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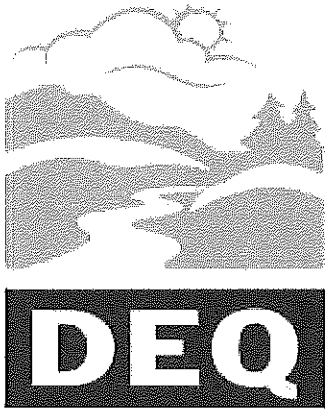
OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS 11/21/1997



State of Oregon
Department of Environmental Quality

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Revised A G E N D A

ENVIRONMENTAL QUALITY COMMISSION MEETING

November 21, 1997
DEQ Conference Room 3A
811 S. W. Sixth Avenue
Portland, Oregon

Notes: Because of the uncertain length of time needed for each agenda item, the Commission may deal with any item at any time in the meeting. If a specific time is indicated for an agenda item, an effort will be made to consider that item as close to that time as possible. However, scheduled times may be modified if agreeable with participants. Anyone wishing to listen to the discussion on any item should arrive at the beginning of the meeting to avoid missing the item of interest.

Public Forum: The Commission will break the meeting at approximately **11:30 a.m.** for the Public Forum if there are people signed up to speak. The Public Forum is an opportunity for citizens to speak to the Commission on environmental issues and concerns not a part of the agenda for this meeting. The public comment period has already closed for the Rule Adoption items and, in accordance with ORS 183.335(13), no comments can be presented to the Commission on those agenda items. Individual presentations will be limited to 5 minutes. The Commission may discontinue this forum after a reasonable time if an exceptionally large number of speakers wish to appear.

The meeting will begin at 9:00 a.m.

A. **Approval of Minutes**

B. **Approval of Tax Credits**

C-1. **Public Comment**: The Commission will be Accepting Oral Comments from the Public on the Umatilla Chemical Depot Permit Modification. *Public comment will close on this issue at the end of this agenda item.*

C-2. **Action Item**: Umatilla Chemical Depot Permit Modification

D. **Action Item**: City of Dallas - Request for Waste Load Increase, Waiver of Temperature Standard and Waiver of Minimum Dilution Standard

E. **Informational Item**: Report from Fish and Wildlife Regarding Total Dissolved Gas

F. **Commissioners' Reports**

G. **Director's Report**

Work Session: Pollution Control Facility and Plastics Recycling Tax Credit Rules

Hearings have already ~~been held on the Rule Adoption items and the public comment period~~ has closed. In accordance with ORS 183.335(13), no comments can be presented by any party to either the Commission or the Department on these items at any time during this meeting.

The Commission will have lunch at 12:00 noon. . No Commission business will be discussed.

The Commission has set aside January 8-9, 1998, for their next meeting in Portland, Oregon.

Copies of staff reports for individual 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 229-5301, or toll-free 1-800-452-4011. Please specify the agenda item letter when requesting.

If special physical, language or other accommodations are needed for this meeting, please advise the Director's Office, (503)229-5301 (voice)/(503)229-6993 (TTY) as soon as possible but at least 48 hours in advance of the meeting.

November 5, 1997

Approved ✓
Approved with Corrections____

Minutes are not final until approved by the EQC

Environmental Quality Commission
Minutes of the Two Hundred and Sixth-Third Meeting

October 2-3, 1997
Work Session and Regular Meeting

The Environmental Quality Commission work session was convened at 2:10 p.m. on Thursday, October 2, 1997, at the Region V Building, 3012 Island Ave, La Grande, Oregon. The following members were present:

Henry Lorenzen, Chair
Carol Whipple, Vice-Chair
Linda McMahan, Member
Melinda Eden, Member

Also present were Larry Edelman, Assistant Attorney General, Oregon Department of Justice; Langdon Marsh, Director, Department of Environmental Quality; and other staff.

Note: Staff reports presented at this meeting, which contain the Department's recommendations, are on file in the Office of the Director, 811 SW Sixth Avenue, Portland, Oregon 97204. Written material submitted at this meeting is made a part of the record and is on file at the above address. These written materials are incorporated in the minutes of the meeting by reference.

Chair, Henry Lorenzen called the work session to order at 2:10 p.m.

The work session involved the incorporation of Raytheon Demilitarization Company (RDC) as a co-permittee on the permit for the Umatilla Chemical Disposal Facility (UMCDF). UMCDF is a chemical weapons incineration facility currently under construction at the Umatilla Chemical Depot near Hermiston. Brett McKnight, Hazardous Waste Manager, and Sue Oliver, Umatilla Permits Coordinator, both of DEQ's Eastern Region, presented the topic to the Commission.

Ms. Oliver outlined the procedure followed by the permittee (U.S. Army) and the Department in processing the Class 3 permit modification request to add RDC to the Umatilla permit. The public comment period has been open since August 29th and is scheduled to close on October 14th. (Subsequent to this work session the Department extended the public comment period to November 4, 1997.) Ms. Oliver described the public comments received to date and testimony received at a public hearing held on October 1st in Hermiston.

The US Army representatives included Mr. James Bacon, Program Manager for Chemical Demilitarization; Mr. Dick Misiewicz, Project Manager for Chemical Stockpile Disposal; Mr. Raj Malhotra, Umatilla Site Manager; and Bruce Pringle, Chief, Environmental Management office. Mr. Bacon described the Army's contract award process and expressed the Army's confidence in RDC's ability to support the project and comply with the permit.

Representatives of Raytheon included Mr. Fred Hissong, President of RDC; Mr. Chuck Miller, Chairman of Raytheon Engineers and Constructors (RE&C); and Mr. Jim Higgins, General Counsel for RDC. Raytheon representatives discussed the organizational history of RDC, the hierarchy of the various subsidiary corporations of Raytheon International, the insurance policies that Raytheon carries, and the indemnification the U.S. Government provides to contractors in the chemical demilitarization program.

The Commissioners questioned the Raytheon representatives about the organizational and legal relationships between the various Raytheon subsidiary companies, and about the applicability of their insurance to various hypothetical scenarios involving catastrophic incidents at Umatilla. Raytheon agreed to provide the Commissioners with more information, including:

- A discussion of Raytheon International's and RE&C's commitment to "backstop" the permit obligations of RDC;

- A description of what insurance would apply (including the the self insured retention, and any exceptions) to some of the catastrophic accident scenarios that were discussed; and

- The status of the contractor indemnification from the Army that is now pending.

Ms. Tamra Mabbot, Morrow County Planning Director, testified during the public forum. Ms. Mabbot requested that the Commission consider adding a requirement to the Umatilla permit that obligates the Army to comply with Oregon Revised Statute (ORS) 554. ORS 554 was passed in the recent Oregon state legislative session and allows a county to levy impact fees on an entity that stores chemical warfare agents. Chairman Lorenzen indicated that the question of local impacts on roads and infrastructure improvement is more of a land use issue than an environmental issue. Ms. Mabbot disagreed, and pointed out to the Commission that many of the local impacts have an environmental component to them.

The Commission adjourned at 4:20 p.m. An open house was held from 4:30 to 6:30 pm with the commission and local officials present.

From 7:30 to 9:30 am on October 3, 1997, Mitch Wolgamott lead a tour to provide an overview of the Grande Ronde River in the Grande Ronde Valley. In attendance were all five Environmental Quality Commission members as well as a few DEQ managers and staff. First stop was at the Spruce Street bridge where a headcut and a push-up irrigation diversion, visible from the bridge, were discussed. A Soil and Water Conservation District sponsored, U.S. Army Corps. of Engineers project to stabilize the headcut and stream banks was briefly discussed. Issues of flow and up-stream (in-coming) water quality were also discussed. The second stop was at the Pierce Lane crossing of the Grande Ronde River. Increased frequency and intensity of dissolved oxygen and pH water quality standard violations (up-stream of the La Grande Sewage Treatment Plant outfall) were discussed. Algae mats, the La Grande STP outfall and a small riparian vegetation rehabilitation project were observed. Grande Ronde River at Peach Lane was the third stop. Large dissolved oxygen and pH diurnal fluctuations were discussed. Algae mats and vertical, sloughing river banks were observed. In route to the next site, the following were observed and discussed: Wind breaks on Booth Lane, State Ditch at Booth Lane (vertical banks, erosion, no vegetation), old river channel at Market Lane (now carrying Catherine Creek only, better vegetation but more turbid, stagnant water, algae mats on old cut-off river meanders). Last tour site was at the confluence of the Grande Ronde River (State Ditch) and Catherine Creek (old river channel) at Alicel Lane. The relatively wide, shallow and eroding State Ditch was compared to the more stable, better vegetated and deeper old river channel. On the way back to Island City a well drilling rig was observed on Alicel Lane and there was a brief discussion of conversion of irrigation from surface water to ground water.

The Environmental Quality Commission re-convened for it's regular meeting at the Region V Building, 3012 Island Ave, La Grande, Oregon at 9:30 am.

The following members were present:

Henry Lorenzen, Chair
Carol Whipple, Vice-Chair
Linda McMahan, Member
Tony Van Vliet, Member
Melinda Eden, Member

Also present were Larry Knudsen, Assistant Attorney General, Oregon Department of Justice; Langdon Marsh, Director, Department of Environmental Quality; and other staff.

Chair, Henry Lorenzen called the meeting to order at 9:30 am.

A. Approval of Minutes

The minutes of the August 22, 1997 regular meeting were reviewed. Commissioner Van Vliet moved that the minutes be approved as written. Vice Chair Whipple seconded the motion. The motion was carried by five "yes" votes.

B. Approval of Tax Credits

There were no tax credits presented at this meeting.

C. Rule Adoption of the Modification of the Mixing Zone Rule

Barbara Burton, Western Region Water Quality Manager, gave a short presentation on the proposed rule modification, including changes staff recommended based on public comments received. Vice Chair Whipple moved to accept the Department's recommendation. The motion was seconded by Commissioner Van Vliet and the motion carried with five "yes" votes.

D. Petition by Jeld-Wen, Inc for Declaratory Ruling Concerning Availability of Sewer as Defined in OAR 340-71-160(5)(f)

The petition was accepted at the August 22, 1997, EQC meeting. At that time the Commission allowed interested parties until September 12, 1997, to petition for intervention in the matter.

No petitions for intervention were received by interested or affected parties. Larry Knudsen, DOJ, recommended approving Lawrence Smith, an Administrative Law Judge with the Employment Department as the Presiding Officer for the petition. Commissioner McMahan made a motion to approve Lawrence Smith as the Presiding Officer. The motion was seconded by Commissioner Eden. A vote was directed for the record. Commissioner McMahan voted yes. Commissioner Van Vliet voted yes. Vice Chair Whipple voted yes. Commissioner Eden voted yes. Chairman Lorenzen voted yes. The recommendation for Mr. Lawrence Smith as the Presiding Officer was approved with five "yes" votes.

E. Rule adoption to Establish Total Daily Loads (TMDLs) for the Grand Ronde River and Catherine Creek to Meet Water Quality Standards Including Establishment of In-Stream Criteria

Dick Nichols, Eastern Region Water Quality Manager, summarized the proposed rulemaking. The rule would set in-stream concentrations for nutrients in the Grande Ronde Valley, establish a schedule for point sources (primarily the sewerage treatment plants for La Grande and Union) to complete planning and construct upgraded facilities to meet the requirements of the new nutrient limits, and set a time frame

for nonpoint sources to develop water quality management plans to address nonpoint source pollution contributions to the river. A requirement exists for the Department to establish a local advisory committee to provide input to DEQ on issues related to the nonpoint source water quality management plans.

Chair Lorenzen summarized why no public testimony would be taken during the meeting. In the past the Commission has allowed citizens to provide comment to the Commission during the meeting where a rule adoption was considered. Due to legislation intended to prevent abuses, the Commission can no longer take additional testimony after the close of the official comment period. Chair Lorenzen expressed regrets to those in the audience who may have wished to address the Commission on this item and said he hoped that the discussions to follow would cover their concerns. He asked Director Marsh to provide some background on TMDLs and why the Department is taking these actions.

Director Marsh discussed the Clean Water Act Section 303(d) requirements and the history of litigation beginning in the 1980s which has resulted in the current need for the Department, working with other agencies and local groups, to develop TMDLs for many streams in Oregon. The Grande Ronde is being done early on because it was specifically mentioned in one of the first law suits in the late 1980s.

Public comments the Department received prior to close of the comment period and the Departments response to comments were summarized. Several questions from Commissioners related to water quality management plan approval process, how plans would be developed, which agencies would be responsible for implementation, structure of the Grande Ronde Model Watershed, and public awareness of water quality issues in the basin.

Department Legal Counsel, Larry Knudsen, suggested an addition to the last sentence of section (1) (g) of the rule to clarify the role of the forest practices rules. He suggested the sentence read "If a nonpoint source entity complies with its State-approved water quality management plan or forest practices rules, it will be deemed to be in compliance with this rule."

The Commission discussed at length the meaning of the phrase in section (1) (b), "...no wastewater discharge or other activity is allowed..." There was concern the phrase could be interpreted to mean that if a specified nutrient concentration were exceeded in the stream an agricultural operator could be required to cease activities even though they were complying with an approved water quality management plan. Staff indicated this was not the intent. Legal counsel did not interpret the language to mean that would happen. After discussion, the Commission decided no change in the language was needed.

Mr. Nichols discussed a concern regarding not identifying the specific amount of pollution originating from a specific nonpoint source. While the Department could go through this exercise, it would be very time consuming and expensive to do and it may not give a definitive answer at the end. It is already known, however, from the research literature what kinds of activities contribute to pollution and, in many cases, what kinds of practices could be used to improve the situation.

Chair Lorenzen emphasized the desire and need to work cooperatively and voluntarily on implementation of agricultural water quality management plans. Commissioner Eden moved to adopt the proposed rule as laid out in the staff report with the addition of language suggested by legal counsel. Commissioner Van Vliet seconded the motion. Motion passed by five "yes" votes.

Public Comment: Ben Boswell, representing the Wallowa County Nez Perce Tribe Salmon Habitat Recovery Plan addressed the Commission.

F. Commissioners' Reports

There were no reports from commissioners.

G. Director's Report

Director Marsh attended the Environmental Council of States (ECOS) meeting where the ECOS Water Committee selected TMDL issues as its primary work focus for the next year. That conference also generated good discussion about child health and environmental justice issues. He represented Governor Kitzhaber on the Land and Water Committee at the Western Governors Association meeting where developing a TMDL framework was a lead discussion topic.

The hiring process to fill the Healthy Streams Partnership positions is nearly complete. There will be a joint training with the Department of Agriculture on October 7.

In August the Environmental Protection Agency (EPA) and the Environmental Council of States (ECOS) – representing state environmental quality agencies – concluded a year-long effort to agree upon core performance measures to gauge how state programs are doing. Measuring success has often been a sticking point between the states and EPA. Federal reporting requirements have tended to emphasize reporting of outputs, such as number of inspections or penalties, rather than outcomes such as real waste reduction or water quality improvement. The Performance Partnership Agreement with EPA for fiscal year 1998 reflected the shifting emphasis to outcomes rather than outputs. This state/federal agreement is consistent with the guiding principles of our strategic planning process. The core measures agreement also recognizes that "one size does not fit all." Core measures can be modified or even deleted if they don't meet individual state direction or needs.

Agency administrators, managers and staff have been deeply involved the last several months developing strategic planning goals, objectives and strategies. An in-depth discussion of our progress was accomplished at a two-day DA meeting in September. The plan now is to implement a public involvement process in October to get public feedback on future agency directions.

DEQ is preparing comments on EPA's proposed Regional Haze Visibility Rules which would apply to the 12 Class I scenic and wilderness areas in Oregon. DEQ's Visibility Protection Program currently focuses on reducing visibility impairment from fine particulate matter (PM2.5) pollution from single sources such as summertime slash and field burning or an industrial facility. EPA's proposed new regulations address regional haze from multiple sources over a larger geographic area. DEQ's comments on this proposal will question whether reasonable progress targets are achievable given the major increases in prescribed burning for forest health and express concern about funding sources for expanded visibility monitoring.

On October 2, EPA officially approved the CO Maintenance Plan for the Portland airshed. The federal agency gave similar approval to the Portland Ozone Maintenance Plan earlier this year. This is a significant achievement that reflects well on DEQ's Air Quality program.

The Legislature last session passed a bill transferring a home heating oil tank management program from the Oil Heat Commission to DEQ. The law became official October 1, but full implementation may take several months. DEQ will immediately start offering free technical assistance to homeowners who ask for help, but the grantmaking portion of the new law depends on resolving some outstanding issues.

Mitch Wolgamott of the Eastern Region water quality staff based in La Grande was honored at the meeting. The plaque commended Mitch for his efforts to improve water quality in the Grande Ronde basin as well as other basins in eastern Oregon. He has been on the front lines in La Grande working with individuals and organizations regarding DEQ's 303(d) list, the new WQ standards, and other complex and often controversial issues. He has been instrumental in helping the people in the Grande Ronde Basin understand the basis for DEQ's efforts and for working with the Grande Ronde Model Watershed Council to develop community support for water quality.

There being no further business, the meeting was adjourned at 11:45 a.m.

Environmental Quality Commission

☐ Rule Adoption Item
X Action Item
☐ Information Item

Agenda Item B
November 21, 1997 Meeting

Title:

Approval of Tax Credit Applications

Summary: Staff recommends the following action regarding tax credits:

Tax Credits for Approval

1		Total Prevention	$ 54,955	$	54,955
6		Total Plastic	$ 218,214	$	102,141
	1	Air	$ 4,984,881	$	2,407,001
	1	Noise	$ 12,080	$	6,040
	2	Field Burning	$ 343,830	$	171,915
	4	Sub Total Air Quality	$ 5,340,791	$	2,584,956
	21	Sub Total Solid Waste	$ 860,064	$	433,334
	1	Water	$ 1,262,800	$	631,400
	8	USTs	$ 883,499	$	405,470
	9	Sub Total Water Qulity	$ 2,146,299	$	1,036,870
34		Total Pollution Control	$ 8,347,154	$	4,055,160
41		All Tax Credits	$ 8,620,323	$	4,212,256

1 Discussion issue
0 Applications for pre-certification
5 Applications for Denial
6 Requests for certificate transfer
0 Certificates for revocation
0 Requests for extension of time to file

Approve issuance of tax credit certificates for the applications presented in Attachment A.
Deny issuance of tax credit certificates for the applications presented in Attachment B.
Approve transfer of certificates presented in Attachment C. Attachment D is presented here to be placed in permanent record no action is required except for guidance as described in the Director's memorandum.

Margaret C. Vandehey — Helen Lottridge — Langdon Marsh

Report Author — Division Administrator — Director

†Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

State of Oregon
Department of Environmental Quality Memorandum

Date: November 3, 1997

To: Environmental Quality Commission

From: Langdon Marsh, Director

Subject: Agenda Item B, November 21, 1997, EQC Meeting
Approval of Tax Credit Applications

Statement of the Need for Action

This report presents the Department staff's analysis of the tax credit applications submitted to the Department under the pollution Prevention, Pollution Control Facility and the Reclaimed Plastic's Tax Credit programs. Included are the Department's recommendations for the Commission's action on these applications.

The following is a summary of the applications presented in this report:

Applications for Approval

Review Reports for applications for approval are presented in Attachment A of this staff report.

Applications for Pollution Prevention Pilot Program: Air Quality

All equipment is used in the normal course of doing business. However, the owners would not have replaced their existing systems at this time or with this particular equipment had it not been required by the National Emission Standards for Hazardous Pollutants (NESHAP) and to avoid monitoring and record-keeping requirements.

TC No.	Applicant	Description of Facility	Certified Cost	Certificate Value
4813	Irwin-Hodson Metal Manufacting Co.	Continuous Aqueous Parts Cleaning System to clean oil off production parts.	$54,955	$ 54,955
	1	Total Prevention	$54,955	$ 54,955

Applications for Reclaimed Plastic Tax Credit

Reclaimed plastic facilities are used in the course of the applicant's business. It is unknown if the applicant would have installed these particular facilities at this particular time without the tax relief provided by the Reclaimed Plastic Tax Credit.

TC No.	Applicant	Description of Facility	Certified Cost	% Allocable	Certificate Value
4608	Ideal Door Components, Inc.	Two twenty cavity injection molds made of P-20 tool steel	$100,000	100%	$ 50,000
4637	NPI Inc., Northwest Polymers	One portable dock ramp for loading and unloading recyclable plastic.	$8,500	100%	$ 4,250
4674	Marshall's Oil and Insulation Co.	Hyster Forklift Model #35XM, Serial #D001H0231BS. A JA Freeman Baler Model #DDA, Serial #67207.	$22,473	38%	$ 4,270
4709	WWDD	Cumberland Model c-1000 Granulator and an ASNHT 3/8in. Hoe XX1000 Screen.	$73,585	100%	$ 36,793
4787	R Plastics, Inc.	Plastic granulator to grind flat sheet into pellets for reuse.	$5,016	100%	$ 2,508
4808	Denton Plastics, Inc.	Conveyor belt used to move recyclable plastic to grinder	$8,640	100%	$ 4,320
	6	**Total Plastic**	**$218,214**		**$102,140**

Applications for Pollution Control Facilities Tax Credit

TC No.	Applicant	Description of Facility	Certified Cost	% Allocable	Certificate Value
Pollution Control: Air					
4729	Roseburg Forest Products Co.	Installation of an electrostatic precipitator	*$4,984,881*	100%	$ 2,407,001
	1	**Sub Total Air**	**$4,984,881**		**$ 2,407,001**
	Noise				
4732	LTM, Inc.	Installation of Four 30" Diameter Astec Mufflers	$12,080	100%	$ 6,040
	1	**Sub Total Noise**	**$12,080**		**$6,040**
	Field Burning				
4807	4 B Farms, Inc.	Pole Building structure, 106' W x 133'6" L x 30' H. For straw removal and storage.	$153,830	100%	$ 76,915
4842	Golden Valley Farms	Freeman 370T Baler, engine serial #8417152 & Metallic Building 120' x 200' x 24'.	$190,000	100%	$ 95,000
	2	**Field Burning**	**$343,830**		**$171,915**
	9	**Total Air**	**$5,340,791**		**$2,584,956**

TC No.	Applicant	Description of Facility	Certified Cost	% Allocable	Certificate Value
Pollution Control: Solid Waste					
4769	Corvallis Disposal Co.	Kann Hi-Jacker 76" Side Dump Recycling Truck	$78,783	100%	$ 39,392
4771	Albany-Lebanon Sanitation, Inc.	1995 Trailmobile 48X102 Dry Vans used to haul baled recyclable commodities from plant to market source. Serial Numbers 1PTO1JAH3S9019633 and 1PTO1JAH3S9019634	$34,900	100%	$ 17,450
4782	United Disposal Service, Inc	New McIntyre Hydraulic Alligator Metal Cleaning Shear, Model 320, Serial #1726-96.	$9,300	100%	$ 4,650
4786	United Disposal Service, Inc	Two Self Dumping Hoppers, Ser.#140064 & #140065; Three Self Dumping Hoppers, Ser.#139860, #13961, & #13962.	$4,175	100%	$ 2,088
4790	Corvallis Disposal Co.	576 101-Gallon Toter Carts Model # 60501, Serial #'s YW008782-YW009357.	$37,152	100%	$ 18,576
4791	Corvallis Disposal Co.	Ten 2-yard Containers (Model #M73T, Serial #135077-135086); 20 4-yard Containers (Model #M75T, Serial #13587-135096 & 139495-139504); 10 6-yard Containers (Model #M76T, Serial #135097-135106).	$30,814	100%	$ 15,407
4793	United Disposal Service, Inc.	Three 48.9-Yard Drop Boxes, Model #M2296SC, Serial Numbers #9264, #9265, & #9268	$15,181	100%	$ 7,591
4803	United Disposal Service, Inc.	Three Hundred & Sixty 64 Gal. Schaefer Compostainers with Wheels, Serial # Y64-001531 thur Y64-001890.	$22,939	100%	$ 11,470
4810	Albany-Lebanon Sanitation, Inc.	576 101-Gallon Toter Carts, Model #61001, Serial #YW008629 - YW009204.	$37,342	100%	$ 18,671

TC No.	Applicant	Description of Facility	Certified Cost	% Allocable	Certificate Value
4817	United Disposal Service, Inc.	1,000 Red 14-gallon Recycling Bins & 500 White 14-gallon Recycling Bins.	$6,900	100%	$ 3,450
4818	United Disposal Service, Inc.	Three, Ten Yard Drop Boxes to be used to pick-up concrete at Construction Sites.	$3,500	100%	$ 1,750
4819	Corvallis Disposal Co.	One, Marathon TC-3 HD/HF Stationary Cardboard Compactor System, Serial #39854-W	$12,483	100%	$ 6,242
4824	Patrick Industries, Inc.	Western Pneumatics Model 630 Bag House System, with 70,000 CFM air intake system.	*$277,030*	100%	$ 138,515
4831	Albany-Lebanon Sanitation, Inc.	Six-30 yd Recycling Drop Boxes, Serial #8232-8237; Two-35 yd Cardboard Recycling Boxes, Serial #8229-8230; and One 25.7 Glass Recycling Box, Serial #8231.	$49,831	100%	$ 24,916
4832	Corvallis Disposal Co.	Five 30-yard (20' x 65") SC Style Drop Boxes with domed lids (model #2065SC, Serial #8224-8228, used to store & transport recyclable newspaper & magazines.	$18,478	100%	$ 9,239
4833	Corvallis Disposal Co.	650 white recycling bags, 220 single-bag stands & 100 double-bag stands for collection of High- Grade paper from Businesses.	$6,524	100%	$ 3,262
4837	United Disposal Service, Inc.	One New 1996 Volvo Truck, Model WXR64 Serial #4V5ECFMD7TR722918 & One Heil Formula 7000-27 Refuse Packer, Serial #7101560.	$156,607	100%	$ 78,304
4843	Albany-Lebanon Sanitation, Inc.	3013 RC-12 recycling bins which is are used for collection of recycling at the curb.	$12,775	100%	$ 6,388
4846	Albany-Lebanon Sanitation, Inc.	165 95-Gal. Schaefer Carts (Serial #12027-12191) & 2 9810-Y Infinity set, 6-S Park Litter Waste Enclosures & 2 Surface Mnts. for Recycling Upgrade.	$8,580	100%	$ 4,290
4847	Marshall's Oil and Insulation Co.	2 Canopies covering the equipment. A Balemaster Model #6030H, Serial # B69-7-9380235. A Hyster Forklift Model #35XM, Serial #D001H0231BS. A JA Freeman Baler Model #DDA, Serial #67207.	$15,728	100%	$ 11,162
4850	Peter Walker & Son	1997 Ford F250 HD Pickup Truck, VIN #3FTHF25H4VMA47774, with refuse runabout Model LG10 Hyd. Dumpbody, Serial #LG1009971049	$21,042	100%	$ 10,521
	21	**Solid Waste**	**$860,064**		**$433,334**

TC No.	Applicant	Description of Facility	Certified Cost	% Allocable	Certificate Value
Pollution Control: USTs					
4715	Jackson Oil, Inc.	Tank leak detection system	$89,295	98%	$ 43,755
4804	Powell Blvd. Chevron, Inc.	Installation of Stage II Vapor Recovery System.	$118,721	85%	$ 50,456
4822	Alan Bowdish, Inc.	New Tanks, Piping and Pollution Control Equipment.	$143,521	87%	$ 62,432
4827	Devin Oil Co., Inc.	Upgrade of Tanks, Piping and Pollution Control Equipment.	$163,723	94%	$ 76,950
4835	Enserv, LLC	This is a new Business location. There were no tanks or piping at this location previously. Two Fiberglass Tanks, (1) 10,000 gal. & (1) 15,000 gal. double wall Permatank.	$124,257	92%	$ 57,158
4838	Western Stations Co.	New Tanks, Piping & Pollution Control Equipment.	$174,171	92%	$ 80,119
4839	Home Fuel Oil Co.	Tank Lining & Pollution Control Equipment.	$60,920	99%	$ 30,155
4844	Winnoco, Inc.	Upgrade of Pollution Control Equipment with Incon Model #TS1000/4P.	$8,891	100%	$ 4,446
	8	**USTs**	**$883,499**		**$ 405,470**
Pollution Control: Water					
4557	Weyerhaeuser Company	120' diameter above ground concrete primary clarifier, sumps, pumps and associate plumbing and electrical control systems	*$1,262,800*	100%	$ 631,400
	1	**Water**	*$1,262,800*		$ 631,400
	34	**Total Pollution Control**	**$8,347,154**		**$4,055,160**
	41	**Total of all Tax Credits**	**$8,620,323**		**$4,212,256**

Applications for Denial are summarized here and presented in detail in Attachment B of this staff report. See also, *Background and Discussion* section of this memorandum.

Application No.	Applicant	Description of Facility	Claimed Facility Cost	Claimed % Allocable	Program
4528	Willamette Industries, Inc.	A Clark PNUE air bagfilter.	$97,507	100%	Air
4734	Woodburn Fertilizer, Inc.	Bag House for Dust Collection	$97,960	100%	Air
4764	Willamette Industries	New Broom Sweeper & Dewalt Dump Bin	$22,292	100%	Air
4776	Cabinet Creations, Inc.	Binks filter-type spray booth, Model 30-670, 26' x 14', with 20-filter intake and tower exhaust.	$9,665	100%	Air
4821	United Disposal Service, Inc.	1 1990 6-cyl. GMC Truck, Model C70D42, Serial # 1GDJ7H1LJ602292. 1 Simon-Effer Model 5000 AZ/2S Articulating Crane w/outriggers Serial # 6024502. 1 Flat Bed Truck w/stake pockets, head board, paint, lights, wiring belt winches and Tool Box	$38,040	100%	Solid Waste

Certificate Transfers

There are five requests for six certificate transfers. A copy of the certificate and the authority to transfer is presented in Attachment C of the Department Staff Report.

Certificate No.	Issued On	Transfer From	Transfer To
2143	4/17/90	Arthur H. Clough P.O. Box 98 Arlington, OR 97812	Devin Oil Co., Inc. PO Box "G" Arlington, OR 97812
2791	12/30/91	Glen A. Showalter 33979 Highway 228 Halsey, OR 97348	J & J Farming LLC, 33979 Hwy. 228 Halsey, OR 97348 EIN 93-0996032
3261	12/10/93	Regency Car Wash Inc. 1001 S. Riverside Medford, OR 97501	Gerald Sauter, Regency Car Wash Inc. 1001 S. Riverside Medford, OR 97501 a 50% shareholder
3261	12/10/93	Regency Car Wash Inc. 1001 S. Riverside Medford, OR 97501	Michele Sauter Regency Car Wash Inc. 001 S. Riverside Medford, OR 97501 a 50% shareholder
3266	12/10/93	Jimmy L. Arendell 18045 SE Portland Ave Milwaukie, OR 97267	Arendell Properties, LLC 4140 SE Harrison Milwaukie, OR 97222 EIN 91-1757504
3531	11/17/95	Chevron USA, Inc. 6001 Bollinger Canyon Rd. Bldg. L San Ramon, CA 94583	Powell Blvd Chevron, Inc. Attn: Gene Pulver 30 W. Powell Blvd Gresham, OR 97030

Applications to be Rejected

The Department has the authority to reject tax credit applications when an applicant does not provide information required to complete the application review (OAR 340-16-020(1)(h))[1] and when an applicant does not submit a timely application (OAR 340-16-020(1)(l)).[2] The Department will reject the following applications as presented in Attachment D of the Department Staff Report.

App. No.	Applicant	Description of Facility	Claimed Facility Cost	Claimed % Allocable	Program
4505	Chevron USA, Inc.	Untimely Response: 2-12000 gal. tanks, 1-15000 tank, doublewall fiberglass piping, Spill Containment and Overflow Protection, Stage II Vapor Recovery	$256,229	100%	USTs
4506	Chevron USA, Inc.	Untimely Response: 3-15000 gal. tanks, 1-1000 gal. tank, doublewall fiberglass piping, Spill Containment and Overflow Protection, Stage II Vapor Recovery	$345,364	100%	USTs
4570	Willamette Industries, Inc.	Untimely Submittal: Ebterprise Baler (Model 16-ezrrb-200), Kraus Baler Conveyor (93KRACONV0050) Krause Sorting Conveyer (93KRACONV0050), Michigan Wheel Loader (SN L-70v61201), Mitsubishi 6Mlb Fork Trk (SNAF89A-00546), Mitsubishi 6Mlb Fork Trk(SNAF89A-00529)etc	$2,596,818	100%	Solid Waste
4811	Albany-Lebanon Sanitation Co.	Untimely Submittal: 360 95-Gallon Toter Carts, Model #USD-C95, Serial #11337-11696.	$18,720	100%	Solid Waste

Background and Discussion of Issues

Denial of Application Number 4528. Willamette Industries' application number 4528 claimed a bag filter. The claimed facility was built as a replacement to a facility previously certified by the Commission. However, OAR 468.155(2)(e)(A) excludes the cost to replace or reconstruct a facility unless the replacement facility was built to meet a requirement imposed by the Department of Environmental Quality, the federal Environmental Protection Agency or a regional air pollution authority. The original, replaced facility met the condition

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[1] *If the Department determines the application is incomplete for processing and the applicant fails to submit requested information within 180 days of the date when the Department requested the information, the application will be rejected by the Department unless applicant requests in writing additional time to submit requested information.*

[2] *If the application is submitted after the two year period following substantial completion and the applicant has not filed an extension request, the application will be rejected by the Department.*

of the imposed requirements.

The Commission certified the replaced facility on certificate number 1073. It was issued to Bohemia, Inc., on May 16, 1980. At the time, Bohemia was a wholly owned subsidiary of Willamette Industries, Inc.

The fact that Bohemia, Inc., merged with Willamette Industries, Inc., on December 31, 1987 has no relevance to the eligibility of the replacement facility for a pollution control facility tax credit under ORS 468.150 through 468.190.

Other Bohemia sites included the merger with Willamette Industries, Inc., includes the Coburg Mill, Eugene Particleboard, Saginaw Laminating Plant, Saginaw Planner Plant and Vaughn Laminating Plant.

Denial of Application Number 4734. Woodburn Fertilizer, Inc. submitted application number 4734 for a bag house. Before the Department completed the application review, the facility and the surrounding buildings were completely destroyed by fire. Therefore, the facility does not meet the definition of a pollution control facility under ORS 468.155 (1)(a).

Denial of Application Number 4764. Willamette Industries submitted tax credit application number 4764 claiming a sweeper and bin used to clean the plant more effectively and on a more frequent basis. The applicant claims the incoming storage area is cleaner than when it was hand swept twice a month. The applicant also claims the amount of dust in the air has been reduced considerable. The cleaner plant site, means less fugitive wood particulate in and around the plant.

The applicant claims the sole purpose (ORS 468.155 (1)(a)) of equipment is to prevent, control or reduce a substantial quantity of air pollution. However, the Department asserts that the sweeper and bin provides a cleaner work space as claimed on the application and provides no substantial reduction in air pollution.

Additonally, the prevention, control or reduction is not accomplished by disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A. (ORS 468.155 (1)(b)(B))

Denial of Application Number 4776. Cabinet Creation's tax credit application number 4776 is for a paint spray booth. The facility does not meet the definition of a pollution control facility under ORS 468. 468.155.

The facility was not installed to comply with a requirement imposed by the Department, the federal Environmental Protection Agency or regional air pollution authority to prevent,

control or reduce air pollution, and therefore, it does not meet the principal purpose requirement.

The sole purposes, or the exclusive purpose, of the facility is not to prevent, control or reduce a substantial quantity of air pollution because it also provides an environment that minimizes damage to the surface finish of the cabinet. Paint booths are standard components of a cabinet shop used to confine paint over-spray and to protect employees not involved in the finish process. Therefore, the facility does not meet the sole purpose requirement.

Denial of Application Number 4821. On tax credit application number 4821, United Disposal Service, Inc., claimed a truck which is used to deliver empty recycling containers to customers. The claimed facility is not directly involved with the separation , recovery, collection, processing, or remanufacture of material which would otherwise be solid waste. Therefore, the sole purpose of this new equipment is not for pollution reduction by use of a material recovery process.

Discussion of Department's Rejection of Application Number 4570 - Attachment D. The Department and the applicant, Willamette Industries, Inc., disagree on the date construction of the facility was substantially complete. The Department's assertion makes the facility ineligible for failure to file a timely application because the application was submitted after the two year period following substantial completion of the facility. (ORS 468.165(6))

Application number 4570 was submitted on December 26, 1995 by Willamette Industries the owner and applicant of the claimed facility. Willamette Industries leased the facility to Far West Fibers, an independent recycling company, who began operations in the claimed facility on September 27, 1993. The lease between Willamette Industries and Far West Fibers was signed on January 1, 1994.

The applicant claims the date of substantial completion of the facility is January 1, 1994, the date the lease was signed. The applicant claims that as the lessor of the facility and the fact that there was no lease between the independent recycling company and the applicant until January 1 1994, the date of substantial completion of the facility is the effective date of the lease. Since this date is within two years after construction of the facility was substantially completed, the applicant would have submitted a timely application according to rule.

After receiving Department of Justice advice, the Department will reject this application on November 26, 1997. The applicant may wish to present their position before the Commission.

Conclusions

The recommendations for action on the attached applications are consistent with statutory provisions and administrative rules related to the pollution control, pollution prevention and reclaimed plastic product tax credit programs.

Recommendation for Commission Action

Approve issuance of tax credit certificates for the applications presented in Attachment A of the staff report.

Deny issuance of tax credit certificates for the applications presented in Attachment B, of the staff report.

Approve transfer of certificates presented in Attachment C of the staff report.

Provide guidance on tax credits application number 4570 presented in Attachment D of the staff report should the applicant wish presents additional information before the EQC.

Discuss a December 31, 1997, conference call to approve year-end tax credit applications.

Intended Follow-up Actions

Notify applicants and the Department of Revenue of Environmental Quality Commission actions.

Attachments

A. Pollution Control Tax Credit Application Review Reports for Approval
B. Pollution Control Tax Credit Application Review Reports for Denial
C. Tax Credit Certificate Transfers
D. Pollution Control Tax Credit Application Review Reports Rejected by the Department

Reference Documents (available upon request)

1. ORS 468.150 through 468.190.
2. OAR 340-16-100 through 340-16-125.
3. OAR 340-16-005 through 340-16-050.
4. ORS 468.925 through 468.965.
5. OAR 340-17-010 through 340-17-055.

Approved:

Section:

Division:

Report Prepared By: Margaret Vandehey
Phone: (503) 229-6878
Date Prepared: August 11, 1997

Taxshare\eqc\9711_deq.doc

Attachment A

Applications for Approval

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation: **APPROVE**

Applicant	**Weyerhaeuser Company**
Application No.	**4557**
Facility Cost	**$1,262,800**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-050

Applicant Identification

The applicant is a C Corporation operating as a forrest products mill taking tax relief under taxpayer identification number 91-0470860. The applicant is the owner of the facility.

The applicant's address is:

Horsefall Beach Road
PO Box 329
Northbend, OR 97459

Facility Identification

The certificate will identify the facility as:

One 120' diameter above ground concrete primary clarifier, sumps, pumps and associate plumbing and electrical control systems.

The facility is located at:

Horsefall Beach Road
Northbend, OR 97459

Technical Information

On November 25, 1991, the Department of Environmental Quality issued National Pollutant Discharge Elimination System (NPDES) Permit No. 100850 (Permit) to Weyerhaeuser Company (Permittee). The Permit authorizes the Permittee to install and operate wastewater collection, treatment and disposal system for the 3 million gallons per day wastewater generated by the pulp and paper mill. The primary treatment at plant site consisted of solids removal by screening and anaerobic digestion by settling basins. The secondary treatment was performed in a 270 acre lagoon located in a sand pit near Coos Bay. The treated wastewater was and still is discharged to the Pacific Ocean through an outfall. The lagoon was originally constructed in 1961 as a seepage basin only. Later seepage slowed down and an ocean outfall was installed. Since its construction in 1961, the lagoon has been operated under the authority of a Permit. Department inspections

indicated that the lagoon has been in general compliance with the provisions of the Permit. It was estimated that 27 percent of the inflow to the lagoon seeped into the underlying sands and thence to ocean and Coos Bay.
Since the Permit was issued, the Environmental Quality Commission (EQC) adopted rules for groundwater protection, OAR Chapter 340, Division 40. Studies indicated that seepage from the lagoon was causing exceedences of reference and guidance levels of the underground protection rules for certain water quality parameters. The EQC issued an abatement order, SFO WQ-SWR-91-148, to Weyerhaeuser to modify its treatment and disposal system and eliminate the seepage from the lagoon. The first phase of wastewater treatment system improvements is the modification of the primary treatment which included the installation of concrete primary clarifier by December 31, 1993. The installation of the clarifier is also necessary to determine the quantity of sludge generated and to evaluate its disposition.

The clarifier removes about 80-90% of suspended solids and all the insoluble biochemical oxygen demand (BOD5) load. As a result, the downstream treatment became more efficient and resulted to reduced solids and BOD5 at the final discharge to the ocean.

Eligibility

ORS 468.155 (1)(a) The **principal** purpose of this **new installation** is to prevent, control or reduce a substantial quantity of water pollution by complying with the Department's Stipulation and Final Order No. WQ-SWR-91-148 issued on 8/24/90. The requirement was to modify the treatment and disposal system in order to comply with groundwater protection rules.

OAR-016-025 (2)(g) Installation or construction of the facility will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**11/24/1995**
Application Substantially Complete	**11/13/1996**
Construction Started	**11/30/1993**
Construction Completed	**11/30/1993**
Facility Placed into Operation	**12/20/1993**

Facility Cost

		$1,285,556
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs		
Scum pump and tank claimed but not in use		-$22,756

Eligible Facility Cost **$1,262,800**

Symonds, Evans & Larson, P.C. under contract to the Department, provided accountant's report as attached to this Review Report.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 20 years. No gross annual revenues are associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: Renato C. Dulay
Symonds, Evans & Larson P.C.
M.C. Vandehey

SYMONDS, EVANS & LARSON, P.C.
CERTIFIED PUBLIC ACCOUNTANTS

REPORT OF INDEPENDENT ACCOUNTANTS ON APPLYING AGREED-UPON PROCEDURES TO POLLUTION CONTROL TAX CREDIT APPLICATION NO. T-4557

Environmental Quality Commission
811 S.W. Sixth Avenue
Portland, Oregon 97204

We have performed the procedures enumerated below, which were agreed to by Weyerhaeuser Company (the Company); the State of Oregon, Department of Environmental Quality (the DEQ); and the Environmental Quality Commission, solely to assist you with respect to the Company's Pollution Control Tax Credit Application No. T-4557 (the Application) filed with the DEQ for the Water Pollution Control Facility in North Bend, Oregon (the Facility). This engagement to apply agreed-upon procedures was performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The Application has a claimed Facility cost of $1,285,556. Our procedures and findings are as follows:

Procedures:

1. We read the Application, the Oregon Revised Statutes (ORS) on Pollution Control Facilities Tax Credits – Sections 468.150 through 468.190 (the Statutes) and the Oregon Administrative Rules (OAR's) on Pollution Control Tax Credits – OAR 340-16-005 through OAR 340-16-050.

2. We inspected all significant vendor invoices supporting the adjusted costs of the Facility.

3. We discussed certain components of the Application, the Statutes and OAR's with Maggie Vandehey of the DEQ.

4. We discussed certain components of the Application with Ron Newlander and Shannon Souza, environmental engineers of the Company.

9600 S.W. Oak Street, Suite 380
Portland, Oregon 97223

Phone: (503) 244-7350
Fax: (503) 244-7331

5. We toured the Facility with Mr. Newlander.

6. We requested that Company personnel confirm the following assertions:

   A. There were no related parties or affiliates of the Company which had billings which were included in the Application.

   B. There were no significant spare parts that were included in the cost of the Facility.

   C. Costs incurred related to internal labor were based on employees' actual pay rates.

   D. The Company presently derives no income or cost savings from operating the Facility.

   E. No previously existing equipment was sold as a result of the installation of the Facility.

   F. In accordance with ORS Section 468.155(2)(e), the Facility is not a "replacement or reconstruction of all or a part of any facility for which a pollution control facility certificate has previously been issued..."

   G. Engineering costs paid to CH2M Hill of $308,213 related to the planning and design of certain components of the Facility and to the testing and measuring of emissions during the construction phase of the Facility.

   H. All allowable costs related to the Facility have been included in the Application.

   I. In accordance with ORS Section 468.155(2)(d), the Facility does not include "any distinct portion of a pollution control facility that makes an insignificant contribution to the principal or sole purpose of the facility..."

Findings:

1. through 5.

   As a result of applying these procedures we noted that the Application should be adjusted for the following non-allowable costs:

Costs related to a scum tank and scum pump that were not currently in use	$ 22,756

   Accordingly, the allowable costs for the Application should be decreased to $1,262,800.

6. Company personnel confirmed that such assertions were true and correct.

We were not engaged to, and did not, perform an audit, the objective of which would be the expression of an opinion on the specified elements, accounts or items. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the use of the specified users above and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.

Symonds, Evans + Larson, P.C.

September 23, 1997

Application No. TC-4608

State of Oregon
Department of Environmental Quality

RECLAIMED PLASTIC TAX CREDIT
TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Ideal Door Components, Inc.
4243 Springrock Circle
West Linn, Oregon 97068

The applicant is a manufacturer of door components. The Applicant will own the molds and will sell the product produced with the molds. The applicant will contract with Advanced Plastics to construct the molds and to manufacture the reclaimed plastic product from recycled plastic on their plastic injection equipment.

Application was made for Reclaimed Plastic Tax Credit.

2. Description of Equipment, Machinery or Personal Property

The claimed equipment consists of two twenty cavity injection molds made of P-20 tool steel.

The claimed facility investment costs: $100,000

A copy of an independent accountant's certification of the investment cost was provided.

3. Procedural Requirements

The investment is governed by ORS 468.451 through 468.491, and by OAR Chapter 340, Division 17.

The investment met all statutory deadlines in that:

a. The request for preliminary certification was received on April 16, 1996. The 30 day waiting period was waived and the preliminary certification was approved on April 30 1996.

b. The investment was made on May 12, 1996.

c. The request for final certification was submitted on August 8, 1997 and was filed complete on September 10, 1997.

4. Evaluation of Application

a. The investment is eligible because the equipment is necessary to transport reclaimed plastic.

b. Allocable Cost Findings

In determining the portion of the investment costs properly allocable to reclaiming and recycling plastic material, the following factors from ORS 468.486 have been considered and analyzed as indicated:

1) The extent to which the claimed collection, transportation, processing or manufacturing process is used to convert reclaimed plastic into a salable or usable commodity.

The equipment is to be used 100 percent of the time for manufacture of a reclaimed plastic product.

2) Any other factors which are relevant in establishing the portion of the actual cost of the investment properly allocable to the collection, transportation or processing of reclaimed plastic or to the manufacture of a reclaimed plastic product.

No other factors were considered relevant.

The actual cost of the investment properly allocable to processing reclaimed plastic as determined by using these factors is 100%.

5. Summation

a. The investment was made in accordance with all regulatory deadlines.

b. The investment is eligible for final tax credit certification in that the equipment is necessary to manufacture a reclaimed plastic product.

c. The qualifying business complies with DEQ statutes and rules.

d. The portion of the investment cost that is properly allocable to reclaiming and recycling plastic is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Reclaimed Plastic Tax Credit Certificate bearing the cost of $100,000 with 100% allocated to reclaiming plastic material, be issued for the investment claimed in Tax Credit Application No. TC-4608.

William R. Bree
TAX\TC4608PL.STA
(503) 229-6046
August 10, 1997

Application No. TC-4637

State of Oregon
Department of Environmental Quality

RECLAIMED PLASTIC TAX CREDIT
TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

NPI Inc., Northwest Polymers
201 Dixon Ave.
Molalla, Oregon 97038

The applicant is a plastic recycling company

Application was made for Reclaimed Plastic Tax Credit.

2. Description of Equipment, Machinery or Personal Property

Portable dock ramp for loading and unloading recyclable plastic.

The claimed facility investment costs: $8,500

A copy of an independent accountant's certification of the investment cost was provided.

3. Procedural Requirements

The investment is governed by ORS 468.451 through 468.491, and by OAR Chapter 340, Division 17.

The investment met all statutory deadlines in that:

a. The request for preliminary certification was received on July 2 1996. The 30 day waiting period was waived and the preliminary certification was approved on July 2, 1996.

b. The investment was made on August 20, 1996.

c. The request for final certification was submitted on September 29, 1997 and was filed complete on October 15, 1997.

4. Evaluation of Application

a. The investment is eligible because the equipment is necessary to process reclaimed plastic.

b. Allocable Cost Findings

In determining the portion of the investment costs properly allocable to reclaiming and recycling plastic material, the following factors from ORS 468.486 have been considered and analyzed as indicated:

1) The extent to which the claimed collection, transportation, processing or manufacturing process is used to convert reclaimed plastic into a salable or usable commodity.

The equipment is to be used 100 percent of the time for processing reclaimed plastic.

2) Any other factors which are relevant in establishing the portion of the actual cost of the investment properly allocable to the collection, transportation or processing of reclaimed plastic or to the manufacture of a reclaimed plastic product.

No other factors were considered relevant.

The actual cost of the investment properly allocable to processing reclaimed plastic as determined by using these factors is 100%.

5. Summation

a. The investment was made in accordance with all regulatory deadlines.

b. The investment is eligible for final tax credit certification in that the equipment is necessary to process reclaimed plastic.

c. The qualifying business complies with DEQ statutes and rules.

d. The portion of the investment cost that is properly allocable to reclaiming and recycling plastic is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Reclaimed Plastic Tax Credit Certificate bearing the cost of $8,500 with 100% allocated to reclaiming plastic material, be issued for the investment claimed in Tax Credit Application No. TC-4637.

William R. Bree
TAX\TC4637PL.STA
(503) 229-6046
October 15, 1997

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation: **APPROVE**

Applicant	**Marshall's Oil and Insulation Co.**
Application No.	**4674**
Facility Cost	**$22,473**
Percentage Allocable	**38%**
Useful Life	**10 years**

Reclaimed Plastics Products Tax Credit
Final Certification
ORS 468.451 -- 468.491
OAR 340-017-0010 -- 340-017-0055

Applicant Identification

The applicant is a C Corporation operating as a heating and insulation company taking tax relief under taxpayer identification number 93-0697033. The applicant is the owned of the facility.

The applicant's address is:

3355 Bardell
Eugene, OR 97401

Facility Identification

The certificate will identify the facility as:

Hyster Forklift Model #35XM, Serial #D001H0231BS. A JA Freeman Baler Model #DDA, Serial #67207.

The facility is located at:

4110 Olympic St
Springfield, OR

Technical Information

This application is for that portion of complete recycling facility which is used for processing recyclable plastic.

Eligibility

The purpose of this equipment is to process recyclable plastic.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Preliminary Received	**10/03/1996**
Preliminary Approved	**10/03/1996**
Investment Made	**11/07/1996**
Application Received	**10/03/1997**
Application Substantially Complete	**10/10/1997**

Facility Cost

		$22,473
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Ineligible Costs		
Preparation of this application	-$	70
Eligible Facility Cost	**$**	**22,403**

Invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

According to ORS 468.486 (1), the factors used to determine the portion of the investment cost properly allocable to reclaiming and recycling plastic material were considered:

Factor	Applied to This Facility
ORS 468.486 (1)(a) Extent used to convert reclaimed plastic into a salable or usable commodity.	NA.
ORS 468.486 (1)(b) Percentage of time the facility is used for collecting reclaimed plastic.	
Forklift	$18,617 @ 25% = $4,654
Remainder of Facility	$ 3,856 @ 100% = $3,856
	= $8,510/$22,473 = 38%
ORS 468.486 (1)(b) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 38%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: William R Bree

Application No. TC-4709

State of Oregon
Department of Environmental Quality

RECLAIMED PLASTIC TAX CREDIT
TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

WWDD
230 NW 10th
Portland, Oregon 97209

The applicant is a leasing partnership which provides equipment to the plastic industry. WWDD has some common management with Denton Plastic a plastic manufacturing and recycling company. The applicant is leasing the claimed equipment to Denton plastic

Application was made for Reclaimed Plastic Tax Credit.

2. Description of Equipment, Machinery or Personal Property

The claimed equipment consists of a Cumberland Model C-1000 Granulator and an ASNHT 3/8in. hoe XX1000 Screen.

The claimed facility investment costs: $73,585

A copy of an independent accountant's certification of the investment cost was provided.

3. Procedural Requirements

The investment is governed by ORS 468.451 through 468.491, and by OAR Chapter 340, Division 17.

The investment met all statutory deadlines in that:

a. The request for preliminary certification was received on December 3, 1996. The 30 day waiting period was waived and the preliminary certification was approved on December 6, 1996.

b. The investment was made on August 1, 1997.

c. The request for final certification was submitted on September 29, 1997 and was filed complete on October 15, 1997.

4. Evaluation of Application

a. The investment is eligible because the equipment is necessary to process reclaimed plastic.

b. Allocable Cost Findings

In determining the portion of the investment costs properly allocable to reclaiming and recycling plastic material, the following factors from ORS 468.486 have been considered and analyzed as indicated:

1) The extent to which the claimed collection, transportation, processing or manufacturing process is used to convert reclaimed plastic into a salable or usable commodity.

The equipment is to be used 100 percent of the time for processing reclaimed plastic.

2) Any other factors which are relevant in establishing the portion of the actual cost of the investment properly allocable to the collection, transportation or processing of reclaimed plastic or to the manufacture of a reclaimed plastic product.

No other factors were considered relevant.

The actual cost of the investment properly allocable to processing reclaimed plastic as determined by using these factors is 100%.

5. Summation

a. The investment was made in accordance with all regulatory deadlines.

b. The investment is eligible for final tax credit certification in that the equipment is necessary to process reclaimed plastic.

c. The qualifying business complies with DEQ statutes and rules.

d. The portion of the investment cost that is properly allocable to reclaiming and recycling plastic is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Reclaimed Plastic Tax Credit Certificate bearing the cost of $73,585 with 100% allocated to reclaiming plastic material, be issued for the investment claimed in Tax Credit Application No. TC-4709.

William R. Bree
TAX\TC4709PL.STA
(503) 229-6046
October 15, 1997

Application No. TC-4715

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Jackson Oil, Inc.
P O Box 280
Canyon City, OR 97820

The applicant owns and operates a petroleum bulk plant at 131 N. Washington, Canyon City, OR 97820, Facility ID No. 10860.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are epoxy lining on six steel tanks, spill containment basins, automatic tank gauge system, overfill alarm, sumps and automatic shutoff valves.

Claimed facility cost $89,295
(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 was substantially completed on July 1, 1995 and placed into operation on July 1, 1995. The application for certification was submitted to the Department on December 26, 1996, and was considered to be complete and filed on December 26, 1996, within two years of the completion date of the project.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed:

1) For corrosion protection - Epoxy lining on six steel tanks.

2) For spill and overfill prevention - Spill containment basins, sumps, overfill alarm and automatic shutoff valves.

3) For leak detection - Automatic tank gauge system.

The Department concludes that the costs claimed by the applicant ($89,295) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible 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 equipment 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 annual percent return on investment as the applicant claims no gross annual income from the facility.

3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant chose the most cost effective alternative. The methods chosen are acceptable for meeting the requirements of federal regulations.

4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control of reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table:

	Eligible Facility Cost	Percent Allocable	Amount Allocable
Corrosion Protection:			
Epoxy tanklining	$48,000	100%	$48,000
Spill & Overfill Prevention:			
Spill containment basins	1,798	100	1,798
Sumps	392	100	392
Overfill alarm	300	100	300
Automatic shutoff valves	297	100	297
Leak Detection:			
Automatic tank gauge	15,188	90% (1)	13,669
Labor, material, misc parts	23,320	100	23,320
Total	$89,295	98%	$87,776

(1) The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

a. The facility was constructed in accordance with all regulatory requirements according to signed statements made by the installation service provider and/or owner.

b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules in that the appropriate compliance documents relating to the project have been submitted.

d. The portion of the facility cost that is properly allocable to pollution control is 98%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $89,295 with 98% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4715.

Barbara J. Anderson
(503) 229-5870
August 21, 1997

Application No. 4729

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Roseburg Forest Products Co.
P.O. Box 1088
Roseburg, OR 97470

The applicant owns and operates a particleboard plant in Dillard, Oregon.

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

2. Description of Facility

The claimed facility consists of eight wet electrostatic precipitators (ESP) manufactured by GeoEnergy International Corporation International Corporation installed to control particulate and blue smoke emissions from particleboard furnish dryers 1 through 8. The emissions after the installation of the claimed facility are less than 0.02 grains/dscf and the blue smoke has been eliminated.

Claimed Facility Cost:	$4,993,023
Ineligible Costs - Lighting	($8,142)
Eligible Facility Cost	$4,984,881

The Independent Accountant's Report was provided by Symonds, Evans & Larson, P.C.

The applicant indicated the useful life of the facility is 10 years.

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:

Installation of the facility was substantially completed in September of 1996 and placed into operation in September of 1996. The application for final certification was

received by the Department on February 6, 1997. The application was found to be complete on May 7,1997, within two years of substantial completion of the facility.

4. Evaluation of Application

a. Rationale For Eligibility

The claimed facility is eligible because the principal purpose of the facility is to comply with the requirements imposed by the applicant's Air Contaminant Discharge Permit (ACDP) number 10-0063. The applicant is required to keep particulate emissions below 0.1 grains/dscf and limit opacity to no more than 20% for more than three minutes in any one hour. This is in accordance with OAR Chapter 340, Division 21, rule 015 and 030. The emission reduction is accomplished by the removal of air contaminants as defined in ORS 468A.005.

The air pollution control facility consists of eight wet electrostatic precipitators installed on particleboard furnish dryers 1 through 8. Each of the dryers have a Model 1013-202 or 1013-189 GeoEnergy wet ESP. The dryer exhaust flow rates into the wet ESPs range from 27,000 to 53,300 scfm. The claimed facility also consists of interconnecting ducting, ESP wash system and water collection, structural supports, concrete foundations, related electrical distribution and controls. The applicant claims the reductions in particulate emissions are 637 bone dry tons per year.

According to a Department of Environmental Quality Source Inspection report dated September 11, 1996, the eight new wet ESPs were installed and in operation.

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 waste particulate matter that is recovered from the eight ESPs by a water wash. The material is dried and burned as hog fuel. Based on the applicant's claimed reduction of particulate, the approximate amount of recovered hog fuel is 637 bone dry tons per year.

The applicant estimates the value of the recovered hog fuel to be $7,960.

2) The estimated annual percent return on the investment in the facility.

The applicant indicates in the application that there is no income or savings from the facility, so there is no return on the investment.

3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant considered a Regenerative Thermal Oxidizer. This system was not chosen due to the added NO, emissions, fire danger and higher operating costs.

4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The annual savings in hog fuel is $7,960. The average annual cost of maintaining and operating the claimed facility is $231,432.

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 pollution.

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 principal purpose of the facility is to reduce a substantial quantity of air 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 requirements to control air pollution. The requirements are imposed by the applicant's Air Contaminant Discharge Permit issued by the Department of Environmental Quality.

c. The facility complies with Department statutes and permit conditions.

d. The portion of the facility cost that is properly allocated 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 $4,814,002 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. 4729

Dennis E. Cartier
SJO Consulting Engineers, Inc.
May 28,1997

SYMONDS, EVANS & LARSON, P.C.
CERTIFIED PUBLIC ACCOUNTANTS

REPORT OF INDEPENDENT ACCOUNTANTS ON APPLYING AGREED-UPON PROCEDURES TO POLLUTION CONTROL TAX CREDIT APPLICATION NO. TC-4729

Environmental Quality Commission
811 S.W. Sixth Avenue
Portland, Oregon 97204

We have performed the procedures enumerated below, which were agreed to by Roseburg Forest Products Company (the Company); the State of Oregon, Department of Environmental Quality (the DEQ); and the Environmental Quality Commission, solely to assist you with respect to the Company's Pollution Control Tax Credit Application No. TC-4729 (the Application) filed with the DEQ for the Air Pollution Control Facility in Dillard, Oregon (the Facility). This engagement to apply agreed-upon procedures was performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The Application has a claimed Facility cost of $4,993,023. Our procedures and findings are as follows:

Procedures:

1. We read the Application, the Oregon Revised Statutes (ORS) on Pollution Control Facilities Tax Credits – Sections 468.150 through 468.190 (the Statutes) and the Oregon Administrative Rules (OAR's) on Pollution Control Tax Credits – OAR 340-16-005 through OAR 340-16-050.

2. We inspected vendor invoices which aggregated approximately 80% of the adjusted costs of the Facility.

3. We discussed certain components of the Application, the Statutes and OAR's with Maggie Vandehey of the DEQ.

4. We discussed certain components of the Application with Dennis Cartier of SJO Consulting Engineers, Inc., a contractor for the DEQ.

9600 S.W. Oak Street, Suite 380
Portland, Oregon 97223

Phone: (503) 244-7350
Fax: (503) 244-7331

5. We requested that Company personnel confirm the following assertions:

   A. There were no related parties or affiliates of the Company which had billings which were included in the Application.

   B. There were no significant spare parts that were included in the cost of the Facility.

   C. Costs incurred related to internal labor were based on employees' actual pay rates.

   D. The Company presently derives no income or cost savings from operating the Facility.

   E. No previously existing equipment was sold as a result of the installation of the Facility.

   F. In accordance with ORS Section 468.155(2)(e), the Facility is not a "replacement or reconstruction of all or a part of any facility for which a pollution control facility certificate has previously been issued..."

   G. All supply costs included in the application related to the installation of the Facility and did not include ongoing operating supplies.

   H. In accordance with ORS Section 468.155(2)(d), the Facility does not include "any distinct portion of a pollution control facility that makes an insignificant contribution to the principal or sole purpose of the facility..."

   I. The capacity of the Facility is adequate for the Company's present operations and does not include significant capacity for potential future operations.

   J. Lumber and plywood used in construction of the Facility are included in the Application at actual cost.

Findings:

1. through 4.

   As a result of applying these procedures, we noted that the Application should be adjusted for $8,142 of non-allowable costs related to fixtures, lights and lamps. Accordingly, the allowable costs for the Application should be decreased to $4,984,881.

5. Company personnel confirmed that such assertions were true and correct.

We were not engaged to, and did not, perform an audit, the objective of which would be the expression of an opinion on the specified elements, accounts or items. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the use of the specified users above and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.

Symonds, Evans + Larson, P.C.

October 31, 1997

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

LTM, Inc.
Asphalt Department
PO Box 1145
Medford, OR 97501

The applicant owns and operates a hot mix asphalt plant in Central Point, OR.

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

2. Description of Facility

The claimed facility consists of three 36" diameter mufflers manufactured by Astec and one inlet silencer manufactured by Hauck. The claimed facility reduces the noise levels that are generated by the burner and combustion air fan. The amount of noise reduction cannot be determined due to the fact that the mufflers were purchased and installed at the same time the new asphalt plant purchased.

Claimed Facility Cost: $12,080

Accountant's Certification was provided.

The applicant indicated the useful life of the facility is 15 years.

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:

Installation of the claimed facility was substantially completed on April 3, 1995, and placed into operation on April 4, 1995. The application for final certification was received by the Department on February 10, 1997. The application was found to be complete on March 4, 1997, within two years of substantial completion of the facility.

4. Evaluation of Application

a. Rationale For Eligibility

The sole purpose of the facility is to reduce a substantial quantity of noise pollution. This reduction is accomplished by the reduction of noise pollution levels as defined in ORS 468.155 (1)(b)(C).

The noise pollution control facility consists of three 36" diameter mufflers manufactured by Astec (no model number listed) and one silencer manufactured by Hauck, Model SBI-2212-HMC. The three mufflers are mounted on a secondary enclosure that surrounds the burner assembly. The silencer is mounted on the inlet of the combustion air fan.

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.

The applicant indicates in the application so there is no income or savings from the facility, so there is no return on the investment.

3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant did not consider any alternative methods to reduce noise pollution.

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 or increase in costs as a result of the facility modification.

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 pollution.

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 sole purpose of the facility is to reduce noise 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 sole purpose of the facility is to reduce noise pollution.

c. The portion of the facility cost that is properly allocated 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 $12,080 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4732.

Dennis E. Cartier
SJO Consulting Engineers, Inc.

October 2, 1997

Application TC-4769

STATE OF OREGON
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. **Applicant**

Corvallis Disposal Co.
PO Box 1
Corvallis, Oregon 97339

The applicant operates solid waste collection and recycling service in Benton County.

Application is for a pollution control facility tax credit certification.

2. **Description of Facility**

The facility consists of one Kann Hi-jacker 76" side dump recycling truck, serial number 1HTSCABN3SH673273.

Total cost claimed is $78,783

Invoices and copies of checks documenting the cost of the facility were provided.

3. **Procedural Requirements**

The facility is governed by ORS 468.150 - 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The facility purchased, installed and placed into operation on June 7, 1995.

b. The application for tax credit was submitted to the Department on May 28, 1997, within two years of substantial completion of the facility.

4. **Evaluation of Application**

a. The sole purpose of the facility is to prevent or reduce a substantial amount of solid waste. This prevention or reduction uses a material recovery process which obtains useful material from material that would otherwise be solid waste, pursuant to Oregon Administrative Rule 340-16-025(1)(b) and (2)(d). The truck is used to collect recyclable material from residential customers in Corvallis. This material would otherwise be disposed of as solid waste.

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 is used 100% of the time for recycling, a material recovery process.

2) The estimated annual percent return on the investment in the facility.

A) Facilities Integral to the Applicant's business:
The claimed facility is not integral to the applicant business. The applicant's business is the collection and disposal of garbage. The applicant is providing recycling service as required by the local government franchise

B) Actual cost of the claimed facility:
The applicant has claimed a facility cost of $78,783. The Department has identified no ineligible costs relating to the facility.

C) Useful life:
The applicant has claimed a useful life of 7 years.

D) Annual Percentage Return on Investment:

The average annual cash flow for the facility is negative. A negative cash flow results in a 0% annual percentage return on investment and therefore 100% of the facility cost is properly allocable to pollution control.

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 tax credit certification in that the sole purpose of these this truck is recycling of a material that would otherwise be disposed of as solid waste.

c. The facility complies with DEQ statutes 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 the findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $78,783 with 100% allocable to pollution control be issued for the facility claimed in Tax Credit Application TC-4769.

William R. Bree
TAX\TC4769RR.STA
(503) 229-6046
June 13, 1997

Application TC-4771

STATE OF OREGON
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. **Applicant**

Albany-Lebanon Sanitation, Inc.
PO Box 1929
Albany, Oregon 97321

The applicant operates a solid waste collection and recycling service in Linn and Benton Counties.

Application is for a pollution control facility tax credit certification.

2. **Description of Facility**

The facility consists of two 1995 48 toot Trailermobile semi-trailers Serial numbers 1PT01JAH3S9019633 and 1PT01JAH3S9019634.

Total cost claimed is $34,900.

Invoices and copies of checks documenting the cost of the facility were provided.

3. **Procedural Requirements**

The facility is governed by ORS 468.150 - 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The facility purchased, installed and placed into operation on July 1, 1995.

b. The application for tax credit was submitted to the Department on June 2, 1997, within two years of substantial completion of the facility.

4. **Evaluation of Application**

a. The sole purpose of the facility is to prevent or reduce a substantial amount of solid waste. This prevention or reduction uses a material recovery process which obtains useful material from material that would otherwise be solid waste, pursuant to Oregon Administrative Rule 340-16-025(1)(b) and (2)(d). The trailers are used to transport recyclable materials to market these materials would otherwise be disposed of as solid waste.

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 is used 100% of the time for recycling, a material recovery process.

2) The estimated annual percent return on the investment in the facility.

A) The applicant has claimed a facility cost of $34,900.
The Department has identified no ineligible costs relating to the facility.

B) Annual Percentage Return on Investment

The facility falls under the provisions of ORS 468.190(3). The portion of the actual cost properly allocable to pollution control is calculated as the proportion that the ratio of the time the facility is used for recycling bears to the entire time the facility is used for any purpose. The facility is used 100% of the time as part of a material recovery process so the portion of cost properly allocable is 100%.

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 tax credit certification in that the sole purpose of the trailers is recycling of a material that would otherwise be disposed of as solid waste.

c. The facility complies with DEQ statutes 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 the findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $34,900 with 100% allocable to pollution control be issued for the facility claimed in Tax Credit Application TC-4771.

William R. Bree
TAX\TC4771RR.STA
(503) 229-6046
June 13, 1997

Application TC-4782

STATE OF OREGON
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. **Applicant**

United Disposal Service, Inc.
2215 N Front Street
Woodburn, Oregon 97071

The applicant operates a solid waste collection and recycling service in Marion, Clackamas, and Washington Counties.

Application is for a pollution control facility tax credit certification.

2. **Description of Facility**

The facility consists of one Mcintyre hydraulic alligator metal cleaning shear, model 320, serial number 1726-96.

Total cost claimed is $9,300

Invoices and copies of checks documenting the cost of the facility were provided.

3. **Procedural Requirements**

The facility is governed by ORS 468.150 - 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The facility purchased, installed and placed into operation on July 15, 1996.

b. The application for tax credit was submitted to the Department on June 17, 1997, within two years of substantial completion of the facility.

4. **Evaluation of Application**

a. The sole purpose of the facility is to prevent or reduce a substantial amount of solid waste. This prevention or reduction uses a material recovery process which obtains useful material from material that would otherwise be solid waste, pursuant to Oregon Administrative Rule 340-16-025(1)(b) and (2)(d). The shear will be located at the company's recycling center and used to prepare scrap metal for recycling. This scrap metal would otherwise be disposed of as solid waste.

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 is used 100% of the time for recycling, a material recovery process.

2) The estimated annual percent return on the investment in the facility.

A) The applicant has claimed a facility cost of $9,300.
The Department has identified no ineligible costs relating to the facility.

B) Annual Percentage Return on Investment

The facility falls under the provisions of ORS 468.190(3). The portion of the actual cost properly allocable to pollution control is calculated as the proportion that the ratio of the time the facility is used for recycling bears to the entire time the facility is used for any purpose. The facility is used 100% of the time as part of a material recovery process so the portion of cost properly allocable is 100%.

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 tax credit certification in that the sole purpose of this shear is recycling of a material that would otherwise be disposed of as solid waste.

c. The facility complies with DEQ statutes 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 the findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $9,300 with 100% allocable to pollution control be issued for the facility claimed in Tax Credit Application TC-4782.

William R. Bree
TAX\TC4782RR.STA
(503) 229-6046
June 20,1997

Application TC-4786

STATE OF OREGON
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. **Applicant**

United Disposal Service, Inc.
2215 N Front Street
Woodburn, Oregon 97071

The applicant operates a solid waste collection and recycling service in Marion, Clackamas and Washington Counties.

Application is for a pollution control facility tax credit certification.

2. **Description of Facility**

The facility consists of two 4.5 yard self dumping hoppers, serial numbers140064 &140065; three 3 yard self dumping hoppers serial numbers 139860,13960,& 13962.

Total cost claimed is $4,175

Invoices and copies of checks documenting the cost of the facility were provided.

3. **Procedural Requirements**

The facility is governed by ORS 468.150 - 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The facility purchased, installed and placed into operation on September 25, 1996.

b. The application for tax credit was submitted to the Department on June 20, 1997, within two years of substantial completion of the facility.

4. **Evaluation of Application**

a. The sole purpose of the facility is to prevent or reduce a substantial amount of solid waste. This prevention or reduction uses a material recovery process which obtains useful material from material that would otherwise be solid waste, pursuant to Oregon Administrative Rule 340-16-025(1)(b) and (2)(d). The hoppers will be located at the company's recycling center and used to process material for recycling. This material would otherwise be disposed of as solid waste.

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 is used 100% of the time for recycling, a material recovery process.

2) The estimated annual percent return on the investment in the facility.

A) The applicant has claimed a facility cost of $4,175.
The Department has identified no ineligible costs relating to the facility.

B) Annual Percentage Return on Investment

The facility falls under the provisions of ORS 468.190(3). The portion of the actual cost properly allocable to pollution control is calculated as the proportion that the ratio of the time the facility is used for recycling bears to the entire time the facility is used for any purpose. The facility is used 100% of the time as part of a material recovery process so the portion of cost properly allocable is 100%.

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 tax credit certification in that the sole purpose of these hoppers is recycling of a material that would otherwise be disposed of as solid waste.

c. The facility complies with DEQ statutes 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 the findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $4,175 with 100% allocable to pollution control be issued for the facility claimed in Tax Credit Application TC-4786.

William R. Bree
TAX\TC4786RR.STA
(503) 229-6046
July 11,1997

Application No. TC-4787

State of Oregon
Department of Environmental Quality

RECLAIMED PLASTIC TAX CREDIT
TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

R Plastics, Inc.
6410 NE Halsey
Portland, Oregon 97213

The applicant is a manufacturer of vacuum formed and flat sheet plastic products.

Application was made for Reclaimed Plastic Tax Credit.

2. Description of Equipment, Machinery or Personal Property

The claimed equipment consists of one Cumberland Model 0-99050, serial number 325525-7611, plastic granulator and one vacuum lift.

The claimed facility investment costs: $5,016

A copies of invoices were provided to certify the investment cost.

3. Procedural Requirements

The investment is governed by ORS 468.451 through 468.491, and by OAR Chapter 340, Division 17.

The investment met all statutory deadlines in that:

a. The request for preliminary certification was received on May 8, 1997. The 30 day waiting period was waived and the preliminary certification was approved on May 8, 1997.

b. The investment was made on May 10, 1997.

c. The request for final certification was submitted on September 3, 1997 and was filed complete on September 16, 1997.

4. Evaluation of Application

a. The investment is eligible because the equipment is necessary to transport reclaimed plastic.

b. Allocable Cost Findings

In determining the portion of the investment costs properly allocable to reclaiming and recycling plastic material, the following factors from ORS 468.486 have been considered and analyzed as indicated:

1) The extent to which the claimed collection, transportation, processing or manufacturing process is used to convert reclaimed plastic into a salable or usable commodity.

   The equipment is to be used 100 percent of the time for manufacture of a reclaimed plastic product.

2) Any other factors which are relevant in establishing the portion of the actual cost of the investment properly allocable to the collection, transportation or processing of reclaimed plastic or to the manufacture of a reclaimed plastic product.

   No other factors were considered relevant.

The actual cost of the investment properly allocable to processing reclaimed plastic as determined by using these factors is 100%.

5. Summation

a. The investment was made in accordance with all regulatory deadlines.

b. The investment is eligible for final tax credit certification in that the equipment is necessary to manufacture a reclaimed plastic product.

c. The qualifying business complies with DEQ statutes and rules.

d. The portion of the investment cost that is properly allocable to reclaiming and recycling plastic is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Reclaimed Plastic Tax Credit Certificate bearing the cost of $5,016 with 100% allocated to reclaiming plastic material, be issued for the investment claimed in Tax Credit Application No. TC-4787.

William R. Bree
TAX\TC4607PL.STA
(503) 229-6046
September 16, 1997

Application TC-4790

STATE OF OREGON
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. **Applicant**

Corvallis Disposal Co.
PO Box 1
Corvallis, Oregon 97339

The applicant operates solid waste collection and recycling service in Benton County.

Application is for a pollution control facility tax credit certification.

2. **Description of Facility**

The facility consists of 576 101-gallon Toter carts , model #60501, serial numbers YW008782 0YW009357.

Total cost claimed is $37,152
Invoices and copies of checks documenting the cost of the facility were provided.

3. **Procedural Requirements**

The facility is governed by ORS 468.150 - 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The facility purchased, installed and placed into operation on October 10, 1995.

b. The application for tax credit was submitted to the Department on July 1, 1997, within two years of substantial completion of the facility.

4. **Evaluation of Application**

a. The sole purpose of the facility is to prevent or reduce a substantial amount of solid waste. This prevention or reduction uses a material recovery process which obtains useful material from material that would otherwise be solid waste, pursuant to Oregon Administrative Rule 340-16-025(1)(b) and (2)(d). The containers are used to collect yard debris from residential customers in Corvallis. This material would otherwise be disposed of as solid waste.

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 is used 100% of the time for recycling, a material recovery process.

2) The estimated annual percent return on the investment in the facility.

A) The applicant has claimed a facility cost of $37,152.
The Department has identified no ineligible costs relating to the facility.

B) Annual Percentage Return on Investment

The facility falls under the provisions of ORS 468.190(3). The portion of the actual cost properly allocable to pollution control is calculated as the proportion that the ratio of the time the facility is used for recycling bears to the entire time the facility is used for any purpose. The facility is used 100% of the time as part of a material recovery process so the portion of cost properly allocable is 100%.

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 tax credit certification in that the sole purpose of these containers is recycling of a material that would otherwise be disposed of as solid waste.

c. The facility complies with DEQ statutes 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 the findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $37,152 with 100% allocable to pollution control be issued for the facility claimed in Tax Credit Application TC-4790

William R. Bree
TAX\TC4790RR.STA
(503) 229-6046
July 11, 1997

Application TC-4791

STATE OF OREGON
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. **Applicant**

Corvallis Disposal Co.
PO Box 1
Corvallis, Oregon 97339

The applicant operates solid waste collection and recycling service in Benton County.

Application is for a pollution control facility tax credit certification.

2. **Description of Facility**

The facility consists of ten 2-yard front load containers ,model #M73T, serial numbers 135077 - 135086, twenty 4-yard front load containers, model #M75T, serial numbers 135087-135096 & 139495 - 139504; ten 6-yard front load containers, model #M76T,serial numbers 135097 - 135106; ten 2-yard front load containers ,model #73T,serial numbers 139799 - 139808; twelve 6-yard front load containers, model #76T, serial numbers 139827 - 13983.

Total cost claimed is $30,814
Invoices and copies of checks documenting the cost of the facility were provided.

3. **Procedural Requirements**

The facility is governed by ORS 468.150 - 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The facility purchased, installed and placed into operation on December 15, 1995.

b. The application for tax credit was submitted to the Department on July 1, 1997, within two years of substantial completion of the facility.

4. **Evaluation of Application**

a. The sole purpose of the facility is to prevent or reduce a substantial amount of solid waste. This prevention or reduction uses a material recovery process which obtains useful material from material that would otherwise be solid waste, pursuant to Oregon Administrative Rule 340-16-025(1)(b) and (2)(d). The containers are used to collect cardboard from commercial customers in Corvallis. This material would otherwise be disposed of as solid waste.

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 is used 100% of the time for recycling, a material recovery process.

2) The estimated annual percent return on the investment in the facility.

A) The applicant has claimed a facility cost of $30,814.
The Department has identified no ineligible costs relating to the facility.

B) Annual Percentage Return on Investment

The facility falls under the provisions of ORS 468.190(3). The portion of the actual cost properly allocable to pollution control is calculated as the proportion that the ratio of the time the facility is used for recycling bears to the entire time the facility is used for any purpose. The facility is used 100% of the time as part of a material recovery process so the portion of cost properly allocable is 100%.

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 tax credit certification in that the sole purpose of these containers is recycling of a material that would otherwise be disposed of as solid waste.

c. The facility complies with DEQ statutes 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 the findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $30,814 with 100% allocable to pollution control be issued for the facility claimed in Tax Credit Application TC-4791

William R. Bree
TAX\TC4791RR.STA
(503) 229-6046
July 11, 1997

Application TC-4793

STATE OF OREGON
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. **Applicant**

United Disposal Service, Inc.
2215 N Front Street
Woodburn, Oregon 97071

The applicant operates a solid waste collection and recycling service in Marion, Clackamas and Washington Counties.

Application is for a pollution control facility tax credit certification.

2. **Description of Facility**

The facility consists of three 48.9 yard drop boxes, model M296SC, serial numbers 9264, 9265, and 9268.

Total cost claimed is $15,181

Invoices and copies of checks documenting the cost of the facility were provided.

3. **Procedural Requirements**

The facility is governed by ORS 468.150 - 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The facility purchased, installed and placed into operation on September 27, 1996.

b. The application for tax credit was submitted to the Department on July 8, 1997, within two years of substantial completion of the facility.

4. **Evaluation of Application**

a. The sole purpose of the facility is to prevent or reduce a substantial amount of solid waste. This prevention or reduction uses a material recovery process which obtains useful material from material that would otherwise be solid waste, pursuant to Oregon Administrative Rule 340-16-025(1)(b) and (2)(d). The drop boxes will be located at the company's recycling center and used to handle material for recycling. This material would otherwise be disposed of as solid waste.

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 is used 100% of the time for recycling, a material recovery process.

2) The estimated annual percent return on the investment in the facility.

A) The applicant has claimed a facility cost of $15,181.
The Department has identified no ineligible costs relating to the facility.

B) Annual Percentage Return on Investment

The facility falls under the provisions of ORS 468.190(3). The portion of the actual cost properly allocable to pollution control is calculated as the proportion that the ratio of the time the facility is used for recycling bears to the entire time the facility is used for any purpose. The facility is used 100% of the time as part of a material recovery process so the portion of cost properly allocable is 100%.

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 tax credit certification in that the sole purpose of these drop boxes is recycling of a material that would otherwise be disposed of as solid waste.

c. The facility complies with DEQ statutes 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 the findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $15,181 with 100% allocable to pollution control be issued for the facility claimed in Tax Credit Application TC-4793.

William R. Bree
TAX\TC4793RR.STA
(503) 229-6046
July 18,1997

Application TC-4803

STATE OF OREGON
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. **Applicant**

United Disposal Service, Inc.
2215 N Front Street
Woodburn, Oregon 97071

The applicant operates a solid waste collection and recycling service in Marion, Clackamas and Washington Counties.

Application is for a pollution control facility tax credit certification.

2. **Description of Facility**

The facility consists of three hundred sixty 64 gallon Schaefer compostainers, serial numbers Y64-001531 to Y64-001890.

Total cost claimed is $22,939

Invoices and copies of checks documenting the cost of the facility were provided.

3. **Procedural Requirements**

The facility is governed by ORS 468.150 - 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The facility purchased, installed and placed into operation on May 10, 1996.

b. The application for tax credit was submitted to the Department on July 21, 1997, within two years of substantial completion of the facility.

4. **Evaluation of Application**

a. The sole purpose of the facility is to prevent or reduce a substantial amount of solid waste. This prevention or reduction uses a material recovery process which obtains useful material from material that would otherwise be solid waste, pursuant to Oregon Administrative Rule 340-16-025(1)(b) and (2)(d). The containers will be located at residential collection sites and used to handle material for recycling. This material would otherwise be disposed of as solid waste.

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 is used 100% of the time for recycling, a material recovery process.

2) The estimated annual percent return on the investment in the facility.

A) The applicant has claimed a facility cost of $22,939.
The Department has identified no ineligible costs relating to the facility.

B) Annual Percentage Return on Investment

The facility falls under the provisions of ORS 468.190(3). The portion of the actual cost properly allocable to pollution control is calculated as the proportion that the ratio of the time the facility is used for recycling bears to the entire time the facility is used for any purpose. The facility is used 100% of the time as part of a material recovery process so the portion of cost properly allocable is 100%.

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 tax credit certification in that the sole purpose of these containers is recycling of a material that would otherwise be disposed of as solid waste.

c. The facility complies with DEQ statutes 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 the findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $22,939 with 100% allocable to pollution control be issued for the facility claimed in Tax Credit Application TC-4803.

William R. Bree
TAX\TC4803RR.STA
(503) 229-6046
August 8,1997

Application No. TC-4804

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Powell Blvd Chevron, Inc.
30 West Powell Blvd.
Gresham, OR 97030

The applicant owns and operates a retail gas station at 30 West Powell Blvd., Gresham, OR 97030, Facility No. 5833.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are three doublewall fiberglass/steel tanks, doublewall flexible plastic piping, tank gauge system, overfill alarm, turbine leak detectors, monitoring wells, sumps and an oil/water separator. Included also are spill containment basins, automatic shutoff valves and Stage I and II vapor recovery equipment that replaced equipment previously claimed. (See below for claimed cost adjustment.)

Claimed facility cost	$125,716
(Accountant's certification was provided)	

The Department concludes that the eligible facility cost for the project is $118,721. This represents a net decrease of $6,995 from the applicant's claimed cost of $125,716 due to the following adjustments:

(1) the subtraction of the claimed cost of spill containment basins ($1,359), automatic shutoff valves ($1,012), Stage I & II vapor recovery ($2,531) and related installation costs ($2,093) because this equipment replaced equipment claimed in prior tax credit TC-4355, Certificate No. 3531 issued 11/17/95.

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on July 17, 1996 and placed into operation on July 17, 1996. The application for certification was submitted to the Department on July 21, 1997, and was considered to be complete and filed on August 21, 1997, within two years of the completion date of the project.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed:

1) For corrosion protection - Doublewall fiberglass/steel tanks and flexible plastic piping.

2) For spill and overfill prevention - Overfill alarm, sumps and an oil/water separator.

3) For leak detection - Tank gauge system, turbine leak detectors and monitoring wells.

b. Eligible Cost Findings

In determining the percent of the eligible 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 equipment 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 annual percent return on investment as the applicant claims no gross annual income from the facility.

3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant considered the methods chosen to be the most cost-effective. The methods chosen are acceptable for meeting the requirements of federal regulations.

4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control of reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table:

	Eligible Facility Cost	Percent Allocable	Amount Allocable
Corrosion Protection:			
Doublewall fiberglass/steel tanks & flexible plastic piping	$52,562	67% (1)	$35,217
Spill & Overfill Prevention:			
Sumps	4,287	100	4,287
Overfill alarm	325	100	325
Oil/water separator	2,063	100	2,063
Leak Detection:			
Automatic tank gauge	6,821	90% (2)	6,139
Turbine leak detectors	783	100	783
monitoring wells	318	100	318
Labor, material, misc parts	51,562	100	51,562
Total	$118,721	85%	$100,694

(1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $52,562 and the bare steel system is $17,463, the resulting portion of the eligible tank and piping cost allocable to pollution control is 67%.

(2) The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

a. The facility was constructed in accordance with all regulatory requirements according to signed statements made by the installation service provider and/or owner.

b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules in that the appropriate compliance documents relating to the project have been submitted.

d. The portion of the facility cost that is properly allocable to pollution control is 85%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $118,721 with 85% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4804.

Barbara J. Anderson
(503) 229-5870
August 21, 1997

State of Oregon
Department of Agriculture

TAX CREDIT REVIEW REPORT
Application No. 4807

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1. Applicant

4B Farms, Inc.
15234 Butsch Lane NE
Mount Angel, OR 97362

The applicant owns and operates a grass seed farm operation in Marion County, 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 133' x 106' x 30', pole construction, grass straw storage building, located at 7656 Wabash Drive NE, Brooks, Oregon. The land and the buildings are owned by the applicant.

Claimed facility cost: $153,830
(Accountant's Certification was provided.)

3. Description of Farm Operation Plan to Reduce Open Field Burning.

The applicant has 650 acres of perennial grass seed under cultivation. In the past, 4B Farms, Inc. open field burned as many acres as the weather and smoke management program permitted. In the recent past, the applicant eliminated open field burning by hiring custom balers to remove the bulk straw and vacuuming the fields.

The baled straw was stored outside which enhanced deterioration and provided an invitation to vandals (arson).

This facility enables the applicant to continue use of the chosen alternative to open field burning by providing protection to the straw from inclement weather and vandalism.

4. 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:

Construction of the facility was substantially completed on September 5, 1996. The application for final certification was found to be complete on August 7, 1997. The application was filed within two years of substantial completion of the facility.

5. Evaluation of Application

a. The facility is eligible under ORS 468.150 because the facility is an approved alternative method for field sanitation and straw utilization and disposal that reduces a substantial quantity of air pollution. This reduction is accomplished by reduction of air contaminants, defined in ORS 468A.005; by reducing the maximum acreage to be open burned in the Willamette Valley as required in OAR 340-26-013; and, the facility's qualification as a "pollution control facility", defined 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 protection from inclement weather and vandalism.

2. The estimated annual percent return on the investment in the facility.

   There is no annual percent return on the investment as applicant claims a negative annual cash flow.

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 pollution.

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 operating costs of $3,870 to annually maintain and operate the facility. These costs were considered in the return on investment 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 pollution.

   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%.

6. Summation

   a. The facility was constructed in accordance with all regulatory deadlines.

   b. The facility is eligible under ORS 468.150 as an approved alternative method for field sanitation and straw utilization and disposal that reduces a substantial quantity of air pollution as defined in ORS 468A.005

   c. The facility complies with DEQ statutes and rules.

   d. The portion of the facility that is properly allocable to pollution control is 100%.

7. The Department of Agriculture's Recommendation

   Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $153,830, with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application Number TC-4807.

Jim Britton, Manager
Smoke Management Program
Natural Resources Division
Oregon Department of Agriculture
(503) 986-4701
FAX: (503) 986-4730

Application No. TC-4808

State of Oregon
Department of Environmental Quality

RECLAIMED PLASTIC TAX CREDIT
TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Denton Plastics, Inc.
230 NW 10th
Portland, Oregon 97209

The applicant is a plastic recycling company.

Application was made for Reclaimed Plastic Tax Credit.

2. Description of Equipment, Machinery or Personal Property

Conveyor belt used to move recyclable plastic to a grinder.

The claimed facility investment costs: $8,640

A copy of an independent accountant's certification of the investment cost was provided.

3. Procedural Requirements

The investment is governed by ORS 468.451 through 468.491, and by OAR Chapter 340, Division 17.

The investment met all statutory deadlines in that:

a. The request for preliminary certification was received on June 18, 1997. The 30 day waiting period was waived and the preliminary certification was approved on June 20, 1997.

b. The investment was made on August 29, 1997,

c. The request for final certification was submitted on September 29, 1997 and was filed complete on October 15, 1997.

4. Evaluation of Application

a. The investment is eligible because the equipment is necessary to process reclaimed plastic.

b. Allocable Cost Findings

In determining the portion of the investment costs properly allocable to reclaiming and recycling plastic material, the following factors from ORS 468.486 have been considered and analyzed as indicated:

1) The extent to which the claimed collection, transportation, processing or manufacturing process is used to convert reclaimed plastic into a salable or usable commodity.

The equipment is to be used 100 percent of the time for processing reclaimed plastic.

2) Any other factors which are relevant in establishing the portion of the actual cost of the investment properly allocable to the collection, transportation or processing of reclaimed plastic or to the manufacture of a reclaimed plastic product.

No other factors were considered relevant.

The actual cost of the investment properly allocable to processing reclaimed plastic as determined by using these factors is 100%.

5. Summation

a. The investment was made in accordance with all regulatory deadlines.

b. The investment is eligible for final tax credit certification in that the equipment is necessary to process reclaimed plastic.

c. The qualifying business complies with DEQ statutes and rules.

d. The portion of the investment cost that is properly allocable to reclaiming and recycling plastic is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Reclaimed Plastic Tax Credit Certificate bearing the cost of $8,640 with 100% allocated to reclaiming plastic material, be issued for the investment claimed in Tax Credit Application No. TC-4808.

William R. Bree
TAX\TC4808PL.STA
(503) 229-6046
October 15, 1997

Application TC-4810

STATE OF OREGON
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. **Applicant**

Albany-Lebanon Sanitation, Inc.
PO Box 1929
Albany, Oregon 97321

The applicant operates a solid waste collection and recycling service in Linn and Benton Counties.

Application is for a pollution control facility tax credit certification.

2. **Description of Facility**

The facility consists of five hundred seventy six 101 yard Toter Carts, Model#61001, serial numbers YW008629 - YW009204.

Total cost claimed is $37,342.

Invoices and copies of checks and an independent accountants certification documenting the cost of the facility were provided.

3. **Procedural Requirements**

The facility is governed by ORS 468.150 - 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The facility purchased, installed and placed into operation on September 1, 1995.

b. The application for tax credit was submitted to the Department on July 29, 1997, within two years of substantial completion of the facility.

4. **Evaluation of Application**

a. The sole purpose of the facility is to prevent or reduce a substantial amount of solid waste. This prevention or reduction uses a material recovery process which obtains useful material from material that would otherwise be solid waste, pursuant to Oregon Administrative Rule 340-16-025(1)(b) and (2)(d). The containers are used to collect recyclable materials to market these materials would otherwise be disposed of as solid waste.

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 is used 100% of the time for recycling, a material recovery process.

2) The estimated annual percent return on the investment in the facility.

A) The applicant has claimed a facility cost of $37,342.
The Department has identified no ineligible costs relating to the facility.

B) Annual Percentage Return on Investment

The facility falls under the provisions of ORS 468.190(3). The portion of the actual cost properly allocable to pollution control is calculated as the proportion that the ratio of the time the facility is used for recycling bears to the entire time the facility is used for any purpose. The facility is used 100% of the time as part of a material recovery process so the portion of cost properly allocable is 100%.

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 tax credit certification in that the sole purpose of the containers is recycling of a material that would otherwise be disposed of as solid waste.

c. The facility complies with DEQ statutes 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 the findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $37,342 with 100% allocable to pollution control be issued for the facility claimed in Tax Credit Application TC-4810.

William R. Bree
TAX\TC4810RR.STA
(503) 229-6046
August 8, 1997

Application No. T-4813

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT
POLLUTION PREVENTION PILOT PROGRAM

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1. Applicant

Irwin-Hodson Metal Manufacturing Co.
2808 SE Ninth Avenue
Portland, OR 97202

The applicant owns and operates a metal turning facility for manufacturing metal parts for various applications located at 2808 SE Ninth Avenue, Portland, OR.

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

2. Description of Facility

The claimed pollution prevention facility is an aqueous cleaning system which was installed as a replacement for a halogenated solvent cleaning process. The new cleaning process uses water, instead of solvents, which prevents emission of regulated pollutants to the atmosphere.

Claimed Facility Cost: $ 54,955

3. Procedural Requirements

The facility is governed by ORS 468A.095 through 468A.098, and by OAR Chapter 340, Division 16.

The facility met all regulatory deadlines in that:

Installation of the pollution prevention facility was substantially completed on May 30, 1997. The application for final certification was received by the Department on July 29, 1997. The application was found to be complete on August 20, 1997, within one year of installation of the facility.

4. Evaluation of Application

Rationale For Eligibility

(1) The pollution prevention facility is eligible because it meets the requirement of avoiding the National Emission Standard for Hazardous Air Pollutants (NESHAP), specifically 40 CFR 63.460 to 63.469 national emission standards for halogenated solvent cleaning.

The facility was installed between January 1, 1996 and December 31, 1999.

The facility does not qualify for a pollution control tax credit under ORS 468.165 and 468.170.

(2) The applicant installed an aqueous parts washer as a replacement for a halogenated solvent cleaning system using 1,1,1-trichloroethane.

(3) The facility is not required to register under the Clean Air Act Title III National Emissions Standards for Hazardous Air Pollutants because the pollution prevention system was installed in lieu of a system which would have required registration.

5. Summation

a. The pollution prevention facility was constructed in accordance with all regulatory deadlines.

b. The facility is eligible for final tax credit certification in that it meets the definition of a pollution prevention facility for this pilot program.

c. The applicant indicated that the tax credit program was a determining factor in installing this equipment.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Prevention Facility Certificate bearing the cost of $ 54,955 be issued for the facility claimed in Tax Credit Application No. T-4813.

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Application TC-4817

STATE OF OREGON
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. **Applicant**

United Disposal Service, Inc.
2215 N Front Street
Woodburn, Oregon 97071

The applicant operates a solid waste collection and recycling service in Marion, Clackamas and Washington Counties.

Application is for a pollution control facility tax credit certification.

2. **Description of Facility**

The facility consists of one thousand five hundred recycling collection bins, with no serial numbers.

Total cost claimed is $6,900

Invoices and copies of checks documenting the cost of the facility were provided.

3. **Procedural Requirements**

The facility is governed by ORS 468.150 - 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The facility purchased, installed and placed into operation on November 20, 1996.

b. The application for tax credit was submitted to the Department on August 6, 1997, within two years of substantial completion of the facility.

4. **Evaluation of Application**

a. The sole purpose of the facility is to prevent or reduce a substantial amount of solid waste. This prevention or reduction uses a material recovery process which obtains useful material from material that would otherwise be solid waste, pursuant to Oregon Administrative Rule 340-16-025(1)(b) and (2)(d). The containers will be located at residential collection sites and used to handle material for recycling. This material would otherwise be disposed of as solid waste.

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 is used 100% of the time for recycling, a material recovery process.

2) The estimated annual percent return on the investment in the facility.

A) The applicant has claimed a facility cost of $6,900.
The Department has identified no ineligible costs relating to the facility.

B) Annual Percentage Return on Investment

The facility falls under the provisions of ORS 468.190(3). The portion of the actual cost properly allocable to pollution control is calculated as the proportion that the ratio of the time the facility is used for recycling bears to the entire time the facility is used for any purpose. The facility is used 100% of the time as part of a material recovery process so the portion of cost properly allocable is 100%.

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 tax credit certification in that the sole purpose of these containers is recycling of a material that would otherwise be disposed of as solid waste.

c. The facility complies with DEQ statutes 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 the findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $6,900 with 100% allocable to pollution control be issued for the facility claimed in Tax Credit Application TC-4817.

William R. Bree
TAX\TC4817RR.STA
(503) 229-6046
August 8,1997

Application TC-4818

STATE OF OREGON
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. **Applicant**

United Disposal Service, Inc.
2215 N Front Street
Woodburn, Oregon 97071

The applicant operates a solid waste collection and recycling service in Marion, Clackamas and Washington Counties.

Application is for a pollution control facility tax credit certification.

2. **Description of Facility**

The facility consists of three 10 yard drop boxes.

Total cost claimed is $3,500.

Invoices and copies of checks documenting the cost of the facility were provided.

3. **Procedural Requirements**

The facility is governed by ORS 468.150 - 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The facility purchased, installed and placed into operation on April 24, 1996.

b. The application for tax credit was submitted to the Department on August 6, 1997, within two years of substantial completion of the facility.

4. **Evaluation of Application**

a. The sole purpose of the facility is to prevent or reduce a substantial amount of solid waste. This prevention or reduction uses a material recovery process which obtains useful material from material that would otherwise be solid waste, pursuant to Oregon Administrative Rule 340-16-025(1)(b) and (2)(d). The drop boxes will be located at construction sites and used to handle material for recycling. This material would otherwise be disposed of as solid waste.

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 is used 100% of the time for recycling, a material recovery process.

2) The estimated annual percent return on the investment in the facility.

A) The applicant has claimed a facility cost of $3,500.
The Department has identified no ineligible costs relating to the facility.

B) Annual Percentage Return on Investment

The facility falls under the provisions of ORS 468.190(3). The portion of the actual cost properly allocable to pollution control is calculated as the proportion that the ratio of the time the facility is used for recycling bears to the entire time the facility is used for any purpose. The facility is used 100% of the time as part of a material recovery process so the portion of cost properly allocable is 100%.

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 tax credit certification in that the sole purpose of these drop boxes is recycling of a material that would otherwise be disposed of as solid waste.

c. The facility complies with DEQ statutes 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 the findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $3,500 with 100% allocable to pollution control be issued for the facility claimed in Tax Credit Application TC-4818.

William R. Bree
TAX\TC4818RR.STA
(503) 229-6046
August 8,1997

Application TC-4819

STATE OF OREGON
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. **Applicant**

Corvallis Disposal Co.
PO Box 1
Corvallis, Oregon 97339

The applicant operates solid waste collection and recycling service in Benton County.

Application is for a pollution control facility tax credit certification.

2. **Description of Facility**

The facility consists of one Marathon TC-3 HD/HF stationary cardboard compactor system.

Total cost claimed is $12,483
Invoices and copies of checks documenting the cost of the facility were provided.

3. **Procedural Requirements**

The facility is governed by ORS 468.150 - 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The facility purchased, installed and placed into operation on August 18, 1995.

b. The application for tax credit was submitted to the Department on August 8, 1997, within two years of substantial completion of the facility.

4. **Evaluation of Application**

a. The sole purpose of the facility is to prevent or reduce a substantial amount of solid waste. This prevention or reduction uses a material recovery process which obtains useful material from material that would otherwise be solid waste, pursuant to Oregon Administrative Rule 340-16-025(1)(b) and (2)(d). The compactor is used to collect cardboard from commercial customers in Corvallis. This material would otherwise be disposed of as solid waste.

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) <u>The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.</u>

The facility is used 100% of the time for recycling, a material recovery process.

2) The estimated annual percent return on the investment in the facility.

A) The applicant has claimed a facility cost of $12,483.
The Department has identified no ineligible costs relating to the facility.

B) Annual Percentage Return on Investment

The facility falls under the provisions of ORS 468.190(3). The portion of the actual cost properly allocable to pollution control is calculated as the proportion that the ratio of the time the facility is used for recycling bears to the entire time the facility is used for any purpose. The facility is used 100% of the time as part of a material recovery process so the portion of cost properly allocable is 100%.

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 tax credit certification in that the sole purpose of the compactor is recycling of a material that would otherwise be disposed of as solid waste.

c. The facility complies with DEQ statutes 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 the findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $12,483 with 100% allocable to pollution control be issued for the facility claimed in Tax Credit Application TC-4819

William R. Bree
TAX\TC4819RR.STA
(503) 229-6046
August 15, 1997

Application No. TC-4822

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Alan Bowdish, Inc.
P O Box 1349
Lake Oswego, OR 97035

The applicant owns and operates a retail gas station at 17830 SW Lower Boones Ferry Rd., Lake Oswego, OR 97035, Facility ID No. 9550.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included air quality Stage I and II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are four doublewall fiberglass/steel tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, turbine leak detectors, sumps, monitoring wells, automatic shutoff valves, oil/water separator and Stage I and II vapor recovery equipment.

Claimed facility cost $143,521
(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 was substantially completed on September 30, 1995 and placed into operation on September 30, 1995. The application for certification was submitted to the Department on August 19, 1997, and was considered to be complete and filed on September 18, 1997, within two years of the completion date of the project.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed:

1) For corrosion protection - Doublewall fiberglass/steel tanks and doublewall flexible plastic piping.

2) For spill and overfill prevention - Spill containment basins, sumps, overfill alarm, oil/water separator, automatic shutoff valves.

3) For leak detection - Automatic tank gauge system, turbine leak detectors and monitoring wells.

In addition, the following was installed to reduce air quality emissions.

1) For VOC reduction - Stage I and II vapor recovery equipment.

The Department concludes that the costs claimed by the applicant ($143,521) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible 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 equipment 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 annual percent return on investment as the applicant claims no gross annual income from the facility.

3) The alternative methods, equipment and costs for achieving the same pollution control objective.

   The applicant chose the most cost effective alternative. The methods chosen are acceptable for meeting the requirements of federal regulations.

4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

   The applicant claims no savings or increase in costs as a result of the installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

   There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control of reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table:

	Eligible Facility Cost	Percent Allocable	Amount Allocable
Corrosion Protection:			
Doublewall fiberglass/steel tanks & flexible plastic piping	$54,626	68% (1)	$37,146
Spill & Overfill Prevention:			
Spill containment basins	968	100	968
Sumps	4,336	100	4,336
Overfill alarm	239	100	239
Automatic shutoff valves	1,433	100	1,433
Oil/water separator	2,168	100	2,168
Leak Detection:			
Tank gauge system	10,286	90% (2)	9,257
Turbine leak detectors	985	100	985
Monitoring wells	286	100	286
VOC Reduction:			
Stage I & II vapor recovery	17,746	100	17,746
Labor, material, misc parts	50,448	100	50,448
Total	$143,521	87%	$125,012

(1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $54,626 and the bare steel system is $17,453, the resulting portion of the eligible tank and piping cost allocable to pollution control is 68%.

(2) The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

a. The facility was constructed in accordance with all regulatory requirements according to signed statements made by the installation service provider and/or owner.

b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules in that the appropriate compliance documents relating to the project have been submitted.

d. The portion of the facility cost that is properly allocable to pollution control is 87%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $143,521 with 87% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4822.

Barbara J. Anderson
(503) 229-5870
September 18, 1997

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation: **Approve**

Applicant	**Patrick Industries, Inc.**
Application No.	**4824**
Facility Cost	**$277,030**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a wood products manufacturer taking tax relief under taxpayer identification number 35-1057796. The applicant is the owner of the facility. The applicant's address is:

3099 North Pacific Highway
PO Box 40
Woodburn, OR 97071

Facility Identification

The certificate will identify the facility as:

Western Pneumatics model 630 bag house system, with 70,000 CFM air intake system.

The facility is located at:

3099 North Pacific Highway
Woodburn, OR 97071

Technical Information

The claimed facility is used to collect and store sawdust and wood waste prior to sale for recycling.

Eligibility

ORS 468.155 (1)(a) The **sole** purpose of this **new structure and equipment** is to prevent, control or reduce a substantial quantity of solid waste.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**08/20/1997**
Application Substantially Complete	**09/09/1997**
Construction Started	**08/01/1995**
Construction Completed	**08/01/1995**
Facility Placed into Operation	**11/01/1995**

Facility Cost

		$277,030
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$277,030**

A certified public accountant's statement certifing the cost of the facility accompanied the application. A separate accounting review was performed by Coopers & Lybrand, L.L.P. No ineligible cost were identified.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: William R Bree, DEQ
Coopers & Lybrand, L.L.P.

Coopers & Lybrand

Coopers & Lybrand L.L.P.

a professional services firm

1300 Southwest Fifth Avenue
Suite 2700
Portland, Oregon 97201-5687

telephone (503) 417-2400

Oregon Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204

At your request, we have performed certain agreed upon procedures with respect to Patrick Industries, Inc. (the Company) Pollution Control Facility Tax Credit Application No. 4824 (the Application) regarding a Bag House System, with air intake facility located in Woodburn, Oregon (the Facility). The aggregate Facility costs claimed on the Application were $277,030. The following are our agreed upon procedures and related findings:

1. We read the Application, the Oregon Revised Statutes regarding Pollution Control Facilities Tax Credits - Sections 468.150 - 468.190 (the Statutes) and the Oregon Administrative Rules regarding Pollution Control Tax Credits - Sections 340-16-005 through 340-16-050 (OAR's).

2. We discussed the Application and Statutes with Maggie Vandehey of the Oregon Department of Environmental Quality (DEQ).

3. We discussed the Application and Statutes with Eric Logsdon, Environmental Engineer, of the Company.

4. We inquired as to whether there were any direct or indirect Company costs included in the Facility costs claimed on the Application and were informed that none were included.

   Based on our review of supporting documentation discussed in item No. 5 below, there does not appear to be any direct or indirect Company costs claimed in the application.

5. We reviewed supporting documentation for 83% of the amount claimed on the Application through review of vendor invoices. All costs which we reviewed supporting the Application appeared to be from third party vendors.

Coopers & Lybrand L.L.P. is a member of Coopers & Lybrand International, a Swiss limited liability association.

6. We discussed with Eric Logsdon, Environmental Engineer for the Company, the extent to which non-allowable costs were excluded from the Application. Mr. Logsdon was not aware of any additional costs which should have been excluded. In addition, while performing testing in Item No. 5 above, we did not become aware of any costs not directly related to the pollution control project, or costs which were deemed to be non-allowable.

Because the above procedures do not constitute an audit conducted in accordance with generally accepted auditing standards, we do not express an opinion on any of the items referred to above. Had we performed additional procedures, or had we conducted an audit of the financial statements of the Company in accordance with generally accepted auditing standards, other matters might have come to our attention that would have been reported to you. This report relates only to the items specified above and does not extend to any financial statements of the Company as a whole.

This report is solely for the State of Oregon Department of Environmental Quality in evaluating the Company's Pollution Control Facility Tax Credit Application and should not be used for any other purpose.

Coopers & Lybrand L.L.P.

Portland, Oregon
November 29, 1997

Application No. TC-4827

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Devin Oil Co., Inc.
Box G
Arlington, OR 97812

The applicant owns and operates a retail gas station at 100 Beech Street, Arlington, OR 97812, Facility ID No. 8058.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included air quality Stage I and II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are two doublewall fiberglass/steel tanks, doublewall flexible plastic piping, line leak detectors, sumps, monitoring wells, automatic shutoff valves and Stage I and II vapor recovery equipment. Included also are spill containment basins, a tank gauge system and overfill alarm that replaced equipment previously claimed; however, no costs were claimed for these items.

Claimed facility cost $163,723
(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 was substantially completed on March 21, 1997 and placed into operation on March 21, 1997. The application for certification was submitted to the Department on August 25, 1997, and was considered to be complete and filed on August 22, 1997, within two years of the completion date of the project.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed:

1) For corrosion protection - Doublewall fiberglass/steel tanks and doublewall flexible plastic piping.

2) For spill and overfill prevention - Sumps and automatic shutoff valves.

3) For leak detection - Line leak detectors and monitoring wells.

In addition, the following was installed to reduce air quality emissions.

1) For VOC reduction - Stage I and II vapor recovery equipment.

The Department concludes that the costs claimed by the applicant ($163,723) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible 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 equipment 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 annual percent return on investment as the applicant claims no gross annual income from the facility.

3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant chose the most cost effective alternative. The methods chosen are acceptable for meeting the requirements of federal regulations.

4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control of reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table:

	Eligible Facility Cost	Percent Allocable	Amount Allocable
Corrosion Protection:			
Doublewall fiberglass/steel tanks & flexible plastic piping	$24,589	59% (1)	$14,508
Spill & Overfill Prevention:			
Sumps	1,859	100	1,859
Automatic shutoff valves	2,300	100	2,300
Leak Detection:			
Line leak detectors	475	100	475
Monitoring wells	500	100	500
VOC Reduction:			
Stage I & II vapor recovery	6,000	100	6,000
Labor, material, misc parts	128,000	100	128,000
Total	$163,723	94%	$153,642

(1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $24,589 and the bare steel system is $10,156, the resulting portion of the eligible tank and piping cost allocable to pollution control is 59%.

5. Summation

a. The facility was constructed in accordance with all regulatory requirements according to signed statements made by the installation service provider and/or owner.

b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules in that the appropriate compliance documents relating to the project have been submitted.

d. The portion of the facility cost that is properly allocable to pollution control is 94%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $163,723 with 94% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4827.

Barbara J. Anderson
(503) 229-5870
September 18, 1997

Application No. TC-4835

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Enserv, LLC
20915 SE Pacific Hwy
Sherwood, OR 97140

The applicant owns and operates a retail gas station and convenience store at 20945 SE Pacific Hwy., Sherwood, OR 97140, Facility ID No. 1108.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included air quality Stage I and II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are two doublewall fiberglass clad steel tanks (one has two compartments), doublewall flexible plastic piping, spill containment basins, tank gauge system, overfill alarm, sumps, monitoring wells, oil/water separator, automatic shutoff valves, Stage I and II vapor recovery equipment.

Claimed facility cost $124,257
(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 was substantially completed on August 21, 1996 and placed into operation on August 21, 1996. The application for certification was submitted to the Department on September 22, 1997, and was considered to be complete and filed on October 6, 1997, within two years of the completion date of the project.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air.

This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed:

1) For corrosion protection - Doublewall fiberglass clad steel tanks and doublewall flexible plastic piping.

2) For spill and overfill prevention - Spill containment basins, overfill alarm, sumps, oil/water separator and automatic shutoff valves.

3) For leak detection - Automatic tank gauge system and monitoring wells.

In addition, the following was installed to reduce air quality emissions.

1) For VOC reduction - Stage I and II vapor recovery equipment.

The Department concludes that the costs claimed by the applicant ($124,257) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible 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 equipment 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 annual percent return on investment as the applicant claims no gross annual income from the facility.

3) The alternative methods, equipment and costs for achieving the same pollution control objective.

No alternatives were provided by the applicant. The methods chosen are acceptable for meeting the requirements of federal regulations.

4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control of reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table:

	Eligible Facility Cost	Percent Allocable	Amount Allocable
Corrosion Protection:			
Doublewall fiberglass clad steel tanks & flexible plastic piping	$27,304	64% (1)	$17,475
Spill & Overfill Prevention:			
Spill containment basins	1,769	100	1,769
Overfill alarm	300	100	300
Oil/water separator	7,481	100	7,481
Sumps	4,459	100	4,459
Automatic shutoff valves	4,423	100	4,423
Leak Detection:			
Tank gauge system	6,547	90% (2)	5,892
Monitoring wells	229	100	229
VOC Reduction:			
Stage I & II vapor recovery	10,587	100	10,587
Labor, material, misc parts	61,158	100	61,158
Total	$124,257	92%	$113,773

(1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $27,304 and the bare steel system is $9,723, the resulting portion of the eligible tank and piping cost allocable to pollution control is 64%.

(2) The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

a. The facility was constructed in accordance with all regulatory requirements according to signed statements made by the installation service provider and/or owner.

b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules in that the appropriate compliance documents relating to the project have been submitted.

d. The portion of the facility cost that is properly allocable to pollution control is 92%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $124,257 with 92% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4835.

Barbara J. Anderson
(503) 229-5870
October 6, 1997

Application No. TC-4838

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Western Stations Co
2929 NW 29th
Portland, OR 97210-1705

The applicant owns and operates a retail gas station at 2260 W. Main, Medford, OR 97501, Facility ID No. 6172.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included air quality Stage I vapor recovery and Stage II vapor recovery piping.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are three doublewall fiberglass clad steel tanks, doublewall flexible plastic piping, spill containment basins, tank gauge system, overfill alarm, turbine leak detectors, sumps, oil/water separator, automatic shutoff valves, Stage I vapor recovery and Stage II vapor recovery piping.

Claimed facility cost $160,871
(Accountant's certification was provided)

The Department concludes that the eligible facility cost for the project is $174,171 because the amount claimed by the applicant ($160,871) reflects the net cost rather than the total cost of tanks and piping.

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on December 30, 1996 and placed into operation on December 31, 1996. The application for certification was submitted to the Department on September 24, 1997, and was considered to be complete and filed on October 6, 1997, within two years of the completion date of the project.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed:

1) For corrosion protection - Doublewall fiberglass clad steel tanks and doublewall flexible plastic piping.

2) For spill and overfill prevention - Spill containment basins, overfill alarm, sumps, oil/water separator and automatic shutoff valves.

3) For leak detection - Automatic tank gauge system and turbine leak detectors.

In addition, the following was installed to reduce air quality emissions.

1) For VOC reduction - Stage I and II vapor recovery piping.

b. Eligible Cost Findings

In determining the percent of the eligible 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 equipment 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 annual percent return on investment as the applicant claims no gross annual income from the facility.

3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant chose the most cost effective alternative. The methods chosen are acceptable for meeting the requirements of federal regulations.

4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control of reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table:

	Eligible Facility Cost	Percent Allocable	Amount Allocable
Corrosion Protection:			
Doublewall fiberglass clad steel tanks & flexible plastic piping	$39,121	66% (1)	$25,820
Spill & Overfill Prevention:			
Spill containment basins	1,064	100	1,064
Overfill alarm	300	100	300
Oil/water separator	2,700	100	2,700
Sumps	5,557	100	5,557
Automatic shutoff valves	1,057	100	1,057
Leak Detection:			
Tank gauge system	8,834	90% (2)	7,951
Line leak detectors	1,005	100	1,005
VOC Reduction:			
Stage I & II vapor recovery	388	100	388
Labor, material, misc parts	114,145	100	114,145
Total	$174,171	92%	$159,987

(1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $39,121 and the bare steel system is $13,300, the resulting portion of the eligible tank and piping cost allocable to pollution control is 66%.

(2) The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

a. The facility was constructed in accordance with all regulatory requirements according to signed statements made by the installation service provider and/or owner.

b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules in that the appropriate compliance documents relating to the project have been submitted.

d. The portion of the facility cost that is properly allocable to pollution control is 92%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $174,171 with 92% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4838.

Barbara J. Anderson
(503) 229-5870
October 6, 1997

Application No. TC-4839

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Home Fuel Oil Co.
P O Box 42287
Portland, OR 97242

The applicant owns and operates a home heating oil distributorship at 1710 North Commercial, Salem, OR 97303, Facility ID No. 1434.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are epoxy lining and impressed current cathodic protection on two steel underground storage tanks, spill containment basins, automatic tank gauge system and an overfill alarm.

Claimed facility cost $60,920
(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 was substantially completed on August 18, 1997 and placed into operation on August 18, 1997. The application for certification was submitted to the Department on September 25, 1997, and was considered to be complete and filed on October 3, 1997, within two years of the completion date of the project.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed:

1) For corrosion protection - Epoxy lining and impressed current cathodic protection on two steel tanks.

2) For spill and overfill prevention - Spill containment basins and an overfill alarm.

3) For leak detection - Automatic tank gauge system.

The Department concludes that the costs claimed by the applicant ($60,920) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible 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 equipment 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 annual percent return on investment as the applicant claims no gross annual income from the facility.

3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant chose the most cost effective alternative. The methods chosen are acceptable for meeting the requirements of federal regulations.

4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control of reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table:

	Eligible Facility Cost	Percent Allocable	Amount Allocable
Corrosion Protection:			
Epoxy tank lining	$19,800	100%	$19,800
Cathodic protection	8,500	100	8,500
Spill & Overfill Prevention:			
Spill containment basins	800	100	800
Leak Detection:			
Tank gauge system w/alarm	4,782	90%(1)	4,304
Labor, material, misc parts	27,038	100	27,038
Total	$60,920	99%	$60,442

(1) The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

a. The facility was constructed in accordance with all regulatory requirements according to signed statements made by the installation service provider and/or owner.

b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules in that the appropriate compliance documents relating to the project have been submitted.

d. The portion of the facility cost that is properly allocable to pollution control is 99%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $60,920 with 99% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4839.

Barbara J. Anderson
(503) 229-5870
October 3, 1997

State of Oregon
Department of Agriculture

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Golden Valley Farms
7385 Howell Prairie Road, NE
Silverton OR 97381

The applicant owns and operates a grass seed farm operation in Marion County, 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 located at 11235 Portland Road, NE, Brooks, Oregon. The land and the buildings are owned by the applicant.

24' x 120' x 200', Metal construction, grass straw storage shed	$145,000
Freeman 370T Baler	$ 45,000

Claimed facility cost: $190,000
(Accountant's Certification was provided.)

3. Description of Farm Operation Plan to Reduce Open Field Burning.

The applicant has 5,200 acres of perennial grass seed under cultivation. The applicant indicates that up to 1989 and the company's awareness of straw as a marketable by-product, it was customary to register and open field burn up to one-half of the total grass seed acreage produced annually. The remaining acreage was baled off, propane flamed, and the stacks were open burned.

With capital investment in storage sheds, straw compressors, straw rakes, balers, tractors, forklifts, hay squeezes, and trucks and trailers, the applicant is able to rake the grass straw in windrows, bale it, move it into storage sheds, compress and containerize the bales, and truck it to Port of Portland for export to Asian markets.

The applicant has been heavily investing in this alternative since 1987 and is able to remove the grass straw residue from all acreage without the necessity of open field burning or propane flaming and occasional stack burning. This storage shed and baler represent a 700 acre increase in perennial grass seed production over the last two years.

4. 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:
Construction of the facility was substantially completed on July 10, 1996. The application for final certification was found to be complete on October 15, 1997. The application was filed within two years of substantial completion of the facility.

5. Evaluation of Application

a. The facility is eligible under ORS 468.150 because the facility is an approved alternative method for field sanitation and straw utilization and disposal that reduces a substantial quantity of air pollution. This reduction is accomplished by reduction of air contaminants, defined in ORS 468A.005; by reducing the maximum acreage to be open burned in the Willamette Valley as required in OAR 340-26-013; and, the facility's qualification as a "pollution control facility", defined 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 field removal and protection from inclement weather.

2. The estimated annual percent return on the investment in the facility.

   The applicant established in previous, certified tax credit application #4271, that the annual cash flow for their baling and pressing operation was $39,738.00. The applicant listed the functions within the operation and represented the ratio of cash flow generated by each function as follows:

Useful Life	Function	Percent of Cash Flow
	Windrowing	5%
7 years	Baling	30%
	Stacking	5%
	Transporting	10%
20 years	Storing	10%
7 years	Pressing	30%
	Transporting	10%

Balers Claimed Cost	Percentage of Cash Flow	# Facilities In Function	Facility Cash Flow	Return on Investment	ROI	Percent Allocable Factor
$45,000	(30%)$11,921	(07)	$1,703	26.424	0	100

Storage Bldg. Claimed Cost	Percentage of Cash Flow	# Facilities In Function	Facility Cash Flow	Return on Investment	ROI	Percent Allocable Factor
$145,000	(10%)$3,973	(12)	$331	438.7	0	100

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 pollution.

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 or increase in costs as a result 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 pollution.

   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%.

6. Summation

a. The facility was constructed in accordance with all regulatory deadlines.

b. The facility is eligible under ORS 468.150 as an approved alternative method for field sanitation and straw utilization and disposal that reduces a substantial quantity of air pollution as defined in ORS 468A.005

c. The facility complies with DEQ statutes and rules.

d. The portion of the facility that is properly allocable to pollution control is 100%.

7. The Department of Agriculture's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $190,000, with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application Number TC-4842.

Jim Britton, Manager
Smoke Management Program
Natural Resources Division
Oregon Department of Agriculture
PH: (503) 986-4701
FX: (503) 986-4730

JB/rc
Tue, Nov 4, 1997

Application No. TC-4844

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Winnoco Inc.
P O Box 954
La Grande, OR 97850

The applicant owns and operates a retail gas station at 1502 Adams Ave., La Grande, OR 97850, Facility ID No. 8608.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are line leak detectors, automatic tank gauge system and an overfill alarm.

Claimed facility cost	$8,891
(Documentation of cost 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 was substantially completed on May 23, 1997 and placed into operation on May 23, 1997. The application for certification was submitted to the Department on September 29, 1997, and was considered to be complete and filed on October 3, 1997, within two years of the completion date of the project.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed:

1) For spill and overfill prevention - An overfill alarm.

2) For leak detection - Automatic tank gauge system.

The Department concludes that the costs claimed by the applicant ($8,891) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible 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 equipment 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 annual percent return on investment as the applicant claims no gross annual income from the facility.

3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant chose the most cost effective alternative. The methods chosen are acceptable for meeting the requirements of federal regulations.

4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control of reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table:

	Eligible Facility Cost	Percent Allocable	Amount Allocable
Spill & Overfill Prevention:			
Overfill alarm	$ 395	100%	$ 395
Leak Detection:			
Tank gauge system	5,900	100%	$5,900
Line leak detectors	2,596	100	2,596
Total	$8,891	100%	$8,891

5. Summation

a. The facility was constructed in accordance with all regulatory requirements according to signed statements made by the installation service provider and/or owner.

b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules in that the appropriate compliance documents relating to the project have been submitted.

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 $8,891 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4844.

Barbara J. Anderson
(503) 229-5870
October 3, 1997

Tax Credit Review Report

Revised 7/10/97

Director's Recommendation: **APPROVE**

Applicant	**Albany-Lebanon Sanitation, Inc.**
Application No.	**4831**
Facility Cost	**$49,831**
Percentage Allocable	**100%**
Useful Life	**6 years**

Pollution Control Facility Tax Credit: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a residential, commercial and industrial solid waste and recyling business taking tax relief under taxpayer identification number 93-0593828. The applicant is the owner of the facility.

The applicant's address is:

PO Box 1929
Albany, OR 97321

Facility Identification

The certificate will identify the facility as:

Six-30 yd Recycling Drop Boxes, Serial #8232-8237; Two-35 yd Cardboard Recycling Boxes, Serial #8229-8230; and One 25.7 Glass Recycling Box, Serial #8231..

The facility is located at:

1214 SE Montgomery
Albany, OR 97321

Eligibility

ORS 468.155 (1)(a)	The **sole** purpose of this **new equipment** is to reduce a substantial quantity of solid waste.
ORS 468.155 (1)(b)(D)	The facility accomplishes this reduction by a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.

Facility Cost

Facility Cost		**$49,831**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs	$	-
Eligible Facility Cost	**$**	**49,831**

Documentation substantiated the cost of the facility and Boldt, Carlisle & Smith, LLC, Certified Public Accountant's provided the CPA's statement.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/03/1997**
Application Substantially Complete	**09/10/1997**
Construction Started	**09/30/1995**
Construction Completed	**09/30/1995**
Facility Placed into Operation	**10/30/1995**

Facility Cost Allocable to Pollution Control

According to ORS.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control was the percentage of time the facility is used for pollution control. The percentage of time the facility was used for pollution control is 100%. Therefore, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewer: William R Bree

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation:	**APPROVE**
Applicant	**Corvallis Disposal Co.**
Application No.	**4832**
Facility Cost	**$18,478**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility Tax Credit: Solid Waste
Final Certification
ORS 468.150 -- 468.19
OAR 340-16-0005 -- 340-16-0050

Applicant Identification

The applicant is a C Corporation operating as A Residential, Commercial & Industrial SW & Recycling taking tax relief under taxpayer identification number 93-0422468. The applicant is the owner of the facility.

The applicant's address is:

PO Box 1
Corvallis, OR 97339

Facility Identification

The certificate will identify the facility as:

Five 30-yard (20' x 65") SC Style Drop Boxes with domed lids (model #2065SC, Serial #8224-8228, used to store & transport recyclable newspaper & magazines..

The facility is located at:

110 NE Walnut Blvd.
Corvallis, OR 97330

Technical Information

Drop boxes are effective for large volume customers to recycle paper products which can be hauled to market. They are 100% effective because very little or no recycling of paper would occur without these containers.

Eligibility

ORS 468.155 (1)(a) The **sole** purpose of this **new equipment** is to prevent, control or reduce a substantial quantity of solid waste.

ORS 468.155 (1)(b)(D) Accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/19/1997**
Application Substantially Completed	**10/07/1997**
Construction Started	**09/03/1995**
Construction Completed	**09/03/1995**
Facility Placed into Operation	**10/01/1995**

Facility Cost

Facility Cost		**$18,478**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$18,478**

Invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

According to ORS.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control was the percentage of time the facility is used for pollution control. The percentage of time the facility was used for pollution control is 100%. Therefore, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: William R Bree

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation: **APPROVE**

Applicant	**Corvallis Disposal Co.**
Application No.	**4833**
Facility Cost	**$6,524**
Percentage Allocable	**100%**
Useful Life	**3 years**

Pollution Control Facility Tax Credit: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-16-0005 -- 340-16-0050

The applicant is a C Corporation operating as A Residential, Commercial & Industrial SW & Recycling taking tax relief under taxpayer identification number 93-0422468. The applicant is the owner of the facility. The applicant's address is:

PO Box 1
Corvallis, OR 97339

The certificate will identify the facility as:

650 white recycling bags, 220 single-bag stands & 100 double-bag stands for collection of High- Grade paper from Businesses..

The facility is located at:

110 Walnut Blvd.
Corvallis, OR 97330

Technical Information

650 white recycling bags, 220 single-bag stands and 100 double bag stands which are used for the collection of high grade paper from businesses. When bags are full, the office paper recycling driver exchange the full bags for empty ones. The truck unloads at the Source Recycling where the material is prepared for market.

Eligibility

ORS 468.155 (1)(a) **New Equipment**
The **sole** purpose of this new equipment is to prevent, control or reduce a substantial quantity of solid waste.

ORS 468.155(1)(b)(d) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 4595.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/19/1997**
Application Substantially Complete	
Construction Started	**09/15/1995**
Construction Completed	**09/15/1995**
Facility Placed into Operation	**10/12/1995**

Facility Cost

Facility Cost		**$6,524**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$6,524**

Invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

According to ORS.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control was the percentage of time the facility is used for pollution control. The percentage of time the facility was used for pollution control and therefore the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility:
NPDES General Storm Water Discharge Permit #1200-T (renewed 1996)

Reviewers: William R Bree

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation: **APPROVE**

Applicant	**United Disposal Service, Inc.**
Application No.	**4837**
Facility Cost	**$156,607**
Percentage Allocable	**100%**
Useful Life	**5 years**

Pollution Control Facility Tax Credit: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a residential, commercial & industrial solid waste recycler taking tax relief under taxpayer identification number 93-0625022. The applicant is the Owned of the facility.

The applicant's address is:

2215 N Front Street
Woodburn, OR 97071

Facility Identification

The certificate will identify the facility as:

One New 1996 Volvo Truck, Model WXR64 Serial #4V5ECFMD7TR722918

One Heil Formula 7000-27 Refuse Packer, Serial #7101560

The facility is located at:

10295 SW Ridder Road
Wilsonville, OR 97070

Technical Information

This vehicle is used 100% of the time to collect source separated yard debris for composting five days a week. The truck and the yard debris containers make it effective and easy for residential customers to recycle their yard debris.

Eligibility New Equipment

ORS 468.155 (1)(a) The **sole** purpose of this **new machinery and equipment** is to prevent, control or reduce a substantial quantity of solid waste.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/24/1997**
Application Substantially Complete	**10/7/97**
Construction Started	**11/01/1995**
Construction Completed	**11/01/1995**
Facility Placed into Operation	**03/15/1996**

Facility Cost

Facility Cost		**$156,607**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$156,607**

Copies of canceled checks and invoices were provided to document the cost of the facility and a certified public accountant's statement from Theodore R. Ahre accompanied the application.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	As required by statute the facility recovers a product of real economic value.
ORS 468.190(1)(b) Return on Investment	The useful of the facility used for the return on investment consideration is 5 years. The facility produces an average annual cash flow of $8,646. Using Tables 1 and 2 (OAR 340-016-0030), the return on investment is zero.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	All costs and saving were included in the calculation of return on investment.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: William R Bree

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation: **APPROVE**

Applicant	**Albany-Lebanon Sanitation, Inc.**
Application No.	**4843**
Facility Cost	**$12,775**
Percentage Allocable	**100%**
Useful Life	**5 years**

Pollution Control Facility Tax Credit: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a residential, commercial & industrial solid waste recycler taking tax relief under taxpayer identification number 93-0593828. The applicant is the owned of the facility. The applicant's address is:

PO Box 1929
Albany, OR 97321

Facility Identification

The certificate will identify the facility as:

3013 RC-12 recycling bins whichs are used for collection of recycling at the curb.

The facility is located at:

1214 SE Montgomery St.
Albany, OR 97321

Technical Information

3013 RC-12 recycle bins are small crates and are blue in color. They are located at commercial and residential customer locations. When full, customers place the bins at the curb where they are emptied by recycling trucks. The trucks unload at the recycling plant, which is then shipped to the market source.

Eligibility

ORS 468.155 (1)(a) The **sole** purpose of this **new equipment** is to prevent, control or reduce a substantial quantity of solid waste.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/29/1997**
Application Substantially Complete	**10/07/1997**
Construction Started	**09/30/1995**
Construction Completed	**09/30/1995**
Facility Placed into Operation	**10/01/1995**

Facility Cost

Facility Cost		**$12,775**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$12,775**

Invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

According to ORS 468.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control was the percentage of time the facility is used for pollution control. The percentage of time the facility was used for pollution control is 100%. Therefore, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: William R Bree

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation: **APPROVE**

Applicant	**Albany-Lebanon Sanitation, Inc.**
Application No.	**4846**
Facility Cost	**$8,580**
Percentage Allocable	**100%**
Useful Life	**6 years**

Pollution Control Facility Tax Credit: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-16-0005 -- 340-16-0050

Applicant Identification

The applicant is a C Corporation operating as a residential, commercial & industrial solid waste recycler taking tax relief under taxpayer identification number 93-0593828. The Applicant is the owned of the facility.

The applicant's address is:

PO Box 1929
Albany, OR 97321

Facility Identification

The certificate will identify the facility as:

165 95-Gal. Schaefer Carts (Serial #12027-12191) & 2 9810-Y Infinity set, 6-S Park Litter Waste Enclosures & 2 Surface Mnts. for Recycling Upgrade.

The facility is located at:

1214 SE Montgomery Street
Albany, OR 97321

Technical Information

165 Schaefer Carts have wheels, and attached lids and are gray in color. They are located at residential and commercial customers locations. When full, customers place carts at the curb where they're emptied by an automated yard-debris truck. The trucks unload at the Processing & Recovery center where the material is mulched and turned into compost. (810-Y infinity seat, 6-S Park Litter 2 Waste Enclosures, and 2 Surface Mounts. This equipment was placed at the recycling center. The 2 infinity seats are charcoal gray and are used for customers who come to use the recycling center. The waste enclosures are also placed at the recycling center for materials that customers need to throw away that is not recyclable. The mounts are used to put together the bench seats.

Eligibility

ORS 468.155 (1)(a) The **sole** purpose of this **new equipment** is to prevent, control or reduce a substantial quantity of solid waste..

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**10/03/1997**
Application Substantially Complete	**10/07/1997**
Construction Started	**10/13/1995**
Construction Completed	**10/13/1995**
Facility Placed into Operation	**11/13/1995**

Facility Cost

Facility Cost		**$10,548**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs		
Benches & Waste Container	-$	1,968
Eligible Facility Cost		**$8,580**

Invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

According to ORS.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control was the percentage of time the facility is used for pollution control. The percentage of time the facility was used for pollution control and therefore the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: William R Bree

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation: **APPROVE**

Applicant	**Marshall's Oil and Insulation Co.**
Application No.	**4847**
Facility Cost	**$15,728**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a heating and insulation company taking tax relief under taxpayer identification number 93-0697033. The applicant is the owned of the facility.

The applicant's address is:

3355 Bardell
Eugene, OR 97401

Facility Identification

The certificate will identify the facility as:

Two canopies covering the equipment. A Balemaster Model #6030H, Serial # B69-7-9380235. A Hyster Forklift Model #35XM, Serial #D001H0231BS. A JA Freeman Baler Model #DDA, Serial #47146.

The facility is located at:

4110 Olympic Street
Springfield, OR 97478

Technical Information

The claimed facility is that portion of an integrated recycling facility not included in reclaimed plastic tax credit application number 4674. The facility processes cardboard, and scrap metal for recycling.

Eligibility

ORS 468.155 (1)(a) The **sole** purpose of this new structure and equipment is to prevent, control or reduce a substantial quantity of solid waste..

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**10/03/1997**
Application Substantially Complete	**10/10/19 97**
Construction Started	**10/13/1996**
Construction Completed	**10/13/1996**
Facility Placed into Operation	**11/09/1996**

Facility Cost

		$22,454
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs		
Preparation of Tax Credit Application	-$	210
Forklift Cost Claimed	-$	6,516
Eligible Facility Cost		**$15,728**

Invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

According to ORS468.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control was the percentage of time the facility is used for pollution control. The facility is used 100% of the time for pollution control and therefore the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: William R Bree

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation:	**APPROVE**
Applicant	**Peter Walker & Son**
Application No.	**4850**
Facility Cost	**$21,042**
Percentage Allocable	**100%**
Useful Life	**5 years**

Pollution Control Facility Tax Credit: Solid Waste Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a Sole Proprietor operating a solid waste collection and recycling service taking tax relief under taxpayer identification number 93-3049037. The applicant is the owned of the facility. The applicant's address is:

10385 SE 147th Avenue
Portland, OR 97236

Facility Identification

The certificate will identify the facility as:

One 1997 Ford F250 truck V.I.N # 3FTHF25H4VMA47774 and a Refuse Runabout container, model LG10 with hydraulic dump body serial # LG1009971049

The facility is located at:

10385 SE 147th Avenue
Portland, OR 97236

Technical Information

The trailers are used to transport recyclable materials to market. The materials would otherwise be disposed of as solid waste.

Eligibility

ORS 468.155 (1)(a) The **sole** purpose of this **new equipment** is to prevent, control or reduce a substantial quantity of solid waste.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**10/08/1997**
Application Substantially Complete	**10/10/1997**
Construction Started	**09/19/1997**
Construction Completed	**09/19/1997**
Facility Placed into Operation	**09/19/1997**

Facility Cost

Facility Cost		**$21,042**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$21,042**

Invoices and copies of checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

According to ORS468.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control was the percentage of time the facility is used for pollution control. The facility is used 100% of the time for recycling, a material recovery process. Therefore, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility:

Reviewers: William R Bree

Attachment B

Applications for Denial

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation:	**DENY - Ineligible Facility**
Applicant	**Willamette Industries, Inc**
Application No.	**4528**
Facility Cost	**$97,507**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility Tax Credit: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-050

Applicant Identification

The applicant is a C Corporation operating as a producer of linerboard and bagpaper taking tax relief under taxpayer identification number 93-0312940. The applicant is the owner of the facility.

The applicant's address is:

Eugene Particleboard
3800 First Interstate Tower
Portland, OR 97201

Facility Identification

The facility is identified as:

A Clark PNUE Air Bagfilter

The facility is located at:

50 North Danebo Avenue
Eugene, OR 97402

Technical Information

Willamette Industries' application number 4528 claimed a P.M. Hagel & Associates, high temperature bag filter, Model PMHR-314T. The claimed facility was built as a replacement to a facility previously certified by the Commission on the attached certificate number 1073. However, OAR 468.155(2)(e)(A) excludes the cost to replace or reconstruct the facility unless the replacement facility was built to meet a requirement imposed by the Department of Environmental Quality, the federal Environmental Protection Agency or a regional air pollution authority. The original, replaced facility met the latest condition of the imposed requirements.

The certificate was issued to Bohemia, Inc., on May 16, 1980 certifying a package fire tube suspension-fired boiler, together with a sanderdust storage silo and a baghouse to control air contaminates. At the time, Bohemia was a wholly owned subsidiary of Willamette Industries, Inc. The fact that Bohemia, Inc., merged with Willamette Industries, Inc., on December 31, 1993 has no relevance to the eligibility of the replacement facility for a pollution control facility tax credit

under ORS 468.150 through 468.190.

Eligibility Under ORS 468.155, the facility is not eligible because the definition of a pollution control facility does not include the replacement or reconstruction of all or a part of any facility for which a pollution control facility certificate has previously been issued under ORS 468.170. There are two exceptions but the facility claimed in application 4528 does not meet either exception:

(A) If the cost to replace or reconstruct the facility is greater than the like-for-like replacement cost of the original facility due to a requirement imposed by the department, the federal Environmental Protection Agency or a regional air pollution authority, then the facility may be eligible for tax credit certification up to an amount equal to the difference between the cost of the new facility and the like-for-like replacement cost of the original facility; or

(B) If a facility is replaced or reconstructed before the end of its useful life then the facility may be eligible for the remainder of the tax credit certified to the original facility.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/26/1995**
Application Substantially Complete	
Construction Started	**06/01/1993**
Construction Completed	**06/01/1993**
Facility Placed into Operation	**09/30/1993**

Facility Cost

		$97,507
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$97,507**

Invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors would have been used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

These factors were not considered.

Reviewers: M.C. Vandehey
SJO Consulting Engineers

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation:	**DENY** **Facility Destroyed by Fire**
Applicant	**Woodburn Fertilizer, Inc.**
Application No.	**4734**
Claimed Facility Cost	**$97,960**
Percentage Allocable	**0%**
Useful Life	**0 years**

Pollution Control Facility Tax Credit: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a producer of fertilizer taking tax relief under taxpayer identification number 93-0509242. The applicant is the owner of the facility.

The applicant's address is:

PO Box 7
Woodburn, OR 97071

Facility Identification

The certificate will identify the facility as:

Bag House for dust collection

The facility is located at:

868 N. Front St.
Woodburn, OR 97071

Eligibility

ORS 468.155 (1)(a) The facility claimed on the application does not meet the definition of a pollution control facility in that it was completely destroyed by fire prior to being approved by the commission.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**02/19/1997**
Application Substantially Complete	
Construction Started	**10/10/1996**
Construction Completed	**10/10/1996**
Facility Placed into Operation	**12/01/1996**

Facility Cost

		$97,960
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs	-$	97,960
Eligible Facility Cost		**$0**

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors would have been used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance

Compliance with Department rules and statutes and with EQC orders were not researched.

Reviewers: M.C. Vandehey

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation:	**DENY - Ineligible Facility**
Applicant	**Willamette Industries, Inc.**
Application No.	**4764**
Claimed Facility Cost	**$22,292**
Percentage Allocable	**0%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Air Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a wood products mill taking tax relief under taxpayer identification number93-0312940. The applicant is the owner of the facility.

The applicant's address is:

Woodburn Division
1300 SW Fifth Avenue, Suite 3800
Portland, OR 97201

Facility Identification

The facility is identified as:

One new American Lincoln, model # 2160 rider sweeper and one Dewalt dump bin.

The facility is located at:

2550 Progress Way
Woodburn, OR 97071

Technical Information The sweeper and the bin are used to clean the entire plant more effectively and on a more frequent basis. The applicant claims the incoming storage area is cleaner than when it was hand swept twice a month. The applicant also claims the amount of dust in the air has been reduced considerable. The cleaner plant site, means less fugitive wood particulate in and around the plant. The applicant claims this reduces emissions to the atmosphere.

Eligibility

ORS 468.155 (1)(a) The applicant claims the **sole** purpose of this **new equipment** is <u>not</u> to prevent, control or reduce a substantial quantity of air pollution. However, the Department asserts the sweeper's purpose is to provide a clean work environment as claimed by the applicant rather than pollution control.

ORS 468.155 (1)(b)(B) The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A. The claimed facility is not defined as an air cleaning device in ORS 468A.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**04/30/1997**
Application Substantially Complete	
Construction Started	**05/01/1995**
Construction Completed	**05/01/1995**
Facility Placed into Operation	**05/31/1995**

Facility Cost

		$22,292
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs		**-$22,292**
Eligible Facility Cost		**$0**

Facility Cost Allocable to Pollution Control

According to ORS.190 (3), the only factor that would have been used to determine the percentage of the facility cost allocable to pollution control was the percentage of time the facility is used for pollution control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: M.C. Vandehey
Dave Kauth

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation: **DENY - Facility Ineligible**

Applicant	**Cabinet Creations, Inc.**
Application No.	**4776**
Claimed Facility Cost	**$9,665**
Claimed % Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-050

Applicant Identification

The applicant is a C Corporation operating as a designer & manufacturer of cabinets & other wood products taking tax relief under taxpayer identification number 93-1172775.

The applicant is the owner of the facility.

The applicant's address is:

34177 Hwy. 99E
angent, OR 97389

Facility Identification

The facility is identified as:

Binks filter-type spray booth, Model 30-670, 26' x 14', with 20-filter intake and tower exhaust

The facility is located at:

34177 Hwy. 99E
Tangent, OR 97389

Technical Information

The facility is a spray booth used in the application of a finish to cabinet surfaces manufactured by the applicant.

Eligibility

ORS 468.155 (1)(a) The facility is not required to operate under a DEQ permit. The paint booth is not required to meet any permit requirements and therefore, the facility does not meet the principal purpose test. The sole purposes of the facility is not to prevent, control or reduce a substantial quantity of air pollution because it also provides an environment that minimizes damage to the surface finish of the cabinet. Paint booths are standard components of a cabinet shop used to confine paint over-spray and to protect employees not involved in the finish process.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**06/06/1997**
Application Substantially Complete	
Construction Started	**01/10/1997**
Construction Completed	**01/10/1997**
Facility Placed into Operation	**03/04/1997**

Facility Cost

		$9,665
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs		**-$9,665**
Eligible Facility Cost		**$0**

Invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility is ineligible and therefore, the Department did not consider the factors in ORS.190 (3).

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: M.C. Vandehey
Dave Kauth

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation: **DENY - Ineligible Facility**

Applicant	**United Disposal Service, Inc.**
Application No.	**4821**
Claimed Facility Cost	**$38,040**
Claimed % Allocable	**100%**
Useful Life	**5 years**

Pollution Control Facility Tax Credit: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a residential, commercial & industrial solid waste & recycling collection business taking tax relief under taxpayer identification number 93-0625022. The applicant is the owner of the facility. The applicant's address is:

2215 N Front Street
Woodburn, OR 97071

Facility Identification

The certificate will identify the facility as:

One 1990 6-cyl. GMC truck, model C70D42, serial # 1GDJ7H1LJ602292. One Simon-Effer model 5000 AZ/2S articulating crane w/outriggers Serial# 6024502. One flat bed truck w/stake pockets, head board, paint, lights, wiring belt winches and tool box

The facility is located at:

2215 N Front Street
Woodburn, OR 97071

Technical Information

The claimed facility is used to deliver empty containers to be used for recycling to customers. The vehicle does not directly handle recyclable material.

Eligibility

ORS 468.155 (1)(a) The **sole** purpose of this **new equipment** is <u>not</u> pollution reduction by use of a material recovery process. The claimed facility is not directly involved with the separation , recovery, collection, processing, or remanufacture of material which would otherwise be solid waste.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**08/14/1997**
Application Substantially Complete	**09/09/97**
Construction Started	**04/01/1996**
Construction Completed	**04/01/1996**
Facility Placed into Operation	**08/15/1996**

Facility Cost

		$38,040
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs	$	38,040
Eligible Facility Cost		**$38,040**

Documentation substantiated the cost of the facility and a certified public accountant's statement accompanied the application.

Facility Cost Allocable to Pollution Control

According to ORS.190 (3), the only factor that would have been used to determine the percentage of the facility cost allocable to pollution control was the percentage of time the facility is used for pollution control.

Reviewers: William R Bree

Attachment C

Applications for Transfer

DEPARTMENT OF ENVIRONMENTAL QUALITY
UST POLLUTION CONTROL TAX CREDIT PROGRAM

REQUEST FOR TRANSFER OF TAX CREDIT

Please provide information asked for below and attach a copy of your tax credit certificate.

Tax Credit Certificate No. 2143 **Tax Credit Application No.** 2717

Name and address of current tax credit holder:

Name Arthur Clough

Address P.O. Box 98

Arlington OR 97812

Name and address to transfer tax credit to:

Name Devin Oil Co., Inc.

Address PO Box "G"

Arlington, OR 97812

X **Signature of current tax credit holder** Arthur H. Clough

Date of signature 8-22-97

PHONE NO. OF PERSON DEQ MAY CONTACT REGARDING THIS REQUEST: _____

==========

Send this request to:

Attn: Barbara Anderson
DEQ
811 SW 6th
Portland, OR 97204

Phone: (503) 229-5870 or toll-free in Oregon 1-800 452-4011. FAX: (503) 229-6954.

Certificate No. 2143

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Date of Issue 4/17/90

Application No. T-2717

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To:	Location of Pollution Control Facility:
Arthur H. Clough P.O. Box 98 Arlington, OR 97812	100 Beech Street Arlington, OR 97812
As: ☐ Lessee ☒ Owner	

Description of Pollution Control Facility:

Veeder-Root TLS-250 Computerized leak detection system with overfill alarm and spill buckets installed on 3 tanks.

Type of Pollution Control Facility: ☐ Air ☐ Noise ☒ Water ☐ Solid Waste ☐ Hazardous Waste ☐ Used Oil

Date Pollution Control Facility was completed: 4/03/89 Placed into operation: 5/01/89

Actual Cost of Pollution Control Facility: $12,200.69

Percent of actual cost properly allocable to pollution control:

94.6 Percent

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

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

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

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

Signed _____

Title William P. Hutchison, Jr., Chairman

Approved by the Environmental Quality Commission on the 17th day of April 19 90

Glen A. Showalter
Rhoda F. Showalter
2720 N.E. 25th Avenue
Payette, Idaho 83661
208-642-1500

August 19, 1997

Oregon Department of Environmental Quality
Environmental Quality Commission
Attn: Maggie Vandehey
Tax Credit Coordinator
811 S.W. Sixth Avenue
Portland, OR 97204

Re: Transfer of Pollution Control Tax Credits from Glen A. Showalter and Rhoda F. Showalter
Serial Number of Pollution Control Facility: No. 2791
Location of the Facility: 33979 Highway 228, Halsey, Oregon 97348
Credit Available for Transfer: $18,884.00 (as of July 1, 1997)
Date of Transfer: July 1, 1997
Transferee: J & J Farming LLC, an Oregon limited liability company
Transferee's Taxpayer Identification No.: 93-0996032
Address of Transferee: 33979 Highway 228, Halsey, Oregon 97348

Pursuant to ORS 307.405(4) and 315.304, the undersigned requests the Environmental Commission to approve a transfer of the referenced tax credit to J & J Farming LLC, an Oregon limited liability company, effective July 1, 1997.

If you have questions concerning this request, please contact James H. Jordan, Attorney at Law, P. O. Box 983, Albany, Oregon 97321, 541-928-2166 (telephone), 541-928-7370 (facsimile).

Glen A. Showalter

Rhoda F. Showalter by Glen A. Showalter attorney in fact

RECEIVED
AUG 2 1 1997

James H. Jordan Attorney at Law

ayla K. Austin
Law Student Intern

P.O. Box 983
Albany, Oregon 97321-0369
Telephone (541) 928-2166
Facsimile (541) 928-7370
E-Mail Address: jordaust@proaxis.com

August 20, 1997

Oregon Department of Environmental Quality
Environmental Quality Commission
Attn: Maggie Vandehey
Tax Credit Coordinator
811 S.W. Sixth Avenue
Portland, OR 97204

Re: Glen A. Showalter and Rhoda F. Showalter
Serial Number of Pollution Control Facility: No. 2791
Our File No. 1395-3

nclosed is an original application for transfer of pollution control credits executed by Mr. and Mrs. Glen Showalter. Will you please take the steps necessary to accomplish transfer as requested in the letter. Please call this office if you have any questions concerning this request and, on approval, confirm with this office that the transfer has been made.

Sincerely,

JAMES H. JORDAN
JHJ/cjl
Enclosures
pc: Winston Spivey, CPA w/copy of enclosure
J & J Farming LLC w/copy of enclosure
Mr. and Mrs. Showalter w/copy of enclosure

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 2791
Date of Issue 12/30/91
Application No. TC-3563

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To:	Location of Pollution Control Facility:
Glen A. Showalter 33979 Hwy. 228 Halsey, OR 97348	33979 Hwy. 228 Halsey, OR 97348

As: ( )Lessee (x)Owner ( )Indiv ( )Partner ( )Corp ( )Non-profit ( )Co-op

Description of Pollution Control Facility:

72' x 44' press building; electrical/hydraulic press;
228' x 70' x 20' straw storage shed.

Type of Pollution Control Facility:
(x)Air ( )Noise ( )Water ( )Solid Waste ( )Hazardous Waste ( )Used Oil

Date Facility was Completed: 5/09/91 Placed into Operation: 5/09/91

Actual Cost of Pollution Control Facility: $194,324.00

Percent of Actual Cost Properly Allocable to Pollution Control: 54%

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

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

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

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

Signed: Fred Hansen
Fred Hansen, Director
Date: December 30, 1991
for:
Title: William W. Wessinger, Chairman

Pursuant to authorization from the EQC meeting on December 20, 1991.

MY102432

Regency Car Wash, Inc.
1001 So Riverside
Medford OR 97501

September 29, 1997

Oregon Department of Environmental Quality
Waste Management and Cleanup
811 SW 6th
Portland OR 97204-1390

RE: Regency Car Wash, Inc.
Polution Control Facility Certificate #3261

Gerald and Michele Sauter, shareholders of Regency Car Wash, Inc., have purchased the shares of Gary Mallicoat and now are each 50% shareholders of the company. They need revised credit forms to attach to their Oregon state tax returns effective January 1, 1997 reflecting their 50% ownership.

Enclosed are copies of the Polution Control Facility Certificate and the original credit forms. Please send revised credit forms for the remaining years of the credit.

Sincerely,

Gerald Sauter, President

RECEIVED
OCT 07 1997
Waste Management & Cleanup Division
Department of Environmental Quality

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

POLLUTION CONTROL FACILITY CERTIFICATE

Certificate No: 3261
Date of Issue: 12/10/93
Application No: T-4165

ISSUED TO:
Regency Car Wash, Inc.
1001 S. Riverside
Medford, OR 97501

ATTENTION: Gerald Sauter

LOCATION OF POLLUTION CONTROL FACILITY:
1001 S. Riverside
Medford
fac. 8869

AS: ( ) LESSEE (X) OWNER ( ) INDIV ( ) PARTNER (X) CORP ( ) NON-PROFIT ( ) CO-OP

DESCRIPTION OF POLLUTION CONTROL FACILITY:
Epoxy lining in three steel underground storage tanks, spill containment basins and underground preparation for a tank gauge system.

TYPE OF POLLUTION CONTROL FACILITY:
( ) AIR ( ) NOISE (X) WATER ( ) SOLID WASTE ( ) HAZARDOUS WASTE ( ) USED OIL

DATE FACILITY COMPLETED: 10/22/93 PLACED INTO OPERATION: 10/22/93

ACTUAL COST OF POLLUTION CONTROL FACILITY: $31,598.00

PERCENT OF ACTUAL COST PROPERLY ALLOCABLE TO POLLUTION CONTROL: 100%

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

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

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

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

Signed: William W. Wessinger (William W. Wessinger, Chairman)

Approved by the Environmental Quality Commission on the 10th day of December, 1993.

Staff: Barbara Anderson/UST
CFCERT.MSD (08/92)

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

POLLUTION CONTROL FACILITY CERTIFICATE

Certificate No: 3266
Date of Issue: 12/10/93
Application No: T-4172

ISSUED TO:
Jimmy L. Arendell
18045 SE Portland Avenue
Milwaukie, OR 97267

ATTENTION: Jimmy Arendell

LOCATION OF POLLUTION CONTROL FACILITY:
4140 SE Harrison Street
Milwaukie
fac. 635

AS: ( ) LESSEE (X) OWNER (X) INDIV ( ) PARTNER ( ) CORP ( ) NON-PROFIT ( ) CO-OP

DESCRIPTION OF POLLUTION CONTROL FACILITY:
Four doublewall fiberglass tanks and piping, spill containment basins, tank gauge system, automatic shutoff valves, turbine leak detectors, monitoring wells and Stage I and II vapor recovery equipment.

TYPE OF POLLUTION CONTROL FACILITY:
( ) AIR ( ) NOISE (X) WATER ( ) SOLID WASTE ( ) HAZARDOUS WASTE ( ) USED OIL

DATE FACILITY COMPLETED: 5/5/93 PLACED INTO OPERATION: 5/5/93

ACTUAL COST OF POLLUTION CONTROL FACILITY: $144,610.00

PERCENT OF ACTUAL COST PROPERLY ALLOCABLE TO POLLUTION CONTROL: 88%

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

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

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

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

Signed: William W. Wessinger (William W. Wessinger, Chairman)

Approved by the Environmental Quality Commission on the 10th day of December, 1993.

Staff: Barbara Anderson/UST
PCFCERT.MSD (08/92)

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August 6, 1997

Maggie Vandehey
State of Oregon
Department of Environmental Quality
811 SW 6th Ave
Portland OR 97203

Re: Transfer Pollution Control Facility Credit

We, Jimmy L. Arendell and Cheryl K. Arendell, request the transfer of the unused portion of our Water Pollution Control Facility Credit, Certificate # 3266 dated 12/10/93 (copy attached), in the amount of $38,176 as calculated below, to Arendell Properties, LLC, Fed ID# 91-1757504, located at 4140 SE Harrison, Milwaukie OR 97222.

The amount of credit available to be transferred, is calculated as follows:

Certified Cost of Facility	$144,610	
Percentage allocable to pollution control	88%	
Eligible Cost of Facility	$127,257	
Multiplied by 50%	50%	
Total Credit available		$63,628
Credit allocable to year ending 12/31/93		(6,363)
Credit allocable to year ending 12/31/94		(6,363)
Credit allocable to year ending 12/31/95		(6,363)
Credit allocable to year ending 12/31/96		(6,363)
Credit available to be transferred		$38,176

If you require any further information, please let us know. Thank you.

Sincerely,

Jimmy L. Arendell

Jimmy L. Arendell

Cheryl K. Arendell

Cheryl K. Arendell

4140 SE Harrison
Milwaukie OR 97222
503-659-9821

OREGON TITLE INSURANCE COMPANY

RECONVEYANCE OF TRUST DEED

RECITALS

A. Oregon Title Insurance Company, an Oregon corporation, herein "Trustee," is the trustee under the trust deed whose parties, date and recording information are as follows:

Grantor : POWELL BLVD. CHEVERON, INC.

Original Trustee : OREGON TITLE INSURANCE COMPANY
Beneficiary : CHEVERON U.S.A., INC.
Date : March 26, 1996
Recording Date : April 01, 1996
Recording Reference : VOLUME 96 PAGE 49067
County of Recording : MULTNOMAH

OREGON TITLE INSURANCE CO 205153M

B. Trustee has received from the beneficiary under the above trust deed a written request to reconvey, reciting that the beneficiary is the holder of the obligations secured by the trust deed and that the obligations secured by the trust deed have been fully paid and performed.

RECONVEYANCE

Trustee hereby grants, bargains, sells and conveys, but without any covenant or warranty, expressed or implied, to the persons legally entitled thereto, all of the right, title and interest under the above trust deed now held by Trustee in and to the property covered by the trust deed and more particularly described as follows:

FOR FULL LEGAL DESCRIPTION, PLEASE SEE ORIGINAL TRUST DEED, RECORDING REFERENCE ABOVE.

Dated: January 23, 1997

OREGON TITLE INSURANCE COMPANY
BY Barbara Kani
BARBARA KANI
ASSISTANT SECRETARY
OTIC/970102-15

STATE OF OREGON)
) SS
County of Multnomah)

The foregoing instrument was acknowledged before me on January 23, 1997 by BARBARA KANI as ASSISTANT SECRETARY of Oregon Title Insurance Company, an Oregon corporation, on behalf of the corporation.

OFFICIAL SEAL
THOMAS BRANNIAN
NOTARY PUBLIC-OREGON
COMMISSION NO. 058341
MY COMMISSION EXPIRES OCT. 8, 2000

Thomas Brannian
Notary Public for Oregon
My Commission Expires: ______

THIS SPACE RESERVED FOR RECORDER'S USE

Recorded in the County of Multnomah, Oregon
C. Swick, Deputy Clerk
8.00
97014153 2:25pm 01/28/97
028 124457 04 03 000100
D17 1 0.00 5.00 0.00 3.00 0.00

After recording return to:

POWELL BLVD. CHEVERON
30 WEST POWELL BLVD
GRESHAM, OR 97030
ATTENTION:
REFERENCE: 205153M

FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT ("First Amendment") dated as of December 15, 1995, is entered by and between CHEVRON U.S.A. INC., a Pennsylvania corporation (hereinafter "Seller") and EUGENE L. PULVER (hereinafter "Buyer").

THIS FIRST AMENDMENT is entered on the basis of the following facts, intentions and understandings:

A. Seller and Buyer entered that certain Purchase and Sale Agreement ("Purchase Agreement") dated August 16, 1995 pursuant to which Seller agreed to sell, and Buyer agreed to buy, certain real property ("Property") located at 30 West Powell Boulevard, in the City of Gresham, County of Multnomah, State of Oregon.

B. Unless otherwise defined herein, defined terms shall have the meanings given them in the Purchase Agreement.

C. Buyer and Seller now desire to amend the Purchase Agreement in accordance with the further provisions hereof.

NOW THEREFORE, IN CONSIDERATION of the mutual covenants and promises of the parties, Seller and Buyer agree as follows:

1. Recitals. The Recitals are incorporated herein as true and correct statements of fact.

2. Extension of Closing Date. Section 5.2 shall be changed to read as follows, " The closing of the purchase and sale (" Closing Date") shall occur at the offices of the Escrow Holder, on January 31, 1996 or at such other time and place as CHEVRON and BUYER may agree in writing. If the Closing Date does not occur on or before January 31, 1996, either CHEVRON or BUYER, if not in default hereunder, may terminate this Agreement by written notice to the other. Upon termination, both parties shall be relieved from any further liabilities and/or obligations under this Agreement. "

3. Counterparts; Telecopies. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The partially executed signature page of any counterpart of this Amendment may be attached to any other partially executed counterpart of this Amendment without impairing the legal effect of the signature(s) on such page. Telecopies of the executed signature pages of this Amendment shall be effective and binding upon the parties as if such signatures were original signatures. Escrow Holder (as defined in the Agreement) shall be entitled to accept and treat such telecopied signatures as original signatures. Immediately after sending the executed signature pages by telecopy, the party providing such telecopies shall send the originals of the Amendment, including such signature pages, to Escrow Holder by overnight courier service (e.g., Federal Express or UPS).

4. No Further Modification. Except as expressly modified and amended herein, the Purchase Agreement shall remain unmodified and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment, on the date(s) set forth below, as of the day and year first above written.

"Seller"
CHEVRON U.S.A. INC.,
a Pennsylvania corporation

By: Belinda A. Mayer
Its: ATTORNEY IN FACT
Date: December 15, 1995

"Buyer"
EUGENE L. PULVER

Eugene L Pulver
Date: December 15, 1995

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

POLLUTION CONTROL FACILITY CERTIFICATE

Certificate No: 3531
Date of Issue: 11/17/95
Application No: 4355

ISSUED TO:	LOCATION OF POLLUTION CONTROL FACILITY:
Chevron USA, Inc. 6001 Bollinger Canyon Rd., Bldg. L San Ramon, California 94583 ATTENTION: Gary S. Hook	30 West Powell Blvd. Gresham Facility No. 5833

AS: ( ) LESSEE (X) OWNER ( ) INDIV ( ) PARTNER (X) CORP ( ) NON-PROFIT ( ) CO-OP

DESCRIPTION OF POLLUTION CONTROL FACILITY:
The claimed pollution control facilities described in this application are spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.

TYPE OF POLLUTION CONTROL FACILITY:
( ) AIR ( ) NOISE (X) WATER ( ) SOLID WASTE ( ) HAZARDOUS WASTE ( ) USED OIL

DATE FACILITY COMPLETED: 7/3/93 PLACED INTO OPERATION: 7/4/93

ACTUAL COST OF POLLUTION CONTROL FACILITY: $36,888.00

PERCENT OF ACTUAL COST PROPERLY ALLOCABLE TO POLLUTION CONTROL: 100%

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

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

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

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

Signed: William W. Wessinger (William W. Wessinger, Chairman)

Approved by the Environmental Quality Commission on the 17th day of November, 1995.

Staff: Barbara Anderson/UST

Attachment D

Department Rejections

Tax Credit Review Report

Revised 9/30/97

Department's Action: **REJECT - Untimely Response**
Applicant **Chevron USA, Inc.**
Application No. **4505**
Claimed Facility Cost **$256,229**
Claimed % Allocable **100%**
Useful Life **10 years**

Pollution Control Facility Tax Credit: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-050

Applicant Identification

The applicant is a C Corporation operating as a retail gasoline station taking tax relief under taxpayer identification number . The applicant is the owner of the facility.

The applicant's address is:

6001 Bollinger Canyon Road
Building L
San Ramon, CA 94583

Facility Identification

The certificate will identify the facility as:

2-12000 gal. tanks, 1-15000 tank, doublewall fiberglass piping, Spill Containment and Overflow Protection, Stage II Vapor Recovery

The facility is located at:

275 E Baseline
Hillsboro, OR 97213

Eligibility The facility is not eligible because the applicant failed to file a timely application as described under the section *Timeliness of Application*.

Timeliness of Application

The application was not submitted within the timing requirements of ORS 468.165 (6) and failure to file a timely application makes the facility ineligible for tax credit certification.

Application Received	**08/01/1995**
Application Substantially Complete	
Construction Started	**11/01/1993**
Construction Completed	**11/01/1993**
Facility Placed into Operation	**11/18/1993**

Under ORS 468.165 (6), an application is not be considered filed until it is complete and ready for processing. Invoices did not substantiate the facility cost claimed on the application. The application exceeded $250,000 and was assigned to Coopers & Lybrand in November of 1995 with the applicant's written conscent to pay for the accounting review. However, the applicant failed to respond to three attempts to obtain facility cost documention. Request for additional information was made by Coopers & Lybrand on May 29, 1996. In November of 1996 Chevron sent documentation to the Coopers & Lybrand but accountant reviewer was unable to trace the amounts to the tax credit application. The Department repeated the request for the documentation of cost on February 10, 1997 with no response.

Under OAR 340-016-0020(h), if the Department determines the application is incomplete for processing and the applicant fails to submit requested information within 180 days of the date when the Department requested the information, the application will be rejected by the Department unless applicant requests in writing additional time to submit requested information.

The Department rejects this application because the applicant did not provided the requested information within 180 days and they did not request (in writing) additional time to submit the required information.

Facility Cost

		$256,229
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs		**-$256,229**
Eligible Facility Cost		**$0**

Invoices or canceled checks did not substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors would have been used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 20 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders, especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

Reviewers: Coopers & Lybrand, L.L.P.
M.C. Vandehey

Tax Credit Review Report

Revised 9/30/97

Department Action:	**REJECT - Untimely Response**
Applicant	**Chevron USA, Inc.**
Application No.	**4506**
Claimed Facility Cost	**$345,364**
Claimed % Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-050

Applicant Identification

The applicant is a C Corporation operating as a retail gasoline station taking tax relief under taxpayer identification number . The applicant is the owner of the facility.

The applicant's address is:

6001 Bollinger Canyon Road
Building L
San Ramon, CA 94583

Facility Identification

The certificate will identify the facility as:

3-15000 gal. Tanks, 1-1000 gal. tank, doublewall fiberglass piping, Spill Containment and Overflow Protection, Stage II Vapor Recovery

The facility is located at:

275 E Baseline
Hillsboro, OR 97213

Eligibility - Facility is not eligible because the applicant failed to file a timely application as described under the section *Timeliness of Application.*

Timeliness of Application

The application was not submitted within the timing requirements of ORS 468.165 (6) and failure to file a timely application makes the facility ineligible for tax credit certification.

Application Received	**08/01/1995**
Application Substantially Complete	
Construction Started	**01/31/1994**
Construction Completed	**01/31/1994**
Facility Placed into Operation	**04/18/1994**

Under ORS 468.165 (6), an application is not be considered filed until it is complete and ready for processing. Invoices did not substantiate the facility cost claimed on the application. The application exceeded $250,000 and was assigned to Coopers & Lybrand in November of 1995 with the applicant's written conscent to pay for the accounting review. However, the applicant failed to respond to three attempts to obtain facility cost documention. Request for additional information was made by Coopers & Lybrand on May 29, 1996. In November of 1996 Chevron sent documentation to the Coopers & Lybrand but accountant reviewer was unable to trace the amounts to the tax credit application. The Department repeated the request for the documentation of cost on February 10, 1997 with no response.

Under OAR 340-016-0020(h), if the Department determines the application is incomplete for processing and the applicant fails to submit requested information within 180 days of the date when the Department requested the information, the application will be rejected by the Department unless applicant requests in writing additional time to submit requested information.

The Department rejects this application because the applicant did not provided the requested information within 180 days and they did not request (in writing) additional time to submit the required information.

Facility Cost

		$345,364
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs		**-$345,364**
Eligible Facility Cost		**$0**

Invoices or canceled did not substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors would have been used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 20 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders, especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

Reviewers: Barbara J Anderson
Coopers & Lybrand, L.L.P.
M.C. Vandehey

Tax Credit Review Report

Revised 9/30/97

Department Action: **REJECT - Untimely Response**

Applicant	**Albany-Lebanon Sanitation Co.**
Application No.	**4811**
Claimed Facility Cost	**$18,720**
Claimed % Allocable	**100%**
Useful Life	**6 years**

Pollution Control Facility Tax Credit: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a residential, commercial & industrial solid waste recycler taking tax relief under taxpayer identification number 93-0593828. The applicant is the owner of the facility.

The applicant's address is:

PO Box 1929
Albany, OR 97321

Facility Identification

The certificate will identify the facility as:

360 95-Gallon Toter Carts, Model #USD-C95, Serial #11337-11696.

The facility is located at:

1214 Montgomery St.
Albany, OR 97321

Technical Information

360 95-gallon toter carts are used for the collection of yard debris for recycling. When full, customers place carts at edge of curb where they're emptied by our automated yard-debris truck. The trucks unload at the Processing & Recovery center where the material is mulched and turned into compost.

Eligibility

The facility is not eligible because the applicant failed to file a timely application as described under the section *Timeliness of Application*.

ORS 468.155 (1)(a) The **sole** purpose of this facility was to prevent, control or reduce a substantial quantity of solid waste.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.

Timeliness of Application

The application was not submitted within the timing requirements of ORS 468.165 (6). The application was not submitted within two years after construction of the facility was substantially completed. Failure to file a timely application makes the facility ineligible for tax credit certification.

Application Received	**07/29/1997**
Application Substantially Complete	
Construction Started	**05/22/1995**
Construction Completed	**05/22/1995**
Facility Placed into Operation	**06/01/1995**

Facility Cost

		$18,720
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution (ORS 468.155(2)(d)	$	-
Ineligible Costs		**-$18,720**
Eligible Facility Cost		**$0**

Facility Cost Allocable to Pollution Control

According to ORS.190 (3), the only factor that would have been used to determine the percentage of the facility cost allocable to pollution control would have been the percentage of time the facility is used for pollution control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: William R Bree
M.C. Vandehey

Tax Credit Review Report

Revised 9/30/97

Department's Action:	**REJECT - Untimely Submittal**
Applicant	**Willamette Industries, Inc**
Application No.	**4570**
Claimed Facility Cost	**$2,596,818**
Claimed % Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility Tax Credit: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a producer of linerboard and bagpaper taking tax relief under taxpayer identification number 93-0312940. The claimed facility is owned by the applicant, Willamette Industries, Inc. and leased to an independent facility operator, Far West Fibers.

The applicant's address is:

3800 First Interstate Tower
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

Ebterprise Baler (Model 16-ezrrb-200), Kraus Baler Conveyor (93KRACONV0050) Krause Sorting Conveyer (93KRACONV0050), Michigan Wheel Loader (SN L-70v61201), Mitsubishi 6Mlb Fork Trk (SNAF89A-00546), Mitsubishi 6Mlb Fork Trk(SNAF89A-00529), etc.

The facility is located at:

12820 NE Marx Street
Portland, OR 97230

Technical Information

The facility is a wastepaper collection, processing and storage facility which consists of a 50,000 square foot building including receiving, and sorting areas, sorting conveyor system, baler, baler feed conveyor system, storage area for baled material, eight space truck loading dock, and miscellaneous material handling and processing equipment.

Eligibility According to ORS 468.165 (6), failure to file a timely application as shown in the *Timeliness of Application* section below shall make the facility ineligible for tax credit certification.

ORS 468.155 (1)(a)	The **sole** purpose of this **new building, machinery and equipment** is to prevent, control or reduce a substantial quantity of solid waste.
ORS 468.155 (1)(b)(D)	The facility provides a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.

Timeliness of Application

The application was not submitted within the timing requirements of ORS 468.165 (6). Far West Fibers, an independent recycling company, began operations in the claimed facility on September 27, 1993, over three months before the lease was signed. The Department asserts that this is the date the construction of the facility was substantially complete.

Application Received	**12/26/1995**
Application Substantially Complete	
Construction Started	**05/01/1993**
Construction Completed	**11/27/1993**
Facility Placed into Operation	**12/31/1993**

However, the applicant claims the date of substantial completion of the facility is January 1, 1994, the date the lease was signed. The applicant claims that as the lessor of the facility and the fact that there was no lease between the independent recycling company and the applicant until January 1 1994, the date of substantial completion of the facility should be determined to be the effective date of the lease. Since this date is within two years after construction of the facility was substantially completed the applicant would have submitted a timely application.

The Department of Justice can see no legal basis for the applicant's interpretation of the statute. Therefore, the Department recommends the Environmental Quality Commission deny this application.

Facility Cost

	$2,596,818
Salvage Value	$ -
Government Grants	$ -
Other Tax Credits	$ -
Insignificant Contribution (ORS 468.155(2)(d)	$ -
Ineligible Costs	**- $2,596,818**
Eligible Facility Cost	**$0**

Facility Cost Allocable to Pollution Control

The facility as claimed on the application does not meet the definition of a facility integral to operation of the applicant business based on the four factors listed in OAR 340-16-030(1)(g).

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	The facility is used exclusively to process recyclable material. The percent allocable by using this factor is 100%.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility is 7 years. Since the facility lease is for 20 years and the use of the facility to the applicant is as a leased property the Department recommends that the useful life of the facility be set at 20 years. However, the lease payments from the claimed facility do not have a significant impact on the income of the applicant's business. The average annual cash flow for the facility is determined by the fixed rate in the facility lease. The average annual income from this lease is $135,000. The lease payment includes office and other space not included in the claimed facility. The portion of the lease payment allocable to the claimed facility is correctly stated as 93% or $125,550. This cash flow and the claimed facility cost result in a return on investment factor of 20.68. By using Table 1 in OAR 340, Division 16, a $2,596,818 facility with a useful life of 20 years and an average annual cash flow of $125,550 results in a return on investment of 0% and therefore 100% of the facility cost is properly allocable to pollution control.
ORS 468.190(1)(c) Alternative Methods	The applicant considered other methods for reducing solid waste and determined that this method was environmentally acceptable and economically feasible. It is the Department's determination that the claimed facility is an acceptable method of achieving the material recovery objective.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs. Material generated from this facility is sold to the applicant or other users at fair market value.

ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: William R Bree, DEQ
M.C.Vandehey, DEQ
Larry Knudsen, Department of Justice

HARDY MYERS
ATTORNEY GENERAL

DAVID SCHUMAN
DEPUTY ATTORNEY GENERAL

RECEIVED
OCT 21 1997

1515 SW 5th Avenue
Suite 410
Portland, Oregon 97201
FAX: (503) 229-5120
TDD: (503) 378-5938
Telephone: (503) 229-5725

DEPARTMENT OF JUSTICE
PORTLAND OFFICE

MEMORANDUM

DATE: October 20, 1997

TO: Maggie Vandehey
DEQ — Management Services Division

FROM: Larry Knudsen
Assistant Attorney General
Natural Resources Section

SUBJECT: Application No. 4570 — Willamette Industries, Inc.
Substantial Completion under ORS 468.165(6)

You have asked whether the above-referenced application was filed within the period specified in ORS 468.165(6). That subsection of the tax credit statutes requires that applications be filed "within two years after the construction of the facility is substantially completed."

I understand that the facility in question consists of a large building and assorted equipment intended for use in a paper recycling operation. Farwest Fibers, an independent recycling company, occupied the building and began operations on September 27, 1993. Construction was completed on November 27, 1993.

The tax credit application was filed on December 26, 1995, more than two years after the building was occupied and construction was completed. The applicant maintains, however, that the two-year period did not begin to run until January 1, 1993, the date that Farwest and the applicant entered into a lease agreement for the facility.

Under the controlling statutes, the Environmental Quality Commission must deny the tax credit certificate if it determines that the facility was substantially complete on or before December 25, 1993. The information you have provided would be substantial evidence that the facility was substantially completed well before this date.

Ordinarily, a facility would not be used before it is substantially complete, so the September 27, 1993 date would be controlling unless the applicant can establish that the

facility was actually put in use before it was substantially complete. Even then, you have determined that all construction was completed by November 27, 1993, almost two years and a month before the application was filed.

The applicant apparently is taking the position that construction is not substantially complete for tax credit purposes until the facility is actually leased. I can see no legal basis for this interpretation of the statute. It essentially would require the Commission to substitute some other concept (such as the existence of a leasehold or actual return on investment) for "construction," the term used in the statute. An Oregon court would be unlikely to accept such a substitution of concepts. ORS 174.020.

The Commission does have authority to extend the period for filing of the application. ORS 468.165(6). The applicant would need to seek an extension, however. More importantly, the applicant would need to prove that the delay in filing was caused by circumstances beyond its control. Again, I am not presently aware of facts to support such a claim.

I hope this discussion is helpful. Please let me know if you have additional questions or concerns.

LK:kt/LJK0760.MEM

Oregon

DEPARTMENT OF
ENVIRONMENTAL
QUALITY

EASTERN REGION
Hermiston Office

MEMORANDUM

DATE: October 2, 1997

TO: Environmental Quality Commission

FROM: Sue Oliver
DEQ, Hermiston

SUBJECT: Umatilla Chemical Disposal Facility (UMCDF) Permit Modification
October 2, 1997, Worksession Topic

The attached documents have been prepared to assist you in reviewing the background information for today's worksession concerning the Umatilla Chemical Disposal Facility Class 3 Permit Modification (adding Raytheon Demilitarization Company to the permit as a "co-permittee" and "co-operator"). Page 2 is the language from the Oregon Revised Statutes concerning the findings you must make concerning the applicant (Raytheon). Page 3 is the applicable portions of the Oregon Administrative Rules as related to the findings. Pages 4 through 7 contain the proposed Permit Conditions related to adding Raytheon to the permit:

PAGE	MODIFICATION	PERMIT CONDITION
4	A	Administrative Revisions
5	B	Liability Insurance
6	C	Training Plan Revisions
7	D	Signature Authority

256 E Hurlburt #117
Hermiston, OR 97838
(541) 567-8297
TDD (503) 229-6993

OREGON REVISED STATUTE 466.060 CRITERIA AND FINDINGS

ORS 466.060 states:

466.060 Criteria to be met by owner and operator before issuance of permit.

(1) Before issuing a permit for a facility designed to treat or dispose of hazardous waste or PCB, the permit applicant must demonstrate, and the commission must find, that the owner and operator meet the following criteria:

(a) The owner, any parent company of the owner and the operator have adequate financial and technical capability to properly construct and operate the facility; and

(b) The compliance history of the owner including any parent company of the owner and the operator in owning and operating other similar facilities, if any, indicates an ability and willingness to operate the proposed facility in compliance with the provisions of ORS 466.005 to 466.385 and 466.890 or any condition imposed on the permittee by the commission.

(2) If requested by the permit applicant, information submitted as confidential under paragraph (a) of subsection (1) of this section shall be maintained confidential and exempt from public disclosure to the extent provided by Oregon law.

OREGON ADMINISTRATIVE RULE

OAR 340-120-010 (g) & (h) state:

(g) Owner and Operator Capability. The owner, any parent company of the owner and the operator must demonstrate adequate financial and technical capability to properly construct and operate the facility. As evidence of financial capability, the following shall be submitted:

(A) Financial statements of the owner, any parent company of the owner, and the operator audited by an independent certified public accountant for three years immediately prior to the application;

(B) The estimated cost of construction and a plan detailing how the construction will be funded; and

(C) A three year projection, from the date the facility is scheduled to begin operating, of revenues and expenditures related to operating the facility. The projection should have sufficient detail to determine the financial capability of the owner, any parent company of the owner and the operator to properly operate the facility.

(h) Compliance History:

(A) The compliance history in owning and operating other similar facilities, if any, must indicate that the owner, any parent company of the owner and the operator have an ability and willingness to operate the proposed facility in compliance with the provisions of ORS Chapter 466 and any permit conditions that may be issued by the Department or Commission. As evidence of ability and willingness, the following shall be submitted:

(i) A listing of all responses to past actual violations identified by EPA or the appropriate state regulatory agency within the five years immediately preceding the filing of the request for an Authorization to Proceed at any similar facility owned or operated by the applicant, owner, any parent company of the owner or operator during the period when the actions causing the violations occurred; and

(ii) Any written correspondence from EPA and the appropriate state regulatory agency which discusses the present compliance status of any similar facility owned or operated by the applicant, owner, any parent company of the owner or operator.

(B) Upon request of the Department, the applicant shall also provide responses to the past violations identified prior to the five years preceding the filing of an Authorization to Proceed and the specific compliance history for a particular facility owned or operated by the applicant, any parent company of the owner or operator.

"MODIFICATION A"
(ADMINISTRATIVE REVISIONS)

Proposed Administrative Permit Revision:

The Signature, Introduction, and Definition pages would be changed to illustrate that the Owner and Operator is the U.S. Army (as represented by the Umatilla Chemical Depot and U.S. Army Program Manager for Chemical Demilitarization) and to add Raytheon Demilitarization Company as Co-Permittee and Co-Operator.

Discussion:

The Permittee and Co-Permittee must be identified in the hazardous waste permit. The Department proposes that the Signature Page, Introduction, and Definitions of the permit incorporate Raytheon Demilitarization Company as Co-Permittee and Co-Operator. Although the U.S. Army has selected Raytheon as the contractor to operate the UMCDF, the Army has the ultimate responsibility and should still be designated as "Permittee, Owner and Operator."

"MODIFICATION B"
(LIABILITY INSURANCE)

Proposed Revision to Permit Condition II.M.

The Permittee shall maintain and keep current the liability policies of comprehensive general liability (CGL), umbrella liability and following form excess liability, architects and engineers professional liability and contractors pollution policy and following form excess liability, first catastrophic excess liability, and second catastrophic insurance. A policy compendium shall be sent to the Department annually which shall include at a minimum, that portion defining "insured' or liability responsibility and/or a review of the necessary insurance policies that illustrates Raytheon Demilitarization/Raytheon Parent Company liability coverage equal to or in excess of the amounts submitted on 7/11/97 to demonstrate compliance. In addition, within 60 days of the effective date of this permit modification, the Co-Permittee shall submit to the Department a written warranty from the Chief Executive Officer or Treasurer of Raytheon, Inc., (parent company) claiming that the Parent Company's insurance and assets will be used to effectuate the Co-Permittee's third-party liability insurance policies at the UMCDF, if necessary.

Discussion:

ORS 466.105(5) states that the Permittee, if not provided an exemption, must "Maintain sufficient liability insurance or equivalent financial assurance in such amounts as determined by the department to be reasonably necessary to protect the environment and the health, safety and welfare of the people of this state." The minimum amount required by 40 CFR 264.147 (adopted as Oregon Rule by OAR 340-100-002) is $1 million per occurrence and $2 million aggregate.

The Permittee and Applicant have submitted additional information in response to a letter from the Department on August 28, 1997. The Attorney General's office reviewed the additional information and their comments were summarized in a memorandum from Brett McKnight to the EQC on September 24, 1997.

"MODIFICATION C"
(TRAINING PLAN REVISIONS TO INSURE CORRECTION OF NON-COMPLIANCE EVENTS)

Proposed New Permit Condition II.F.2.

Within 60 days from this permit condition's effective date, the Permittee and Co-Permittee shall submit to the Department a Class 1 permit modification request, with prior approval of the Department, to modify the Training Plan specified in permit condition II.F.1 to describe how the Permittee and Co-Permittee will develop and implement new training when instances of non-compliance or potential non-compliance are identified within the Chemical Stockpile Disposal Program.

Discussion:

From the review of the Army/Raytheon response to the Department's Notice of Deficiency, the Department concluded that new training was very often an important and successful factor in correcting instances of non-compliance at the Johnston Atoll facility. The Department believes a permit condition is warranted to insure such a program is instituted at the UMCDF.

"MODIFICATION D"
(AUTHORIZED SIGNATURES)

Proposed Revision to Permit Condition I.X.

All applications, reports or information required by this permit, or otherwise submitted to the Department, shall be signed and certified by the Umatilla Chemical Depot Commander, the Project Manager for the Umatilla Chemical Disposal Facility (representing the Program Manager for Chemical Demilitarization), and the Project Manager for Raytheon Demilitarization, or by a duly authorized representative for these persons, in accordance with 40 CFR 270.11.

Discussion:

40 CFR 270.11(b) (adopted as Oregon Rule by OAR 340-100-002) allows for either the principal executive officer or responsible corporate officer, who is identified as a permittee, to duly authorize a representative to submit reports required by the permit. This permit modification would allow for the Permittees to authorize appropriate representatives to submit reports.

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)
P00143			

6. ISSUED BY — CODE

SD, IOC
ATTN: AMSIO-ACS-S (Mr. J. Fratzke)
Rock Island, IL 61299-5000

7. ADMINISTERED BY (If other than item 6) — CODE

8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)

EG&G Defense Materials Division
11600 Stark Road
Tooele, Utah 84074

9A. AMENDMENT OF SOLICITATION NO.

9B. DATED (SEE ITEM 11)

10A. MODIFICATION OF CONTRACT/ORDER NO.

X DACA87-89-C-0076

10B. DATED (SEE ITEM 13)
09 Sept 1989

CODE — FACILITY CODE

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended, ☐ is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning ____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

Not Applicable

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

☐ A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.

☐ B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).

☐ C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:

☒ FAR 52.243-2, Changes-Cost Reimbursement Alternate II

☐ D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor ☐ is not, ☒ is required to sign this document and return ____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

This modification describes the division of operational responsibility between the United States Department of the Army, Tooele Army Depot - South (facility owner); The Program Manager for Chemical Demilitarization (facility co-operator); and the Systems Contractor, EG&G DMI (facility co-operator).

(Continued on Page 2)

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remain unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)	16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)
J. Marshall Thompson, Controller/Asst Treasu	Contracting Officer

15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
(Signature of person authorized to sign)	June 14, 1989	(Signature of Contracting Officer)	14 June 89

NSN 7540-01-152-8070
PREVIOUS EDITION UNUSABLE

30-105-03

STANDARD FORM 30 (REV. 10-83)
Prescribed by GSA
FAR (48 CFR) 53.243

EG&G INDEMNIFICATION AND ASSOCIATED CONTRACT MODIFICATION (TOOELE)

Pursuant to the Utah Solid and Hazardous Waste Act, 19-6-101, et. seq., Utah Code Annotated, 1953, as amended, and the regulation promulgated thereunder by the Utah Solid and Hazardous Wastes Control Board, codified in the Utah Administrative Code R315 (R315), and pursuant to the Solid Waste Disposal Act (42 U.S.C. 3251 et. seq.), as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §901 et. seq.) and the Hazardous and Solid Waste Amendments of 1984, a permit will be issued to the United States Department of the Army, Tooele Army Depot - South (facility owner); The Program Manager for Chemical Demilitarization (facility co-operator); and the Systems Contractor, EG&G Defense Material, Inc. (EG&G) (facility co-operator); hereinafter jointly called Co-Permittees, to operate a hazardous waste treatment and storage facility.

In order to ensure the proper execution of this permit, the Co-Permittees agree to the following:

a. The Army, as Owner and Co-Permittee, acknowledges its responsibility for hazardous waste management activities at the CSDP Facility, including sole responsibility for funding, policy, capital expenditures, design, programmatic and scheduling decisions, and general oversight of contractor activities.

b. EG&G as Co-Permittee, acknowledges its responsibility for hazardous waste management activities at the CSDP Facility for day to day management within its direct management control and authority (including waste analysis and handling, monitoring, record keeping and related hazardous waste activities) as governed by law and the decisions and direction of the Army.

c. Reporting and information requirements: The Army will serve as the information and reporting contact with the State of Utah. The Army will be responsible for submitting all required reports to the State. The Army will certify the accuracy and adequacy of final documentation and the accuracy of documentation provided by the Army to develop required documentation. EG&G will certify the accuracy and adequacy of the preparation of the final documents based on documentation and direction provided by the Army.

d. The Commander, Tooele Army Depot - South as CSDP Facility Owner and the PMCD, as CSDP Facilty Operator, are exclusively responsible to seek federal funding, to include appropriations from the U.S. Congress, in order to take corrective action, to comply with all permit requirements, and to achieve the compliance schedule.

e. Upon the termination of Contract No. DACA67-89-C-0075 between the U.S. Army and EG&G, the Army will file the necessary permit modification and take other appropriate action to remove EG&G from the permit as a Co-Permittee, Facility Co-Operator.

(APR 1984)

(a) "Contractor's principal officials," as used in this clause, means directors, officers, managers, superintendents, or other representatives supervising or directing--

(1) All or substantially all of the Contractor's business;

(2) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(3) A separate and complete major industrial operation in connection with the performance of this contract.

(b) Under Public Law 85-804 (50 U.S.C. 1431-1435) and Executive Order 10789, as amended, and regardless of any other provisions of this contract, the Government shall, subject to the limitations contained in the other paragraphs of this clause, indemnify the Contractor against--

(1) Claims (including reasonable expenses of litigation or settlement) by third persons (including employees of the Contractor) for death; personal injury; or loss of, damage to, or loss of use of property;

(2) Loss of, damage to, or loss of use of Contractor property, excluding loss of profit; and

(3) Loss of, damage to, or loss of use of Government property, excluding loss of profit.

(c) This indemnification applies only to the extent that the claim, loss, or damage (1) arises out of or results from a risk defined in this contract as unusually hazardous or nuclear and (2) is not compensated for by insurance or otherwise. Any such claim, loss, or damage, to the extent that it is within the deductible amounts of the Contractor's insurance, is not covered under this clause. If insurance coverage or other financial protection in effect on the date the approving official authorizes use of this clause is reduced, the Government's liability under this clause shall not increase as a result.

(d) When the claim, loss, or damage is caused by willful misconduct or lack of good faith on the part of any of the Contractor's principal officials, the Contractor shall not be indemnified for--

(1) Government claims against the Contractor (other than those arising through subrogation); or

(2) Loss or damage affecting the Contractor's property.

(e) With the Contracting Officer's prior written approval, the Contractor may, in any subcontract under this contract, indemnify the subcontractor against any risk defined in this contract as unusually hazardous or nuclear. This indemnification shall provide, between the Contractor and the subcontractor, the same rights and duties, and the same provisions for notice, furnishing of evidence or proof, and Government settlement or defense of claims as this clause provides. The Contracting Officer may also approve indemnification of subcontractors at any lower tier, under the same terms and conditions. The Government shall indemnify the Contractor against liability to subcontractors incurred under subcontract provisions approved by the Contracting Officer.

(f) The rights and obligations of the parties under this clause shall survive this contract's termination, expiration, or completion. The

Contract DACA 87-87-C-
modification P000 48
Attachment 1
Page 2 of 2

Government shall make no payment under this clause unless the agency head determines that the amount is just and reasonable. The Government may pay the Contractor or subcontractor, or may directly pay parties to whom the Contractor or subcontractor may be liable.

(g) The Contractor shall--

(1) Promptly notify the Contracting Officer of any claim or action against, or any loss by, the Contractor or any subcontractors that may reasonably be expected to involve indemnification under this clause;

(2) Immediately furnish to the Government copies of all pertinent papers the Contractor receives;

(3) Furnish evidence or proof of any claim, loss, or damage covered by this clause in the manner and form the Government requires; and

(4) Comply with the Government's directions and execute any authorizations required in connection with settlement or defense of claims or actions.

(h) The Government may direct, control, or assist in settling or defending any claim or action that may involve indemnification under this clause.

(i) The cost of insurance (including self-insurance programs) covering a risk defined in this contract as unusually hazardous or nuclear shall not be reimbursed except to the extent that the Contracting Officer has required or approved this insurance. The Government's obligations under this clause are--

(1) Excepted from the release required under this contract's clause relating to allowable cost; and

(2) Not affected by this contract's Limitation of Cost or Limitation of Funds clause.

(End of clause)

~~(R 7-203.22 1977 JAN)~~

~~(R 7-402.57 1974 APR)~~

Raytheon Demilitarization
Company
1215 Jefferson Davis Highway
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Raytheon

November 20, 1997

TO: Langdon Marsh
Director
State of Oregon
Department of Environmental Quality

CC: Henry Lorenzen
Chairman
Oregon Environmental Quality Commission
Sue Oliver, DEQ
Jim Bacon, PMCD
Raj Malhotra, OPMCD

REF: State of Oregon, Department of Environmental Quality Memorandum, Dated 21 November 1997, subject: Agenda Item C-2, EQC Meeting November 21, 1997 - Umatilla Chemical Agent Disposal Facility, Class 3 Permit Modification to Add Raytheon Demilitarization Company as Co-Permitee and Co-Operator

In Attachment A, of the referenced memo, entitled "Department Discussion of Issues Related to EQC Findings", on page A-5, it states, "1. The information provided by Raytheon Demilitarization Company does not include the three-year projection of revenues and expenditures related to operating the facility required by 340-120-010 (2)(g)(c)."

There was apparently some misunderstanding on our part concerning this requirement and we were remiss in not providing the required information.

In February 1997 Raytheon Demilitarization Company was awarded the Systems Contract for the Umatilla Chemical Agent Disposal Facility. The total award price of $566,765,598 was comprised of $262,062,082 for the Firm Fixed Price Construction/Installation portion of the contract and $304,703,516 for the Cost Plus Award Fee Operation and Maintenance portion of the contract.

The $262,062,082 for the construction/installation will be expended, based on construction progress, during a 38 month period beginning in February 1997 and extending to April 2000.

The $304,703,516 for the operation and maintenance will be expended from February 1997 through February 2006. The expenditures for the first three years are:

FY 1997	$ 6,800,000
FY 1998	$ 7,600,000 (budgeted)
FY 1999	$15,200,000 (estimated)

I apologize for any delay or confusion in transmitting this information to the DEQ and EQC.

Fred Hissong, Jr.
President
Raytheon Demilitarization Company

City of Boardman
202 N. Main
P.O. Box 229
Boardman, OR 97818
Telephone (541) 481-9252
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November 10, 1997

Mr. Langdon Marsh, Director
Department of Environmental Quality
Portland, Oregon 97204

Mr. Brett McKnight
DEQ Eastern Region
2146 N.E. Fourth St. Suite 104
Bend, Oregon 97701

Dear Mr. Marsh and Mr. McKnight:

This letter is in support of the Morrow County Court request that the EQC add a condition to the Army's permit requiring compliance with ORS Chapter 554. Please read this letter into the record at the commission hearing on November 21, 1997.

The Umatilla Army Chemical Depot Storage facility has been in Morrow County's back yard for a number of years; and we have been a very good neighbor. With the passage of HB 3740 by the Oregon State Legislature, counties may impose a fee for major recovery or remedial actions involving certain chemical agents.

Morrow County has yet to receive a response in regards to their request for the Army to participate in the fee assessment authorized by this statute. The Army will most likely continue to ignore the requests until some form of legal action is taken. We believe that the EQC has the authority and obligation to encourage compliance with this new law as a condition of the permit.

We respectfully submit that Morrow County's position on this issue be considered.

State of Oregon
Department of Environmental Quality
RECEIVED
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OFFICE OF THE DIRECTOR

Sincerely,

Terry K. Tallman

Terry K. Tallman,
Mayor

State of Oregon
Department of Environmental Quality **Memorandum**

Date: November 21, 1997

To: Environmental Quality Commission

From: Langdon Marsh, Director

Subject: Agenda Item C-2, EQC Meeting November 21, 1997
Umatilla Chemical Agent Disposal Facility, Class 3 Permit Modification
to Add Raytheon Demilitarization Company as Co-Permittee and Co-Operator

Statement of Purpose

The purpose of this staff report is to present to the Environmental Quality Commission (Commission) a discussion of relevant issues concerning the addition of Raytheon Demilitarization Company as a Co-Permittee and Co-Operator on the Hazardous Waste Permit for the Umatilla Chemical Agent Disposal Facility.

Background

In February, 1997, the Commission and the Department issued a hazardous waste treatment and storage permit (OR6 213 820 917) to the U.S. Army for the construction and operation of a hazardous waste incineration facility to be located at the Umatilla Chemical Depot. At the time the permit was signed, the Army had not yet named the contractor for the construction and operation of the Umatilla facility. In their final Order the Commission required the Army to submit a permit modification request to add the contractor (when selected) to the hazardous waste permit as a Co-Permittee and Co-Operator. The Army submitted their permit modification request to the Department in March, 1997.

Authority of the Commission with Respect to the Issue

The permit modification is required by Oregon Revised Statute (ORS) 466.060, Oregon Administrative Rules (OAR) 340-105-040, OAR 340-105-041, and the "Findings and Conclusions of the Commission and Order," dated February 10, 1997 (Paragraphs 79 and 80). ORS 466.060 requires the Commission to make findings related to the technical and financial capabilities of the Permittee, and the Permittee's ability and willingness to comply with permit conditions, or any other conditions imposed on the Permittee by the Commission.

Alternatives and Evaluation

1. Make affirmative findings approving the permit modification request.

   The Commission could choose today to make the finding that Raytheon Demilitarization Company (RDC) has the financial and technical capability to build and operate the facility, and that RDC has shown a willingness to comply with the hazardous waste permit. In this case, the Department would assist the Attorney General's office in the preparation of an Order, and would prepare the appropriate permit modifications as directed by the Commission.

2. Deny the permit modification request.

   If the Commission is unable to make affirmative findings, the U.S. Army (as represented by the Program Manager for Chemical Demilitarization and the Umatilla Chemical Depot) would remain as the sole owner and named permittee on the hazardous waste permit. Failure to add Raytheon to the hazardous waste permit will not preclude the U.S. Army from proceeding with construction and operation of the facility in accordance with the hazardous waste permit (presumably Raytheon would continue as the Army's contractor). The Army would continue to be required to maintain an on-site oversight presence at the Umatilla Chemical Disposal Facility.

Summary of Public Input Opportunity

The Permittee opened a 60-day public comment period for the proposed modification on April 16, 1997, and held a public meeting on May 19, 1997, as required by rules governing Class 3 permit modifications. The Department opened a public comment period on the modification request on August 29, 1997 (scheduled to close October 14) and held a public hearing on October 1, 1997. On October 10 the public comment period was extended through November 4, 1997. On November 4, 1997, the public comment period was again extended, for written comments, to November 17, 1997. Agenda Item C-1 of today's Commission meeting allowed only oral testimony concerning this agenda item.

Discussion and Conclusions

See Attachment A for Department discussion of issues related to the Commission findings.

Intended Future Actions

The Department will proceed as directed by the Commission at today's meeting.

Department Recommendation

The public comment period for this permit modification had not yet been closed at the time of preparation of this staff report, so the Department is not providing a recommendation at this time.

Attachments

Attachment A: Department Discussion of Issues Related to EQC Findings
Attachment B: Applicable Oregon Revised Statutes
Attachment C: Applicable Oregon Administrative Rules
Attachment D: Summary of Public Comments (through Nov. 7, 1997)
Attachment E: Financial and Performance Guarantee and Table of Third Party Liability Insurance Coverage Provided by Raytheon Company
Attachment F: Memorandum of Decision from the Secretary of the Army to Include an Indemnification Clause
Attachment G: U.S. Army/Raytheon Demilitarization Company Contract Language Related to Permit Modification

Reference Documents (available upon request)

Environmental Quality Commission Staff Report (Attachment A, Department Conclusions on Environmental Quality Commission Findings), November 22, 1996.

"Findings and Conclusions of the Commission and Order," In the Matter of the Application of the United States Army for a Permit to Construct and Operate a Chemical Weapons Demilitarization Facility at the Umatilla Chemical Depot, Oregon Environmental Quality Commission, February 10, 1997.

"Class 3 Permit Modification Request for Revision of Part A Application and Submittal of Operator Capability Information/Compliance History," submitted by U.S. Army Umatilla Chemical Depot, Hermiston, Oregon, March, 1997.

"Notice of Deficiency, Class 3 Permit Modification Request No. UMCDF-001-E(1)," Oregon Department of Environmental Quality, May 12, 1997.

"Response to the State of Oregon Department of Environmental Quality May 12, 1997, Notice of Deficiency," submitted by U.S. Army, July 11, 1997 (as appended July 16, 1997).

"Fact Sheet with Draft Permit Modifications for the Umatilla Chemical Disposal Facility Hazardous Waste Permit," Oregon Department of Environmental Quality, August 29, 1997.

Letter from Ms. Stephanie Hallock, DEQ Eastern Region Administrator, to Mr. Sam Kasley, Raytheon Demilitarization Company, requesting additional information, August 28, 1997.

Letter from Raj Malhotra, UMCDF Site Project Manager, to Mr. Brett McKnight, DEQ Eastern Region Hazardous Waste Manager, response to Ms. Hallock's 28 August 1997 letter, September 16, 1997.

Memorandum from Sue Oliver to the Environmental Quality Commission (related to draft permit modification language), October 2, 1997.

Approved:

Langdon Marsh, Director

Report Prepared By: Sue Oliver

Phone: 541-567-8297

Date Prepared: November 13, 1997

ATTACHMENT A

DEPARTMENT DISCUSSION OF ISSUES
RELATED TO EQC FINDINGS

ATTACHMENT A

DEPARTMENT DISCUSSION OF ISSUES
(STAFF REPORT, NOVEMBER 21, 1997, EQC MEETING)

CLASS 3 PERMIT MODIFICATION TO INCORPORATE
RAYTHEON DEMILITARIZATION COMPANY AS A CO-PERMITTEE OF THE
UMATILLA CHEMICAL DEMILITARIZATION FACILITY

PAGE

Introduction..... A-3

Before approving the permit modification to add Raytheon Demilitarization Company as a Co-Permittee and Co-Operator of the Umatilla Chemical Agent Disposal Facility the Commission must Find that:

1. Raytheon Demilitarization Company has demonstrated adequate financial and technical capability to properly construct and operate the facility. **{ORS 466.060(1)(a)}**..... A-4

2. Raytheon Demilitarization Company has demonstrated the ability and willingness to operate the Umatilla Chemical Agent Disposal Facility in compliance with statutory and regulatory provisions. **{ORS 466.060(1)(b)}**..... A-7

INTRODUCTION

In 1985 the Oregon Legislature specifically gave the Environmental Quality Commission (Chapter 466 of the Oregon Revised Statutes) both the responsibility and the authority to act on applications for permits for disposal and treatment of hazardous waste and PCBs. Oregon Administrative Rules (specifically, Chapter 340, Division 120) were adopted by the Commission pursuant to Chapter 466 of the statute to more clearly define the siting criteria for both on-site and off-site hazardous waste facilities. The Umatilla Chemical Agent Disposal Facility is considered an on-site hazardous waste treatment facility under state law.

On February 10, 1997, the Commission issued their "Findings and Conclusions of the Commission and Order" and granted the U.S. Army and the Umatilla Chemical Depot a Hazardous Waste Treatment and Storage Permit (#OR6 213 820 917). The Army had not yet selected a contractor for construction and operation of the Umatilla facility at the time the Commission granted the hazardous waste permit. The Commission's Order (Paragraph 79) states that "The Army has the capability to construct and operate the proposed facility. When a contractor is selected, a hazardous waste treatment permit modification will be required to make that contractor a co-permittee, and the contractor will then be required to demonstrate technical and financial capability as well."

Resource Conservation and Recovery Act (RCRA) permit modifications are classed according to their significance. Class 1 modifications are modifications considered minor in nature (i.e., typographical corrections or administrative changes). Class 2 permit modifications do not substantially alter the facility design or management practices, but are considered significant enough to require a public comment process. The addition of a Co-permittee and Co-operator to a hazardous waste permit is considered a very significant permit modification that requires the permittee to follow the more stringent requirements of a Class 3 permit modification. Class 3 permit modifications require an extensive public comment process and findings by the Environmental Quality Commission in accordance with Chapter 466 of the Oregon Revised Statutes.

This attachment describes each of the findings required by the Environmental Quality Commission, and includes a discussion of relevant issues in terms of whether they tend to support, or not support, an affirmative finding by the Commission. The complete text of the applicable Oregon Revised Statutes and the Oregon Administrative Rules is contained in Attachments B and C, respectively. Attachment D contains a summary of public comments received through November 7, 1997. Attachment E contains the Financial and Performance Guarantee from Raytheon Company (parent company) requested by the Commission at the meeting on October 2, 1997. Attachment E also includes a table describing the levels of third party insurance coverage and how they will apply to the Umatilla facility. Attachment F is the "Memorandum of Decision from the Secretary of the Army to Include an Indemnification Clause," and Attachment G is the U.S. Army/Raytheon Demilitarization Company contract language modifications related to adding Raytheon Demilitarization Company to the hazardous waste permit.

FINDING 1: Have the owner and operator of the facility demonstrated adequate financial and technical capability to properly construct and operate the facility?

Applicable Statute

466.060(1)(a) Criteria to be met by owner and operator before issuance of permit (as related to financial and technical capability)

Paragraph (1)(a) requires the Commission to Find that the owner and operator of the proposed facility have the financial and technical capability to properly construct and operate the facility.

Full text of ORS 466.060(1)(a) is located on Page B-3.

Related Rule

OAR 340-120-010(2)(g) Owner and Operator Capability

Paragraph (2)(g) defines the required information that must be submitted by the owner and operator of the proposed facility to demonstrate adequate financial capability to properly construct and operate the facility.

Full text of OAR 340-120-010(2)(g) is located on Page C-3.

In relation to Finding 1, the following **tend to support the conclusion** that Raytheon Demilitarization Company has demonstrated adequate **financial** capability to properly construct and operate the facility:

1. Raytheon Company, parent company of Raytheon Demilitarization Company, has provided the Commission with a Financial and Performance Guarantee where Raytheon Company "guarantees payment of all debts and the faithful performance of all obligations" of Raytheon Demilitarization Company (See Attachment E).

2. Raytheon Company is a firmly established business with a 75 year operating history. Raytheon's 1996 Annual Report shows annual sales of $12.3 billion, with earnings of $783.3 million. In accordance with OAR 340-120-010(2)(g)(A) Raytheon also provided independently audited financial statements for the years 1993, 1994, and 1995 (in addition to the 1996 Report).[1][2]

3. To meet the requirements for funding information stated in OAR 340-120-010(2)(g)(B), Raytheon provided information concerning the funding for the Umatilla facility. The United States Army and Raytheon Demilitarization Company have entered into a legally binding contract for the construction, systemization, operation, and closure of the Umatilla facility at a negotiated cost of

$567 million. Cost of construction is estimated at $262 million. Funding for the Chemical Stockpile Disposal Program is provided by Congress on an annual basis through the budget of the Department of Defense.[1][2]

4. Raytheon has provided the Department and the Commission with an extensive listing of available liability insurance coverage, and discussed the issues concerning third party liability insurance with the Commission during the October 2, 1997, work session. [2][3][Attachment E]

In relation to Finding 1, the following **tend not to support the conclusion** that Raytheon Demilitarization Company has demonstrated adequate **financial** capability to properly construct and operate the facility:

1. The information provided by Raytheon Demilitarization Company does not include the three-year projection of revenues and expenditures related to operating the facility required by 340-120-010(2)(g)(C).

2. Raytheon Demilitarization Company was unable to provide income statements or balance sheets, because as a wholly-owned subsidiary their financial information is not published separately but is instead incorporated into consolidated statements of the parent company (Raytheon Company). [3]

In relation to Finding 1, the following **tend to support the conclusion** that Raytheon Demilitarization Company has demonstrated adequate **technical** capability to properly construct and operate the facility:

1. The Department received the Class 3 Permit Modification Request[1] submitted by the Army in March, 1997. The Department issued a Notice of Deficiency[4] on May 12, 1997. The Army and Raytheon submitted a Response to the Notice of Deficiency[2] on July 11, 1997. The Department has reviewed the Modification Request and the Response to the Notice of Deficiency and determined that the application for the permit modification request was complete.

2. Raytheon Demilitarization Company operates the Army's prototype demilitarization facility in the south Pacific known as the Johnston Atoll Chemical Agent Disposal System (JACADS). As of October 24, 1997, JACADS has successfully processed 273,239 individual munitions containing 138,890 pounds of VX nerve agent; 250,265 pounds of HD blister agent; and 2,406,763 pounds of GB nerve agent; for a total of 2,795,918 pounds of chemical agents.[5] Approximately 69% of the original JACADS stockpile has now been destroyed. No measurable human health or environmental impacts have been observed.

3. Raytheon Company, Raytheon Demilitarization Company's parent company, has provided the Commission with a Financial and Performance Guarantee where Raytheon Company "guarantees payment of all debts and the faithful performance of all obligations" of Raytheon Demilitarization Company (See Attachment E).

4. Raytheon Demilitarization Company was awarded the Umatilla contract by the U.S. government after an extensive competitive selection process. The formal selection process for chemical demilitarization projects involves several levels of review and analysis, including a Source Selection Evaluation Board consisting of engineers, scientists, cost analysts, and quality and contract specialists that reviews and evaluates proposals using specific selection criteria. Selection criteria include a wide variety of areas considered important to safety and environmental performance, including technical and management approaches, associated risks, past performance, and surveys at other facilities operated by Raytheon. There is then another level of review by senior Army military and civilian executives that review the Board's findings and perform further comparative analysis. [3]

In relation to Finding 1, the following **tend not to support the conclusion** that Raytheon Demilitarization Company has demonstrated adequate **technical** capability to properly construct and operate the facility:

1. The JACADS facility, the only demilitarization facility operated by the applicant, has experienced numerous delays and operating problems since the beginning of demilitarization operations, including three confirmed releases of nerve agent outside of engineering controls.

References, Finding 1:

[1] Class 3 Permit Modification Request for Revision of Part A Application and Submittal of Operator Capability Information/Compliance History, submitted by U.S. Army Umatilla Chemical Depot, Hermiston, Oregon, March, 1997.

[2] "Response to the State of Oregon Department of Environmental Quality May 12, 1997, Notice of Deficiency," submitted by U.S. Army, July 11, 1997 (as appended July 16, 1997).

[3] Meeting of the Environmental Quality Commission, October 2, 1997, La Grande, Oregon (work session).

[4] "Notice of Deficiency, Class 3 Permit Modification Request No. UMCDF-001-E(1)," Oregon Department of Environmental Quality, May 12, 1997.

[5] Program Manager for Chemical Demilitarization, Internet Site (http://www-pmcd.apgea.army.mil), November 7, 1997.

[6] Environmental Quality Commission Staff Report (Attachment A, Department Conclusions on Environmental Quality Commission Findings), November 22, 1996.

FINDING 2: Have the owner and operator of the facility demonstrated ability and willingness to operate the proposed facility in compliance with statutory and regulatory provisions?

Applicable Statute

ORS 466.060(1)(b) Criteria to be met by owner and operator before issuance of permit (as related to technical capability)

Paragraph (1)(b) requires the Commission to make a Finding that the compliance history of the owner and operator with similar facilities indicates an ability and willingness to operate the proposed facility in compliance with the statutory provisions.

Full text of ORS 466.060(1)(b) is located on Page B-3.

Related Rule

OAR 340-120-010(2)(h) Compliance History

Paragraph (2)(h) defines the required information (i.e. compliance history of similar facilities owned or operated by permittee) that must be submitted by the owner and operator of the proposed facility to demonstrate an ability and willingness to operate the proposed facility in compliance with statutory and regulatory provisions.

Full text of OAR 340-120-010(2)(h) is located on Page C-3 and C-4.

In relation to Finding 2, the following **tend to support the conclusion** that Raytheon Demilitarization Company has demonstrated the ability and willingness to operate the proposed facility in compliance with statutory and regulatory provisions:

1. The permit applicant has submitted the information required by OAR 340-120-010 concerning compliance histories at similar facilities owned and operated by the applicant. The Department has reviewed the compliance histories of the Johnston Atoll Chemical Agent Disposal System (JACADS). The Department has reviewed the reports related to violations and is satisfied with the permittee's response to non-compliance issues. [(1)(2)(3)]

2. In addition to the regulatory oversight by outside agencies, the applicant maintains a vigorous internal self-audit program to review safety and environmental management issues, and has willingly provided the results of such audits to the regulatory agencies involved. [(1)]

3. The Department will maintain significant oversight authority during the construction, testing, and operation of the proposed facility, and will have compliance staff to ensure the permit applicant

adheres to the requirements of the permit concerning construction certification, performance testing, operator training, monitoring and reporting, and management of all permitted hazardous waste management units.

In relation to Finding 2, the following **tend not to support the conclusion** that Raytheon Demilitarization Company has demonstrated the ability and willingness to operate the proposed facility in compliance with statutory and regulatory provisions:

1. Normal regulatory oversight by state and federal environmental agencies at similar facilities operated by the applicant have identified violations in the management and storage of hazardous waste resulting in Notices of Non-Compliance and on at least one occasion, monetary fines. [3]

2. The Applicant's annual self-audit of regulatory compliance performance has identified numerous violations of the RCRA permit requirements at the Johnston Atoll facility operated by Raytheon. [1][2]

References, Finding 2:

[1] Class 3 Permit Modification Request for Revision of Part A Application and Submittal of Operator Capability Information/Compliance History, submitted by U.S. Army Umatilla Chemical Depot, Hermiston, Oregon, March, 1997.

[2] "Response to the State of Oregon Department of Environmental Quality May 12, 1997, Notice of Deficiency," submitted by U.S. Army, July 11, 1997 (as appended July 16, 1997).

[3] Environmental Quality Commission Staff Report (Attachment A, Department Conclusions on Environmental Quality Commission Findings), November 22, 1996.

ATTACHMENT B

APPLICABLE OREGON REVISED STATUTES

ATTACHMENT B
OREGON REVISED STATUTES

Chapter 466 of the Oregon Revised Statutes contains numerous Sections related to the permitting of hazardous waste treatment, storage, or disposal facilities. Chapter 466.015 through 466.065 contain the administrative requirements for hazardous waste facilities such as the proposed Umatilla facility. A listing of all sections of the Administrative portion of Chapter 466 are provided below for reference, but only ORS 466.060 **(shown in bold print)** is provided in its entirety.

OREGON REVISED STATUTES--HAZARDOUS WASTE AND HAZARDOUS MATERIALS II
PUBLIC HEALTH AND SAFETY
STORAGE, TREATMENT AND DISPOSAL OF HAZARODUS WASTE AND PCB (Partial Listing)

STORAGE, TREATMENT AND DISPOSAL OF HAZARDOUS WASTE AND PCB

466.005 Definitions for ORS 453.635 and 466.005 to 466.385
466.010 Purpose
466.015 Powers and duties of department
466.020 Rules and orders
466.025 Duties of commission
466.030 Designation of classes of facilities subject to certain provisions
466.035 Commission authority to impose standards for hazardous waste or PCB at Oregon facility
466.040 Application period for PCB or hazardous waste permit
466.045 Application form; contents; fees; renewal application
466.050 Citizen advisory committees
466.055 Criteria for new facility
466.060 Criteria to be met by owner and operator before issuance of permit
466.065 Applicant for renewal to comply with ORS 466.055

Oregon Revised Statutes 466.060: Criteria to be met by owner and operator before issuance of permit.

(1) Before issuing a permit for a facility designed to treat or dispose of hazardous waste or PCB, the permit applicant must demonstrate, and the Commission must find, that the owner and operator meet the following criteria:

(a) The owner, any parent company of the owner and the operator have adequate financial and technical capability to properly construct and operate the facility; and

(b) The compliance history of the owner including any parent company of the owner and the operator in owning and operating other similar facilities, if any, indicates an ability and willingness to operate the proposed facility in compliance with the provisions of ORS 466.005 to 466.385 and 466.890 or any condition imposed on the permittee by the Commission.

(2) If requested by the permit applicant, information submitted as confidential under paragraph (a) of subsection (1) of this section shall be maintained confidential and exempt from public disclosure to the extent provided by Oregon law.

ATTACHMENT C

OREGON ADMINISTRATIVE RULES

ATTACHMENT C
OREGON ADMINISTRATIVE RULES

Chapter 340 of the Oregon Administrative Rules contains numerous Divisions related to the permitting of hazardous waste treatment, storage, or disposal facilities. Division 120 covers additional siting and permitting requirements for hazardous waste treatment and disposal facilities such as the proposed Umatilla facility. A listing of all sections of Division 120 are provided below for reference, but only those that are directly related to the Umatilla facility and the Findings required by the Commission related to the Class 3 permit modification (listed in **bold** print) are provided in their entirety.

DIVISION 120
HAZARDOUS WASTE MANAGEMNT
Additional Siting and Permitting Requirements for Hazardous Waste and PCB Treatment and Disposal Facilities

340-120-001 Purpose and Applicability

340-120-005 Permitting Procedure

340-120-010 Contents of an Authorization to Proceed Request

340-120-015 Land Use Compatibility Findings

340-120-020 Community Participation

340-120-025 Off-Site Transportation Emergencies

OAR 340-120-010 Contents of an Authorization to Proceed Request

(1) An Authorization to Proceed request shall demonstrate that the proposed facility meets the criteria presented in section (2) of this rule. If the facility does not meet all of the criteria, the Department shall deny the request.

(2) Criteria that must be met to obtain an Authorization to Proceed:

(a) Need *(not provided here)*
(b) Capacity *(not provided here)*
(c) Technology and Design *(not provided here)*
(d) Location *(not provided here)*
(e) Property Line Setback *(not provided here)*
(f) Groundwater Protection *(not provided here)*

(g) Owner and Operator Capability.

The owner, any parent company of the owner and the operator must demonstrate adequate financial and technical capability to properly construct and operate the facility. As evidence of financial capability, the following shall be submitted:

(A) Financial statements of the owner, any parent company of the owner, and the operator audited by an independent certified public accountant for three years immediately prior to the application;

(B) The estimated cost of construction and a plan detailing how the construction will be funded; and

(C) A three year projection, from the date the facility is scheduled to begin operating, of revenues and expenditures related to operating the facility. The projection should have sufficient detail to determine the financial capability of the owner, any parent company of the owner and the operator to properly operate the facility.

(h) Compliance History

(A) The compliance history in owning and operating other similar facilities, if any, must indicate that the owner, any parent company of the owner and the operator have an ability and willingness to operate the proposed facility in compliance with the provisions of ORS 466 and any permit conditions that may be issued by the Department or Commission. As evidence of ability and willingness, the following shall be submitted:

(i) A listing of all responses to past actual violations identified by EPA or the appropriate state regulatory agency within the five years immediately preceding the filing of the request for an Authorization to Proceed at any

similar facility owned or operated by the applicant, owner, any parent company of the owner or operator during the period when the actions causing the violations occurred; and

(ii) Any written correspondence from EPA and the appropriate state regulatory agency which discusses the present compliance status of any similar facility owned or operated by the applicant, owner, any parent company of the owner or operator.

(B) Upon request of the Department, the applicant shall also provide responses to the past violations identified prior to the five years preceding the filing of an authorization to Proceed and the specific compliance history for a particular facility owned or operated by the applicant, any parent company of the owner or operator.

ATTACHMENT D

SUMMARY OF PUBLIC COMMENTS

SUMMARY OF PUBLIC COMMENTS

Regarding ORS 466.060 Criteria and Permit Modification Request to Incorporate Raytheon Demilitarization Company as Co-Permittee for the Hazardous Waste Treatment and Storage Permit

U.S. Army Umatilla Chemical Depot
Umatilla Chemical Disposal Facility
I.D. Number: OR6 213 820 917

Prepared November 7, 1997

I. INTRODUCTION

On February 12, 1997, a hazardous waste treatment and storage permit was issued to the U.S. Army to destroy the chemical agent munitions currently stored at the Umatilla Chemical Depot located near Hermiston, Oregon. Also in February, 1997, the Army awarded a contract to build and operate the Umatilla hazardous waste incineration facility to Raytheon Demilitarization Company.

On March 28, 1997, the U.S. Army (Permittee) and Raytheon Demilitarization Company (Applicant) applied for a hazardous waste treatment and storage Class 3 permit modification to incorporate Raytheon Demilitarization Company as a Co-Permittee to the hazardous waste treatment and storage permit at the Umatilla Chemical Disposal Facility. This modification request was made in accordance with Oregon hazardous waste rules and pursuant to the Environmental Quality Commission Order issued in February, 1997. These rules require that operators of a hazardous waste facility, such as Raytheon Demilitarization Company's contract with the Army indicates, must obtain and comply with a hazardous waste permit.

However, Oregon Statutes require that the Environmental Quality Commission evaluate any hazardous waste permittee under the criteria listed in ORS 466.060. In summary, these criteria direct the Environmental Quality Commission to make findings that the Applicant has adequate financial and technical capability and that their past compliance history indicates an ability and willingness to comply with hazardous waste rules. If these findings conclude the Applicant meets the criteria, the Commission may then issue a permit modification, with any attached permit conditions, to add the Applicant as a Co-Permittee.

Class 3 permit modification procedures require two public comment periods. The first comment period lasts for 60 days and requires that the Applicant and Permittee hold a public informational meeting. For this modification request, a public meeting was held May 19, 1997, and two written comments were submitted to the Department of Environmental Quality.

The second comment period began August 29, 1997, and is scheduled to close for written comments on November 17, 1997. During this time, the Environmental Quality Commission and the Department of Environmental Quality have held two public hearings (October 1, 1997 in Hermiston, Oregon, and October 2, 1997, in La Grande, Oregon). Eight written comments have been received to date (November 7, 1997). At the October 1 public hearing two persons provided oral testimony, and at the October 2 public hearing one person provided oral testimony.

II. Comments Received

All comments received during both comment periods have been (or will be) provided to the Environmental Quality Commission for review. Comments are also placed in the administrative record maintained at the Department of Environmental Quality office in Bend, Oregon. In addition to the 10 written submittals, an additional three letters were placed in the administrative record because they directly related to oral testimony given at the October 2, 1997 public hearing. In tabular format, the comments can be summarized as:

Submittal No.	From (Representing)	In Favor of Adding Raytheon as Co-Permittee?	Administrative Record Index No.	Additional Comments
1	Mr. James B. Stengle	No	2291	Mr. Stengle states that Raytheon's compliance history is inadequate, and that there should be a fully operational CSEPP program in place, and a full and open permit process before permit approval.
2	Ms. Susan Jones and Ms. Karyn Jones (GASP)	Assumed No	2619	Ms. Jones states the need for full review of compliance history and that DEQ's public outreach has been inadequate.
3	Anonymous	No	2758	Commenter suggested investigation of prior Raytheon business practices.
4	Hon. Frank J. Harkenrider (Mayor of Hermiston)	Yes	2751	
5	Mr. Mark Brown (Oregon Clearinghouse for Pollution Reduction)	No	2777	Verbal testimony given at Oct. 1 public hearing. Raytheon does not have a good track record and public outreach was poor due to lack of EPA availability.
6	Mr. Stephen McFadden	Unknown	2777	From verbal testimony given at Oct. 1 public hearing. Mr. McFadden warned of toxic effects associated with nerve gas.

Submittal No.	From (Representing)	In Favor of Adding Raytheon as Co-Permittee?	Administrative Record Index No.	Additional Comments
7	Ms. Tamra Mabbot (Morrow County)	No	2808	From verbal testimony at the Oct. 2 public hearing. Ms. Mabbot warned of environmental impacts to Irrigon and Boardman and requested inclusion of a permit condition to require the Permittees to pay fees to Morrow County.
8	Mr. Mark Brown (Oregon Clearinghouse for Pollution Reduction [OCPR])	No	2770	Written comments given at Oct. 1 public hearing. Raytheon does not have a good track record and public outreach was poor due to lack of EPA availability.
9	Ms. Jane Haley (Oregon Center for Environmental Health)	No	2769	Ms. Haley states that Raytheon has not demonstrated the willingness to comply, as shown by RCRA non-compliance reports from JACADS.
10	Mr. Michael J. Farrow (Confederated Tribes of the Umatilla Indian Reservation)	Unknown	2809	Mr. Farrow requested an extension to the comment period to review more documents.
11	Ms. Susan Jane Rich and Mr. Oliver Luby (Northwest Environmental Defense Center)	No	2801	Ms. Rich and Mr. Luby state that based on the DEQ Notice of Deficiency and Raytheon's Response, Raytheon has not shown an appropriate degree of caution and degree of care.
12	Mr. Mark Brown (ORCP, GASP, Oregon Sierra Club, Oregon Wildlife Federation, and Chemical Weapons Working Group)	No	2810	Mr. Brown submitted numerous EPA documents. He states that these documents show that Raytheon does not meet the criteria in ORS 466.060
13	Craig Williams (Chemical Weapons Working Group, GASP, Oregon Sierra Club, Oregon Wildlife Federation	No	2781	Mr. Williams states that previous errors in administrative permit processing invalidates the original permit. He also states that Raytheon is not qualified to be a Co-Permittee based on JACADS RCRA non-compliance, various Raytheon corporate fines, and various involvement with CERCLA,. Mr. Williams also discusses issues related to Gulf War Syndrome and the effects of exposure to low-levels of nerve agents.

III. Description of Submittals

1. From the 11 individuals or organizations that submitted comments, two (2) were from the immediate area (e.g., Hermiston), four (4) were from the regional area (e.g., Pendleton and Tri-Cities), four (4) were from out-of-region, and one was unknown.
2. Most comments were not in favor of incorporating Raytheon Demilitarization Company as Co-Permittee. Two (2) submittals were indeterminate, and one (1) submittal was in favor of incorporation.
3. All submittals addressed the issue of Raytheon Demilitarization Company suitability in meeting the ORS 466.060 criteria. Only one submittal addressed the proposed permit conditions.

IV. Special Notes

Submittal number three (submitted anonymously) suggested Raytheon had engaged in unfair and illegal business practices concerning pricing for contracts at the Hanford Nuclear Reservation. The Department contacted U.S. Environmental Protection Agency and Department of Energy personnel who could discuss the situations described in the submittal. Based on these discussions, the Department concluded that there was no evidence in the Hanford experience to indicate any Raytheon offense or lack of willingness to comply. (See memo to file, administrative record index number 2802.)

V. Conclusion

All comments received to date were placed in the administrative record and provided to the Environmental Quality Commission for deliberation.

ATTACHMENT E

FINANCIAL AND PERFORMANCE GUARANTEE
AND
LIABILITY ALLOCATION
FOR THIRD PARTY POLLUTION CLAIMS

PROVIDED BY
RAYTHEON COMPANY
FOR
RAYTHEON DEMILITARIZATION COMPANY

DEPARTMENT OF THE ARMY
PROGRAM MANAGER FOR CHEMICAL DEMILITARIZATION
ABERDEEN PROVING GROUND, MARYLAND 21010-5401

12 November 1997

Project Manager
For Chemical Stockpile Disposal PMU-970392

Subject: Raytheon Company's Financial Guarantee Regarding the Umatilla Chemical Agent Disposal Facility Class 3 Permit Modification Request Adding Raytheon Demilitarization Company as Co-Permittee, Tracking No. UMCDF-97-002-RDC(3E)

Mr. Brett McKnight
Hazardous Waste Manager
Oregon Department of Environmental Quality
2146 N.E. Fourth Street, Suite 104
Bend, OR 97701

Dear Mr. McKnight:

Enclosed is Raytheon Company's financial guarantee letter and liability insurance table. This is being submitted in compliance with the Oregon Department of Environmental Quality's and the Oregon Environmental Quality Commission's (EQC) requirements regarding the addition of Raytheon Demilitarization Company as Co-Permittee on the Umatilla Chemical Agent Disposal Facility Hazardous Waste Permit.

Thank you in advance for forwarding this information to the EQC Chairman.

If you have any questions, please call my technical point of contact, Mr. Karl H. Kinkade, (541) 564-9772.

Sincerely,

Martin A. Jacoby
Lieutenant Colonel, USA
Commander
* CERTIFICATION STATEMENT

for Raj K. Malhotra
UMCDF Site Project Manager
*CERTIFICATION STATEMENT

Enclosures

*I CERTIFY UNDER PENALTY OF LAW THAT THIS DOCUMENT AND ALL ATTACHMENTS WERE PREPARED UNDER MY DIRECTION OR SUPERVISION IN ACCORDANCE WITH A SYSTEM DESIGNED TO ASSURE THAT QUALIFIED PERSONNEL PROPERLY GATHER AND EVALUATE THE INFORMATION SUBMITTED. BASED ON MY INQUIRY OF THE PERSON OR PERSONS WHO MANAGE THE SYSTEM, OR THOSE PERSONS DIRECTLY RESPONSIBLE FOR GATHERING THE INFORMATION, THE INFORMATION SUBMITTED IS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE, ACCURATE, AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT FOR KNOWING VIOLATIONS.

Printed on Recycled Paper

CF:
Mrs. L. LaMere (IOC)
Mr. C. Galloway (CEHNC Field Office)
Mr. H. Townsend (CEHNC-CT)
Mr. J. Stang, (PMCD)
Ms. P. Silva (PMCD)
Mr. P. Bergeron, (PMCD)
Mr. K. Kinkade, (SAIC)
Ms. C. Beyer, (SAIC)
Mr. D. Nylander, (RDC)
File

FINANCIAL AND PERFORMANCE GUARANTEE

This Financial and Performance Guarantee is made by Raytheon Company, a corporation organized and existing under the laws of the state of Delaware ("Guarantor") with its principal place of business at 141 Spring Street, Lexington, Massachusetts 02173.

WHEREAS, Raytheon Demilitarization Company (the "Contractor"), a wholly-owned indirect subsidiary of Guarantor, holds U. S. Army Contract No. DAAA09-97-C-0025 (the "Contract") for the destruction of chemical weapons at the Umatilla Chemical Demilitarization Facility ("UMCDF") near Hermiston, Oregon.

WHEREAS, Contractor has applied to the Oregon Department of Environmental Quality (the "DEQ") to be added as co-permittee to the permit presently held by the Army for such destruction under the Resource Conservation and Recovery Act, 42 U.S. Code 6901 et seq ("Hazardous Waste Permit").

WHEREAS, The Oregon Environmental Quality Commission (the "EQC") is required by law (Oregon R.S. 466.060) to satisfy itself that Contractor has the requisite financial capability before it will add Contractor as co-permittee on the Hazardous Waste Permit.

WHEREAS, Contractor is insured under various liability insurance policies applicable to its contracting activities as co-permittee under the Hazardous Waste Permit.

WHEREAS, Contractor expects to be the beneficiary of an indemnification under Public Law 85-804 by the U.S. Government for its contracting activities at the UMCDF.

NOW, THEREFORE, Guarantor agrees as follows:

1. Guarantor hereby guarantees payment of all debts and the faithful performance of all obligations of Contractor to the DEQ and/or the State of Oregon to the extent the same are not reimbursed by insurance or the foregoing indemnification under Public Law 85-804 and arising out of Contractor's contracting activities as co-permittee under Permit Modification No. UMCDF-97-002-RDC (3E) to the Hazardous Waste Permit (hereafter "Debts and Obligations"), which modification is to be issued by the DEQ.

2. In the event that Contractor fails to pay or perform the Debts and Obligations, Guarantor shall, upon written demand by the EQC, pay or cause them to be performed.

3. This Financial and Performance Guarantee is for the express purpose of providing additional financial security for the Contractor in order that it may be added as co-permittee under the Hazardous Waste Permit.

4. Guarantor has provided its 1996 Annual Report in order to provide evidence of its capabilities to discharge the obligations hereunder.

5. This Financial and Performance Guarantee shall expire and become null and void upon the cessation of Contractor's status as co-permittee under the Hazardous Waste Permit, provided however, that any Debts and Obligations arising out of Contractor's activities pending at the time of such cessation shall remain subject to this Financial and Performance Guarantee until satisfactory discharge thereof, and provided further that this Financial and Performance Guarantee shall remain in effect until completion of Contractor's closure responsibilities under the Hazardous Waste Permit.

Dated as of the 12th day of November 1997.

RAYTHEON COMPANY

By: Dennis J Picard

Title: CHAIRMAN AND CHIEF EXECUTIVE OFFICER

Raytheon Company Guarantee
No. 2209

L736

Raytheon Demilitarization Company

Liability Allocation for Third-Party Pollution Claims
(Bodily Injury, Death, Property Damage)

Above $350M	• Any pollution claim due to "unusually hazardous risk" - PL 85-804 [1]
$350M	• Any pollution claim if discovered within 7 days and reported to Insurer within 40 days - Raytheon Company [2] • Other pollution claims due to "unusually hazardous risk" - PL 85-804 • Non-pollution insured claims - Raytheon Company
$150M	• Any pollution claim if discovered within 20 days and reported to Insurer within 80 days of occurrence - Raytheon Company • Other pollution claims due to "unusually hazardous risk" - PL 85-804 • Non-pollution insured claims - Raytheon Company
$75M	• Architect/Engineer (error or omission) pollution claims - Raytheon Company • Other pollution claims - due to "unusually hazardous risk" - PL 85-804 • Non-pollution insured claims - Raytheon Company
$5M	• Architect/Engineer (error or omission) pollution claims - Raytheon Company • Non-Architect/Engineer pollution claims caused by hostile fire - RDC [3] • Other pollution claims due to "unusually hazardous risk" - PL 85-804
$0	• Non-pollution insured claims subject to self-insured retention - RDC

LEGEND:

1) Public Law 85-804 indemnity
2) Raytheon Corporate Insurance
3) Raytheon Demilitarization Co. liability

ATTACHMENT F

MEMORANDUM OF DECISION
FROM THE
SECRETARY OF THE ARMY
TO INCLUDE AN
INDEMNIFICATION CLAUSE

DEPARTMENT OF THE ARMY
PROGRAM MANAGER FOR CHEMICAL DEMILITARIZATION
ABERDEEN PROVING GROUND, MARYLAND 21010-5401

November 6, 1997

Project Manager
for Chemical Stockpile Disposal

PMU – 970380

Subject: U.S. Army's Indemnification of Raytheon Demilitarization Company

Mr. Brett McKnight
Hazardous Waste Manager
Oregon Department of Environmental Quality
2146 N.E. Fourth Street, Suite 104
Bend, OR 97701

Dear Mr. McKnight,

Enclosed is a Memorandum of Decision approved by the Secretary of the Army indemnifying Raytheon Demilitarization Company for its contract (No. DAAA09-97-C-0025) with the U.S. Army for the construction, systemization, operations, maintenance and decommissioning of the Umatilla Chemical Agent Disposal Facility.

Should you have any questions or comments, your technical point of contact for this office is Mr. Karl Kinkade at (541) 564-7052.

Sincerely,

for Cynthia M. Lang
Martin A. Jacoby
Lieutenant Colonel, USA
Commander
*CERTIFICATION STATEMENT

Raj K. Malhotra
Raj K. Malhotra
UMCDF Site Project Manager
*CERTIFICATION STATEMENT

Enclosure

*I CERTIFY UNDER PENALTY OF LAW THAT THIS DOCUMENT AND ALL ATTACHMENTS WERE PREPARED UNDER MY DIRECTION OR SUPERVISION IN ACCORDANCE WITH A SYSTEM DESIGNED TO ASSURE THAT QUALIFIED PERSONNEL PROPERLY GATHER AND EVALUATE THE INFORMATION SUBMITTED. BASED ON MY INQUIRY OF THE PERSON OR PERSONS WHO MANAGE THE SYSTEM, OR THOSE PERSONS DIRECTLY RESPONSIBLE FOR GATHERING THE INFORMATION, THE INFORMATION SUBMITTED IS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE, ACCURATE, AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT FOR KNOWING VIOLATIONS.

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CF:
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Mr. C. Galloway (CEHNC-CD-U)
Mr. H. Townsend (CEHNC-CT)
Mr. J. Stang, (PMCD)
Mr. M. Yakawich (SCBUL-CD)
Mr. P. Bergeron (PMCD-Edgewood)
Mr. S. Kasley (RDC)
Mr. D. Nylander (RDC)
Mr. K. Kinkade, (SAIC)
Ms. C. Beyer (SAIC)
File

SECRETARY OF THE ARMY
WASHINGTON

November 3, 1997

MEMORANDUM OF DECISION

SUBJECT: Authority Under Public Law 85-804 to Include an Indemnification Clause in Contract DAAA09-97-C-0025

In accordance with Federal Acquisition Regulation (FAR) 50.403-1, Raytheon Demilitarization Company (RDC) has requested that, pursuant to authority contained in Public Law 85-804, the Army include an indemnification clause in its Contract No. DAAA09-97-C-0025 for the construction, systemization, operations, maintenance and decommissioning of the Umatilla Chemical Agent Disposal Facility (UMCDF).

Under this contract, RDC is responsible for all facets of the process to destroy the lethal chemical agents and munitions stockpiled at the Umatilla Chemical Depot. Upon review of the functions and responsibilities that RDC will have, I find that the execution of such will subject the contractor to liability for unusually hazardous risks.

The definition of the unusually hazardous risks to which the contract indemnification clause will apply is as follows:

"The risks of:

a. sudden or slow release of, and exposure to, lethal chemical agents during the disposal of stockpiles of chemical munitions, mines, or other forms of weapons-related containerization and during facility decommissioning and closure.

b. explosion, detonation or combustion of explosives, propellants or incendiary materials during the course of disposal of stockpiles of chemical munitions, mines or other forms of weapons-related containerization.

c. contamination present at or released from an installation prior to the contractor's construction or operation of the chemical demilitarization facility (CDF), whether known or unknown by the Government or contractor at such time.

d. contamination resulting from the activities of third parties when the contractor has no control over such activities or parties.

e. contamination resulting from the placement of components and materials from decommissioning and placement of wastes and residues from

demilitarization, destruction, or closure in accordance with the contractual requirements and all applicable laws and regulations.

Provided that the indemnification clause shall in no way indemnify the contractor against local, state, or federal civil or criminal fines or penalties levied by local, state, or federal tribunals, nor shall this clause indemnify the contractor against the cost of defending, settling, or otherwise participating in such civil or criminal actions brought in local, state or federal tribunals.

The term "lethal chemical agents", for purposes of this clause means the chemicals in the attached list and their naturally occurring breakdown products but does not include residues and wastes produced from the demilitarization process except to the extent that these residues and wastes contain, or are deemed by a court or agency of competent jurisdiction to contain chemicals from the attached list.

The term "disposal", for the purpose of this clause, includes the reconfiguration, destruction, or demilitarization and interim storage and movement of chemical munitions, mines or other forms of weapons-related containerization, decontamination of equipment and facilities, and the transportation and placement of wastes and residues from destruction or demilitarization.

The term "damage to property" in this clause shall include costs of monitoring, investigation, removal, response, and remediation for property (to include groundwater) due to the risks above once certification of closure in accordance with the closure plan has been accepted by the State or the Environmental Protection Agency, and contract performance has been completed and accepted by the Army."

I have considered the availability, cost, and terms of private insurance to cover these risks, as well as the viability of self-insurance, and have concluded that adequate insurance to cover these unusually hazardous risks is not reasonably available.

It is not possible to determine the actual or estimated cost to the Government as a result of the use of an indemnification clause since the liability of the Government, if

any, will depend upon the occurrence of an incident related to the performance of the contract.

I find the use of an indemnification clause in this contract will facilitate the national defense.

In view of the foregoing, and pursuant to the authority vested in me by Public Law 85-804 (50 U.S.C. 1431-1436) and Executive Order 10789, as amended, I hereby authorize the inclusion of the indemnification clause as prescribed in FAR 52.250-1 with its Alternate 1, in the contract for the UMCDF, provided the clause defines the unusually hazardous risks and includes the limitations on coverage precisely as described in the definition contained herein. I further authorize its inclusion in subcontracts (at any tier) under this contract, provided the pass-through indemnification is limited to the defined unusually hazardous risks and provided that the Contracting Officer approves each pass-through indemnification in writing.

The contractual document executed pursuant to this authorization shall comply with the requirements of FAR Subparts 50.4 and 28.3, as implemented by the Department of Defense and the Department of the Army.

Togo D. West, Jr.

Attachment

NO.	A. TOXIC CHEMICALS	CAS REGISTRY NUMBER
(1)	O-Alkyl (≤C_{10}, incl. cycloalkyl) alkyl (Me, Et, n-Pr or i-Pr) -phosphonofluoridates	
	e.g. Sarin: O-Isopropyl methylphosphonofluoridate	107-44-8
	Soman: O-Pinacolyl methylphosphonofluoridate	96-64-0
(2)	O-Alkyl (≤C_{10}, incl. cycloalkyl) N,N-dialkyl (Me, Et, n-Pr or i-Pr) -phosphoramidocyanidates	
	e.g. Tabun: O-Ethyl N,N-dimethyl phosphoramidocyanidate	77-81-6
(3)	O Alkyl (H or ≤C_{10}, incl. cycloalkyl) S-2-dialkyl (Me, Et, n-Pr or i-Pr) -aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts	
	e.g. VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate	50782-69-9
(4)	Sulfur mustards	
	2-Chloroethylchloromethylsulfide	2625-76-5
	Mustard gas: Bis (2-chloroethyl) sulfide	505-60-2
	Bis (2-chloroethylthio) methane	63869-13-6
	Sesquimustard: 1, 2-Bis (2-chloroethylthio) ethane	3563-36-8
	1, 3-Bis (2-chloroethylthio) -n-propane	63905-10-2
	1, 4-Bis (2-chloroethylthio) -n-butane	142868-93-7
	1, 5-Bis (2-chloroethylthio) -n-pentane	142868-94-8
	Bis (2-chloroethylthiomethyl) ether	63918-90-1
	O-Mustard: Bis (2-chloroethylthioethyl) ether	63918-89-6
(5)	Lewisites:	
	Lewisite 1: 2-Chlorovinyldichloroarsine	541-25-3
	Lewisite 2: Bis (2-chlorovinyl) chloroarsine	40334-69-8
	Lewisite 3: Tris (2-chlorovinyl)-arsine	40334-70-1
(6)	Nitrogen mustards:	
	HN1: Bis (2-chloroethyl) ethylamine	538-07-8
	HN2: Bis (2-chloroethyl) methylamine	51-75-2
	HN3: Tris (2-chloroethyl) amine	555-77-1
	B. PRECURSORS	
(7)	Alkyl (Me, Et, n-Pr or i-Pr) Phosphonyldifluorides	
	e.g. DF: Methylphosphonyldifluoride	676-99-3
(8)	O-Alkyl (H or ≤C_{10}, incl. cycloalkyl) O-2-dialkyl (Me, Et, n-Pr or i-Pr) -aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts	
	e.g. QL: O-Ethyl O-2-diisopropylaminoethyl methylphosphonite	57856-11-8
(9)	Chlorosarin: O-Isopropyl methylphosphonochloridate	1445-76-7
(10)	Chlorosoman: O-Pinacolyl methylphosphonochloridate	7040-57-5

ATTACHMENT

ATTACHMENT G

U.S. ARMY/RAYTHEON DEMILITARIZATION COMPANY
CONTRACT LANGUAGE RELATED TO PERMIT MODIFICATION

Program Manager for Chemical Demilitarization
Aberdeen Proving Ground, Maryland 21010-5401

November 5, 1997

Dear Mr. Marsh:

Per our conversation of October 31, 1997, enclosed are copies of the Request for Proposal requiring the Systems Contractor to sign the RCRA permit application as plant operator, as well as the contract modification which added them as a cosignatory. In addition, a copy of the signed Indemnification document is enclosed.

Sincerely,

James L. Bacon

JAMES L. BACON
Program Manager for
Chemical Demilitarization

Mr. Langdon Marsh
Director
Oregon Department of
Environmental Quality
811 SW Sixth Street
Portland, Oregon 97204

1.6 PLANNING AND PLANS DEVELOPMENT (EXCEPT AS NOTED IN THE CDRLS, SECTION J, EXHIBIT A)

The SC is responsible for all planning and plans development as outlined in this SOW.

1.6.1 PERMITS

A. Permits will include one or more of the following: RCRA, Air Emissions, Toxic Substances Control Act (TSCA), and Construction Storm Water Run-Off Permit under the National Pollutant Discharge Elimination System (NPDES). The Government will prepare and submit the initial environmental permit applications for RCRA and Air emissions (Section J, Reference 56 and 60). As directed by the Government, the SC shall prepare information for input into the UMDA NPDES application for review by the Government. The Government will submit permit related applications and requests to the environmental regulatory agencies, make required public notices and conduct negotiations with the regulatory authorities regarding environmental permitting and compliance issues. The SC shall provide any necessary information and support to the Government in support of the required public notices and negotiations with the regulatory agencies.

B. This contract will not be awarded until a Record of Decision (ROD) for the site specific Environmental Impact Statement (EIS) is released, and the RCRA and Air permits are issued. The SC shall provide its compliance history for the past five years, as well as any other required information, as required by the Hazardous Waste Management Rules, Oregon Administration Rules, Chapter 340.

C. The Government shall sign the Part B RCRA Permit application as owner. The SC shall upon award sign the Part B RCRA permit application as the exclusive plant operator. The SC thereby becomes responsible for fulfilling all applicable permit requirements regarding activities which take place during all phases of the UMCDF. The signing of manifests and other environmental documentation and the proper maintenance of the permits throughout the life of the facility are among those responsibilities. Permit maintenance consists of the preparation of required permit modifications, permit renewals and acquisition of any necessary permits not already held by the UMCDF.

D. The SC shall prepare environmental documentation IAW the individual permits and the provisions contained in each applicable local, state, Federal, DoD and Army regulation. The applicable regulations include the following: regarding the RCRA Permit, 40 Code of Federal Regulations (CFR) Parts 264 and 270; Oregon Department of Environmental Quality; regarding TSCA, 40 CFR Part 761; regarding Air Emissions Oregon Administrative Rules, Chapter 340, 40 CFR Part 61; regarding NPDES, 40 CFR Parts

Enclosure 1

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE OF PAGES
	1 | 4

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)
P00002	28 Mar 97		

6. ISSUED BY: CODE W52P1J

Industrial Operations Command
ATTN: AMSIO-ACE-S/Attn: Ron Ballard
Rock Island, IL 61299-6000

7. ADMINISTERED BY (If other than item 6) CODE S3911A

SCD C PAS NONE ADP PT SC1012

8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)

RAYTHEON DEMILITARIZATION COMPANY
30 SOUTH 17 STREET
PHILADELPHIA, PA 19101

A

9A. AMENDMENT OF SOLICITATION NO.

9B. DATED (SEE ITEM 11)

10A. MODIFICATION OF CONTRACT/ORDER NO.
DAAA09-97-C-0025

10B. DATED (SEE ITEM 13)

CODE FACILITY CODE

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended, ☐ is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

☐ A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.

☐ B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).

☒ C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: Mutual Agreement

☐ D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor ☐ is not, ☒ is required to sign this document and return _____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where possible.)

SEE PAGE 2 FOR DESCRIPTION.

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)	16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)
FRED HISSONG, JR. President, Raytheon Demilitarization Company	JAMES G. LOEHRL Contracting Officer
15B. CONTRACTOR/OFFEROR (Signature of person authorized to sign)	15C. DATE SIGNED 28 MAR 1997
16B. UNITED STATES OF AMERICA BY (Signature of Contracting Officer)	16C. DATE SIGNED 28 Mar 97

7540-01-152-8070
30-105-02
STANDARD FORM 30 (REV. 10-83)
Prescribed by GSA
FAR (48 CFR) 53.243
OCS EDITION UNUSABLE

Enclosure 2

Modification P00002 of Contract DAAA09-97-C-0025

Pursuant to the Permit for the Storage and Treatment of Hazardous Waste issued in accordance with the applicable provisions of Oregon Revised Statutes Chapter 466 and the regulations promulgated thereunder in Oregon Administrative Rules Chapter 340 Divisions 100 through 120, and pursuant to the Solid Waste Disposal Act (42 U.S.C. 3251 et. seq.), as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et. seq.) and the Hazardous and Solid Waste Amendments of 1984, a permit has been issued to the United States Department of the Army, Umatilla Chemical Depot (facility owner); The Program manager for Chemical Demilitarization (facility co-operator); and the Systems Contractor, Raytheon Demilitarization Company (RDC) (facility co-operator); herein jointly called Co-Permittees, to operate a hazardous waste treatment and storage facility.

The Contract Modification, and all statements as to allowability made herein, is intended by the parties to be subject to and in accordance with the cost principles referenced in FAR, part 31, including FAR 31.201, all other provisions of this Contract, and all applicable law and regulation. Payment of all costs herein referred to is subject to the availability of funds under the Contract.

In order to ensure the proper execution of this permit, the Co-Permittees agree to the following:

a. The Army as Owner and Co-Permittee, acknowledges its responsibility for hazardous waste management activities at the UMCDF Facility, including sole responsibility for funding, policy, capital expenditures, design, programmatic and scheduling decisions, and general oversight of contractor activities. To the extent that the Permit includes requirements relating to the design or any of the other aforementioned sole responsibilities of the Army, the Army agrees that costs incurred by RDC arising out of the design or any of the other aforementioned sole responsibilities of the Army will be considered allowable if:

1) Necessary to comply with a requirement lawfully imposed by a regulatory or judicial body of competent jurisdiction, or,

2) As approved by the Government for compliance with environmental and OSHA requirements, or,

3) As otherwise determined reasonable under the standards of FAR 31.201-3.

b. RDC as Co-permittee, acknowledges its responsibility for hazardous waste management in accordance with the requirements of this contract and the permit within its direct management control and authority (including waste analysis and handling, monitoring, record keeping and related hazardous waste activities) as governed by law and the decisions and directions of the Army.

c. Reporting and information requirements: the Army will serve as the information and reporting contact with the state of Oregon. The Army will be responsible for submitting all required reports to the State. The Army will certify the accuracy and adequacy of final documentation and the accuracy of documentation provided by the Army to develop required documentation. RDC will certify the accuracy and adequacy of the preparation of the final documents based on documentation and direction provided by the Army. Any fine or penalty including the reasonable cost or defense by RDC shall be an allowable cost if incurred by reason of failure of the Government to submit required reports to the state that have been timely certified as accurate and adequate by RDC to achieve compliance with appropriate Federal, State or local safety or environmental requirements and incurred in the performance of the Contract, since the Contract terms and conditions assume the Government, in fulfilling its responsibility for reporting and information requirements, will submit the documentation in a timely manner as required by law. In addition the Army will make a best effort to insure that RDC is not listed on a list of environmental violators as a result of a failure of the Government to perform its responsibilities.

d. The Commander, Umatilla Chemical Depot as UMCDF Facility Owner and the PMCD, as UMCDF Facility Operator, are exclusively responsible to seek federal funding, to include appropriations from the U.S. Congress, in order to take corrective action, to comply with all permit requirements, and to achieve the compliance schedule. Costs incurred by RDC to comply with the applicable environmental and OSHA requirements not otherwise specified in the contract will be the basis for a claim for equitable adjustment and will be considered allowable if:

1) Necessary to comply with a requirement lawfully imposed by a regulatory or judicial body of competent jurisdiction, or,

2) As approved by the Government for compliance with environmental and OSHA requirements, or,

3) As otherwise determined reasonable under the standards of FAR 31.201-3.

e. Upon the termination of Contract DAAA09-97-C-0025 between the U.S. Army and RDC, the Army will file the necessary permit modification and take other appropriate action to remove RDC from the permit as a Co-Permittee, Facility Co-Operator.

All other terms and conditions not included in this modification remain unchanged.

City of Dallas

Proposed Wastewater Treatment Plant Upgrade and Expansion

Request for Wasteload Increase for CBOD and TSS

Request for Exception to Temperature Standard

Request for Waiver of Minimum Dilution Standard

Proposed Project

- Improve and Expand Treatment Plant
- Raw Sewage Overflows - Reduce to 3 overflows/10 years
- Ammonia - Treat and Significantly Reduce
- Chlorine - Eliminate
- Copper - Significantly Reduce by diverting Industrial discharger

Cost of Project

$30 Million

- 1992 Residential Rate - $13/Month
- 1997 Residential Rate - $33/Month
- 1999 Residential Rate - $39/Month
- 2010 Residential Rate - $45/Month

Comparison of 1996 Discharges to Those After Phase 3 Is Completed

Comparison Of **AVERAGE** Discharges Of Selected Pollutants
1996 Discharges Versus Expected Discharges After Completion Of Phase 3
SUMMER

Pollutant	1996	After Phase 3 Completion
CBOD	86 #/day	113 #/day
TSS	116 #/day	113 #/day
Ammonia	15 mg/L	1.3 mg/L
Chlorine	360 ppb	0 ppb
Copper	243 ppb	18 ppb
Raw Sewage Discharge	980 gal/day	0 gal/day

Comparison of 1996 Discharges to Those After Phase 3 Is Completed

Comparison Of **AVERAGE** Discharges Of Selected Pollutants 1996 Discharges Versus Expected Discharges After Completion Of Phase 3

WINTER

Pollutant	1996	After Phase 3 Completion
CBOD	948 #/day	630 #/day
TSS	1090	630 #/day
Ammonia	10 mg/L	4.1 mg/day
Chlorine	440ppb	0 ppb
Copper	157 ppb	18 ppb
Raw sewage discharge	1.6 MGD	0

Request for Exception to Temperature Standard

Temperature Comparison in Rickreall Creek

MEDIAN STREAM FLOW

MONTH SEASON	MEDIAN FLOW (cfs)	TEMP. UPSTRM RM 10.5	TEMP. DNSTRM RM 10.0	TEMP. DIF. D/S TO U/S
JUNE	27	64.7°F	65.5°F	0.8°F
JULY - SEPTEMBER	7.7	65.9°F	68°F	2.1°F

Temperature Comparison in Rickreall Creek

7Q10FLOW

MONTH SEASON	7Q10 FLOW (cfs)	TEMP. UPSTRM RM 10.5	TEMP. DNSTRM RM 10.0	TEMP. DIF D/S TO U/S
JUNE	11	65.4°F	66.9°F	1.5°F
JULY - SEPTEMBER	1.5	67.9°F	70.7°F	2.8°F

Conditions Required for Exception to Temperature Standard

- Implementation of All Reasonable Best Management Practices
- Discharge Will Not Significantly Affect the Beneficial Uses
- Environmental Cost of Cooling Effluent Outweighs the Impact of the Higher Temperature Effluent

Best Management Practices to be Followed

- Aeration by Means of Surface Aerators, Not Heated Air From Blowers
- Deeper Clarifiers, Reduced Surface Area for Disinfection Process
- Additional Practices May Be Adopted As Part of the Watershed Council Effort
- Further Consideration Will Be Given in Phase 2 As to Impact of Industries on Temperature at the POTW
- "Augment" Stream Flows - Minimize Withdrawal By Promoting Conservation

No Significant Impact on Beneficial Uses

- No Impact on Salmonids, Since Not Present During Time of Concern
- Minor Increase in Temperature Not Expected to Affect Cool Water Species Present

Environmental Cost of Cooling Effluent Outweighs Impact of Effluent

- Refrigeration Is Only Technology for Cooling Effluent
- Very High Environmental Cost of Refrigeration From Electrical Demand, Rejected by Advisory Committee on Temperature Standard

Mass Load Increase Request For CBOD and TSS

No Impact From Increased Wasteload Because:

- Winter Increase Offset by Eliminating Raw Sewage Overflows
- Summer Increase Offset by Reduction in Ammonia

Minimum Dilution Rule

- For Dallas, Rule Requires Minimum of 10 to 1 in Summer, 30 to 1 Dilution in Winter
- Existing Dilution - Less Than 1 to 1 Under Worst Flow Conditions in Summer
- Older Rule - to Prevent Dissolved Oxygen Violations
- No Criteria for Consideration of Waiver

Waiver Recommended Because:

- No Significant Impact on Beneficial Uses
- No WQS Exceedances
  (Assuming Temperature Exception Granted)

State of Oregon

Department of Environmental Quality Memorandum

Date: October 30, 1997

To: Environmental Quality Commission

From: Langdon Marsh, Director

Subject: Agenda Item D, City of Dallas Request for Mass Load Increase, Exception to Minimum Dilution Rule, and Exception to the Temperature Standard, EQC Meeting November 21, 1997

Statement of Purpose

The City of Dallas is proposing to expand and upgrade the wastewater treatment plant serving the City. They have proposed to continue discharge to Rickreall Creek during the entire year. Although the City proposes a very high level of treatment, due to the very low stream flows in the summer the City cannot meet all water quality standards without action by the Commission. This agenda item requests that the Commission grant the three waivers or exceptions needed for the City to proceed with the project.

Background

The City's existing wastewater treatment plant needs to be expanded and upgraded to address the following issues:

- The treatment plant is over capacity, and needs to be expanded in order to provide service to the residents and businesses. The treatment plant cannot consistently meet all effluent limits.

- The treatment plant cannot treat the volume of sewage mixed with groundwater and rainwater in the winter, resulting in numerous discharges of raw sewage each winter. Raw sewage discharges averaged 1.6 million gallons per day in the winter months of 1996. Although 1996 was a very wet year, these figures reflect a serious problem.

- Rickreall Creek is water quality limited for dissolved oxygen. A Total Maximum Daily Load has been assigned to the City's discharge, to bring the creek back into compliance with the water quality standard. The existing treatment plant is not able to achieve the assigned load.

- The discharge contains ammonia, chlorine and copper at levels that are many times the acute toxicity level during low flow times.

The City has completed facility planning, where all reasonable alternatives for correcting the above problems were explored. The alternative chosen and approved by the Department (pending approval by the Commission in this agenda item) includes the following:

Phase 1, to be completed by early in year 2001 - Major plant upgrade and expansion, and elimination of most of the raw sewage overflows. This phase will result in meeting ammonia limits and chlorine limits, and coming very close to meeting the waste load allocation.

Phase 2, to be completed by late 2005 - Diversion of industrial wastes from the treatment plant, with the industrial wastes to be treated at a new, separate facility. This phase will significantly reduce the copper and ammonia loading on the treatment plant, and will bring the effluent very close to meeting the copper limit.

Phase 3, to be completed by year 2010 - Install filters at the treatment plant, and complete reductions of infiltration and inflow with sewer system improvements. This phase should bring the facility into full compliance with all requirements, including eliminating the raw sewage overflows to the frequency required in the bacteria standard (no overflows unless rain exceeds the 24 hour, one in five year return frequency - about 3.1 inches in the Dallas area).

Because of the lack of a nearby large receiving stream, this will be a very expensive project since a very high level of treatment will be required. The project costs are estimated at about $30 million. Dallas has a current population of about 11,000. The phasing of the project is required to accommodate the high cost of the project.

Table 1 shows a comparison of key pollutants, between the levels currently being discharged, and the projected pollutant levels at the end of Phase 3. These figures show that the new treatment plant will greatly improve the quality of the effluent and total load on Rickreall Creek. Specifically, the new treatment plant and other system improvements will 1) significantly reduce the oxygen demanding discharges (as a result of the reduction in ammonia, which more than offsets the small increase in CBOD for the summer; and as a result of the reduction of ammonia and virtual elimination of raw sewage bypasses in the winter); 2) significantly reduce the amount of copper and ammonia to below toxic concentrations, and eliminate the discharge of chlorine entirely; and 3) eliminate almost all raw sewage overflows.

In order to continue the discharge to Rickreall Creek, three Commission actions are required. These are discussed below.

Action # 1 - Exception to the Temperature Standard

Summary - In order to qualify for an exception to the temperature standard, the City must demonstrate that it is implementing all reasonable management practices; and that the discharge will not significantly affect the beneficial uses; and that the environmental cost of cooling (such as refrigeration) outweighs the impact of the discharge. The Department believes that the City has met all three requirements as discussed below.

TABLE 1

Comparison of Average Discharges of Selected Pollutants

1996 Discharges Versus Expected Discharges After Completion of Phase 3

Season/Pollutant	1996	After Phase 3 Completion
SUMMER		
CBOD	86 #/day	113 #/day
TSS	116 #/day	113 #/day
Ammonia (see note 1)	15 mg/L	1.3 mg/L
Chlorine (see note 2)	360 ppb	0 ppb
Copper (see note 3)	243 ppb	18 ppb
Raw sewage discharge	980 gal/day	0 gal/day (see note 4)
WINTER		
CBOD	948 #/day (see note 5)	630 #/day
TSS	1090 #/day (see note 5)	630 #/day
Ammonia (see note 1)	10 mg/L	4.1 mg/L
Chlorine (see note 2)	440 ppb	0 ppb
Copper (see note 3)	157 ppb	18 ppb
Raw sewage discharge	1.6 MGD	0 (see note 5)

Note 1 The acute toxicity level for ammonia is dependent on temperature and pH. At expected conditions, the acute toxicity level will be 8.4 mg/L in summer and 12.2 mg/L in winter. At completion of Phase 3, the effluent will be in compliance with the toxicity limit edge of the assigned zone of immediate dilution.

Note 2 The acute toxicity level for chlorine is 19 ppb.

Note 3 The acute toxicity level for copper is dependent on hardness. At expected stream conditions, the acute toxicity level for copper is 18 ppb. At completion of Phase 3, the effluent will be in compliance with the toxicity limit at the edge of the assigned zone of immediate dilution.

Note 4 Overflows are to be eliminated up to a 24 hour, five year storm event in the winter, and up to a 24 hour, ten year storm event in the summer. In an average year, there should be no overflows.

Note 5 Of this total, an estimated 800 pounds per day of CBOD and TSS were discharged on average in the raw sewage overflows.

Rickreall Creek has been affected by human activity for over a hundred years. The lower Rickreall Creek is not now suitable for spawning and rearing habitat for salmonids, because of physical habitat limitations as well as relatively high temperatures in the summer months. As the watershed effort develops, it is hoped that improvements in land management practices and other actions will result in improving habitat and water quality in Rickreall Creek. The Department will continue to monitor the status of Rickreall Creek. In the event that conditions improve so that the City's discharge becomes a significant adverse factor, then the Department will work with the City to explore ways to reduce or eliminate the adverse impact. In addition, the City is expected to participate in the development of the watershed TMDL, and may as part of that effort undertake other actions to improve Rickreall Creek.

Discussion - The applicable temperature standard for the portion of Rickreall Creek affected by the discharge is 64° F. Rickreall Creek exceeds 64° F from June through September just upstream from the City's discharge. During those months, the effluent from the proposed treatment plant is expected to result in a 0.8 to 2.1 degree increase in stream temperatures under average stream flow conditions, and up to a 2.8 degree increase under extreme low flow conditions (the lowest week flow in a ten year period, referred to as the "7Q10" flow).

Oregon Administrative Rules 340-41-026(3)(a)(H) allows the Commission to grant an exception to the temperature standard of more than 1 degree increase, if the following conditions are met:

1. The discharger is implementing all reasonable management practices; and
2. The discharge will not significantly affect the beneficial uses; and
3. The environmental cost of not exceeding the temperature standard (that is the technology required) outweighs the impact of the higher temperature.

The Department believes that the proposed discharge meets these three criteria, as described below.

Implementing all reasonable management practices - There are limited strategies available to cool the effluent at domestic wastewater treatment plants. Raw sewage entering the treatment plant tends to already be somewhat warm, due to the residential original of much of the wastestream. That is, the wastewater leaving homes tends to be warm from showers, washing machines, and dishwashers, and the wastewater is still somewhat warm when it reaches the treatment plant. There is some additional minor warming that occurs at the plant in summer months, from the sun. Although the possible strategies for cooling are limited, the new plant design will incorporate three features that will reduce the effluent temperature. These are: continuing to use surface aerators, rather than switching to compressed air from blowers [when air passes through blowers, it becomes heated and therefore adds heat in the aeration basins]; by deepening final clarifiers to add capacity rather than adding more shallow clarifiers [these are big open settling basins; by minimizing the surface area, they reduce the amount of radiant energy or heat added by the sum]; and by switching from chlorination to ultraviolet disinfection [this reduces the surface area in the disinfection basins].

In addition, as part of the proposed project a separate industrial wastewater treatment plant will be constructed. Plans have not been finalized as to which industries will be connected to this new facility. Depending on the industries chosen, there may be some reduction in thermal load at the municipal treatment plant. However, detailed studies have not been conducted as to the expected impact on temperature at the municipal treatment plant.

The Department is satisfied that this constitutes all the reasonable management practices for the facility at this time. These measures, and the required temperature monitoring in the proposed permit, constitute the temperature management plan for the facility. As the watershed effort progresses, the City may undertake additional efforts to reduce the temperature of the effluent, or reduce the temperature of Rickreall Creek through other measures. Depending on the measures undertaken, and whether they relate to the treatment plant, the temperature management plan may be modified for the proposed facility.

Discharge will not significantly affect the beneficial uses - As described further below, the Department finds that the discharge will not significantly affect the beneficial uses for the following reasons: the months when the effluent increases the stream temperature to above standards are limited to the summer months, when there is no salmonid migration; the area downstream from the discharge is not physically well suited for salmonid spawning/rearing and none is known to occur in the lower regions; the temperatures in Rickreall Creek are already above 64° degrees in the summer months and not suitable for salmonids for that reason; and the minor temperature increases in the summer are not expected to have any significant impact on the cool water species present in that stretch of Rickreall Creek.

In order to evaluate the likely impact of the increased stream temperature on the receiving stream, the Department used the following studies or other kinds of information:

- Computer modeling of the expected temperature increases
- A survey and evaluation of the physical habitat in Rickreall Creek, from the Willamette River up to River mile 10.5.
- A bioassessment of Rickreall Creek at several sites near the outfall, upstream and downstream.
- What is known about the presence of fish species in the Rickreall Creek sub-basin, and their habitat needs.

Modeling of expected temperature increases - The City's discharge will continue to be to Rickreall Creek at approximately river mile 10.1. Modeling of the creek temperature upstream from the point of discharge, and downstream with the discharge, show that the months when the downstream temperature exceeds 64 degrees are June through September. Table 2 shows the median upstream/downstream temperatures, and the temperatures upstream/downstream under extreme low flow conditions (7Q10). The model predicts a median of 0.8 degrees increase in June, and 2.1 degrees increase in the period of July through September. The model also predicts that at about 2.5 miles downstream, there will no longer be an impact from the effluent discharge. Existing data, collected over the years, is consistent with these projected stream temperatures.

TABLE 2

TEMPERATURE COMPARISON IN RICKREALL CREEK

7Q10 FLOW

MONTH SEASON	7Q10 FLOW (cfs)	TEMP. UPSTRM RM 10.5	TEMP. DNSTRM RM 10.0	TEMP.DIF. D/S TO U/S
MAY	29.0	57.3	58.5	1.6
JUNE	11	65.4	66.9	1.5
SUMMER	1.5	67.9	70.7	2.8

MEDIAN STREAM FLOW

MONTH SEASON	MEDIAN FLOW (cfs)	TEMP. UPSTRM RM 10.5	TEMP. DNSTRM RM 10.0	TEMP.DIF. D/S TO U/S
MAY	70	55.6	56.3	0.7
JUNE	27	64.7	65.5	0.8
SUMMER	7.7	65.9	68	2.1

Survey and evaluation of the physical habitat - Habitat needs for salmonids were stressed. The parameters considered included stream flow, habitat type, stream gradient, habitat depth, substrate makeup, vegetation and cover, and the presence of large woody debris. The area from the mouth of the creek up to about river mile 7.5 were rated as poor to very poor as potential salmonid spawning and rearing areas. Although rated somewhat higher closer to the outfall, the stream was still judged to have limited potential to support salmonid spawning and rearing for the following reasons: lack of protected side channels for winter rearing; low flows and elevated temperatures during the summer; very high flows in the winter; and lack of large woody debris. Rickreall Creek in the stretch from the outfall to the Willamette River showed a very flat gradient, which contributed to the siltation observed in many locations.

Bioassessment of Rickreall Creek - For this study, four riffles and two pools were evaluated, half upstream and half downstream from the outfall. Standard macroinvertebrate bioassessment techniques were used. The study showed both upstream and downstream sites were severely impaired as to biological integrity, compared to a theoretical pristine mountain stream. Species diversity was low, and of the species found 10 out of the 11 are considered to be pollution tolerant (including temperature). Some impact was observed from the effluent. The study was done in early October, 1995.

Presence of fish in Rickreall Creek sub-basin - Steelhead trout, resident cutthroat trout, and some adult coho salmon reside in the sub-basin. Coho are not present in great numbers, and are thought to be strays. Coho are not known to spawn in the Rickreall basin, and are not native to the area (they were introduced to this section of the Willamette with the construction of fish ladders at the Oregon City falls). In addition, Pacific lamprey are present. Although this species is somewhat pollution tolerant, it is listed as an Oregon sensitive species based on reduced numbers. Approximately 1000 rainbow trout are stocked each year, for recreational fishing. There are also a number of cool water fish that are resident. These cool water fish are more tolerant of warmer water and are more pollution tolerant in general. Pacific lamprey are also more tolerant of warmer water and pollution.

Steelhead and cutthroat trout spawn and rear in the upper reaches of the sub-basin, where there is suitable habitat available. Passage of adults upstream and juveniles downstream appears to occur mostly from November through May, when stream flows are high and waters are relatively cold. In some years when stream flows are high, adults may be seen as early as October and juveniles may be seen as late as June in the lower reaches of the Creek. Based on the lack of suitable habitat, and the lack of observed salmonids in the lower Rickreall Creek (except during migration), the Oregon Department of Fish and Wildlife has advised the DEQ that this stream reach is cool water, not cold water fisheries habitat for the summer months.

Conclusions - Temperature impacts from the City's treatment plant are expected to be on average in the range of 1 to 2 degrees, and up to 2.8 degrees under extreme low flow

conditions, during June through September, and to affect up to about 2.5 miles of Rickreall Creek. Upstream temperatures are also somewhat elevated in the summer months. Temperatures in this range would likely be detrimental to adult salmonids or young salmonids rearing, if any were present. Temperatures during the late fall, winter and spring migration periods are cold enough to not be of concern. The temperatures projected are well within the ranges tolerated by the cool water species present, and are not expected to have an impact on those species.

In order for a stream segment to support salmonid spawning and rearing, a number of conditions must all be present. These include: the presence of clean, appropriately sized gravel for spawning; sheltered areas for over-wintering (so that the young fish are not swept downstream); feeding areas year around; the presence of large woody debris to provide shelter and cool areas; passage to and from the spawning areas; and the presence of cold, clean water. Rickreall Creek from the point of the City's discharge downstream to the Willamette River has very limited suitable habitat. In the area affected by the effluent (approximately 2.5 miles downstream from the point of discharge), there is little suitable habitat available for salmonids with or without the discharge for the following reasons: lack of protected areas for over-wintering; lack of large woody debris; and low, warmer stream flows in the summer. This finding is consistent with ODFW's finding that the stream supports cool water fisheries, but not cold water fisheries (i.e. salmonids) in the summer months.

Therefore, the Department concludes that the proposed discharge will have no significant impact on the beneficial uses of Rickreall Creek.

Environmental "cost" of cooling effluent is greater than impact of warmer effluent on the receiving stream - The only effective technology for cooling the temperatures of the effluent (64 degrees up to possibly 73 degrees) would be refrigeration, which has a very high initial cost and would require very large amounts of electricity. These other technologies were considered and rejected: cooling towers (won't work for these relatively low temperatures); and shading the entire plant site to eliminate sun heating the wastewater (possible but would have a very limited benefit and would result in maintenance difficulties). Cooling the wastewater leaving residences would not be practical. The Department concludes that the cost of cooling the effluent is higher than allowing the discharge with the above management practices.

Based on the above three findings, the Department recommends that the Environmental Quality Commission grant the exception and allow the proposed discharge.

Action # 2 - Mass Load Limit Increase Request

Summary - The City has requested a mass load increase for CBOD and TSS. However, these increases are more than offset by the reductions in ammonia and raw sewage overflows. Even with the proposed mass load increases, the impact on the receiving stream will be less with the proposed treatment plant and system upgrades. The City has met the requirements to qualify for a mass load increase, as discussed below.

Discussion - The existing treatment plant was last upgraded in 1969. It was originally designed to meet 30 mg/L CBOD and TSS in the winter. The treatment plant has been able to meet these winter limits, and the summer limits were set by the Department at 10 mg/L CBOD and TSS based on the treatment plant's capabilities. The plant is generally able to meet the mass load limits for CBOD and TSS as the limits appeared in permits prior to adoption of the waste load allocation for Rickreall Creek. The proposed plant upgrade and expansion will increase the dry weather capacity from 2 million gallons per day (mgd) to 3.4 mgd, and increase the peak hydraulic capacity from 6 mgd to 18.6 mgd.

Past mass load limits for all domestic wastewater plants were calculated based on the **average seasonal flow** at full plant capacity (the average flow between May 1 and October 31, and the average flow between November 1 and April 30 in the final year of the design life). Current Department practice is to assign mass load limits based upon the **maximum month flow** expected when the treatment plant reaches capacity. This change in method of calculating the mass load limits results in the following:

- For exactly the same treatment plant, the assigned mass load limits are now significantly higher; and

- For exactly the same treatment plant, there will now be far fewer mass load limit violations towards the end of the design life of the plant; and

- For exactly the same treatment plant, the actual mass loads discharged will not change.

The Department has evaluated the proposed design of the treatment plant, and the projected flows. Based on this evaluation, the Department has proposed mass load limits that are based on the expected plant performance at peak month flows at the end of the design life. These mass load limits should be achievable through the life of the treatment plant, assuming good plant operation and that flows are at the levels expected.

Summer Mass Loads - On a monthly basis, the **proposed mass load limits** to be included in the permit for the summer discharge period are 60 pounds per day or 36% higher than the existing mass load limits for CBOD and TSS. It should be noted that CBOD is of concern only because of the oxygen demanding nature of the pollutant in the receiving stream. The increase in summer CBOD is more than offset by the significant reductions in ammonia, and the summer discharge will contain in total less oxygen demanding pollutants than the existing discharge. TSS has been used historically as a quick tool for evaluating the quality of effluent, however it has no environmental significance at these very low concentrations.

The proposed treatment plant should be able to achieve on average 5 mg/L CBOD and TSS in the summer. The summer **actual** mass loads discharged are expected to be within the **existing** assigned mass load limits, with possibly a few months above the existing assigned limits towards the end of the design life. The chart below shows a comparison of summer mass loads.

Summer Discharges, CBOD and TSS

Pollutant	Current Discharge Actual Discharge	Current Discharge Permitted	Discharge After Phase 3 Completion Actual Discharge	Discharge After Phase 3 Completion Permitted
CBOD	86 #/day	170 #/day	113 #/day	230/270 #/day
TSS	116 #/day	170 #/day	113 #/day	230/270 #/day
Raw sewage overflows	980 gal/day	0	0	0

Notes on above chart - The current actual discharges are averages for May 1 through October 31, 1996. The current permitted discharges are based on limits that appeared in permits before the TMDL was set. The (proposed) permitted mass loads for after Phase 3 is completed are based on stream flow conditions. The value of "0" for future raw sewage overflows are based on no overflows occurring in an average year.

Winter Mass Loads - The existing mass load limits for the winter are very low, based on past methods of calculating mass loads. The existing permitted mass loads do not include the raw sewage overflows. The new treatment plant and other planned improvements will be able to eliminate almost all of the overflows. The proposed winter mass load limits are approximately three times higher than the existing mass load limits. However, when the raw sewage overflows are included in the current mass loads discharged, the proposed mass load limits may actually be lower than the current discharges. The following chart compares current and expected future mass loads for the winter.

Winter Discharges, CBOD and TSS

Pollutant	Current Discharge Actual Discharge	Current Discharge Permitted	Discharge After Phase 3 Completion Actual Discharge	Discharge After Phase 3 Completion Permitted
CBOD	948 #/day	330 #/day	630 #/day	1000/1400 #/day
TSS	1090 #/day	330 #/day	113 #/day	1300/1400 #/day
Raw sewage overflows	1.6 million gal/day	0	0	0

Notes on above chart - The current actual discharges are averages for November 1, 1995 through April 30, 1996. Note that this period was exceptionally wet. The current permitted discharges are based on limits that appeared in permits before the TMDL was set. The (proposed) permitted mass loads for after Phase 3 is completed are based on stream flow conditions. The value of "0" for future raw sewage overflows are based on no overflows occurring in an average year.

Allowing mass load increases - It is the general policy in Oregon that treatment facilities should increase treatment efficiency so that growth and development will not result in increases in mass loads. Oregon Administrative Rules (OAR) 340-41-026(3) does allow exceptions to this general policy, providing that specified findings can be made and that other criteria are considered, as described below.

The proposed wasteload must not cause water quality standard violations - The proposed wasteloads have been evaluated by computer simulations. Dissolved oxygen is the only water quality standard of concern with the CBOD and TSS wasteloads proposed. While there will be a slight increase in oxygen demand from the CBOD, this is more than offset by the much lower ammonia discharges and associated oxygen demand projected when the treatment plant is upgraded.

The increased wasteload must not impair any recognized beneficial use - As discussed in the rule, if a discharge meets the applicable instream water quality standards, then the Commission may consider that beneficial uses are considered. The proposed discharge will meet the dissolved oxygen instream water quality standards, and therefore will not impair any beneficial use.

If the receiving stream is water quality limited, the TMDL and waste load allocations have been made, and the increased wasteload must be consistent with the assigned allocation - The proposed waste loads are within the assigned load allocation.

The activity associated with the waste load increase must be consistent with acknowledged local land use plans - The activity in question is serving existing customers

within the City of Dallas, and providing for additional growth in the area. The activity is consistent with the adopted and approved comprehensive plan for the City.

The Commission shall consider the possible negative impact of taking the discharge out of the stream - The proposed discharge will meet all water quality standards at the edge of the mixing zone, although an exception to the temperature standard is being proposed. Downstream holders of water rights have expressed concern that withdrawing the effluent could result in Rickreall Creek not having enough flow to satisfy all water rights, potentially resulting in diminished water quality or a dry creek. If all water quality standards are met (except for temperature) with the effluent in the stream, then it is assumed that for fisheries resources the creek would be better off with the effluent since it will result in higher stream flows during critical summer low flow periods.

The Commission shall consider the instream effects, for example if the increased discharge is offset by other decreases - The proposed discharge will result in small increases in CBOD and TSS during some periods, however the impacts of these increased pollutants will be more than offset by the reductions in raw sewage overflows and the reduction of ammonia.

The Commission shall consider the possible beneficial use of the effluent in non-discharge alternatives - The effluent in the summer could be beneficially used as irrigation water by the City or nearby farmers. The winter flows could not be beneficially used without very costly storage, as the application for irrigation must be done in the summer.

The Commission shall consider the economic value of the assimilative capacity - The proposed waste load increases in CBOD and TSS will not result in a reduction of assimilative capacity. Assimilative capacity for those pollutants is based on oxygen demand. Although the CBOD loads will be somewhat higher, the overall oxygen demand (related to CBOD plus the much reduced levels of ammonia) will result in improvements in dissolved oxygen in Rickreall Creek and compliance with WQ standards. There currently is no assimilative capacity since the stream does not meet the dissolved oxygen standard. If the proposed wasteload increases are granted, there will be a small remaining reserve assimilative capacity.

The Commission shall consider the cost of treatment technology to remain within the assigned mass loads - In order to remain within the currently permitted mass load limits, the City would have to significantly expand the capacity of the effluent filters to treat all winter flows. The additional cost of the filters is estimated at $1.5 million.

Recommendation regarding request for mass load increase - Based on the above findings and considerations, the Department recommends that the Commission approve the requested mass load increase.

Action # 3 - Request for Dilution Rule Waiver

Summary - The dilution rule is an older rule intended to prevent the violation of water quality standards from a discharge. The Department now has much more sophisticated tools available for predicting the impact of a proposed discharge on stream water quality. The proposed discharge has been evaluated, and the Department concludes that the proposed discharge can be safely allowed without violating water quality standards. The Department recommends that the dilution rule be waived. [Note - if the temperature exception discussed above is approved, the City would technically be in compliance with the temperature standard.]

Discussion - Oregon rules include minimum design criteria for wastewater treatment facilities in the state. One of the minimum design criteria that applies in the Willamette basin (which includes Rickreall Creek) is OAR 340-41-455(1)(f), the minimum dilution requirement. This rule requires that domestic wastewater treatment effluent must have a minimum dilution ratio, based on the level of treatment provided. The rule applies to facilities that have been built or expanded after 1976. For the proposed expanded treatment plant, the minimum receiving stream flows would be 10 times the effluent flow in the summer, and 30 times the effluent flow in the winter. The rule does allow the Commission to waive this requirement.

The minimum dilution rule is over 20 years old, and was adopted for the purpose of preventing discharges to very small receiving streams where the effluent could cause violations of instream water quality standards. It was adopted at a time when few tools were available to predict the impact of a discharge, and has served well as a "rule of thumb" to help better locate outfalls to larger and more acceptable receiving streams.

In the last five to ten years, there have been significant improvements in our ability to predict the impact of a proposed discharge. As described in previous sections, the proposed discharges have been evaluated using computer models. The Department expects that the proposed discharge can be allowed without causing any violation of instream water quality standards (provided the temperature standard waiver requested in this package is approved).

For the City of Dallas, the available dilution available during extreme low flow conditions will be less than one to one, receiving stream to effluent flows. The City is proposing to compensate for the lack of dilution by providing a very high level of treatment.

Based on the expected ability of the proposed treatment plant to meet all water quality standards, the Department recommends that the Commission waive the minimum dilution rule for the proposed Dallas treatment plant.

Authority of the Commission with Respect to the Issue

The authority for the three actions above are included in OAR 341-41-026(3)(a)(H) for the exception to the temperature standard; OAR 340-41-026(3) for the mass load increase request; and OAR 340-41-455(1)(f) for the waiver of the minimum dilution rule.

Alternatives and Evaluation

A number of alternatives were evaluated by the City and Department staff, through the facility planning process. The major alternatives are briefly described below:

Alternative 1 - Continue to discharge to Rickreall Creek year around, with a high level of treatment provided and industrial sources of copper removed. This was the chosen alternative.

Alternative 2 - Build a six mile pipeline to the Willamette River, which is the nearest large stream. This alternative was dropped because of the difficulties and delays expected in getting the easements, and the likely protracted litigation from downstream water users, and possible problems with constructing a pipeline through fields with irrigation tile.

Alternative 3 - Discharge to Rickreall Creek in the winter, but spray irrigate in the summer. This alternative would have required 250 acres of poplar trees. This alternative is considerably more expensive than the recommended alternative ($4.3 million more), and also has the likelihood of significant delays due to litigation.

Summary of Public Input Opportunity

The City conducted a number of meetings and hearings as part of the facilities plan development process, prior to adopting the facilities plan at a City Council meeting. Public testimony was solicited by the City. In addition, the Department has placed the proposed permit and permit evaluation report out for public comment. The proposed permit and report includes a discussion of the three actions brought forth in this report. A public hearing was held on October 16, 1997, to receive verbal testimony. Attachment B includes the summary of comments received during the Department's permit review process, and the Department's response to those comments.

Conclusions

The City of Dallas is proposing to build an expanded and upgraded wastewater treatment plant. The new treatment plant plus other system improvements will substantially decrease the discharges of a number of pollutants of concern, including oxygen demanding pollutants, copper, ammonia, chlorine, and will almost entirely eliminate the current practice of bypassing large volumes of raw sewage every winter. The proposed discharge to Rickreall Creek will meet all water quality standards except for temperature, for which there will be a small increase. However, the temperature increase can be allowed under the Department's rules, and the Department believes that the discharge can be allowed without significantly affecting beneficial uses. Overall, the proposed treatment plant will significantly improve the discharge to Rickreall Creek.

In order for the project to move forward, three actions are required by the Commission. These actions are: waiver of the temperature standard; a mass load increase; and a waiver of the minimum dilution rule. The Department believes that all three waivers can be granted under the terms of the applicable rules, and that it is appropriate to do so in this case.

Intended Future Actions

Provided the Commission approves this request, the next steps for the Department will be:

- Issuance of the NPDES permit for the proposed new plant.
- Approval of the engineering plans and specifications for Phase 1.
- Modify the Mutual Agreement and Order to reflect changes needed as a result of the proposed project.

Department Recommendation

It is recommended that the Commission accept this report, discuss the matter, and provide advice and guidance to the Department as appropriate. Specifically, the Department recommends the following:

1. That the temperature standard exception be granted, with the understanding that further action may be necessary by the City if:

    - Stream habitat and water quality improves to the point where the City's discharge becomes a significant adverse factor on the stream water quality, and the conditions to qualify for this exception are no longer being met; or

- Further action is indicated as part of the TMDL to be developed for the Rickreall Creek watershed.

In the event that either of the above occurs, the Department will work with the City to reduce or mitigate the impact of the discharge to acceptable levels.

2. That the mass load increases be approved as requested.

3. That the dilution rule be waived.

Attachments

Attachment 1 - Proposed NPDES permit for the City of Dallas

Attachment 2 - Summary of Comments Received, and the Department's Response

Attachment 3 - Letter from Oregon Department of Fish and Wildlife

Reference Documents (available upon request)

NPDES permit evaluation report and fact sheet

City of Dallas Wastewater Facilities Plan and associated technical documents

Approved:

Section: Barbara A. Burton

Division: Stan Greenwood

Report Prepared By: Barbara Burton

Phone: (503) 378-8240, extension 264

Date Prepared: October 30, 1997

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10/13/95

ATTACHMENT 1 PUBLIC NOTICE

Expiration Date: 10-31-02
Permit Number:
File Number: 22546

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WASTE DISCHARGE PERMIT

Department of Environmental Quality
Western Region - Eugene Office
1102 Lincoln St., Suite 210, Eugene, OR 97401
Telephone: (503) 686-7838

Issued pursuant to ORS 468.050 and The Federal Clean Water Act

ISSUED TO:

City of Dallas
P. O. Box 67
Dallas, OR 97338

SOURCES COVERED BY THIS PERMIT:

Type of Waste	Outfall Number	Outfall Location
Treated Wastewater	001	R.M. 9.3
Emergency Overflow:		
Plant Pump Station	002	Rickreall Cr
Miller Ave. & Fenton St.	003	Rickreall Cr

FACILITY TYPE AND LOCATION:

Existing Activated Sludge STP
New Oxidation Ditch STP
1070 Bowersville Road
Dallas, Oregon
Treatment System Class: III
Collection System Class: III

RECEIVING SYSTEM INFORMATION:

Basin: Willamette River
Sub-Basin: Middle Willamette
Receiving Stream: Rickreall Creek
Hydro Code: 22H-RICK 9.3 D
County: Polk

EPA REFERENCE NO: OR-002073-7

Issued in response to Application No. 992883 received October 28, 1996.

This permit is issued based on the land use findings in the permit record.

Steve Greenwood, Administrator
Western Region

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 wastewaters 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:

	Page
Schedule A - Waste Discharge Limitations not to be Exceeded	2-5
Schedule B - Minimum Monitoring and Reporting Requirements	6-10
Schedule C - Compliance Conditions and Schedules	11
Schedule D - Special Conditions	12-13
Schedule E - Pretreatment Activities	14-15
Schedule F - General Conditions	16-24

Unless authorized by another NPDES permit, each other direct and indirect discharge to public waters is prohibited.

SCHEDULE A

1. Waste Discharge Limitations not to be exceeded after permit issuance during operation of the existing activated sludge plant.

a. Outfall Number 001 (Wastewater Treatment Plant Discharge)

(1) May 1 - October 31:
(2)

Parameter	Average Effluent Concentrations Monthly	Average Effluent Concentrations Weekly	Monthly Average lb/day	Weekly Average lb/day	Daily* Maximum lbs
$CBOD_5$**	10 mg/l	15 mg/l	170	250	330
TSS	10 mg/l	15 mg/l	170	250	330

Ammonia-N Concentration Limits	
Stream Flow	Monthly Average
≤ 6.5 cfs	1.3 mg/l
> 6.5 and ≤ 29 cfs	2.5 mg/l
> 29 cfs	6.0 mg/l

(2) November 1 - April 30:

Parameter	Average Effluent Concentrations Monthly	Average Effluent Concentrations Weekly	Monthly Average lb/day	Weekly Average lb/day	Daily* Maximum lbs
$CBOD_5$**	25 mg/l	40 mg/l	330	420	500
TSS	30 mg/l	45 mg/l	330	420	500

Ammonia-N Concentration Limits	
≤ 41 cfs	4.1 mg/l
> 41 and ≤ 80 cfs	9.6 mg/l
> 80 cfs	10.0 mg/l

* Average dry weather design flow to the facility equals 2.0 MGD. The mass load limits are based upon the NPDES permit issued August 22, 1984 and are in accordance with OAR 340-41-120(9)(d). The mass load limits are lower than the waste load allocations assigned to the City of Dallas in the revised Rickreall Creek TMDL. Schedule C, Condition 2 requires the permittee to select the basis for calculating winter time (November 1 through April 30 each year) mass load limits. Upon review and approval of the engineering study to determine the design average wet weather flow, pursuant to OAR 340-41-120 (9), and upon request of the permittee, the Department intends to modify this permit and include revised mass load limits.

** The $CBOD_5$ concentration limit are considered equivalent to the minimum design criteria for BOD_5 specified in Oregon Administrative Rules (OAR) 340-41. These limits and $CBOD_5$ mass limits may be adjusted (up or down) by permit action if more accurate information regarding $CBOD_5/BOD_5$ becomes available.

(3)

Other parameters (year-round)	Limitations
E. coli Bacteria	Shall not exceed 126 organisms per 100 ml monthly geometric mean. No single sample shall exceed 406 organisms per 100 ml. (See Note 1/)
pH	Shall be within the range of 6.5 - 8.5 (See Note 2/)
Dissolved Oxygen	Shall not be less than a daily average of 6.5 mg/l.
$CBOD_5$ and TSS Removal Efficiency	Shall not be less than 85% monthly average
Total Chlorine Residual	Shall not exceed a monthly average concentration of 0.012 mg/l and a daily maximum concentration of 0.03 mg/l.

ATT 1 - 2

(4) Not withstanding the effluent limitations established by this permit, except as provided for in OAR 340-45-080, no wastes shall be discharged and no activities shall be conducted which violate Water Quality Standards as adopted in OAR 340-41-445 except in the following defined mixing zone:

The allowable mixing zone is that portion of Rickreall Creek within a one hundred (100) foot radius from the point of discharge. The Zone of Immediate Dilution (ZID) shall be defined as that portion of the mixing zone that is within ten (10) feet of the point of discharge.

b. Outfall Number 002 and 003 (Emergency Overflows)

No wastes shall be discharged from these outfalls and no activities shall be conducted which violate water quality standards as adopted in OAR 340-41-245, unless the cause of the discharge is an upset as defined in Conditions B4 and B6 of the attached General Conditions or is due to storm events as allowed under OAR 340-41-120(13) and (14) as follows:

Raw sewage discharges are prohibited to waters of the State from May 22 through October 31, except during a storm event greater than the one-in-ten-year, 24-hour duration storm. If an overflow occurs between May 21 and June 1, and if the permittee demonstrates to the Department's satisfaction that no increase in risk to beneficial uses occurred because of the overflow, no violation shall be triggered if the storm associated with the overflow was greater than the one-in-five-year, 24-hour duration storm.

2. Waste Discharge Limitations not to be exceeded 60 days after the permittee has completed construction of the new oxidation ditch treatment and disposal system improvements.

a. Outfall Number 001 (Wastewater Treatment Plant Discharge)

(1) May 1 - October 31:

(A) When monthly average flow in Rickreall Creek as measured above the STP outfall is 29 cfs or less.

Parameter	Average Effluent Concentrations Monthly	Weekly	Monthly Average lb/day	Weekly Average lb/day	Daily* Maximum lbs
$CBOD_5$**	10 mg/l	15 mg/l	230	340	450
TSS	10 mg/l	15 mg/l	230	340	450

Ammonia-N Concentration Limit	
Stream Flow	Monthly Average
≤ 6.5 cfs	1.3 mg/l
> 6.5 and ≤ 29 cfs	2.5 mg/l

(B) When monthly average flow in Rickreall Creek as measured above the STP outfall is greater than 29 cfs.

Parameter	Average Effluent Concentrations Monthly	Weekly	Monthly Average lb/day	Weekly Average lb/day	Daily* Maximum lbs
$CBOD_5$**	10 mg/l	15 mg/l	270	440	630
TSS	10 mg/l	15 mg/l	270	440	630
Ammonia-N	6.0 mg/l				

ATT 1-3

(2) November 1 - April 30:

(A) When monthly average flow in Rickreall Creek as measured above the STP outfall is 41 cfs or less.

Parameter	Average Effluent Concentrations Monthly	Weekly	Monthly Average lb/day	Weekly Average lb/day	Daily* Maximum lbs
$CBOD_5$**	25 mg/l	40 mg/l	1000	1600	2100
TSS	30 mg/l	45 mg/l	1300	1900	2500
Ammonia	4.1 mg/l				

(B) When monthly average flow in Rickreall Creek as measured above the STP outfall is greater than 41 cfs.

Parameter	Average Effluent Concentrations Monthly	Weekly	Monthly Average lb/day	Weekly Average lb/day	Daily* Maximum lbs
$CBOD_5$**	25 mg/l	40 mg/l	1400	2300	3500
TSS	30 mg/l	45 mg/l	1400	2300	3500

Ammonia-N Concentration Limit	
Stream Flow	Monthly Average
> 41 and ≤ 80 cfs	9.6 mg/l
> 80 cfs	10 mg/l

* Effluent loadings are based on the waste load allocations in the revised TMDL.

** Design average dry weather flow for the facility is 2.7 MGD. Effluent loadings are based on the maximum flows with a two year recurrence interval and the capability of the treatment works at those flows.

*** The $CBOD_5$ concentration limit are considered equivalent to the minimum design criteria for BOD_5 specified in Oregon Administrative Rules (OAR) 340-41. These limits and $CBOD_5$ mass limits may be adjusted (up or down) by permit action if more accurate information regarding $CBOD_5/BOD_5$ becomes available.

(3)

Other parameters (year-round)	Limitations
E. coli Bacteria	Shall not exceed 126 organisms per 100 ml monthly geometric mean. No single sample shall exceed 406 organisms per 100 ml. (See Note 1/)
pH	Shall be within the range of 6.5 - 8.5 (See Note 2/)
Dissolved Oxygen	Shall not be less than a daily average of 6.5 mg/l.
$CBOD_5$ and TSS Removal Efficiency	Shall not be less than: 85% monthly average when monthly average daily flow is 3.1 MGD or less; 75% monthly average when monthly average daily flow is between 3.1 and 4.64 MGD; 65% monthly average when monthly average daily flow is greater than 4.64 MGD

(4) Not withstanding the effluent limitations established by this permit, except as provided for in OAR 340-45-080, no wastes shall be discharged and no activities shall be conducted which violate Water Quality Standards as adopted in OAR 340-41-445 except in the following defined mixing zone:

ATT 1 - 4

The allowable mixing zone is that portion of Rickreall Creek beginning ten (10) feet upstream and extending two hundred (200) feet downstream from the point of discharge. The Zone of Immediate Dilution (ZID) shall be define as that portion of the mixing zone that is within twenty (20) feet of the point of discharge.

(5) No chlorine or chlorine compounds shall be used for disinfection purposes.

b. Outfall Number 002 and 003 (Emergency Overflows)

No wastes shall be discharged from these outfalls and no activities shall be conducted which violate water quality standards as adopted in OAR 340-41-245, unless the cause of the discharge is an upset as defined in Conditions B4 and B6 of the attached General Conditions or is due to storm events as allowed under OAR 340-41-120(13) and (14) as follows:

Raw sewage discharges are prohibited to waters of the State from May 22 through October 31, except during a storm event greater than the one-in-ten-year, 24-hour duration storm. If an overflow occurs between May 21 and June 1, and if the permittee demonstrates to the Department's satisfaction that no increase in risk to beneficial uses occurred because of the overflow, no violation shall be triggered if the storm associated with the overflow was greater than the one-in-five-year, 24-hour duration storm.

NOTES:

1/. If a single sample exceeds 406 organisms per 100 ml, then five consecutive re-samples may be taken at four hour intervals beginning within 28 hours after the original sample was taken. If the log mean of the five re-samples is less than or equal to 126 organisms per 100 ml, a violation shall not be triggered.

2/ On any day that the flow in Rickreall Creek is six (6) times the discharge flow or greater, the effluent pH may be outside the limits listed above but may not be outside the range of 6.0 to 9.0. The limits may be adjusted (up or down) by permit action if more accurate information regarding pH becomes available.

SCHEDULE B

1. **Quality Assurance/Quality Control**

The permittee shall monitor the parameters as specified below at the locations indicated. The laboratory used by the permittee to analyze samples shall have a quality assurance/quality control (QA/QC) program to verify the accuracy of sample analysis. If QA/QC requirements are not met for any analysis, the results shall be included in the report, but not used in calculations required by this permit. When possible, the permittee shall re-sample in a timely manner for parameters failing the QA/QC requirements, analyze the samples, and report the results.

2. **Minimum Monitoring and Reporting Requirements to be met after permit issuance during operation of the existing complete mix activated sludge plant.** (unless otherwise approved in writing by the Department)

a. Influent

Item or Parameter	Minimum Frequency	Type of Sample
$CBOD_5$	2/Week	24-hour Composite
TSS	2/Week	24-hour Composite
pH	3/Week	Grab
Toxics: Metals (Ag, As, Cd, Cr, Cu, Hg, Mo, Ni, Pb, Se, Zn) & Cyanide measured as total is mg/l (See Note 1/)	Semi-Annually using 3 consecutive days between Monday and Friday, inclusive	24-hour daily composite (See Note 2/)

b. Outfall Number 001 (Sewage Treatment Plant Discharge)

Item or Parameter	Minimum Frequency	Type of Sample
Total Flow (MGD)	Daily	Measurement
Flow Meter Calibration	Semi-Annually	Verification
$CBOD_5$	2/Week	24-hour Composite
Ammonia-N	2/Week	24-hour Composite
TSS	2/Week	24-hour Composite
pH	3/Week	Grab
Dissolved Oxygen	2/Week	Grab
Temperature	2/Week	Measurement
E. coli	2/Week	Grab (See Note 3/)
Quantity Chlorine Used	Daily	Measurement
Chlorine Residual	Daily	Grab
Pounds Discharged ($CBOD_5$ and TSS)	2/Week	Calculation
Average Percent Removed ($CBOD_5$ and TSS)	Monthly	Calculation
Nutrients: TKN, NO_2+NO_3-N, Total Phosphorus	1/Week (May-Oct)	24-hour Composite
Toxics: Metals (Ag, As, Cd, Cr, Cu, Hg, Mo, Ni, Pb, Se, Zn) & Cyanide, measured as total is mg/l (See Note 1/)	Semi-Annually using 3 consecutive days between Monday and Friday, inclusive	24-hour daily composite (See Note 2/)
Bioassay (See Note 4/)	Quarterly	Acute & chronic bioassay

ATT 1 - 6

c. Rickreall Creek (See Note 8/)

Item or Parameter	Minimum Frequency	Type of Sample
Flow (upstream)	Daily	Measurement
Temperature (upstream)	2/Week (May-October)	Measurement
Temperature (downstream)	2/Week (May-October)	Measurement

d. Biosolids Management

Item or Parameter	Minimum Frequency	Type of Sample
Biosolids analysis including: Total Solids (% dry wt.) Volatile solids (% dry wt.) NH_3-N; NO_3-N; & TKN (% dry wt.) Potassium (% dry wt.) pH (standard units) Biosolids metals content for: Ag, As, Cd, Cr, Cu, Hg, Mo, Ni, Pb, Se & Zn, measured as total in mg/kg	Annually	Composite sample to be representative of the product to be land storage lagoons (See Note 5/)
Record of % volatile solids reduction accomplished through stabilization.	Annually	Calculation (See Note 6/)
Record of locations where biosolids are applied on each DEQ approved site. (Site location maps to be maintained at treatment facility for review upon request by DEQ)	Each Occurrence	Date, volume & locations where biosolids were applied recorded on site location map

e. Outfall 002 and 003 (Emergency Overflows)

Item or Parameter	Minimum Frequency	Type of Sample
Flow	Daily (during each occurrence)	Estimate duration and volume

3. **Minimum Monitoring and Reporting Requirements to be met after the permittee has completed construction of treatment and disposal system improvements necessary to meet permit requirements listed in SCHEDULE A.2.** (unless otherwise approved in writing by the Department)

a. Influent

Item or Parameter	Minimum Frequency	Type of Sample
$CBOD_5$	2/Week	24-hour Composite
TSS	2/Week	24-hour Composite
pH	3/Week	Grab
Toxics: Metals (Ag, As, Cd, Cr, Cu, Hg, Mo, Ni, Pb, Se, Zn) & Cyanide, measured as total is mg/l (See Note 1/)	Semi-Annually using 3 consecutive days between Monday and Friday, inclusive	24-hour daily composite (See Note 2/)

b. Outfall Number 001 (Sewage Treatment Plant Discharge)

Item or Parameter	Minimum Frequency	Type of Sample
Total Flow (MGD)	Daily	Measurement
Flow Meter Calibration	Semi-Annual	Verification
$CBOD_5$	2/Week	24-hour Composite
Ammonia-N	2/Week	24-hour Composite
TSS	2/Week	24-hour Composite
pH	Daily	Continuous

ATT 1-7

b. Outfall Number 001 (Sewage Treatment Plant Discharge [Continued])

Item or Parameter	Minimum Frequency	Type of Sample
Dissolved Oxygen	2/Week	Grab
Temperature	2/Week	Measurement
E. coli	2/Week	Grab (See Note 3/)
UV Radiation Percent Intensity	Daily	Reading (See Note 7/)
Pounds Discharged ($CBOD_5$ and TSS)	2/Week	Calculation
Average Percent Removed ($CBOD_5$ and TSS)	Monthly	Calculation
Nutrients: TKN, NO_2+NO_3-N, Total Phosphate	1/Week (May-Oct)	24-hour Composite
Toxics: Metals (Ag, As, Cd, Cr, Cu, Hg, Mo, Ni, Pb, Se, Zn) & Cyanide, measured as total is mg/l (See Note 1/)	Semi-Annually using 3 consecutive days between Monday and Friday, inclusive	24-hour daily composite (See Note 2/)
Bioassay (See Note 4/)	Quarterly	Acute & chronic bioassay

c. Rickreall Creek (See Note 8/)

Item or Parameter	Minimum Frequency	Type of Sample
Flow (upstream)	Daily	Measurement
Temperature (upstream)	2/Week (May-October)	Measurement
Temperature (downstream)	2/Week (May-October)	Measurement

d. Biosolids Management

Item or Parameter	Minimum Frequency	Type of Sample
Biosolids analysis including: Total Solids (% dry wt.) Volatile solids (% dry wt.) Biosolids nitrogen for: NH_3-N; NO_3-N; & TKN (% dry wt.) Phosphorus (% dry wt.) Potassium (% dry wt.) pH (standard units) Biosolids metals content for: Ag, As, Cd, Cr, Cu, Hg, Mo, Ni Pb, Se & Zn, measured as total in mg/kg	Annually	Composite sample to be representative of the product to be land applied from the sludge storage lagoon (See Note 5/)
Record of % volatile solids reduction accomplished through stabilization.	Annually	Calculation (See Note 6/)
Record of locations where biosolids are applied on each DEQ approved site. (Site location maps to be maintained at treatment facility for review upon request by DEQ)	Each Occurrence	Date, volume & locations where biosolids were applied recorded on site location map

e. Outfall 002 and 003 (Emergency Overflows)

Item or Parameter	Minimum Frequency	Type of Sample
Flow	Daily (during each occurrence)	Estimate duration and volume

4. Reporting Procedures

a. Monitoring results shall be reported on approved forms. The reporting period is the calendar month. Reports must be submitted to the Department's Western Region - Salem office by the 15th day of the following month.

b. State monitoring reports shall identify the name, certificate classification and grade level of each principal operator designated by the permittee as responsible for supervising the wastewater collection and treatment systems during the reporting period. Monitoring reports shall also identify each system classification as found on page one of this permit.

c. Monitoring reports shall also include a record of the quantity and method of use of all biosolids removed from the treatment facility and a record of all applicable equipment breakdowns and bypassing.

5. Report Submittals

a. The permittee shall have in place a program to identify and reduce inflow and infiltration into the sewage collection system. An annual report shall be submitted to the Department by January 15 each year which details sewer collection maintenance activities that reduce inflow and infiltration. The report shall state those activities that have been done in the previous year and those activities planned for the following year.

b. For any year in which biosolids are land applied, a report shall be submitted to the Department by February 19 of the following year that describes solids handling activities for the previous year and includes, but is not limited to, the required information outlined in OAR 340-50-035(6)(a)-(e).

NOTES:

1/ For influent and effluent cyanide samples, at least six (6) discrete grab samples shall be collected over the operating day. Each aliquot shall not be less than 100 ml and shall be collected and composited into a larger container which has been preserved with sodium hydroxide for cyanide samples to insure sample integrity.

2/ Daily 24-hour composite samples shall be analyzed and reported separately. Toxic monitoring results and toxics removal efficiency calculations shall be tabulated and submitted with the Pretreatment Program Annual Report as required in Schedule E. Submittal of toxic monitoring results with the monthly Discharge Monitoring Report is not required.

3/ *E. coli* monitoring must be conducted according to any of the following test procedures as specified in **Standard Methods for the Examination of Water and Wastewater, 19th Edition**, or according to any test procedure that has been authorized and approved in writing by the Director or his authorized representative:

Method	Reference	Page	Method Number
mTEC agar,	MF Standard Methods, 19th Edition	9-28	9213 D
NA-MUG, MF	Standard Methods, 19th Edition	9-63	9222 G
Chromogenic Substrate, MPN	Standard Methods, 19th Edition	9-65	9223 B
Colilert QT	Idexx Laboratories, Inc.		

4/ Beginning no later than January 2001, the permittee shall conduct bioassay testing for a period of one (1) year in accordance with the frequency specified above. If the bioassay tests show that the effluent samples are not toxic at the dilutions determined to occur at the Zone of Immediate Dilution and the Mixing Zone, no further bioassay testing will be required during this permit cycle. Note that bioassay test results will be required along with the next NPDES permit renewal application.

5/ Composite samples from the sludge storage lagoon shall be taken from reference areas in the sludge storage lagoon pursuant to Test Methods for Evaluating Solid Waste, Volume 2: Field Manual, Physical/Chemical Methods, November 1986, Third Edition, Chapter 9.

Inorganic pollutant monitoring must be conducted according to Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Second Edition (1982) with Updates I and II and third Edition (1986) with Revision I.

ATT 1 - 9

6/ Calculation of the % volatile solids reduction is to be based on comparison of a representative grab sample of total and volatile solids entering the digester and a representative composite sample of solids removed from the sludge storage lagoon (as defined in note 5 above).

7/ The intensity of radiation emitted by a bank of UV lamps will decrease over time. As intensity decreases, its ability to kill organisms will also decrease. To track the reduction in intensity, the UV disinfection system must include a UV intensity meter. This meter will measure the relative intensity of a bank of UV lamps as compared to a baseline. The baseline should be established after the first 100 hours of burn-in time on the lamps. At 100 hours, the meter should be set at 99.9%. The daily percent UV intensity would then be determined by reading the meter each day.

8/ Rickreall Creek flow and temperature shall be obtained upstream from the outfall location. The downstream Rickreall Creek temperature shall be taken at the edge of the mixing zone and from within the effluent plume. All measurements shall be instantaneous values measured within a one (1) hour period.

SCHEDULE C

Compliance Schedules and Conditions

1. Within 90 days of permit issuance, the permittee shall submit to the Department for review and approval a report that describes procedures for handling, transporting, and disposal of rags, grit, scum and screenings generated at the treatment facility. Upon written approval from the Department, the permittee shall conform with the approved procedures. Modified procedures may be followed upon prior approval in writing by the Department.

2. By no later than ninety (90) days after permit issuance, the permittee shall submit to the Department an updated biosolids management plan developed in accordance with Oregon Administrative Rule 340, Division 50, "Land Application of Domestic Wastewater Treatment Facility Biosolids, Biosolids Derived Products, and Domestic Septage". Upon approval of the plan by the Department, the plan shall be implemented by the permittee.

3. By no later than 12 months after permit issuance, the permittee shall submit either an engineering evaluation which demonstrates the design average wet weather flow, or a request to retain the existing mass load limits. The design average wet weather flow is defined as the average flow between November 1 and April 30 when the sewage treatment facility is projected to be at design capacity for that portion of the year. Upon acceptance by the Department of the design average wet weather flow determination, the permittee may request a permit modification to include higher winter mass loads based on the design average wet weather flow.

4. By no later than two (2) years after permit issuance, the permittee shall develop a temperature management plan in accordance with the Department's guidance and submit to the Department for approval. By no later than two (2) years after Department approval of the temperature management plan, the permittee shall implement the plan.

5. By no later than one (1) year after permit issuance, the permittee must conduct engineering studies to flow map the entire collection system, by subbasin, and identify all sewer system overflow points. Unless otherwise approved in writing by the Department, all inflow sources must be identified.

6. Unless otherwise approved in writing by the Department, all inflow sources identified in Condition 5 of this Schedule are to be permanently disconnected from the sanitary sewer system. A program and proposed time schedule for removing inflow sources shall be submitted to the Department for approval at the same time as the engineering studies specified in Condition 5.

7. The permittee is expected to meet the compliance dates which have been established in this schedule. Either prior to or no later than 14 days following any lapsed compliance date, the permittee shall submit to the Department a notice of compliance or noncompliance with the established schedule. The Director may revise a schedule of compliance if he determines good and valid cause resulting from events over which the permittee has little or no control.

SCHEDULE D

Special Conditions

1. 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.

2. All biosolids or septage shall be managed in accordance with the current biosolids or septage management plan approved by the Department and the site authorization letters issued by the Department. The biosolids or septage management plan shall be kept current and remain on file with the permit. No substantial changes shall be made in solids management activities which significantly differ from operations specified under the approved plan without the prior written approval of the Department.

   If sludge is applied as final cover at the landfill as a reclamation practice (at greater than agronomic rates), the Permittee must obtain approval from the EPA. Proper sludge monitoring would be prescribed by the approval. Biosolids monitoring required under Schedule B, Condition 2.d. and Condition 3.d. would not apply.

   If biosolids are disposed of in a landfill cell or are used as interim cover, disposal must be in accordance with OAR Chapter 340, Division 93. Proper waste monitoring would be prescribed by that rule. Biosolids monitoring required under Schedule B, Condition 2.d. and Condition 3.d. would not apply.

3. The permittee shall comply with Oregon Administrative Rules (OAR), Chapter 340, Division 49, "Regulations Pertaining To Certification of Wastewater System Operator Personnel" and accordingly:

   a. The permittee shall have its wastewater system supervised by one or more operators who are certified in a classification and grade level (equal to or greater) that corresponds with the classification (collection and/or treatment) of the system to be supervised as specified on page one of this permit.

Note: A "supervisor" is defined as the person exercising authority for establishing and executing the specific practice and procedures of operating the system in accordance with the policies of the permittee and requirements of the waste discharge permit. "Supervise" means responsible for the technical operation of a system, which may affect its performance or the quality of the effluent produced. Supervisors are not required to be on-site at all times.

   b. The permittee's wastewater system may not be without supervision (as required by Special Condition 3.a. above) for more than thirty (30) days. During this period, and at any time that the supervisor is not available to respond on-site (i.e. vacation, sick leave or off-call), the permittee must make available another person who is certified at no less than one grade lower then the system classification.

   c. If the wastewater system has more than one daily shift, the permittee shall have the shift supervisor, if any, certified at no less than one grade lower than the system classification.

   d. The permittee is responsible for ensuring the wastewater system has a properly certified supervisor available at all times to respond on-site at the request of the permittee and to any other operator.

   e. The permittee shall notify the Department of Environmental Quality in writing within thirty (30) days of replacement or redesignation of certified operators responsible for supervising wastewater system operation. The notice shall be filed with the Water Quality Division, Operator Certification Program, 811 SW 6th Ave., Portland, OR 97204. This requirement is in addition to the reporting requirements contained under Schedule B of this permit.

   f. Upon written request, the Department may grant the permittee reasonable time, not to exceed 120 days, to obtain the services of a qualified person to supervise the wastewater system. The written request must include justification for the time needed, a schedule for recruiting and hiring, the date the system supervisor availability ceased and the name of the alternate system supervisor(s) as required by 3.b. above.

4. Bioassay

a. The permittee shall conduct chronic whole effluent toxicity bioassay tests of outfall 001 in accordance with the frequency specified in Schedule B with Ceriodaphnia dubia (water flea), Pimephales promelas (fathead minnow) and Selanastrum capricornutum (green alga).

b. Bioassay tests may be dual end-point tests in which both acute and chronic end-points can be determined from the results of a single chronic test (the acute end-point shall be based upon a 48-hour time period).

c. Bioassay shall be conducted in accordance with Short-Term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Waters to Freshwater Organisms, Third Edition, EPA-600-4-91-002, July 1994 and Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fourth Edition, EPA/600/4-90/027F. Quality assurance criteria, statistical analyses and data reporting for the bioassays shall be in accordance with the EPA document and Department requirements for chronic testing referenced above.

d. The permittee shall make available to the Department, on request, the written standard operating procedures they, or the laboratory performing the bioassays, are using for all toxicity tests required by the Department.

e. An acute bioassay test shall be considered to show toxicity if there is statistically significant difference in survival between the control and 100 percent effluent, unless the permit specifically provides for a Zone of Immediate Dilution (ZID) for biotoxicity. If the permit specifies such a ZID, acute toxicity shall be indicated when a statistically significant difference in survival occurs at dilutions greater than that which is found to occur at the edge of the ZID.

f. A chronic bioassay test shall be considered to show toxicity if a statistically significant difference in survival occurs at dilutions greater than that which is known to occur at the edge of the mixing zone. If there is no dilution data for the edge of the mixing zone, any chronic bioassay test that shows a statistically significant effect in 100 percent effluent as compared to the control shall be considered to show toxicity.

g. If toxicity is shown, as defined in sections (e) or (f) of this permit condition, another toxicity test using the same species and Department approved methodology shall be conducted within two weeks of receipt of results, unless otherwise approved by the Department. If the second test also indicates toxicity, the permittee shall follow the procedure described in section (h) of this permit condition.

h. If two consecutive bioassay test results indicate acute and/or chronic toxicity, as defined in sections (e) or (f) of this permit condition, the permittee shall evaluate the source of the toxicity and submit a plan and time schedule for demonstrating compliance with water quality standards. Upon approval by the Department, the permittee shall implement the plan until compliance has been achieved. Evaluations shall be completed and plans submitted to the Department within 6 months unless otherwise approved in writing by the Department.

i. If bioassay testing indicates acute and/or chronic toxicity, the Department may reopen and modify this permit to include new limitations and/or conditions as determined by the Department to be appropriate, and in accordance with procedures outlined in Oregon Administrative Rules, Chapter 340, Division 45.

5. Prior to increasing thermal load from the facility (design flow or temperature), the Permittee shall notify the Department in writing and obtain necessary approval.

6. The permittee shall notify the DEQ Western Region - Salem Office (phone: 378-8240) in accordance with the response times noted in the General Conditions of this permit, of any malfunction so that corrective action can be coordinated between the permittee and the Department.

SCHEDULE E

Pretreatment Activities

The permittee shall implement the following pretreatment activities:

1. The permittee shall conduct and enforce its Pretreatment Program, as approved by the Department, and comply with the General Pretreatment Regulations (40 CFR Part 403). The permittee shall secure and maintain sufficient resources and qualified personnel to carry out the program implementation procedures described in this permit.

2. The permittee shall adopt all legal authority necessary to fully implement its approved pretreatment program and to comply with all applicable State and Federal pretreatment regulations. The permittee must also establish, where necessary, contracts or agreements with contributing jurisdictions to ensure compliance with pretreatment requirements by industrial users within these jurisdictions. These contracts or agreements shall identify the agency responsible for all implementation and enforcement activities to be performed in the contributing jurisdictions. Regardless of jurisdictional situation, the permittee is responsible for ensuring that all aspects of the pretreatment program are fully implemented and enforced.

3. The permittee shall update its inventory of industrial users at a frequency and diligence adequate to ensure proper identification of industrial users subject to pretreatment standards, but no less than once per year. The permittee shall notify these industrial users of applicable pretreatment standards in accordance with 40 CFR § 403.8(f)(2)(iii).

4. The permittee shall enforce categorical pretreatment standards promulgated pursuant to Section 307(b) and (c) of the Act, prohibited discharge standards as set forth in 40 CFR § 403.5(a) and (b), or local limitations developed by the permittee in accordance with 40 CFR § 403.5(c), whichever are more stringent, or are applicable to nondomestic users discharging wastewater to the collection system. Locally derived discharge limitations shall be defined as pretreatment standards under Section 307(d) of the Act.

   A technical evaluation of the need to revise local limits shall be performed at least once during the term of this permit and must be submitted to the Department as part of the Permittee's NPDES permit application, unless the Department requires in writing that it be submitted sooner. Limits development will be in accordance with the procedures established by the Department.

5. The permittee shall issue individual discharge permits to all Significant Industrial Users in a timely manner. The permittee shall also reissue and/or modify permits, where necessary, in a timely manner. Discharge permits must contain, at a minimum, the conditions identified in 40 CFR § 403.8(f)(1)(iii). Unless a more stringent definition has been adopted by the permittee, the definition of Significant Industrial User shall be as stated in 40 CFR § 403.3(t).
6. The permittee shall randomly sample and analyze industrial user effluents at a frequency commensurate with the character, consistency, and volume of the discharge. At a minimum, the permittee shall sample all Significant Industrial Users for all regulated pollutants twice per year, and shall conduct a complete facility inspection once per year. Additionally, at least once every two years the permittee shall evaluate the need for each Significant Industrial User to develop a slug control plan. Where a plan is deemed necessary, it shall conform to the requirements of 40 CFR § 403.8(f)(2)(v).

   Where the permittee elects to conduct all industrial user monitoring in lieu of requiring self-monitoring by the user, the permittee shall gather all information which would otherwise have been submitted by the user. The permittee shall also perform the sampling and analyses in accordance with the protocols established for the user.

   Sample collection and analysis, and the gathering of other compliance data, shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions. Unless specified otherwise by the Director in writing, all sampling and analyses shall be performed in accordance with 40 CFR Part 136.

7. The permittee shall review reports submitted by industrial users and identify all violations of the user's permit or the Permittee's local ordinance.

8. The permittee shall investigate all instances of industrial user noncompliance and shall take all necessary steps to return users to compliance. The Permittee's enforcement actions shall track its approved Enforcement Response Plan, developed in accordance with 40 CFR § 403.8(f)(5). If the permittee has not developed an approved Enforcement Response Plan, it shall develop and submit a draft to the Department for review within 90 days of the issuance of this permit.

9. The permittee shall publish, at least annually in the largest daily newspaper published in the Permittee's service area, a list of all industrial users which, at any time in the previous 12 months, were in Significant Noncompliance with applicable pretreatment requirements. For the purposes of this requirement, an industrial user is in Significant Noncompliance if it meets one or more of the criteria listed in 40 CFR 403.8(f)(2)(vii).

10. The permittee must develop and maintain a data management system designed to track the status of the industrial user inventory, discharge characteristics, and compliance. In accordance with 40 CFR § 403.12(o), the permittee shall retain all records relating to pretreatment program activities for a minimum of three years, and shall make such records available to the Department and USEPA upon request. The permittee shall also provide public access to information considered effluent data under 40 CFR Part 2.

11. The permittee shall submit by March 1 of each year, a report that describes the Permittee's pretreatment program during the previous calendar year. The content and format of this report shall be as established by the Department.

12. The permittee shall submit in writing to the Department a statement of the basis for any proposed modification of its approved program and a description of the proposed modification in accordance with 40 CFR § 403.18(b). No substantial program modifications may be implemented by the permittee prior to receiving written authorization from the Department.

SCHEDULE F

NPDES GENERAL CONDITIONS

SECTION A. STANDARD CONDITIONS

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of Oregon Revised Statutes (ORS) 468B.025 and is grounds for enforcement action; for permit termination, suspension, or modification; or for denial of a permit renewal application.

2. Penalties for Water Pollution and Permit Condition Violations

Oregon Law (ORS 468.140) allows the Director to impose civil penalties up to $10,000 per day for violation of a term, condition, or requirement of a permit.

Under ORS 468.943, unlawful water pollution, if committed by a person with criminal negligence, is punishable by a fine of up to $25,000 or by imprisonment for not more than one year, or by both. Each day on which a violation occurs or continues is a separately punishable offense.

Under ORS 468.946, a person who knowingly discharges, places or causes to be placed any waste into the waters of the state or in a location where the waste is likely to escape into the waters of the state, is subject to a Class B felony punishable by a fine not to exceed $200,000 and up to 10 years in prison.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. In addition, upon request of the Department, the permittee shall correct any adverse impact on the environment or human health resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

4. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and have the permit renewed. The application shall be submitted at least 180 days before the expiration date of this permit.

The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date.

5. Permit Actions

This permit may be modified, suspended, revoked and reissued, or terminated for cause including, but not limited to, the following:

a. Violation of any term, condition, or requirement of this permit, a rule, or a statute;

b. Obtaining this permit by misrepresentation or failure to disclose fully all material facts; or

c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

The filing of a request by the permittee for a permit modification or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. Toxic Pollutants

The permittee shall comply with any applicable effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

7. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege.

8. Permit References

Except for effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act, all rules and statutes referred to in this permit are those in effect on the date this permit is issued.

SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Duty to Halt or Reduce Activity

For industrial or commercial facilities, upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced or lost. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Bypass of Treatment Facilities

a. Definitions

(1) "Bypass" means intentional diversion of waste streams from any portion of the treatment facility. The term "bypass" does not include nonuse of singular or multiple units or processes of a treatment works when the nonuse is insignificant to the quality and/or quantity of the effluent produced by the treatment works. The term "bypass" does not apply if the diversion does not cause effluent limitations to be exceeded, provided the diversion is to allow essential maintenance to assure efficient operation.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities or treatment processes which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Prohibition of bypass.

(1) Bypass is prohibited unless:

(a) Bypass was necessary to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(c) The permittee submitted notices and requests as required under General Condition B.3.c.

(2) The Director may approve an anticipated bypass, after considering its adverse effects and any alternatives to bypassing, when the Director determines that it will meet the three conditions listed above in General Condition B.3.b.(1).

c. Notice and request for bypass.

(1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior written notice, if possible at least ten days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in General Condition D.5.

4. Upset

a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operation error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of General Condition B.4.c are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the causes(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in General Condition D.5, hereof (24-hour notice); and

(4) The permittee complied with any remedial measures required under General Condition A.3 hereof.

d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Treatment of Single Operational Event

For purposes of this permit, A Single Operational Event which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation. A single operational event is an exceptional incident which causes simultaneous, unintentional, unknowing (not the result of a knowing act or omission), temporary noncompliance with more than one Clean Water Act effluent discharge pollutant parameter. A single operational event does not include Clean Water Act violations involving discharge without a NPDES permit or noncompliance to the extent caused by improperly designed or inadequate treatment facilities. Each day of a single operational event is a violation.

6. Overflows from Wastewater Conveyance Systems and Associated Pump Stations

a. Definitions

(1) "Overflow" means the diversion and discharge of waste streams from any portion of the wastewater conveyance system including pump stations, through a designed overflow device or structure, other than discharges to the wastewater treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the conveyance system or pump station which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of an overflow.

(3) "Uncontrolled overflow" means the diversion of waste streams other than through a designed overflow device or structure, for example to overflowing manholes or overflowing into residences, commercial establishments, or industries that may be connected to a conveyance system.

b. Prohibition of overflows. Overflows are prohibited unless:

(1) Overflows were unavoidable to prevent an uncontrolled overflow, loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the overflows, such as the use of auxiliary pumping or conveyance systems, or maximization of conveyance system storage; and

(3) The overflows are the result of an upset as defined in General Condition B.4. and meeting all requirements of this condition.

c. Uncontrolled overflows are prohibited where wastewater is likely to escape or be carried into the waters of the State by any means.

d. Reporting required. Unless otherwise specified in writing by the Department, all overflows and uncontrolled overflows must be reported orally to the Department within 24 hours from the time the permittee becomes aware of the overflow. Reporting procedures are described in more detail in General Condition D.5.

7. Public Notification of Effluent Violation or Overflow

If effluent limitations specified in this permit are exceeded or an overflow occurs, upon request by the Department, the permittee shall take such steps as are necessary to alert the public about the extent and nature of the discharge. Such steps may include, but are not limited to, posting of the river at access points and other places, news releases, and paid announcements on radio and television.

8. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in such a manner as to prevent any pollutant from such materials from entering public waters, causing nuisance conditions, or creating a public health hazard.

SECTION C. MONITORING AND RECORDS

1. Representative Sampling

Sampling and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit and shall be taken, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Director.

2. Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than ± 10 percent from true discharge rates throughout the range of expected discharge volumes.

3. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

4. Penalties of Tampering

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than two years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person, punishment is a fine not more than $20,000 per day of violation, or by imprisonment of not more than four years or both.

5. Reporting of Monitoring Results

Monitoring results shall be summarized each month on a Discharge Monitoring Report form approved by the Department. The reports shall be submitted monthly and are to be mailed, delivered or otherwise transmitted by the 15th day of the following month unless specifically approved otherwise in Schedule B of this permit.

6. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report. Such increased frequency shall also be indicated. For a pollutant parameter that may be sampled more than once per day (e.g., Total Chlorine Residual), only the average daily value shall be recorded unless otherwise specified in this permit.

7. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean, except for bacteria which shall be averaged as specified in this permit.

8. Retention of Records

Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records of all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

9. Records Contents

Records of monitoring information shall include:

a. The date, exact place, time and methods of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) analyses were performed;

ATT 1-20

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

10. Inspection and Entry

The permittee shall allow the Director, or an authorized representative upon the presentation of credentials to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and

d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by state law, any substances or parameters at any location.

SECTION D. REPORTING REQUIREMENTS

1. Planned Changes

The permittee shall comply with Oregon Administrative Rules (OAR) 340, Division 52, "Review of Plans and Specifications". Except where exempted under OAR 340-52, no construction, installation, or modification involving disposal systems, treatment works, sewerage systems, or common sewers shall be commenced until the plans and specifications are submitted to and approved by the Department. The permittee shall give notice to the Department as soon as possible of any planned physical alternations or additions to the permitted facility.

2. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers

This permit may be transferred to a new permittee provided the transferee acquires a property interest in the permitted activity and agrees in writing to fully comply with all the terms and conditions of the permit and the rules of the Commission. No permit shall be transferred to a third party without prior written approval from the Director. The permittee shall notify the Department when a transfer of property interest takes place.

4. Compliance Schedule

Reports of compliance or noncompliance with, or any progress reports on interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date. Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirements.

5. Twenty-Four Hour Reporting

The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally (by telephone) within 24 hours, unless otherwise specified in this permit, from the time the permittee becomes aware of the circumstances. During normal business hours, the Department's Regional office shall be called. Outside of normal business hours, the Department shall be contacted at 1-800-452-0311 (Oregon Emergency Response System).

A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. If the permittee is establishing an affirmative defense of upset or bypass to any offense under ORS 468.922 to 468.946, and in which case if the original reporting notice was oral, delivered written notice must be made to the Department or other agency with regulatory jurisdiction within 4 (four) calendar days. The written submission shall contain:

a. A description of the noncompliance and its cause;

b. The period of noncompliance, including exact dates and times;

c. The estimated time noncompliance is expected to continue if it has not been corrected;

d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and

e. Public notification steps taken, pursuant to General Condition B.7.

The following shall be included as information which must be reported within 24 hours under this paragraph:

a. Any unanticipated bypass which exceeds any effluent limitation in this permit.

b. Any upset which exceeds any effluent limitation in this permit.

c. Violation of maximum daily discharge limitation for any of the pollutants listed by the Director in this permit.

The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

6. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under General Condition D.4 or D.5, at the time monitoring reports are submitted. The reports shall contain:

a. A description of the noncompliance and its cause;

b. The period of noncompliance, including exact dates and times;

c. The estimated time noncompliance is expected to continue if it has not been corrected; and

d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

7. Duty to Provide Information

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

Other Information: When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Department, it shall promptly submit such facts or information.

8. Signatory Requirements

All applications, reports or information submitted to the Department shall be signed and certified in accordance with 40 CFR 122.22.

9. Falsification of Reports

Under ORS 468.953, any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, is subject to a Class C felony punishable by a fine not to exceed $100,000 per violation and up to 5 years in prison.

ATT 1-22

10. Changes to Indirect Dischargers - **[Applicable to Publicly Owned Treatment Works (POTW) only]**

The permittee must provide adequate notice to the Department of the following:

a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of the Clean Water Act if it were directly discharging those pollutants and;

b. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.

c. For the purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

11. Changes to Discharges of Toxic Pollutant - **[Applicable to existing manufacturing, commercial, mining, and silvicultural dischargers only]**

The permittee must notify the Department as soon as they know or have reason to believe of the following:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels:

(1) One hundred micrograms per liter (100 mg/l);

(2) Two hundred micrograms per liter (200 mg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 mg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(3) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or

(4) The level established by the Department in accordance with 40 CFR 122.44(f).

b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(1) Five hundred micrograms per liter (500 mg/l);

(2) One milligram per liter (1 mg/l) for antimony;

(3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or

(4) The level established by the Department in accordance with 40 CFR 122.44(f).

SECTION E. DEFINITIONS

1. BOD means five-day biochemical oxygen demand.

2. TSS means total suspended solids.

3. mg/l means milligrams per liter.

4. kg means kilograms.

5. m^3/d means cubic meters per day.

6. MGD means million gallons per day.

7. Composite sample means a sample formed by collecting and mixing discrete samples taken periodically and based on time or flow.

8. FC means fecal coliform bacteria.

9. Technology based permit effluent limitations means technology-based treatment requirements as defined in 40 CFR 125.3, and concentration and mass load effluent limitations that are based on minimum design criteria specified in OAR 340-41.

10. CBOD means five day carbonaceous biochemical oxygen demand.

11. Grab sample means an individual discrete sample collected over a period of time not to exceed 15 minutes.

12. Quarter means January through March, April through June, July through September, or October through December.

13. Month means calendar month.

14. Week means a calendar week of Sunday through Saturday.

15. Total residual chlorine means combined chlorine forms plus free residual chlorine.

16. The term "bacteria" includes but is not limited to fecal coliform bacteria, total coliform bacteria, and E. coli bacteria.

17. POTW means a publicly owned treatment works.

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8/26/97 ld

Attachment 2

State of Oregon
Department of Environmental Quality

Memorandum

Date: October 20, 1997

To: Environmental Quality Commission

From: Barbara Burton and Mark Hamlin

Subject: Summary of Comments Received and Department Response

A public comment period was open to receive written comments relating to the City of Dallas proposed NPDES permit, proposed modification of the TMDL, and proposed modification of the Stipulation and Final Order. A public hearing was held to receive verbal testimony. The Department received one written comment by the deadline specified in the chance to comment public notice, and no one testified at the hearing. In addition, one written comment was received after the close of the public comment period, and was not considered. The following summarizes the main comments made by the one commenter filing timely comments, and the Department's response.

Comment: Oregon Department of Fish and Wildlife improperly classified the lower Rickreall Creek as cool water fisheries in the summer and fall and does not have valid reasons for doing so. DEQ should therefore change the designation to cold water fisheries.

Response: The Oregon Department of Fish and Wildlife's findings have been supported by the following: computer modeling of stream temperatures, showing excessive temperatures in the summer which would preclude spawning/rearing in that reach; a survey of the physical habitat, which demonstrated little suitable habitat for spawning and rearing; and a bioassessment immediately upstream of the outfall. All these support the finding that the lower Rickreall Creek is not suitable for salmonid spawning and rearing.

Comment: Objection is made to the waiver of the dilution requirement. The waiver would allow the City to violate the temperature standard. The commenter also stated that errors were made in the calculations in the evaluation report.

Response: Waiver of the dilution rule will not allow a violation of the temperature standard. The temperature standard includes as part of the standard a procedure for allowing temperatures higher than 64 degrees, provided that certain conditions are met including a demonstration of no significant impact on beneficial uses. The waiver of the dilution rule is unrelated to the temperature standard.

The mathematical formula used by the Department to calculate compliance with the minimum design criteria for dilution, toxicity allocations and other purposes has not changed and is in compliance with the rule. The formula is: (upstream flow + effluent flow) / effluent flow.

Comment: The design flows cited in the evaluation report are not consistent with those shown in the City's facilities plan.

Response: The design flows for the proposed wastewater treatment plant were adjusted after further computer modeling was performed during the predesign process. The revised flows were documented in a technical memorandum to the Department dated March 31, 1997. The new design flows appear to be reasonable and are acceptable to the Department. It should be noted that regardless of the design or actual flows discharged, compliance with the permit will result in compliance with water quality standards.

Comment: Taking the discharge out of the stream would be disastrous both to aquatic life and downstream farmers.

Response: The City is not proposing to take the discharge out of the stream.

Comment: Rickreall Creek is already severely degraded from original stream conditions. The permit proposed will allow continued degradation of the stream, and will interfere with restoration efforts.

Response: There is no question that Rickreall Creek has been negatively impacted by a variety of human activities. Riparian zone restoration efforts, and increasing stream flows through a variety of methods would be beneficial. The proposed permit should not in any way impact other restoration activities. The City is proposing to make a very large investment in significantly improving the effluent discharged, and if anything, this should spur other landowners to "step up" and make improvements in their own management practices. The proposed treatment plant is expected to meet all water quality standards, and will not impair the beneficial uses of the creek.

It is possible that if efforts are successful to reduce stream temperatures upstream, and to significantly restore and improve habitat downstream, that the City's effluent could then become significant. If this is so, in the future other treatment or discharge alternatives may be considered. At this point, the City is proposing a "state of the art" treatment plant. If and when further improvements in effluent quality are needed, there may well be other technology available that is not now developed.

Comment: The City should be required to augment summer flows in Rickreall Creek, or continue its restrictions on additional sewer system connections until a plan is developed to augment flows.

Response: It is not the City's responsibility to provide additional flows in Rickreall Creek, nor can the Department require that they do so. The proposed permit and associated documents are

fully protective of beneficial uses, and complies with both state and federal water quality requirements.

Comment: The Department should detail what is required in the temperature management plan and allow the public time to review and comment.

Response: The permit condition clearly states when the temperature management plan must be submitted and implemented and that is must conform to Department guidance. The public may review the plan once it is submitted but a public comment period is not required.

ATTACHMENT 3

Oregon

DEPARTMENT OF
FISH AND
WILDLIFE

NORTHWEST
REGIONAL OFFICE

February 27, 1995

Barbara Burton
Department of Environmental Quality
750 Front Street NE, Suite 120
Salem, Oregon 97310

RE: Rickreall Creek: City of Dallas Waste Discharge

Dear Richard:

DEQ's efforts to insure protection of water quality in Rickreall Creek are appreciated. Given the circumstances that have developed as a result of DEQ's decision to apply the "salmonid producing" water quality standard to mainstem Rickreall Creek below the City of Dallas' sewage treatment plant near river mile 10, we believe it is important for us to clarify the timing and location of use by salmonids there.

The Rickreall Creek Basin supports good populations of cutthroat trout and steelhead in the upper watershed where instream habitat and water quality are suited for these species. The stream reach below the City's plant provides a migratory route to the upper basin for steelhead and trout on their spawning journey during the winter months when stream flows are higher.

While DEQ and ODFW agree there is some potential for salmonids to spawn in lower Rickreall Creek, that potential is limited and actual occurrence of spawning has not been documented there. The lower portions of Rickreall Creek receive either little or no use by salmonids for rearing during the low flow period in the summer and fall months. The stream below the City of Dallas' sewage treatment plant contains a mix of species such as sculpins and lamprey during this low flow period.

In summary, as we understand DEQ's application of water quality standards for waters that are deemed to be "salmonid producing", we feel it is important to be aware of the distribution and timing of salmonid presence. Because salmonids are essentially absent in the reach from the sewage treatment outfall to the mouth during the summer months, that stream reach is not salmonid producing water. The main function now of that lower part of the creek is as a migratory

ATT 3 - 1

7118 NE Vandenberg Ave.
Corvallis, OR 97330-9446
(503) 757-4186
FAX (503) 757-4252

route for salmonids to and from the upper watershed. The upper watershed is an important producer of salmonids.

We hope this will help in your deliberations regarding appropriate water quality standards for Rickreall Creek.

Sincerely,

David M. Anderson
Assistant Regional Supervisor

c Rudy Rosen, Director
Rod Ingram, Deputy Director
Jill Zarnowitz, HCD
Dick Lantz, N.W. Region
Richard Santner, D.E.Q.
Jaime Isaza, D.E.Q.

ATT 3-2

Draft Plan of Action to Reduce Total Dissolved Gas from Spill in the Mainstem Columbia and Snake Rivers

Revised July 11, 1997
(July 24, 1997)

1. PREAMBLE

This Plan of Action (PoA) is entered into this ____day of ____1997, by and among the U.S. Army Corps of Engineers, Northwest Division (Corps), represented by Major General _____; the Northwest Region of the National Marine Fisheries Service (NMFS), represented by William Stelle, Regional Director; the Washington Department of Ecology (WDOE), Water Quality Program, represented by Richard Wallace, Program Manager; the Oregon Department of Environmental Quality (ODEQ) represented by Langdon Marsh, Director; the Idaho Department of Health and Welfare, Division of Environmental Quality, (IDEQ), represented by Wallace N. Cory; the Nez Perce Tribe, represented by Sam Penny; and the Environmental Protection Agency (EPA) represented by Chuck Clarke, Administrator; U.S. Bureau of Reclamation, Pacific Northwest Region, represented by John W. Keys III, Regional Director, Regional Director; US Fish and Wildlife Service, Regional Director to be named; and Bonneville Power Administration, Randall, Hardy, Administrator.

2. BACKGROUND

An Endangered Species Act (ESA) Section 7 Biological Opinion (Opinion) on the Operation of the Federal Columbia River Power System (FCRPS) was issued in March of 1995. The Opinion established a set of reasonable and prudent alternatives (RPAs) with the objective of improving the operation and configuration of the FCRPS to meet the ESA no-jeopardy requirement and to fulfill the United States' commitment to uphold tribal treaty fishing rights. One of the RPA's (#2) recommends the Corps to spill water at the Snake and Columbia River hydroelectric projects to increase fish passage efficiency (FPE) during the period of juvenile spring/summer chinook migration at all projects in order to achieve a FPE of 80%. The only exception to this RPA under specified low flow conditions-- as directed by a Technical Management Team or as limited by water quality conditions, i.e., dissolved gas supersaturation generated by spill.

The Biological Opinion includes two other dissolved gas related RPA's. According to RPA #16, the BPA, COE, and BOR are to participate in the development and implementation of a monitoring and evaluation program to investigate the effects of dissolved gas supersaturation. Also identified in RPA #16 are studies to determine the magnitude of mortality associated with

dissolved gas supersaturation under river conditions. In RPA #18 the Biological Opinion calls upon the COE to develop and implement a gas abatement program at all projects through the use of structural modifications, e.g., stilling basin and spillway modifications to reduce gas supersaturation.

The Biological Opinion directed the establishment of a technical work group, the Dissolved Gas Team (DGT), to prioritize long-and short-term research and provide a forum for the technical discussion of all aspects of dissolved gas monitoring and evaluation. The DGT has carried out these responsibilities, developing an annual biological monitoring plan for the spill period and identifying and is currently prioritizing research needs related to gas bubble disease in fish. The DGT serves in an advisory capacity to the TMT.

For the juvenile salmon migrating past the Columbia and Snake River dams the safest routes of passage at the dams are over the spillways and through the bypass systems. Injury and death can occur in each route of passage (turbines, spillways, ice and trash sluiceways, juvenile bypass systems), but loss rates in the spillways and bypass systems are lower than those in the turbines. Although spill is considered the safest passage route currently available for juveniles, it has an associated potential detrimental effect in that it causes supersaturation of river water with dissolved atmospheric gases. Chronic exposure to total dissolved gas supersaturation impair or kill fish and other aquatic biota by causing gas bubble disease (GBD).

The federal Clean Water Act (PL 92-500) of 1972 directed the Environmental Protection Agency (EPA) to establish water quality criteria to protect human health and aquatic life. The states also were directed by the Clean Water Act to develop water quality standards at least as stringent as the federal criteria. Subsequently the EPA recommended in their 1972 Water Quality Criteria that total dissolved gas not exceed 110%. The 1972 recommendation of 110% became the federal criterion in 1976. Oregon, Washington and Idaho subsequently adopted 110% total dissolved gas as their state standard. The 110% standard applies to tribal lands as well.

Due to the urgent needs to improve fish passage in the Columbia River at the mainstem hydroelectric projects the NMFS spill program established DG limits for the spill program which were slightly higher than the EPA and state standards. The NMFS recognized the spill strategy would result in gas supersaturation but determined that limiting dissolved gas levels in project forebays to 115 % and 120 % in stilling basins could be tolerated. Reflective of the risk involved in the spill program the NMFS chose an adaptive management approach requiring a comprehensive monitoring program be pursued. Physical monitoring of dissolved gas and biological monitoring of GBD signs are used to manage the voluntary spill program during the April 10 through August 31 juvenile migration season.

The TDG has often exceeded 110% in the Columbia and Snake River mainstems during many years but particularly during years of high runoff ever since the dams were built. This involuntary spill is the unavoidable result of exceeding the hydraulic capacity of the system or result of low power demands. Although the involuntary spill results in violations of the TDG water quality standard under current conditions, physical and operational modifications could be made at the dams to alleviate the severity of the supersaturation problem.

Gas abatement is needed during periods of involuntary spill as well as for spill mandated by the biological opinion. The Dissolved Gas Abatement Study (DGAS) was initiated by the Corps originally in response to the Gas Bubble Expert Panel's recommendations to NMFS that structural and operational changes would be needed to reduce total dissolved gas supersaturation in the river system based on the current spill program. The development and implementation of a long term gas abatement plan to control gas supersaturation during spill for any reason would both benefit the aquatic life. The current Corps DGAS program status and implementation time table is discussed below under the Deliverables section of the PoA.

3. PURPOSE

Statement of Plan of Action Purpose: Promote a coordinated system-wide effort to reduce dissolved gas to levels safe to aquatic life. Strive to meet the federal criteria and state water quality standard of 110% total dissolved gas.

The primary purpose of the Plan of Action is to articulate a regional agreement on the implementation of the NMFS Opinion spill program, strategies and actions to be pursued in the near term (five years), strategies and actions to be pursued in the longer term, identify the entities responsible for these actions and to establish a projected time table for the actions described. The focus of the Plan of Action will be the reduction of total dissolved gas caused by spill, whether Opinion spill or due to seasonal runoff, turbine outages at projects, or lack of energy market while the region strives to meet the EPA criteria and state standards of 110%.

The Opinion spill program will create TDG in excess of the state standards. In the past the NMFS has sought annually waivers from these standards to allow the program to go forward. Each year since the Opinion was implemented, the three state agencies (Washington, Oregon and Idaho) and the Nez Perce tribe which are responsible for the enforcing the water quality standards have considered NMFS' requests for waivers of the standards regarding dissolved gas. The NMFS waiver requests must each be tailored to fit the unique requirements of the four different application recipients. It is a secondary purpose of this Plan of Action to develop a single document to which all participants (state, federal and tribal) can agree may be used in lieu

of waivers and the processes associated with them.

Waivers have been obtained from the WDOE, IDEQ, ODEQ,and the Nez Perce tribe. Each state and the tribe involved have unique requirements in their waiver processes as described below:

3A. Washington Department of Ecology

The current water quality standards have a provision for dealing with short term accedences of the standards. Each year for the past several years Ecology has been issuing several short term modifications in the form of administrative orders. These orders have allowed the standards to be modified for the projects operated by the Army Corps of Engineers and the public utility districts. These modification orders were issued only after Ecology approved biological and physical monitoring plans to evaluate the impacts of dissolved gas on the fish. These orders specified limits of 115 percent total dissolved gas in dam forebays and 120 percent in dam tailraces and a one hour maximum of 125 percent.

Ecology is proposing a rule change that would do away with the short term modification for dissolved gas on the Snake and Columbia River. The rule change would have a special fish passage exemption specifying values similar to those in the modification orders. The exemption would also require that a long term management plan for reducing total dissolved gas be approved by Ecology before the values would be allowed. The exemption would need to be reviewed by the year 2003. These proposed changes are to be presented at public hearings this summer with adoption by November 1997.

For involuntary spill that results from spring runoff the water quality standards contain an exemption when flows exceed the seven-day ten-year flood event. The 7-day 10-year discharges for the lower Snake and lower Columbia Rivers are 228,000 cfs and 471,000 cfs, respectively. Accedences other than these are listed in a section 303(d) list of the Federal Clean Water Act water bodies compiled by the state that do not meet the standards. The Columbia River is one of those water bodies. The states are required to develop and implement to clean up waters that are not meeting standards.

3B. Idaho Department of Health and Welfare
Division of Environmental Quality

The Idaho Division of Environmental Quality (IDEQ) is the primary agency in the State of Idaho delegated responsibility for implementing the federal Clean Water Act. The principle mechanism for fulfilling the purposes of the Clean Water Act is the Idaho Water Quality Standards. Included

in the Idaho Water Quality Standards are designated beneficial uses for each of the state's waters and water quality criteria necessary to protect and support those uses. There is also a provision in the standards allowing IDEQ to authorize short term activities which may result in an exceedance of the water quality criteria (e.g. total dissolved gas) and violations of the water quality standards.

Short Term Activity Exemption

A request to IDEQ for a short term activity exemption generally includes the following elements:

- Description, locations, and duration of the activities;
- Type, magnitude and duration of expected water quality violations;
- Water quality monitoring that will be conducted to document the water quality violations and evaluate impacts to beneficial uses;
- Methods that will be employed to achieve compliance with alternative limits specified by IDEQ;
- A justification for the exemption that demonstrates that the activity is essential to the protection or promotion of public interests, and results in no permanent or long term injury of beneficial uses;

A short term activity exemption may be denied, granted or granted with conditions. IDEQ conducts an initial review to determine whether the request is sufficiently complete for further evaluation. Comments on the request may be solicited from other state agencies and the public through IDEQ-initiated public participation processes. Following technical and legal evaluation, IDEQ staff prepare a recommendation to the IDEQ Administrator to grant or deny the short term activity exemption. A short term activity exemption expires at the end of the period specified in IDEQ's approval.

3C. Oregon Department of Environmental Quality - Gene Foster - drafting description of existing waiver process

3D. Nez Perce Tribe

The Nez Perce Tribe annually receives requests from the NMFS to exceed the TDG standard below Dworshak Dam on the North Fork of the Clearwater River an Clearwater Rivers for the purpose of flow augmentation in the lower Snake River. Upon receipt, the Nez Perce Tribe reviews waiver requests. The Nez Perce Tribe Executive Committee (NPTEC), the governing body of the Nez Perce Tribe, has the option to grant approval, disapprove or to request further information. Waiver approvals are valid for a specific period of time.

Summary Purpose Statement: Protection and restoration of Columbia River salmon is an urgent need. The NMFS Biological Opinion specifies spill as an effective and immediately implementable strategy to improve the survival of downstream migrating salmon. However, spill can create dissolved gas supersaturated water in excess of water quality standards and which can be injurious to aquatic life. All parties to this Plan of Action agree that reduction and control of total dissolved gas resulting from spill at the hydroelectric projects is necessary. Through this Plan of Action the region has developed plans, strategies and time tables to continue the NMFS spill program but reduce and control the creation of dissolved gas problems. The EPA and northwest states of Washington, Oregon, and Idaho and the Nez Perce Tribe, all participants in this effort have agreed to support these efforts through granting to the NMFS long term waivers of the federal water quality criteria and state standards in the interest implementing the Biological Opinion Spill program.

4. Gas Abatement Plans and Time Tables

4A. U.S. Army Corps of Engineers - Dissolved Gas Abatement Study

4A.1. General - The Dissolved Gas Abatement Study (DGAS) began in 1994 with the goal of determining what measures could be taken to meet the TDG water quality standards during spill operation at Lower Columbia and Snake River Corps projects. Study Phase I, completed in March 1996, was a reconnaissance level evaluation, with review of background information, identification of associated problems and research needs, and implementation of additional field studies. Several potential alternative solutions were summarily evaluated, and a few of the most promising ones were retained for further study. Study Phase II, begun in 1997 and slated for completion in 2000, is essentially a follow-up of Study Phase I. Its objective is to evaluate in more detail those promising alternatives identified earlier, with feasibility estimates of cost and biological impacts. This information will be needed to assist the regional decision-makers in selecting solutions for gas reductions that are technically, economically, and biologically feasible. This is all the more important that during the course of DGAS study, it became more and more apparent that meeting the 110% TDG standard would be extremely difficult and costly, if not altogether impossible, especially in the near field immediately below the lower Columbia and Snake River dams.

4A.2. SCOPE OF STUDY PHASE II

Phase II will proceed with a detailed evaluation of the alternatives recommended by Phase I and any additional alternatives found to be worthy of evaluation. Corps projects included in the study are Bonneville, The Dalles, John Day, and McNary on the lower Columbia River; and Ice Harbor, Lower Monumental, Little Goose, and Lower Granite on the lower Snake River. See Figure XXX.

Alternatives recommended in Study Phase I for further evaluation include the following items 1) through 5). Additional alternatives identified in Study Phase II refer to the remaining items 6) through 10). The final solution may include a combination of one or more of the alternatives listed below, or an entirely new alternative yet to be identified and studied.

1) Spillway deflectors with a raised tailrace,
2) Raised stilling basin with a raised tailrace,
3) Raised stilling basin,
4) Spillway deflectors,
5) Raised tailrace,
6) Submerged passageways through the spillway,
7) Submerged passageways with deflectors,
8) Raised stilling basin with deflectors,
9) Side channel spillways, and
10) Additional spillway bays.

Alternatives 1 through 5 and 8 are focused on decreasing dissolved gas by decreasing the depth of the plunge of the spilling water. The flow deflectors deflect the spilling water from a vertical to a horizontal direction thereby deflecting the air entrained water out over the surface of the tailwater. The raised stilling basin decreases the depth of the receiving water, and the raised tailrace brings the spilled water to the surface so that the dissolved gas can dissipate into the atmosphere. Alternatives 6, 7, 9 and 10 focus on additional capacity for the discharge of high flows of spring runoff. Submerged passageways allow for the release of excess water that cannot be run through the powerhouse or over the spillway without increasing the dissolved gas saturation. The side channel spillways and additional spillway bays decrease the amount of water spilling from each bay by increasing the number of spillways.

Each alternative will be analyzed as a potential measure for reducing river dissolved gas levels. As new information is obtained, operational changes may be implemented immediately as interim measures to reduce TDG. Operational changes, such as revised spill patterns, will likely be required with all of the structural alternatives. Additional structural alternatives will also be evaluated as research leads to new ideas.

This study will focus on the biological, water quality and engineering aspects of gas abatement. The engineering aspects will address function, design and cost estimates for construction of the gas abatement alternatives. The water quality analyses will address TDG and other water quality parameters for the existing river system and potential TDG improvements for abatement alternatives. Detailed biological analyses will be conducted to assure that the alternatives will effectively improve the survival of anadromous fish stocks.

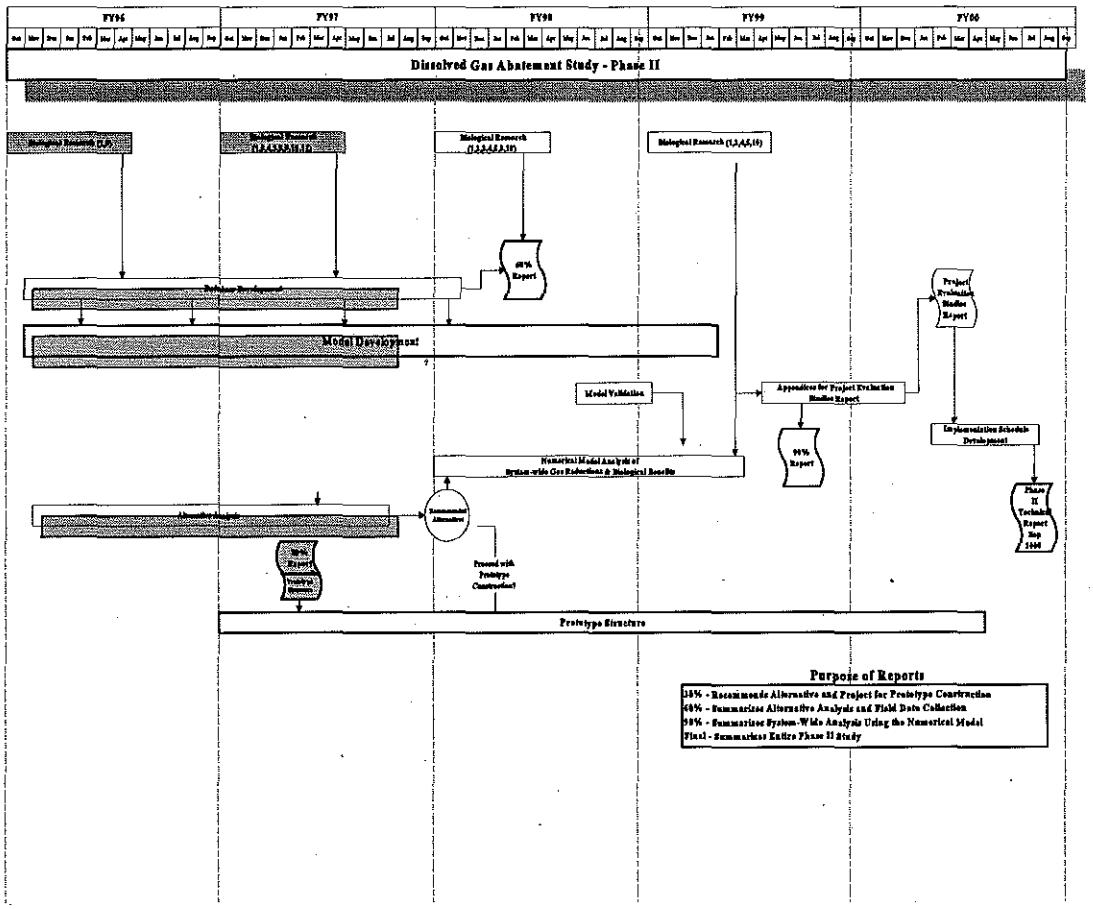


Figure XXX: Simplified Flow Chart/Dissolved Gas Abatement Study

4A.3 TASKS AND ACTIVITIES

Phase II of the DGAS is composed of six main tasks:

1) Alternative Investigations,
2) Prototype Structure,
3) TDG Research,
4) Biological Research,
5) Numerical Model Development, and
6) System-Wide Evaluations.

Alternative Investigations. The purpose of the alternative investigations is to address engineering concerns and estimate gas production, fish passage impacts and construction cost. This evaluation will ensure that gas levels are not reduced at the expense of fish survival or dam stability.

Prototype Structure. Prototype testing will be used to confirm estimates of gas reductions and resulting biological conditions. A gas abatement alternative prototype structure will be designed, constructed and tested at a selected project. If necessary and within budgetary constraints, more than one prototype structure may be constructed and tested.

Numerical Model Development. A numerical model will be developed to predict the potential system-wide gas reduction and associated biological benefits. As more monitoring data becomes available, the model will continue to be developed, refined and validated. The model will also be used to make relative comparisons of alternatives.

TDG Research. Field data, both physical and biological, is necessary to support, calibrate, and validate the numerical model. Data collection is also necessary to guide the operation of the physical models, to address structural questions, and to verify correlations between scale model observations and data collected at projects. Transect data will be used to support the validity of the fixed monitoring station data. Near-field and longitudinal surveys will be performed at key projects. All of the data should help explain gas production characteristics during spill operations.

Biological Research. Biological and laboratory studies will be performed to evaluate the complex relationships between gas production and the risk to salmonids. Factors investigated include level of gas supersaturation, exposure time, water temperature, fish physical condition, and swimming depth. The information will be used primarily in the development of mortality coefficients for the numerical model.

System-Wide Biological Benefit Analysis. System-wide fish survival benefits will be estimated by using the new numerical model to assess the effects of reducing the gas contribution at specific projects. The end product will be a matrix of percent changes in gas contribution at specific projects versus the gas characteristics of the system and the associate biological benefits for a range of flow regimes

Develop Implementation Schedules. An implementation schedule will be developed that outlines the recommended operational changes and structural modifications to reach gas abatement goals. Recommendations will be developed within Feature Design Memorandums. The recommendations will be coordinated with the Project Evaluation Studies on the Lower Columbia River projects and with the Lower Snake Feasibility Study for compatibility and comparison with other project specific fish passage alternatives.

The following schematic (Figure XXX) illustrates the relationship between the various tasks and activities, and provides the recommended sequence as well as a time-table.

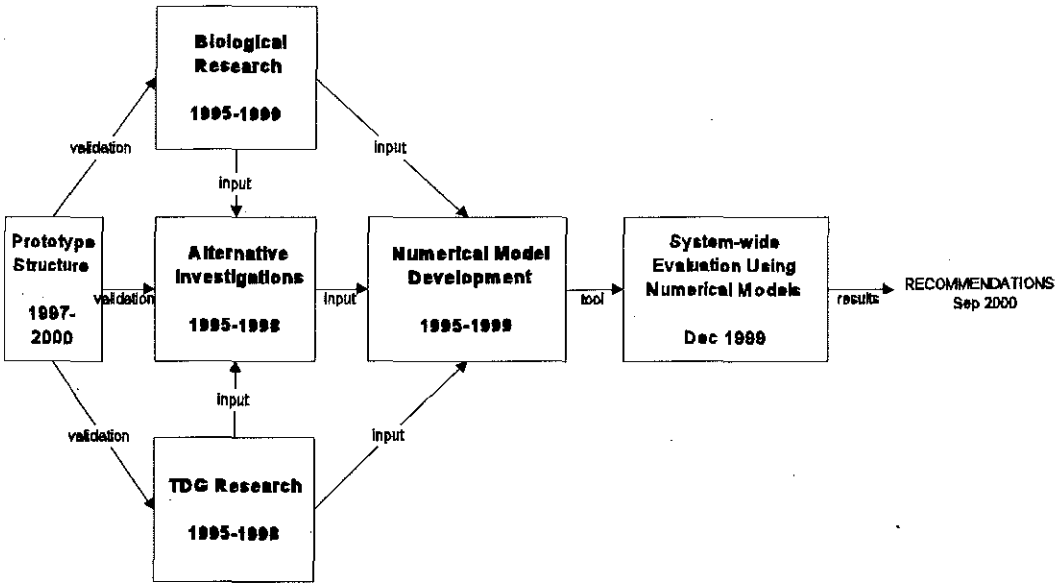


Figure XXX. Indicative Activities Schedule

4A.4 REPORTS

Progress will be formally documented in annual reports. The first report, the 30% draft, completed in March 1997 contains recommended alternatives to be tested in a prototype structure and provides up to date report on all study efforts. The second report, the 60% draft, will be completed in March 1998. The 60% report will summarize the alternative analysis and the field data collection. The third report, the 90% draft, will be completed in August 1999. The 90% draft will essentially present all results of the study, including the system-wide benefit analysis based on results from the numerical model. The final report, to be completed in September 2000, will include recommendations to implement structural and/or operational modifications at specific projects, and a proposed implementation schedule.

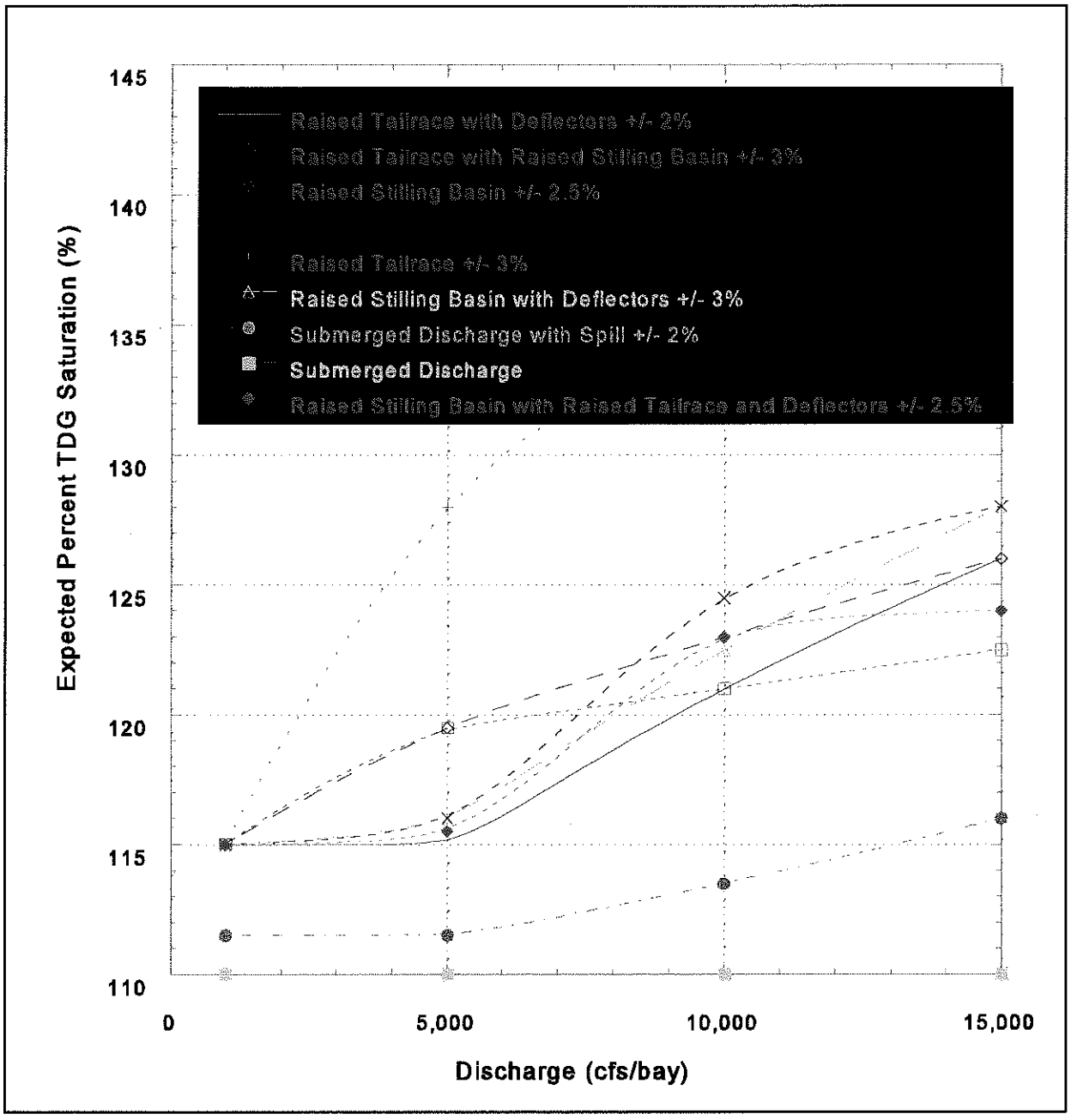

Raised Tailrace with Deflectors +/- 2%
Raised Tailrace with Raised Stilling Basin +/- 3%
Raised Stilling Basin +/- 2.5%
Raised Tailrace +/- 3%
Raised Stilling Basin with Deflectors +/- 3%
Submerged Discharge with Spill +/- 2%
Submerged Discharge
Raised Stilling Basin with Raised Tailrace and Deflectors +/- 2.5%
Expected Percent TDG Saturation (%)
145
140
135
130
125
120
115
110
0
5,000
10,000
15,000
Discharge (cfs/bay)

Figure XXX. Comparison of Expected Gas Production for All the Alternatives

Table XXX. Comparison of Expected Gas Production at Various Spillbay Discharges

(Measured at the end of the stilling basin, before mixing of spillway and powerhouse flows

	cfs/	cfs/bay 5000 min	cfs/bay 5000 max	cfs/bay 10000 min	cfs/bay 10000 max	cfs/bay 15000 min	cfs/bay 15000 max
Fixed Spillway Deflectors		113	119	122	127	125	131
Raised Stilling Basin		117	122	121	125	124	128
Elevated Tailrace Channel		125	131	131	137	131	135
Raised Stilling Basin + Raised		118	121	118	124	120	125
Raised tailrace with Fixed Spillway		113	117	119	123	124	128
Raised Stilling Basin + deflectors		113	118	120	125	125	131
Raised Stilling Basin + deflectors and		113	118	121	125	122	126
Submerged Passageway		Forebay	Forebay	Forebay	Forebay	Forebay	Forebay
Submerged Passageway and		110	112	112	115	114	118
Additional Spillbays		Varies	Varies	Varies	Varies	Varies	Varies
Site Channel Spillway		110	113	n/a	n/a	n/a	n/a
Overflow Chute Spillway		117	121	117	121	117	121

TABLE XXX. Comparison of Expected Gas Production at Various Spillbay Discharges (Measured at the fixed monitoring station, after mixing of spillway and powerhouse flows (based on Ice Harbor, 7-day 10 year flood event)

4A.5 CURRENT STATUS AND IMMEDIATE FUTURE ACTIONS

To date, a total of nine gas abatement alternatives have been developed and presented in Dissolved Gas Abatement Phase II's 30% draft report dated March 1997, and 60% Review report dated May 1997. The summary of expected gas production levels contained in the first report is reproduced in Table XXX and Figure XXX). These TDG levels are projected for the end of the stilling basin, prior to spillway and powerhouse flow mixing (generally about 1,000 feet below the spillway). For readers familiar with TDG readings at the fixed monitoring stations, another table (Table XXX) has been added to show comparable TDG levels at the fixed monitors, assuming spill uniformly distributed to all available spillbays and full powerhouse operation.

At present (mid-1997), the three most active short term objectives being pursued are (1) prototype design and test of a raised tailrace at Ice Harbor Dam; (2) identification of gas abatement alternatives for Bonneville Dam, and (3) further study of the submerged outlet concept.

Raised Tailrace at Ice Harbor Dam. Preliminary physical model studies have shown that raised tailrace with deflectors at Ice Harbor is a viable alternative. Ice Harbor is recommended because it is the least expensive project to test the alternative due to the relatively shallow existing river channel. Baseline biological and physical TDG data will be available. Information gained here will be applicable to most of the other lower Sane and lower Columbia Rivers projects. A Feature Design Memorandum (FDM) will be prepared to present more detailed biological and engineering evaluations for discussions at regional forums. The FDM is scheduled for completion in early 1998, followed by prototype testing in 1999.

Alternatives for Bonneville Dam. A separate alternative development and analysis is needed for this project because of its complexity and features that present at other projects in the system (low-head spillway with baffled and stepped stilling basin). The results of the June 1997 discussions held by the Fish Facility Design Review

Work Group will be further evaluated and used to identify the most promising solutions.

Submerged outlet with deflector spill. This concept has great potential for significant gas reduction. Its impacts on fish passage survival, however, is of concern. Model studies will be performed to design an entrance that minimized fish attraction at test sites yet to be selected.

4A.6 BEYOND DGAS

DGAS is about halfway through the alternative analysis process to evaluate and select alternatives to abate dissolved gas. The study is scheduled to be completed in the year 2000, at which time recommendations on the best alternatives will be made. Implementation decision is expected to commence soon thereafter, at a pace likely dictated by regional and national priorities and funding availability. Because structural TDG abatement measures envisaged today will probably consume a great deal of people, time, and money resources, a multi-stage approach to implementing the recommended alternative(s) is likely. Under this scenario, a short-term plan could consist of structural modifications at selected dams that have propensity for creating high TDG and constitute a bottle-neck to fish migration. The short-term objective would be to reduce TDG by, for example, 10% for 90% of the time at those projects during the next 10-15 years. The short-term plan will then be followed by a longer range plan, i.e. construction completed in 2010 will reduce gas by another 10%; by the year 2020, by another 10%, etc. To the extent that the current TDG federal criteria and state standards of 110% may prove to be extremely costly to achieve under the 7-day 10-year flood event, the region will need to cooperatively develop a practical and reachable goal.

4B. U..S. Bureau of Reclamation - Zimmer draft description of action items and timetable.

The Bureau of Reclamation will conduct an appraisal level investigation of total

dissolved gas problems at Grand Coulee Dam in Federal Fiscal Year 1999. The Grand Coulee Dissolved Gas Management Study will identify specific problem areas, summarize available information, identify additional data needs, provide a preliminary evaluation of structural and operational measures to remediate total dissolved gas problems associated with spill releases, and recommend potential alternative solutions for further study.

Grand Coulee dissolved gas investigations will be conducted in close coordination with the U.S. Army Corps of Engineers Phase II Dissolved Gas Abatement Study, which is addressing dissolved gas problems at other FCRPS facilities on the Snake and Columbia Rivers. Results of the study will be presented to regional fish managers, water quality agencies, and system operators for recommendations regarding initiation of detailed feasibility level investigations of dissolved gas management measures.

The Bureau of Reclamation will seek funding in Federal Fiscal Year 2000 for a feasibility study of alternative structural and operational dissolved gas management measures which could be implemented at Grand Coulee Dam. This study would evaluate gas management options identified in the appraisal investigation, at approximately the same (feasibility) level of detail provided under Phase II of the U.S. Army Corps of Engineers Gas Abatement Study. The study, which would be completed in 2000, will focus on projected water quality improvements and native fishery benefits associated with alternative gas reduction measures, and on engineering and economic considerations.

Implementation of structural gas management measures recommended at completion of the feasibility investigation will be dependent upon regional and national priorities, and the availability of funds. Reclamation will cooperate with decision makers to assist in development of priorities and funding strategies for implementing total dissolved gas abatement measures at FCRPS facilities.

4C. Mid-Columbia Public Utility Districts - Erho draft description of action items and timetable.

4D. Canada - Schneider contact Gary Birch, B.C. Hydro, 250-365-2450.

5. INTER-RELATIONSHIPS OF THE PARTICIPANT GAS ABATEMENT PROGRAMS

6. PLAN PARTICIPANT ROLES AND RESPONSIBILITIES

6A. REGULATORY AGENCIES

6A.1. The U.S. Environmental Protection Agency (EPA)

The EPA's mission related to surface water quality is to ensure that the elements of the Clean Water Act (CWA) are implemented and enforced as appropriate. The goal of the CWA is to protect the physical, chemical and biological integrity of our Nation's waters. In carrying out this mission and striving to achieve the CWA goal, the EPA works closely with state environmental and natural resource agencies, tribes and other federal agencies.

Responsibilities

- work for the development and implementation of gas abatement plans by the Corps, the Public Utility Districts, the Bureau of Reclamation and the Canadian governments with the goal of achieving water quality standards for total dissolved gas throughout the basin.

- review state water quality standards to ensure that they are as protective of the resource as federal criteria.
- review and revise federal water quality criteria as appropriate
- review and approve/disapprove states lists [303(d)] of impaired waters and the reasons for impairment
- work with state agencies, federal agencies, tribes and other entities as needed to achieve water quality standards and protect the beneficial uses of our surface waters.

- participate on the Dissolved Gas Team

6A.2. Washington Department of Ecology (WDOE)

The Washington State Department of Ecology s role is to protect the quality of Washington State waters for the propagation and protection of fish spawning, migration, and harvesting.

Responsibilities:

- Review requests for short term modifications of the water quality standards and make timely decisions.
- Participate in guiding the Corps of Engineers through development of long term management plan for reducing dissolved gas levels.
- Assist in review of biological and physical monitoring plans.
- Review the latest scientific literature and findings from scientific panels to assure that the dissolved gas standard is appropriate.
- Explore the option of a long term modification with the public.
- Assist the ACOE and NMFS in developing a long term plan for reducing TDG including reviewing and revising the plan on a regular basis to assure effectiveness of gas abatement measures.
- Require and review NMFS and ACOE monitoring reports on a regular basis to assure standards are being met.
- Participate in the Dissolved Gas Team
- Review the latest scientific literature, research and findings from scientific panels to assure that the TDG standard is appropriate.

Advise the Department of Ecology on technical issues relating TDG exposure to fish survival.

6A.3 Idaho Department of Health and Welfare

6A.4 Division of Environmental Quality

The role of the Idaho Division of Environmental Quality is to implement the Idaho Water Quality Standards and attain fishable and swimmable water conditions wherever possible.

Responsibilities:

- Participate on the Dissolved Gas Team;
- Achieve compliance with the Idaho Water Quality Standards;
- Review and process short term activity exemption requests;
- Ensure public involvement in the short term activity exemption process;
- Coordinate biological monitoring with Idaho Department of Fish and Game and the Nez Perce Tribe;
- Review and comment on plans, reports and other document.

6A.5 Oregon Department of Environmental Quality - Foster draft description of roles and responsibilities

6A.6 Nez Perce Tribe

The Nez Perce Tribe is a federally recognized Indian tribe which has the right to exercise a substantial and active role in the management of the environment within th Nez Perce Reservation, including the authority to implement a water quality program under thefederal Clean Water Act. The Nez Perce Tribe has treaty-reserved fishing rights within the Nez Perce Reservation and at all usual and accustomed fishing places outside the reservation. The Tribe works with state, federal and other tribal governmentson efforts to restore and protect Columbia River salmon and to seek compliance with the federally-recognized water quality standards (e.g. total dissolved gas). The Nez Perce Tribe also conducts bioloigcal and physical monitoring of waters within the Reservation and participates in review processes for plans, proposals and relevant documents.

6B. ADVISORY

6B.1 National Marine Fisheries Service

The National Marine Fisheries Service (NMFS) will develop and implement a biologically sound and legally defensible strategy for salmon restoration in the Columbia and Snake River Basins to recover stocks from risks of extinction and rebuild those stocks for a healthy and sustainable fishery. In pursuit of this goal the NMFS will satisfy all applicable Federal laws including the Endangered Species Act; Federal trust obligations to the Treaty Tribes; the Northwest Power Planning Act, etc.

Responsibilities:

- Develop and implement of an annual gas bubble disease biological monitoring program.
- Promote implementation of the gas bubble disease research program designed to ensure that the monitoring program accurately represents the condition of fish throughout the system and enhances understanding of the relation between exposure and increased levels of dissolved gas supersaturation.
- Evaluation of the spill program. This evaluation will include collection and interpretation of gas bubble disease monitoring date and in-river survival information, as well as an annual review of the spill program.
- Co-chair the Dissolved Gas Team and will participate with state water quality agencies in a public involvement process.

6B.2 Washington Department of Fish and Wildlife (WDFW)

The WDFW is responsible for carrying out the policies of the Washington Fish and Wildlife Commission for the preservation, protection and perpetuation of the fish and wildlife resources of the state of Washington. Under a PoA for the purpose of reducing dissolved gas supersaturation at Federal hydropower projects on the

mainstem Columbia and Snake rivers to meet state and Federal water quality standards, the WDFW's role would be to ensure that the measures taken as part of the PoA would be consistent with the Commission's

Responsibilities:

- Provide recommendations to the Washington Department of Ecology on the effects of spill and dissolved gas supersaturation on fish survival
- Participate in the deliberations of the Dissolved Gas Team, the System Configuration Team, the Technical Management Team and the Implementation Team.
- Help develop and implement a dissolved gas monitoring and evaluation program that will accurately and effectively describe the status of gas supersaturation in the Columbia and Snake mainstems and its effect on resident and anadromous fish.
- Help develop of an effective gas abatement program for Federal hydropower projects with the long-term goal of achieving the state water quality standard of 110% of saturation while meeting the fish and survival passage efficiency goals set forth in the biological opinion.
- Help develop of a research program to address the uncertainties associated with the effects of dissolved gas on fish in the Columbia system.

6B.3 The Oregon Department of Fish and Wildlife (ODFW)

The ODFW mission is to protect and enhance Oregon's fish and wildlife and their habitats for the people of the State to use and enjoy. The ODFW's role under the PoA regarding the Columbia River is to ensure that the resources for which it is responsible are taken into account when actions relating to total dissolved gas are planned and implemented.

Responsibilities:

- participate with NMFS in developing, implementing, and evaluating an annual gas bubble disease (GBD) biological monitoring program;
- assist NMFS in obtaining GBD field data through participation in the smolt monitoring project
- provide technical support and recommendations on GBD matters to the Oregon Department of Environmental Quality and its Environmental Quality Commission
- participate in the Technical Management Team, System Configuration Team, and Implementation Team, and
- place a technical representative on the Dissolved Gas Team.

6B.4 The U.S. Fish and Wildlife Service (FWS)

The FWS's mission is to conserve, protect, and enhance fish and wildlife and their habitats for the continuing benefit of the American people. The FWS's major responsibilities associated with the Columbia River include freshwater and anadromous fish, migratory birds, endangered species, their habitats, and the National Wildlife Refuge System. The FWS's role under the Plan of Action would be ensure that the resources for which it is responsible are fully considered when planning and implementing actions related to total dissolved gas.

Responsibilities

- Participate in the Technical Management Team and System Configuration Team processes.
- Review the research and monitoring programs.
- Coordinate spill requests for Bonneville Dam with the March release of fish from Spring Creek National Fish Hatchery (NFH).

- Coordinate biological and physical monitoring of the March spill with the release of fish from Spring Creek NFH.
- Provide timely reports on the Spring Creek NFH spill operation during its duration to the Oregon Department of Environmental Quality

(ODEQ) and Washington Department of Ecology (WDOE).

- Provide a summary report of the Spring Creek NFH spill operation to the ODEQ and the WDOE and to other parties to this memorandum.
- Help to provide the public with information regarding the Plan of Action.

6C. IMPLEMENTATION

6C.1 The U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers (Corps) role is to operate reservoir projects in the Columbia and Snake River Basins for the purposes of flood control, hydropower production, navigation, irrigation, recreation and municipal and industrial water supplies. Spill is an integral part of these operations. It is frequently required in order to allow for regular maintenance outages or to cope with other conditions and activities such as fish passage, flood control, wintertime high flows that exceed powerhouse capacities, forced outages, and other emergency conditions. To the extent that spill is the main contributing factor to high TDG levels in the Columbia River Basin, the Corps has a pivotal role to play in ensuring that spill and, hence, TDG is kept within acceptable levels.

Responsibilities:

- Manage Corps projects to avoid causing high TDG levels to the extent feasible.
- Provide spill levels to achieve the Biological Opinion's recommended fish passage efficiency consistent with the responsibility listed above
- Monitor dissolved gas created by spill in order to adjust spill on a project-by-project and system wide basis to avoid causing localized high TDG levels and to create uniform optimum TDG conditions throughout the system.
- Develop and test regional dissolved gas abatement strategies and monitor their effects on the ecosystem as recommended at regional forums such as the Technical Management Team or the Dissolved Gas

Team and others.

- Implement a monitoring program and data QA/QC program to collect total dissolved gas (TDG) and water temperature data from mid-April through mid-September in the forebays and tailwaters of Corps Columbia and Snake River mainstem hydroelectric projects to: (1) provide water quality data needed to schedule spill, and (2)mononitor project performances with respect to existing state water quality standards.

- Make monitoring data available on a real-time basis to all interested parties, via the Technical Management Team home page and other appropriate media.
- Minimize instrument downtime, and conduct field studies to better define lateral and longitudinal distribution of TDG concentrations.
- Continue to implement the Gas Abatement Study (DGAS to define and evaluate potential methods to control dissolved gasses created during spillway operations at the Lower Snake and Columbia River damsa.) DGAS Phase I (completed in March 1996) explored background information, implemented field studies, identified future research needs, identified the problem, determined potential alternative solutions, performed preliminary evaluations of alternatives, and recommended alternatives for further study. b.) DGAS Phase II is to recommend structural and operational measures for reducing dissolved gas levels in the Lower Snake and Columbia Rivers to reduce TDG levels to the extent biologically, economically and technically feasible. Phase II will evaluate alternatives based on a system wide biological analysis and provide the Anadromous fish Evaluation Program (AFEP) and System Configuration Team (SCT) with recommendations of project modifications to be made and implementation schedule to reduce gas.
- Continue research through the AFEP process SCS and other processes.
- Chair the Technical Management Team(TMT), which was created by the NMFS 1995 Federal Columbia River Power System Biological Opinion to deal with river and reservoir operations to aid fish migration.

The TMT advises the operating agencies on how to operate the dams, and reservoirs, to optimize passage conditions for juvenile and adult anadromous salmonids.

6C.2 The U.S. Bureau of Reclamation

The Bureau of Reclamation operates and maintains the Grand Coulee and Hungry Horse projects, which are components of the FCRPS. Reclamation is responsible for coordinating operations with other hydro projects in the power system, for Endangered Species Act consultation on facility operations, and for implementing certain project aspects of the Snake River Salmon Recovery Plan and the FCRPS Opinion. Dissolved gas management responsibilities include physical monitoring of project impacts on dissolved gas levels, participation in developing a system-wide dissolved gas management plan, and coordinated planning and implementation of gas abatement measures specific to the Grand Coulee and Hungry Horse projects.

Responsibilities:

- Reclamation will maintain physical dissolved gas monitoring sites in the Columbia River at the International Boundary, in the forebay of Grand Coulee Dam, and in the Columbia River 6 miles downstream of Grand Coulee Dam.
- Coordinate monitoring with the U.S. Army Corps of Engineers' Columbia/Snake River Total Dissolved Gas Monitoring Program.
- Participate, through the Technical Management Team and the Dissolved Gas Team, in developing and implementing of annual Dissolved Gas Management Plans for the FCRPS.
- Cooperate with regional fish managers and operators to seek funding for an investigation that will evaluate structural and operational measures for reducing the impacts of Grand Coulee operations on total dissolved

gas in the Columbia River system. Grand Coulee dissolved gas mitigation planning will be coordinated with the U.S. Army Corps of Engineers Gas Abatement Study.

- Assist development of regional priorities and funding strategies for implementing of dissolved gas abatement measures at FCRPS facilities.
- Assist the states and tribes with their public information and involvement processes.

6C.3 Mid-Columbia Public Utility Districts

6C.4 Idaho Power Company

7. History of the Plan of Action

The DGT represents a restablishment of the former Dissolved Gas Technical Work Group. This technical work group had participated in the creation of the Gas Bubble Disease Research Plan and the Dissolved Gas Monitoring Programin 1995 . The DGT took on the responsibility of providing technical guidance to the NMFS. It was agreed late in 1996 and early 1997 that one job the needed to be accomplished was the development of a Memorandum of Understanding (MOU) to describe the regional plan for dissolved gas management, abatement, research, monitoring and annual waivers. Due to legal consideration by the Corps of Engineers the MOU
format was abandoned and replaced by the current Plan of Action. A subcommittee of the DGT has met monthly throughout 1997 outlining the Plan of Action, developing a work plan and schedule for writing the plan and reviewing drafts. The final draft was developed in August 1997 simultaneous to the beginning of informational meetings between the NMFS Hydropower Program staff and representatives of the of Washington Department of Ecology, Oregon Department of Environemental Quality, and the Idaho Department of Environmental Quality.

8. Annual Stutus Report on Progress

8A. Annual meetings on Monitoring, Research, and Gas Reduction

8B. Monitoring (Physical and biological)

8C. Research

8D. In-Porgress Review of the COE DGAS

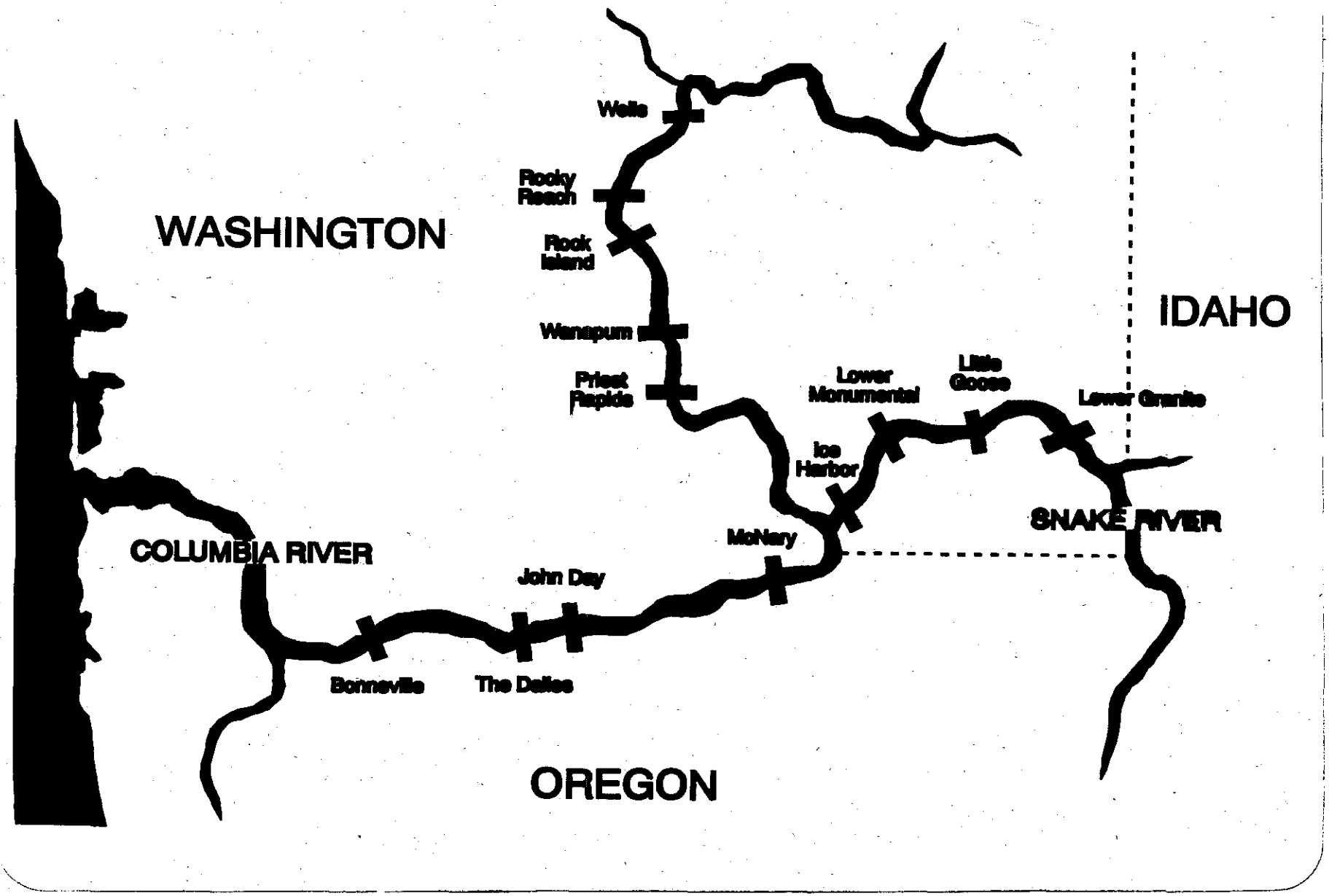
9. Adaptability (Use of New Information)

The DGT shall meet annually or as needed to review progress on planning, engineering, implementation, gas abatement, and collection of research and monitioring data and make appropriate modifications to the Plan of Action, Suggestions to the NMFS regarding implementation of the Biological Opion, completion of research studies and monitoring. This process shall include periodic meetings between the appropriate action and regulatory agencies and NMFS and would document any change in schedule or activities based on available scientific information.

10. Public Information/Involvement Process

10A. Initial -Following Implementation of the Plan of Action

10B. Future Public Information/Involvement


WASHINGTON
IDAHO
OREGON
COLUMBIA RIVER
SNAKE RIVER
Wells
Rocky Reach
Rock Island
Wanapum
Priest Rapids
Lower Monumental
Little Goose
Lower Granite
Ice Harbor
McNary
John Day
Bonneville
The Dalles

Average monthly flows at Lower Granite and McNary dams.

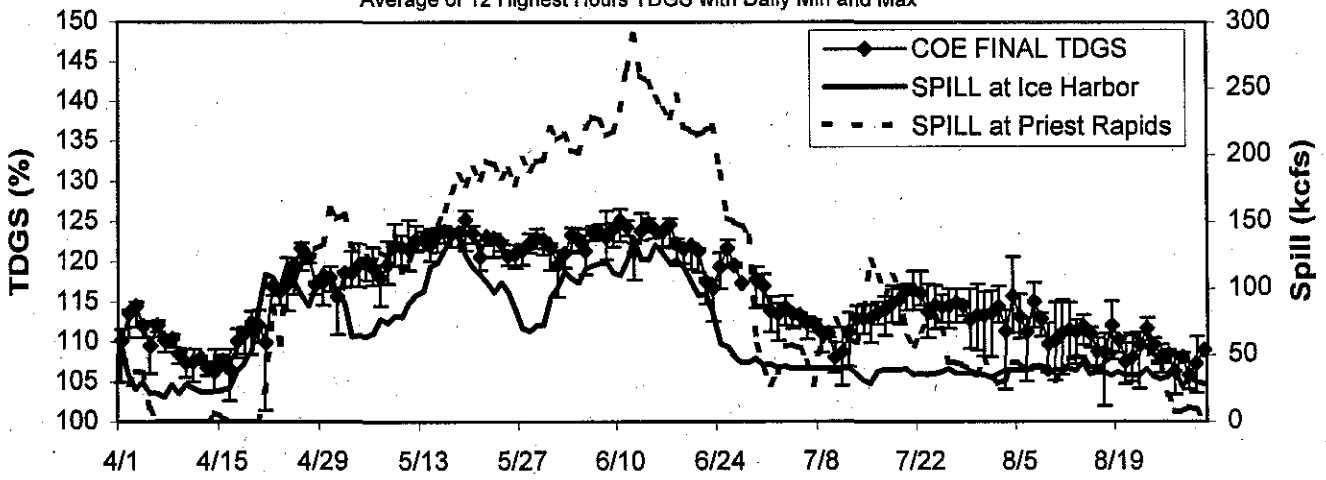
Month	Average Monthly Flow (kcfs)	
	Lower Granite	McNary
April	121.98	313.03
May	169.03	449.16
June	161.30	482.26
July	68.80	274.61
August	46.14	198.32

Maximum hydraulic capacity at federal projects.

Project	Hydraulic Capacity (kcfs)
Lower Granite	130
Little Goose	130
Lower Monumental	130
Ice Harbor	106
McNary	232
John Day	322
The Dalles	375
Bonneville	288

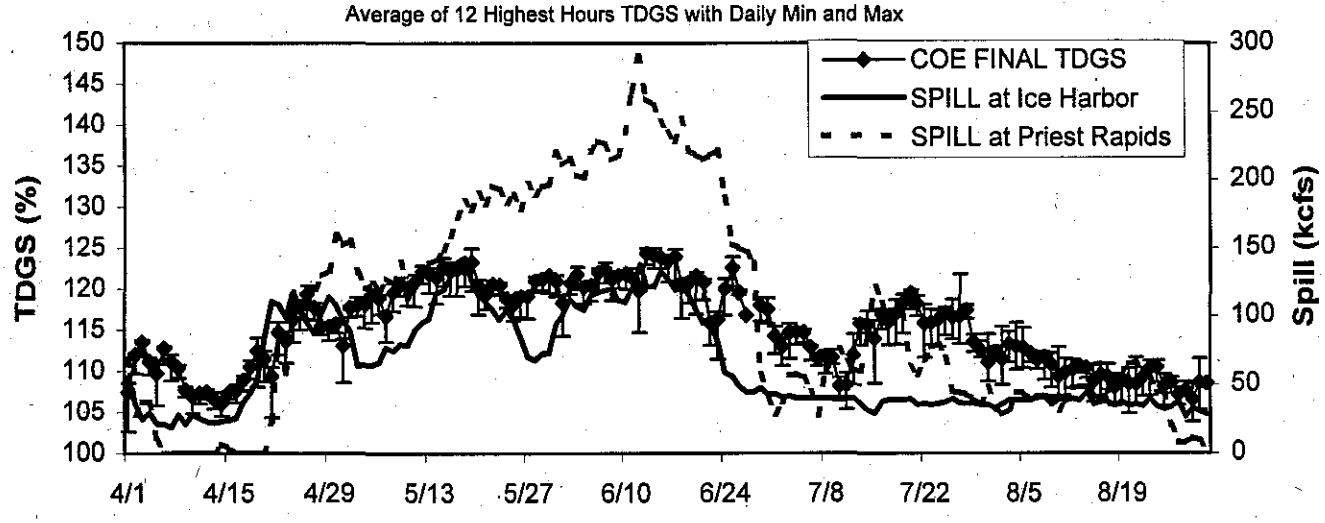
McNary-Oregon Forebay TDGS 1997

Average of 12 Highest Hours TDGS with Daily Min and Max



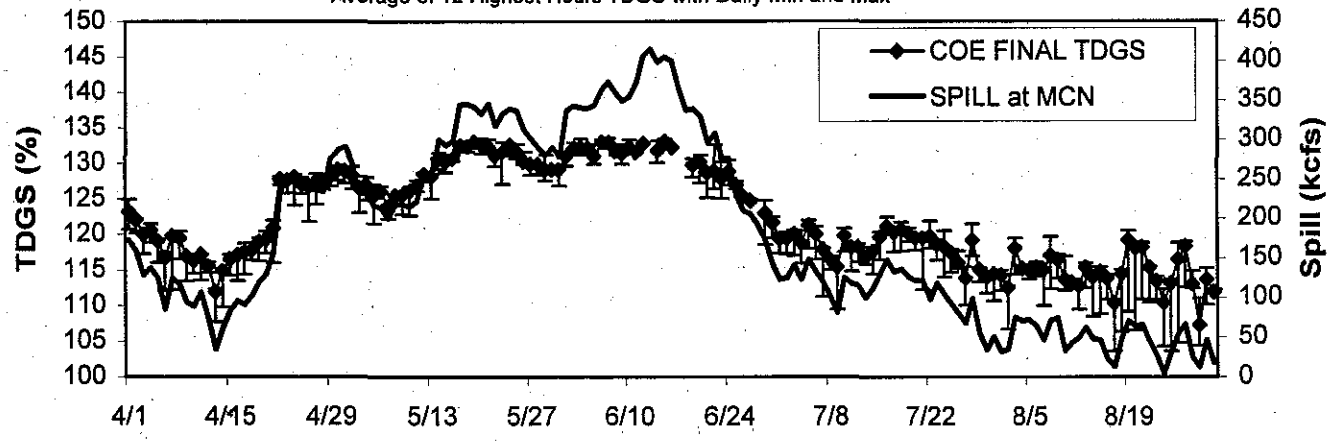
McNary-Washington Forebay TDGS 1997

Average of 12 Highest Hours TDGS with Daily Min and Max



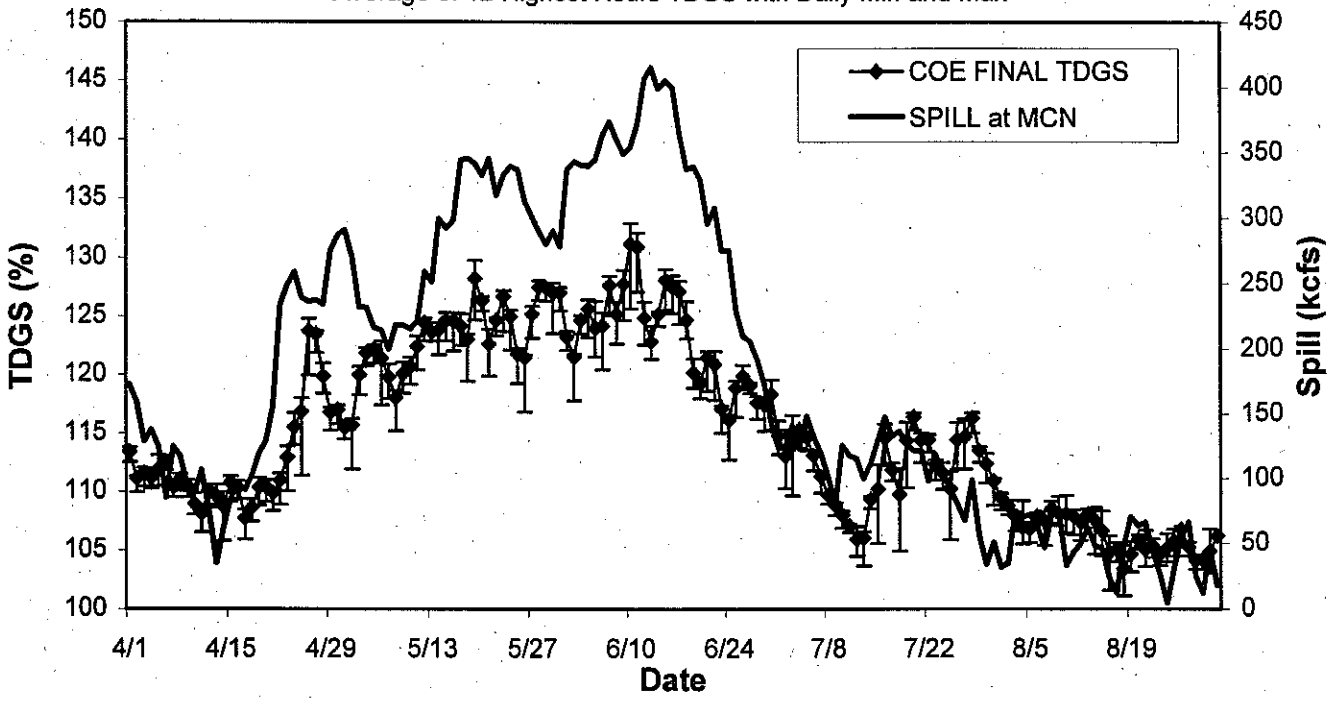
McNary Tailwater TDGS 1997

Average of 12 Highest Hours TDGS with Daily Min and Max



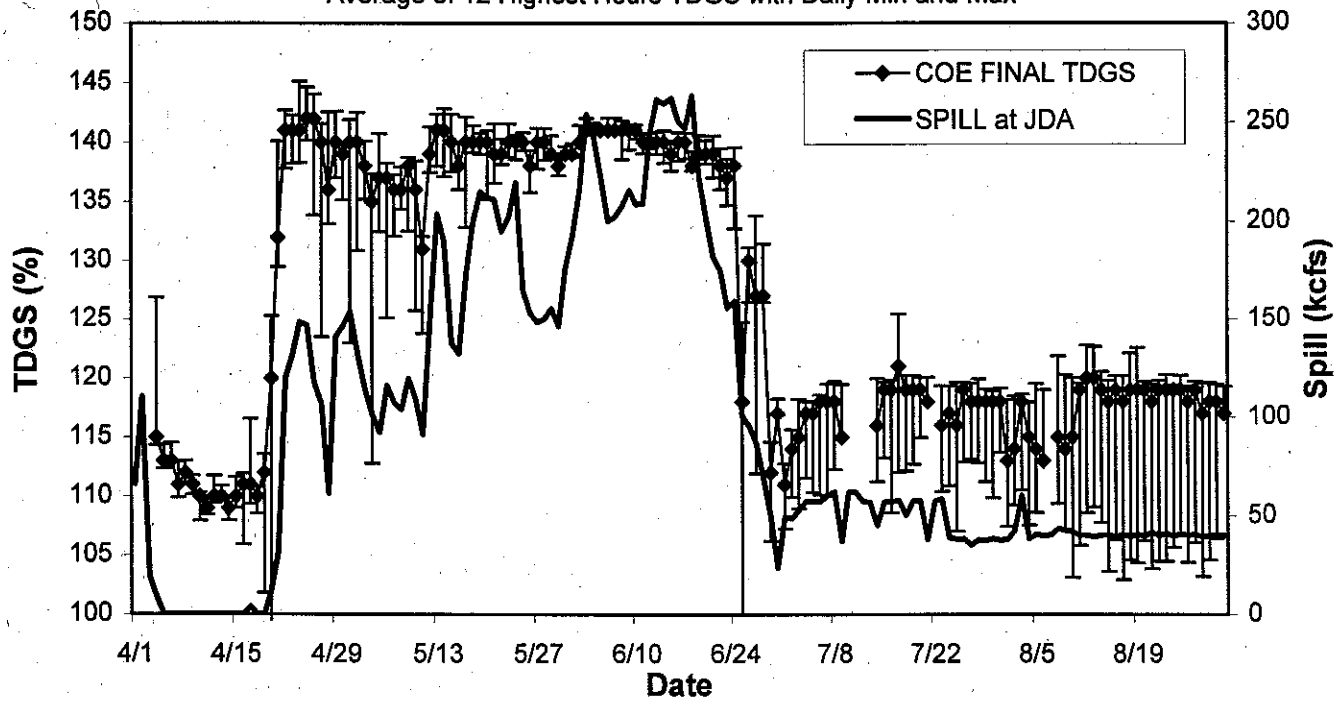
John Day Forebay TDGS 1997

Average of 12 Highest Hours TDGS with Daily Min and Max



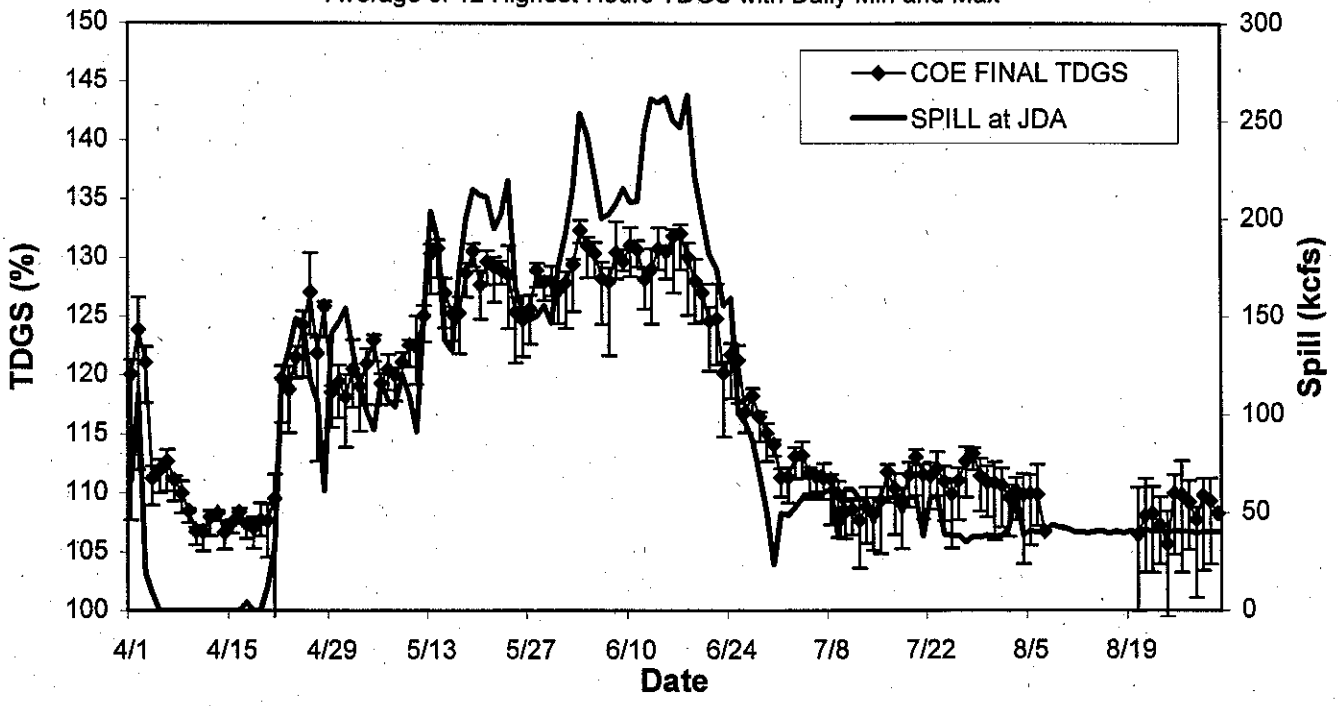
John Day Tailwater TDGS 1997

Average of 12 Highest Hours TDGS with Daily Min and Max



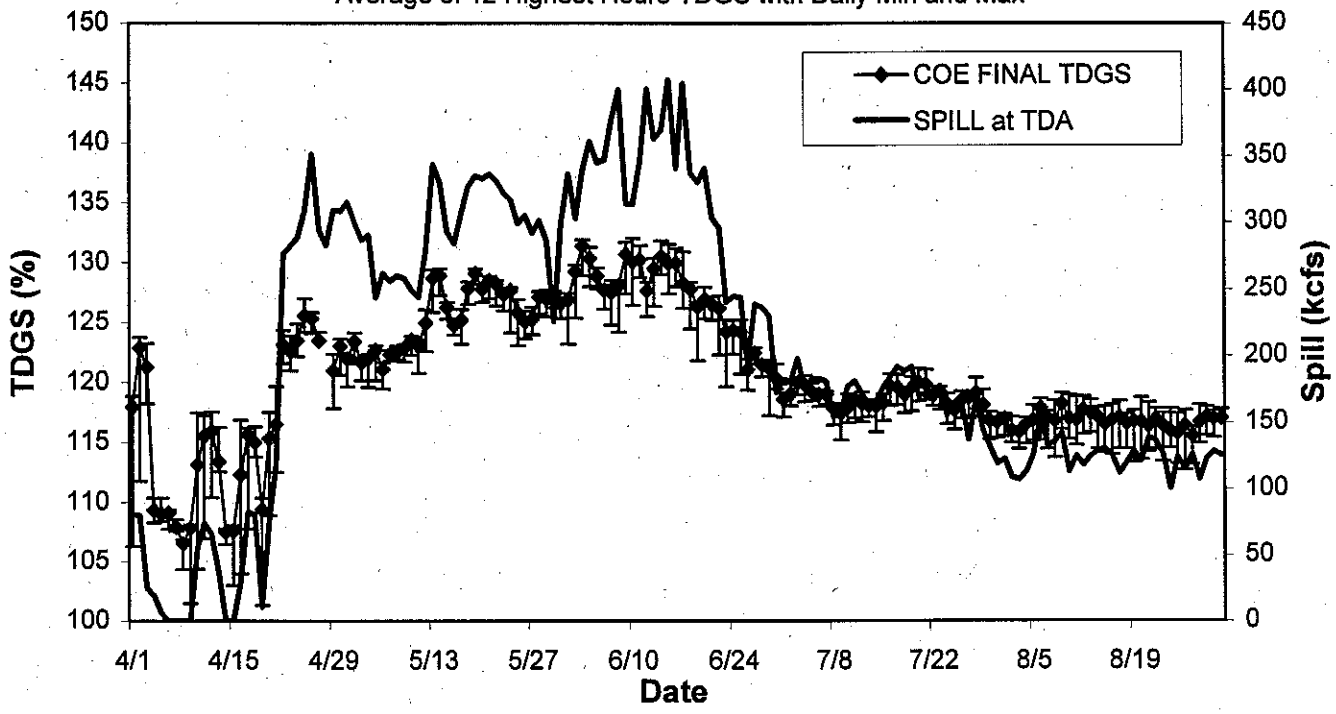
The Dalles Forebay TDGS 1997

Average of 12 Highest Hours TDGS with Daily Min and Max

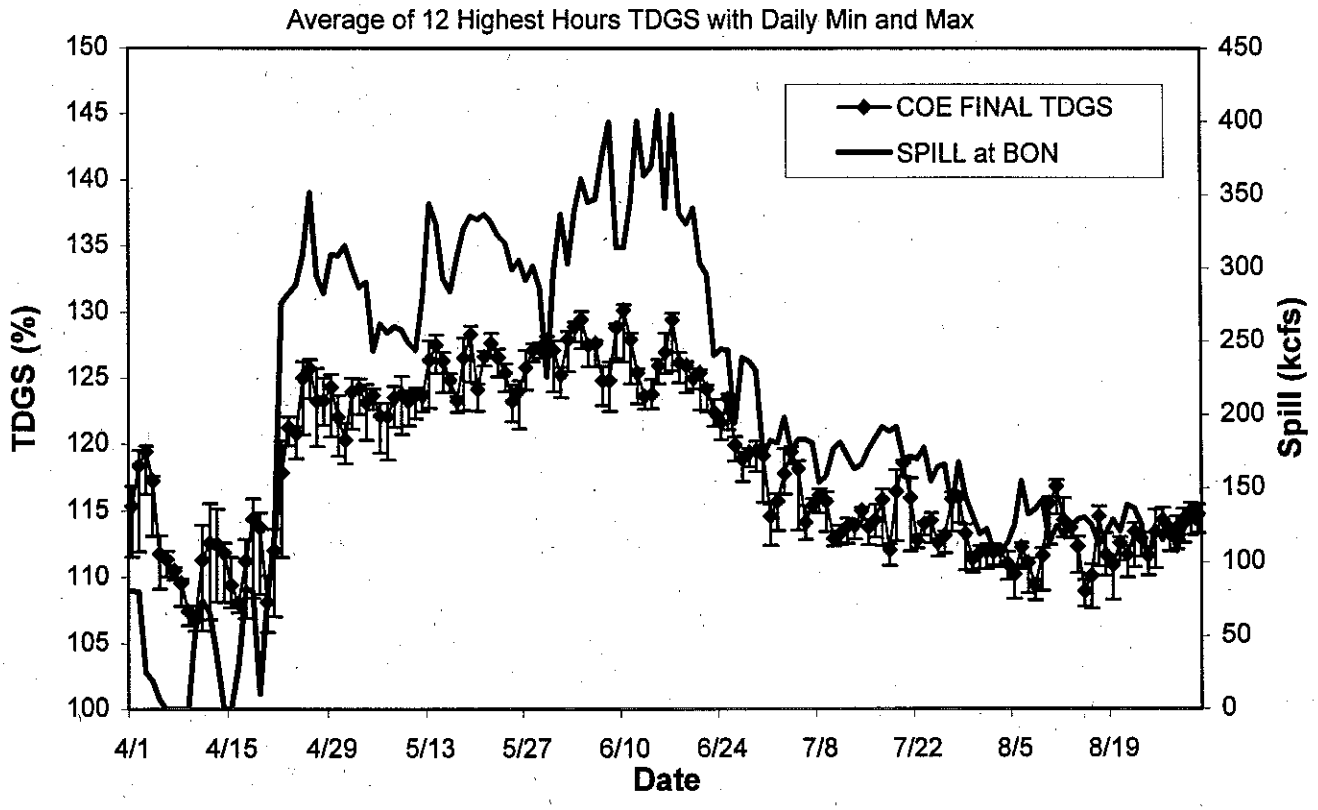


The Dalles Downstream TDGS 1997

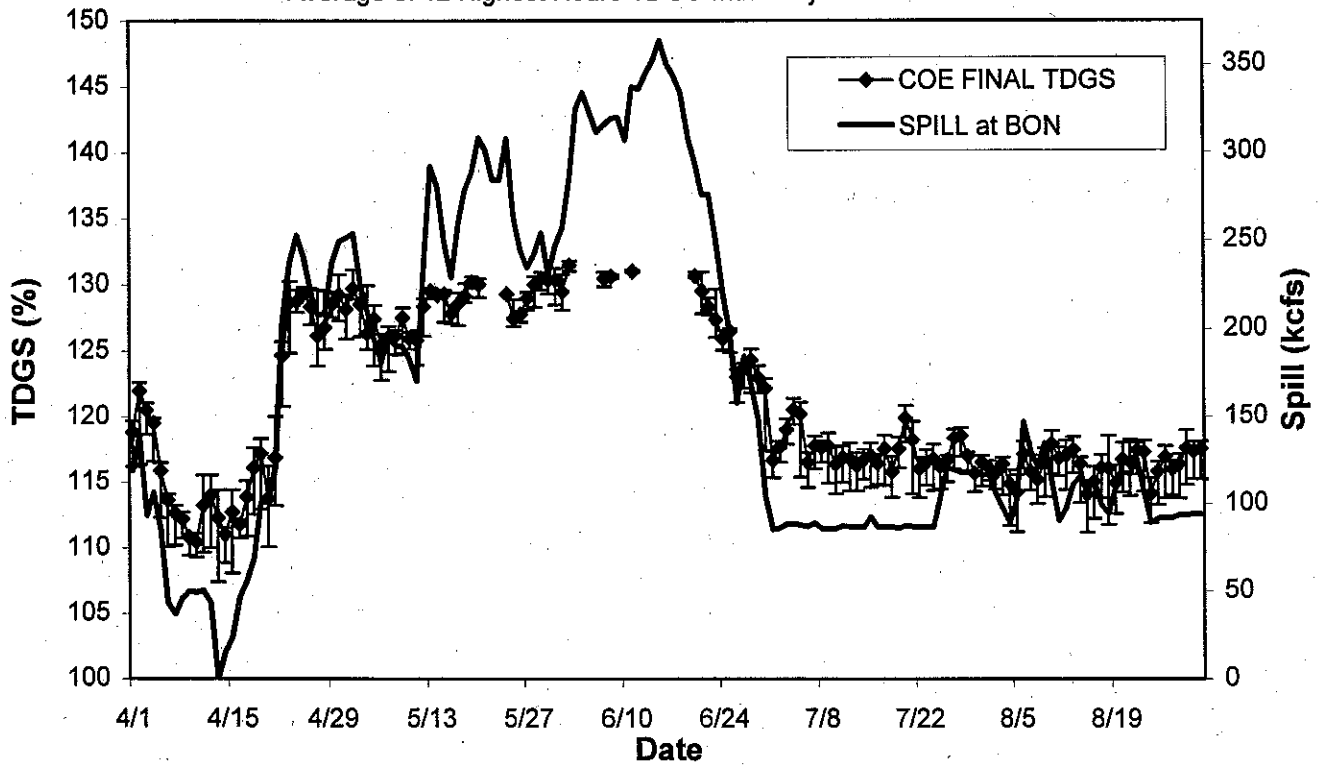
Average of 12 Highest Hours TDGS with Daily Min and Max



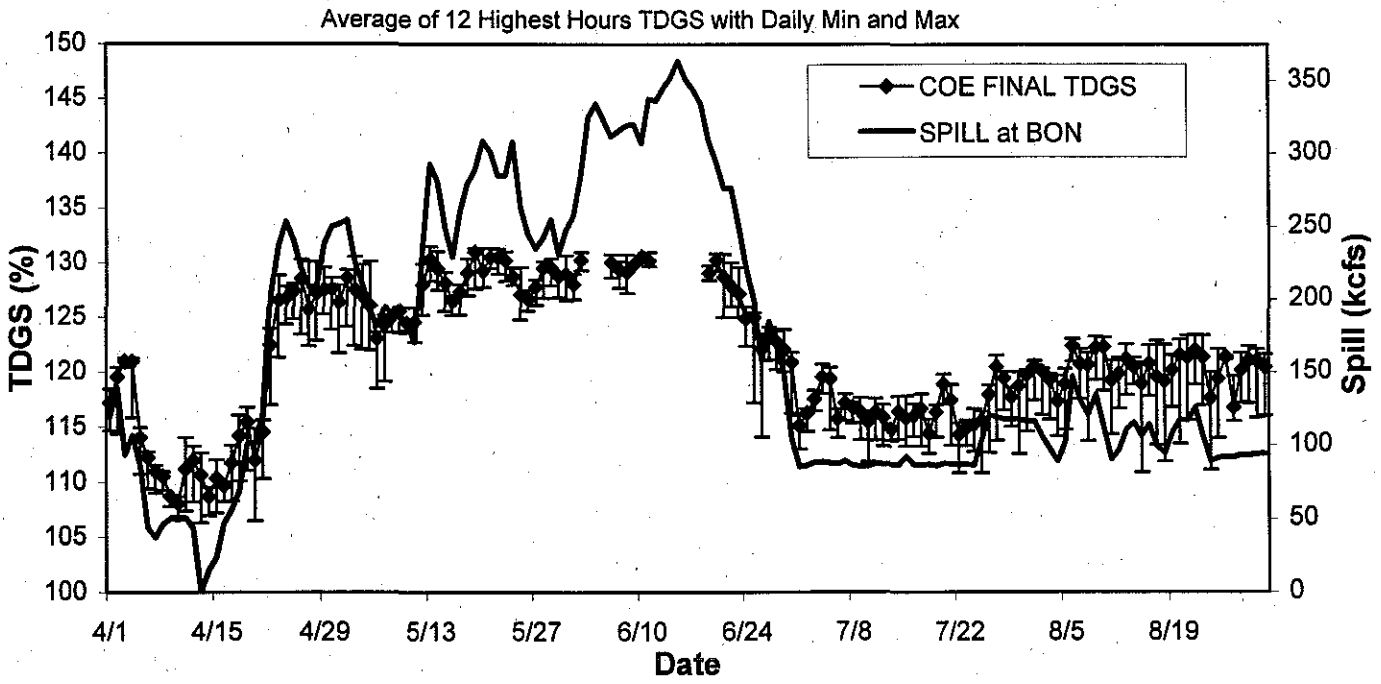
Bonneville TDGS 1997



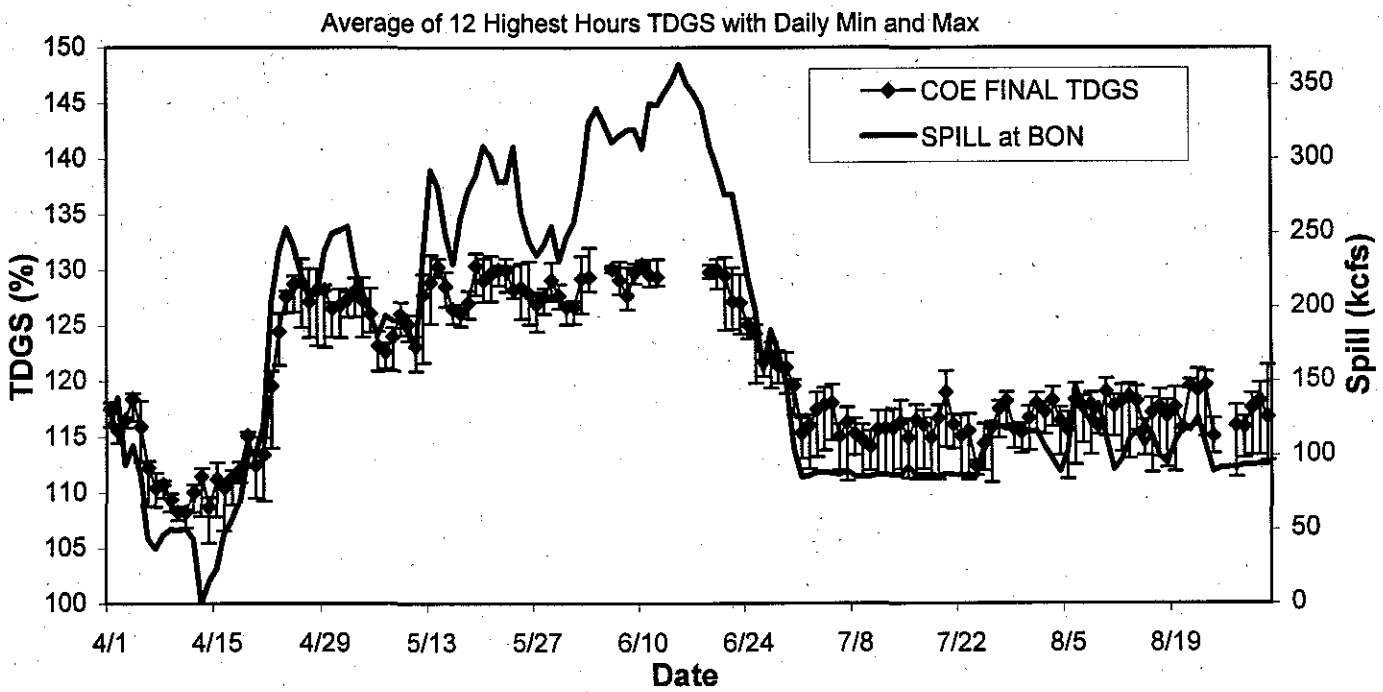
Warrendale TDGS 1997



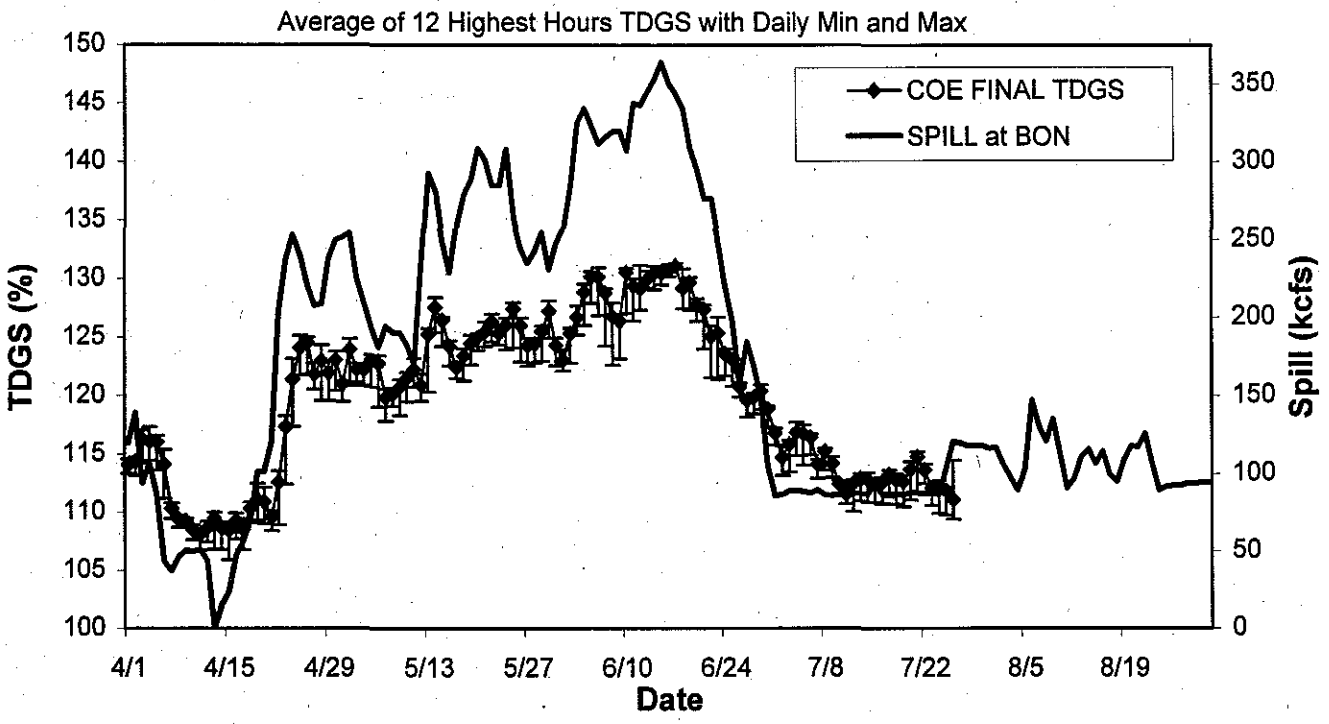
Skamania TDGS 1997



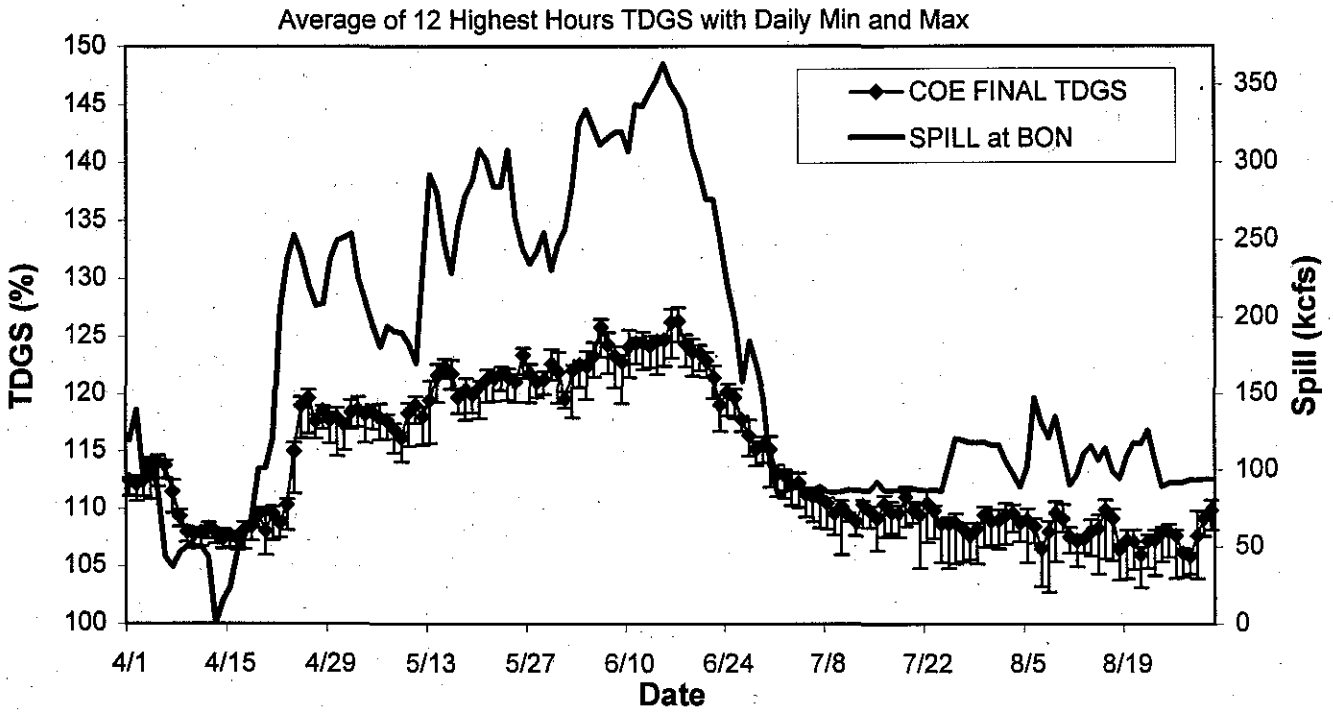
Camas/Washougal TDGS 1997



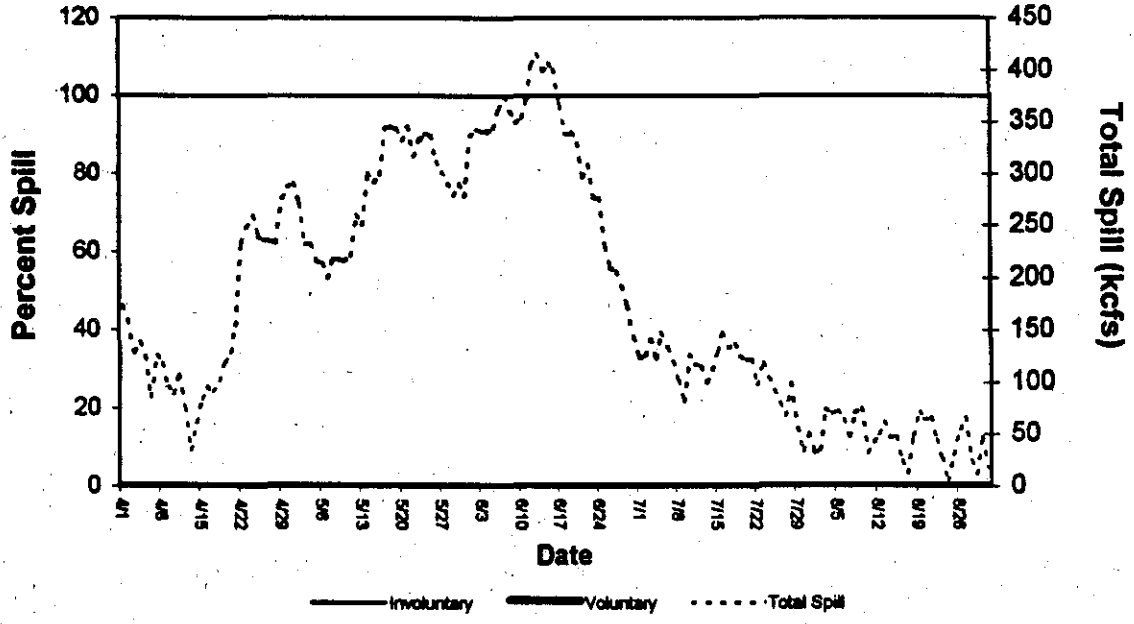
Kalama TDGS 1997



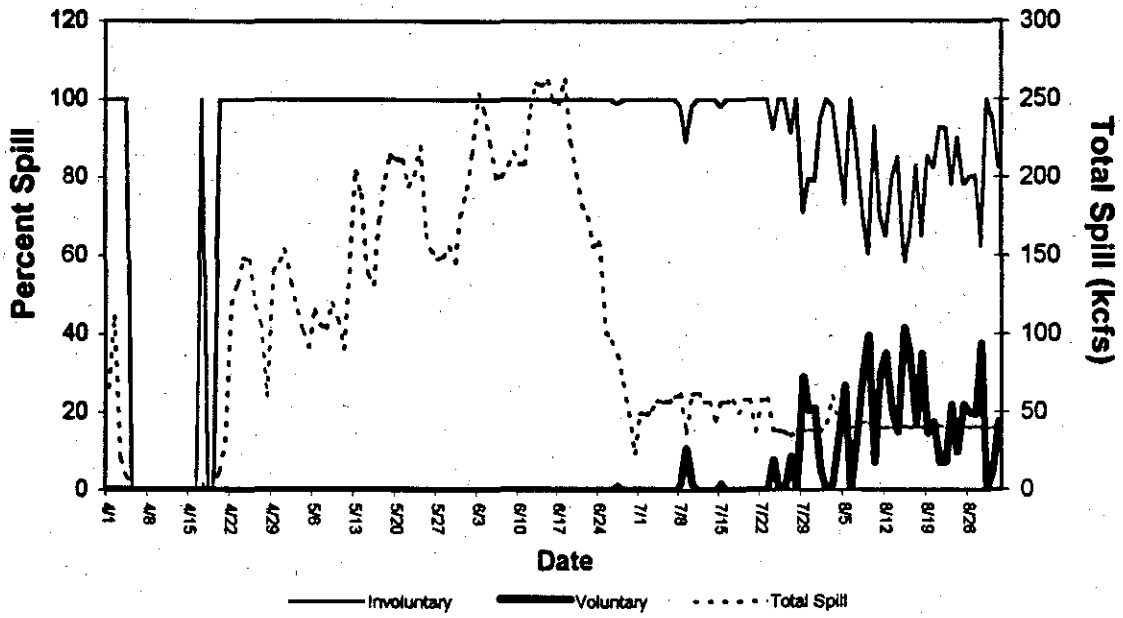
Wauna Mill TDGS 1997



McNary



John Day



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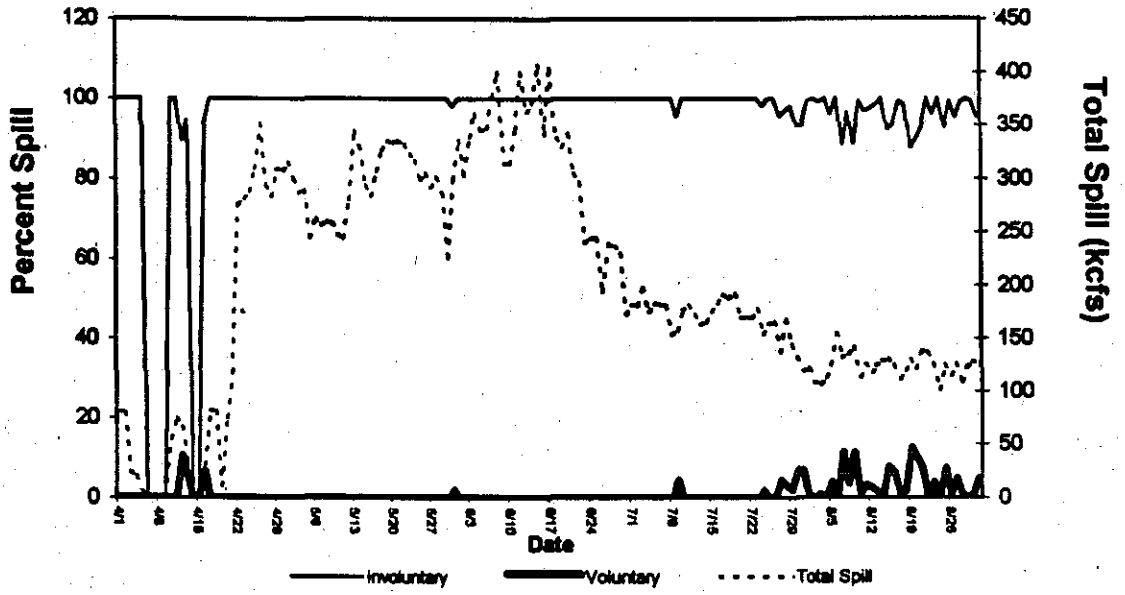
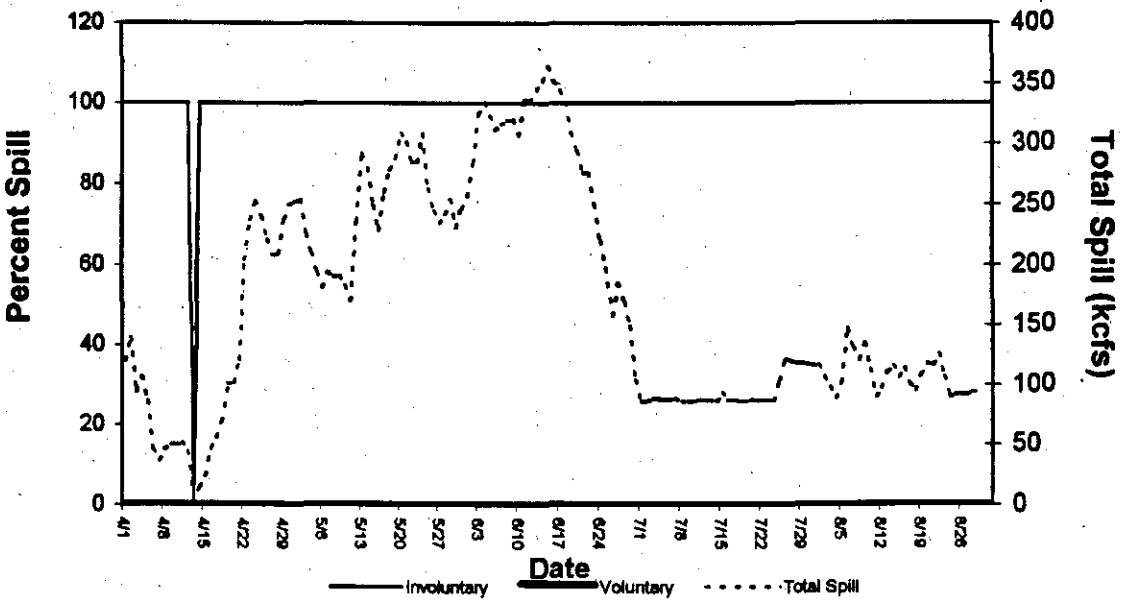
The Dalles



Bonneville



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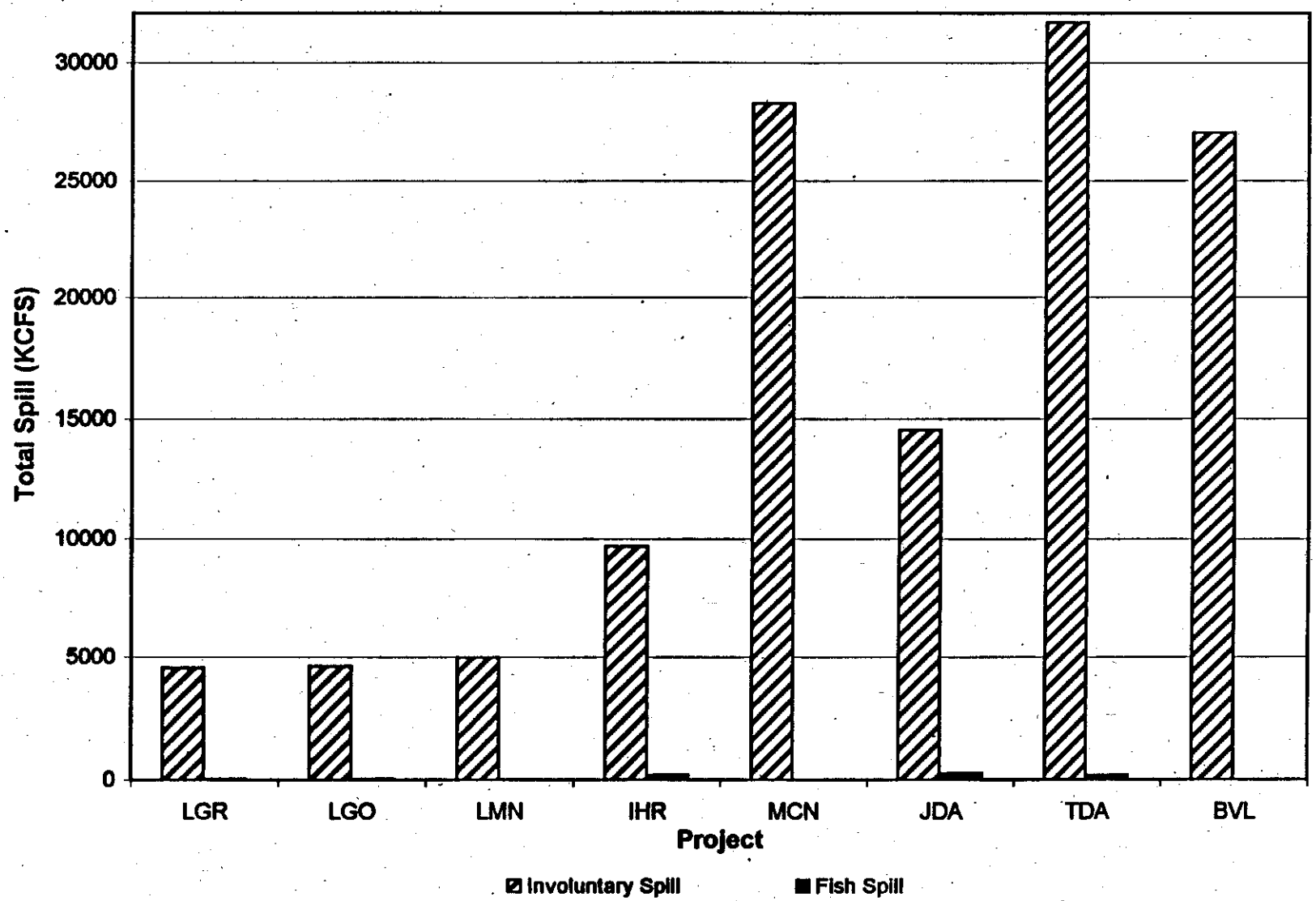
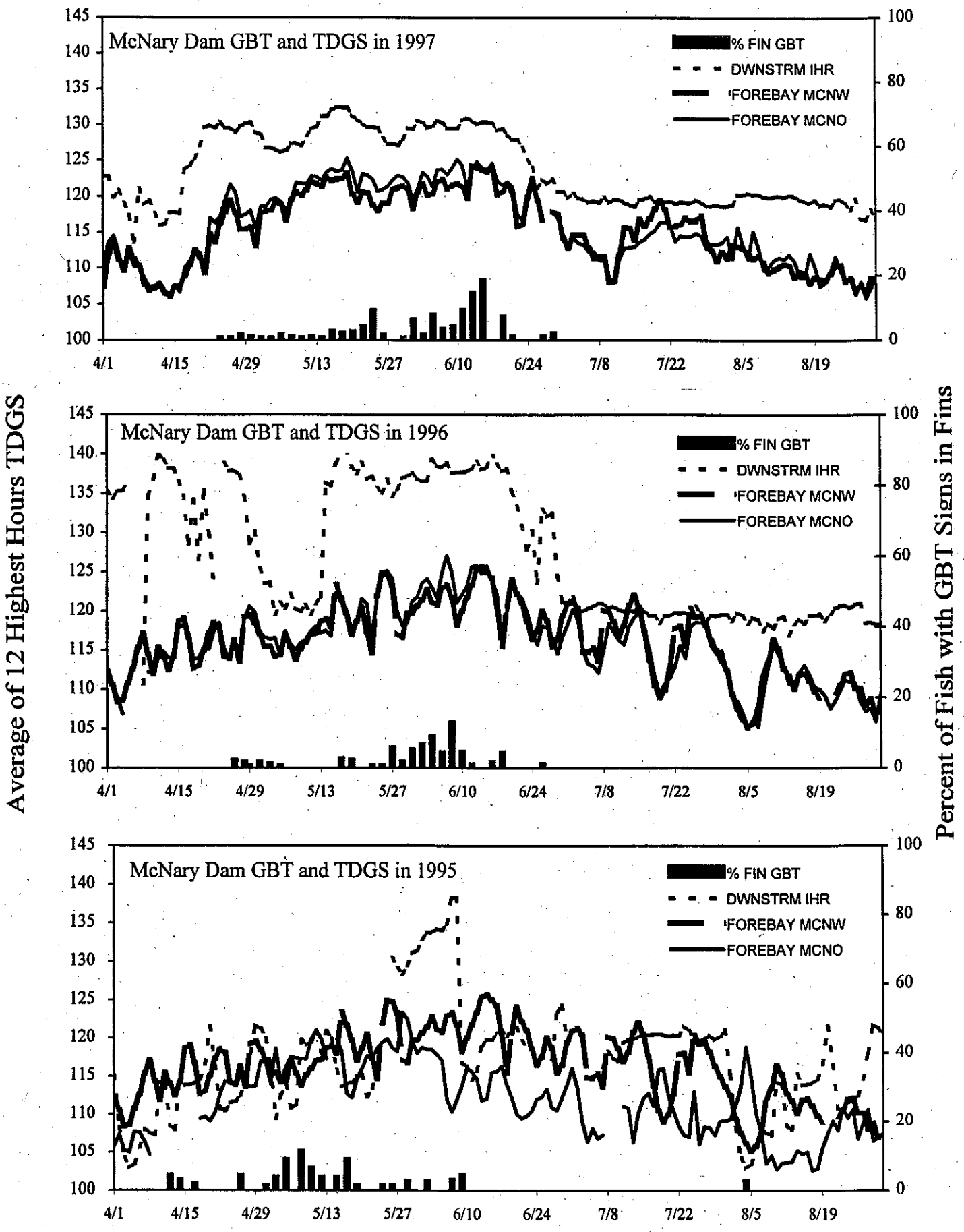
1997 Spill


Total Spill (KCFS)
30000
25000
20000
15000
10000
5000
0
LGR
LGO
LMN
IHR
MCN
JDA
TDA
BVL
Project
Involuntary Spill
Fish Spill


McNary Dam GBT and TDGS in 1997
% FIN GBT
DWNSTRM IHR
FOREBAY MCNW
FOREBAY MCNO
McNary Dam GBT and TDGS in 1996
% FIN GBT
DWNSTRM IHR
FOREBAY MCNW
FOREBAY MCNO
McNary Dam GBT and TDGS in 1995
% FIN GBT
DWNSTRM IHR
FOREBAY MCNW
FOREBAY MCNO
Average of 12 Highest Hours TDGS
Percent of Fish with GBT Signs in Fins
145
140
135
130
125
120
115
110
105
100
100
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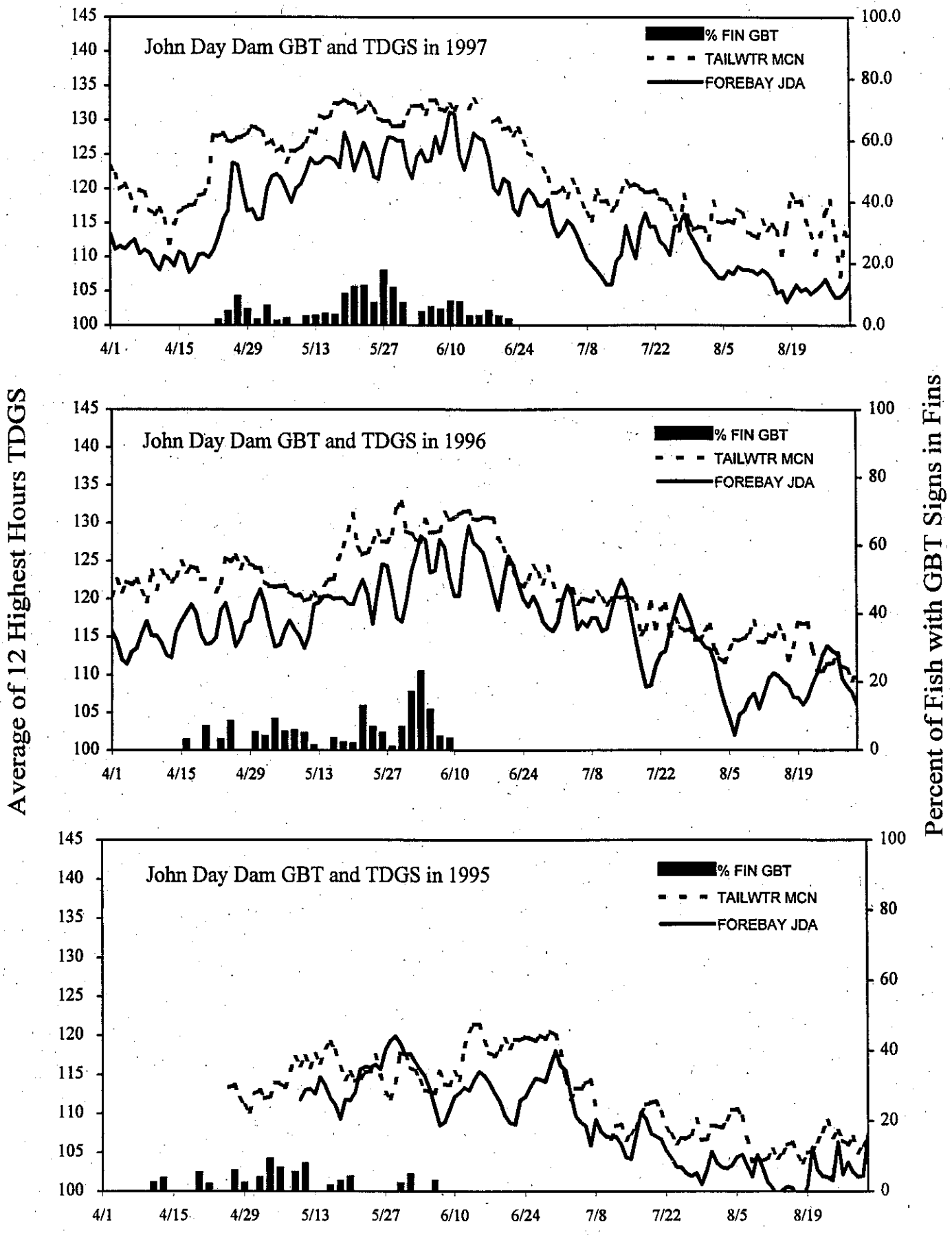
John Day Dam GBT and TDGS in 1997
% FIN GBT
TAILWTR MCN
FOREBAY JDA
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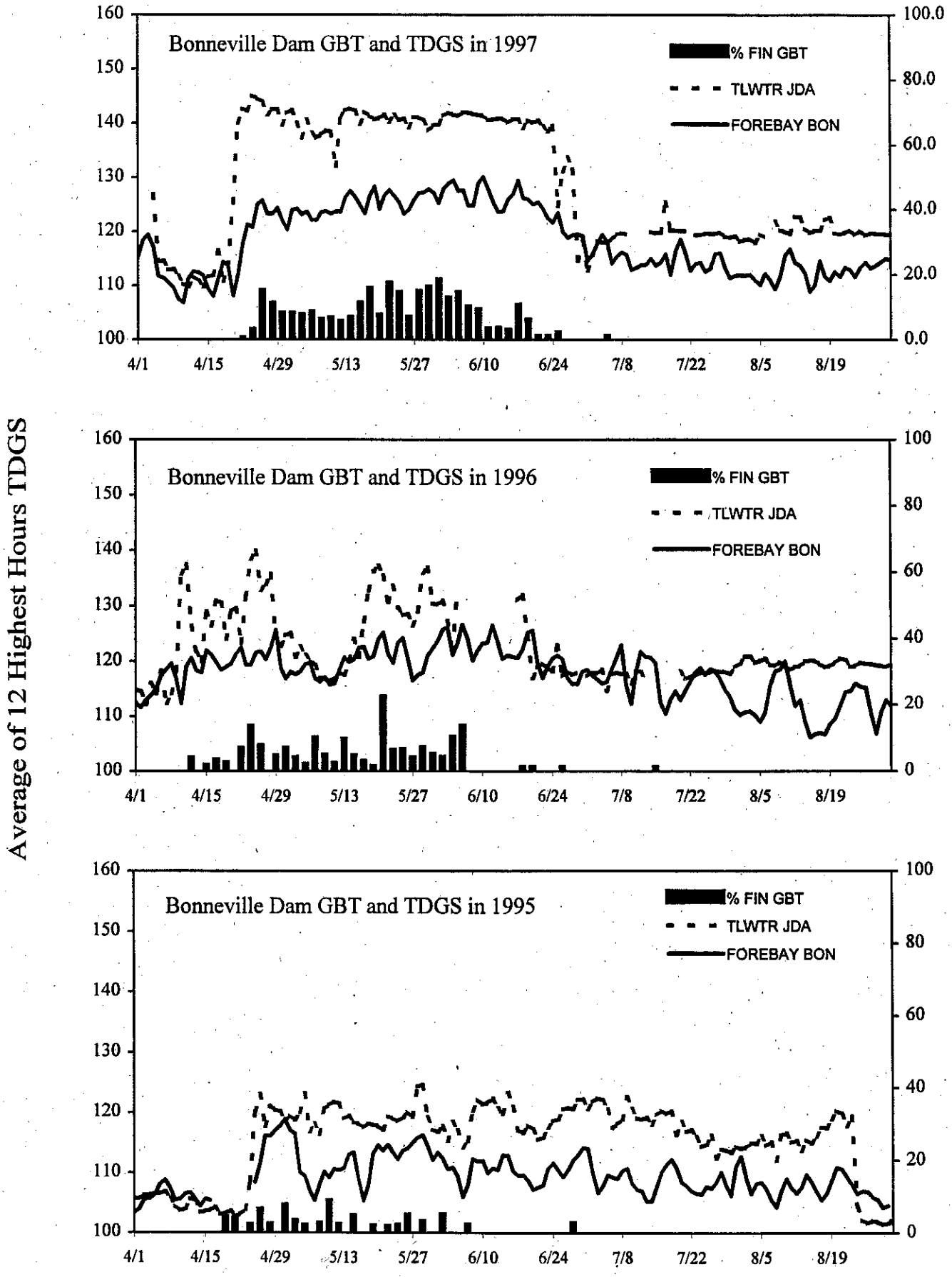
Average of 12 Highest Hours TDGS
Percent of Fish with GBT Signs in Fins


Bonneville Dam GBT and TDGS in 1997
% FIN GBT
TLWTR JDA
FOREBAY BON
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8/19
Average of 12 Highest Hours TDGS
Percent of Fish with GBT Signs in Fins

Exceedences of NMFS criteria for signs of GBT.

Summary of GBT Monitoring Program Exceedences by Site*		
Site	**1996**	**1997**
Bonneville	1	5
John Day	2	0
McNary	0	1
Ice Harbor	0	1
Lower Monumental	8	6
Little Goose	1	0
Lower Granite	0	0
Rock Island	11	12
Total	**23**	**25**

*Sample size greater than or equal to 100 fish.

Summary of Fish with severe GBT at Lower Snake and Lower Columbia River sites.

	Juvenile salmonids		
Year	# Fish Examined	# Severe GBT	Percent
1995 (4X)	55,219	0	0.00
1995 (DS)	16,021	0	0.00
1996	38,925	47	0.12
1997	42,751	117	0.27

4X refers to the power of the magnifying lens used to examine fish in 1995

DS refers to fish examined with dissecting scope in 1995.

Table 5. The number of days when TDGS exceeded 120% and 130% at Lower Snake River and Lower Columbia River sites.[1]

	1997		1996		1995	
COE TDGS Monitor	**Days>120**	**Days>130**	**Days>120**	**Days>130**	**Days>120**	**Days>130**
John Day Tailwater	73	69	52	21	29	0
McNary Tailwater	77	33	91	12	4	0
Ice Harbor Tailwater[2]	80	22	105	66	20	16
Little Goose Tailwater	68	23	57	7	4	0
Lower Granite Tailwater	52	15	52	7	0	0
All Index Sites	**350**	**162**	**357**	**113**	**57**	**16**

[1]Approximate number of days based on graphs of COE TDGS data.
[2]Values for 1995 at Ice Harbor may underestimate total.

Results of Monitoring Program

1. The monitoring program for signs of GBT has been implemented in a consistent manner over the past three years.

2. One of the three years was characterized by near normal level flow and a TDG capped spill program of 115/120%. The other two years were above average flow conditions and TDGS levels that exceeded the State waivers.

3. The monitoring program detected an increase in both prevalence and severity of signs with increasing levels of TDGS.

4. Research studies were conducted to test the critical uncertainties regarding the representativeness of the monitoring sample. These studies appear to support the conclusion that the monitoring program is representative.

5. Few signs of GBT are observed in fish migrating under controlled spill conditions.

PLAN OF ACTION TO REDUCE TOTAL DISSOLVED GAS FROM SPILL IN THE MAINSTEM COLUMBIA AND SNAKE RIVERS

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1. PREAMBLE

2. BACKGROUND

- NMFS listed the Snake River Chinook and Sockeye under ESA
- NMFS issued a Biological Opinion on the operation of the FCRPS
- The Biological Opinion established RPA's to avoid jeopardy
- Three RPA's address dissolved gas issues:
  - #2 - Describes a spill program
  - #16 - Describes development and implementation of a M&E program
  - #18 - Requires COE to develop and implement gas abatement
- Biological Opinion called for establishment of a technical work group to provide a forum for technical discussions of dissolved gas topics

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2. BACKGROUND continued

- 1976 - EPA water quality criteria and state's standard for TDG not to exceed 110%
- NMFS identified spill as an immediate means of improving passage of downstream migrants
- Spill generates total dissolved gas supersaturation
- NMFS spill limited by TDGS levels of 115% in forebays and 120% in tailraces
- Purpose section discusses the existing waiver processes for each of the states and the Nez Perce Tribe

PLAN OF ACTION TO REDUCE TOTAL DISSOLVED GAS FROM SPILL IN THE MAINSTEM COLUMBIA AND SNAKE RIVERS

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3. PURPOSE

General - Promote a coordinated system-wide effort to reduce dissolved gas to levels safe to aquatic life. Strive to meet the federal criteria and state water quality standard of 110% TDG.

Primary Purpose

- Articulate a regional agreement on the implementation of the NMFS Biological Opinion Spill Program
- Strategies and actions to be pursued in the near term (5 years)
- Strategies and action to be pursued in the longer term
- Identify entities responsible for these action and to establish a projected time table for the action described

Secondary Purpose

- Develop a single document to which all participants can agree may be used in lieu of annual waivers

PLAN OF ACTION TO REDUCE TOTAL DISSOLVED GAS FROM SPILL IN THE MAINSTEM COLUMBIA AND SNAKE RIVERS

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4. GAS ABATEMENT PLANS AND TIMETABLES

- COE - Currently in second phase. Recently under regional scrutiny. Plan of Action contains a plan and timetable likely to change. COE gas abatement planning the most advanced

- BOR - Plan of Action contains brief description of Bureau approach to gas abatement study

- Mid-Columbia PUD's - Awaiting response to request for input to the Plan of Action.
  PUD plan will likely be associated with ongoing FERC process

- Idaho Power Company - Awaiting response from IPC

- British Columbia Hydroelectric - Discussions on coordination in progress

PLAN OF ACTION TO REDUCE TOTAL DISSOLVED GAS FROM SPILL IN THE MAINSTEM COLUMBIA AND SNAKE RIVERS

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5. INTER-RELATIONSHIPS OF COMPONENTS

6. ROLES AND RESPONSIBILITIES
- Regulatory Agencies
- Advisory Agencies
- Implementing Agencies

7. HISTORY OF PLAN OF ACTION

8. ANNUAL STATUS REPORT ON PROGRESS
- Monitoring (Physical and Biological)
- Gas Abatement
- Research
- Annual Meetings
- In Progress review of COE DGAS

9. ADAPTABILITY

10. PUBLIC INFORMATION /INVOLVEMENT PROCESS

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State of Oregon
Department of Environmental Quality

Memorandum

Date: November 21, 1997

To: Environmental Quality Commissioners

From: Langdon Marsh

Subject: Director's Report

Emergency Board Leaves Door Open for Changes

Anticipated shortages in other state agency programs and continuing issues about public or private operation of the VIP program made two DEQ interim funding requests to the Legislative Emergency Board a hard sell in Salem yesterday. Our requests for VIP funding and staffing as well as money for rural gas station tank conversion grants did not get fully approved. But they did not get complete denials either. Legislators approved $6.9 million limitation to operate VIP through the biennium, but rejected our request for 83 permanent state positions to implement the enhanced vehicle inspection program. Instead they asked that we report back next year evaluating program operation with a mix of public employees and temporary, contract workers. That does leave the door open for future changes.

The Emergency Board did not approve more money for financial assistance grants to small rural gas stations for tank upgrades. They did ask us to come back to a subsequent meeting with our request, when we can better define the expected grant applicants. This means we will be proceeding with some form of ranking of the potentially eligible facilities. We will be working on plans to do this immediately. Major issues will be 1) how far do we take the ranking process to get a accurate list and 2) is there enough time to get grants distributed and upgrade work completed.

303(d) Data Gathering Period Closes Today

We are completing the first formal step of developing the 1998 303(d) list today. A public call for data went out several weeks ago and submissions were due no later than today. We will be analyzing that information over the next several weeks and releasing a draft 1998 list for 60 days of public review beginning in January. At this time we are on track for delivering an updated list to EPA by the April, 1998, deadline.

Given that more data will likely be available for this round of list development, it is possible that the list could grow beyond the current list of 869 waterbodies. We also will be making adjustments to remove waters that were listed incorrectly in 1996 or where better data justifies removal. Water quality staff are also reviewing existing watershed management plans on federal lands to determine what it would take for the plans to qualify as nonpoint source TMDLs.

401 Certification Rule-making Process Advances

You should be seeing a package of rules before you in February to enable DEQ's role in the 401 Certification process for grazing permits on Forest Service lands. As you recall, we implemented this court-ordered program this past spring under temporary rules. We are now near the end of an extended rule development process that involved a diverse advisory committee.

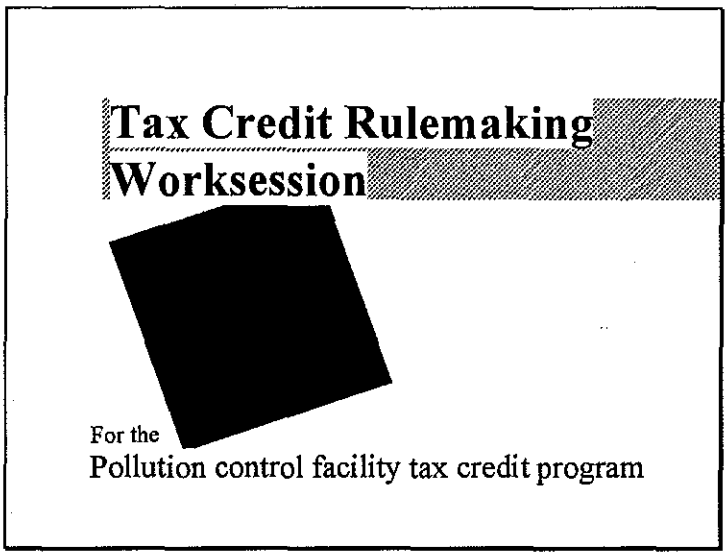
The proposed permanent rules will be opened for public comment in mid-December with the comment period closing in late January. We will likely bring the rule package to you at the February, 1998, meeting.

Good People Doing Good Work

The following agency people were recognized at the October Quarterly Managers Meeting and received plaques for their excellent work.

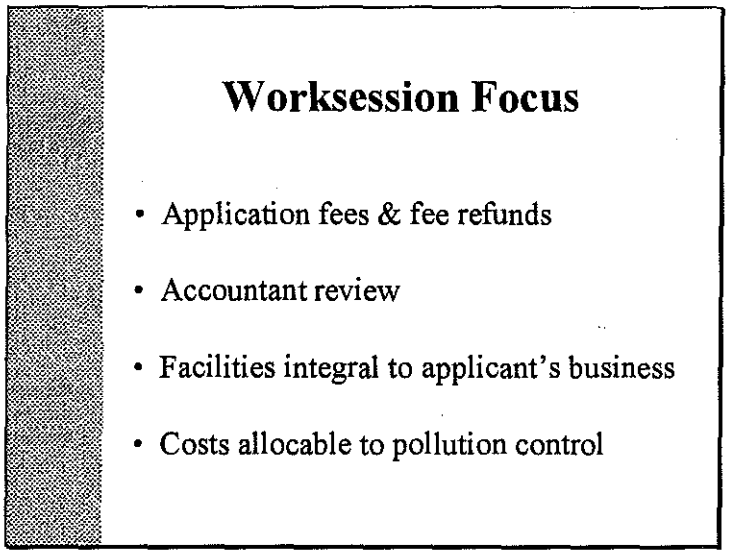
Ted Vandehey – for outstanding service in support of Exchange mail systems, computer network systems and regional upgrades. The statewide network has undergone lots of changes over the last year, and Ted has been instrumental in making the system work.
Steve Masuo – for his outstanding work supporting DEQ network systems, the Sequent system that holds many agency databases, and for his support of access and use of the DAS mainframe for data and printing capability.
Jeff Christensen, Brooks Koenig, Bruce Hope, Keven Paarrett and Eric Blischke – these people received individual awards but were recognized as a team for their outstanding contributions toward development of our state environmental cleanup rules.
Debra Sturdevant – for her outstanding achievement in developing and implementing water quality 401 Certifications for livestock grazing in Oregon. This work was quite a departure from previous 401 processes and required both organizational and diplomatic skills.
Bart Collinsworth – for innovation and implementation of Waste Reduction Assistance action forms and successful outcome measurement techniques for the Western Region Hazardous Waste Program.
Andree Pollock and Jennifer Sutter -- for their outstanding work in the role as the agency's underground storage tank and voluntary cleanup liaisons to the Westside Light Rail project from 1992 through 1997. They were commended for being a responsive, productive and flexible partners in this massive construction project.
Peggy Halferty – for her excellent work in bringing the State Revolving Fund lending pace up from 57 percent of funds lent in FY 95 to 97.4 percent in 1997. Her skills led to an average 20 percent improvement per year over the three year period.
Judy Hatton – for remarkable endurance and ability to deal with extreme workloads, profound ambiguity, unprecedented requests and relentless change.

Slide 1



Pollution Control Facility Chapter 340 Division 16 implements ORS 468.150 to 190
Pollution Prevention Chapter 340 Division 16 implements ORS 468A.095 to 150
Recycled Plastics Chapter 340 Division 17 implements ORS 468.451 to 491

Slide 2



Focusing Questions

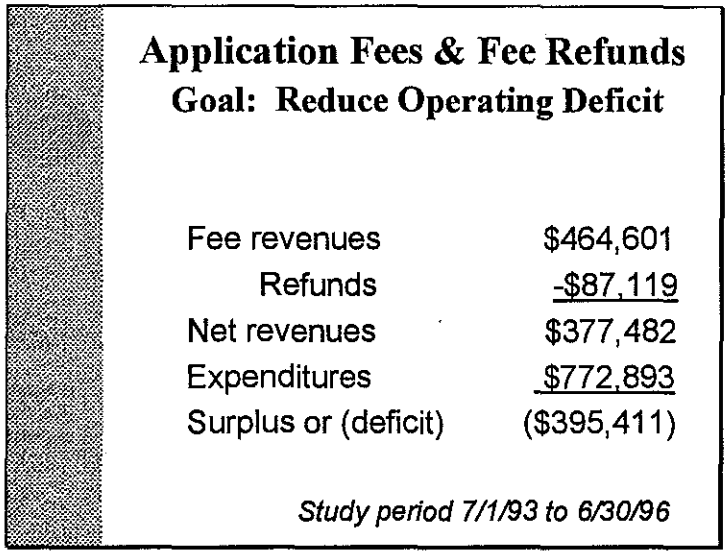
Fees *Should the Department continue with the proposed fee schedule even though it is different than the advisory committee recommendation?*

Accountant Review *Should the Department consider staff's and advisory committee's preference for the applicant to choose and pay for their own independent certified public accountant's review that would be submitted with the application. This decision would eliminate all contracts between accounting firms and the Department.*

Integral Facilities. *Should the Department continue with the proposed treatment of investments made in a facility that is integral to an applicant's business? What is the Commission's perspective on providing tax credits to applicant's whose business is recycling?*

Percent Allocable *Should the Department proceed with the proposed rule regarding the method for determining the percentage of the facility cost that is allocable to pollution control? The impact would be to lower the percentage allocable to pollution control for the applicant claiming a facility cost that exceeds $50,000 where that facility produces a positive income.*

Slide 3



CORRECTION TO Worksession Information Item

Page 4 - Ability to Meet Revenue Requirements. Column labeled ***"Current Fee Schedule"*** should read ***"Actual"*** even though the gross revenue amount is correct, identifying revenue associated with the accounting review, field burning fees, and general fund supplementing the tax credit program is a more useful view.

	Current	Proposed
Fees		
Application	$399,561	$730,242
Acct. Review	11,937	
Field Burning	53,103	4,850
	464,601	735,092
General Fund	153,985	
Gross Revenue	**$618,586**	**$735,092**

Revenue Comparison

Study Period 7/1/93 to 6/30/96
Excluding Field Burning

Record Number	Date Received	Application Amount	Actual Revenues	Proposed Fee	Proposed to Actual
1	05-Nov-93 RECEIVED	$1,078	$ 50	$ 11	22%
	05-Nov-93 RECEIVED	$1,100	$ 50	$ 11	22%
	31-Oct-95 RECEIVED	$1,195	$ 50	$ 12	24%
	31-Oct-95 RECEIVED	$1,195	$ 50	$ 12	24%
	11-Mar-96 RECEIVED	$4,734	$ 50	$ 47	95%
	15-Nov-93 RECEIVED	$4,808	$ 50	$ 48	96%
84	**06-Dec-93 RECEIVED**	**$5,000**	**$ 50**	**$ 50**	**100%**
	16-Mar-93 RECEIVED	$5,112	$ 50	$ 51	102%
	05-Mar-93 RECEIVED	$5,208	$ 50	$ 52	104%
	16-Apr-93 RECEIVED	$ 49,996	$ 300	$ 500	167%
	16-Apr-93 RECEIVED	$ 50,658	$ 303	$ 507	167%
266	**23-Dec-94 RECEIVED**	**$ 50,951**	**$ 305**	**$ 510**	**167%**
	10-Jul-95 RECEIVED	$ 51,278	$ 306	$ 513	167%
	31-Oct-95 RECEIVED	$ 51,307	$ 307	$ 513	167%
	06-Aug-93 RECEIVED	$ 943,490	$ 4,767	$ 9,435	198%
	26-Sep-94 RECEIVED	$ 958,105	$ 4,841	$ 9,581	198%
502	**22-Dec-95 RECEIVED**	**$ 1,038,138**	**$ 5,000**	**$ 10,000**	**200%**
	03-Aug-93 RECEIVED	$ 1,187,110	$ 5,000	$ 10,000	200%
	23-Dec-94 RECEIVED	$ 1,218,902	$ 5,000	$ 10,000	200%
532	**15-Oct-93 RECEIVED**	**$ 32,800,000**	**$ 5,000**	**$ 10,000**	**200%**

Fees - Applications Received		$ 399,561	$ 730,242
Fees - Extensive Accounting Reviews		$ 11,937	$ -
Fees - Field Burning Applications		$ 53,103	$ 4,850
	Total Fees	$ 464,601	$ 735,092
General Fund		$ 153,985	$ -
	Gross Revenue	$ 618,586	$ 735,092
Refunds		$ (87,119)	$ (43,560) *
	Net Revenue	$ 531,467	$ 691,532

** The proposal represents only 50% of the actual refunded amount since the Department did not tie refunds to specific applications f*

Slide 5

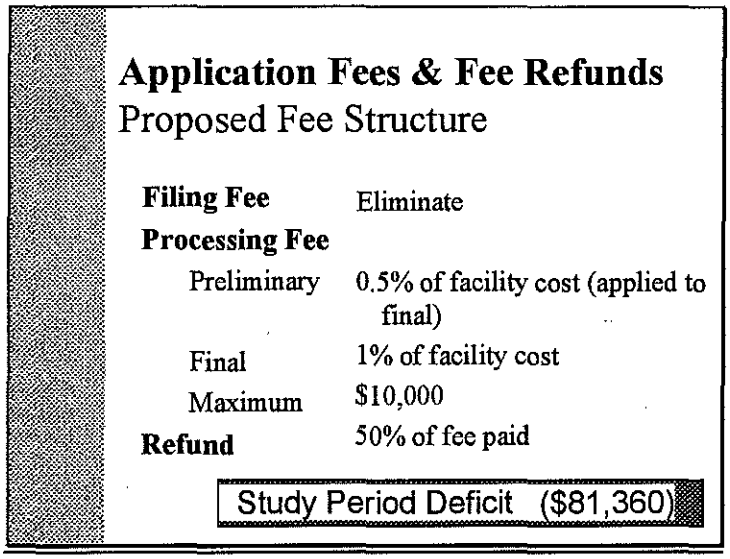
Application Fees & Fee Refunds

Current Fee Structure

Filing Fee	$50
Processing Fee	
Preliminary	0%
Final	0% if facility cost < $10,000
	0.05% of facility cost
Maximum	$5,000
Refund	100% of processing fee

Study Period Deficit ($395,411)

Slide 6



PRELIMINARY CERTIFICATION ORS 468.190 - 1995 legislation
Provides prima facia evidence that the facility would be eligible under the program. Restricts to applications claiming facilities prior to completion of construction. Allows adoption of fees.

Slide 7

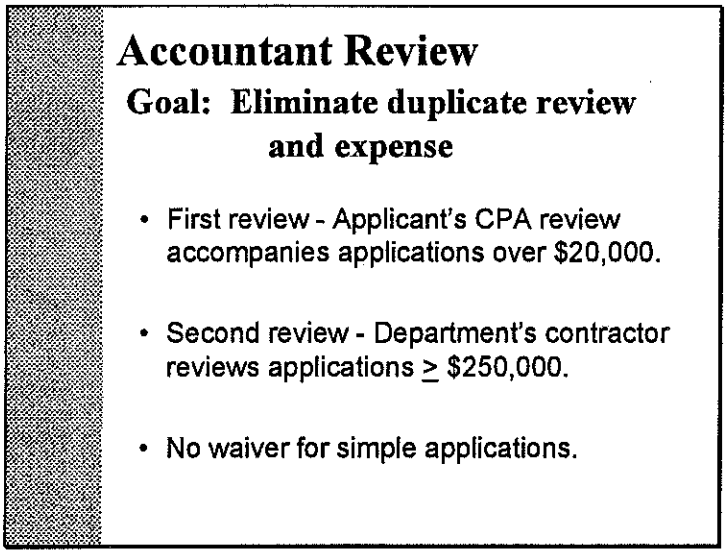
Application Fees & Fee Refunds

AC Recommended Fee Structure

Preliminary	$250
Filing Fee	$50 < $10,000; $100 ≥ $10,000
Processing Fee	
Final	0% if facility cost < $10,000
	.75% if facility cost ≥ $10,000
Maximum	$10,000
Refund	50% of processing fee

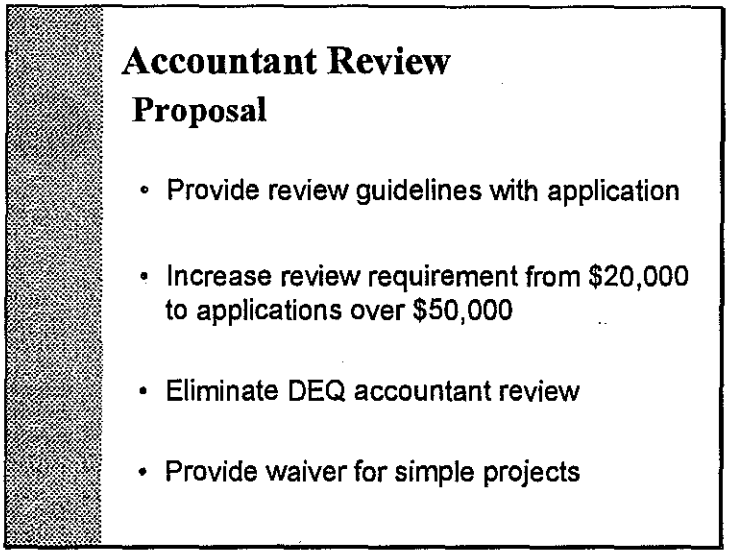
Study Period Deficit ($158,997)

Slide 8



Page 5 - Discussion Points

Slide 9

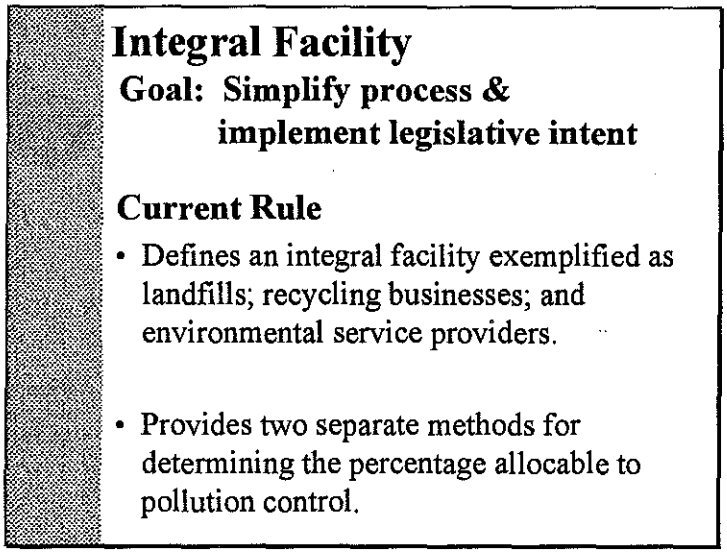


CPA Review Guidance for the procedures would be provided with the application packet. The CPA review would be performed in accordance with standards established by the American Institute of Certified Public Accountants. The review would include an inspection of no less than 80% of vendor invoices for the facility cost. The CPA would ask the applicant to affirm certain assertions identified during their review, such as: **1.** Billings of related parties or affiliates; **2.** Internal labor based on employees' actual pay rates; **3.** Indirect labor costs as a percentage of total internal labor costs; **4.** Significant spare parts included in the cost of the facility; **5.** Previously existing equipment sold as a result of the installation of the facility; **6.** Income or cost savings from operating the facility; **7.** Identification of the facility as a replacement or reconstruction of all or a part of any facility for which a pollution control facility certificate has previously been issued; **8.** Supply costs included in the application were not for ongoing operation supplies; **9.** Insignificant contribution to the purpose of the facility; **10.** Capacity of the facility does not include significant capacity for potential future operations; **11.** Stock supplies or materials not specifically purchased for the facility but used in construction of the facility are included at actual cost

1995 Legislation - ORS 468.190 (3) If the cost of the facility ... does not exceed $50,000, the portion of the actual costs properly allocable shall be in the proportion tha the ratio of the time the facility is used for prevention...

CPA Review Waiver The CPA waiver would be available if the facility cost can be thoroughly documented by invoices or canceled checks submitted with the application; is not part of a larger construction project; and consists of a single pollution control component or a single pollution control process.

Slide 10



Page 7 - Discussion Points

Definition of Integral Facility OAR 360-16-130(2) (g) ... A facilities integral to the operation of the applicant's business means that the business is unable to operate or is only able to operate at reduced income levels, without the facility... Includes landfills, recycling businesses, and environmental service providers. Does not include Principal Purpose facilities unless they meet one or more of the factors below. Factors that may use to determine if a facility is integral to the operation of the business include:

(A) Facility represent more than 25 percent of the total assets of the business; or

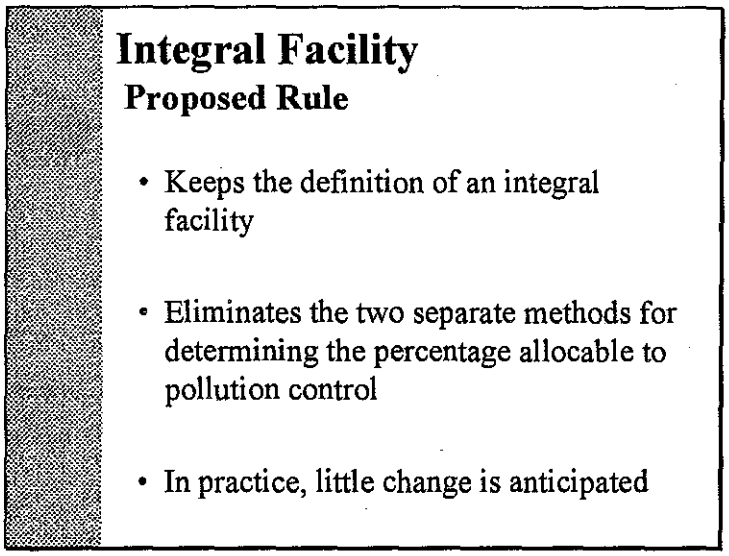
(B) The facility was installed in response to market demand for such a facility. This could be as the result of requirements imposed by DEQ or EPA or parties unaffiliated with the applicant; or

(C) Construction of the facility and any previously certified pollution control facilities, allows the applicant to generate gross revenues at least 50 percent greater than would have been generated without the facility and any previously certified pollution control facilities; or

(D) The operating expenses of the facility and any previously certified pollution control facilities are at least 50 percent of the operating expenses of the applicant's business.

Method for Determining Percent Allocable OAR 360-16-130(5)

Slide 11

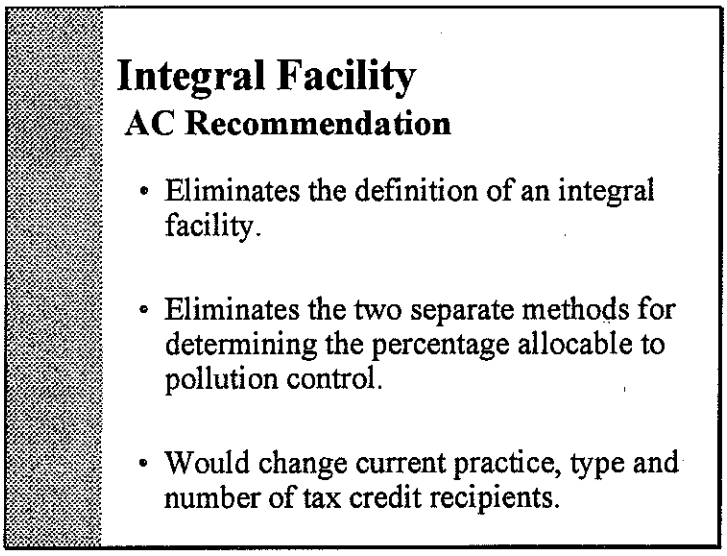


Proposed use of definition

When calculating the annual cash flow (used in the determination of the percentage of the facility cost allocable to pollution control) the applicant with a facility integral to their business would consider the **operational unit's** income and expenditures rather than the facility as an isolated unit.

The phrase "operational unit" is used in 468.170 (4)(c) and 340-16-020 (2)(b)(D) "If two or more facilities constitute an operational unit, the Commission may certify such facilities under one certificate."

Slide 12



Example detailed in Attachment A

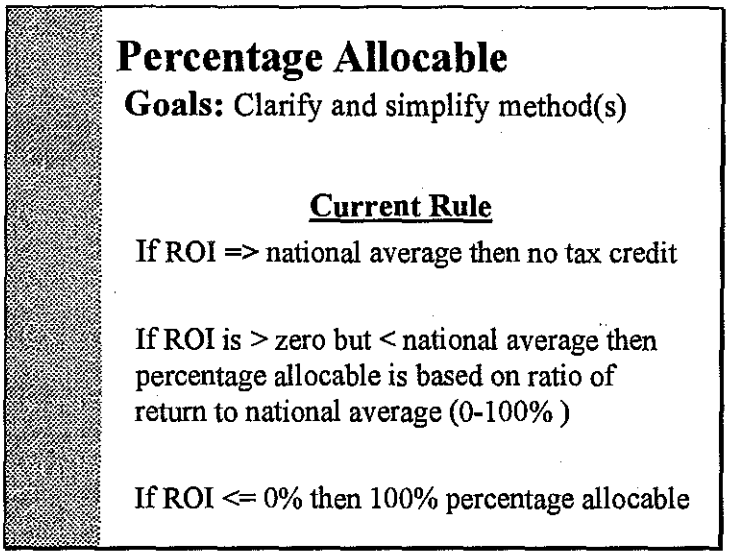
Method 1

a)	Standard Industrial Code (Refuse System)	4953
b)	Find SIC in Robert Morris Associates' *Annual Statement Studies* Median Profit Before Taxes as a Percent of Total Assets	7.4%
c)	**National Average** (Construction 1995)	4.7%
d)	If b > c then Percentage Allocable = 0% If b <= c then Percentage Allocable = (c-b)/b	

Method 2

Applicant pays for an accountant's review of complete company financials.

Slide 13



Page 10 - Discussion Points

Does not include facilities that do not cost more than $50,000 or produce income or cost savings.

National Average = Average of 5 years rate of return before taxes on total assets for all US manufacturing corporations found in Quarterly Financial Report for Manufacturing, Mining and Trade Corporations published by US Dept. of Commerce

Example detailed in Attachment A

a)	Facility Cost	$1,000,000
b)	Useful Life of Facility	10 years
c)	Average Annual Cash Flow	110,000
d)	Cost to Cash Flow Ratio (a/b)	9.091
e)	Annual % **ROI** - Table 1 Lookup	1.75
f)	**National Average** (Construction 1995)	4.7
g)	% Allocable = (f-e)/e)	64%
h)	Allocable Cost	$640,000

Slide 14

Percentage Allocable

Proposed Rule

If ROI => national average then no tax credit

If ROI < national average then percentage allocable is equal to the percentage of the facility cost that exceeds the cost which would have achieved the national average ROI (from 1 -100%)

1995 Legislation - ORS 468.190 (3) If the cost of the facility (or facilities certified under one certificate) does not exceed $50,000, the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time the facility is used for prevention...

Example detailed in Attachment A

a)	Facility Cost	$1,000,000
b)	Useful Life of Facility	10 years
c)	**National Average** (Construction 1995)	4.7
d)	Breakeven investment ratio Table 1 Lookup	7.816
e)	Average Annual Cash Flow	$110,000
f)	Referenced Cost d*e)	$859,760
g)	% Allocable = (a-f/a)	14%
h)	Allocable Costs (a*g)	$140,000

Slide 15

Percentage Allocable

AC Recommendation

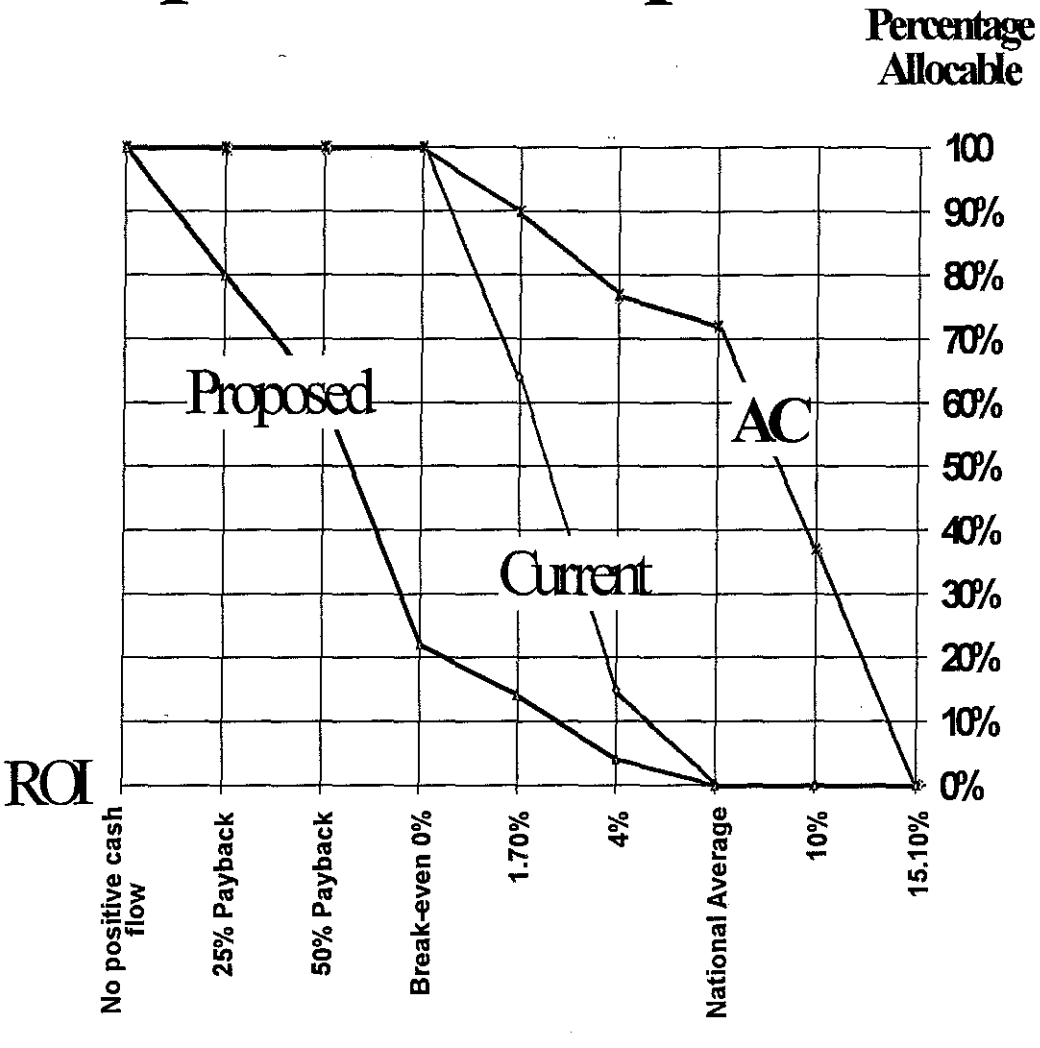
To meet the goal of simplification, the recommended calculation mirrors the median & average percentage allocable obtained in the study period 1/1/93 through 12/31/96. Results are highly variable with relation to ROI, based on particulars of the application.

Example detailed in Attachment A

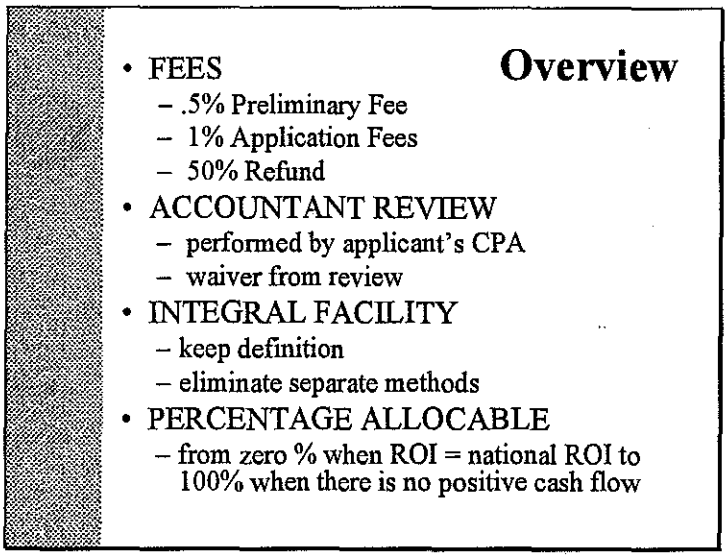
a)	Facility Cost	$1,000,000
b)	Useful Life of Facility	10 years
c)	Average Annual Cash Flow	$110,000
d)	% Allocable = 2-((c*b)/a)	90%
h)	Allocable Costs (a*d)	$900,000

Slide 16

Comparative Example



Slide 17



Fees: *Should the Department continue with the propose fee schedule that it is different than the advisory committee recommendation?*

Accountant Review *Should the Department consider staff's and advisory committee's preference for the applicant to choose and pay for their own independent certified public accountant's review that would be submitted with the application. This decision would eliminate all contracts between accounting firms and the Department.*

Integral Facilities: *Should the Department proceed with the proposed treatment of investments made in a facility that is integral to an applicant's business? What is the Commission's perspective on providing tax credits to applicant's whose business is recycling?*

Percent Allocable *Should the Depart ent proceed with the proposed rule regarding the method for determining the percentage of the facility cost allocable to pollution control? The impact would be to lower the percentage allocable to pollution control for the applicant claiming a facility cost that exceeds $50,000 where that facility produces a positive income.*

Advisory Committee Members

Co-Chairs:
Ed Miska - PGE; Jana Jarvis - Johnson Controls

Members:
Jim Aden - Willamette Industries; Brian Krytenberg - Mitsubishi-Silicon America; Jim Britton - Oregon Dept. of Agriculture; Max Brittingham - Oregon Reuse & Recycling Assoc.; Jim Denham - Teledyne Wah Chang; John Jacobson - Sabroso Co; Paul Cosgrove - American Forest & Paper Assoc.; Brian Doherty -Western States Petroleum Assoc.; Dave Nelson - Oregon Seed Council; Don Schellenberg - Oregon Farm Bureau; Bob Westcot - Wesco Parts Cleaners, Inc.

Environmental Quality Commission

☐ Rule Adoption Item
☐ Action Item
X Information Item

Work Session
November 21, 1997 Meeting

Title:

Pollution Control Tax Credit Program

Summary:

There are several complex issues in the Pollution Control Facility Tax Credit Rulemaking package that may require extra time for consideration. The Staff anticipates bringing the rulemaking package to the Environmental Quality Commission (EQC) on January 9, 1998.

Topics presented for EQC consideration and discussion are:

- Application fees and the conditions under which a refund is made.
- The accounting review of applications.
- The way in which the percentage of the facility cost that is allocable to pollution control is determined.
- The manner by which the concept of an integral facility is addressed in rule.

Provide guidance on the proposed rules where the Department deviates from the advisory committee recommendation or the Commission's direction.

Report Author | Division Administrator | Director

†Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

State of Oregon
Department of Environmental Quality Memorandum

Date: November 3, 1997

To: Environmental Quality Commission

From: Langdon Marsh, Director

Subject: Pollution Control Tax Credits - Discussion Issues
November 21, 1997, Work Session

Staff anticipates bringing the proposed rules changes to OAR Chapter 340, Divisions 16 and 17 relating to Pollution Control Tax Credits and Plastics Recycling Tax Credits to the Commission in January for adoption. The Department developed the proposed in response to 1995 changes to the relevant statutes and to address the shortfall of fee revenue to support tax credit processing. Several parts of the rule are proposed to clarify and simplify their implementation, and to ensure that tax credits are issued in conformance with the statutes.

In order to simplify this work session, the Department will not address the Plastics Recycling Tax Credits since the proposed rules for OAR Chapter 340, Division 17 are minimal or parallel the proposal for OAR Chapter 340, Division 16. The Department will focus on four complex issues. The Department's goal in this work session is to obtain the Commission's thoughts regarding these issues since they are either contrary to the Commission's direction or are not in line with the advisory committee recommendation. The four issues are:

1. Should the Department continue with the proposed fee schedule that is different from the advisory committee recommendation?

2. Should the Department consider staff's and advisory committee's preference for the applicant to choose and pay for their own independent certified public accountant's review that would be submitted with the application? This decision would eliminate all contracts between accounting firms and the Department. It would require the applicant's CPA to review to a published standard.

3. What is the Commission's perspective on providing tax credits to applicant's whose business is recycling? Should the Department proceed with the proposed treatment of investments made in a facility that is integral to an applicant's business? The projected impact of this decision would be to provide some tax credit to businesses that might previously have been excluded, but at a much lower level than would have been the case prior to these revisions.

4. Should the Department proceed with the proposed rule regarding the method for determining the percentage of the facility cost allocable to pollution control. The impact would be to lower the percentage allocable to pollution control to the applicant claiming a facility cost that exceeds $50,000 where that facility produces a positive income.

These rules were developed by Department staff with a thirteen-member advisory committee. Committee members were applicants, their industry representatives, one representative from Oregon Economic Development Department and one representative from Oregon Department of Agriculture (ODA). Staff members represented all eligible tax credit activities: hazardous and solid waste; material recovery; air quality; and water quality. The Committee met over thirteen months. During that time they provided recommendations on the Pollution Prevention, the Pollution Control Facility and the Plastic Recycling tax credit rules. Their recommendations were considered in formulating the proposed rule amendments and the adopted Pollution Prevention Tax Credit rules.

The advisory committee process was far from ideal with numerous changes in staff and direction. The committee was made up of beneficiaries of the tax credit program or potential applicant's who were excluded from the benefit of a tax credit because their facilities are considered integral to their business. It was for this reason that the Department looked very closely at any part of the recommendation that would provide a greater tax credit benefit than is available under the current rule.

Each of the four issues are discussed in the attachments to this memorandum.

Discussion Points
Relating to DEQ's Tax Credit Rules

Fees

OAR 340-016-0065

Discussion Point

Should the Department continue with the proposed fee schedule that is different from the advisory committee recommendation?

Goal

The Department's goal in addressing the rules regarding tax credit program fees is to reduce the tax credit program's operating deficit.

Background

During the advisory committee process it became evident that accounting procedures in use at the time did not accurately capture the tax credit program expenditures. Working with the available information, staff and the advisory committee studied the effect that various fee structures would have on reducing the program's operating deficit.

As staff identified corrections that would accurately reflect the tax credit programs' expenditures and as staff began appropriately recording the time spent processing tax credits, the Department realized the proposal that came out of the advisory committee process would not adequately meet the goal of reducing the tax credit deficit.

Authority to Address Rule

> OAR 468.165 (5) By rule and after hearing the commission may adopt a schedule of reasonable fees which the department may require of applicants for certificates issued under section 6 (Note: Section 6 provides for pre-certification of facilities) of this 1995 Act and ORS 468.170. Before the adoption or revision of any such fees the commission shall estimate the total cost of the program to the department. The fees shall be based on the anticipated cost of filing, investigating, granting and rejecting the applications and shall be designed not to exceed the total cost estimated by the commission. Any excess fees shall be held by the department and shall be used by the commission to reduce any future fee increases. The fee may vary according to the size and complexity of the facility. The fees shall not be considered by the commission as part of the cost of the facility to be certified.

Why expenditures are incurred.

The Environmental Quality Commission (EQC) is required to certify an Oregon taxpayer's investment in a qualifying facility before the applicant may take relief from their Oregon tax liability. The Department provides the Director and the Environmental Quality Commission with assurances that the facility claimed on the application is eligible for the tax credit , the facility costs contribute to pollution control, and that the percentage of the facility cost allocated to pollution control is properly applied. This process involves an engineering review of the facility and accounting review of the facility cost.

Factors contributing factors to the operating deficit.

Factor 1: The Department does not have position authority to process tax credits. Therefore, when staff cannot fit application processing into their workload the Department contracts with engineering or accounting firms to process the applications. Even though external firms perform the application review, there is some staff time spent in normal processing activities and in reviewing the reports for accuracy and consistency.

Factors cont...

Factor 2: The median facility cost claimed on applications received by the Department has been dropping. This means there are an increased number of applications claiming lower facility costs that are processed at lower fees. These applications can require the same review as a review of a more expensive facility.

Factor 3: The current rule and practice is to provide a 100% refund of the processing fee for denied or rejected applications. This means that the cost of processing these reviews will come from tax credit revenues when available – or from the general fund they are not.

Revenues and Expenditures

The revenues and expenditures reported here are for the period studied by the Department during the development of the fee structure. Expenditures for the tax credit program exceeded revenues by about $87,000 in the 1993-1995 biennium. For the first year of the 1995-1997 biennium, expenditures exceeded revenues by $154,000. Revenue shortfalls are covered by the general fund which would otherwise be available for DEQ studies, programs or services; to other state services; or for return to taxpayers.

Tax Credit Program
7/1/93 to 6/30/96

Revenue	$618,586
Refunds	-$87,119
Revenues	$531,467
Expenditures	($772,893)
Surplus or (Deficit)	($241,426)

Proposed Rule Alignment

The proposed rule includes the following elements where the Department is supportive of the recommendation presented by the advisory committee.

1) The maximum processing fee would be raised from $5,000 to $10,000.

2) Limit the application fee for open field burning alternatives to $50 for the optional preliminary application and $50 for the final application. The Oregon Department of Agriculture processes these applications and has another source of funds to pay for ODA staff time.

3) Reduce the application processing fee refund from 100% to 50% for facilities that are denied certification or where their application is rejected. The reduction would provide an incentive for applicants to present only facilities that are eligible under the rules.

Staff and the advisory committee were in agreement on the amount of refund at the time the advisory committee made their recommendation. In the public comment documents the Department stated their intention not to follow the recommendation and proposed a plan that would provide no refund once the engineering review had begun. The determination of when the engineering review begins is not always clear-cut. In response to numerous public comments, the Department has decided it would help to reduce complexity to adopt the original recommendation of the 50% refund.

Divergence

Following is a list of elements where the Department 's proposal diverts from the advisory committee recommendation.

		Department Proposal	Advisory Committee Recommendation
1)	Preliminary Certification	One-half of one percent of the estimated facility cost. Maximum of $5,000. May be subtracted from the final application fee if the facility is built as represented on the preliminary application. *IMPACT: No preliminary application in current rules.*	$250 non-refundable. May be applied toward final processing fee if facility is built as claimed on application. *IMPACT: No preliminary application in current rules.*
2)	Final Filing Fee	Eliminate IMPACT: ↓ *$50 from current fee*	$50 non-refundable if facility cost is under $10,000. IMPACT: = *current fee* $100 non-refundable if facility cost ≥ $10,000. IMPACT: ↑ *$50 from current fee*
3)	Final Processing Fee	1% of the facility cost for all applications *IMPACT: ↑ 0.50% of facility cost from current fee for all facilities except ↑ 1% for facility costing ≤$10K*	0.75% of facility cost for all applications IMPACT: ↑ *0.25% of facility cost from current fee for all facilities except ↑ 0.75% for facility costing ≤$10K*

Estimating the Total Cost of the Program

The fee schedules were applied to all tax credit applications received from July 1, 1993 to June 30, 1996.

The table below illustrates the ability of the current fee structure, the advisory committee recommendation, and the Department's proposed rule to meet the program's actual revenue requirements for the period beginning July 1, 1993, and ending June 30, 1996. Each recommendation was applied to the actual applications received over the three-year period.

Ability to Meet Revenue Requirements

Study Period 7/1/93 to 6/30/96	*Current Fee Schedule*	*Department Proposal*	*Advisory Committee Recommendation*
Revenue	$618,586	$735,092	$657,456
Refunds	-$87,119	-$43,560	-$43,560
Total Revenues	$531,467	$691,532	$613,896
Total Expenditures	$772,893	$772,893	$772,893
Surplus or (Deficit)	($241,426)	($81,360)	($158,997)

The Department is actively seeking ways to reduce the cost of application processing to further reduce the tax credit program's operating deficit. A 10% reduction in overall processing costs would make the program self sufficient under the proposed recommendation.

Accounting Review

OAR 340-16-030(1)(d)

Discussion Point

Should the Department consider staff's and advisory committee's preference for the applicant to choose and pay for their own independent certified public accountant's review that would be submitted with the application. This decision would eliminate all contracts between accounting firms and the Department. It would require the applicant's CPA to review to a published standard.

Goal

The Department's goal in addressing the rules and the practice regarding the accounting review is to eliminate of the second accounting review and save the added expense to the program and to the applicant.

Background

Applicants with facilities costing over $20,000 are required to have an independent certified public accountant review of facility cost information before submitting their application — even if the facility cost is documented by a single invoice.

> OAR 340-16-030(1)(d) "Claimed Facility Cost" means ... Certification of the actual cost of the claimed facility must be documented by a certified public accountant for facilities with a claimed facility cost over $20,000;

When a facility costs more than $250,000, the Department selects one of four accounting firms currently under contract to perform the second accounting review as requested by the Commission. This review is performed from the perspective of the program's rules and statutes but it is an added expense to both the Department and the Applicant. The Department may only recoup the cost when the "evaluation or analysis is unusually extensive" or when the facility is integral to the applicant's business.

> OAR 340-016-0045(6) ... the Department may increase the processing fee above the maximum of $5,000, when an application necessitates an unusually extensive evaluation or analysis to determine the portion of the facility allocable to pollution control or material recovery.

> OAR 340-016-0030(5)(d)(E) *(Facilities integral to the applicant's business.)* A letter signed by the applicant authorizing the Department to contract with an independent certified public accountant to review the financial information provided by the applicant. The applicant will agree to reimburse the Department for the cost of this review;

Background cont...

All accounting firms are subject to the same professional standards. Most firms are capable of giving an independent opinion with respect to their client (the applicant) in order to provide a service required by a third party (the Department.) Generally, the applicant's accounting firm would have knowledge of the applicant's business, an understanding of the applicant's accounting system, and their internal controls.

The engineering review of the application generally identifies most ineligible costs and costs that do not substantially contribute to pollution control. In the proposed rule package, eligible and ineligible costs are more clearly identified.

Authority to Address Accounting Review

ORS 468.170 (1) The Environmental Quality Commission. The action of the commission shall include certification of the actual cost of the facility and the portion of the actual cost properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil. The actual cost or portion of the actual cost certified shall not exceed the taxpayer's own cash investment in the facility or portion of the facility...

Proposed Amendments

1) Under the proposed rule, the applicants with a facility cost that <u>does not exceed $50,000</u> would not have to provide an external CPA's statement of facility cost. (Phrase used for consistency with 1995 legislation (468.190 (3)) for facilities exempt from Return on Investment (ROI) considerations and the integral facility test.) The current rule requires the review be performed by a certified public accountant for facilities with a claimed facility cost over $20,000.

2) The proposed rule would provide a waiver of the independent certified public accountant's review for applications if:

- The cost of their facility can be thoroughly documented by invoices or canceled checks submitted with the application;
- It is not part of a larger construction project; **and**
- It consists of a single pollution control component or a single pollution control process.

3) Applicants with a facility cost that <u>exceeds $50,000</u> would have to provide an independent CPA's statement. Under the proposal, the Department would specify the procedures to be performed and the format of the statement.

In the documents released for public comment, the provision for a second accounting review was part of the Department's proposal, but has been revised in response to public comments.

Integral Facility

OAR 340-016-00

Note: Though the concept of the facility that is integral to an applicant's business is completely meshed with the percentage of the facility cost allocable to pollution control, the concepts are separated here in an attempt to identify the issues. Both concepts must be explored to fully understand the impact. A facility that does not cost more than $50,000 is exempt from the "integral facility rule" according to ORS 468.190(3).

Discussion Point

What is the Commission's perspective on providing tax credits to applicant's whose business is recycling? Should the Department proceed with the proposed treatment of investments made in a facility that is integral to an applicant's business? The projected impact of this decision would be to provide some tax credit to businesses that might previously have been excluded, but at a much lower level than would have been the case prior to these revisions.

Goal

During the advisory committee process the goal of addressing this rule was to align this rule with the legislative intent, specifically, its impact on applicants who are in the business of recycling. The Department's goal was to develop a rule that could be implemented and where the defensibility of the rule was not questionable. Addressing the Commission's concerns regarding facilities that receive a substantial tax credit even though the operation of the facility would allow the applicant to produce an income that would adequately compensate the applicant for building the facility was not a primary goal of the advisory committee. The Department reintroduced this goal after the advisory committee recommendation was made.

Background

In 1993, the EQC adopted rules which when placed into practice would eliminate facilities integral to an applicant's business from receiving a tax credit. Under this rule, the percentage of the facility cost allocable to pollution control became so low that it was not financially beneficial to apply for the tax credit. Examples of facilities that are integral to an applicant's business are given in the 1993 rule adoption as commercial solid waste and hazardous waste landfills; solid and hazardous waste recycling businesses; and environmental service providers.

Background cont... Applicants and businesses excluded by the 1993 rule adoption expressed dissatisfaction because they felt the rule:

a) Discourages recycling or material recovery businesses and
   - In direct opposition to the legislative intent of the statute;
   - Sending a mixed message to recycling businesses; and
   - Not supporting recycling goals of the state.

b) Did not include the advisory committee process that has been customary for the Department's rule-making process.

c) Exceeds the Commission's authority to write rules regarding facility eligibility.

The 1993 rules regarding facilities integral to an applicant's business were adopted with cautionary advice from the Department of Justice.

The advisory committee was comprised of beneficiaries of the tax credit program or potential applicants with facilities that would be integral to their business.

Authority to Address Rule

The Commission has authority to address rules to clarify the implementation of the legislative intent under ORS 468.020.

The Commission does not have statutory authority to adopt rules regarding the type of facilities that are eligible or how the pollution control is achieved by those facilities. Both criteria are provided in the Oregon Revised Statute ORS 468.155 and 468.165.

However, the Commission does have clear authority to address the percentage allocable to pollution control explained in the next topic.

Proposed Amendments

Alignment The proposal would include only one element where the Department is supportive of the recommendation presented by the advisory committee.

1) Eliminate ORS 360-016-0030(5) which is the separate method used to determine the percentage allocable to pollution control for facilities integral to the applicant's business. ORS 360-016-0030(5) is shown in Attachment B.

Proposed Amendments cont...

Divergence

The Department's proposal has one significant difference from the advisory committee recommendation that should be considered in conjunction with the discussion on integral facilities.

	Department Proposal	Advisory Committee Recommendation
1)	Retain OAR 340-016-0030(1)(g). Current rule is shown in Attachment B.	Eliminate OAR 340-016-0030(1)(g).

Estimating the Impact

There was not a rule regarding a facility integral to the applicant's business before the 1993 rule. Since then sixteen facilities were reviewed as possibly being a facility integral to the applicant's business. All sixteen were recycling businesses and grass seed growers. Most of the applications considered the definition of a facility integral to the applicant's business based on various misinterpretations of the definition. Three of the sixteen facilities were actually reviewed as a facility integral to the applicant's business. These three facilities were not sufficient to make projections regarding the impact of the proposal discussed here. Also, it is not possible to know how many applicants did not submit an application because they met the definition of a facility integral to the applicant's business and the method of determining the percentage allocable to pollution control eliminated the potential for a tax credit.

The definition alone does not change the impact of the proposal. However, when used in conjunction with the proposed method of determining the percentage allocable to pollution control, this method could allow some of the applicants that would not have received a tax credit under the current rule to receive a tax credit but at a much lower percentage. Advisory committee members feel this proposal is far more restrictive than the current rule.

Percentage of Facility Cost Allocable to Pollution Control

OAR 340-016-00

Discussion Point

Should the Department proceed with the proposed rule regarding the method for determining the percentage of the facility cost allocable to pollution control? The impact would be to lower the percentage allocable to pollution control for the applicant claiming a facility cost that exceeds $50,000 where that facility produces a positive income.

Goal

During the advisory committee process the goal of addressing this rule was to clarify and simplify the method used to determine percentage allocable to pollution control.

The Department's shifted when staff consistently had difficulty explaining the financial and economic principles behind the current method. The Department's goal is to find a way to provide a tax credit for investing in a pollution control facility that would not be considered a sound investment without the tax credit.

Background

The Commission and the Department are required to determine the portion of the facility cost that is allocable to pollution control. There are five factors to consider in making this determination.

> ORS 468.190(1) ... in establishing the portion of costs properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil for facilities qualifying for certification under ORS 468.170, the Environmental Quality Commission shall consider the following factors:
>
> (a) If applicable, the extent to which the facility is used to recover and convert waste products into a salable or usable commodity.
> (b) The estimated annual percent return on the investment in the facility.
> (c) If applicable, the alternative methods, equipment and costs for achieving the same pollution control objective.
> (d) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.
> (e) 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 appropriately disposing of used oil.

Background cont...

1995 Legislation basically provides an exemption from considering the five factors in ORS 468.190(1) for any facility with a cost that does not exceed $50,000.

> ORS 468.190 (3) If the cost of the facility (or facilities certified under one certificate) does not exceed $50,000, the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time the facility is used for prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil bears to the entire time the facility is used for any purpose.

Applicants, contractors and staff acknowledge the average annual cash used in the return on investment calculation is highly subjective and easily used to the applicant's advantage. Since three of the five considerations under ORS 468.190(1) relate to return on investment, there was no clear way to avoid using a cash flow analysis.

Study of the Percentage Allocable to Pollution Control

The advisory committee was asked to address a list of issues that included corrections or misperceptions regarding the return on investment (ROI) calculations. (ROI is a component of determining the percentage allocable to pollution control method.) In order to address the issues, the Department reviewed all applications received in the four-year period between January 1, 1993 to December 31, 1996 with the following results:

- Most certificates that were issued for less than 100% allocable to pollution control were reduced because ineligible costs or percentage of time used were considered rather than the five considerations under 468.190(1). (Examples: CFC - $700 deduction for recharge capabilities; UST – deduction for the portion of time the tank gauge is used for inventory control, etc.)

    - Six percent of all applications (41 out of 730 applications) were approved, denied or withdrawn based on a return on investment factor that produced an amount less than 100%. Out of those 41 applications:

    - Thirty-two were issued certificates for a facility cost reduced from $6,068,458 to $4,747,305. The reduction represented about 0.50 1% of the total facility cost ($227,740,870) issued for the period.

    - Five applications were denied certification based on ROI considerations (facility cost - $4,273,562).

    - Four applications were withdrawn for reasons that may have included an ROI consideration (facility cost - $568,471).

Study cont...

- The study and the review of applications show the most subjective aspect of the application review process is the development of the average annual cash flows.
- Staff, contractors and applicants intuitively, yet erroneously, found the unknown value in Table 1 at the intersection of the column and row rather than by rule where the unknown value is in the first column of the table.

Based on these results and the lack of a consistent approach used to determine the percentage of the facility cost allocable to pollution control, staff and the advisory committee looked for a solution that would simplify and clarify the consideration of the five factors required by ORS 468.

Authority to Address

ORS 468.190(4) The commission may adopt rules establishing methods to be used to determine the portion of costs properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil. The actual cost or portion of the actual cost certified shall not exceed the taxpayer's own cash investment in the facility or portion of the facility...

Proposed Amendments

Alignment 1) Eliminate the separate method used to determine the percentage allocable to pollution control for facilities integral to the applicant's business.

	Department Proposal	Advisory Committee Recommendation
Divergence 1)	Eliminate Tables 1 and 2 from rule but retain the method in rule for developing the tables. Provide the complete Tables with the application packet.	Eliminate Tables 1 and 2 from rule.
2)	When calculating the annual cash flow the applicant with a facility integral to their business: • Would be required to consider the operational unit's income and expenditures rather than the facility as an isolated unit; and • Would not be allowed to reduce the estimated revenues used to determine the *Average Annual Cash Flow* by any future fee reductions which would be made as a result of obtaining tax relief.	Eliminate any separate distinction of a facility that is integral to an applicant's business.

Proposed
Amendments
Divergence cont...

3) Refocus Table 1 by retaining the Useful Life of the facility as the column header but the row header (first column – "Annual Percent Return on Investment") would become the "Referenced Rate" now obtained from Table 2. (Table 2 is an average of the past five years' rate of return before taxes on total assets for U.S. manufacturing corporations.) The contents of the Table 1 would not change nor would the values in the column and row heading.

The cell where the Useful Life column and the Referenced Rate row intersect provides the rate of expected return over the useful life of the facility. That rate multiplied by the average annual cash flow of the facility provides the Referenced Cost of the facility — the cost at which a facility with the same return would be considered a sound investment, absent the potential for a tax credit.

(See Attachment A for Examples.)

Simplify the method used to determine the percentage of the facility cost allocable to pollution control. The advisory committee and staff embraced this concept but not necessarily the method used to achieve that end. The proposed method simply produced roughly the same results as the current method.

(See Attachment A for Examples.)

Estimated Impact

In order to determine the impact of the Department's proposal and advisory committee recommendation, the Department compared the current method for determining the percentage allocable to pollution control to the proposal for all applications certified under 100% allocable to pollution control over the four-year period January 1, 1993 through December 31, 1996.

Median & Average Percentage Allocable
January 1, 1993 through December 31, 1996

The table below illustrates the median and average percentage allocable to pollution control for each method. Each method was applied to all applications certified for a percentage less than 100% in the four-year period.

	Current Method	Advisory Committee	Department Proposal
Median	**92.50%**	**93.42%**	**28.41%**
Average	**69.59%**	**70.18%**	**17.82%**

Estimated Impact cont...

Department Proposal	Advisory Committee Recommendation
The median and the average percentage allocable to pollution control were considerably less than under the current rule and under the advisory committee recommendation.	The advisory committee produced roughly the same median and average percentage allocable to pollution control as produced under the current rule.

Comparison of Current Method
to
Advisory Committee Recommendation and Department Proposal
Facility Cost = $1,000,000
Useful Life = 10 Years

The table below illustrates the current method, the advisory committee recommendation and the Department's proposal for determining the percentage allocable to pollution control and how each affects the certificate value for a facility that costs $1,000,000 with a useful life of 10 years. The average annual cash flow in the left column is variable.

	Current		Advisory		Department	
ACF	PA	CV	PA	CV	PA	CV
$ 200,000	0%	$ 0	**0%**	**$ 0**	0%	$ 0
$ 141,500	**0%**	**$ 0**	59%	$ 292,500	**0%**	**$ 0**
$ 125,000	38%	$ 187,500	75%	$ 375,000	11%	$ 56,939
$ 105,000	74%	$ 371,324	95%	$ 475,000	26%	$ 127,829
$ 100,000	**100%**	**$ 500,000**	**100%**	**$ 500,000**	29%	$ 145,551
$ 0	100%	$ 500,000	100%	$ 500,000	**100%**	**$ 500,000**

CV = Certificate value which is 50% of the result of multiplying the certified facility cost by the certified percentage allocable to pollution control.
ACF = The Average Annual Cash Flow of the facility is the only variable in this illustration.
PA = Percentage allocable to pollution control.

Department Proposal	Advisory Committee Recommendation
The proposal would significantly reduce the percentage allocable to pollution control from the current rule. Unlike the current rule and the advisory committee recommendation, a facility must virtually have no positive annual cash flow projected over its useful life before it would be certified at 100% allocable to pollution control. Some facilities integral to an applicant's business would to be certified that would not have been certified under the current rule.	Like the current rule, a facility with an average annual cash flow that equals the cost of the facility over it's useful life would be certified as 100% allocable to pollution control.

Attachment A

Examples of Methods Used to Determine Percentage Allocable to Pollution Control

Current

Facility Cost Allocation

Determining Percentage of Facility Cost to be Allocated to Pollution Control For a Facility that is not Integral to Applicant's Business

Total cost of the facility		$1,021,000
Salvage value	-	$
Government Grants	-	$ 12,000
Other Tax Credits	-	$
Ineligible Costs	-	$ 9,000
Other	-	$
Facility Cost (FC)	FC=	$1,000,000

If the FC ≤ $50,000 then the percent allocable (PA) to pollution control equals the time used for pollution control and **STOP HERE**

PA= ____ %

Average Annual Cash Flow of the Facility (*ACF*)

	Year	Gross Annual Income	− Annual Operating Expenses	= Annual Cash Flow
1st full year of operation.	1995	200,000	175,000	25,000
2nd full year of operation.	1996	250,000	175,000	75,000
3rd full year of operation.	1997	300,000	150,000	150,000
4th full year of operation.	1998	300,000	150,000	150,000
5th full year of operation.	1999	300,000	150,000	150,000
Total				$550,000

$$ACF = \frac{\text{Total Annual Cash Flow}}{5}$$

ACF = $110,000

If the ACF ≤ $0 then the percent allocable (PA) to pollution control is 100% and **STOP HERE**

PA= ____ %

Return on Investment Factor
(Cost to Cash Flow Ratio)
Calculate the return on investment factor by dividing the Facility Cost (FC) by the Average Annual Cash Flow (ACF).

ROI Factor = FC ÷ ACF
= $1,000,000 ÷ $110,000

ROI Factor = 9.091

Useful Life Enter useful life of facility. *UL =* ***10 years***

Annual Percent Return on Investment

At the top of **Table 1**, find the number equal to the useful life of the claimed facility. In the column under this useful life number, find the number closest to the return on investment factor. Follow this row to the left until reaching the first column. The number in the first column is the annual percent return on investment for the claimed facility.

1.75 %

Table 1 Example

	Expected Useful Life		
% ROI	9	10	11
1.25	8.462	9.346	10.218
1.50	8.361	9.222	10.071
1.75	8.260	**9.101**	9.927
2.00	8.162	8.983	9.787

Table developed by the calculation:

$$ROI\ Factor = \frac{1-(1+\ Annual\ \%\ ROI)^{-UL}}{Annual\ \%\ ROI}$$

4.7 %

Referenced Rate. Enter the Referenced Rate from the table below that corresponds to the year this facility was built.

Year Construction Completed	***Referenced Rate***
1991	*7.2*
1992	*6.8*
1993	*5.5*
1994	*4.5*
1995	***4.7***
1996	*4.6*

The percentage is calculated by averaging the prior five years' rate of return before taxes on total assets for all United States Manufacturing corporations as found in the Quarterly Financial Report for Manufacturing, Mining and Trade Corporations published by the U.S. Department of Commerce, Bureau of the Census.

Percent Allocable(PA) Calculate the actual costs allocable to pollution control using the formula below.

$$PA = 0\%\ \ If\ Annual\ \%\ ROI \geq Referenced\ Rate$$

$$PA = \frac{Referenced\ Rate - Annual\ \%\ ROI}{Referenced\ Rate}\ X\ 100\%$$

$$PA = \frac{4.7 - 1.75}{4.7}\ X\ 100\%$$

64 %

Allocable Costs (FC x PA)

$640,000

If Facility is Integral to the Business

Standard Industrial Classification (SIC) Enter the applicant's primary four digit SIC. (Example: Refuse Systems)

4953

Average Industry Median Profit Find the applicant's SIC in Robert Morris Associates' *Annual Statement Studies* enter the Median Profit Before Taxes as a Percent of Total Assets for the five years prior to the completion of the facility. (If five years are not available, sum the years that are available and divide by the number of years available.)

7.4%

	Median Profit Before Taxes as a Percent of Total Assets
1 year before completion of facility	7.8
2 years before completion of facility	9.0
3 years before completion of facility	7.4
4 years before completion of facility	6.7
5 years before completion of facility	6.1
Average =	*37 ÷ 5*

Referenced Rate. Enter Referenced Rate from the table below that corresponds to the year this facility was built.

4.7%

Year Construction Completed	***National Percentage***
1991	*7.2*
1992	*6.8*
1993	*5.5*
1994	*4.5*
1995	*4.7*
1996	*4.6*

The percentage is calculated by averaging the prior five years' rate of return before taxes on total assets for all United States Manufacturing corporations as found in the Quarterly Financial Report for Manufacturing, Mining and Trade Corporations published by the U.S. Department of Commerce, Bureau of the Census.

Percentage Allocable to Pollution Control: Enter the percentage of the facility cost that is attributed to pollution control as determined by the following conditions:

0 %

If the Industry Average Profit is **greater than or equal** to the Referenced Rate then the percentage allocable to pollution control *is* zero percent;

If the Industry Average Profit is **less than** the Referenced Rate then the percent allocable is calculated by subtracting the Industry Average Profit from the Referenced Rate, then dividing the results by the Industry Percentage, and finally multiplying the quotient by 100 to round off to the nearest whole number.

If no Standard Industrial Classification is appropriate for the applicant's business or the Applicant is dissatisfied with the results obtained for a facility that is integral with the applicant's business, the Applicant may provide the following:

Submit three fiscal years prior to the date of submission of this application.

If three years are not available, submit information for the years that are available.

If applicable

income statement	☐
balance sheet	☐
statement of cash flows	☐
federal tax returns	☐
state tax returns	☐

Submit the following worksheets which calculate the estimated annual cash flows for each year of the useful life of this facility beginning with the year of this application:

① Create one worksheet that <u>includes</u> this pollution control facility ☐

② Create another worksheet that <u>excludes</u> this pollution control facility *Assume this facility was not erected, constructed, or installed.* ☐

For Year 1 To "D" Years

Year	*Gross Annual Income*	*Annual Operating Expenses*	*Annual Cash Flow* =
This Year.			
Next Year			
To UL Years			
Total Average			

UL

Internal Rate of Return Calculate an Internal Rate of Return for the facility which is the present value of annual incremental cash flows over the useful life of the claimed facility with the present value of the claimed facility cost.

Percentage Allocable to Pollution Control: Enter the percent of the facility cost that is attributable to pollution control as determined by the following conditions: %

If the Internal Rate of Return is **greater than or equal** to the Referenced Rate then the percent allocable *is* zero percent;

If the Internal Rate of Return is **less than** the Referenced Rate then the percent allocable is calculated by subtracting the Internal Rate of Return from the Referenced Rate, then dividing the results by the Internal Rate of Return, and finally multiplying the quotient by 100 to round off to the nearest whole number.

Proposed

Facility Cost Allocation

Determining Percentage of Facility Cost to be Allocated to Pollution Control

Total cost of the facility		$1,021,000
Salvage value	-	$
Government Grants	-	$ 12,000
Other Tax Credits	-	$
Ineligible Costs	-	$ 9,000
Other	-	$

Facility Cost (FC) **FC=** $1,000,000

If the FC ≤ $50,000 then the percent allocable (PA) to pollution control equals the time the facility is used for pollution control and **STOP HERE** **PA=** %

If the facility is integral to the applicant's business then the *Average Annual Cash Flow of the Facility (ACF)* must consider the applicant's business rather than the facility by itself and they may not adjust the income based on this facility receiving a tax credit certificate.

Average Annual Cash Flow (*ACF*)

	Year	*Gross Annual Income*	–	*Annual Operating Expenses*	=	*Annual Cash Flow*
1st full year of operation.	1995	200,000		175,000		25,000
2nd full year of operation.	1996	250,000		175,000		75,000
3rd full year of operation.	1997	300,000		150,000		150,000
4th full year of operation.	1998	300,000		150,000		150,000
5th full year of operation.	1999	300,000		150,000		150,000
Total						$550,000

$$ACF = \frac{\text{Total Annual Cash Flow}}{5}$$

ACF = $110,000

If the ACF ≤ $0 then the percent allocable (PA) to pollution control is 100% **STOP HERE** **PA=** %

Useful Life Enter useful life of facility. *UL* = 10 years

Referenced Rate. Enter the Referenced Rate from the table below that corresponds to the year this facility was built. 4.7 %

Year Construction Completed	*Referenced Rate*
1991	*7.2*
1992	*6.8*
1993	*5.5*
1994	*4.5*
1995	***4.7***
1996	*5.2*

The percentage is calculated by averaging the prior five years' rate of return before taxes on total assets for all United States Manufacturing corporations as found in the Quarterly Financial Report for Manufacturing, Mining and Trade Corporations published by the U.S. Department of Commerce, Bureau of the Census.

Table 1 Example

	Expected Useful Life		
Referenced Rate	9	**10**	11
4.25	7.351	8.011	8.644
~~4.50~~	7.269	~~7.913~~	8.529
4.75	7.188	**7.816**	8.417
~~5.00~~	7.108	~~7.722~~	8.306

Table developed by the calculation:

$$ROI\ Factor = \frac{1-(1+\ Annual\ Facility\ ROI)^{-UL}}{Annual\ Facility\ ROI}$$

Facility ROI (Break-even Investment Ratio)

Enter the Facility ROI as found in Table 1 at the intersection of the column corresponding to the useful life of the facility and the row that corresponds to the referenced rate.

7.816

Referenced Cost = Facility ROI x ACF
= 7.816 x $110,000

$859,760

Percent Allocable (PA) Calculate the actual costs allocable to pollution control using the formula below. (Statute requires rounding to the nearest percentage point.)

14 %

$$PA = \frac{FC - Referenced\ Cost}{FC}\ X\ 100\%$$

$$PA = \frac{1{,}000{,}000 - 859{,}760}{1{,}000{,}000}\ X\ 100\%$$

Allocable Costs (FC x PA)

$140,000

Advisory Committee

Facility Cost Allocation

Determining Percentage of Facility Cost to be Allocated to Pollution Control

Total cost of the facility		*$1,021,000*
Salvage value		- *$*
Government Grants		- *$ 12,000*
Other Tax Credits		- *$*
Ineligible Costs		- *$ 9,000*
Other		- *$*
Facility Cost (FC)	***FC=***	*$1,000,000*

If the FC $\leq$ $50,000 then the percent allocable (PA) to pollution control equals the time used for pollution control and **STOP HERE**

PA= ____ %

Average Annual Cash Flow of the Facility (*ACF*)

Year	*Gross Annual Income*	−	*Annual Operating Expenses*	=	*Annual Cash Flow*
1st full year of operation.	**1995**		*200,000*	*175,000*	*25,000*
2nd full year of operation.	**1996**		*250,000*	*175,000*	*75,000*
3rd full year of operation.	**1997**		*300,000*	*150,000*	*150,000*
4th full year of operation.	**1998**		*300,000*	*150,000*	*150,000*
5th full year of operation.	**1999**		*300,000*	*150,000*	*150,000*
Total					*$550,000*

$$ACF = \frac{\textit{Total Annual Cash Flow}}{5}$$

ACF = *$110,000*

If the ACF $\leq$ $0 then the percent allocable (PA) to pollution control is 100% and **STOP HERE**

PA= ____ %

Percent Allocable(PA) Calculate the actual costs allocable to pollution control using the formula:

2 -((ACF X U L) / FC) X 100

2 - ((110,000 X 10) / 1,000,000) X 100
2 - (1,100,000 / 1,000,000) X 100
2 - 1.10 X 100
.90 X 100
90%

90 %

Allocable Costs (FC x PA)

$900,000

Attachment B
Citations

OAR 340-016-0030(1)(g)
Definition of an Integral Facility

"Pollution Control Facilities Integral to the Operation of the Applicant's Business" means that the business is unable to operate or is only able to operate at reduced income levels, without the claimed pollution control facility. Such instances include, but are not limited to, commercial solid waste and hazardous waste landfills, solid and hazardous waste recycling businesses, and environmental service providers. Pollution control facilities integral to the operation of the applicant's business does not include a facility as defined in OAR 340-16-025(1)(a) unless the pollution control facilities meet one or more of the factors included in this definition. Factors that the Department may use to determine whether pollution control facilities are integral to the operation of the business include:
(A) Pollution control facilities represent in excess of 25 percent of the total assets of the business; or
(B) The claimed pollution control facilities were erected, constructed, or installed in response to market demand for such pollution control facilities. This may occur as the result of requirements imposed by the Department, the Federal Environmental Protection Agency or regional air pollution authority, on parties unaffiliated with the applicant; or
(C) Erection, construction, or installation of the claimed facility and any previously certified pollution control facilities, allows the applicant to generate gross revenues at least 50 percent greater than would have been generated in the absence of the claimed facility and any previously certified pollution control facilities; or
(D) The applicant's operating expenses related to operation of the claimed facilities and any previously certified pollution control facilities are at least 50 percent of the operating expenses of the applicant's business.

ORS 360-016-0030(5)
Separate Method for Determining
Percentage Allocable to Pollution Control for Integral Facilities

(5) When considering the estimated annual percent return on investment in the facility, subsection (2)(b) of this rule, for applicants where pollution control facilities are integral to the operation of the business, and for applications received on or after February 1, 1993, the following steps will be used:
(a) Using the applicant's primary four digit Standard Industrial Classification (SIC):
(A) Determine the industry median profit before taxes as a percent of total assets for the five years prior to the year of completion of the claimed facility from Robert Morris Associates, Annual Statement Studies; and

(B) Determine the industry average profit before taxes as a percent of total assets by summing the median profit before taxes as a percent of total assets for the five years prior to the year of completion of the claimed facility and divide by five. Where five years are not available, sum the number of years that are available and divide by the number of years.
(b) Determine the reference annual percent return on investment from **Table 2**. Select the reference percent return from **Table 2** that corresponds with the year construction was completed on the claimed facility. For each future calendar year not shown in **Table 2**, the reference percent return shall be the five-year average of the rate of return before taxes on total assets for all United States manufacturing corporations for the five years prior to the calendar year of interest:
(A) If the industry average profit before taxes as a percent of total assets is greater than the reference rate of return, the percent allocable would be zero percent;
(B) If the industry average profit before taxes as a percent of total assets is less than the reference rate of return, the percent allocable will be determined from the following formula:

$$P_A = \frac{(RROI - IROI)}{RROI} \times 100$$

where:

P_A is the percentage of actual costs properly allocable to pollution control in percent, rounded off to the nearest whole number.

IROI is the industry average annual profit before taxes as a percent of total assets.

RROI is the reference annual percent return on investment from **Table 2**.

(c) If the Annual Statement Studies do not list the industry median profit before taxes as a percent of total assets for the applicant's primary four digit SIC, the applicant and the Department will determine whether an alternate SICis appropriate for the applicant's business. If no alternate SIC is appropriate, the percent allocable will be determined using the procedures in subsection (d)of this section;
(d) If an applicant whose pollution control facilities are determined by the Department to be integral to the applicant's business is dissatisfied with the percent allocable determination made using the procedures in subsections (5)(a) and (b) of this rule, or if no SIC is appropriate for the applicant's business, the applicant will furnish the following information to the Department:
(A) An income statement, balance sheet, statement of cash flows, and federal and state tax returns (if applicable) for the applicant's business for the applicant's three fiscal years prior to the date of submission of the application. If three years of such statements are not available, the applicant will submit information for the years that are available;

(B) Revenue and expense projections, and cash flow projections for the applicant's business beginning with the year the application is submitted and continuing for the entire useful life of the pollution control facility. The level of detail of these projections shall be substantially equivalent to the level of detail of information submitted in paragraph (A) of this subsection. The Department may elect to provide the applicant with a worksheet for this purpose;
(C) Revenue and expense projections, and cash flow projections for the applicant's business for the entire useful life of the claimed facility and assuming that the claimed pollution control facility is not erected, constructed or installed;
(D) A projection of the applicant's future capital expenditures for pollution control facilities;
(E) A letter signed by the applicant authorizing the Department to contract with an independent certified public accountant to review the financial information provided by the applicant. The applicant will agree to reimburse the Department for the cost of this review;
(F) Using the information submitted in paragraphs (A)through (D) of this subsection, the Department will calculate an Internal Rate of Return for the claimed facility by considering the claimed facility cost and annual incremental cash flow. The Internal Rate of Return will be compared to the reference rate of return:
(i) If the applicant's Internal Rate of Return is greater than the reference rate, the percent allocable will be zero percent;
(ii) If the applicant's Internal Rate of Return is less than the reference rate, the percent allocable will be determined by the following formula:

$$P_A = \frac{(RROI - IRR)}{RROI} \times 100$$

where:

P_A is the percentage of actual costs properly allocable to pollution control in percent, rounded off to the nearest whole number.

IRR is the Internal Rate of Return for the claimed facility.

RROI is the reference annual percent return on investment from **Table 2**.

harry

Request of the Environmental Quality Commission

by H2O&S Sanitary Treatment Facility, Otter Rock, Oregon

November 21, 1997

Thank you, members of the Environmental Quality Commission, for this opportunity to address you today. My name is Hedy Rijken. I am joined by David Hinterreiter and Dani Wilke. We are here on behalf of H2O&S, owners of the sanitary treatment facility in the Otter Rock area on the central Oregon coast. Mr. Hinterreiter is one of the owners of the facility.

The Carmel Foulweather Sanitary District was formed in the mid-1970's in response to a survey which showed that 63% of the septic systems in the Otter Rock/Beverly Beach area were marginal or failing *(Attachment A)*. There was an immediate need for sewer service to property owners at that time. The district failed to act for 10 years and the need continued.

In 1984, the district levied over $40,000 from property owners to do another study to determine sanitary needs in the area and the best method to meet those needs. They spent $30,000 to produce the HGE Report which we are giving you today. The HGE Report and an additional report by the Lincoln County Sanitarian, conducted at approximately the same time, determined 54% of the septic systems in the Otter Rock/Beverly Beach area were marginal or failing *(Attachment B)*. Those reports both recommended the district's best option would be to hook up to the existing sanitary treatment facility currently serving the Inn at Otter Crest.

The board took no action. H2O&S purchased the treatment facility approximately three years ago and has developed plans to offer voluntary hook-up to area residents. The sanitary board has refused to allow area residents to hook up to the plant under this plan.

In the meantime, the treatment facility has received approval for the project from the DEQ. In addition, the current NPDES permit allows for the facility to handle the additional volume estimated in the event all residents were to hook up. Not all residents currently need the service.

Now, 25 years after the problem was first identified, the Carmel Foulweather Sanitary District is attempting to levy yet another $90,000 to conduct yet another survey. The district has been unwilling to even allow H2O&S to present its plan before the board. Board members, most of whom are new this year, have been unwilling to even discuss the option of hooking up to the existing treatment plant. They refuse to gather the information they need to weigh this option against other options they are considering. The voluntary board has no professional staff and none of the members have any expertise in sanitary systems. In addition, the district has refused, despite an order from the county attorney compelling them to do so, to release public records to H2O&S representatives. We have been asking for those records since June *(Attachment C)*. This is just one example of the board's unwillingness to conduct business in a cooperative manner conducive to solving the sanitary disposal needs of the area.

H2O&S has been acting in good faith with the district and we have run into a brick wall. We have developed a cost-effective two-phase plan to allow area residents in immediate need of sanitary services to get those services.

Estimates by the DEQ are that over ~~3000~~ 30,000 gallons a day of raw sewage are pouring onto the beaches in the area. Residents and tourists are at risk *(Attachments D & E)*. Home sales are nearly impossible until this problem is fixed and many property owners in the area with vacant lots now find that their lots are too small to accommodate required drain fields for septic systems *(Attachment F)*. Property values are decreasing. The HGE Report and

the county sanitarian estimated that 54% of the area's septic systems were marginal or failing in 1984. The DEQ now says that those numbers could be as high as 80%.

The cost to replace a septic system has been estimated at between $12,000 and $20,000. Building a new treatment facility from scratch with all the studies, engineering, and government requirements would likely cost residents much more. The H2O&S plan would cost residents $10,000 and a small monthly fee.

H2O&S, at the request of the Carmel Foulweather Sanitary District , sent out two separate surveys asking property owners if they wanted voluntary sanitary service made available under the H2O&S proposal. 75% said "yes".

We are asking the Environmental Quality Commission to order the Carmel Foulweather Sanitary District to negotiate an agreement with H2O&S to provide the service they were created to provide 25 years ago.

The DEQ, the Health Division, and Lincoln County have all shrugged this problem off to the sanitary district and the district is refusing to act. We, and the property owners who are desperate for service, need your help. Thank you for your consideration of this matter.

If you are in need of additional information. please contact us at:

H2O&S
PO Box 917
Depoe Bay, OR 97341
(541) 765-3322

Several factors could make sewer construction in Carmel-Foulweather a difficult and potentially expensive undertaking. These factors are summarized below:

° Seasonal high groundwater
° Areas with shallow rocky soil
° Loose sand soils
° Unstable pipe foundation material
° Areas requiring rock excavation
° Steep slopes
° Narrow rights-of-way and improved streets
° Conflicts with existing utilities
° Fault lines

Both types of gravity sewers will be affected by the factors listed above.

Depending on the option selected and upon the treatment plant site selected, pressure transmission lines may be required. Service lines would not be hooked up to these lines, hence pumps at each service would not be required. Pressure lines typically have three feet of cover and run according to the ground contours. Construction costs for pressure sewers are related to the line size and location.

5.4 Recap

The screened alternative for the 20 year planning period for each service area are as follows:

Otter Crest: (OC)

The Otter Crest service area will continue to be served by the existing treatment plant.

Otter Rock: (OR)

1. Collect all wastewater via a standard collection system and pipe it to the existing plant at the Inn at Otter Crest.

   a. Pay a user fee to the existing owner.

   b. Purchase the existing plant and do some modification.

Of the systems labeled operational 37 percent do not have room for a full sized drainfield on the lot and for this reason should be considered marginal. Another 32 percent do not have room for a replacement system, and 31 percent have adequate land area for a complete on-site system. Once again, the Otter Rock and Beverly Beach areas have the greatest problem with lot sizes.

On lots that are empty now, complete on-site systems will be required, which means an initial and replacement system. Only 35 percent of the empty lots are large enough to do this, and once again the Otter Rock and Beverly Beach areas have the greatest problem with lot sizes.

	Under 8,750 ft^2	8,750 ft^2 - 14,850 ft^2	Above 14,850 ft^2	Total
Failing or Marginal Systems				
Otter Rock	54 (74%)	12 (16%)	7 (10%)	73 (100%)
Beverly Beach	16 (53%)	11 (37%)	3 (10%)	30 (100%)
Carmel Knoll	0 (0%)	1 (33%)	2 (67%)	3 (100%)
TOTAL	70 (66%)	24 (23%)	12 (11%)	106 (100%)
Operational Systems				
Otter Rock	17 (32%)	13 (25%)	23 (43%)	53 (100%)
Beverly Beach	30 (44%)	24 (35%)	14 (21%)	68 (100%)
Carmel Knoll	4 (21%)	8 (42%)	7 (37%)	19 (100%)
TOTAL	51 (36%)	45 (32%)	44 (32%)	140 (100%)
Empty Lots				
Otter Rock	80 (51%)	25 (16%)	51 (33%)	156 (100%)
Beverly Beach	30 (38%)	21 (27%)	27 (35%)	78 (100%)
Carmel Knoll	0 (0%)	4 (27%)	11 (73%)	15 (100%)
TOTAL	110 (44%)	50 (20%)	89 (36%)	249 (100%)

Table 6
LOT SIZE ANALYSIS
IN CARMEL-FOULWEATHER

This lot size analysis shows that 66 percent of the failing or marginal systems can not be fixed such that they will meet the D.E.Q. standards for a single drainfield. Further, 36 percent of the operational systems can not be brought up to the D.E.Q. standards for a single drainfield should they fail. Finally, 71 percent of the lots in the district are not large enough to accommodate a replacement system.

Water Uses and Quality

There are five water districts located in the Carmel-Foulweather Sanitary District; Otter Crest, Otter Rock, Beverly Beach State Park, Beverly Beach and Carmel Knoll. The Inn at Otter Crest gets its water from Johnson Creek above Highway 101. Otter Rock obtains its water from two springs between the old and new highway. Beverly Beach State Park uses Spencer Creek above the Park as its source. The Beverly Beach development utilizes Wade Creek for its water supply, and Carmel Knoll has a spring just north of the development. There is a developer that is looking to put a well in near Carmel Knoll. At present, it appears that none of the water sources are being polluted by human waste.

The main streams in the district are Spencer Creek, Wade Creek, Johnson Creek and Cole Creek.

In November of 1972, the Department of Environmental Quality and the Lincoln County Health Department conducted a sanitary survey of 125 on site systems in the study area and found 63 percent of the systems either questionable or failing. Poor soil conditions, excessive slopes, terrain problems and high groundwater tables were the reasons for the results. This led to a Sewerage Facilities Plan which was completed in 1977; however, no construction was undertaken to alleviate the problem.

The Lincoln County Department of Planning and Development with assistance from the Department of Environmental Quality and the Oregon State Health Division conducted a second sanitary survey in 1986 and 1987 of the Carmel-Foulweather sanitary district because of continuing public health concerns. The study covered the area planning, geology and soils as well as existing on-site treatment quality and bacteriological testing. The sanitary survey has been included as part of the appendix of this report.

The survey concluded that there is significant danger to public health in the district due to failing on-site sewage disposal systems which are delivering large amounts of fecal material to surface waters which drain to the beach.

According to the American Public Health Association, the standard for recreational uses is:

Less Than 50 Coliforms	= Good
50 - 500 Coliforms	= Doubtful
500 - 1000 Coliforms	= Poor
Greater Than 1000 Coliforms	= Very Poor

There were several areas where there was more than of 1000 coliforms; if fact, some areas reached 11,000 coliforms. Further, the ratio of fecal coliform to fecal streptoccoccus found strongly suggests that a large portion of the contamination is due to human waste rather than animal waste. A portion of a 1985 D.E.Q. report has been included in the appendix which discusses the ratio between fecal coliform and fecal streptoccoccus. The following page is a reproduction of the bacteriological results found in the sanitary survey.

> "This study tends support to the concept of partial displacement in soils as being the mechanism by which rapid water movement rates occurred."
>
> "This recovery rate would indicate that, once the organisms initially moved into these zones of high permeability, they experienced little mixing or dilution but rather were transported through macropores relatively unaffected by the medium through which they were being moved."

These two studies point out that ground water supply was not contaminated by the vertical movement of fecal bacteria, yet very large areas were required to remove the fecal indicator organisms from effluent as it penetrated horizontally through the soil. In other words, evidence of a failing septic system may show up at some distance from the system. The sanitary survey conducted by Lincoln County indicates that there is a good chance that this phenomenon is happening in the Carmel-Foulweather Sanitary District.

The survey also identified the quality of on-site treatment systems in the district by classifying them as operational, marginal or failing. Of the 197 systems surveyed, 54 percent were classified as marginal or failing. These findings are in agreement with the 1972 survey by the Department of Environmental Quality and the Lincoln County Health Department which found 63 percent of the on-site system to be questionable or failing. The following two tables are taken from the 1987 survey and they show the breakdown of classifications by area. As can be seen, the Otter Rock area and the Beverly Beach area both have a large amount of marginal and failing system. On the other hand, the Carmel Knoll area does not have many failing or marginal systems. The location of the marginal and failing systems has been marked on maps included in the sanitary survey, and are included in the appendix of this report.

There are three main reasons that the systems were catoragorized as marginal or failing. First, all the soils identified by the U.S.D.A. Soil Conservation Service in the study area are rated severe for septic tanks and drainfields. Second, there is a high water table in the area, particularly in the winter, which prevents drainfields from working properly. Finally, many of the lots in the study area are too small for a drainfield or for a backup drainfield if the first drainfield fails. Since 1972 there have been 38 "reported" failures of on-site systems and 45 applications for property development have been denied due to severe soil conditions and high ground water tables.

Survey Results

A total of one hundred and ninety-seven (197) facilities were surveyed, including private residences and commercial establishments. Criteria for defining failing, marginal, or operational on-site disposal systems are contained in the Survey Methodology section of this report. A breakdown of the survey results follows:

TOTAL NUMBER OF SYSTEMS SURVEYED.....197'

NUMBER OF SYSTEMS **NOT** SURVEYED (no one home).....35 - 40

NUMBER OF SYSTEMS FOUND TO BE:

	Operational	Marginal	Failing	Total
Otter Rock Area	32	48	25	105
Beverly Beach Area	45	19	11	75
Carmel Knoll Area	14	2	1	17
Entire District	91	69	37	197

% FAILURE RATE

	Operational	Marginal	Failing
Otter Rock	31%	47%	24%
Beverly Beach	60%	25%	15%
Carmel Knoll	82%	12%	6%
Entire District	47%	35%	19%

ATTACHMENT E

X PUBLIC HEALTH CONCERNS:

Significant numbers of communicable diseases are sustained in humans by the pathogens that leave the excreta of an infected person and find their way by water and soil to another human being. The continued careless handling of human waste maintains these diseases. The ill-repute of septic tank systems is not their hygienic failure, but their failure as a disposal process, squeezed into small lots in soils of limited permeability. The septic tank system is a curious combination of unit processes which was initially intended for rural farm families and has shown itself to be ill-fitted to suburban land use.

In the Carmel-Foulweather Sanitary District, the possibility of transmitting diseases through direct or indirect contact with raw or inadequately treated sewage may occur by:

1) Normal day-to-day activities carried on by residents around houses where septic system failures exist.
2) Children playing in and around creeks, streams, and beaches that have been contaminated with untreated sewage.
3) Domestic animals, such as dogs and cats, acting as possible vectors of disease organisms both inside and outside the subject area.
4) Insects such as flies and mosquitoes which are found in areas where standing water and sewage is present on the ground surface. Insects are possible vectors for disease transmission both inside and outside the subject area.

XI CONCLUSION:

A significant danger to public health currently exists within the Carmel-Foulweather Sanitary District. As a result of the high numbers of failing on-site sewage disposal systems found, and the results of bacteriological sampling of the surface water flows, it is reasonably clear that the general public is being exposed to inadequately treated sewage and hence a risk of communicable disease.

Unfortunately, on-site system repairs are often hampered by the same factors that have contributed to the high rate of failure in the septic systems which were surveyed. These include: Poor soil conditions, high groundwater tables, inadequate lot sizes (causing inadequate system sizing), and high rates of annual precipitation.

It is apparent that a vastly improved sanitary plan must be considered and implemented in order to reduce current risks to public health. It is hoped that the up-coming O.C.D. grant-funded engineering study will assist in providing an innovative, cost effective approach towards abating the serious health hazard that continues in the Carmel-Foulweather Sanitary District.

Larry

CABLE HUSTON BENEDICT & HAAGENSEN LLP
ATTORNEYS AT LAW
SUITE 2000
1001 SW FIFTH AVENUE
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TELEPHONE (503) 224-3092
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CLARK I. BALFOUR

COPY

November 21, 1997

Langdon Marsh, Director
Department of Environmental Quality
811 SW Sixth Avenue
Portland, Oregon 97204

Re: David Boland/David Hinterreiter/H2O&S, Inc.

Dear Mr. Marsh:

We are the attorneys representing David Boland and David Hinterreiter, owners of 35 acres adjacent to Beverly Beach State Park in Lincoln County. Our clients' property is within the acknowledged Community Growth Boundary, which allows for residential uses on typical size lots. The property is also within the boundaries of the Carmel-Foulweather Sanitary District ("CFSD") formed under ORS Chapter 450 in 1974 by the County Commissioners to provide sanitary sewer facilities and services.

Our clients also are the sole shareholders of H2O&S, Inc., an Oregon corporation, which owns, operates, and maintains a sewage treatment plant with a capacity of 225,000 gallons per day. This plant ("WWTP") operates pursuant to an NPDES Ocean Discharge Permit issued by DEQ. The Otter Crest Development, consisting of approximately 150 residences or equivalent dwelling units, presently obtains service from this facility. Our engineers believe capacity exists for approximately 550 more connections and that additional flows and loads to the WWTP would actually enhance performance capability. This facility, while privately owned, is also within the boundaries of CFSD, which brings us to an interesting set of circumstances.

While CFSD was formed and authorized to design, construct, operate, and maintain wastewater and collection facilities, it has never done so. With the exception of the Otter Crest Development, all development within CFSD is served by on-site, subsurface disposal systems. The WWTP was constructed as part of the Otter Crest Development, and when financial difficulties occurred, the WWTP property and plant was sold to our clients. The Otter Crest Development is served pursuant to a contract with our clients.

In 1987, HGE Engineering, at the request for CFSD, documented the failing subsurface systems. CFSD did not take action to alleviate the situation, nor has Lincoln County or the Oregon Health Division ("OHD"). Since 1987, additional failures have occurred. Our present information is that 60% of the systems have failed or show signs of failure. I believe your staff and OHD have additional information validating the failure rate. Apparently, the soils are clayey, which are not suitable for subsurface systems over time and also make new development difficult. For example, while the Community Growth Boundary and Zoning Ordinance of Lincoln County provide for greater densities, the soil conditions will only allow 24 residences on our clients' 35-acre parcel. Yet, with sanitary sewer service, our clients could serve significantly more residences, according to the development densities allowed by the acknowledged Comprehensive Plan.

The frustrating thing for our clients is that the existing WWTP capacity could serve our clients' property and also receive wastewater from the entire CFSD and provide a solution to a larger public health problem. In our conversations with DEQ Staff, they have indicated this would be the appropriate solution. Further, DEQ has approved design plans for construction of a pipeline to collect and transport wastewater from our clients' property to a wastewater treatment plant. We have encountered snags in executing those approved plans as follows:

A. Lincoln County does not believe it has statutory authority to allow a sewer line to be located within County right-of-way unless it is owned by a public entity or a private entity which has obtained PUC approval. Lincoln County suggested that we negotiate an agreement with CFSD, whereby the line would belong to CFSD and enable that County to issue necessary permits.

B. CFSD has not been willing to negotiate such an agreement, nor has it been willing to construct facilities to alleviate health hazard problems. We believe this is an improper method to restrict growth within the confines of District boundaries, an is inconsistent with the Comprehensive Plan.

C. While the statutes vest the Health Division with the ability to initiate processes and compel alleviation of health hazard issues, the Health Division has indicated it will follow DEQ's lead in these matters. While your staff has been extremely helpful, we recognize that they have had so many other issues, understandably, they have not been able to devote much time to this problem.

With this background, we write with the purpose of alerting or asking DEQ for the following:

(1) The 1987 HGE report and more recent information, copies of which are enclosed, provide overwhelming evidence that failing subsurface disposal systems exist within all of CFSD and this requires action by DEQ, the Health Division, and Lincoln County to alleviate a health hazard. We believe the best available method to solve the problem is to require that new development, such as our clients', be required to connect to the WWTP. We further assert that all of CFSD should design and construct such collection sewerage facilities as reasonable to convey waste to the WWTP for treatment and discharge, in accordance with the NPDES permits now or hereafter issued by DEQ. To this end, our clients are ready to continue discussions with CFSD for transfer of the plant to public ownership as part of the overall solution for the entire District. To date, those offers have been rejected by the CFSD Board.

If we move to a health hazard solution process under ORS 431.705 to 431.760, we believe that DEQ and OHD have the ability to compel a solution for the entire CFSD District. If that is not the desire of DEQ and OHD, one solution for our clients would be to withdraw its properties from CFSD, including the property upon which the WWTP is sited, and place those properties in a new entity (presumably public). At the same time, other properties within CFSD could be given an opportunity to withdraw from CFSD and join the new entity on the condition that they connect to the new public sewerage system. Either solution is workable, but we need DEQ's active support to convene and hopefully mediate a solution between all parties prior to the initiation of formal hearing processes.

(2) Obviously, it will take some time to resolve this from a political and technical standpoint. If we cannot do so within the next few months, the collection system construction plans approved by DEQ to convey waste from our clients' property to the WWTP may require an extension. We do not want to take this step because it is costly to our clients, adds to DEQ's work load, and does not solve the existing health problem in the area. Therefore, while it is our goal to solve this problem as soon as possible, continued resistance by groups other than our clients and DEQ may make an extension necessary.

We ask the EQC and DEQ's cooperation and assistance as we seek methods to obtain sanitary service for our clients' property, consistent with the acknowledged Lincoln County Comprehensive Plan, and to execute the DEQ approved design and construction plans. We will pursue all options, including action before the Lincoln County Commissioners, OHD, and DEQ to compel a timely solution in the public interest for this area. We also wish to thank you and compliment your staff on their sympathy and assistance in trying to solve these issues. To the extent that you can free them from other priorities to assist us in solving this problem in an expeditious manner would be greatly appreciated.

Very truly yours,

Clark I. Balfour

CIB:mjs
Enclosures
cc: Dani Wilke
Hedy Rijken
David Hinterreiter
David Boland
Environmental Quality Commission

ATTACHMENT C

DANIEL S. GLODE, District Attorney for Lincoln County
225 West Olive Street Newport, Oregon 97365 - (541) 265-4145 - FAX (541) 265-3461
■ Victims Assistance - 265-3462 ■ Child Support - 265-4173 or 265-4174

October 27, 1997

Buck Boston
Chair
Carmel-Foulweather Sanitary District
PO Box 210
Otter Rock, OR 97369

RE: Order Granting, in Part, a Petition for Inspection of Public Records

Dear Mr Boston,

I have not received a response to my letter to you dated October 8, 1997. Enclosed is a copy of that letter, along with copies of letters dated October 3, 1997, and a copy of the petition to order inspection of public records of the Carmel-Foulweather Sanitary District dated September 12, 1997.

Therefore, in accordance with ORS 192.450 and 192.460,

IT IS HEREBY ORDERED THAT:

The petition to order inspection of public records of the Carmel-Foulweather Sanitary District dated September 12, 1997, a copy of which is attached to this order, is granted, in part: The Carmel-Foulweather Sanitary District is directed to make the public records described in that petition available for inspection and copying by the petitioner as provided by the Oregon inspection of public records law, ORS 192.410 to 192.505. However, nothing in this order requires the Carmel-Foulweather Sanitary District to make any public record described in that petition available for inspection and copying by the petitioner if the record is exempt from disclosure as provided by the Oregon inspection of public records law, ORS 192.410 to 192.505.

It is so ordered,

Rob Bovett
Special Prosecutor

pc: Dani Wilke, PO Box 1750, Waldport, OR 97394

DANIEL S. GLODE, District Attorney for Lincoln County
225 West Olive Street Newport, Oregon 97365 - (541) 265-4145 - FAX (541) 265-3461
■ **Victims Assistance** - 265-3462 ■ **Child Support** - 265-4173 or 265-4174

October 8, 1997

Buck Boston
Chair
Carmel-Foulweather Sanitary District
PO Box 210
Otter Rock, OR 97369

RE: Petition to Order Inspection of Public Records

Dear Mr Boston,

On September 16, 1997, the Lincoln County District Attorney sent you a letter informing you that he had received a petition to order inspection of public records of the Carmel-Foulweather Sanitary District. The letter provided you with a copy of that petition, and requested your prompt response to the matter.

I hereby request your prompt formal response. Please let me know if you, as an elected official, claim the right to withhold disclosure of the records for some reason. If so, I am without any authority to issue an order in this matter. ORS 192.480. Otherwise, I am prepared to issue an order.

I look forward to your prompt response.

Sincerely,

Rob Bovett
Special Prosecutor

pc: Dani Wilke, PO Box 1750, Waldport, OR 97394

DANIEL S. GLODE, District Attorney for Lincoln County
225 West Olive Street • Newport, Oregon 97365 - (541) 265-4145 • FAX (541) 265-3461
Victims Assistance - 265-3462 • Child Support - 265-4173 or 265-4174

October 3, 1997

Buck Boston, Chair, CFSD Board of Directors
Carmel Foulweather Sanitary District
PO Box 210
Otter Rock OR 97369

Re: *Petition to Order Production of a Copy of Public Documents*

Dear Mr. Boston,

Please find enclosed a copy of a letter I wrote to Dani Wilke concerning a public records request. Under the circumstances I believe the better course of action is that I do not participate in any decisions concerning public records requests for the Carmel Foulweather Sanitary District.

In the future, your concerns, questions, comments or responses regarding this matter may be directed to Robert Bovett, Assistant County Counsel at Courthouse Building, 225 W Olive Street, Newport, Oregon 97365 (265-4108).

Sincerely,

Daniel S. Glode
District Attorney

enc

c: Dani Wilke

DANIEL S. GLODE, District Attorney for Lincoln County
225 West Olive Street • Newport, Oregon 97365 - (541) 265-4145 • FAX (541) 265-3461
Victims Assistance - 265-3462 • Child Support - 265-4173 or 265-4174

October 3, 1997

Dani Wilke
PO Box 1750
Waldport OR 97394

Re: *Petition to Order Production of a Copy of Public Documents*

Dear Ms. Wilke,

I received your letter of September 12, 1997 and responded to Buck Boston, Chair of the *Carmel Foulweather Sanitary District* (CFSD) Board of Directors on September 16, 1997. After my recent conversation with Mr. Boston I assume he will be seeking a time extension, although as of this date I have not received a formal request.

I am writing to advise you that I am appointing Robert Bovett, Assistant County Counsel for Lincoln County, to serve as a special Deputy District Attorney to deal with your petition and any possible subsequent action(s) regarding this matter.

I am a property owner and an individual who may be affected by the actions of the CFSD. While your request is restricted only to production of public information, I believe it would remove any appearance of impropriety if I withdraw from any further consideration in this matter.

As I will not be involved in the decision making process, please direct all further requests or concerns regarding your petition to Robert Bovett, Assistant County Counsel at Courthouse Building, 225 W Olive Street, Newport, Oregon 97365 (265-4108).

Sincerely,

Daniel S. Glode
District Attorney

c: Buck Boston

DANIEL S. GLODE, District Attorney for Lincoln County
225 West Olive Street • Newport, Oregon 97365 - (541) 265-4145 • FAX (541) 265-3461
Victims Assistance - 265-3462 • Child Support - 265-4173 or 265-4174

September 16, 1997

Buck Boston, Chair, CFSD Board of Directors
Carmel Foulweather Sanitary District
PO Box 210
Otter Rock OR 97369

Re: *Petition to Order Production of a Copy of Public Documents*

Dear Mr. Boston,

Please find enclosed with this letter a petition I received from Ms. Dani Wilke concerning the disclosure of certain public records.

Pursuant to ORS 192.470 (2), I am promptly notifying you of this petition. I await your prompt response to this matter.

Sincerely,

Daniel S. Glode
District Attorney

c: Dani Wilke

enc

September 12, 1997

I, Dani Wilke, the undersigned, request the District Attorney of Lincoln County to order the Carmel Foulweather Sanitary District and its employees to make available for inspection and copying the following records:

All public records of the District produced since its inception in 1975.

I asked to inspect these records on:

July 2, 1997 (verbal request)
July 21, 1997 (verbal request)
August 5, 1997 (written request)
August 19, 1997 (verbal request)
August 28, 1997 (verbal request)
September 11, 1997 (verbal request)
September 12, 1997 (verbal request)

at the Otter Rock Community Center (where the records are kept and where the Board holds its meetings).

The request was denied by the following persons:

Buck Boston, CFSD Chair

Tony Stein, CFSD Secretary

Ted Dystra, unknown reason to have any involvement in making these records available

Dani Wilke

Dani Wilke
PO Box 1750
Waldport, OR 97394
(541) 563-6635

RECEIVED
SEP 12 1997
LINCOLN COUNTY
DISTRICT ATTORNEY'S OFFICE