, including the Halsey Mill.

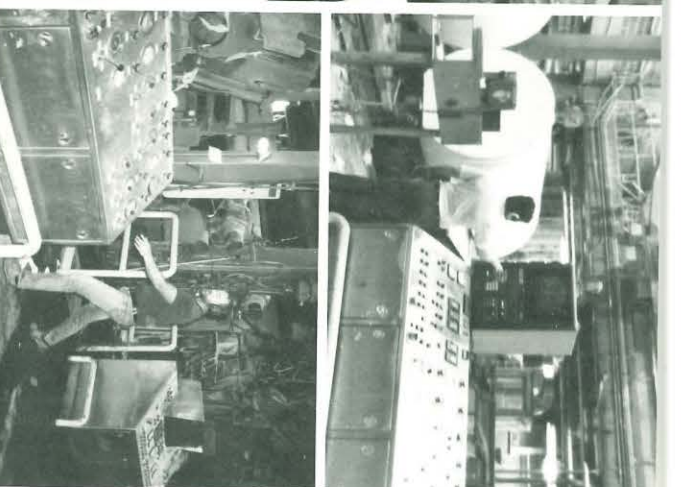
A manufacturer of both pulp and sanitary tissue paper, the Halsey Mill has been in operation since 1969. American Can had sole ownership of the mill until 1978 when they entered into an agree-

ment with Pope & Talbot, Inc.--a diversified forest products company--under which each shared one-half interest in the pulp mill. In 1983, Pope & Talbot assumed the other half interest and took over management control in May of 1989.

Halsey's paper mill and converting facilities are part of James River's towel and tissue business. The Halsey Mill and James River's Wauna Mill, located near Clatskanie, are the only manufacturers of sanitary tissue paper in Oregon. Paper produced at



our Halsey Mill is converted into products, such as paper towels, napkins, and bathroom tissues, then marketed under the Northern[®], Aurora[®], and Brawny[®] labels for Consumer channels. For the Away-From-Home distribution channels, product is marketed under the Marathon[®] label.



6 Paper Mill

Wood fiber, in the form of chips or saw dust, is cooked under pressure with steam and a caustic chemical. After being washed (to remove the cooking liquor), screened, and bleached, the wood fiber arrives at James River as raw pulp.

At this point, the paper making process begins. Pulp is pumped in a stream to the head box of a paper machine and then onto a forming fabric where much of the water is removed. This creates a wet sheet which is conveyed through the press section onto the rotating Yankee dryer; there steam heat and hot air dry the sheet as it spins.

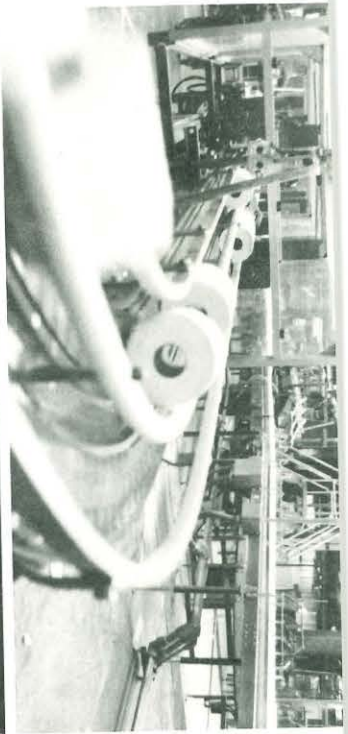
Twin wire technology has enabled this mill to both increase tonnage and improve paper quality. Halsey was the first mill selected by James River for the twin wire in-

stallation. This technology allows drainage of water from the pulped sheet more rapidly than conventional machines allowed. Moisture and basis-weight profiling equipment also enables the making of a more uniform sheet of paper.

The now recognizable tissue paper is softened, slit, and wound onto reels from one of two paper machines at the Halsey Mill. The number one paper machine runs at speeds exceeding 4,000 feet per minute; the number two paper machine exceeds



5,000 feet per minute and has topped speeds of one mile per minute. Both of these machines have a web width of 185 inches. Together they manufacture pulp into sanitary paper and produce four parent rolls every 20 minutes. Each parent roll weighs about 2,000 pounds and will be converted into nearly 2,200 rolls of product.



8 Converting and Shipping

The parent rolls are delivered to the Converting Department where they are transformed by a highly mechanized process into finished product. Each of the parent rolls are rewound, embossed and--in some cases--decorated for tissue, napkin, or paper towel products. Although there are many different pieces of equipment in converting, they can generally be grouped into two major categories: rewinder lines and folder lines.

An industrial truck with a special roll grab attachment delivers the parent rolls for the rewinder lines where they are unwound to form a paper web. The web passes through an embosser, a starch unit, and a printer before being transferred to the rewinder section. The web is fo-

rated, then rewound onto small logs which are passed through an orbital saw and cut into individual rolls of bathroom tissue.

Parent rolls for the folder lines are delivered to the slitter rewinder where they are cut or slit into small rolls for use in the various folder lines.

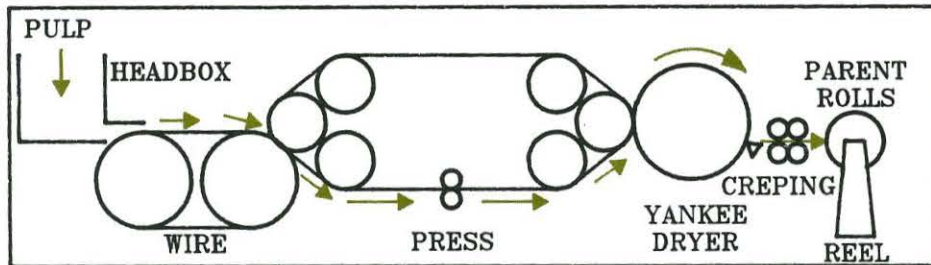
Approximately 20,000 cases of sanitary tissue, towels, and napkins are produced daily at James River's Halsey Mill. After being packaged and cased, the finished product is either warehoused on-site



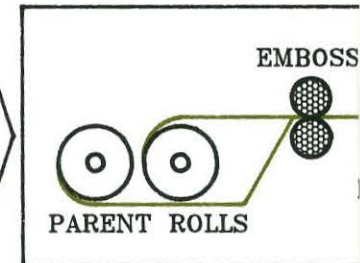
or immediately shipped to a customer.

As one of the major paper manufacturing plants on the West Coast, the Halsey Mill is responsible primarily for shipments to regional customers. Yearly mill production of more than seven million cases is shipped principally by truck, augmented by rail.

PAPER MILL



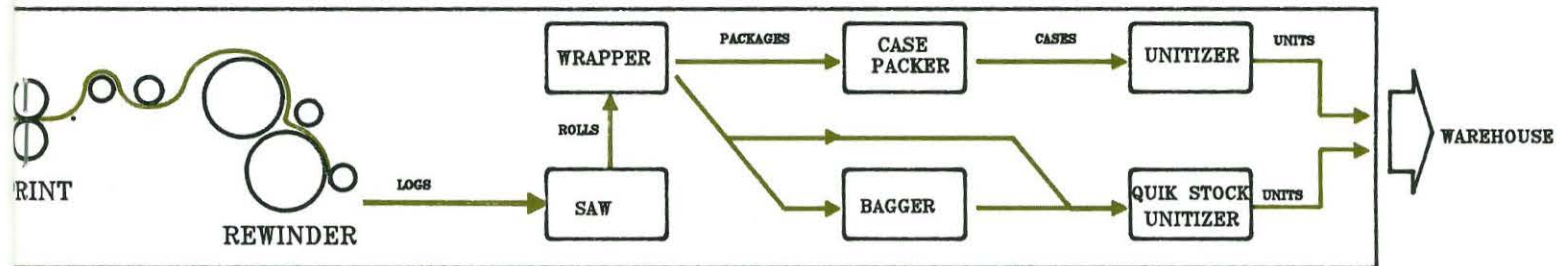
CONVERTING



■ On receiving raw pulp, we blend and refine different types of pulp to make a mixture called slurry. This mixture is made up of 300 parts water to 1 part pulp.

■ Next we send the pulp slurry through the papermaking machines. As it comes out of the head box (front of the machine) it goes onto a continuous web of finely

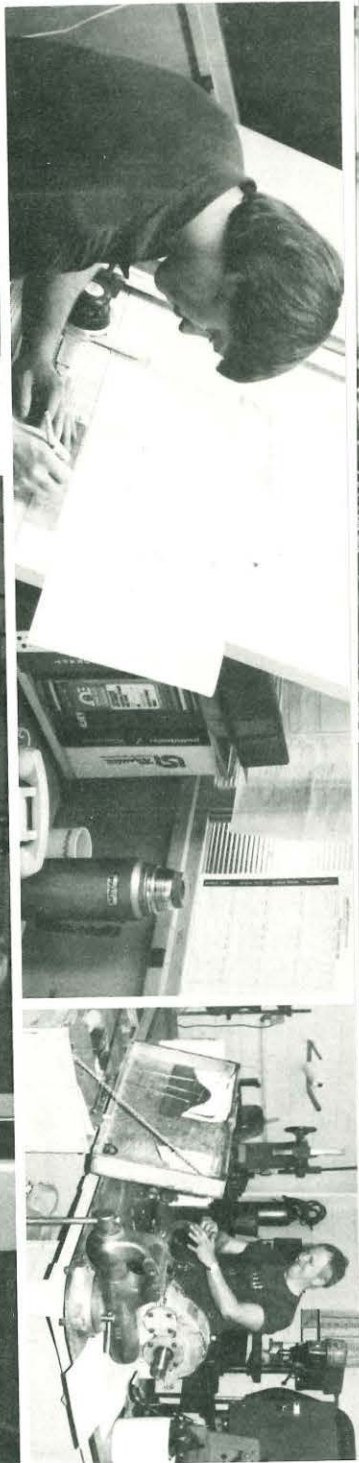
woven wire. The water seeps through the wire leaving a delicate sheet of wet paper. It takes only two seconds to complete the transformation from slurry to paper.



■ This paper, however, is not yet ready for consumer use. It must first be cut, folded, and then packaged.

■ To do this, we transfer the huge parent rolls of paper to converting machines, each of which is specially designed to produce a particular type of sanitary paper product.

■ After the paper is converted, it is packaged and readied for distribution to customers throughout Oregon, the Pacific Northwest, and as far away as Texas.



12 Maintenance and Engineering

The Engineering and Maintenance Departments work closely to service the production areas of the mill.

Their most important function is to ensure the reliability and operation of all plant equipment. Maintaining peak equipment performance requires a variety of specialized skills and training among departmental employees.

Maintenance employees with special skills--including auto mechanics, fire protection mechanics, electricians, instrument mechanics, machinists, predictive maintenance mechanics, millwrights, oilers, painters, pipefitters, yard and equipment operators--along with their supervisors and support staff make the Halsey mill relatively self-sufficient.

The Engineering Section is responsible for providing both short-term and long-range planning. The planning involves original equipment revisions and alterations of new equipment

along with system installations. Staffing of the various engineering disciplines enables most projects to be completed in-house.

With the support of top management and the cooperation of the employees, James River has been able to advance production at the Halsey mill to a point



where everyone can be proud to be a part of the operation. From providing assistance in monitoring contracts to obtaining the permits necessary to meet Federal, State and local regulations, the Maintenance and Engineering departments provide specialized service to all areas of the Halsey Mill.



14 Support Services

Halsey Mill Service departments:

The Accounting department manages the hourly payroll, accounts payable, cash disbursement, monthly closing, input to the general ledger, and switchboard reception. The department provides analytical support and helps mill management identify and control costs. Mill budgets, forecasts, production and fixed asset reporting are coordinated by department personnel.

Data Processing supports mill information needs. Data Processing support functions include Payroll, General Ledger, Purchasing, Storeroom Inventory, Maintenance, Production Reporting, and a host of other applications.

Technical Services includes quality assurance, process engineering, and envi-

ronmental engineering. These groups work to improve mill manufacturing processes, develop new products, measure key process parameters, and insure that the mill complies with environmental regulations.

Production Services encompasses several mill functions which provide a link between the mill and James River customers. Included in Production Services are traffic, scheduling, materials control, receiving, and the storeroom.

The Human Resources division handles

all employee benefits, such as medical services, insurance, and stock purchases. Administration of the mill's labor agreements with UPIU rests with Human Resources, as does salary administration and the job of assuring mill compliance with all state and federal laws regarding Equal Employment Opportunity and safety.





16 International

James River Corporation is one of the fastest growing paper companies in the world and takes pride in the quality of its products. The brands produced at Halsey--Northern® and Aurora® bathroom tissues; Brawny® and Marathon® paper towels; and Northern napkins--have become popular choices with consumers for good reason: We pay attention to the details. And this means that our customers are getting the greatest possible value for their money. The painstaking attention given to quality paid off when the Northern bathroom tissue--produced here at our Halsey Mill--was ranked first in overall quality nationwide by *Consumer Reports* in August, 1984.

In keeping with James River's long-term strategy for European expansion, the

following acquisitions have recently been made:

*Fifty percent interest in Sarrio Tisu of Spain where tissue products will be manufactured, converted, and marketed.

*Fifty percent interest of Ipek Kagit in Karamurcel, Turkey, the leading Turkish producer of sanitary paper products.

*All assets relating to the Drawing Office and Photographic Papers Businesses of Wiggins Teape Group in Basingstoke, United Kingdom.



*A joint venture in Norrkoping, Sweden, to form HJR Fiberweb AB, whose business will include the development, manufacture, and sale of nonwoven mill roll substrates to converters for the personal hygiene, industrial, furniture, and bedding markets in Europe.



JAMES RIVER CORPORATION

HAISEY SAFETY METER

OSHA REPORTABLES

LAST YEAR	5.0	THIS YEAR	7.0
LAST YEAR	10.8	THIS YEAR	7.3
LAST YEAR	7.3	THIS YEAR	7.3
LAST YEAR	4.4	THIS YEAR	6.5
LAST YEAR	8.0	THIS YEAR	16.9
LAST YEAR	6.1	THIS YEAR	6.1

OSHA INCIDENT RATE THIS MONTH

10

18 Safety/Employees

Halsey's around-the-clock operation contributes to the economic health of the local community by employing over 600 Willamette Valley residents from Lane, Linn, Benton, and 10 other counties in Oregon. These employees transform the raw materials of Oregon's forest products into consumer goods.

James River employees are the key to the company's efficiency and success as an industrial leader. Safety consciousness is one very important facet of their character. This outstanding concern is reinforced through the mill's extensive safety program which reaches all levels of employment, beginning with classroom instruction and extending onto the job.

James River Corporation's position

on equal opportunity employment and in the hiring of the handicapped is unmistakably clear. As an equal opportunity employer, it is company policy to provide equal hiring, placement, promotion, transfer, reclassification, recruitment, layoff and recall, compensation, and apprenticeship training without regard to race, color, religion, sex, age, national origin, veteran status, or handicap, unless the handicap is a bona fide occupational disqualification.



Visitors to the James River Halsey facility are asked to proceed with caution since personnel and equipment are moving in the operations area of the mill. The management, unions, and employees of Halsey hope you enjoy the tour. We appreciate the opportunity to welcome you to the Halsey Paper Mill.

**We appreciate your patronage of
our quality line of products.**



James River Corporation
P.O. Box 215/30470 American Drive
Halsey, Oregon 97348

6/89 4m







POPE & TALBOT

White
GOLD

**WHITE GOLD: SHEETED
PULP SO VALUABLE, IT
VIRTUALLY SELLS ITSELF**

*Superior strength
of White Gold*

*means you use less long fiber
to meet your production goals.*



**A DEPENDABLE SOURCE OF HIGH
STRENGTH, HIGH QUALITY PULP.**

Pope & Talbot's specially modified press takes White Gold straight from slush to sheets with

51% air dry fiber content. The pulp

retains maximum strength because it never goes through

fluffers or dryers that can reduce strength

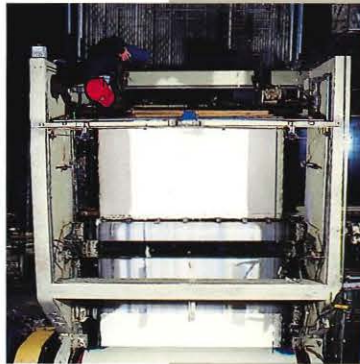
Less processing in this case also means better sheet forming

properties: fibers haven't been knitted or twisted in

the drying process, so fisheyes and blemishes can't occur.

White Gold is made in the heart of Douglas fir country from chips that meet our high standards for

quality and consistency. We have the resources and the system to make sure our supply meets



**FAST ACTION ON
CUSTOM ORDERS.**

White Gold gives independent pulp customers the convenience and responsiveness enjoyed by integrated mills. Specify brightness from 60 to 80 on the G. E. scale.

SAVE TIME. SAVE MONEY.

Or request a custom formulation. The Pope & Talbot system is flexible enough to meet your specific needs.

White Gold works better than any pulp you've seen before. It

repulps in seconds, not the usual 20 minutes. It repulps completely, cutting waste and weaknesses in

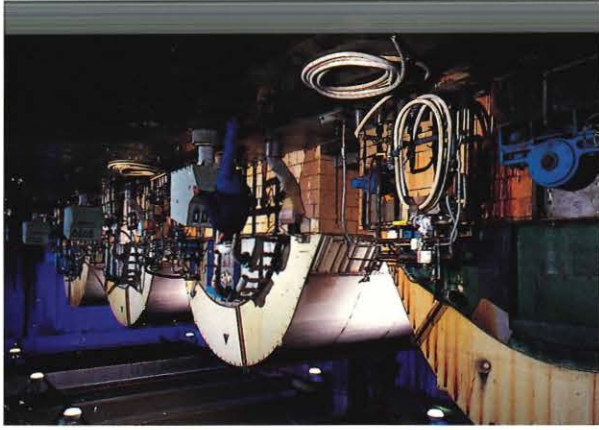
paper. Material handling is more efficient too. No bale wraps to

undo. No wires to cut. No inventory to maintain. Pulp can move

direct from truck to conveyor to repulper.

The time and labor costs you save quickly make conversion a

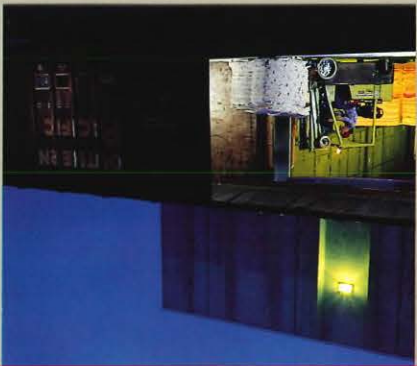
smart money decision.



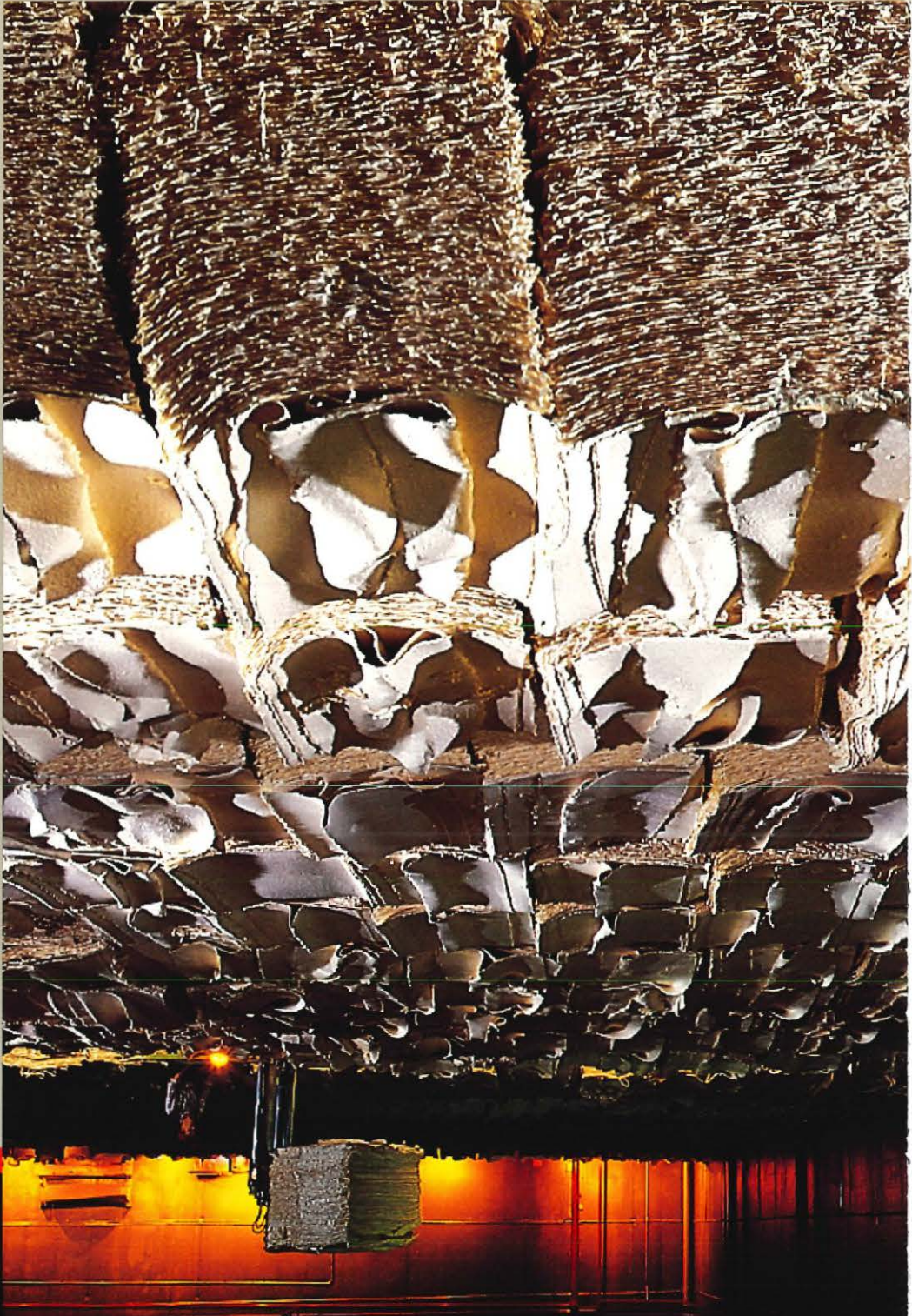
POPE & TALBOT
Pope & Talbot Pulp, Inc.
P.O. Box 400 • Halsey, OR 97348
(503) 369-2841



We're experts at scheduling your shipment to arrive just at the point you're ready to use it. Not too soon, not too late. You handle the pulp once, not twice. You save on warehousing and inventory. Our computerized Just-In-Time delivery system proves its worth every day all over the West. Trucks and rail cars full of White Gold roll out around the clock, filling a continuous pipeline up to a thousand miles long. Tell us the delivery timetable you want — 7 a.m.? Fine. Midnight? We'll be there. Have a sudden need for an extra truck-load? It's on its way. The Halsey Mill has a long history of reliability... in quality, manpower and customer service. So when you use White Gold, you get a team of professionals working right beside you. Contact Pope & Talbot to see how valuable it is to put your mill on the new gold standard.



YOUR SCHEDULE IS OUR SCHEDULE.



White
GOLD



At Pope & Talbot We Deliver.



POPE & TALBOT

Pope & Talbot Pulp, Inc.
P.O. Box 400 • Halsey, OR 97348
(503) 369-2841

Sales Agents
Perry H. Koplík & Sons, Inc.

111 S.W. Columbia • Portland, OR 97201 • (503) 294-0182
505 Park Avenue • New York, NY 10022 • (212) 752-2288